

AGENDA ITEM NO. 8.4

ORDINANCE NO. 20-2017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE APPROVING AMENDMENTS TO ELK GROVE MUNICIPAL CODE TITLE 19 (TREE PRESERVATION) AND TITLE 23 (ZONING) TO IMPLEMENT CITY COUNCIL DIRECTION, TO ENSURE CONSISTENCY WITH NEW LEGISLATION, AND TO UPDATE, ADD PROVISIONS, AND CLARIFY CERTAIN LAND DEVELOPMENT AND ZONING PROVISIONS OF THE ELK GROVE MUNICIPAL CODE (CEQA EXEMPT)

WHEREAS, the City of Elk Grove (“City”) conducts periodic updates of the provisions of the Elk Grove Municipal Code (EGMC) to ensure compliance with current laws, changes in local policy, consistency with adopted plans and programs, changing market conditions, best practices, and to address issues or concerns with current regulations; and

WHEREAS, certain amendments to EGMC Title 19 (Tree Preservation) are necessary to improve the administration and implementation of the City’s policies and objectives regarding tree preservation; and

WHEREAS, certain amendments to EGMC Title 23 (Zoning) are necessary to (1) add a definition of outdoor events center; (2) add clarifying language to a footnote related to tasting rooms and retails sales as accessory uses to wineries, distilleries, and breweries; (3) modify flag pole height and size standards; and (4) add lighting standards for auto and vehicles sales and rental uses; and

WHEREAS, CEQA Guidelines Section 15061(b)(3) provides an exemption for this type of project; and

WHEREAS, the Planning Commission held a duly-noticed public hearing on August 3, 2017, as required by law, to consider all of the information presented by staff, property owners, and public testimony presented at the meeting, and recommended by a vote of 5-0 that the City Council approve the Amendments to EGMC Titles 19 and 23; and

WHEREAS, the City Council held a duly-noticed public hearing on August 23, 2017, as required by law, to consider all of the information presented by staff, property owners, and public testimony presented at the meeting regarding the recommended amendments to the Elk Grove Municipal Code.

NOW, THEREFORE, the City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose

The purpose of this Ordinance is to amend Title 19 (Tree Preservation) and Title 23 (Zoning) of the Elk Grove Municipal Code to City’s policies and objectives regarding tree preservation and to update or clarify certain land development and zoning provisions of the Elk Grove Municipal Code.

Section 2: Findings

This Ordinance is adopted based upon the following findings:

California Environmental Quality Act (CEQA)

Finding: No further environmental review is required under the California Environmental Quality Act pursuant to State CEQA Guidelines sections 15060(c), 15061(b)(3), 15064(d), and 15378.

Evidence: 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 includes amendments to the City’s Municipal Code. Section 15378(a)(1) of, Title 14 of the California Code of Regulations (the CEQA Guidelines) states that amendments to zoning ordinances are projects subject to CEQA; therefore, the proposed Municipal Code amendments are a project under CEQA.

CEQA Guidelines Section 15061(b)(3) states that a project is exempt from CEQA “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.” The approval of the proposed amendments would not approve any development project or result in physical changes in the environment. The proposed changes are intended to improve implementation of the City’s policies and objectives for tree preservation; clean up ambiguities associated with wineries and breweries as an accessory use to a permitted use; address issues/concerns with lighting for automotive vehicle rental and display areas; introduce the requirement for a discretionary permit for outdoor events center; address the increased height of flagpoles for residential subdivision entryways; and increase the allowed flag size in Agricultural and Agricultural-Residential zones.

Amendments to tree preservation would give authority to the Development Services Director (DSD) to approve the additional removal of trees (if requested) that weren’t considered as part of the discretionary permit or elevate the additional removal to a higher approving authority. The request for removal of additional trees has to meet specific criteria outlined in Title 19 and would still be subject to the required mitigation for the loss for those trees. Therefore, additional environmental impacts would not be created by granting the DSD authority to remove additional trees if requested.

