

TO: PARKS AND RECREATION COMMISSION

FROM: PETER GOLLINGER

DEPARTMENT: PUBLIC WORKS

DATE: APRIL 26, 2022

SUBJECT: REVIEW OF PROPOSED UPDATES TO THE CITY'S TREE PROTECTION ORDINANCE, TITLE 8 OF CITY OF PALO ALTO MUNICIPAL CODE

RECOMMENDATION

Staff recommends that the Parks and Recreation Commission review the proposed changes to Title 8 of Palo Alto Municipal Code and provide feedback to staff.

BACKGROUND

Title 8 of Palo Alto Municipal Code (PAMC) contains regulations governing street trees, shrubs and plants (Chapter 8.04), weed abatement (Chapter 8.08), and tree preservation and management (Chapter 8.10).

Proposed updates focus on implementation of Council-approved policies contained in the [2030 Comprehensive Plan](#) (Natural Environment Chapter), and the [Urban Forest Master Plan](#). Additional code updates include changes prompted by State law, specifically [Executive Order B-29-15](#), also known as the Model Water Efficient Landscape Ordinance. Other proposed changes range from significant policy changes, like expanding the types of protected trees and clarifying allowances for tree removal, to more clerical updates, like updating authorized officers and accounting for recent changes in other development-related codes.

The current draft ordinance update (Attachment A) incorporates changes proposed by both the Policy and Services Committee and City Council.

The City's tree protection ordinance was first added to the Palo Alto Municipal Code in 1951. Native oaks trees were added as protected tree species in 1996 and preservation and management requirements for private protected trees was included in 1999. The addition of Redwoods to the list of protected tree species in 2001 was the last substantive update.

TIMELINE OF HISTORICAL TITLE 8 UPDATES

1951 – Tree ordinance first adopted

1996 – Oaks included as protected trees

1999 – Addition of preservation and management requirements

2001 – Redwoods added to protected trees

2011 – Tree removal requirements in Hospital District addressed



In 2015, the City adopted the [Urban Forest Master Plan](#) (UFMP). This plan contains many goals and policies that work to sustain and enhance Palo Alto’s Urban Forest. Many of the policies and goals listed in the UFMP are also tied to sustainability efforts contained in the 2030 Comprehensive plan and the Sustainability/Climate Action plan. The current Title 8 of PAMC pre-dates these documents by many years. UFMP policy 6.C directs staff to review the City’s Tree Protection Ordinance to ensure that it is aligned with the goals of the UFMP.

Prior City Reviews & Action on Proposed Updated Ordinance

PTC:	September 12 th , 2018 - Study session (CMR 9478) at the Planning and Transportation Commission (PTC)
PSC:	August 10 th , 2021 - Policy and Services Committee (CMR 12213) for review and feedback, motion to City Council included below.
City Council:	October 18 th , 2021 - Draft ordinance and the Policy & Services recommendation went before council (CMR 13513). Motion to staff included below.
ARB:	Study session scheduled for April 21 st , 2022
PRC:	None prior to this scheduled meeting

The process of updating this ordinance began with a study session (CMR [9478](#)) at the Planning and Transportation Commission (PTC) meeting on September 12, 2018. The changes proposed in the report included an expansion of protected trees to include all Palo Alto locally native tree species with a trunk diameter size greater than 11.5 inches and all other tree species with trunk diameter size greater than 36 inches. Currently, Redwoods with 18 inches in diameter or larger and Oaks (Valley Oak and Coast Live Oak) with trunks of 11.5 inches in diameter or larger are protected under PAMC.

Staff continued to work on the draft ordinance update, and on August 10, 2021 it was brought to the

Policy and Services Committee (CMR [12213](#)) for review and feedback. The committee recommended that City Council:

1. Accept the redline changes to the Tree Ordinance including the “errata” presented by the resident “ad-hoc” group (Jeff Greenfield, Winter Dellenbach, Karen Holman, and Doria Summa);
2. Direct Staff to update redline section 8.10.055 (previously 8.10.050(e) 'Tree Replacement') to include a 36 month building moratorium consistent with the staff report recommendation to, "Consider adding additional restrictions for initiating planning or development review after an approved protected tree removal in the absence of (proposed) development";
3. Accept the recommended Ordinance changes in the staff report to sections 8.04.050(a)(1), 8.10.010, and 8.10.040(b);
4. Direct Staff to make associated changes required in other code sections chapters to provide clarity and eliminate conflicting or circuitous language, such as:
 - a. Delete language in 18.78.010(a) referring to 8.10.140;
5. Evaluate and consider the reallocation within the budget for the position of Urban Forester to Assistant Director level in the Public Works Department;
6. Discuss and direct Staff on the role of the Parks and Recreation Commission (PRC) serving as a community forum for urban forestry issues, and advising City Council on matters related to the Urban Forest Master Plan (UFMP) and other appropriate activities of the Urban Forestry (UF) section;
7. Policy and Services recommends that Staff forward our recommendations to the Council for consideration in September; and
8. Direct Staff to explore possible tree planting incentives and programs for the public, as well as providing information accessible to the public regarding the nature of tree species, growth, and other parameters.

The draft ordinance and the Policy and Services recommendation then went before Council at the October 18, 2021 meeting (CMR [13513](#)). During that meeting Council directed staff via the following motion:

- A. Accept the Policy and Services motion and recommendations and incorporate them into the updated ordinance;
- B. Evaluate the redlines regarding tree replacement and the removal of protected trees, which were sent in today for inclusion from the AdHoc Resident group;
- C. Evaluate and return with an option to modify the definition of protected trees 8.10.020.j (3) to include any tree at least 15” in diameter;
- D. Return no later than April 2022 with an ordinance for City Council review and approval;
- E. Return with a recommendation on the elevation of Urban Forester as part of the budget process;
- F. Explore Policy and Services’ recommendation #8 on the incentives for tree planting and other issues, such as review of appeals process when there is no construction proposed, review impacts of neighboring trees, outlying structures and other concerns (e.g., fire protection and tree watering during a drought) with further amendments if needed after April 2022;
- G. Expand the prioritization of native and drought tolerant tree use in the Tree Technical Manual and ordinance for replacement of trees;

- H. Direct Staff to formalize a role in the Parks and Recreation Commission on Urban Forestry issues; and
- I. Direct Staff to conduct further public outreach with the appropriate Boards and Commissions.

The proposed update (Attachment A) incorporates changes made pursuant to the motions detailed above. This PRC study session partly addresses council motion item I.

DISCUSSION

The following sections describe some of the content-related updates included in the proposed ordinance. Proposed changes to formatting, technical writing, and style changes are included in the proposed ordinance but are not listed here for discussion by this study session.

Chapter 8.04 PUBLIC TREES, SHRUBS, HEDGES, AND PLANTS

Changes to this chapter include the addition of a Chapter purpose statement, an expanded list of authorized officers and updated definitions. Since the last ordinance update in 2001, new staff positions have been created, notably the position of Urban Forester who is primarily responsible for the administration of Title 8.

Sections 8.04.020, 8.04.030, & 8.04.040 – Public tree permit process

These sections have been updated to clarify when a public tree care permit is needed, the process of applying for said permit and the conditions required for approval.

Section 8.04.070 Enforcement

This section has been updated to clarify what types of penalties can be applied when violations of the ordinance occur. The list of employees authorized to issue these violations was also updated. Types of Penalties included in the updated ordinance:

- Administrative penalties
- Civil penalties
- Stop work actions and development moratoriums

Chapter 8.08 WEED ABATEMENT

Fire prevention is one impetus for the weed abatement requirements defined in Chapter 8.08. More intense fires have prompted new regulations for vegetation management from the State of California. Hence, expanded authority is recommended for Palo Alto's authorized officers. Weed abatement and management regulations are also designed to combat the introduction and spread of invasive plants which may increase fire intensity or detract from native habitat. Proposed changes in this section include the addition of a Chapter purpose statement, allow for more authority by the Fire Marshal and Urban Forester to address weed abatement and include updates to the definition of weeds.

