

ORDINANCE NO. 2288

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PLEASANTON AMENDING MUNICIPAL CODE CHAPTER 17.16 TREE PRESERVATION

WHEREAS, the City Council prioritized the preparation of the Urban Forest Master Plan (UFMP) and approved the project, CIP No. 22773, as part of the FY2021/22 Capital Improvement Program (CIP) budget; and

WHEREAS, the City Council requested amendments to municipal code Chapter 17.16 Tree Preservation to improve the process and clarify the language as part of the UFMP process.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PLEASANTON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Finds that the proposed amendments to the Pleasanton Municipal Code are exempt from CEQA pursuant to Title 14 California Code of Regulations (CEQA Guidelines) §15061(b)(3).

SECTION 2. Amends and replaces Pleasanton Municipal Code Chapter 17.16 Tree Preservation, as set forth in the attached Exhibit A.

SECTION 3. A summary of this ordinance shall be published once within fifteen (15) days after its adoption in "The Valley Times," a newspaper of general circulation published in the City of Pleasanton, and the complete ordinance shall be posted for fifteen (15) days in the City Clerk's office within fifteen (15) days after its adoption.

SECTION 4. This ordinance shall be effective thirty (30) days after its passage and adoption.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Pleasanton, California, on December 3, 2024, and adopted on December 17, 2024, by the following vote:

Ayes:	Councilmembers Arkin, Balch, Nibert, Testa, Mayor Brown
Noes:	None
Absent:	None
Abstain:	None



Karla Brown, Mayor

ATTEST:



Jocelyn Kwong, City Clerk

APPROVED AS TO FORM:



Daniel G. Sodergren, City Attorney

Exhibit A

Chapter 17.16 TREE PRESERVATION

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17.16.003 Purpose and intent.

The City recognizes that preservation of trees enhances the natural scenic beauty, sustains the long-term potential increase in property values which encourages quality development, maintains the ecology, moderates the effect of extreme temperatures, prevents the erosion of topsoil, helps create an identity and quality, which enhances the attractiveness of the city to visitors, and increases the oxygen output of the area which is needed to combat air pollution. For these reasons the city council finds that to promote the public health, safety and general welfare of the city while at the same time recognizing individual rights to develop and maintain private property in a manner which will not be prejudicial to the public interest, it is necessary to enact regulations prescribing the removal and preservation of trees within the city. The City also recognizes that under certain circumstances protected trees may be removed. Those circumstances generally include: where protected trees are dangerous; are dead or diseased; are so situated on undeveloped land that their preservation would preclude reasonable development; are so abundant their removal would not destroy the area's natural beauty or ecology or cause erosion on the property. It is the intent of this chapter to preserve as many trees as possible throughout the city through staff review and the development review process.

17.16.006 Definitions.

For the purpose of this chapter, certain words and terms used in this chapter are defined as follows:

- A. "Protected Tree" means a tree of any species or origin which meets any of the following:

For native species:

1. Any single-trunked tree with a minimum trunk circumference of 37 inches measured four and one-half feet above ground level (54 inches).
2. Any multi-trunked tree with a minimum circumference of 37 inches measured below the split at the narrowest point below the main attachment or at the base if applicable.
3. The following tree species shall be considered native:
 - Big Leaf Maple (*Acer macrophyllum*)
 - Box Elder (*Acer negundo*)
 - California Buckeye (*Aesculus californica*)
 - California Sycamore (*Platanus racemosa*)
 - Canyon Oak (*Quercus chrysolepis*)
 - Coast Live Oak (*Quercus agrifolia*)
 - Interior Live Oak (*Quercus wislizenii*)
 - Blue Oak (*Quercus douglassii*)
 - California Black Oak (*Quercus kelloggii*)
 - Valley Oak (*Quercus lobata*)
 - California Bay Laurel (*Umbellularia californica*)
 - California Black Walnut (*Juglans hindsii*)
 - Tan Oak (*Notholithocarpus densiflorus*)

For non-native species (any other species not listed in item A3):

1. Any single-trunked tree with a minimum trunk circumference of 55 inches measured four and one-half feet above ground level (54 inches).
2. Any multi-trunked tree with a minimum trunk circumference of 55 inches measured below the split at the narrowest point below the main attachment or at the base if applicable.

B. "Applicant" means the owner of property who is submitting an application to remove a Protected Tree located upon said property. Only the property owner, or their authorized representative, may apply to remove a Protected Tree.

