



**CITY OF ELK GROVE  
CITY COUNCIL STAFF REPORT**

**AGENDA TITLE:** Tree Ordinance Update – City Initiated Project: Introduce an Ordinance repealing and replacing Elk Grove Municipal Code Chapter 19.12 (Tree Preservation and Protection) and repealing Chapter 19.04 (Regulations)

**MEETING DATE:** February 9, 2011

**PREPARED BY:** Christopher Jordan, AICP, Planning Manager

**DEPARTMENT HEAD:** Taro Echiburu, Planning Director

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**RECOMMENDED ACTION:**

The Planning Commission recommends that the City Council introduce and waive the full reading, by substitution of title only, an Ordinance of the City Council of the City of Elk Grove repealing and replacing Chapter 19.12 and repealing Chapter 19.04 of the Elk Grove Municipal Code.

**BACKGROUND INFORMATION:**

The City’s existing Tree Preservation and Protection Ordinance was carried over upon incorporation in 2000 from the County of Sacramento. The County provisions are targeted at protection of native oak tree stock with a minimum diameter at breast height (dbh) of six inches. The provisions apply throughout the community and require a Tree Permit from the City prior to tree removal or doing work (meaning trimming/pruning, trenching, etc.) within the dripline of the tree. The existing provisions of the Ordinance do not specifically recognize the other varieties of trees that are native to the Elk Grove area or the type of environment (urban or rural) within which the tree is located.

The Conservation and Air Quality Element of the City's General Plan includes goals, policies, and actions related to the preservation and enhancement of the City's urban forest (See Attachment 2). Programs and actions identified in the General Plan call for the "[p]reservation and protection of the large oak and other tree species which are an important part of the City's historic and aesthetic character" (Focused Goal 4-2). Policy CAQ-8 states that "[t]rees which function as an important part of the City's or a neighborhood's aesthetic character or as natural habitat should be retained to the extent possible during [development design, planning, and approval]." Finally, action CAQ-8-5 directs the update of the Tree Preservation Ordinance to conform to the policies of the General Plan.

Since 2006, staff has been working with the public and various stakeholder groups to update the Tree Preservation Ordinance. Between June 2006 and January 2009, six public workshops have been held. Additionally, as described later in this report, staff has been working with a group of resident stakeholders since February 2009 to refine and work out details of the draft Ordinance.

Staff brought forward a draft Ordinance in July 2008 for Planning Commission consideration. After reviewing the draft and taking public comment, the Commission directed staff to go back to the public and stakeholders and work out a number of issues, including types of trees covered under the provisions, size, location, and mitigation requirements. Since that meeting, staff has held three public workshops and four additional stakeholder meetings to discuss and address these concerns.

In June 2009, the Planning Commission was scheduled to review a draft of the Ordinance for possible recommendation to the City Council. However, at the meeting, staff recommended that the Commission pull the item and direct staff to reconvene the working group with additional representation from the Building Industry Association and the Sacramento Tree Foundation.

In July 2010, staff returned to the Commission with an updated draft Ordinance. After significant discussion and consideration at the July 2, 2010 hearing, as well as a continuation of the hearing on August 19, 2010, the Commission directed a Planning Commission workshop for further public input on October 11, 2010. During this workshop, the Commission

discussed the key concepts for the Ordinance and heard extensive input from the ad hoc committee members and general public. The Commission concluded this discussion at the October 21, 2010 meeting and provided direction to staff to prepare a new updated draft Ordinance.

## **ANALYSIS:**

The draft Tree Preservation and Protection Ordinance (Attachment 1) focuses on updating the City's existing provisions found in Chapter 19.12 of the Municipal Code (Attachment 3). Where the existing provisions focus specifically on native oak trees with a minimum six inch dbh, the draft provisions expand protection to other native species of trees and landmark trees, as directed in the General Plan.

### **Key Components of Draft Chapter 19.12**

The proposed updates to Chapter 19.12 include and accomplish the following:

#### **Designation of Tree Types**

- Redesignates "Heritage Trees" as "Trees of Local Importance." These trees have, by definition, a minimum trunk size of 6 inches dbh. This is the same size threshold used by the City currently and it is generally consistent with the size threshold used elsewhere in the region. Therefore, staff is recommending that this threshold continue to be used. The Sacramento Tree Foundation representative has stated that protection of trees of this size help to insure that healthy young trees are available to grow into more mature trees for the urban canopy.
- Adds the concept of "Landmark Trees" for any species of tree over a certain size. Drawn from the City of Davis' Ordinance, the new definition of "Landmark Tree" requires a resolution of the City Council after a tree has been determined to be of high value to the community because of its species, size, age, form, historic significance, or other listed criterion. The ordinance includes incentives for property owners to have trees designated as "Landmark Trees."
- Creates a category called "Secured Trees," which are the following:

- A Tree of Local Importance retained during the course of review and approval of a discretionary development project, inclusive of the environmental review process as required by CEQA; and
- Those trees planted as a result of a discretionary development project to satisfy a mitigation requirement under the Ordinance, an approved or certified CEQA document, or other regulation.
- Specifically cites City trees as “Trees in the Right of Way or on City Property.”

### Permit Requirements

- Requires a Tree Permit whenever someone wishes to conduct work within the critical root zone, cut down, remove, top, or relocate any Landmark Tree, Tree of Local Importance, Secured Tree, or Tree in the Right of Way or on City Property.
- Specifically exempts the following from Tree Permit requirements:
  - Trees of Local Importance when not part of a discretionary development project (note that removal of Secured Trees and Landmark Trees from these properties is not exempted);
  - Work on trees within parks, parkways, and public recreation easements owned, leased or managed by the Cosumnes Community Services District;
  - Removal and pruning work by utility providers for all types of trees other than Landmark Trees; and
  - In case of emergency caused by the tree being in a hazardous or dangerous condition requiring immediate action for the safety of human life or buildings or structures, such tree may be removed by permission of the City Arborist during normal working hours or by the Public Works department at all other times.

### Application Process

- Generally, a Tree Permit is reviewed and decided by the Planning Director after a recommendation by the City Arborist.
- In the case of a request for tree removal as part of a development project, the request is decided by the approving authority for the development project (e.g., Planning Commission, City Council).

- Permits must be exercised within 12 months from the date of approval (or longer when part of a development project), but there are provisions for extension.
- An Arborist Report, prepared by the City Arborist at the expense of the applicant, is required.
- Findings for permit issuance or denial have been included.
- Mitigation for tree loss is required, unless the removal is eligible for a waiver.

### Mitigation

- Mitigation is required for tree loss at a rate of one inch to one inch.
- A range of options is available for satisfying the mitigation requirement, including:
  - On-site or off-site replacement;
  - Payment of an in-lieu fee;
  - Credit for retaining existing trees that are smaller than the minimum size requiring protection; and
  - On-site or off-site relocation, subject to approval of the relocation plan by the City Arborist.
- An Alternative Mitigation option is provided so that reduced mitigation is required if the tree is being removed because it is diseased, causing or having a high degree of probability to cause significant property damage, or the tree is or has a high degree of probability to be a hazard to the public health or safety. If granted, the waiver would reduce the required mitigation from one inch to one inch to a one tree for one tree requirement. If there is not adequate space on the property for the new planting, the City Arborist may waive the mitigation in its entirety.

### **Concurrent Repeal of Chapter 19.04**

Because of the scope of the proposed amendments to Chapter 19.12 and the comprehensive nature of the updated Tree Permit, staff recommends that existing Chapter 19.04 of the Municipal Code be repealed. Chapter

19.04 deals specifically with trees on City property, which are now addressed in the updates to Chapter 19.12.

## **ENVIRONMENTAL ANALYSIS**

The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.” The proposed project is a project under CEQA.

Staff has reviewed the project to determine the required level of review under CEQA. The proposed Municipal Code amendment is exempt from CEQA under CEQA Guidelines Sections 15183 (Projects Consistent with a General Plan) and 15308 (Action by Regulatory Agencies for Protection of the Environment). The Section 15183 exemption (Projects Consistent with a General Plan) applies to projects that are consistent with the local general plan and for which an Environmental Impact Report (EIR) was certified. The City’s General Plan was adopted in 2003 in conjunction with certification of the accompanying EIR (SCH# 2002062082). The Conservation and Air Quality Element of the City’s General Plan includes goals, policies, and actions related to the preservation and enhancement of the City’s urban forest. Programs and actions identified in the General Plan call for the “[p]reservation and protection of the large oak and other tree species which are an important part of the City’s historic and aesthetic character” (Focused Goal 4-2). Policy CAQ-8 states that “[t]rees which function as an important part of the City’s or a neighborhood’s aesthetic character or as natural habitat should be retained to the extent possible during [development design, planning, and approval].” Finally, action CAQ-8-5 directs the update of the Tree Preservation Ordinance to conform to the policies of the General Plan. The proposed project is consistent with the General Plan. Therefore, the project qualifies for this exemption.

The Section 15308 exemption (Action by Regulatory Agencies for Protection of the Environment) applies to actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. This Ordinance revises and

updates the City's existing regulatory process to protect trees in the City. The Ordinance does not involve or cause any direct physical change to the environment. Therefore, no circumstances exist that create a reasonable possibility that the proposed Ordinance will have a significant adverse effect on the environment; therefore, the proposed Ordinance qualifies for this exemption.

Therefore, as the project qualifies for both of these exemptions, no further environmental review is required.

**FISCAL IMPACT:**

The City's currently processes Tree Permits in two ways. First, requests associated with development projects are processed concurrently with the development permits with staff time charged back to the applicant. Therefore, there is no fiscal impact to the City to process these requests.

When Tree Permit requests are not associated with a development project (generally homeowner requests), the City has charged a flat fee of \$30. This fee does not cover the full costs associated with processing the application and the balance of the costs comes from the General Fund. Under the proposed amendments, the City will accept the responsibility for preparing arborist reports documenting the location, size and species, and health of the tree subject to the proposed permit. This will require a larger financial commitment from the General Fund, unless the City adjusts the permit fee accordingly. In the past, the Council has directed that the permit fee be at a minimal amount so as to encourage compliance.

**ATTACHMENTS:**

1. Ordinance
2. General Plan Excerpt
3. Existing Regulations

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE  
REPEALING AND REPLACING CHAPTER 19.12 AND REPEALING CHAPTER 19.04  
OF THE ELK GROVE MUNICIPAL CODE**

The City Council of the City of Elk Grove does ordain as follows:

Section 1: Purpose and Authority

The purpose of this ordinance is to update the City's tree preservation and protection regulations for consistency with the City's General Plan.

Section 2: Findings

**California Environmental Quality Act (CEQA)**

Finding: The project is categorically exempt from the California Environmental Quality Act (CEQA) review pursuant to Sections 15308 and 15183 of Division 6 of Chapter 3 of Title 14 of the California Code of Regulations (State CEQA Guidelines).