Section 8.08.010 - Weeds as public nuisance

Specific proposed changes to section include:

- Addition of parkland to the list of public places
- Expansion to the definition of "weeds" to include:

- “(3) Plants, shrubs, and trees determined by the Fire Marshal to constitute a fire menace due to their species, proximity to ignition sources, and high potential to endanger nearby buildings;”
- “(5) Exotic and invasive plants having high potential to invade adjacent properties and high ecological impacts in the region as defined by the California Invasive Plant Council;”

Additional proposed revisions in Chapter 8.08 specify the positions of “Fire Marshal” and “Urban Forester” as authorized officers for purposes of enforcement.

Chapter 8.10 TREE PRESERVATION AND MANAGEMENT REGULATIONS

Proposed changes to this chapter include a revision to the Chapter purpose statement, an expansion of the types of protected trees covered by this ordinance, changes related to ongoing sustainability efforts, and changes concerning tree preservation during development.

Section 8.10.020 – Definitions

There are several important updates to the definitions section in Chapter 8.10.

8.10.020 (d) - Introduction of a Designated Arborist system

The City will create and maintain a list of qualified, certified, and selected arborists. The intent of this new system is to ensure that any arborists used by applicants for development projects are qualified and are familiar with city requirements. These arborists would likely be selected through an RFP process (or similar) and the resulting list will be used by applicants to hire for all arborist related items connected with development applications. These items may include:

- Completion of tree disclosure statements
- Submission of tree preservation reports
- Submission of hazard assessments or arborist reports
- Current draft specifies that applicant selects and hires the arborist unless the project is one that requires a hearing, in those cases the City will select the arborist and bill the applicant

8.10.020 (j) – Expansion and clarification of Excessive Pruning definition

Changes to the definition of excessive pruning include:

- Inclusion of roots in the standard 25% definition
- Revision of time window from 12 to 36 months
- Separation of oaks from main definition, now pruning of 15% or more considered excessive for protected oak species

8.10.020 (l) – Definition of Protected Trees

The proposed ordinance update expands the list of protected trees based on species from the existing three native protected species (Valley Oak, Coast Live Oak & Coast Redwood) to a total of seven native species. In addition, all trees over 15” in diameter at breast/standard height (DBH) would be protected, excluding invasive species as defined by the California Invasive Plant Council (Cal-IPC), and high water users as defined by the Department of Water Resources (DWR) Water Use Classification of Landscape Species (WULCOS) list.

Species proposed protected at 11.5” DBH:

- *Acer macrophyllum* (Bigleaf Maple)

- *Calocedrus decurrens* (Incense Cedar)
- *Quercus agrifolia* (Coast Live Oak)
- *Quercus douglasii* (Blue Oak)
- *Quercus kelloggii* (California Black Oak)
- *Quercus lobata* (Valley Oak)

Species protected at 18” DBH:

- *Sequoia sempervirens* (Coast Redwood)

Proposed protected species at 15” DBH:

- includes all species not listed above except:
 - Invasive species per Cal-IPC
 - High Water Users per WUCOLS (Excluding Redwood)

Other protected tree categories:

- Any tree designated for protection during review and approval of a development project
- Any tree designated for carbon sequestration and storage and/or for environmental mitigation purposes
- Any replacement mitigation tree or other tree designated to be planted due to the conditions listed in this ordinance

Expanding the types of protected trees as defined in Section 8.10.020 would assist the City in achieving goals and benchmarks contained in the Sustainability/Climate Action Plan (Natural Environment Element), 2030 Comprehensive Plan (Natural Environment Chapter), and the Urban Forest Master Plan.

Expansion of protected trees would also increase the staff resources needed to review and inspect various types of planning applications and development permits. Enforcement may become more complex or time consuming with the addition of species and individual trees that are protected. This broad change has the potential to restrict or complicate development throughout the City, and to stop property owners from removing existing trees if they want to make a change in the use of their property, once those trees become protected under an updated ordinance. Current protected status Oaks and Redwoods often prompt adjustments such as a shift in the building footprint, low impact construction techniques, or compatible landscape. Additional protected tree requirements will increase the complexity of achieving full utilization of a property. Overall, because the ordinance does allow some removal of trees in connection with development, the most significant influence is likely to be on landscape elements and structural features outside the primary building footprint, particularly with features that interact with adjoining properties.

Section 8.10.030 - Tree and Landscape Technical Manual

The California Model Water Efficient Landscape Ordinance (MWELo) prompted the creation of a Tree and Landscape Technical Manual to replace the existing Tree Technical Manual. This new policy document will function in a similar fashion with the addition of landscape technical requirements so that newly installed landscape meets sustainability, water conservation, and other goals. The purposes of the manual are to provide developers clear guidelines about required submissions to obtain permits, describe design and construction principles that meet City policies,

and reference best practices. The new Tree and Landscape Technical Manual will be finalized once the substantive changes to Title 8 are agreed upon.

The proposed ordinance update includes clarification on the City's priorities when replacement trees are required.

1. Prioritize the use of locally native species, as listed in Section 8.10.020(1)(1), consistent with Urban Forest Master Plan Goal 2: "Re-generated native woodland and riparian landscapes as the key ecological basis of the urban forest with focus on native species and habitat;"
2. Include climate adaptive, drought tolerant, non-native species as needed to satisfy right tree in the right place principles; and
3. Incorporate a secondary goal of net tree canopy increase on the property within 15 years.

Section 8.10.040 - Disclosure of information regarding existing trees

Proposed changes clarify what trees must be disclosed when seeking development approval. The biggest change to this section is the requirement that the disclosure statement be completed by a designated arborist. Additionally, for non-protected tree disclosure the proposed update includes the phrase "within thirty feet of proposed building footprint".

Section 8.10.050 - Removal of protected trees.

The proposed changes in this section are intended to clarify under what circumstances a protected tree may be removed and what mitigation measures (if any) will apply to each situation type. The section has been re-organized into several categories where a protected tree may be removed. These categories now include:

- Protected tree removal outside the development process
- As part of development on a residential lot
- As part of a project with a subdivision of land
- As part of any other project requiring discretionary approval by the City
- Any circumstances other than those listed above

Allowances for removal have been changed to encompass situations not covered by current ordinance. A list of allowances per each removal category are as follows:

- Allowable reasons for removal outside the development process:
 - The tree is dead, hazardous or a nuisance
 - The tree is a detriment to or is crowding an adjacent protected tree, or is impacting the foundation or eaves of a primary residence
 - Trees removed under this category may trigger a 36-month development moratorium. Mitigation measures would be required to lift the moratorium early.
- Allowable reasons for removal as part of development on a residential lot:
 - The tree is dead, hazardous or a nuisance
 - The tree is a detriment to or is crowding an adjacent protected tree, or is impacting the foundation or eaves of a primary residence
 - The tree is so close to the proposed development that construction would result in the death of the tree, and there is no financially feasible and reasonable design alternative that would permit preservation of the tree

- Allowable reasons for removal as part of a project with a subdivision of land:
 - The tree is dead, hazardous or a nuisance
 - Removal is unavoidable due to restricted access to the property or deemed necessary to repair a geologic hazard

- Allowable reasons for removal as part of any other project requiring discretionary approval by the City:
 - Retention of the tree would result in reduction of the otherwise-permissible buildable area of the lot by more than 25%, and there is no financially feasible and reasonable design alternative that would permit preservation of the tree
 - The tree should be removed because it is dead, hazardous, or a nuisance. In such cases, the dripline area of the removed tree, or an equivalent area on the site, shall be preserved for mitigation purposes from development of any structure

Section 8.10.070 - Care of protected trees

Changes in this section include:

- Expansion of list of actions that may negatively impact protected trees
- Requirement for owners of protected trees to notify the City and publicly post their intent to work on a protected tree 7 days in advance of work

Section 8.10.140 - Applications, Notice, and Appeals

This section was updated and re-organized to include details on the process of protected tree removal.

- Clarification of application process
- Introduction of detailed notification requirements
 - Notice posting on property, on city website and by mail to addresses within 600 ft
 - Notice required both when applying to remove a protected tree and again once a decision is made
- Introduction of appeals process used in chapter 18.78

CONSISTENCY WITH CITY PLAN AND POLICY DOCUMENTS

The proposed title 8 ordinance changes will assist with meeting the following goals and objectives from these related policy documents.