C. "Application" means the Application for Protected Tree Removal form.

D. "Approved Consulting Arborist" means a Consulting Arborist who is approved by the Director for having the minimum qualifications to provide arborist reports satisfactory to the City for planning and development purposes.

E. "Consulting Arborist" means an individual in the profession of arboriculture who has demonstrated their experience, education, and related training to the City that they possess the competence to provide an arborist report, risk assessment, tree survey and appraisal of tree values as well as supervise the care and maintenance of trees; and who is certified by the International Society of Arboriculture and/or is a member of the American Society of Consulting Arborists.

F. "City" means the City of Pleasanton acting by and through its authorized representatives.

G. “Director” means the Director of the City department that oversees tree removals or the Director’s designee.

H. “Dripline” means the outermost circumference of the tree or trees’ canopy, from which water drips onto the ground. The 'dripline' is taken to include the area that lies within that circumference.

I. “Effectively Remove” means actions that foreseeably lead to the death of a Protected Tree or permanent damage to its health. Effective removal actions include, but are not limited to:

1. Any extreme root or branch pruning that is not consistent with standard arboriculture practices for a healthy tree;
2. Removal of the bark around the circumference of the tree (girdling);
3. Compaction of soil within the dripline;
4. Introduction of harmful chemicals;
5. Introduction of harmful foreign objects into tree or root system;
6. Introduction of pests or disease;
7. Unauthorized relocation or transportation of a tree; and
8. Trenching, excavating, altering the grade, or paving within the dripline.

J. “Emergency” means a sudden, serious, unexpected, and often dangerous situation requiring immediate action to prevent or mitigate loss or damage to life, property, or essential public services. An emergency tree situation typically includes but is not limited to: a tree failure that is active and in progress, such as a broken but still attached branch; a partially uprooted tree; or a split fork or bifurcated main stem, that meets the “extreme” or “high” risk characteristics as defined by the International Society of Arboriculture.

K. “Heritage Tree” means a tree that is considered irreplaceable. It may be any tree found on public or private property that has special significance to the community due to its history, size (circumference and/or height), species, or unique quality. The Landscape Architecture Section shall be responsible for overseeing the Heritage Tree Program. A request for designation as a Heritage Tree must come from the owner of the property where the tree is growing, or if nominating someone else’s tree, must have the property owner’s written permission to nominate the tree. Trees which are on properties that come under development review, may be designated as Heritage Trees during the review process by either the property owner or the Director. Any pruning of Heritage Trees shall be done in consultation with the City’s arborist to ensure that the work performed on or around the tree will not endanger its health, structure, or life of the tree.

L. “Multi-trunk tree” means a tree having more than one major supporting stem or trunk growing from a single root mass located at ground level or just above the trunk flare, capable of naturally exceeding ten feet in height at maturity. A multi-trunk tree does not include suckering growth or subordinate root sprouts.

M. “Pruning” means the selective removal of plant parts to meet specific goals and objectives, including but not limited safety and risk reduction; clearance; growth control; and to enhance

performance or function by developing and preserving tree structure and health or preserving or improving wildlife habitat.

N. “Topping” means the indiscriminate cutting of tree branches to stubs or lateral branches that are not large enough to assume the terminal role.

O. “Trunk” means the primary structural woody part of the tree beginning at and including the trunk flare and extending up into the crown from which scaffold branches grow.

17.16.010 Permit—Required.

A. No person shall remove, or Effectively Remove, any Protected Tree growing within the city without a permit except as provided in this chapter.

B. Normal maintenance and pruning of a Protected Tree shall not require a permit but shall in all cases be in conformance with the guidelines in Section 17.16.080. Pruning which, in the reasonable opinion of the Director, is not consistent with these guidelines shall be subject to penalties as provided in Section 17.16.110 of this chapter.

17.16.020 Permit—Procedure.

A. Except as provided in Section 17.16.050 of this chapter, any person desiring to remove a Protected Tree in the city shall submit an application to the Director on a form provided by the city. Said application shall contain the number, species, size and location of Protected Trees to be removed and a brief statement of the reason for removal as well as any other pertinent information. The permit, if granted, shall entitle the Applicant to remove only the Protected Tree(s) designated by permit.

B. When an Applicant submits an Application, the Applicant agrees to allow the Director to access the property to inspect the Protected Tree(s) and the surrounding area to make a determination on whether a permit to remove the tree shall be granted.