The introduction of an outdoor events center into the use category would not result in additional environmental impacts. The use would require a discretionary permit, subject to CEQA and impacts associated with the use would be analyzed at that time.

Increasing the maximum height of flagpoles at residential subdivision entry ways would not result in additional impacts. The proposed height limit of 30 feet would be the same maximum allowable height for a residence in the applicable zoning designations. The increase in flagpole height is not above what is already anticipated for development within these zones and therefore does not pose any additional impacts that weren’t

already analyzed. The increase in flag size in Agricultural and Agricultural-Residential zones would align the flag size to be proportional with the current flag pole heights permitted in these zones based on industry standards.

The introduction of light standards for automotive vehicle rental and display areas would not create an additional impact that hasn't already been mitigated through implementation of the standards outlined in the Zoning Code (Section 23.56.030). The allowance to increase lighting standards for display areas only, still requires the shielding of the light source, no spill over onto adjacent residential properties, hours of illumination and adherence to other onsite illumination standards for pedestrian and parking areas.

For these reasons, the proposed amendments would not have the potential to result in individually or cumulatively significant effects on the environment and these Municipal Code amendments are exempt from review under CEQA and no further environmental review is necessary.

Code Amendments

Finding: The proposed amendments to the Elk Grove Municipal Code are consistent with the General Plan goals, policies, and implementation programs.

Evidence: The proposed text amendments to Titles 19 and 23 of the Municipal Code are consistent with the General Plan as they do not alter the allowed intensity or density of development beyond that contemplated in the General Plan. The changes are intended to improve implementation of the City's policies and objectives clean up ambiguities; address issues/concerns; add clarifying definitions and to reflect best practices. Changes are proposed that increase the flag pole height to 30 ft. for residential subdivision entry ways. Zoning designations where this height would be allowed, currently permit structures to be built up to 30 ft. The increased flag size aligns with industry standards based upon the height of the pole. The additional intensity of lighting would not increase impacts to off-site sensitive receptors due to the mitigating standards already within the Zoning Code. Additional removal of trees would still be subject to mitigation that is already in place. The introduction of a new use requires approval of a discretionary permit subject to meeting all code requirements. Therefore, there are no conflicts between the proposed changes and the City's General Plan.

Section 3: Action

The City Council hereby approves and adopts the amendments to Title 19 (Tree Preservation) and Title 23 (Zoning) of the Elk Grove Municipal Code as shown in **Exhibits A and B, respectively**, attached hereto and incorporated herein by this reference.

Section 4: 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 5: 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 6: Savings Clause

The provisions of this ordinance 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 shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and effect to all intents and purposes as if such ordinance or part thereof so repealed 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 altered by said Code shall be discharged or affected by such repeal or alteration; 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 altered.

Section 7: 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).

ORDINANCE: **20-2017**
INTRODUCED: August 23, 2017
ADOPTED:
EFFECTIVE:

STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: _____

EXHIBIT A

*Note to Reader: Proposed changes are shown in track changes with proposed deletions shown with strikethrough and additions shown with an underline and bold text. Codifying notes are displayed in italics, section placeholders to indicate the sections between changed subsections remain the same are indicated with three stars (***)*.

TITLE 19 (TREE PRESERVATION)

Chapter 19.12 Tree Preservation and Protection

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" shall be any one (1) of the following: City Council, Planning Commission, or Development Services Director.

B. "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" shall mean a report prepared by an arborist containing information required under this chapter as part of a tree permit application.

D. "CEQA" shall mean California Public Resources Code Sections 21000 through 21177, commonly referred to as the California Environmental Quality Act, and Sections 15000 through 15387 of Chapter 3, Division 6, Title 14 of the California Code of Regulations, commonly referred to as the CEQA Guidelines.

E. "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 equal to one foot per inch DSH (Diameter at Standard Height). For example, a tree with a 24-inch DSH would have a critical root zone of a 24-foot radius.