Sustainability/Climate Action Plan (Natural Environment Element)1

- GOALS
 - Restore and enhance resilience and biodiversity of our natural environment
 - Increase tree canopy to 40% city-wide coverage by 2030

1 The Sustainability and Climate Action Plan 3rd Draft of Goals and Key Actions can be found here: <https://www.cityofpaloalto.org/files/assets/public/sustainability/policies-and-plans/2021-scap-goals-and-key-actions-draft.pdf>

- KEY ACTIONS

- 1. Explore programs and policies that use Palo Alto's public and private natural capital (e.g., canopy, soils, watersheds) to provide carbon sequestration and other environmental benefits
- 2. Evaluate and modify plant palette selection in project plans to maximize biodiversity and soil health to adapt to the changing climate, and incorporate buffers for existing natural ecosystems
- 3. Coordinate implementation of the Urban Forest Master Plan, Parks Master Plan, and other city-wide functions through interdepartmental collaboration of the City's internal Sustainability Leadership Team
- 4. Expand the requirements of the Water Efficient Landscape Ordinance (WELO) to increase native and drought-tolerant species composition.
- 6. Ensure No Net Tree Canopy Loss for all projects

2030 Comprehensive Plan (Natural Environment Chapter)2

- Policy N-1.2 Maintain a network of parks and urban forest from the urban center to the foothills and Baylands that provide ecological benefits and access to nature for all residents.
- Policy N-1.3 Program N1.3.2 Provide information and support programs that encourage residents to enhance their private yards with native plant species and low impact landscaping.
- Policy N-2.2 Use the UFMP, as periodically amended, to guide City decisions related to all elements of Palo Alto's urban forest, from its understory habitat to canopy cover.
 - Program N2.2.1 Periodically update the UFMP and Tree Protection Ordinance to ensure policies and regulations set leading standards for tree health practices.
- Policy N-2.3 Enhance the ecological resilience of the urban forest by increasing and diversifying native species in the public right-of-way, protecting the health of soils and understory vegetation, encouraging property owners to do the same and discouraging the planting of invasive species.
- Policy N-2.6 Improve the overall distribution of citywide canopy cover, so that neighborhoods in all areas of Palo Alto enjoy the benefits of a healthy urban canopy.
- Policy N-2.9 Minimize removal of, and damage to, trees due to construction-related activities such as trenching, excavation, soil compacting and release of toxins.
 - Program N2.9.1 Increase awareness, severity and enforcement of penalties for tree damage.
- Policy N-2.10 Preserve and protect Regulated Trees, such as native oaks and other significant trees, on public and private property, including landscape trees approved as part of a development review process and consider strategies for expanding tree protection in Palo Alto.
 - Program N2.10.1 Continue to require replacement of trees, including street trees lost to new development.

2 The 2030 Comprehensive Plan (Natural Environment Chapter) can be found here:

https://www.cityofpaloalto.org/files/assets/public/planning-amp-development-services/file-migration/historic/long-range-planning/resources/compplan_2017_04_naturalenviro_pdf_w_links.pdf

- Program N2.10.2 As part of the update of the Tree and Landscape Technical Manual, consider expanding tree protections to include additional mature trees and provide criteria for making site-specific determinations of trees that should be protected.
- Program N2.10.3 Consider revisions to the permit process to increase transparency regarding tree removals and expanded opportunities for community members to appeal the removal of trees.

Urban Forest Master Plan³

- Policy 1.A. Strive for:
 - A greater percentage of native, drought-tolerant, and fruit tree species.
 - No loss of benefits—as defined in iTree eco analysis (or other peer-reviewed benefits-estimation model.)
 - Increased habitat, health, and social benefits.
- Policy 2.A. Conserve and grow native and introduced climate adaptive tree population to regenerate and recover native woodland ecosystem on a landscape scale.
- Policy 6.C. Strive for no net loss /increase in canopy cover.
 - Program 6.C.i. Continue to enforce the City’s Tree Protection Ordinance but also review it to ensure that it reflects state water efficiency standards as well as this master plan’s goals for regeneration of native woodland landscape.
- Policy 6.H. Minimize the negative effect on the urban forest from development and infrastructure maintenance

RESOURCE IMPACT

A detailed analysis and discussion of impacts to staff resources will be included in the staff report when the updated ordinance goes before City Council.

ENVIRONMENTAL ASSESSMENT

The proposed code amendments have been assessed in accordance with the authority and criteria contained in the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and the environmental regulations of the City. Specifically, the proposed amendments have been determined to be exempt from further environmental review pursuant to CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. In the event Section 15061(b)(3) is found not to apply, the ordinance is also exempt under Section 15308 because it involves regulatory action for the protection of the environment.

TIMELINE

April 26, 2022: PRC Study Session

³ The Urban Forest Master Plan can be found here: <https://www.cityofpaloalto.org/files/assets/public/public-works/tree-section/ufmp/urban-forest-mp-after-adoption-reduced-2-25-19-complete.pdf>

May/June 2022: Proposed ordinance goes to City Council
June 2022: Pending Council approval, first or first and second reading.
Summer 2022: Ordinance update goes into effect

ATTACHMENTS

Attachment A: Proposed Title 8 Update

Ordinance No. DRAFT

Ordinance of the Council of the City of Palo Alto Repealing Chapter 8.04 (Street Trees, Shrubs, and Plants) and Restating it as Chapter 8.04 (Public Trees, Shrubs, Hedges, and Plants); Repealing and Restating Chapter 8.08 (Weed Abatement); and Repealing Chapter 8.10 (Tree Preservation and Management Regulations) and Restating it as Chapter 8.10 (Tree and Landscape Preservation and Management) of Title 8 (Trees and Vegetation) of the Palo Alto Municipal Code.

The Council of the City of Palo Alto ORDAINS as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

SECTION 2. Chapter 8.04 (Street Trees, Shrubs, and Plants) of Title 8 (Trees and Vegetation) of the Palo Alto Municipal Code is hereby amended by repealing in its entirety Chapter 8.04 and adopting a new Chapter 8.04 to read as follows:

Chapter 8.04

STREETPUBLIC TREES, SHRUBS, HEDGES, AND PLANTS

Sections:

- 8.04.005 Purpose.**
- 8.04.010 Definitions.**
- 8.04.015 Authority of city.**
- 8.04.020 Permit required for certain work.**
- 8.04.030 Application for permit.**
- 8.04.040 Issuance of permit.**
- 8.04.050 Public nuisances.**
- ~~**8.04.060 Abatement of public nuisances.**~~
- ~~**8.04.070 Damage to streetpublic treesEnforcement.**~~
- 8.04.080 Interference with enforcement.**
- 8.04.090 Adoption of regulations.**

8.04.005 Purpose.

The purpose of this chapter is to protect and promote trees, shrubs, hedges, and plants located on public property within the city. In establishing these procedures and standards, the city recognizes that trees, shrubs, hedges, and plants are an essential part of the city's infrastructure, with benefits that include promoting the health, safety, welfare, and quality of life of the residents of the city; addressing climate change by sequestering carbon and providing a cooling effect; reducing air, water, and noise pollution; preventing soil erosion and

stormwater runoff; providing wildlife habitat; and enhancing the aesthetic environment. It is the city's intent to encourage the preservation of trees, shrubs, hedges, and plants.

8.04.010 Definitions.

For the purposes of this ~~chapter~~title the following words shall have the meaning ascribed to them in this section:

- (a) "Person" means individuals, firms, associations and corporations, and agents, employees or representatives thereof.
- (b) "City" means the city of Palo Alto acting by and through its authorized representatives.
- (c) "Street" means and includes all land lying between the boundaries of property abutting on all public streets, boulevards, alleys, and walks.
- (d) "Parks" means and includes all parks to which names have been given by action of the city council.
- (e) "Public places" means and includes all grounds, other than streets or parks, owned by, ~~or~~ leased to, ~~or and~~ under the control of the city of Palo Alto.
- (f) "~~Street~~Tree" means and includes any woody perennial plant generally having a single main ~~axis or stem~~ and commonly achieving ten feet in height ~~and capable of being shaped and pruned to develop a branch free trunk at least nine feet in height.~~
- (g) "Shrub" means and includes any woody perennial plant generally having multiple stems and commonly less than ten feet in height, normally low, several stemmed, and capable of being shaped and pruned without injury, within the area planted.
- (h) "Hedge" means and includes any tree, shrub, or ~~plant material, shrub or plant~~, when planted in a dense, continuous line or area, as to form a thicket or barrier.
- (i) "Plant" means and includes all vegetation other than trees and shrubs~~other plant material, non woody, annual, or perennial in nature, not necessarily hardy.~~
- (j) "~~Street~~Public trees, shrubs, hedges, and ~~or~~ plants" means and includes any tree, shrub, hedge, or plant in any street, park, or public place in the city of Palo Alto.
- (k) "Urban forester" means public works department staff including the urban forester or their designee.
- (l) "Tree permit" means a permit issued by the urban forester for one or more of the following purposes:
 - (1) To permit removal of a public tree.
 - (2) To permit public tree care, work, or treatment.
 - (3) To permit removal of a protected tree under 8.10.050.
 - (4) To establish a tree preservation bond.
 - (5) For payment of "in-lieu" fees for required mitigation measures.