Evidence: The proposed project is exempt from CEQA under Sections 15183 and 15308 of Division 6 of Chapter 3 of Title 14 of the California Code of Regulations (State CEQA Guidelines). The Section 15183 exemption (Projects Consistent with a General Plan) applies to projects that are consistent with the local general plan and for which an Environmental Impact Report (EIR) was certified. The City's General Plan was adopted in 2003 in conjunction with certification of the accompanying EIR (SCH# 2002062082). The Conservation and Air Quality Element of the City's General Plan includes goals, policies, and actions related to the preservation and enhancement of the City's urban forest. Programs and actions identified in the General Plan call for the "[p]reservation and protection of the large oak and other tree species which are an important part of the City's historic and aesthetic character" (Focused Goal 4-2). Policy CAQ-8 states that "[t]rees which function as an important part of the City's or a neighborhood's aesthetic character or as natural habitat should be retained to the extent possible during [development design, planning, and approval]." Finally, action CAQ-8-5 directs the update of the Tree Preservation Ordinance to conform to the policies of the General Plan. The proposed project is consistent with the General Plan. Therefore, the project qualifies for this exemption.

The Section 15308 exemption (Action by Regulatory Agencies for Protection of the Environment) applies exemption applies to actions taken by regulatory agencies to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. This Ordinance revises and updates the City's existing regulatory process to protect trees in Elk Grove. The Ordinance does not involve or cause any physical change to the environment. No circumstances exist that create a reasonable possibility that the proposed Ordinance will have a significant adverse effect on the environment. Therefore the proposed amendments qualify for this exemption.

Therefore, as the project qualifies for both of these exemptions, no further environmental review is required.

### **General Plan Consistency**

Finding: The project is consistent with the goals, policies, and actions of the Elk Grove General Plan.

Evidence: The Conservation and Air Quality Element of the City's General Plan includes the City's goals, policies, and actions related to the preservation and enhancement of the City's urban forest. The proposed update of the City's Tree Preservation and Protection Ordinance focuses on expanding protection to other varieties of native trees and other landmark trees. Specifically, the proposed amendments (1) establish a City Arborist who is a certified arborist; (2) requires a tree permit for removing trees protected under the provisions; (3) establishes a requirement for an arborist report to be completed prior to deciding a tree permit that proposes removal of a tree; (4) requires mitigation for loss of trees as part of development projects; (5) includes control measures for development to ensure impacts to existing trees are minimized; and (6) continues the Tree Mitigation Fund which is used to further tree maintenance and tree replacement through tree planting and preservation programs and public education programs regarding trees.

These amendments implement General Plan Policy CAQ-8 and associated action items 1, 5, 7, and 9, which call for (1) retention of existing tree stock as part of new development; (2) the establishment of criteria as part of the review process for the removal of trees; (3) updating the Tree Preservation and Protection Ordinance consistent with the General Plan; (4) the creation of a City Arborist position filled by a "qualified arborist;" and (5) providing funds for education, programs, and materials for tree preservation and replanting.

Therefore, the proposed amendments directly implement the policies and action items of the General Plan and as such are consistent with the General Plan.

#### Section 3: Action – Chapter 19.04

Chapter 19.04 of the Elk Grove Municipal Code is hereby repealed in full.

#### Section 4: Action – Chapter 19.12

Chapter 19.12 of the Elk Grove Municipal Code is hereby repealed in full and replaced as follows:

**Chapter 19.12**  
**TREE PRESERVATION AND PROTECTION**

Sections:

Article 1: Purpose and Definitions

19.12.010 Purpose

19.12.020 General Definitions

Article 2: Types of Trees

19.12.030 Landmark Trees

19.12.040 Trees of Local Importance

19.12.050 Secured Trees

19.12.060 Trees in the Right of Way or on City Property

Article 3: Tree Permit

19.12.070 Work Requiring a Tree Permit

19.12.080 Exemptions from Tree Permit Requirements

19.12.090 Application Procedure and Permit Processing

19.12.100 Arborist Review

19.12.110 Decision Criteria and Findings

19.12.120 Mitigation for Tree Loss

19.12.130 Appeals

Article 4: Mitigation for Tree Loss

19.12.140 Mitigation Required

19.12.150 Mitigation Standards

19.12.160 Mitigation Options

19.12.170 Mitigation Equivalents

19.12.180 Alternative Mitigation Requirements

19.12.190 Replanting Security

Article 5: Development Control Measures

19.12.200 Development Control Measures

Article 6: Administration and Enforcement

19.12.210 Application Fees

19.12.220 Tree Preservation Fund

19.12.230 Violations

**Article 1**  
**Purpose and Definitions**

**19.12.010 Purpose**

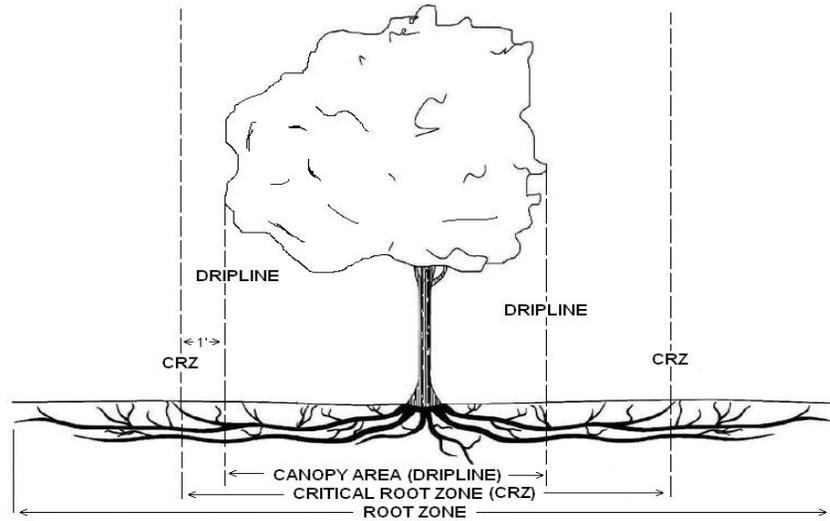
The City of Elk Grove desires to preserve the existing trees within the City whenever

reasonably possible. The City wants to preserve the historic and aesthetic character of the community as described in the General Plan, of which older trees are a critical component. In doing so, the City is establishing these regulations as a way to protect the health and integrity of the City's existing urban forest while providing for an optimal level of species and age diversity. Further, the City recognizes that trees provide numerous benefits to the community, including improving water quality, providing shade for buildings, providing shelter for animals and other plants, and reducing pollution, thereby positively impacting the health and welfare of the community. Older, more mature trees are often the most effective types of trees for achieving these objectives. These provisions are intended to complement and strengthen zoning, subdivision, and land use standards and regulations, while at the same time recognizing the rights of individual property owners. It is, therefore, the objective of these provisions to preserve existing trees through both the development review process and subsequent activities such as work within the canopy or within the critical root zone of trees and provide a process for replacement in instances where preservation is not reasonably possible.

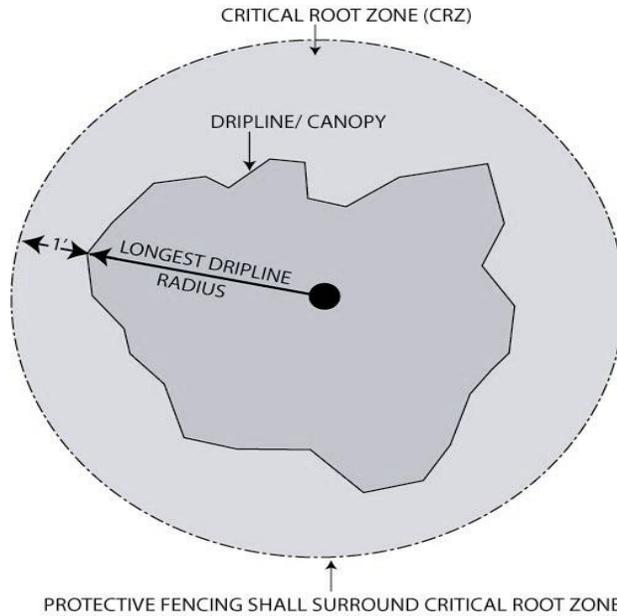
#### **19.12.020 General Definitions**

For the purposes of this Chapter, certain words or terms used herein shall be interpreted as follows.

- A. Approving Body. Approving body shall be any one of the following: City Council, Planning Commission, or Planning Director.
- B. Arborist. Arborist shall mean an individual who is certified as an arborist by the International Society of Arboriculture (ISA) and who agrees to perform all work to the most current American National Standard Institute (ANSI) A300 standards.
- C. Arborist Report. Arborist Report shall mean a report prepared by an arborist containing information required under this Chapter as part of a Tree Permit application.
- D. CEQA. CEQA shall mean California Public Resources Code Section 21000-21177, commonly referred to as the California Environmental Quality Act, and Sections 15000-15387 of Chapter 3, Division 6, Title 14 of the California Code of Regulations, commonly referred to as the CEQA Guidelines.
- E. City Arborist. City Arborist shall mean the Arborist for the City of Elk Grove, who shall be an ISA-certified arborist.
- F. Critical Root Zone (CRZ). Critical Root Zone shall mean a circular area around a tree with a radius measured to the tree's longest existing dripline radius plus one (1' 0") foot.



- G. Critical Tree Disease: Critical Tree Disease shall mean any tree disease, identified by the City Arborist, as a severe threat (i.e., likely to result in the death of the tree) to trees in Elk Grove including but not limited to Dutch Elm Disease and Sudden Oak Death.
- H. Crown. Crown shall mean the upper part of a tree, measured from the lowest branch, including all the branches and foliage.
- I. dbh. Dbh shall mean the diameter at breast height is the diameter of a tree measured at four and one-half (4' 6") feet above the ground while standing on the high side of the tree. The diameter may be calculated by use of the following formula:
- $$\text{diameter} = \text{circumference} / 3.142$$
- J. Development Projects. Development project shall mean a project that must be approved by one of the following approving bodies: City Council, Planning Commission, or Planning Director. Development projects shall include, but are not limited to: Design Review, Tentative Subdivision Map or Tentative Parcel Map, a rezone, a variance, or a conditional use permit.
- K. Dripline. Dripline shall mean an area delineated by projection of the periphery of the crown of a tree down to the ground surface.
- L. Dripline radius. Dripline radius shall mean a radius equal to the horizontal distance from the trunk of the tree to the end of the longest branch and is not the same as the critical root zone.



- M. Grading. Grading shall mean, as described in the building code, the act or result of digging, excavating, transporting, spreading, depositing, filling, compacting, settling, or shaping of land surfaces and slopes, and other operations performed by or controlled by human activity involving the physical movement of rock or soil.
- N. Landmark Tree. Landmark Tree shall mean those trees identified in EGMC Section 19.12.030 (Landmark Trees)
- O. Secured Tree. Secured Tree shall mean those trees identified in EGMC Section 19.12.050 (Secured Trees).
- P. Tree Permit. A Tree Permit is an authorization by the City for the removal, pruning, or work in the critical root zone of a tree, issued pursuant to this chapter.
- Q. Tree Permit Work. Tree Permit Work shall mean work for which a Tree Permit is required as described in EGMC Section 19.12.070.
- R. Trees of Local Importance. Trees of Local Importance shall mean those trees identified in EGMC Section 19.12.040 (Trees of Local Importance).

