

ORDINANCE NO. 884-C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFICA REPEALING AND REPLACING CHAPTER 12 “PRESERVATION OF HERITAGE TREES” AND CHAPTER 14 “MAINTENANCE AND PRESERVATION OF CITY TREES” WITHIN TITLE 4 OF THE PACIFICA MUNICIPAL CODE RELATING TO TREES

WHEREAS, the City of Pacifica (City) has previously adopted and codified the The Preservation of Heritage Trees, in Chapter 12 of Title 4 of the Pacifica Municipal Code pursuant to Ordinance No. 542-C.S.;

WHEREAS, the City of Pacifica (City) has previously adopted and codified the The Preservation of Heritage Trees, in Chapter 14 of Title 4 of the Pacifica Municipal Code pursuant to Ordinance No. 733-C.S.;

WHEREAS, the City wishes to continue to encourage and ensure quality development, to protect and conserve the attractiveness, aesthetic and scenic beauty, and historic atmosphere of the City; and to protect the environment;

WHEREAS, the maintenance and preservation of trees will contribute to a reduction of air pollution; provide shade and reduce the effects of urban heat islands; reduce stormwater runoff and improve infiltration into the ground, thereby protecting against potential damages from soil erosion, mudslides and flooding, as well as reducing the cost of handling storm water by artificial means, and other beneficial effects for the City.

NOW, THEREFORE, the City Council of the City of Pacifica does ordain as follows:

Section 1. Recitals. The City Council of the City of Pacifica does hereby find that the above referenced recitals are true and correct and material to the adoption of this Ordinance.

Section 2. Environmental Analysis. This Ordinance is exempt from review under the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21000, et seq. and the CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et. seq.), under the “common sense” exception (14 Cal. Code Regs. § 15061(b)(3)) because it can be seen with certainty that there is no possibility that this Ordinance may have a significant effect on the environment.

Section 3. Repeal and Replace. Chapter 12 (Preservation of Heritage Trees) and Chapter 14 (Maintenance and Preservation of City Trees) within Title 4 of the Pacifica Municipal Code is hereby repealed and replaced in its entirety to read as follows:

“Tree Preservation - Chapter 12

Sec. 4-12.01 - Purpose.

(a) It is recognized that the preservation of protected trees on public and private property is important for the following reasons:

- (1) To continue to encourage and ensure quality development;
- (2) To protect and conserve the attractiveness, aesthetic and scenic beauty, and historic atmosphere of the City;
- (3) To protect the environment;
- (4) To reduce air pollution;
- (5) To decrease wind velocity and reduce potential wind damage;
- (6) To provide shade and reduce the effects of urban heat islands;
- (7) To act as a noise buffer;
- (8) To reduce stormwater runoff and improve infiltration into the ground, thereby protecting against potential damages from soil erosion, mudslides and flooding, as well as reducing the cost of handling storm water by artificial means.
- (9) To sequester carbon dioxide in woody and foliar biomass;
- (10) To lower the demand for electricity and natural gas.

(b) In order to promote the health, safety, and general welfare of the citizens of the City, while recognizing individual rights to develop, maintain, and enjoy private property, it is necessary to enact regulations preserving and protecting trees on private or City-owned property within the City. The provisions of this chapter apply to all areas within the jurisdiction of the City of Pacifica.

Sec. 4-12.02 - Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

(a) “ANSI A300 Standards” shall refer to the American National Standards Institute (ANSI) for Tree Care Operations—Tree, Shrub and Other Wood Plant Maintenance-Standard Practices.

(b) “Arborist report” shall refer to a report prepared by a qualified arborist that may include, as determined by the Director, information concerning the location of, and potential impacts of proposed development on one or more City trees or private protected trees.

(c) "City" shall mean the City of Pacifica, acting by and through its authorized representatives.

(d) "Director" shall mean the Director of the Department of Public Works of the City, or his or her designee.

(e) "Diameter" or "DBH" shall be the diameter of a tree measured at a standard height of four and half (4.5') feet or fifty-four (54") inches above grade (referred to as diameter at breast height). Multi-stemmed trees shall be measured by averaging the diameters of the stems.

(f) "Deleterious substances" shall mean any materials that are detrimental to tree health including, but not limited to paint, petroleum products, concrete, and other harmful substances.

(g) "Dripline" shall refer to an imaginary vertical line that extends downward from the outermost tips of the tree branches to the ground.

(h) "Dying tree" shall refer to a tree that cannot be reasonably mitigated to extend its useful lifespan.

(i) "Grove" shall mean a natural grouping or cluster of ten (10) or more trees of any species with a minimum diameter of six (6") inches in diameter. The grove may exist on an individual parcel or contiguous parcels.

(j) "Heritage tree" shall mean any tree that meets the criteria set forth in Section 4-12.08:

(k) "Owner" shall mean the owner of the real property on which the tree is situated as shown on the most recent County Assessor's tax roll.

(l) "Person" shall mean an individual, firm, association, tree removal service, corporation and its agents, officers, employees, or representatives.