8.04.015 Authority of city.

The city of Palo Alto shall have control of all ~~street~~public trees, shrubs, hedges, and plants now or hereafter in any street, park, or public place within the city limits, and shall have the

~~power~~ authority to plant, care for, remove, replace, and maintain such trees, shrubs, hedges, and plants.

8.04.020 ~~Violations–Penalty–Enforcement~~ Permit required for certain work.

Unless authorized by a ~~public tree care~~ permit, no person shall do any of the following:

- (a) Plant, prune, trim, shape, remove, top, or in any way damage, destroy, injure or mutilate a ~~street~~ public tree, shrub, hedge, or plant. A tree permit is not required for a property owner, resident, or their agent to maintain shrubs, hedges, or plants located within the city right of way associated with their property.
- (b) Fasten ~~any~~ sign, wire, or injurious material to any ~~street~~ public tree, shrub, hedge, or plant.
- (c) Excavate any ditch or tunnel; or place concrete or other pavement within a distance of ten feet of the center of the trunk of any ~~street~~ public tree.
- ~~(b) Violation of this section is a misdemeanor, punishable as provided in this code. Each day of violation constitutes a separate offense and may be separately punished.~~
- ~~(c) Persons employed in the following designated employee positions are authorized to exercise the authority provided in Penal Code Section 836.5 and are authorized to issue citations for violations of this chapter: deputy director of public works operations, managing arborist, planning arborist and code enforcement officer.~~

8.04.030 Application for permit.

Any person desiring to do any of the work described in Section 8.04.020 may apply for a tree permit so to do. The applicant shall state the nature of the work and the location where it will be done.

8.04.040 Issuance of permit.

A tree permit shall be issued authorizing ~~so much of the work as~~ that meets all the following conditions:

- (a) Will not create, continue, or aggravate any hazardous condition, or public nuisance;
- (b) Will not prevent or interfere with the growth, location or planting of any approved ~~street~~ public trees;
- (c) Is consistent with the planting plan being followed by the city.

8.04.050 Public nuisances*.

~~Any of~~ the following are, for the purposes hereof, defined to be public nuisances:

- (a) Any dead, diseased, infested, or dying tree, shrub, hedge, or plant in any street; or on any public or private property so near to any ~~street~~ public tree, shrub, hedge, or plant

as to constitute a danger to a street~~public trees, shrub, hedge, or plant~~, or streets, or portions thereof or public property.

- (b) Any tree, ~~or~~ shrub, hedge, or plant on any private property or in any street, of a type or species ~~apt to~~that will destroy, impair, or otherwise interfere with any street improvements, sidewalks, curbs, approved street~~public~~ trees, gutters, sewers, other public improvements, including utility mains ~~or~~and services, or a public tree, shrub, hedge, or plant.
- (c) Any tree limb, shrub, hedge, or plant reaching a height more than three feet above the curb grade adjacent thereto, except a tree trunks having no limbs lower than nine feet above curb grade, within the thirty-five foot triangle of public or private property, measured from the projected curb lines, at the intersections of any street improved for vehicular traffic where either traffic signals, stop signs, or yield signs are not installed, or at any intersections which are determined by the chief transportation official to contain a tree limbs, shrubs, hedges, or plants that obscures ~~a~~ and or impairs the view of a passing motorists, cyclists or pedestrians so as to create a safety hazard.
- (d) Vines or climbing plants growing into or over any street~~public~~ tree, shrub, hedge, or plant; or any public hydrant, pole or electrolier.
- (e) Existence of any tree within the city limits that is ~~infested, infected or in danger of becoming~~ infested or infected with objectionable insects, scale, fungus, or growth injurious to trees.
- (f) The existence of any branches or foliage which interfere with visibility on, ~~or~~ free use of, ~~or~~ access to, or obstruct public vehicular or pedestrian travel on any portion of any street improved for vehicular or pedestrian travel.
- (g) Hedges or dense, thorny shrubs and plants on any street or part thereof.
- (h) Shrubs and plants more ~~then than~~ two feet in height in any tree well or planting strip between the sidewalk and curb~~street~~, measured above top of curb grade.

* Abatement procedure - See [Chapter 9.56](#) of this code.

~~8.04.060 Abatement of public nuisances.~~

~~When any public nuisance as defined herein exists, a notice may be sent by ordinary United States mail to the owner or tenant involved. Such notice shall describe the condition, state the work necessary to remedy the condition, and shall specify the time within which the work must be performed. If, at the end of the time specified, such work has not been performed,~~

~~the city may perform such work, and the cost thereof shall constitute a charge against such owner or tenant, and such charge shall be a lien on such property.~~

8.04.070 ~~Damage to street trees~~ Enforcement.

- (a) Violation of any provision of this chapter is a misdemeanor, punishable as provided in this code. Each day of violation constitutes a separate offense and may be separately punished.
- (b) Persons employed in the following designated employee positions are authorized to exercise the authority provided in California Penal Code Section 836.5 and are authorized to issue citations for violations of this chapter, including but not limited to leveling fines under the city's administrative penalty authority: assistant director of public works public services division, urban forester, project manager in the urban forestry section, landscape architect, and code enforcement officer.
- ~~(a)~~ (c) Any person who damages to any public street tree, caused by through any act or omission by any person, whenever such act or omission is prohibited by or not authorized pursuant to this chapter, shall may be liable civilly in a sum not to exceed ten thousand dollars per tree, or the replacement value of each such tree, whichever amount is higher. charged to such person or persons.
- (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.

8.04.080 Interference with enforcement.

No person shall interfere with or delay the authorized representatives of the city from the execution and enforcement of this chapter, except as provided by law.

8.04.090 Adoption of regulations.

The city may adopt regulations prescribing standards of landscaping and planting of streets, parks and public places, therein. A copy of such regulations shall be available for public inspection upon request, and all work performed in streets, parks or public places shall be performed in accordance therewith.

SECTION 3. Chapter 8.08 (Weed Abatement) of Title 8 (Trees and Vegetation) of the Palo Alto Municipal Code is hereby amended by repealing in its entirety Chapter 8.08 and adopting a new Chapter 8.08 to read as follows:

Chapter 8.08 WEED ABATEMENT*

Sections:

- 8.08.005 Purpose.**
- 8.08.010 Weeds as public nuisance.**
- 8.08.020 Resolution declaring nuisance.**
- 8.08.030 Form and publication of notice.**
- 8.08.040 Hearing ~~Power of council~~ on notice.**
- 8.08.050 Order to abate nuisance.**
- 8.08.060 Account and report of cost.**
- 8.08.070 Notice of report.**
- 8.08.080 Hearing on cost assessment.**
- 8.08.090 Collection on tax roll.**

* For abatement provisions pertaining to nuisances other than weeds - See [Chapter 9.56](#). Legislative body may declare weeds a nuisance and order the abatement thereof - See Gov. C.A. § 39561. City may compel removal of dirt, rubbish, weeds, etc. - See Gov. C.A. §§ 39501-39502.

8.08.005 Purpose.

The purpose of this chapter is to prohibit weeds on property within the city. In establishing these procedures and standards, it is the city's intent to ensure that all activities taken to abate weeds are sufficient to increase public safety, to preserve aesthetically or environmentally desirable trees, shrubs, hedges, and plants, and to prevent the displacement of wildlife habitats.