**Article 2**  
**Types of Trees**

**19.12.030 Landmark Trees**

- A. Landmark Tree Generally. A Landmark Tree is a tree that has been determined and designated, by resolution of the City Council, to be of high value to the community because of its species, size, age, form, historical significance, or some other professional criterion.
- B. Process for Designating a Landmark Tree.

1. Any person may submit a proposal to designate a tree as a Landmark Tree. Proposals shall be submitted to and reviewed by the Planning Director. The Planning Director shall route the application to the City Arborist for review and comment. Upon review and recommendation by the Planning Director and City Arborist, the proposal shall be submitted to the City Council for review and action.
  2. If a tree proposed as a Landmark Tree is located on private property and the property owner is not the person submitting the proposal, the application shall be routed to the property owner for their review and comment.
  3. The City Council may only approve designating a tree(s) as a Landmark Tree if the property owner has given their consent to the designation.
- C. Criteria for Landmark Tree. A tree may be designated a Landmark Tree if it meets any of the following criteria:
1. The tree is an outstanding specimen of a desirable species;
  2. The tree is one of the largest or oldest trees in the City;
  3. The tree is of historical interest;
  4. The tree is of distinctive form; or
  5. The tree is an unusual species, significant grove, or is otherwise unique.
- D. Benefits of Landmark Tree Designation. Owners of property upon which a Landmark Tree is located are eligible to receive benefits for the care and maintenance of their Landmark Tree. Typical benefits may include:
1. Discounts by participating local contractors and arborists for work on Landmark Trees. The City does not guarantee that discounts will be given in all cases but may work with Landmark Tree owners in securing a contractor discount on an individual basis.
  2. Owners shall receive a resolution of appreciation from the City Council.
  3. Free consultation and advice from the City Arborist for the Landmark Tree.
- E. Removal of Landmark Tree Designation. The designation of a tree as a Landmark Tree may be removed based upon the following process:
1. If the Landmark Tree is located on private property, the property owner shall submit a request for removal of Landmark Tree designation to the Planning Director.
  2. If the Landmark Tree is located on City property or within the public right of way, the Public Works Director shall submit a request for removal of Landmark Tree designation to the Planning Director.
  3. The Planning Director shall review all requests for removal of Landmark Tree designation and route the request to the City Arborist for review and recommendation. The City Arborist shall prepare a report identifying the

health and character of the Landmark Tree. The Planning Director shall then prepare a report and recommendation for the City Council.

4. The City Council shall consider the recommendation of the Planning Director and City Arborist and take action to either retain or remove the Landmark Designation of a tree. Removal of Landmark Tree status shall be completed through adoption of a resolution of the City Council.

#### **19.12.040 Trees of Local Importance**

For purposes of this chapter, the following species of trees with a diameter at breast height of six (0' 6") inches or greater, or multi-trunked trees with a combined diameter at breast height of six (0' 6") inches or greater, are considered Trees of Local Importance:

- A. Coast Live Oak (*Quercus agrifolia*);
- B. Valley Oak (*Quercus lobata*);
- C. Blue Oak (*Quercus douglasii*);
- D. Interior Live Oak (*Quercus wislizenii*);
- E. Oracle Oak (*Quercus X moreha*);
- F. California sycamore (*Platanus racemosa*); and
- G. California black walnut (*Juglans hindsii*).

#### **19.12.050 Secured Trees**

Secured Trees shall be all of the following:

- A. A Tree of Local Importance retained during the course of review and approval of a discretionary development project, inclusive of the environmental review process as required by CEQA; and
- B. Those trees planted as a result of a discretionary development project to satisfy a mitigation requirement under this chapter, an approved or certified CEQA document, or other regulation.

#### **19.12.060 Trees in the Right of Way or on City Property**

Trees in the Right of Way or on City Property shall be those trees that are located within the public right of way, within right-of-way easements owned by the City, or on property owned by the City.

**Article 3**  
**Tree Permit**

**19.12.070 Work Requiring a Tree Permit**

No person shall conduct work within the critical root zone, cut down, remove, top, or relocate any Landmark Tree, Tree of Local Importance, Secured Tree, or Tree in the Right of Way or on City Property unless a valid Tree Permit has been approved pursuant to the procedures contained in EGMC Sections 19.12.090 through 130. Exemptions to this requirement are provided in EGMC Section 19.12.080.

**19.12.080 Exemptions from Tree Permit Requirements**

The following are exemptions from Tree Permit Requirements:

- A. Trees of Local Importance when not part of a discretionary development project;
- B. Work on trees within parks, parkways, and public recreation easements owned, leased, or operated by the Cosumnes Community Services District;
- C. Removal and pruning work by utility providers for all types of trees other than Landmark Trees; and
- D. In case of emergency caused by the tree being in a hazardous or dangerous condition requiring immediate action for the safety of human life or buildings or structures, such tree may be removed by permission of the City Arborist during normal working hours or by the Public Works department at all other times.

**19.12.090 Application Procedure and Permit Processing**

- A. Application Procedure
  - 1. Generally. When a Tree Permit is required by this Chapter, the person or property owner desiring to complete the work shall make an application for a Tree Permit to the Planning Department on a form provided by the City. The application form shall be accompanied by the following information so that the City may adequately review the request. The application may cover one or more trees.
    - a. A brief statement of the reasons for the proposed work;
    - b. Consent of the owner of record of the land on which the proposed activity is to occur;
    - c. A tree survey with the accurate location, number, species, size (dbh), and approximate age (if known) of the tree or trees subject to the application;

- d. If the project involves other discretionary development, then this survey must be part of the total development plan and must also describe any tree or trees which could be affected by the proposed development accurate trunk locations shall be indicated on all construction plans;
      - e. Payment of any permit fee or deposit shall be authorized by City Council resolution; and
      - f. Any other pertinent information requested by the City Arborist.
- B. Tree Removal as Part of a Development Project. When a development project proposes the removal of trees, no separate application for a Tree Permit shall be required as part of the application for the development project. However, all the information required under EGMC Section 19.12.090(A) must be included with the development project application and no trees shall be authorized for removal until:
  - a. The entitlement has been approved; and
  - b. City staff has field-verified that proposed tree removal is consistent with the approved plan. It shall be the responsibility of the applicant to contact the City for field verification prior to tree removal.
- C. Approving Authority. The designated approving authority for Tree Permits shall be as provided below:
  - 1. Tree Located on Private Land and Not Part of a Development Project. For Tree Permit Work on privately owned land and not in conjunction with a discretionary development project, the Planning Director shall be the designated Approving Authority. The Planning Director shall make a decision on the Tree Permit application after a recommendation has been provided by the City Arborist.
  - 2. Tree Located on Private Land and Part of a Development Project. For Tree Permit Work that is part of a discretionary development project, the Approving Authority shall be the same as the approving body for the relevant land use entitlement(s). The approving body shall make a decision after a recommendation from the City Arborist or City staff as a part of the overall development project recommendation.
  - 3. Tree Located on City-Owned Land. For Trees in the Right of Way and on City Property, the Planning Director shall be the designated Approving Authority. The Planning Director shall make a decision on the permit after a recommendation has been provided by the City Arborist and the Public Works Director.
- D. Permit Process
  - 1. Except where otherwise provided by this Chapter, a Tree Permit shall be exercised within twelve (12) months from the date of approval, or other time limit established through a concurrent development project approval.

Time extensions, for up to a total of two (2) additional one (1) year terms, may be granted in compliance with the following provisions. A Tree Permit not exercised within its time limits shall expire in compliance with EGMC Chapter 23.18 (Implementation, Time Limits, and Extensions).

- a. Time of Filing. The applicant shall file a written request for an extension of time with the Planning Director before expiration of the permit, together with the required filing fee.
  - b. Evidence to be provided. The Director shall determine whether the applicant has made a good faith effort to exercise the permit. The burden of proof is on the applicant to establish, with substantial evidence, that circumstances beyond the control of the applicant (e.g., demonstrated financial hardship, poor weather during periods of planned construction, etc.) have prevented exercising the permit.
  - c. Action on extension request. A Tree Permit may be extended as follows for no more than two (2) additional one (1) year periods beyond the expiration of the original approval, provided that the Approving Authority first finds that there have been no changes in the conditions or circumstances of the site or project such that there would have been grounds for denial of the original project.
    - i. Planning Director's Action. Upon good cause shown, the first extension may be approved, approved with modifications, or disapproved by the Planning Director, whose decisions may be appealed to the Planning Commission, in compliance with EGMC Section 19.12.130 (Appeals).
    - ii. Planning Commission Action. One (1) subsequent extension may be approved, approved with modifications, or disapproved by the Planning Commission, whose decisions may be appealed to the City Council in compliance with EGMC Section 19.12.130 (Appeals).
2. If a permit is denied, the Planning Director shall provide written notification, including the reasons for denial, to the applicant.
  3. It shall be the responsibility of the person conducting the permitted work to have the Tree Permit or a copy of the conditions of approval imposed by the approving body at the tree removal site.
  4. The permit, or the conditions of approval granted by the approving body, shall entitle the applicant to conduct the approved work on the tree(s) identified under the permit. All other work outside the scope of the approved permit shall be considered a violation of this Chapter.

### **19.12.100 Arborist Review**

Prior to the consideration of a request for tree removal by the designated Approving Authority, the City Arborist shall prepare an Arborist Report paid for by the project applicant. The report shall identify the basis, if any, for supporting the removal of the tree(s). The Arborist Report shall include an analysis of the following factors:

- A. The condition of the tree with respect to disease, general health, damage, structural integrity, and whether or not the tree acts as a host for an organism which is parasitic to another species of tree which is in danger of being exterminated by the parasite;
- B. The number of existing trees on the subject property, on adjacent property, and immediately proximate to the subject tree(s) as deemed relevant by the City Arborist, and the effect of the tree removal upon public health, safety, prosperity of surrounding trees, visual impact, and general welfare of the area;
- C. Age of tree, specifically with regard to whether or not removal of the tree would encourage healthier, more vigorous growth of other trees in the area;
- D. The number of healthy trees that a given parcel of land will support, with and without the proposed development;
- E. The effect of tree removal on soil stability/erosion, particularly near water courses, drainage ditches, or on steep slopes, or the effect on runoff interception;
- F. The potential for the tree to be a public nuisance, or interfere with utility service, as well as its proximity to existing buildings and structures;
- G. Present and future shade potential with regard to solar heating and cooling;
- H. Identification of alternatives that would allow for the preservation of the tree(s) proposed for removal; and
- I. Any other information the City Arborist finds pertinent (e.g., site conditions, other vegetation).

### **19.12.110 Decision Criteria and Findings**

- A. Review by Designated Approving Authority. The approving authority shall determine, after preparation of the Arborist Report and a recommendation by the City Arborist, whether or not the tree(s) cannot or should not be retained. The determination of the approving authority in granting or denying a Tree Permit for tree removal shall, at a minimum, be based upon the factors analyzed in the Arborist Report.
- B. Findings for Permit Issuance. The designated Approving Authority shall make at least two (2) of the following findings as part of the approval of a Tree Permit for tree removal:
  - 1. For development projects, every effort has been made to integrate the existing tree(s) into project design, including the use of Minor Deviations.