G. "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" shall mean the upper part of a tree, measured from the lowest branch, including all the branches and foliage.

I. "~~dbh~~**DSH**" shall mean the diameter at breast **standard** height, which 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~~ **natural grade, except as specified below**. The diameter may **shall** be calculated by use of the following formula: diameter = circumference/3.142

1. For a tree that branches at or below four and one half feet (4'-6"), DSH means the diameter at the narrowest point between the grade and the branching point.

2. For a tree with a common root system that branches at or near the ground, DSH means the sum of the diameter of the largest trunk and one-half the cumulative diameter of the remaining trunks at four and one half feet (4'-6") above natural grade.

J. "Development project" shall mean a project that must be approved by one (1) of the following approving bodies: City Council, Planning Commission, or Development Services 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" shall mean an area delineated by projection of the periphery of the crown of a tree down to the ground surface.

L. "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" shall mean, as described in the building code, the act or result of digging, **trenching**, excavating, **clearing, grubbing, tilling**, 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" shall mean those trees identified in EGMC Section 19.12.030 (Landmark trees).

O. "Secured tree" shall mean those trees identified in EGMC Section 19.12.050 (Secured trees).

P. "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" shall mean work for which a tree permit is required as described in EGMC Section 19.12.070.

R. "Trees of local importance" shall mean those trees identified in EGMC Section 19.12.040 (Trees of local importance). [Ord. 24-2015 §8 (Exh. F), eff. 2-12-2016; Ord. 6-2011 §4, eff. 3-25-2011]

19.12.040 Trees of local importance.

For purposes of this chapter, the following species of trees with a **DSH (see General definitions)** diameter at breast height of six **inches** (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). [Ord. 6-2011 §4, eff. 3-25-2011]

19.12.060 Trees in the right-of-way or on City property.

Trees in the right-of-way or on City property **which are** shall be those **qualifying landmark trees, secured trees, and/or** trees **of local importance** 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~~ **shall comply with Chapter 19.12.** [Ord. 6-2011 §4, eff. 3-25-2011]

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 **or associated with** 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. [Ord. 6-2011 §4, eff. 3-25-2011]

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 Development Services 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 (1) 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 ~~DBH~~ **DSH**), **critical root zone (CRZ)** 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, and 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 subsection (A) of this section must be included with the development project application and no trees shall be authorized for removal until:

1. The entitlement has been approved; and
2. 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. **Trees to be removed shall be clearly identified in an arborist report and properly marked in the field.**

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 Development Services Director shall be the designated approving authority. The Development Services 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. **Requests for amendments to the original tree permit work that were approved by the designated approving authority as part of a discretionary development project may be amended by the Development Services Director if either of the circumstances below are present.**

a. Deterioration of a qualified tree originally designated for protection when such deterioration is documented and the tree is recommended for removal by the City Arborist; and/or

b. Unforeseen changes or circumstances to the site, structures, or adjoining property impacting a qualified tree designated for protection.

The Development Services Director may elevate amendments to the original approving authority at his/her sole discretion.

3. Tree Located on City-Owned Land. For **qualified trees (landmark trees, secured trees, and /or trees of local importance)** in the right-of-way and on City property, the Development Services Director shall be the designated approving authority. The Development Services 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 Development Services Director before expiration of the permit, together with the required filing fee.

b. Evidence to Be Provided. The **Development Services** 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. Development Services Director's Action. Upon good cause shown, the first extension may be approved, approved with modifications, or disapproved by the Development Services Director, whose decision 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 decision may be appealed to the City Council in compliance with EGMC Section 19.12.130 (Appeals).