8.08.010 Weeds as public nuisance.

- (a) No owner, agent, lessee, or other person occupying or having charge or control of any building, lot or premises within the city shall permit weeds to remain upon the premises, or public sidewalks, or encroach into any parkland (including any weeds encroaching over fences), or streets, or alleys between the premises and the center line of any public street or alley.
- (b) The word "weeds" as used in this chapter, means all weeds growing upon streets, parks, public places ~~alleys, sidewalks~~, or private property in the city and includes any of the following:
 - (1) Weeds which bear or may bear seeds of a downy or wingy nature;
 - (2) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;

- (3) Plants, shrubs, hedges, and trees determined by the Fire Marshall to constitute a fire menace due to their species, proximity to ignition sources, and high potential to endanger nearby buildings.
 - ~~(3)~~(4) Weeds which are otherwise noxious or dangerous;
 - (5) Invasive plants having high potential to invade adjacent properties and high ecological impacts in the region as defined by the California Invasive Plant Council.
 - ~~(4)~~(6) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health;
 - ~~(5)~~(7) Accumulations of garden refuse, cuttings, and other combustible trash.
- (c) Every property owner shall remove or destroy such weeds from ~~his~~their property, and in the abutting half of any street or alley between the lot lines as extended.

8.08.020 Resolution declaring nuisance.

Whenever any such weeds are growing upon any private property or properties or in any street or alley within the city, the council shall pass a resolution declaring the same to be a public nuisance and order the fire chief or urban forester to give notice of the passage of such resolution as herein provided, and stating therein that, unless such nuisance is abated without delay by the destruction or removal of such weeds, the work of abating such nuisance will be done by the city authorities, and the expense thereof assessed upon the lots and lands from which, and/or in the front and rear of which, such weeds shall have been destroyed or removed. Such resolution shall fix the time and place for hearing any objections to the proposed destruction or removal of such weeds.

8.08.030 Form and publication of notice.

- (a) ~~Such~~The fire chief or urban forester shall cause to be published a public notice ~~shall be in~~ substantially ~~in~~ the following form:

NOTICE TO DESTROY WEEDS

NOTICE IS HEREBY GIVEN that on _____, 20 __, pursuant to the provisions of Section 8.08.020 of the Palo Alto Municipal Code, the City Council passed a resolution declaring that all weeds growing upon any private property or in any public street or alley, as defined in Section 8.08.010 of the Palo Alto Municipal Code, constitute a public nuisance, which nuisance must be abated by the destruction or removal thereof.

NOTICE IS FURTHER GIVEN that property owners shall without delay remove all such weeds from their property, and the abutting half of the street in front and alleys, if any, behind such property, and between the lot lines thereof as extended, or such weeds will be destroyed or moved and such nuisance abated by the city authorities, in which case the cost of such

destruction or removal will be assessed upon the lots and lands from which, or from the front or rear of which, such weeds shall have been destroyed or removed; and such cost will constitute a lien upon such lots or lands until paid, and will be collected upon the next tax roll upon which general municipal taxes are collected. All property owners having any objections to the proposed destruction or removal of such weeds are hereby notified to attend a meeting of the Council of said city, to be held in the Council Chamber of the City Hall in said city on _____, 20____, at seven p.m., when and where their objections will be heard and given due consideration.

Date _____, 1920____

Fire Chief or Urban Forester
City of Palo Alto

- (b) Such notice shall be published at least twice in a newspaper published and circulated ~~in said~~ within the city, the first publication of which shall be at least ten days prior to the time fixed by the council for hearing objections.

8.08.040 Hearing ~~Power of council~~ notice.

At the time stated in the notice, the council shall hear and consider any and all objections to the proposed destruction or removal of such weeds, and may continue the hearing from time to time. The council, by motion or resolution, shall allow or overrule any or all objections, if any, after which the council shall thereupon be deemed to have acquired jurisdiction to proceed and perform the work of destruction and removal of such weeds.

8.08.050 Order to abate nuisance.

The council shall by resolution order the fire chief or urban forester to abate such nuisance, or cause the same to be abated, by having the weeds referred to destroyed or removed, and the fire chief or urban forester and his deputies, assistants, employees, contracting agents or other representatives are hereby expressly authorized to enter upon private property for that purpose. Any property owner shall have the right to destroy or remove such weeds ~~himself~~ themselves, or have the same destroyed or removed at ~~his~~ their own expense; provided that such weeds shall have been removed prior to the arrival of the fire chief or urban forester or ~~his~~ their authorized representatives to remove them.

8.08.060 Account and report of cost.

The fire chief or urban forester shall keep an account of the cost of abating such nuisance and embody such account in a report and assessment list to the city council, which shall be filed with the clerk. Such report shall refer to each separate lot or parcel of land by description

sufficient to identify such lot or parcel, together with the expense proposed to be assessed against each separate lot or parcel of land.

8.08.070 Notice of report.

The city clerk shall post a copy of such report and assessment list on the bulletin board near the entrance door at the City Hall, together with a notice of the filing thereof and of the time and place when and where it will be submitted to the city council for hearing and confirmation, notifying property owners that they may appear at such time and place, and object to any matter contained therein. A like notice shall also be published twice in a newspaper of general circulation, published and circulated within the city. The posting and first publication of said notice shall be made and completed at least ten days before the time such report shall have been submitted to the city council. Such notice, as so posted and published, shall be substantially in the following form:

NOTICE OF HEARING ON REPORT AND ASSESSMENT FOR WEED ABATEMENT

NOTICE IS HEREBY GIVEN that on _____, 20___, the Fire Chief or Urban Forester of the City of Palo Alto filed with the City Clerk of said city a report and assessment on abatement of weeds within said city, a copy of which is posted on the bulletin board at the entrance to the City Hall.

NOTICE IS FURTHER GIVEN that on _____, 20___, at the hour of seven p.m., in the Council Chambers of said City Hall, said report and assessment list will be presented to the City Council of said City for consideration and confirmation, and that any and all persons interested, having any objections to said report and assessment list, or to any matter or thing contained therein, may appear at said time and place and be heard.

Date _____, 20___

City Clerk of the City of Palo Alto

8.08.080 Hearing on cost assessment.

- (a) At the time and place fixed for receiving and considering such report the city council shall hear the same together with any objections which may be raised by any of the property owners liable to be assessed for the work of abating such nuisance, and the fire chief or urban forester shall attend such meeting with ~~his~~their record thereof, and upon such hearing, the council may make such modifications in the proposed assessments therefor as it may deem necessary, after which such report and assessment list shall be confirmed by resolution.

- (b) The amount of the cost of abating such nuisance upon, or in the front or rear of, the various lots or parcels of land respectively referred to in such report, shall constitute special assessments against such respective lots or parcels of land, and after thus made and confirmed, shall constitute a lien on such property for the amount of such assessments, until paid.

8.08.090 Collection on tax roll.

On or before the first day of September of each year, the amounts of such assessments against the respective parcels of land shall be entered on the next tax roll which general city taxes are to be collected. Thereafter, such amounts shall be collected at the same time, and in the same manner, as general city taxes are collected, and shall be subject to the same interest and penalties, and the same procedure and sale in case of delinquencies. All laws applicable to the levy, collection and enforcement of city taxes are hereby made applicable to such assessments.

