

Section 12.21 A 12

Protected Tree Relocation and Replacement. All existing protected trees and relocation and replacement trees specified by the Advisory Agency in accordance with Sections [17.02](#), [17.05](#), [17.06](#), [17.51](#) and [17.52](#) of this Code shall be indicated on a plot plan attached to the building permit issued pursuant to this Code. In addition, the trees shall be identified and described by map and documentation as required by the Advisory Agency. A Certificate of Occupancy may be issued by the Department of Building and Safety, provided the owner of the property or authorized person representing the owner of the property (licensed contractor) obtains from the Advisory Agency in consultation with the City's Chief Forester, prior to the final inspection for the construction, a written or electronic document certifying that all the conditions set forth by the Advisory Agency relative to protected trees have been met. **(Amended by Ord. No. 177,404, Eff. 4/23/06.)**

SEC. 17.02. DEFINITIONS.

Protected Tree (Added by Ord. No. 177,404, Eff. 4/23/06.) – Any of the following Southern California native tree species, which measures four inches or more in cumulative diameter, four and one half feet above the ground level at the base of the tree:

- (a) Oak tree including Valley Oak (*Quercus lobata*) and California Live Oak (*Quercus agrifolia*), or any other tree of the oak genus indigenous to California but excluding the Scrub Oak (*Quercus dumosa*).
- (b) Southern California Black Walnut (*Juglans californica* var. *californica*).
- (c) Western Sycamore (*Platanus racemosa*).
- (d) California Bay (*Umbellularia californica*).

This definition shall not include any tree grown or held for sale by a licensed nursery, or trees planted or grown as a part of a tree planting program.

Public Way – Any street, channel, viaduct, subway, tunnel, bridge, easement, right of way or other way in which a public agency has a right of use.

SEC. 17.05. DESIGN STANDARDS.

R. Protected Tree Regulations. (Amended by Ord. No. 177,404, Eff. 4/23/06.) No protected tree may be relocated or removed except as provided in this article or [Article 6 of Chapter IV](#) of this Code. The term "removed" or "removal" shall include any act that will cause a protected tree to die, including but not limited to acts that inflict damage upon the root system or other parts of the tree by fire, application of toxic substances, operation of equipment or machinery, or by changing the natural grade of land by excavation or filling the drip line area around the trunk.

1. **Required Determinations.** Subject to historical preservation requirements set forth in Subdivision 3. of this subsection, when a protected tree exists within a proposed subdivision, the tree may be relocated or removed if the Advisory Agency, in consultation with the City's Chief Forester, determines the existence of either (a) or (b) below:

(a) There has been prior applicable government action in which:

(i) The removal of the tree had been approved by the Advisory Agency; or

(ii) The property upon which the protected tree is located has been the subject of a determination by the City Planning Commission, the City Council, a Zoning Administrator, or an Area Planning Commission, the appeal period established by this Code with respect to the determination has expired, the determination is still in effect, and pursuant to the determination, the protected tree's removal would be permissible; or

(iii) A building permit has been issued for the property upon which the protected tree is located, the permit is still in effect, and the removal or relocation is not prohibited by the permit.

(b) The removal of the protected tree would not result in an undesirable, irreversible soil erosion through diversion or increased flow of surface waters that cannot be mitigated to the satisfaction of the City's Chief Forester, and the physical condition or location of the tree is such that:

(i) Its continued presence in its existing location prevents the reasonable development of the property; or

(ii) According to a report required pursuant to Section [17.06 C.](#), acceptable to the Advisory Agency and prepared by a tree expert, there is a substantial decline from a condition of normal health and vigor of the tree, and its restoration through appropriate and economically reasonable preservation procedures and practices is not advisable; or

(iii) It is in danger of falling due to an existing and irreversible condition.

(iv) Its continued presence at its existing location interferes with proposed utility services or roadways within or without the subject property, and the only reasonable alternative to the interference is the removal of the tree; or

(v) It has no apparent aesthetic value, which will contribute to the appearance and design of the proposed subdivision; or it is not located with reference to other trees or monuments in such a way as to acquire a distinctive significance at the location.

2. **Supplemental Authority.** In the event the Advisory Agency, in consultation with the City's Chief Forester, determines pursuant to Subdivision 1.(b) above, that a protected tree may be removed or relocated, the Advisory Agency may:

(a) Require relocation elsewhere on the same property where a protected tree has been approved for removal, and where the relocation is economically reasonable and favorable to the survival of the tree. Relocation to a site other than upon the same property may be permitted where there is no available or appropriate location on the property and the owner of the proposed off-site relocation site consents to the placement of a tree. In the event of relocation, the Advisory Agency may designate measures to be taken to mitigate adverse effects on the tree.