2. The effect of the removal of the tree will not negatively impact the health, safety, and prosperity of surround trees, or the aesthetics and general welfare of the area.
  3. The tree presents a threat to public health and safety and must be removed.
- C. Findings for Permit Denial. The designated Approving Authority shall make all of the following findings as part of the denial of a Tree Permit for tree removal:
1. Removal of the tree is inconsistent with the standards for tree removal as provided in EGMC Section 19.12.110; and
  2. The denial of the permit for tree removal will not unreasonably compromise the owner's rights to enjoy and develop the property.

#### **19.12.120 Mitigation for Tree Loss**

As part of the approval of a Tree Permit for removal of a tree, the designated Approving Authority shall require mitigation for the loss of the tree consistent with Article 4 (Mitigation Standards) of this Chapter. The requirement for mitigation may be waived under those circumstances provided in EGMC Section 19.12.180 (Alternative Mitigation Requirements).

#### **19.12.130 Appeals**

The decision of the designated Approval Authority shall be final unless an appeal is filed in compliance with EGMC Section 23.14.060 (Appeals).

### **Article 4** **Mitigation for Tree Loss**

#### **19.12.140 Mitigation Required**

When mitigation for tree loss is required by this Chapter or through the CEQA process, mitigation shall be provided consistent with this Article.

#### **19.12.150 Mitigation Standards**

When tree removal is authorized as part of issuance of a valid Tree Permit, mitigation for the loss shall be provided at a ratio of one new inch dbh of tree for each inch dbh lost (1:1 ratio), unless an alternative mitigation is approved by the City as provided in EGMC Section 19.12.180 (Alternative Mitigation Requirements). The applicant for the Tree Permit shall prepare a Tree Mitigation Plan for review and approval by the City Arborist. Only the mitigation authorized under an approved Mitigation Plan shall be used.

#### **19.12.160 Mitigation Options**

Unless an alternative mitigation is approved by the City as provided in EGMC Section 19.12.180 (Alternative Mitigation Requirements), the City allows all of the following mitigation options, subject to review and approval by the City Arborist, as part of a Tree Mitigation Plan. Mitigation measures or conditions of approval on a project, as imposed by the designated Approving Authority, may specify which options are available to an applicant.

- A. On-site or off-site replacement. The plan shall specify where the tree(s) shall be planted and how the tree(s) shall be monitored and maintained for a minimum of five years. The City may require the establishment of a performance bond or other surety as a way to ensure that the replacement trees survive for the minimum establishment period as provided in EGMC Section 19.12.190. The City will allow the use of on-site trees planted under a Mitigation Plan as a way to meet any other on-site landscaping requirement, including parking lot shading, street landscaping, and street trees on residential lots.
- B. Payment of an in-lieu fee as adopted by Resolution of the City Council. The applicant may pay an in-lieu fee for the loss of the tree(s) at a rate established by the City Council. Such monies shall be deposited in the Tree Mitigation Fund as described in EGMC Section 19.12.220.
- C. Credit for existing trees smaller than when a permit is required. An applicant may be entitled to mitigation credit when they preserve species of trees that are listed in EGMC Section 19.12.040 (Trees of Local Importance) but are smaller than the size threshold defined in EGMC Section 19.12.040 (e.g., less than six (0' 6") inches dbh). The City Arborist shall make the determination after reviewing the location of the tree(s), the quality of the environment (both pre- and post-project) in which the tree(s) is located, potential impacts to the tree(s) from proposed development, and other relevant factors that the City Arborist deems relevant to the long-term viability of the tree(s). If approved for credit, retained trees shall receive credit at a rate of one (0' 1") inch dbh per tree with a two (0' 2") inch minimum credit. The City may require the establishment of a performance bond or other surety as a way to ensure that the tree(s) survive for the minimum establishment period as provided in EGMC Section 19.12.190.
- D. On-site or off-site relocation, subject to approval of a relocation plan by the City Arborist. The relocation plan shall include specific provisions detailing how the tree will be moved, where it will be moved to, and how the tree will be monitored and maintained for a minimum of ten (10) years. The City may require the establishment of a performance bond or other surety as provided in EGMC Section 19.12.190 to ensure that the tree becomes well established.

#### **19.12.170 Mitigation Equivalents**

- A. Except when funded through the Tree Mitigation Fund, trees planted as mitigation shall be of an equivalent species as those being removed. For

instance, a Tree of Local Importance shall be replaced with another Tree of Local Importance. Landmark Trees shall be replaced with a species or species to the satisfaction of the City Arborist, with consideration given to species diversity and ensuring that the right tree is planted in the right location.

- B. The following equivalent sizes shall be used whenever new trees are planted (either on-site or off-site) under a Mitigation Plan:
  - 1. A one-gallon container or seedling-sized containerized tree = 1 inch dbh
  - 2. A 15-gallon container = 1 inch dbh
  - 3. A 24-inch box = 2 inch dbh
  - 4. A 36-inch box = 2 inch dbh
  - 5. A 60-inch box = 2 inch dbh
  - 6. A 72-inch box = 2 inch dbh

#### **19.12.180 Alternative Mitigation Requirements**

- A. Authority and Grounds for Alternative. The designated Approving Authority may allow for an alternative mitigation standard than that otherwise required by this article as required under this Section, provided the tree(s) is being removed because:
  - 1. The tree is diseased, as diagnosed by the City Arborist, and is not treatable;
  - 2. The tree is causing or has a high degree of probability to cause significant property damage (e.g., damage to a building foundation) ; or
  - 3. The tree is or has a high degree of probability to be a hazard to the public health and safety (e.g., likely to fall into the roadway or onto a habitable structure).

The simple proximity of a tree to a habitable structure or roadway shall not, in and of itself, be grounds for a waiver of the mitigation requirement. Rather, the tree must, in the opinion of the City Arborist, be exhibiting indications that it is likely to fall in the direction of the structure or roadway.

- B. Alternative Mitigation Required. In granting an alternative to the mitigation requirement, the designated Approving Authority shall require that the applicant mitigate for the loss of the tree by requiring that a new tree (minimum 15-gallon container) be planted in place of the removed tree unless the City Arborist determines that there is no feasible space remaining on the project property for a new tree. The species and final planting location shall be subject to review and approval of the City Arborist to ensure, to the greatest degree possible, that the new tree will not create a similar circumstance in the future.
- C. Findings for Granting Alternative Mitigation. The designated Approving Authority, in granting an Alternative Mitigation, shall make the following finding:

1. The Alternative Mitigation is being granted because the tree is either a) diseased, b) has a high degree of probability to cause significant property damage, or c) has a high degree of probability to be a hazard to the public health and safety.

#### **19.12.190 Replanting Security**

- A. Replanting security shall be required for any Tree Mitigation Plan excluding payment of an in-lieu fee. The purpose of such security shall be to guarantee the applicant's compliance with conditions of approval and City provisions regarding tree protection and preservation. Security may also be required at the discretion of the approving body to insure the completion of any additional work specified as a condition of permit approval or other approvals.
- B. The security shall be in the amount of one hundred (100%) percent of the estimated cost of the required work. The applicant shall include the cost estimate as part of the Tree Mitigation Plan for City Arborist review and approval. The terms and conditions of the security shall be reviewed and approved by the Planning Director prior to approval of the Tree Mitigation Plan.
- C. The security may be in the form of a letter of credit, cash deposit, a combination thereof, or other acceptance method of security by the City and shall be approved by the City Attorney.
- D. Security posted on actual work required shall be maintained for a minimum of five (5) years. The City may require additional length of security of up to ten (10) years when larger trees are being planted and/or site conditions warrant.
- E. Any interest gained on security posted by requirement of the City shall accrue to the applicant or his or her designee.

### **Article 5**

#### **Development Control Measures**

#### **19.12.200 Development Control Measures**

The approving authority may mandate any or all of the following control measures to mitigate damage to trees protected through new development project approval:

- A. A circle with a radius measurement from the trunk of the tree to the tip of its longest limb plus one (1' 0") foot shall constitute the critical root zone of all trees to be retained and all portions of off-site tree driplines that extend into the site, and shall not be cut back in order to change the dripline. Removing limbs which make up the driplines does not change the protected zones.
- B. Chain link or City approved barrier shall be installed one (1' 0") foot outside the critical root zone of the on-site tree(s) to be retained and all portions of off-site tree(s) critical root zone that extend onto the site, prior to initiating project construction, in order to avoid damage to the trees and their root systems. The

barrier around a tree's critical root zone may be moved to allow building construction when such encroachment has been previously authorized. The new barrier locations shall be four feet outside the structure wall and/or driveway location. Orange plastic netting is not a permitted barrier type.

- C. All driveways which pass through the critical root zone of the on-site trees to be retained and all portions of off-site tree driplines which extend on the site shall be constructed such that the entire driveway section is placed directly above existing grade. No excavation or scarification for driveway construction shall be allowed within the critical root zone except as approved by the City Arborist.
- D. Any pruning of retained trees shall be supervised by a certified arborist and shall be completed to the most current ISA standards ("Tree Pruning Guidelines") and American National Standards Institute (ANSI) A300 standards. Branch and limb pruning shall be limited to that which has been deemed necessary in order to correct a safety hazard, structural defect, crown cleaning, or arborist recommended pruning in the tree. Pruning due to canopy encroachment by buildings shall be limited to the minimum amount needed to safely accommodate the structure while still maintaining the tree.
- E. All trees on site shall be pruned, as per arborist City recommendations, prior to starting any site improvements. Any pruning of a tree shall be supervised by a certified arborist.
- F. No signs, ropes, cables (other than those which may be recommended by a certified arborist to provide limb support) or any other item shall be attached to the on-site trees to be retained and all portions of off-site tree driplines which extend onto the site.
- G. No vehicles, construction equipment, mobile home/office, supplies, materials or facilities shall be driven, parked, stockpiled or, located within the dripline area of the on-site trees to be retained and all portions of the off-site tree driplines which extend onto the site. No tree toxic materials shall be dumped on the project site (e.g., gasoline, herbicide, salt).
- H. No grading (grade cut or fills) shall be allowed within the critical root zone of the on-site trees to be retained and all portions of off-site trees which extend onto the site with the exception of approved encroachment areas on the Final Development Plans. If, in the opinion of the City Arborist, the impact of permitted grading in the critical root zone is severe, then the affected tree shall be retained on-site but determined lost, and mitigation as required by the approving body shall be imposed.
- I. No trenching shall be allowed within the critical root zone of the on-site trees to be retained and all portions of the off-site tree driplines which extend onto site. If it is absolutely necessary to install underground utilities within the dripline of the tree, the utility line shall be bored or drilled under the direct supervision of a certified arborist.
- J. Landscaping beneath the on-site trees to be retained and all portions of off -site

tree driplines which extend on the site shall be consistent with ISA recommended provisions for plantings under trees. The only plant species which shall be planted within the driplines of trees are those which are tolerant of the natural semiarid environs of the trees. Limited drip irrigation approximately monthly during late spring, summer and early fall is recommended for understory plants. Non-plant materials such as river gravel, woodchips, etc, may be used in limited cases upon approval by the City Arborist.