SECTION 4. Chapter 8.10 (Tree Preservation and Management Regulations) of Title 8 (Trees and Vegetation) of the Palo Alto Municipal Code hereby amended by repealing in its entirety Chapter 8.10 and adopting a new Chapter 8.10 to read as follows:

Chapter 8.10

**LANDSCAPE AND TREE AND LANDSCAPE PRESERVATION AND PRESERVATION AND
MANAGEMENT REGULATIONS**

Sections:

- 8.10.010 Purpose.**
- 8.10.020 Definitions.**
- 8.10.030 Tree and Landscape Technical Manual.**
- 8.10.040 Disclosure of information regarding existing trees.**
- 8.10.050 ~~Prohibited acts~~Removal of protected trees.**
- 8.10.055 Tree replacement.**
- 8.10.060 No limitation of authority under Titles 16 and 18.**
- 8.10.070 Care of protected trees.**
- 8.10.080 Development conditions.**
- 8.10.090 Designation of heritage trees.**
- 8.10.092 Tree removal in wildland-urban interface area.**
- 8.10.095 Tree removal in ~~HD-Z~~Hospital District zone.**
- 8.10.100 ~~Responsibility for e~~Enforcement.**
- 8.10.110 ~~Enforcement~~—Remedies for v~~violation.~~**
- 8.10.120 Fees.**
- 8.10.130 Severability.**
- 8.10.140 Applications, Notice, and Appeals.**

8.10.010 Purpose.

The purpose of this chapter is to ~~promote the health, safety, welfare, and quality of life of the residents of the city through the protection of~~ specified trees located on private property within the city, and ~~the establishment of~~ standards for removal, maintenance, and planting of trees and landscaping. In establishing these procedures and standards, the city recognizes that trees and landscaping are an essential part of the city's infrastructure. Their benefits include promoting the health, safety, welfare, and quality of life of the residents of the city; addressing climate change by sequestering carbon and providing a cooling effect; reducing air, water, and noise pollution; preventing soil erosion and stormwater runoff; providing wildlife habitat; and enhancing the aesthetic environment. It is the city's intent to encourage the preservation of trees.

8.10.020 Definitions.

For the purposes of this chapter, the following definitions shall apply terms defined in Chapter 8.04 shall have the same meanings in this chapter, and the following terms shall have the meaning ascribed to them in this section:

- (a) "Basal flare" means that portion of a tree where there is a rapid increase in diameter at the confluence of the trunk and root crown.
- (b) "Buildable area" means that area of a parcel:
 - (1) Upon which, under applicable zoning regulations, a structure may be built without a variance, design enhancement exception, or home improvement exception; or
 - (2) Necessary for construction of primary access to structures located on or to be constructed on the parcel, where there exists no feasible means of access which would avoid protected trees. On single-family residential parcels, the portion of the parcel deemed to be the buildable area under this paragraph (b)(2) shall not exceed ten feet in width.
- (c) "Building footprint" means the two-dimensional configuration of an ~~existing~~ building's perimeter boundaries as measured on a horizontal plane at ground level.
- (d) "Designated arborist" means an arborist certified by the International Society of Arboriculture or another nationally recognized tree research, care, and preservation organization, selected by the urban forester for inclusion in a list of approved arborists to be hired by:
 - (1) An applicant at their own expense, or
 - (2) The city at an applicant's expense, if a project includes a public hearing.
- ~~(d) "Hazardous" means an imminent hazard or threat to the safety of persons or property.~~
- (e) "Development" means any work upon any property in the city which requires a subdivision, planned community zone, variance, use permit, building permit, demolition permit, or other city approval or which involves excavation, landscaping or

construction within the dripline area of a protected tree or is subject to requirements of the California Model Water Efficient Landscape Ordinance (MWEL0).

~~(f)~~ "Director of planning and development services" means the director of planning and development services or their designee.

~~(f)~~~~(g)~~ "Director of public works" means the director of public works ~~planning and and development services~~ or ~~his or her~~their designee.

~~(g)~~~~(h)~~ "Discretionary development approval" means planned community zone, subdivision, use permit, variance, home improvement exception, design enhancement exception, ~~or~~ architectural review board approval, or any proposal or application that requires the discretion of the authorizing person or entity.

~~(h)~~~~(i)~~ "Dripline area" means the area defined by the projection to the ground of the outer edge of the canopy or within X distance from the perimeter of the trunk of the tree at four and one-half feet (fifty-four inches) above natural grade where X equals a distance a circle with a radius ten times the diameter of the trunk as measured four and one-half feet (fifty-four inches) above natural grade, whichever is greater.

~~(i)~~~~(j)~~ "Excessive pruning" means removal of more than one-fourth of the functioning leaf, ~~and stem, or root~~ area of a tree in any ~~twelve~~thirty-six-month period, removal of more than 15 percent of the functioning root area of any Quercus (oak) species in any thirty-six month period, or any removal of the functioning leaf, stem, or root area of a tree foliage so as to cause a significant decline in health, ~~or increased to the risk of failure, or~~ the unbalancing of a tree.

(k) "Hazardous" means an imminent hazard which constitutes a high or extreme threat to the safety of persons or property as defined by American National Standards Institute A300, Part 9.

~~(j)~~~~(l)~~ "Protected" tree means any of the following:

- (1) Any locally native tree of the species *Acer macrophyllum* (Bigleaf Maple), *Calocedrus decurrens* (California Incense Cedar), *Quercus agrifolia* (Coast Live Oak), *Quercus douglasii* (Blue Oak), *Quercus kelloggii* (California Black Oak), or *Quercus lobata* (Valley Oak) which is eleven and one-half inches in diameter (thirty-six inches in circumference) or more when measured four and one-half feet (fifty-four inches) above natural grade. ~~;~~ ~~and~~
- (2) Any Coast Redwood tree (species *Sequoia sempervirens*) that is eighteen inches in diameter (fifty-seven inches in circumference) or more when measured four and one-half feet (fifty-four inches) above natural grade.
- (3) Any tree larger than fifteen inches in diameter (forty-seven inches in circumference) or more when measured four and one-half feet (fifty-four inches) above natural grade of any species except those invasive species described as weeds in Section 8.08.010 and those species classified as high water users by the water use classification of the landscape species list approved by the California Department of Water Resources (with the exception of Coast Redwood).

- (4) Any tree designated for protection during review and approval of a development project.
- (5) Any tree designated for carbon sequestration and storage and/or environmental mitigation purposes as identified in an agreement between the property owner and a responsible government agency or recorded as a deed restriction.
- ~~(3)~~(6) Any heritage tree designated by the city council in accordance with the provisions of this chapter.
- (7) Any replacement mitigation tree or other tree designated to be planted due to the conditions listed in Section 8.10.055.
- (m) "Protected tree removal permit" means a permit issued to allow a person to remove a protected tree.
- ~~(k)~~(n) "Remove" or "removal" means any of the following:
 - (1) Complete removal, such as cutting to the ground or extraction, of a tree; or,
 - (2) Taking any action foreseeably leading to the death of a tree or permanent damage to its health; including but not limited to excessive pruning, cutting, topping, girdling, poisoning, overwatering, underwatering, unauthorized relocation or transportation of a tree, or trenching, excavating, altering the grade, or paving within the dripline area of a tree.
- ~~(l)~~ "Tree" means any woody plant which has a trunk four inches or more in diameter at four and one-half feet above natural grade level.
- ~~(m)~~(o) "Tree report" means a report prepared by an designated arborist ~~certified by the International Society of Arboriculture or another nationally recognized tree research, care, and preservation organization.~~
- ~~(n)~~(p) "~~Tree Technical Manual~~Tree and Landscape Technical Manual" means the regulations issued by the city manager to implement this chapter.

8.10.030 Tree and Landscape Technical Manual.

The city manager, through the urban forestry section, departments of and public works and planning and development services departments~~community environment~~, shall issue regulations necessary for implementation and enforcement of this chapter, which shall be known as the Tree and Landscape Technical Manual. The Tree and Landscape Technical Manual will be made readily available to the public and shall include, but need not be limited to, standards and specifications regarding the following:

- (a) Protection of trees during construction.;
- (b) Replacement of trees allowed to be removed pursuant to this chapter where such replacements:;
 - (1) Prioritize the use of locally native species, as listed in Section 8.10.020(l)(1), consistent with Urban Forest Master Plan Goal 2: "Re-generated native woodland and riparian landscapes as the key ecological basis of the urban forest with focus on native species and habitat;"

- (2) Include climate adaptive, drought tolerant, non-native species as needed to satisfy right tree in the right place principles; and
- (3) Incorporate a secondary goal of net tree canopy increase on the property within 15 years.
- (c) Maintenance of protected trees (including but not limited to pruning, irrigation, and protection from disease);
- (d) The format and content of tree reports required to be submitted to the city pursuant to this chapter;
- (e) The criteria for determining whether a tree is ~~dangerous~~ hazardous within the meaning of this chapter.
- (f) Landscape design, irrigation, and installation standards consistent with the city's water efficient landscape regulations.