2. If a permit is denied, the Development Services 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. [Ord. 24-2015 §8 (Exh. F), eff. 2-12-2016; Ord. 6-2011 §4, eff. 3-25-2011]

19.12.100 Arborist review.

Prior to the consideration of a request for tree removal by the designated approving authority **or grading within the critical root zone of a qualified tree, the applicant shall retain an ISA Certified Arborist to prepare a report.** ~~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 **qualified tree(s) and shall be subject to review by the City Arborist.** 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 and safety, and 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;~~

DC. The number of healthy trees that a given parcel of land will support, with and without the proposed development;

ED. 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;~~

EG. Present and future shade potential with regard to solar heating and cooling;

FH. Identification of alternatives that would allow for the preservation of the tree(s) proposed for removal; and

GI. Any other information the City Arborist finds pertinent (e.g., site conditions, other vegetation, and utility service). [Ord. 6-2011 §4, eff. 3-25-2011]

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 and/or variances.
2. The effect of the removal of the tree will not negatively impact the health, safety, and prosperity of surrounding 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 this section; and
2. The denial of the permit for tree removal will not unreasonably compromise the owner's rights to enjoy and develop the property. [Ord. 6-2011 §4, eff. 3-25-2011]

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~~**DSH** of tree for each inch ~~dbh~~**DSH** 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. [Ord. 6-2011 §4, eff. 3-25-2011]

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 preservation 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 (i.e., less than six **inches** (0'-6") inches dbh **DSH**). 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 a credit ~~at a rate~~ of one **inch** (0'-1") inch dbh **DSH** per tree ~~with~~ **for trees between two (2) and five (5) inches DBH.** (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. [Ord. 6-2011 §4, eff. 3-25-2011]~~

19.12.170 Mitigation equivalents.

A. Except when funded through the tree preservation 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 (1) gallon container or seedling-sized containerized tree = one (1") inch dbh.~~

12. A Smaller than fifteen (15) gallon container = one inch (1") inch dbh **DSH.**

23. Fifteen (15) gallon container or larger = two inch (2") DSH ~~A twenty-four (24") inch box = two (2") inch dbh.~~

~~4. A thirty-six (36") inch box = two (2") inch dbh.~~

~~5. A sixty (60") inch box = two (2") inch dbh.~~

~~6. A seventy-two (72") inch box = two (2") inch dbh. [Ord. 6-2011 §4, eff. 3-25-2011]~~

19.12.180 Alternative mitigation requirements.

A. Authority and ~~Grounds~~ **Findings** for **Granting** Alternative **Mitigation**. 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: **that one of the following findings is made:**

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 **to existing structures** (e.g., damage to a building foundation, **roof, or similar**); 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 **be**, 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 fifteen (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. [Ord. 6-2011 §4, eff. 3-25-2011]~~

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~~ driplines that extends 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 (4' 0") 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 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 City Arborist 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 **CRZ** 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 **CRZ**/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 **the irrigation requirements of the protected trees as approved by the City Arborist.** 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. Nonplant materials such as river gravel, woodchips, etc., may be used in limited cases upon approval by the City Arborist.~~

K. **Irrigation systems shall be approved by the City Arborist.** ~~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 driplines and emitters placed on natural grade will be permitted under tree driplines. No trenching for irrigation lines will be permitted under critical root zones **without approval by the City Arborist.**~~

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. [Ord. 6-2011 §4, eff. 3-25-2011]

EXHIBIT B

*Note to Reader: Proposed changes are shown in track changes with proposed deletions shown with strikeout and additions shown with an underline and bold text. Codifying notes are displayed in italics, section placeholders to indicate the sections between changed subsections remain the same are indicated with three stars (***)*.

TITLE 23 (ZONING)

Chapter 23.26 Use Classification System

23.26.050 Description of land use classifications.

The following terms are used throughout this title and shall have the following descriptions:

O. "O" Allowed Use Descriptions.

6. "Outdoor event center" means outdoor facilities for public assembly and group entertainment, other than sporting events, including facilities for weddings, "live" theater and concerts and similar entertainment.