- K. No in-the-ground sprinkler or irrigation system shall be installed in such a manner that irrigates the ground within the critical root zone of the on-site trees to be retained and all portions of off-site tree driplines which extend onto the site. An “above ground drip irrigation system” with drip lines and emitters placed on natural grade will be permitted under tree driplines. No trenching for irrigation lines will be permitted under critical root zones.
- L. Prior to installation of new asphalt, weed control chemicals shall not be applied where they can leach into the dripline of any protected tree(s).
- M. During construction, the frequency and amount of water for protected trees shall not differ from that received prior to construction, unless otherwise authorized by the City Arborist.
- N. Paving within the critical root zone of trees should be stringently minimized and only allowed under approval by the City Arborist. When pavement is absolutely necessary in the determination of the Public Works Director, porous material shall be used, or alternative design solutions may be utilized as approved by the City Arborist.

## **Article 6** **Administration and Enforcement**

### **19.12.210 Application Fees**

The City Council, by resolution, shall establish a fee to cover the expenses of the application and appeal process.

### **19.12.220 Tree Preservation Fund**

A Tree Preservation Fund is established for the City of Elk Grove for the purposes of furthering tree maintenance and tree replacement. The monies received in lieu of replacement of removed trees shall be forwarded to the City Treasurer for deposit in the Tree Preservation Fund. Except as provided in this section, under no circumstances shall the funds collected by the City Treasurer for the Tree Preservation Fund be directed to any other fund to be used for any other purposes other than for tree planting (including but not limited to tree support such as installation of driplines and drainage) and preservation programs (including the creation of new woodland areas, under plantings as part of a tree planting program, and other planting activities that support the

purposes of this Chapter), public education programs regarding trees, and other activities in support of the administration of this Chapter. Tree Preservation Fund monies may be directed by the City Council to non-profit organizations for the implementation of programs consistent with the purposes of the Tree Preservation Fund.

#### **19.12.230 Violations**

- A. Whenever any construction or work is being performed contrary to the provisions of this Chapter, the Code Enforcement Department may issue a written notice to the responsible party to stop work on the project on which the violation has occurred or upon which the danger exists.
- B. Violations of this Chapter shall be enforced as provided in EGMC Chapter 1.08 (Enforcement of Code).

#### Section 5: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

#### Section 6: Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

#### Section 7: Savings Clause.

The provisions of this chapter shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal or amendment shall take affect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and affect to all intents and purposes as if such ordinance or part thereof so repealed or amended had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or amended by that provisions of the Elk Grove Municipal Code shall be discharged or affected by such repeal or amendment; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or amended.

Section 8: Effective Date and Publication

This Ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

INTRODUCED: February 9, 2011

ADOPTED:

EFFECTIVE:

\_\_\_\_\_  
STEVEN M. DETRICK, MAYOR of the  
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
JASON LINDGREN, CITY CLERK

\_\_\_\_\_  
SUSAN COCHRAN, CITY ATTORNEY

Date signed: \_\_\_\_\_

Primary Zone in the City's sphere of influence or incorporated boundaries.

**CAQ-6-Action 2** Prior to the annexation of any land in the Primary Zone of the Legal Delta, ensure that this General Plan is consistent with the Delta Protection Commission's Act and Plan as it affects the area within the Primary Zone.

#### **CONSERVATION POLICIES: CONSERVATION OF NATIVE AND NON-NATIVE HABITATS, PLANTS, AND ANIMALS**

**CAQ-7** Encourage development clustering where clustering would facilitate on-site protection of woodlands, grasslands, wetlands, stream corridors, scenic areas, or other appropriate natural features as open space, provided that:

1. Urban infrastructure capacity is available for urban use.
2. On-site resource protection is appropriate and consistent with other General Plan Policies.
3. The architecture and scale of development is appropriate for the area.
4. Development rights for the open space area are permanently dedicated and appropriate long-term management is provided for by either a public agency, homeowners association, or other appropriate entity.

This policy shall not apply in the Rural Residential area east of State Route 99, where clustering of development is not permitted.

**CAQ-8** Large trees (both native and non-native) are an important aesthetic (and, in some cases, biological) resource. Trees which function as an important part of the City's or a neighborhood's aesthetic character or as natural habitat should be retained to the extent possible during the development of new structures, roadways (public and private, including roadway widening), parks, drainage channels, and other uses and structures.

If trees cannot be preserved onsite, offsite mitigation or payment of an in-lieu fee may be required by the City. Where possible, trees planted for mitigation should be located in the same watershed as the trees, which were removed.

Trees that cannot be protected shall be replaced either on-site or off-site as required by the City.

**CAQ-8-Action 1** When reviewing native or non-native trees for preservation, considering the following criteria:

- Aesthetic value
- Biological value
- Shade
- Water quality benefits
- Runoff reduction
- Air quality (pollutant reduction)
- Health of the tree(s)
- Suitability for preservation in place
- Safety hazards posed by the tree(s)

**CAQ-8-Action 2** Develop a list of trees which shall be considered generally exempt from preservation. These may include trees, which pose a threat to public safety, to native trees, or to natural habitat.

**CAQ-8-Action 3** Develop a list of trees which may be used when providing replacement trees for the loss of native and non-native trees.

**CAQ-8-Action 4** Implement the City's Tree Preservation Ordinance.

**CAQ-8-Action 5** Amend the City's Tree Preservation Ordinance to conform with the policies of this General Plan and to expand protection to non-native trees.

**CAQ-8-Action 6** Develop a list of trees that should not be planted due to their invasive nature (that is, their ability to escape cultivation or to dominate natural areas) and provide this information to the public and the development community.

**CAQ-8-Action 7** Retain the services of a qualified arborist(s) under contract to the City to provide information to decision-makers and staff on the suitability of trees for preservation.

**CAQ-8-Action 8** Consider the use of revised standard roadway cross-sections which do not require the removal of trees in order to provide additional roadway capacity.

**CAQ-8-Action 9** Provide funds for education, programs, and materials emphasizing the value and importance of trees. Support private foundations with local funds for their tree planting efforts. Encourage the harvesting of native seeds and plants prior to the clearing of project sites.

**CAQ-9** Wetlands, vernal pools, marshland and riparian (streamside) areas are considered to be important resources. Impacts to these resources shall be avoided unless shown to be technically infeasible. The City shall seek to ensure that no net loss of wetland areas occurs, which may be accomplished by avoidance, re-vegetation and restoration onsite or creation of riparian habitat corridors.

**CAQ-9-Action 1** As part of the development review process, ensure that all potentially affected wetland areas are identified, and provide mitigation to ensure that no net loss occurs. Mitigation should occur within the same watershed as the impact, where feasible.

**CAQ-9-Action 2** Coordinate with the California Department of Fish and Game and the U.S. Fish and Wildlife Service in the review of development projects.

**CAQ-10** Consider the adoption of habitat conservation plans for rare, threatened, or endangered species.

**CAQ-10-Action 1** As appropriate, work with the County of Sacramento and other

agencies on a Habitat Conservation Plan or other mechanism to implement this policy.

**CAQ 11** The City shall seek to preserve areas, where feasible, where special-status plant and animal species and critical habitat areas are known to be present or potentially occurring based on City biological resource mapping and data provided in the General Plan EIR or other technical material that may be adversely affected by public or private development projects. Where preservation is not possible, appropriate mitigation shall be included in the public or private project. "Special-status" species are generally defined as species considered to be rare, threatened, endangered, or otherwise protected under local, state, and/or federal policies, regulations or laws.

**CAQ-11 Action 1** The City shall require a biological resources evaluation for private and public development projects in areas identified to contain or possibly contain special-status plant and animal species based on City biological resource mapping and data provided in the General Plan EIR or other technical material. The biological resources evaluation shall determine the presence/absence of these special-status plant and animal species on the site. The surveys associated with the evaluation shall be conducted during the appropriate seasons for proper identification of the species. Such evaluation will consider the potential for significant impact on special-status plant and animal species, and will identify feasible mitigation measures to mitigate such impacts to the satisfaction of the City and appropriate governmental agencies (e.g., U.S. Fish and Wildlife Service, California Department of Fish and Game and U.S. Army Corps of Engineers) where necessary (e.g., species listed under the State and/or Federal Endangered Species Act). Mitigation measures may include, but are not limited to, the following:

**ATTACHMENT 3A****Chapter 19.04  
REGULATIONS**

## Sections:

- 19.04.010 Purpose.
- 19.04.020 Word construction.
- 19.04.030 Definitions.
- 19.04.050 Heritage and landmark trees.
- 19.04.060 Planting easements.
- 19.04.070 Responsibility.
- 19.04.080 Public utilities and easements.
- 19.04.090 City parks and grounds.
- 19.04.100 Tree permits.
- 19.04.110 General regulations.
- 19.04.120 Clearance requirements.
- 19.04.125 Exemption of City from Solar Shade Control Act.
- 19.04.130 Public nuisances.
- 19.04.140 Abatement procedures.
- 19.04.150 Interference with authorized personnel.
- 19.04.160 Appeals – Procedure.
- 19.04.170 Enforcement.

**19.04.010 Purpose.**

In order to promote the health, safety and enhance the beauty and general welfare of the City of Elk Grove, it is hereby declared to be the policy of the City to plant, maintain, protect, preserve and to regulate the planting, maintaining, protecting and preserving of public trees and landscaping; to eliminate dangerous conditions caused by trees and shrubs that may result in injuries to persons or property; to protect all trees within the City against the spread of disease or pests, and to provide for the special protection of heritage and landmark trees within the City. This chapter shall be known as and may be cited as and referred to as the tree ordinance. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.020 Word construction.**

Unless the provisions or the context otherwise requires, the following rules of construction and definitions shall govern the construction of this chapter. The singular number includes the plural, and the plural, the singular. The masculine gender includes the feminine. The present tense includes the past and future tenses, and the future, the present. "Shall" is mandatory and "may" is permissive. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.030 Definitions.**

For the purpose of this chapter the following words and terms have the following meanings:

- A. "City" means the City of Elk Grove;

- B. "City park" means any park or grounds under the supervision of the Parks Director;
- C. "Council" means the City Council of the City of Elk Grove;
- D. "Easement" means any City utility easement, drainage easement or sanitary sewer easement;
- E. "Heritage tree" means a California oak tree growing on any land in the City of Elk Grove, including privately owned land, with a trunk sixty (60") inches or greater in girth measured four and one-half (4' 6") feet above the ground;
- F. "Landmark tree" means an especially prominent or stately tree on any land in the City of Elk Grove, including privately owned land;
- G. "Parks Director" means the Director of the Department of Parks and Recreation of the City, or his agent;
- H. "Permittee" means a person who has been granted a permit as provided in this chapter;
- I. "Person" includes a natural person, legal owner, firm, association, corporation, co-partnership, trustee, receiver, utility, or an agent or employee thereof;
- J. "Planning Director" means the Planning Director of the Planning Department of the City of Elk Grove, or his or her agent;
- K. "Planting easement" means an area of land, usually a strip of land adjoining a street right-of-way, which has been dedicated for the purpose of growing trees, shrubs, or other vegetation;
- L. "Public premises" includes City-owned properties utilized for pumping plants, sewage treatment plants, well sites, and other City properties utilized by the Public Works Director;
- M. "Public tree" means a tree or shrub planted or maintained, or both, by the City on an easement, planting easement, street, City park or public premises;
- N. "Public Works Director" means the Public Works Director of the Public Works Department of the City of Elk Grove, or his or her agent;
- O. "Street" includes the right-of-way width of any City-maintained street, avenue, boulevard, line, walk, road, parkway, alley, or other right-of-way for highway purposes, as indicated on the master plan for streets and highways or determined by the Public Works Department;
- P. "Street tree" means any tree whose trunk is wholly or partially located within a City street or planting easement. A "street tree" is always a public tree;
- Q. "Tree" includes shrub. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.050 Heritage and landmark trees.**

A. When an application is made for a variance, consideration shall be given to the presence of a landmark or heritage tree on the parcel of real property in determining whether a variance shall be granted.