8.10.040 Disclosure of information regarding existing trees.

- (a) Any application for development or demolition shall be accompanied by a statement by a designated arborist ~~the property owner or authorized agent~~ which discloses whether any protected trees exist on the property which is the subject of the application, and describing each such tree, its species, size, dripline area, and location. This requirement shall be met by including the information on plans submitted in connection with the application.
- (b) In addition, the location of all other trees on the site property and in the adjacent public right of way which are within thirty feet of the building footprint area proposed for development, and trees located on adjacent property within thirty feet of the proposed building footprint or with canopies overhanging the project site, shall be shown on the plans, identified by species.
- (c) The director of public works or urban forester may require submittal of such other information as is necessary to further the purposes of this chapter including but not limited to photographs.
- (d) Disclosure of information pursuant to this section shall not be required when the development for which the approval or permit is sought does not involve any change in an existing building footprint nor any grading, trenching, or paving, or any change in landscaping which could alter water availability to established plants, hedges, shrubs, or trees.
- (e) The urban forester or the designated arborist for a project shall add identified protected trees into the city's tree inventory database, and in coordination with the planning and development services departments, into city parcel reports.
- ~~(e)~~(f) Knowingly or negligently providing false or misleading information in response to this disclosure requirement shall constitute a violation of this chapter.

8.10.050 ~~Prohibited acts~~ Removal of protected trees.

It shall be a violation of this chapter for anyone to remove or cause to be removed a protected tree, except ~~as allowed in this section~~ pursuant to a protected tree removal permit issued under Section 8.10.140 consistent with the following:

- (a) In the absence of proposed development:
 - (1) ~~a~~ A protected trees shall not be removed unless determined by the director of planning and development services, urban forester grants a protected tree removal permit, having determined, on the basis of a tree report prepared by a certified designated arborist for the applicant and other relevant information, that treatments or corrective practices are not feasible, and that the tree should be removed because any of the following apply:
 - (i) ~~It is dead, is hazardous, is a detriment to or crowding an adjacent protected tree, or constitutes a nuisance under Section 8.04.050(2) of this code.~~
 - (ii) It is a detriment to or is crowding an adjacent protected tree, or is impacting the foundation or eaves of a primary residence.
 - (2) In the event a protected tree is removed pursuant to a protected tree removal permit granted under this subsection, the director of planning and development services in consultation with the urban forester shall may issue a temporary moratorium on development of the subject property not to exceed thirty-six months from the date the tree removal occurred. For any moratorium less than thirty-six months, the urban forester shall determine appropriate mitigation measures for the tree removal, and 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.
- (b) In the case of any development on a single-family (R-1) or low density (RE, R-2, or RMD) residential zoned parcel, other than in connection with a subdivision, a protected tree shall not be removed unless determined by the urban forester, on the basis of a tree report prepared by a designated arborist and other relevant information, that any of the following apply:
 - (1) The tree is so close to the proposed development that construction would result in the death of the tree, and there is no financially feasible and reasonable design alternative that would permit preservation of the tree. ~~Protected trees shall not be removed unless the trunk or basal flare of the protected tree is touching or within the building footprint, or the director of planning and development services has determined, on the basis of a tree report prepared by a certified arborist for the applicant and other relevant information, that the tree should be removed because it is dead, is hazardous, is a detriment to or crowding an adjacent protected tree, or constitutes a nuisance under Section 8.04.050(2) of this code.~~

- (2) The tree could be removed due to the conditions listed in Section 8.10.050(a)(1) and treatments or corrective practices are not feasible. If no building footprint exists, protected trees shall not be removed unless the trunk of the tree is located in the building area, or the director of planning and community environment has determined, on the basis of a tree report prepared by a certified arborist for the applicant and other relevant information, that the tree should be removed because it is dead, is hazardous, is a detriment to or crowding an adjacent protected tree, or constitutes a nuisance under Section 8.04.050(2) of this code.
- ~~(3) If removal is allowed because the tree trunk is located in the building footprint, or the trunk or basal flare is in the building area, or because the director of planning and community environment has determined that the tree is so close to the building area that construction would result in the death of the tree, the tree removed shall be replaced in accordance with the standards in the Tree Technical Manual.~~
- (c) In connection with the case of development involving a proposed subdivision of land into two or more parcels, a protected tree shall not be removed unless determined by the urban forester, on the basis of a tree report prepared by a designated arborist and other relevant information, that either of the following apply:
- (1) Removal is unavoidable due to restricted access to the property or deemed necessary to repair a geologic hazard (landslide, repairs, etc.), in which case only the protected tree or trees necessary to allow access to the property or repair the geologic hazard may be removed.
- ~~(2) The tree could be removed due to the conditions listed in subsection (a)(1)(i) and treatments or corrective practices are not feasible. The tree removed shall be replaced in accordance with the standards in the Tree Technical Manual. Tree preservation and protection measures for any lot that is created by a proposed subdivision of land shall comply with the regulations of this chapter.~~
- (d) In the case of development requiring either discretionary or ministerial approval, for any project not included under subsections (b) or (c), a protected tree shall not be removed unless determined by the urban forester, on the basis of a tree report prepared by a designated arborist and other relevant information, that either of the following apply:
- (1) Retention of the tree would result in reduction of the otherwise-permissible buildable area of the lot by more than twenty-five percent, and there is no financially feasible and reasonable design alternative that would permit preservation of the tree.
- (2) The tree should be removed because it is dead, hazardous, or constitutes a nuisance under Section 8.04.050. In such cases, the dripline area of the removed tree, or an equivalent area on the site, shall be preserved for mitigation purposes from development of any structure.

~~(d)~~(e) In any circumstances other than those described in ~~paragraphs subsections~~ (a), (b), and (c), ~~or (d) of this section~~, a protected trees shall not be removed unless ~~one of the following applies:~~ determined by the urban forester, on the basis of a tree report prepared by a designated arborist and other relevant information, that the tree is dead, is hazardous, or constitutes a nuisance under Section 8.04.050.

~~(1) The director of planning and community environment has determined, on the basis of a tree report prepared by a certified arborist for the applicant and other relevant information, that the tree should be removed because it is dead, dangerous or constitutes a nuisance under Section 8.04.050(2). In such cases, the dripline area of the removed tree, or an equivalent area on the site, shall be preserved from development of any structure unless removal would have been permitted under paragraph (2), and tree replacement in accordance with the standards in the Tree Technical Manual shall be required.~~

~~(2) Removal is permitted as part of project approval under Chapter 18.76 (Permits and Approvals) of this code, because retention of the tree would result in reduction of the otherwise permissible building area by more than twenty five percent. In such a case, the approval shall be conditioned upon replacement in accordance with the standards in the Tree Technical Manual.~~

8.10.055 Tree replacement.

(a) In the event a protected tree is removed pursuant to Section 8.10.050(a)(1)(i), mitigation for the removed tree, replacement tree ratio, in lieu fees, or a combination thereof shall be determined by the urban forester, based on factors including but not limited to the species, size, location, and specific reason for removal of the protected tree, in accordance with the standards and specifications in the Tree and Landscape Technical Manual.

(b) In the event a protected tree is removed pursuant to Section 8.10.050 (a)(1)(ii), (b), (c), (d), or (e), the tree removed shall be replaced in accordance with the standards and specifications in the Tree and Landscape Technical Manual, including but not limited to prioritization of locally native species, satisfaction of right tree in the right place principles, and incorporation of a secondary goal of net tree canopy increase on the property within 15 years. The urban forester shall approve the number, species, size, and location of replacement trees.

8.10.060 No limitation of authority under Titles 16 and 18.

Nothing in this chapter limits or modifies the existing authority of the city under Title 18 (Zoning Ordinance) to require trees, shrubs, hedges, and other plants not covered by this chapter to be identified, retained, protected, and/or planted as conditions of the approval of development. In the event of conflict between provisions of this chapter and conditions of any permit or other

approval granted pursuant to Title 16 or Title 18, the more protective requirements shall prevail.