Chapter 23.27 Allowed Uses and Required Entitlements

23.27.020 Allowed uses and required entitlements.

**Table 23.27-1
Allowed Uses and Required Entitlements for Base Zoning Districts**

Land Use/Zoning District	Zoning Districts																				Specific Use Regulations
	Agricultural					Residential					Commercial					Office		Industrial		Open Space	
	AG-80	AG-20	AR-5/10	AR-2	AR-1	RD-1/2/3	RD-4/5/6	RD-7	RD-10/15	RD-20/25/30	LC	GC	SC	AC	C-O	BP	MP	LI	HI	O	
Recreation, Open Space, Education, and Public Assembly Uses																					
Outdoor Commercial Recreation	-	-	-	-	-	CUP	CUP	CUP	CUP	CUP ⁴	CUP	P	P	-	P	CUP	CUP	CUP	CUP	CUP ¹	
<u>Outdoor Event Center</u>			<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>					<u>CUP</u>	<u>CUP</u>	<u>CUP</u>								
Parks and Public Plazas	P	P	P	P	P	P	P	P	P	P	P	P	-	-	P	-	-	-	-	P	

Notes to Table 23.27-1

Notes pertaining to the industrial zoning districts:

- 6. Tasting room and/or retail sales, accessory to wineries, distilleries, and breweries, require approval of a minor conditional use permit.

Notes to Table 23.27-1

Notes that pertain to the industrial zoning districts:

6. Tasting room and/or retail sales, **accessory to wineries, distilleries, and breweries**, require approval of a minor conditional use permit.

Chapter 23.56 Lighting

23.56.030 Multifamily and nonresidential outdoor lighting standards

G. Auto and Vehicle Rental and Sales Uses

- 1. Auto and vehicle display areas shall have a minimum maintained one (1 fc) foot-candle of light and an average not to exceed thirty (30 fc) foot-candles of light. Illumination standards for all other areas outlined in Section 23.56.030 B. shall be adhered to.**

HG. Architectural/Landscape Lighting. Outdoor light fixtures used to illuminate architectural and landscape features shall use a narrow cone of light for the purpose of confining the light to the object.

H. Sign Lighting. The artificial illumination of signs, both from an internal or external source, shall be designed to eliminate negative impacts on surrounding rights-of-way and properties, and shall comply with EGMC Chapter 23.62, Signs on Private Property. [Ord. 8-2011 §§25(B), (C), eff. 6-24-2011; Ord. 28-2007 §3, eff. 10-26-2007; Ord. 26-2006 §3, eff. 8-11-2006]

Chapter 23.62 Signs on Private Property

**Table 23.62-1
Standards for Flags**

Site	Maximum Number of Poles	Maximum Height	Maximum Number of Flags	Maximum Area of All Flags	Image Types	Illumination	Minimum Setback from ROW¹
Commercial, Office, and Industrial Zones	2	Tallest building ₂	Not limited	24 sf.	Commercial and non-commercial	3, 4	5
Residential	1	20 ft.	Not limited	15 sf.	Non-commercial	4	10 ft.
<u>Residential Subdivision Entryway⁶</u>	<u>1</u>	<u>30 ft.</u>	<u>Not limited</u>	<u>40 sf.</u>	<u>Non-commercial</u>	<u>4</u>	<u>10 ft.</u>
Agricultural-Residential and Agricultural Zones	1	25 ft.	Not limited	15 <u>24</u> sf.	Non-commercial	4	10 ft.
All other properties	2	20 ft.	Not limited	15 sf.	Non-commercial	4	10 ft.

Notes:

1. No flag may be placed within the Clear Vision Triangle.
2. The pole may be a maximum of twenty-five (25'0") feet tall when all on-site buildings are less than twenty-five (25'0") feet tall.
3. Illumination of commercial flags not allowed
4. Noncommercial flags may be illuminated only in times of officially declared or commemorated emergency, mourning, or memorial.
5. Pole must be setback from right-of-way a distance equal to that of the pole height. Minimum setback is ten (10'0") feet.
6. **“Residential Subdivision Entryway” means any common area maintained by a private entity (such as a homeowners association) on private property when such entryway is located adjacent to a 4-lane public road or wider.**