B. Whenever feasible the Public Works Director shall modify standard street sections and make changes in street alignment to avoid the removal or damage of heritage and landmark trees. Increased right-of-way or construction costs caused by such modification shall not receive their usual consideration in the planning and design processes. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.060 Planting easements.**

A. Developers of new subdivisions shall convey to the City planting easements along all City streets. The easements shall measure no less than five feet in depth and shall extend across the entire width of the lot. The easements shall be located adjacent to the easements required for underground utilities and facilities.

Developers are not required to convey planting easements encumbering single-family residentially zoned lots that exceed one acre in area and have street frontage in excess of one hundred twenty-five (125' 0") feet.

The property owner, lessee or tenant shall not be excluded from any of his inherent rights in the planting easements that do not conflict with the satisfactory planting and maintaining of trees and shrubs therein or do not conflict with other City or state regulations.

B. The Public Works Director shall require the conveyance of the planting easements as provided herein and shall cause the provisions of this section to be enforced.

C. The Parks Director, Planning Director, and the Public Works Director shall encourage and assist private parties and civic organizations to convey planting easements to the City.

D. All trees and shrubs within the planting easements at the time the easements are conveyed to the City shall thereupon become public trees and shall be subject to the provisions of this chapter. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.070 Responsibility.**

The planting, caring and removing of public trees located within streets, easements, planting easements, and public premises shall be under the supervision and control of the Public Works Director. The planting, caring, and removing of public trees within City parks shall be under the supervision and control of the Parks Director. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.080 Public utilities and easements.**

The Public Works Director may prohibit and otherwise regulate the planting of trees upon any City utility easement, drainage or sanitary sewer right-of-way, if he considers such planting detrimental to their use. Trees shall not be planted upon any such right-of-way or

easement without first obtaining a permit from the Public Works Director as provided in EGMC Section [19.04.100](#). Each permit of this type shall be subject to the condition that if on any future date the Public Works Director determines that a tree planted pursuant to the permit is detrimental to the use of the right-of-way or easement, the tree shall be considered a public nuisance and be subject to abatement as provided in EGMC Section [19.04.140](#). [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.090 City parks and grounds.**

A. The planting, caring and removing of all trees, shrubs, lawns and other plant life in City parks and the grounds of all City-owned buildings are under the supervision and control of the Parks Director.

B. No person, except by order of the Parks Director, shall plant, transplant, move, separate, trim, prune, cut above or below the ground, disrupt, alter or take any other action upon any tree or other plant life in City parks and grounds.

C. In selecting plantings for such areas, the Parks Director is not bound by the master tree list and may select any plantings which he determines to be appropriate for such areas.

D. Architects and others preparing plans for the landscaping of City buildings shall consult with the Parks Director during the preparation of such plans, and the final plans shall be submitted by the Public Works Director to the Parks Director for review and approval prior to advertising for bids. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.100 Tree permits.**

A permit shall be required before any person shall plant, transplant, move, separate, trim, prune, cut above or below the ground, disrupt, alter or do surgery upon any public tree located on an easement, planting easement, street, or public premises, irrespective of whether the tree is alive or dead.

A. The Public Works Director shall prescribe the form of the permit which shall be valid for a period of six months;

B. The City Council may require a fee for the issuance of the permit. The fee shall be in an amount calculated to recover the costs involved in processing the permit and any related field investigation;

C. Permits shall be signed by the Public Works Director or his designee, and shall be subject to such conditions as he determines to be necessary taking into consideration the safety, health and general welfare of the public, the location of utilities, driveways, traffic and street lights and other characteristics of the area;

D. In determining whether a permit should be issued for removal of a tree, the Public Works Director may hold a public hearing or may use other appropriate means to determine the desires of residents in the immediate vicinity of the tree, and he shall give their desires such weight as he deems appropriate in relation to other relevant

considerations.

The Director may require that a permittee plant one or more trees in place of the one removed, in the same location or vicinity;

E. The Public Works Director may require a permittee to furnish a satisfactory bond, cash deposit or other security satisfactory to the Public Works Department, to ensure that the conditions of the permit will be fulfilled;

F. Except where public safety is involved, a permit shall not be issued to trim or remove a public tree for the singular purpose of providing better visibility;

G. Permits shall not be issued for the planting of any tree which is not in accordance with the master tree plan unless the Public Works Director determines that the characteristics of the substituted tree are substantially the same as those of a tree permitted by the plan and the Parks Director concurs in the substitution;

H. Each tree planted pursuant to a permit on a planting easement, street or public premises shall become a public tree. The permit shall contain a statement to this effect;

I. It is unlawful for a permittee to fail, refuse, or neglect to plant a tree required by a permit or to fail to fulfill any condition imposed by the Director when issuing the permit. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

#### **19.04.110 General regulations.**

No person shall, without a written permit from the Public Works Director, do or cause to be done by others any of the following acts:

A. Secure, fasten or run any rope, wire, sign, unprotected electrical installation or other device or material to, around, or through a public tree;

B. Break, injure, deface, kill or destroy a public tree or permit any fire to burn where it will injure any public tree;

C. Permit any chemical, gas, smoke, salt brine, oil or other injurious substance to seep, drain or be emptied upon, above or below any public tree;

D. Excavate any ditch, tunnel, or trench or lay any drive within a radius of 10 feet from any public tree;

E. Erect, alter, repair or raze any building or structure without placing suitable guards around all nearby public trees which may be injured by such operations;

F. Remove any guard, stake or other device or materials intended for the protection of a public tree or close or obstruct any open space about the base of a public tree designed to permit access of air, water and fertilizer. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

#### **19.04.120 Clearance requirements.**

A. No tree or shrub shall be planted or maintained contrary to the provisions of Chapter 12.12 EGMC.

B. No tree shall be planted within five feet of the right-of-way line of any public street, except as otherwise authorized by the Public Works Director. The right-of-way line shall be that which is shown on the master plan for streets and highways or as determined by the Public Works Department.

The purpose of this requirement is to provide a safe corridor adjacent to City streets for pedestrian or other uses. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.125 Exemption of City from Solar Shade Control Act.**

The City of Elk Grove shall be exempt from the provisions of the Solar Shade Control Act. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.130 Public nuisances.**

Any tree located on public or private property which in the opinion of the Public Works Director endangers the life, health, or safety of persons or public or private property, or is infected or affected by parasites, disease, or pests, interferes with or obstructs a public storm drain, sanitary sewer, drainage canal, City utility easement, alley or street is hereby declared to be a public nuisance and subject to the provisions of EGMC 19.04.140. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.04.140 Abatement procedures.**

The following procedures shall be followed when abating or correcting a condition relative to a public nuisance tree:

A. The owner or occupant of property on which the tree is located shall be notified in writing by certified mail that the tree shall be removed, sprayed or otherwise abated;

B. The owner or occupant of property on which the tree is located shall have the right to appeal to the City Council the determination of the Public Works Director;

C. The owner or occupant of such premises shall have fifteen (15) days from the time of the mailing of the aforesaid notice to either comply with the terms of the notice of abatement or corrective action or to file an appeal with the City Council concerning the contemplated action of the Public Works Director;

D. If the owner of such premises or his agent refuses or neglects to comply with the notice or to appeal the order of the Public Works Director within the time specified, the Public Works Director shall cause the tree to be sprayed, removed or otherwise abated.

The Public Works Director shall keep an account of the cost of abatement. He shall submit to the City Council for confirmation an itemized written report showing such cost.

A copy of the report shall be posted for at least three days prior to its submission to the City Council on or near the chamber door of the City Council with a notice of the time

when the report will be submitted to the City Council for confirmation.

At the time fixed for receiving and considering the report, the City Council shall hear it and any objections of the property owner liable to be assessed for the work of abatement. The City Council may modify the report if it is deemed necessary, after which, by order or resolution, the report shall be confirmed.

The cost of abatement shall constitute a special assessment against the parcel of land concerned. After the assessment is made and confirmed, it is a lien on the parcel of land.

After confirmation of the report, a copy shall be given to the Sacramento County Assessor and the Finance Director who shall add the amount of the assessment to the next regular tax bill levied against the parcel of land.

The amount of the assessment shall be collected at the same time and in the same manner as ordinary City taxes are collected. If delinquent, the amount is subject to the same penalties and procedure of foreclosure and sale as provided for ordinary City taxes.

Laws relating to the levy, collection and enforcement of City taxes apply to such special assessment taxes.

The City Council may order refunded all or part of a tax paid pursuant to this section if it finds that all or part of the tax has been erroneously levied. The tax or part shall not be refunded unless a claim is filed with the City Council on or before November 1st after the tax became due and payable. The claim shall be verified by the person who paid the tax, or his guardian, executor or Director.

The lien of the assessment shall have the priority of the taxes with which it is collected. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

#### **19.04.150 Interference with authorized personnel.**

It is unlawful for any person to prevent, delay or interfere with any work being done under the provisions of this chapter whether the work is done by an employee of the City or a person or firm performing work for the City pursuant to contract, hire or assignment. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

#### **19.04.160 Appeals – Procedure.**

Any person aggrieved by any act or determination of a City official or employee in the exercise of the authority herein mentioned shall have the right of appeal to the City Council. The following procedure shall govern such appeals:

A. Notice of Appeal. An appeal shall be perfected by filing written notice of appeal with the City Clerk. The notice of appeal shall be filed within 15 days after the act or determination which prompted the appeal;

B. The City Clerk shall notify the Public Works Director of the appeal. The Director shall forthwith transmit to the City Clerk all papers, maps, and other matters of record upon

which the exercise of authority was based;

C. Upon receipt of notice of appeal the City Clerk shall set a date for hearing before the City Council. Notice of such hearing shall be given by publication in a newspaper of general circulation at least 10 days prior to the hearing. Notice of hearing may also be given by mailing, postage prepaid, the time and place of such hearing to all persons who, at the time of public hearing held by the Public Works Director relative to a tree removal, requested such notice be given by mail. Any failure to mail notices as provided above if notice was given by publication shall not invalidate the proceedings before the City Council;

D. The City Council may deny or grant the appeal in whole or in part. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

#### **19.04.170 Enforcement.**

The Public Works Department is charged with the responsibility of enforcing the provisions of this chapter. No oversight or dereliction on the part of employees of the Public Works Department or any other employee or official of the City vested with the duty or authority to issue permits, conduct investigations and enforce the provisions herein shall legalize, authorize, waive, or excuse any violation of any of the provisions of this chapter.