8.10.070 Care of protected trees.

- (a) All owners of property containing protected trees shall follow the maintenance standards in the Tree and Landscape Technical Manual, including avoiding any action foreseeably leading to the death of a tree or permanent damage to its health; including but not limited to excessive pruning, cutting, topping, girdling, poisoning, overwatering, underwatering, reduced watering due to a landscape change, unauthorized relocation or transportation of a tree, or trenching, excavating, altering the grade, or paving within the dripline area of a tree.
- (b) At least seven days prior to pruning a protected tree, other than that required to remove a dead, diseased, or broken branch or branches, the property owner or their designee shall prominently post a notice on the property, in one or more locations readily visible to the public, that includes standards for pruning and a description of the tree including tree species, size, location, the date of work, and a contact phone number. The form for such notice will be available on the city's website as a printable document. Protected trees less than five (5) years old are exempt from this provision.
- ~~(b)~~(c) The standards for protection of trees during construction contained in the Tree and Landscape Technical Manual shall be followed during any development on property containing ~~protected~~ trees.
- (d) The urban forester shall add identified protected trees into the city's tree inventory database and, in coordination with the planning and development services departments, into city parcel reports.

8.10.080 Development conditions.

- (a) Development approvals for property containing protected public trees ~~shall~~will include appropriate conditions as set forth in the Tree and Landscape Technical Manual, providing for the protection of such trees during construction and for maintenance of ~~such~~the trees thereafter. Trees may be designated for protection that are significant visually or historically, provide screening, or are healthy and important to the nearby ecosystem.
- (b) It shall be a violation of this chapter for any property owner or agent of the owner to fail to comply with any development approval or building permit condition concerning preservation, protection, and maintenance of any tree, including but not limited to protected trees.

8.10.090 Designation of heritage trees.

- (a) Upon nomination by any person and with the written consent of the property owner(s), the city council may designate a tree or trees as a heritage tree.
- (b) A tree may be designated as a heritage tree upon a finding that it is ~~unique and~~ of importance to the community due to any of the following factors:
 - (1) It is an outstanding specimen of a desirable species~~;~~
 - (2) It is one of the largest or oldest trees in Palo Alto~~;~~
 - (3) It possesses distinctive form, size, age, location, and/or historical significance.
- (c) After council approval of a heritage tree designation, the city clerk shall notify the property owner(s) in writing. A listing of trees so designated, including the specific locations thereof, shall be kept by the departments of public works ~~and planning and community environment.~~
- (d) Once designated, a heritage tree shall be considered protected and subject to the provisions of this chapter unless removed from the list of heritage trees by action of the city council. The city council may remove a tree from the list upon its own motion or upon written request by the property owner. Request for such action must originate in the same manner as nomination for heritage tree designation.

8.10.092 Tree removal in wildland-urban interface area

Tree removal and relocation in the wildland-urban interface (WUI) area, as defined in Section 15.04.190, shall be subject to the provisions in Chapter 15.04. To the extent Chapter 15.04 is inconsistent with this chapter, Chapter 15.04 shall control.

8.10.095 Tree removal in ~~HD~~ Hospital District zone.

Tree removal and relocation in the Hospital District (HD) shall be subject to the provisions in Section 18.36.070. To the extent Section 18.36.070 is inconsistent with this chapter, Section 18.36.070 shall control.

8.10.100 Responsibility for eEnforcement.

- (a) Violation of this chapter is a misdemeanor, punishable as provided in this code. Each day of violation constitutes a separate offense and may be separately punished.
- ~~(a)~~(b) Persons employed in ~~T~~the following designated employee positions ~~may enforce the provisions~~ are authorized to exercise the authority provided in California Penal Code Section 836.5 and are authorized to issue citations for violations of this chapter, including but not limited to leveling fines under the city's administrative penalty authority by the issuance of citations: assistant director of public works public services division, urban forester, ~~landscape architect,~~ project manager in the urban forestry

~~section, landscape architect, chief building official, assistant building official, and code enforcement officer, planning arborist.~~

8.10.110 Enforcement—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 subdivision 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.~~

~~(1)(2) If a violation occurs during development pursuant to Section 8.10.050 (b), (c), (d), or (e), the city may~~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 director of planning and community and by the urban forester or director of public works, if replacement is to occur on public property.~~ 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 ~~a greater ratio than that~~ required where tree removal is permitted pursuant to the provisions of this chapter.

~~(2) If a violation occurs in the absence of development, 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 may issue a temporary moratorium on development of the subject property, not to exceed eighteen months 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 director shall be imposed as a condition of any subsequent permits for development on the subject property.~~

(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 ~~an~~ the following amount: not to exceed five thousand dollars per violation.

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

(2) ~~Where the violation has resulted in removal of a tree, the civil penalty shall be in an amount not to exceed five thousand dollars per tree unlawfully removed, or the replacement value of each such tree, whichever amount is higher. Such amount~~ Penalties shall be payable to the city.

(3) Replacement or repair value for the purposes of this section 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.

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

~~(d)~~(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.

~~(e)~~(f) The remedies and penalties provided in this Section are cumulative and not exclusive.

8.10.120 Fees.

Tree reports required to be submitted to the city for review and evaluation pursuant to this chapter shall be accompanied by the fee prescribed therefore in the municipal fee schedule.

8.10.130 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held to be invalid by a court of competent jurisdiction, such invalidity shall not affect any other provision of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

8.10.140 Applications, Notice, and Appeals.

(a) Applications

- (1) All applications for removal of a protected tree pursuant to Section 8.10.050 shall be filed in accordance with this section and any applicable provisions of Chapter 18.77. Applications for removal of protected trees on non-residential zoned properties will follow review guidelines set forth in Section 8.10.050(d) and Section 18.76.020 and will follow the process set forth in Section 18.77.070.
- (2) The application form shall be prescribed by the urban forester and shall contain a list of information that must be submitted in order for the application to be deemed complete.
- (3) Each application must be signed by all owners of the real property containing the protected tree, or an agent of the owner of record of the real property on which the protected tree occurs, when duly authorized by the owner in writing.
- (4) No application shall be deemed received until all fees for the application as set forth in the municipal fees schedule have been paid, and all documents specified as part of the application in this chapter or on the application form have been filed.
- (5) Protected tree removal permits shall automatically expire after twelve months, unless otherwise provided in the permit, from the date of issuance of the permit if within such twelve-month period, the proposed tree has not been removed.

(b) Notice.

- (1) All applications for removal of a protected tree pursuant to Section 8.10.050 shall give notice in accordance with this Section, the Tree and Landscape Technical Manual, and any applicable provisions of Chapter 18.77.
- (2) After submittal of an application to remove a protected tree, notice shall be given consistent with subsection (b)(4) and shall include the date of the proposed removal and the basis for the application.
- (3) Upon determination of a protected tree removal application, notice shall be given consistent with subsection (b)(4) and shall include a description of the decision and how to appeal it.
- (4) Notices required pursuant to this section shall include the address of the property, a description of the protected tree, including species, size, and location, and urban forestry contact information, and shall be given as follows:

- (i) By mail to all owners and residents of property within 600 feet of the exterior boundary of the property containing the protected tree, and to all principal urban forestry partner organizations.
- (ii) By posting on the property, in one or more locations visible to the public.
- (iii) By posting on the city's website.

~~(a)~~(c) Appeals.

- (1) Any person applying to remove a protected tree pursuant to Section 8.10.050(a), and any owner or resident of property within 600 feet of the exterior boundary of the property containing the protected tree, may appeal the urban forester's decision to the city council in a manner prescribed by the urban forester.
- (2) Any person ~~seeking the director's approval applying~~ to remove a protected tree pursuant to Section 8.10.050(b), (c), (d), or (e), and any owner or resident of property within 600 feet of the exterior boundary of the property containing the protected tree~~the ordinance codified in this chapter who is aggrieved by a decision of the director~~ may appeal the director of planning and development service's ~~such~~ decision in accordance with the procedures set forth in Chapter 18.78 (Appeals).
- (3) All appeals must be filed within fourteen days of posting of notice on the property pursuant to subsection (b)(4)(ii).

SECTION 5. If any section, subsection, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portion or sections of the Ordinance. The Council hereby declares that it should have adopted the Ordinance and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 6. The Council finds that this ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA"), pursuant to Section 15061 of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment. Alternatively, the ordinance is also exempt under CEQA Guidelines Section 15308 because it involves regulatory action for the protection of the environment.

SECTION 7. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Deputy City Attorney

City Manager

Director of

Director of Administrative
Services

NOTES:

1. Hyperlinks and underlines shall be used for all Title, Chapter, and Section references.