C. The Director may grant a permit to remove a Protected Tree if any of the following apply:

1. The tree is dead, dying, or diseased and good forestry practices cannot be reasonably undertaken to preserve it;
2. The tree is in such a dangerous or hazardous condition as to threaten or endanger the safety of people, structures, property, or other protected trees;
3. The tree has outgrown its planting space and is causing damage to utilities (e.g., water and sewer lines), structures or other significant improvements on the property (e.g., the foundation of a home, driveway, swimming pool, etc.), and no reasonable mitigation efforts can be taken to repair the damage and preserve the tree;
4. The tree must be removed in order to construct improvements to allow for the economic enjoyment of the property (e.g., expansion of the existing home, construction of an Accessory

Dwelling Unit, installation of a pool, etc.) and, at the discretion of the Director, the tree is situated on a parcel such that its preservation would preclude reasonable development;

5. After determining the number and quality of existing trees in the neighborhood or surrounding improved areas, removal of the tree would not negatively affect the goals and objectives of urban forest sustainability, canopy cover, public health, safety, general welfare of residents and upon the property values and beauty of the area; and

6. The tree is in a high or very high fire severity zone as identified by CalFire's current Fire Hazard Severity Zone Map, poses an increased risk to life or property as determined by the Fire Marshal of the Livermore-Pleasanton Fire Department, and no reasonable mitigation efforts can be taken to mitigate the risk and preserve the tree.

D. The following shall not be considered as reasons for a Protected Tree to be removed:

1. A general dislike or fear of a particular species or variety of tree;
2. Tree debris, e.g., leaves, messy fruit, pods, seeds, etc.;
3. Tree pollen that causes allergies;
4. Nuisances created from non-lethal pests and diseases, e.g., aphids;
5. Surface root intrusion
6. Landscape renovations

E. The Director shall notify the applicant in writing of the determination to approve or deny the Applicant's request for a removal permit (and the basis for the denial if the application is denied).

F. Upon determination by the Director, the Applicant shall plant climate-appropriate replacement tree(s) at a minimum of a 1:1 replacement ratio and 15-gallon size and irrigate for the establishment of such tree(s) unless otherwise specified by the Director. The Director may also require that the replacement tree(s) is/are an approved recommended species by the City and shall determine the size of the tree(s) and the timeline for planting the tree(s).

17.16.040 Appeals

- A. The Director's decision to deny an application to remove a Protected Tree may be appealed only by the Applicant. Such appeal must be signed by the Applicant and submitted in writing to the City Clerk within 20 days of the date of the Director's written decision and shall briefly state the basis for appeal and relevant facts supporting the appeal.
- B. The cost of the appeal shall be the same as the cost to appeal a Planning Division decision as listed in the current City of Pleasanton Master Fee Schedule and shall be refunded if the appeal is successful.
- C. Appeals shall be heard by the Protected Tree Board of Appeals.
- D. The Director shall set a date for the hearing and shall mail notice of the hearing to the Applicant and all properties within 300 feet of the Applicant's property. The Director shall submit a report to the Protected Tree Board of Appeals along with any recommendations.

17.16.045 Protected Tree Board of Appeals

- A. The Protected Tree Board of Appeals (Board) shall consist of two planning commissioners, and one parks and recreation commissioner (which are appointed by their respective commissions to serve on the Board). Every year, the Board shall select a chairperson from among the three commissioners. The Director shall be an ex officio member of said Board and shall serve as secretary.
- B. The Board shall:
1. Hold a hearing within 60 days after the city's receipt of appeal (or later if agreed to by the Director and the Applicant) to hear information from any department of the city, the Applicant who filed the appeal, and any interested parties.
 2. The Board shall consider all information presented and shall make a decision at the hearing (unless the hearing is continued) upholding, reversing, or modifying the Director's decision, or by taking any action which is consistent with this Chapter. The decision of the Board on any such appeal shall be final and conclusive.

17.16.050 New property development.

- A. This section is intended to apply to major development such as land development for new housing or commercial projects, and modifications to existing commercial property. Any person desiring to remove one or more trees (including trees that are not Protected Trees) on any property in the city that is related to the development of such property requiring city approval or where any tree may be affected by a proposed development shall include in the application to the appropriate city reviewing body as part of the regular application, the following:
1. Depending on the scope of the development, the Director may require the Applicant to provide a tree survey plan that includes all trees that may be affected by the new development. The survey, noting all trees 19 inches in circumference and greater, shall specify the precise

location of trunk and dripline, size, health and species of all trees that will be affected by the new development on the property with a special notation of those classified as a Protected Tree;

2. Depending on the scope of the development, the Director may require the Applicant to provide an arborist report that includes all trees that may be affected by the new development by an Approved Consulting Arborist.