The Public Works Director or his authorized representatives may upon the presentation of his credentials go upon any premises at any reasonable time for the investigation and inspection of any tree which is suspected to be in violation of this chapter, after having given the owner or occupant thereof at least five days' prior notice of the date of inspection. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

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**This page of the Elk Grove Municipal Code is current through Ordinance 25-2010, passed October 27, 2010.**  
Disclaimer: The City Clerk's Office has the official version of the Elk Grove Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

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**Chapter 19.12**  
**TREE PRESERVATION AND PROTECTION**

Sections:

- 19.12.010 Short term.
- 19.12.020 Purpose and intent.
- 19.12.030 Interpretation and severability.
- 19.12.040 Definitions.
- 19.12.050 Exemptions.
- 19.12.060 Tree permit.
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- 19.12.200 Suspension, revocation and restoration.
- 19.12.210 Violation a misdemeanor and nuisance.
- 19.12.220 Tree preservation fund.
- 19.12.230 Cumulative penalties.

**19.12.010 Short term.**

This chapter shall be known, and may be cited, as the tree preservation ordinance.  
[Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.020 Purpose and intent.**

For at least several centuries prior to the arrival of the first Spanish explorers in California, native oak trees existed as dominant and magnificent features in the landscape of the Central Valley of California. These trees provided a predominant food staple for original Indian inhabitants, and a major source of firewood and building material for early explorers and settlers. Over the years, the vast majority of these trees have been cleared to accommodate agriculture, burned as firewood and removed to facilitate urban development. Only a small vestige of the original oak woodland forests remains today. The removal of oak trees continues to the present time, and occurs at a much faster pace than natural regeneration. Thus, it has become imperative that an ordinance be established to preserve and protect remaining native oak trees as significant, integral, and outstanding examples of the historical heritage of the City of Elk Grove.

Furthermore, it is recognized that the preservation of trees enhances the natural scenic beauty, sustains the long term potential increase in property values which encourages quality development, maintains the original ecology, retains the original tempering effect of extreme temperatures, increases the attractiveness of the City to visitors, helps to reduce soil erosion, and increases the oxygen output of the area which is needed to combat air pollution.

For these reasons, in order to promote the health, safety, and general welfare; to preserve and protect significant historical heritage values; to enhance the beauty of the City of Elk Grove; and to complement and strengthen zoning, subdivision and land use standards and regulations, while at the same time recognizing individual rights to develop private property, the City Council adopts the ordinance codified in this chapter, establishing basic standards and measures for the preservation and protection of trees.

It shall be the policy of the City to preserve all trees possible through its development review process. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.030 Interpretation and severability.**

The provisions of this chapter shall be liberally construed to effectuate their purposes. If any section, clause, provision or other portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby. Interpretation of this chapter rests with the Planning Commission. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.040 Definitions.**

For the purposes of this chapter, certain words or terms used herein shall be interpreted as follows: words in the present tense include the future; words in the singular include the plural number.

“Approving body,” as used in this chapter, shall be any one of the following: City Council, Planning Director, or Planning Commission.

“dbh” means diameter at breast height and is the diameter of a tree measured at four and one-half (4' 6") feet above the ground while standing on the high side of the tree. The diameter may be calculated by use of the following formula:

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

“Discretionary projects,” as used in this chapter, shall be a project that must be approved by one of the following approving bodies: City Council, Planning Commission, or Planning Director. “Discretionary projects” shall include, but are not limited to: a special development permit, a parcel map, a parking reduction permit, a rezone, a site plan approval permit, a subdivision map, a variance, or a conditional use permit.

“Drip line” means an area delineated by projection of the periphery of the crown area of a tree down to the ground surface.

“Native oak tree” shall include any of the following: valley oak (*Quercus lobata*), interior live oak (*Quercus wislizenii*), blue oak (*Quercus douglasii*), or oracle oak (*Quercus morehus*).

“Public land” shall include all lands in public trust, federal, state, and local, including, but not limited to, public rights-of-way, easements, and parks.

“Public trees” shall be any tree with one-half (0.5), or more, of its trunk or branches on or above public land.

“Private land” shall include all land owned by private interest, and not designated public land.

“Tree,” as used in this chapter, shall mean any living native oak tree having at least one (1) trunk of six (6") inches or more in diameter measured four and one-half (4' 6") feet above the ground, or a multi-trunked native oak tree having an aggregate diameter of ten (10") inches or more, measured four and one-half (4' 6") feet above the ground (dbh).

“Tree permit” is an authorization by the Public Works Director for the removal of a tree.

“Designated urban area” means the area beginning at the crossing of the Sacramento River by Interstate 880; thence northeasterly on 880 to its intersection with the east main drainage canal; thence northeasterly on 880 to its intersection with the east main drainage canal; thence northerly to the County Line; thence easterly along the County Line to the City of Folsom; thence southerly along the City Limits to Highway 50; thence easterly on Highway 50 to Prairie City Road, thence southerly on Prairie City Road to White Rock Road; thence southwesterly on White Rock Road to Grantline Road to Douglas Road; thence westerly on Douglas Road to Sunrise Boulevard; thence southerly on Sunrise to Jackson Highway; thence westerly on Jackson Highway to Bradshaw Road; thence southerly on Bradshaw Road to Calvine Road; thence westerly on Calvine Road to Highway 99; thence southerly on Highway 99 to Bond Road; thence easterly on Bond Road to Waterman Road; thence southerly on Waterman Road to Grantline Road; thence southwesterly on Grantline Road to Highway 99; thence northwesterly on Highway 99 to Elk Grove Boulevard; thence westerly on Elk Grove Boulevard to Interstate 5; thence northerly on Interstate 5 to the City Limits; thence westerly along the City Limits to the Sacramento River; thence northerly on the Sacramento River to the point of beginning. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

#### **19.12.050 Exemptions.**

Except as provided in subsection (C) of this section, this chapter shall not apply to:

A. Any lot located in the designated urban area:

1. Created by a final subdivision map, consisting of five (5) or more lots;

2. Each lot having an area of ten thousand (10,000 ft<sup>2</sup>) square feet or less; and
3. Developed with a single-family detached house, a duplex or a halfplex.

B. Any lot located in any of the following named subdivisions including all units thereof: Sierra Oaks Vista, Sierra Oaks, Arden Park Vista and Arden Oaks.

C. No land located in the designated urban area and within the 100-year floodplain shall be exempt from the provisions of this chapter. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.060 Tree permit.**

No person shall trench, grade or fill within the dripline of any tree or destroy, kill or remove any tree as defined, in the designated urban area of the City, on any property, public or private, without a tree permit, or unless authorized as a condition of a discretionary project approval by the City Council, Planning Commission, or the Planning Director. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.065 Prohibition.**

No City agency or department shall issue tree cutting, encroachment or any other permits which purport to authorize a use, construction, or other activity which is subject to the provisions of this chapter or the Zoning Code prior to review and approval as provided in this chapter. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.070 Jurisdiction.**

A. Private Land Not in Conjunction with Other Discretionary Development. The preservation or removal of trees within privately owned land and not in conjunction with a previously approved discretionary development project shall be the responsibility of the Public Works Director.

B. Discretionary Project. The preservation or removal of trees as a condition of approval of a discretionary project shall be the sole and continuing responsibility of the approving body which granted approval of the project.

C. Parks. The preservation or removal of trees within parks, parkways, and public recreation easements shall be the responsibility of the Public Works Director.

D. Other Public Land. Preservation or removal of trees within other City-owned lands or public easements shall be the responsibility of the Public Works Director. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.080 Application procedure.**

Any person desiring to cut down, destroy or remove one (1) or more trees shall make application to the approving body not less than ten (10) days prior to the time desired to physically remove the tree. Said application shall contain:

- A. A brief statement of the reasons for removal;

- B. Consent of the owner or record of the land on which the proposed activity is to occur;
- C. A tree survey with the accurate location, number, species, size (diameter measured four and one-half (4' 6") feet above the ground, approximate heights, and approximate canopy diameter) and approximate age (if known) of the tree or trees to be removed;
- D. If the project involves other discretionary development, then this survey must be part of the total development plan and must also describe any tree or trees which could be affected by the proposed development; and
- E. Any other pertinent information. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.090 Decision criteria.**

Prior to the issuance of such permit, the approving body shall ascertain whether or not the tree cannot or should not be retained.

The determination of the approving body in granting or denying a permit shall be based upon the following criteria:

- A. Whether or not the preservation of the tree would unreasonably compromise an owner's development of land;
- B. The condition of the tree with respect to disease, general health, damage, danger of falling, and whether or not the tree acts as a host for an organism which is parasitic to another species of tree which is in danger of being exterminated by the parasite;
- C. The approximate age of the tree compared with the average life span for that species;
- D. Age of tree with regard to whether or not removal of the tree would encourage healthier, more vigorous growth of younger similar trees in the area;
- E. The number of existing trees in the area and the effect of the tree removal upon public health, safety, prosperity, beauty and general welfare of the area;
- F. The number of healthy trees that a given parcel of land will support, with and without the proposed development;
- G. The effect of tree removal on soil stability/erosion, particularly near water courses or on steep slopes;
- H. The potential for the tree to be a public nuisance, or interfere with utility service, as well as its proximity to existing structures;
- I. Present and future shade potential with regard to solar heating and cooling;
- J. Whether or not there are any alternatives that would allow for the preservation of the tree; and

K. Any other information the body finds pertinent to the decision, including, if necessary, information obtained at a public hearing. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.100 Tree removal provisions.**

A. If a permit is denied, the Public Works Director shall provide written notification, including the reasons for denial, to the applicant.

B. A granted permit shall be valid for a period of six (6) months from the date of issuance. An extension of time may be granted not to exceed six (6) months.

C. It shall be the responsibility of the person trenching, grading or filling within a tree dripline or cutting, destroying or removing any tree under this chapter to have the tree permit or a copy of the conditions of approval imposed by the approving body at the tree removal site.

D. The permit, or the conditions of approval granted by the approving body, shall entitle the applicant to remove only the tree or trees approved for removal. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.110 Consideration of permits.**

It shall be the responsibility of the applicant to demonstrate the need for a permit or other approval issued pursuant to the provisions of this chapter.

In considering any application or permit relating to the provisions of this chapter, the approving body may approve such permit or application standards and requirements of this chapter regulating environmental control or development.