(b) Permit protected trees of a lesser size, or trees of a different species, to be planted as replacement trees for protected trees permitted by this Code to be removed or relocated, if replacement trees required pursuant to this Code are not available. In that event, the Advisory Agency may require a greater number of replacement trees.

3. **Historical Monuments.** The Advisory Agency, except as to Subdivision 1.(b)(iii) above, shall require retention of a protected tree at its existing location, if the tree is officially designated as an Historical Monument or as part of an Historic Preservation Overlay Zone.

4. **Requirements.** In the event the Advisory Agency, in consultation with the City's Chief Forester, determines pursuant to Subdivision 1.(b) above that a protected tree may be removed or relocated, the Advisory Agency shall require that:

(a) The protected tree is replaced within the property by at least two trees of a protected variety included within the definition set forth in Section [17.02](#) of this article, except where the protected tree is relocated pursuant to Subdivision 2.(a) above. The size of each replacement tree shall be a 15-gallon, or larger, specimen, measuring one inch or more in diameter at a point one foot above the base, and not less than seven feet in height, measured from the base. The size and number of replacement trees shall approximate the value of the tree to be replaced.

(b) The subdivider record those covenants and agreements approved by the Advisory Agency necessary to assure compliance with conditions

imposed by the Advisory Agency and to assure protected tree preservation.

(c) The subdivider provide protected tree maintenance information to purchasers of lots within the proposed subdivision.

(d) The subdivider post a bond or other assurance acceptable to the City Engineer to guarantee the survival of trees required to be replaced or permitted or required to be relocated, in a manner to assure the existence of continuously living trees at the approved replacement or relocation site for three years from the date that the trees are replaced or relocated. The City Engineer shall use the provisions of Section [17.08](#) G. as its procedural guide in satisfaction of the bond requirements and processing. Any bond required shall be in a sum estimated by the City Engineer to be equal to the dollar value of the replacement tree or of the tree that is to be relocated. In determining value for these purposes, the City Engineer shall consult with the Advisory Agency, the City's Chief Forester, the evaluation of trees guidelines approved and adopted for professional plantmen by the International Society of Arboriculture, the American Society of Consulting Arborists, the National Arborists Association and the American Association of Nurserymen, and other available, local information or guidelines.

5. **Grading.** The Advisory Agency is authorized to prohibit grading or other construction activity within the drip line of a protected tree.

SEC. 17.06. TENTATIVE MAP AND APPEALS.

C. Protected Tree Reports for Tentative Tract Maps. (Amended by Ord. No. 177,404, Eff. 4/23/06.) No application for a tentative tract map approval for a subdivision where a protected tree is located shall be considered complete unless it includes a report, in a form acceptable to the Advisory Agency and the City's Chief Forester, which pertains to preserving the tree and evaluates the subdivider's proposals for the preservation, removal, replacement or relocation of the tree. The report shall be prepared by a tree expert and shall include all protected trees identified pursuant to Section [17.06](#) B.13. of this Code.

In the event the subdivider proposes any grading, land movement, or other activity within the drip line of a protected tree referred to in the report, or proposes to relocate or remove any protected tree, the report shall also evaluate any mitigation measures proposed by the subdivider and their anticipated effectiveness in preserving the tree.

SEC. 17.51. FILING OF PRELIMINARY PARCEL MAPS.

D. Protected Tree Reports for Parcel Maps. No application for a preliminary parcel map approval for a parcel where a protected tree is located shall be considered complete unless it includes a report pertaining to preserving the tree. The report shall be prepared by a tree expert and shall evaluate the subdivider's proposals for protected tree preservation, removal, replacement and/or relocation. In the event the subdivider proposes any grading, land movement, or other activity within the drip line of any protected tree referred to in the report, or proposes to relocate or remove any tree, the report shall also evaluate any mitigation measures proposed by the subdivider and the anticipated effectiveness in preserving the tree. **(Amended by Ord. No. 177,404, Eff. 4/23/06.)**

SEC. 17.52. PARCEL MAP – AUTHORITY OF ADVISORY AGENCY.

I. When a protected tree exists on a proposed parcel, the preservation of the tree at its existing location, its relocation for preservation purposes, or the removal of the tree shall be regulated in the same manner as that provided under subdivision regulations set forth in this chapter. **(Amended by Ord. No. 177,404, Eff. 4/23/06.)**