- a. The arborist report, based on the findings of the tree survey plan and other necessary information, shall be used to determine the health of existing trees, the effects of the proposed development upon the trees, recommendations for any special precautions necessary for their preservation and shall also indicate which trees are proposed for removal.
- b. The Director shall require that the arborist report include an appraisal of the condition and replacement value of all trees affected by the development. The appraisal of each tree shall recognize the location of the tree in the proposed development. The appraisal shall be performed in accordance with the current edition of the "Guide for Plant Appraisal" under the auspices of the International Society of Arboriculture. The appraisal shall be performed at the Applicant's expense, and the appraiser shall be completed by an Approved Consulting Arborist.
- c. The tree survey plan and arborist report shall be included in the plan submittal, at which stage the Director will comment on which trees are recommended for preservation using the same standards set forth in Section 17.16.020 of this chapter. This report shall be made part of the plan set provided to the City reviewing body upon its consideration of the application for new property development;

3. The city reviewing body shall endeavor to preserve all trees recommended for preservation in the arborist report. The City reviewing body may determine that additional trees shall be preserved or that any of the trees recommended for preservation should be removed, if there is sufficient evidence in the report, or based on a site visit, that the preservation of the tree(s) would significantly preclude reasonable development of the property or effectively remove said tree(s);

- a. If trees are approved for removal, mitigation may include but is not limited to: (i) replacement planting with particular tree species, sizes, and numbers; (ii) payment towards the City's urban forestry fund suitable for the appraised value of all trees removed from the site less the cost of installed trees, as reasonably determined by the Director.

4. Approval of final site or landscape plans by the appropriate city reviewing body indicating which trees are to be removed shall constitute the approval and permit for the purpose of this chapter.

B. Depending on the scope of the development, the Director may require that prior to acceptance of subdivision improvements or final inspection, the developer shall submit to the Director a final arborist report to be performed by an Approved Consulting Arborist. This report shall consider all trees that were to remain within the development. The report shall note the trees' health in relation to the initially reported condition of the trees and shall note any changes in the trees' identification number or physical conditions.

1. The Applicant will be responsible for the loss of any tree not previously approved for removal. For trees which were not previously approved for removal but were in fact removed during construction, the developer shall pay a penalty in the amount equal to the appraised value of the subject tree.

2. The property owner is responsible for the health and survival of the trees not approved for removal within the development for a period of one year following the final inspection. The Director may make the developer responsible for survival of trees for a longer period should the trees show signs of decline or if impacts were observed during construction; and such extension period shall be in writing.

C. Prior to the issuance of any permit allowing construction to begin, the Applicant shall post cash, bond, or other security satisfactory to the Director, in the sum of either \$100 for each inch of circumference of the tree's trunk (when measured 54 inches above grade) or the appraised value for each tree required to be preserved, whichever is greater, up to a maximum of \$200,000. The cash, bond, or other security shall be retained for a period of one year following acceptance of the public improvements for the development or final inspection, as applicable, and shall be forfeited in an amount equal to the greater of either \$100 per each inch of circumference of the tree's trunk (when measured 54 inches above grade), or the appraised value of the tree as a civil penalty in the event that a tree or trees required to be preserved are removed or Effectively Removed. The Director may allow for the early release of all or a portion of such cash, bond, or other security in the Director's reasonable discretion. The Director may require the retention of the security for an additional time period beyond one year should the trees show signs of decline or if impacts were observed during construction. Such a requirement would be set forth in writing.

D. An Applicant with a proposed development which requires underground utilities shall avoid the installation of said utilities within the dripline of existing trees whenever possible. In the event that this is unavoidable, all trenching shall be done by hand, taking extreme caution to avoid damage to the root structure. Work within the dripline of existing trees shall be supervised at all times by a certified consulting arborist.

E. Any decision by a city reviewing body under this section may be appealed to City Council pursuant to Chapter 18.144.

17.16.060 Emergency action.

A person may remove a Protected Tree without a permit if there is an Emergency, as defined in section 17.16.006. In such event, the Director shall be notified at the earliest opportunity in order to confirm the Emergency. If the Director determines that the situation was not an emergency requiring immediate action, the person removing or damaging the Protected Tree may be subject to penalties set forth in Section 17.16.110 of this chapter.