In passing judgment upon permits or applications required pursuant to the provisions of this chapter, the approving body may impose such reasonable conditions of approval as are necessary and appropriate to minimize the environmental, health or safety effects of the development or use. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.120 Appeal.**

Any decision made by any approving body other than the City Council may be appealed by the applicant property owner to the City Council. Such appeal must be submitted in writing to the City Clerk within fifteen (15) days of the date on which the original decision occurred briefly stating the facts and grounds of appeal, and signed by the appellant. Upon receipt of said appeal, the City Clerk shall set the item on the City Council's agenda not later than thirty (30) days from the date of filing said appeal, and shall notify the appellant of the hearing date. The City Clerk shall at the time of setting the date of the hearing also mail a copy of the appeal, together with a notice of public hearing to each member of the City Council and the Public Works Director. Following the hearing of any such appeal, the City Council may affirm, reverse or modify the former action. The action of the City Council on any such appeal shall be final and conclusive. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.130 Development control measures.**

The approving body may mandate any or all of the following control measures to mitigate damage to oak trees caused by land development:

A. No grade cuts greater than one (1' 0") foot shall occur within the driplines of oak trees, and no grade cuts whatsoever shall occur within five (5' 0") feet of their trunks;

B. No fill greater than one (1' 0") foot shall be placed within the driplines of oak trees and no fill whatsoever shall be placed within five (5' 0") feet of their trunks;

C. No trenching whatsoever shall be allowed within the driplines of oak trees. If it is absolutely necessary to install underground utilities within the driplines of an oak tree, the trench shall be either bored or drilled;

D. No irrigation system shall be installed within the driplines of oak tree(s) which may be detrimental to the preservation of the oak tree(s) unless specifically authorized by the approving body or the Public Works Director;

E. Landscaping beneath oak trees may include nonplant materials such as boulders, cobbles, wood chips, etc. The only plant species which shall be planted within the driplines of oak trees are those which are tolerant of the natural semi-arid environs of the trees. Limited drip irrigation approximately twice per summer is recommended for the understory plants. Permitted plants include:

1. Iris douglasiana hybrids (native iris),
2. Heuchera species (coral bells),
3. Aloe species,
4. Dudleya species,
5. Sisyrinchium bellum (blue-eyed grass),
6. Hemerocallis hybrids (day lily),
7. Cyclamen neopolitanum,
8. Mimulus aurantiacus and hybrids (monkey flowers),
9. Artemisia species,
10. Achillea tomentosa (woolly yarrow),
11. Symphoricarpos millis (prostrate snowberry),
12. Mahonia repens (creeping Mahonia),
13. Mahonia nervosa (long leaf Mahonia),
14. Mahonia aquifolium compacta (compact Oregon grape),

15. *Arctostaphylos edmundsil* “Carmel Sur” (Sur manzanita),
16. *Arctostaphylos hookeri* “Monterey Carpet,”
17. *Sollya heterophylla* (Australian bluebell creeper),
18. *Ribes viburnifolium* (Catalina fragrance),
19. *Daphne odora* (winter daphne),
20. *Arctostaphylos hookeri* “Wayside,”
21. *Arctostaphylos densiflora* “Howard McMinn,”
22. *Symphoricarpos rivularis* (snowberry),
23. *Rhamnus californica* “Eve Case” (California coffeeberry),
24. *Heteromoles arbutifolia* (toyon),
25. *Choisya ternata* (Mexican orange or mock orange);

F. Paving within the driplines of oak trees should be stringently minimized. When it is absolutely necessary, porous material should be used. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.140 Replanting security.**

A. Adequate security may be required for any project for which a permit or other approval is required pursuant to provisions of this chapter or the Zoning Code. The purpose of such security shall be to guarantee the applicant’s compliance with conditions of approval and City ordinance provisions regarding tree protection and preservation. Security may also be required at the discretion of the approving body to insure the completion of any additional work specified as a condition of permit approval or other approvals.

B. The security shall be in the amount of one hundred (100%) percent of the estimated cost of the required work.

C. The security may be in the form of a letter of credit, cash deposit, or a combination thereof and shall be approved by City Attorney.

D. The security may be required by the approving body whenever it appears that substantial work is required by the City or its agencies on the following:

1. Land containing trees;
2. Substantial grading is required;
3. When action may be required by the City or any of its agencies to correct a violation of the Zoning Code or other written policies or regulations of the City.

E. The terms and conditions of the security shall be determined by the approving body and shall be stated in the conditions of approval.

F. Security posted on actual work required shall be maintained for a period of time not to exceed five (5) years.

G. Any interest gained on case security posted by requirement of the City shall accrue to the applicant or his or her designee. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.150 Other species of trees.**

The approving body shall have the authority to adopt mitigation measures as conditions of approval for discretionary projects in order to protect other species of trees, in addition to the oaks. Violations of such adopted conditions shall be subject to the penalties described in EGMC Sections [19.12.190](#), [19.12.200](#), and [19.12.210](#). [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.160 Grading beneath tree driplines.**

Grading beneath trees to be saved shall be given special attention. Every reasonable effort shall be made to avoid creating conditions adverse to the tree's health. The natural ground within the drip-lines of protected trees shall remain as undisturbed as possible. Grading within the driplines of oak trees will not be permitted unless specifically authorized by the approving body or by the Public Works Director.

A. Major roots two (2") inches or greater in diameter encountered within the tree's dripline in the course of excavation from beneath trees which are not to be removed shall not be cut and shall be kept moist and covered with earth as soon as possible. Roots one (1") inch to two (2") inches in diameter which are severed shall be trimmed and treated with pruning compound and covered with earth as soon as possible.

B. Support roots that are inside the dripline of the tree shall be protected. The permittee is required to hand-dig in the vicinity of major trees to prevent root cutting and mangling which may be caused by heavy equipment.

C. Cross sections may be required where trees are located adjacent to roadways, new slopes or critical areas. In addition, a dimension from the face of a tree to some critical point or line may be required.

D. Any condition imposed by a Planning Commission, Planning Director, or the City Council relating to grading in the vicinity of trees, is incorporated into and made a part of the improvement standards. The consulting engineer for the project shall verify in writing on a form to be provided by the Public Works Director that the grading has been completed as required by this section and any conditions imposed by a Planning Commission, Planning Director, or the City Council. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.170 Emergencies.**

In case of emergency caused by the tree being in a hazardous or dangerous condition requiring immediate action for the safety of the structures or human life, such tree may be removed by permission of the Public Works Director during normal working hours or by the Cosumnes Community Services District at other times. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.180 Fees.**

The City Council by resolution shall establish a fee to cover the expenses of the application and appeal process. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.190 Stop work order.**

Whenever the Public Works Director, the Planning Commission or the City Council determines that any permit, or variance or any action being taken thereunder, or any action under it without a permit, is in conflict with this chapter or with the standards established by the City or any department thereof, or ordinance, regulation, or policy, it shall issue a stop work order which shall prohibit any action thereunder. Such stop work order shall set forth the alleged violations and may list remedies to be taken to correct the violations. The person receiving such a stop work order shall report in writing to the officer, person or body issuing the order within forty-eight (48) hours regarding the next steps to be taken to correct the violations. Such stop work order may be extended to provide an opportunity for a hearing being extended to the affected party. During the period of such extension, the Planning Commission shall review the matter as herein provided. A stop work order issued pursuant to this section may be withdrawn by the Public Works Department or the officer who issued it upon a finding that the circumstances giving rise to the order no longer exist. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.200 Suspension, revocation and restoration.**

In addition to or instead of the measures set forth in this chapter, the Planning Commission or the City Council may suspend any permit subject to a public post-suspension hearing upon the finding that a violation of conditions of approval has occurred.

Following the public hearing, if the City revokes the permit or finds that a violation of conditions of approval has occurred, it may require conditions of restoration. Said restoration shall include a requirement to replace in-kind any oak tree(s) which have been removed without a permit. Further, the replacement shall consist of specimen trees, no less than a fifteen (15) gallon size, having a total combined diameter equal to the total combined diameter of the illegally removed tree(s). If the project site is not capable of supporting all the required replacement trees, the violator shall pay to the City a sum equivalent to the retail cost of the number of trees that cannot be accommodated. These funds will be deposited in the tree preservation fund maintained by the Finance Department as set forth in EGMC Section [19.12.220](#). [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.210 Violation a misdemeanor and nuisance.**

A violation of this chapter is a misdemeanor which shall be enforced pursuant to the provisions of EGMC Chapter [1.04](#). [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.220 Tree preservation fund.**

A tree preservation fund is established for the City of Elk Grove for the purposes specified in EGMC Section [19.12.200](#). The monies received in lieu of replacement of illegally removed trees shall be forwarded to the Finance Director for deposit in the tree preservation fund. Except as provided in this section, under no circumstances shall the funds collected by the Finance Director for the tree preservation fund be directed to any other fund to be used for any other purposes other than for tree planting and preservation programs and public education programs regarding trees. tree preservation fund monies may be directed by the City Council to nonprofit organizations for the implementation of programs consistent with the purposes of the tree preservation fund. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

**19.12.230 Cumulative penalties.**

The remedies provided for herein shall be cumulative and not exclusive. [Ord. 7-2009 §3, eff. 5-1-2009; Ord. 2000-14A §1, eff. 10-25-2000; Ord. 2000-1 §1, eff. 7-1-2000]

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**This page of the Elk Grove Municipal Code is current through Ordinance 16-2010, passed July 28, 2010.**  
Disclaimer: The City Clerk's Office has the official version of the Elk Grove Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.elkgrovecity.org/>  
(<http://www.elkgrovecity.org/>)  
City Telephone: (916) 683-7111  
Code Publishing Company  
(<http://www.codepublishing.com/>)



*Incorporated July 1, 2000*

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Elk Grove, California 95758

**CITY OF ELK GROVE**

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## **City of Elk Grove – City Council NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that on **Wednesday, February 9, 2011, at the hour of 6:00 p.m.**, or as soon thereafter as the matter may be heard, the Elk Grove City Council will conduct a public hearing at City Hall in the Council Chambers, 8400 Laguna Palms Way, Elk Grove, California, to consider the following matter:

### **Tree Ordinance Update – City Initiated Project**

The City Council will consider amendments to the existing Tree Ordinance (Title 19 of the Municipal Code). The amended provisions implement General Plan policy CAQ-8 and corresponding action items. Among other things, the provisions require that a Tree Permit be obtained from the City prior to removal of a Tree of Local Importance (defined as a Coast Live Oak, Valley Oak, Blue Oak, Interior Live Oak, Oracle Oak, California Sycamore, and California Black Walnut), Landmark Trees (defined as those trees designated by the City Council), Secured Trees (those trees protected as part of a development or planted by a development), and Trees within the Right of Way or on City Property. The regulations specifically exempt Trees of Local Importance when not part of a development project. The regulations require mitigation for the loss of these various types of trees.

The Planning Commission considered this item at its regular January 6, 2011 meeting and is recommending adoption (5-0).

**PROJECT LOCATION:** The proposed amendment would apply to the entire City.  
The ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Division 6 of Chapter 3 of Title 14 of the California Code of Regulations (State CEQA Guidelines) §15183 (Projects Consistent with General Plan) and §15308 (Actions by Regulatory Agencies for Protection of the Environment).

**ENVIRONMENTAL:**

Information or questions regarding this item should be referred to Christopher Jordan at (916) 478-2222 or to the office of Development Services – Planning, 8401 Laguna Palms Way, Elk Grove, California. All interested persons are invited to present their views and comments on this matter. Written statements may be filed with the City Clerk at any time prior to the close of the hearing scheduled herein, and oral statements may be made at said hearing.

If you challenge the subject matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the City Clerk, 8401 Laguna Palms Way, Elk Grove, CA 95758, at or prior to the close of the public hearing.

**This meeting notice is provided pursuant to Section 23.14.040 of the City’s Zoning Code.**

Dated: January 28, 2011

JASON LINDGREN  
CITY CLERK, CITY OF ELK GROVE