17.16.070 Protection of existing trees.

For minor development (as described in section 17.16.020(C)(4)), permission to remove a Protected Tree shall be handled as part of the building permit process, and the applicant shall comply with the following conditions:

- A. The current version of the City Standard Details and Specifications for tree protection.
- B. Mitigation as described in section 17.16.020(F).
- C. If the project requires an arborist's report, the applicant must follow the recommendations for tree protection in the arborist's report and, at the discretion of the Director, may be required to provide a tree bond and/or a payment towards the City's urban forestry fund based on the appraised value of the trees removed from the site less the cost of installed trees.
- D. Retain the services of an Approved Consulting Arborist for periodic monitoring of the project site and the health of those trees to be preserved. The Approved Consulting Arborist shall confirm tree protection measures are installed prior to construction and be present whenever activities occur which pose a potential threat to the health of the trees to be preserved (for example, when work occurs within the dripline of trees to be preserved).
- E. The Director shall be notified of any damage that occurs to a tree during construction so that appropriate measures may be administered.

17.16.080 Pruning and maintenance.

All pruning of Protected Trees shall be performed under the supervision of an International Society of Arboriculture (ISA) certified arborist, in accordance with pruning guidelines, established by the current versions of the ISA Best Management Practices, Tree Pruning and American National Standards Institute (ANSI) A300 - Part 1 Tree, Shrub and Other Woody Plant Management Standard Practices, Pruning, and any special conditions as determined by the Director.

17.16.090 Public utilities.

- A. Any public utility installing or maintaining any overhead wires or underground pipes or conduits in the vicinity of a Protected Tree shall notify the City and obtain an encroachment permit before performing any work, including pruning, which may cause injury to the Protected Tree.
- B. The Director shall inspect said pruning work to ensure that appropriate pruning practices are followed. The public utility shall follow pruning practices conforming to the International Society

of Arboriculture pruning standards to promote the well-being of the tree. Topping shall not be permitted unless specifically approved by the Director. The Director shall stop any tree pruning performed by a utility if said practices are not being followed.

17.16.100 Insurance requirements.

Any person engaged in the business of pruning a Protected Tree within the city shall be licensed with the California Contractors State License Board (CSLB) and shall carry insurance as required by the CSLB.

17.16.110 Penalties.

A. Any person who unlawfully removes or Effectively Removes a Protected Tree in violation of this chapter shall pay a civil penalty of \$100 for each inch of circumference of the tree's trunk when measured 54 inches above grade (or measured at the height of the remaining trunk if less than 54 inches), or the appraised value of the tree, whichever is greater. The appraised value of the tree(s) shall be determined by the Director in accordance with the "Guide for Plant Appraisal" pursuant to the Council of Tree and Landscape Appraisers (CTLA). If there is no measurable part of the tree remaining, resources such as photographs, past plans, or Google Earth Streetview may be used to determine tree species and approximate size. If such resources are unavailable or the evaluator is not able to determine tree species and approximate size, then a minimum fine of \$5,000, or other amount as determined by the Director, will be charged.

B. If there are mitigating factors or other circumstances that may warrant reducing the penalties set forth above, the Director shall have the discretion to reduce the penalty to a lesser amount on a case-by-case basis.

C. The property owner who hired such person to prune or remove a Protected Tree shall be responsible for payment of the penalty unless otherwise determined by the Director. The collection of penalties may be enforced through the use of a collection agency or by civil action brought by the City.

D. The penalty imposed by the Director, may be appealed by the person subject to such penalty by submitting a written appeal to the City Clerk within 20 days of the date of the imposition of such penalty, and shall state the facts and grounds for the appeal and be signed by the appellant. Such appeal will be heard by the Protected Tree Board of Appeals as provided in Section 17.16.045.

E. The Director may consider the cost of replacement tree(s) as partial payment of any penalty under this chapter.

F. The failure of a person to plant a replacement tree(s) within one year, or water and care for such replacement tree(s) until establishment, shall be subject to penalties for the value of the original tree(s) removed, as provided in Subsection A, above, as reasonably determined by the Director.

G. In addition to the penalties set forth above, where a Protected Tree has been unlawfully removed or Effectively Removed, the Director may suspend permit processing, issue a stop work notice, or revoke permits for construction (where construction has not begun.)

17.16.120 Additional provisions.

The provisions of this chapter shall supplement but not supplant other provisions of this code relating to the preservation of trees.