(m) "Private property" shall mean and include all property not owned by the City or another public agency.

(n) "Protected tree" shall mean and include:

(1) All trees on public and private property within the City of Pacifica, which have a trunk with a diameter of twelve (12") inches or greater at DBH.

(2) Any Heritage Tree designated by the Director.

(3) Any groves of trees.

(4) Eucalyptus and any species determined invasive by the California Invasive Plants Council are not protected by this chapter, except groves of trees and as the director may deem otherwise.

(o) "Public property" shall mean property owned by the City of Pacifica, but not limited to, parks, playgrounds, rights-of-way, streets, facilities, and other property regularly used by the general public.

(p) "Qualified arborist" shall mean a person who is certified as an arborist by the International Society of Arboriculture (ISA) with an active ISA certification number or a person who is a registered consulting arborist with the American Society of Consulting Arborists.

(q) "Regulated work" shall mean tree pruning or any act or actions that could cause irreparable damage, adversely impact health; including but not limited to excessive pruning, cutting, girdling, poisoning, overwatering, relocating, trenching, excavating, altering the grade, or paving within the dripline of a tree, or result in the death of, a protected tree requiring a permit and as listed in Section 12-4.05. Regulated work does not include routine maintenance.

(r) "Remove" shall mean and include complete removal of a tree, including its root ball, or cutting down to the ground.

(s) "Routine maintenance" shall mean irrigating, applying mulch, mowing, or trimming grass or other ground cover close to a tree.

(t) "Significant Pruning" shall mean pruning of more than 15% of the functioning leaf and stem area of a Protected tree or any pruning roots that are two (2") inches in diameter or greater

(u) "Specimen or significant tree" shall refer to an individual tree determined by the Director that due to species, age, historical significance, aesthetic and/or ecology provides unique or intrinsic value to the community.

(v) "Stop Work Order" shall refer to the suspension and prohibition of further activity on the property needing a City permit or having City-issued permits until a mitigation plan has been filed with and approved by the Director, agreed to in writing by the property owner(s), and either implemented or guaranteed by the posting of a performance security.

(w) "Topping" or "topped" shall mean the practice of the removing tops of trees, or large branches or trunks from tops of trees, leaving large stubs or lateral branches that are too small to assume the role of a terminal leader.

(x) "Trenching" shall mean any excavation to provide irrigation, install foundations, utility lines, services, pipe, drainage or other property improvements below grade.

(y) "Tree protection and preservation plan" shall mean the plan prepared by a qualified arborist, submitted by the applicant, and approved by the Director that details existing tree conditions and the measures that will be used to protect trees during development, construction, and landscaping activities.

(z) "Trunk protection zone" or "TPZ" shall mean the area of ground extending out from the trunk of a tree in all directions where activity is prohibited to protect tree roots.

Sec. 4-12-.03 - Prohibited Activities.

It is unlawful for person not employed or designated by the City to do any of the following with Protected Trees or City Trees as defined in Chapter 14 of Title 4 of this Code:

- (a) Affixing any signs, lights, wire, rope, or hardware to a protected tree;
- (b) Placing or maintain any stone, pavement or other substance so that it impedes access of water or air to the roots of any protected tree;
- (c) Topping or any other practice that is considered unacceptable under the current ANSI A300 standards of a protected tree;
- (d) Placing or storing construction equipment or construction material within the trunk protection zone of a protected tree;
- (e) Applying any harmful or deleterious substance within the trunk protection zone of a protected tree.

Sec. 4-12.04 - Applications for Tree Removal Permits.

(a) Tree Removal Permit. Any person who desires to remove a protected tree or City tree as defined in Chapter 14 of Title 4 this Code shall apply in writing to the Director and specify the number, species, diameter, and exact location of the tree or trees involved, a statement of the reason for the removal, and any other pertinent information as may be required by the City. The applicant may be required to provide a plot plan or survey drawn to scale depicting the tree(s) and any improvements on the property and/or an arborist's report. The Director or the Director's appointed City staff will assess the need for a permit related to dead/dying tree(s). An arborist's report including an ISA basic tree risk assessment form will be required for removal of a protected tree(s) needing a permit. No person may perform regulated work for which a permit application is pending. By submitting the application the property owner certifies the Director, staff, or any agent of the City may enter the property where the tree is located for fourteen (14) calendar days after the application is received by the City.

(b) Within fourteen (14) calendar days after the receipt of the application, the Director, or his or her appointed representative, shall inspect the premises and the tree(s) involved and shall issue a proposed decision to approve or deny the tree removal permit and setting forth the conditions to be imposed. The Director shall give notice of the application and proposed decision pursuant to Section 4-12.07 herein.

(c) A tree removal permit shall be granted based on the following criteria:

(1) The condition of the tree, presence of disease, pest infestation, damage, public nuisance, risk, proximity to existing or proposed structures, and/or interference with utility services;

(2) Whether the requested action is necessary for the economically viable use of the property;

(3) The topography of the land and effect of the requested action on it;

(4) The number, species, size, and location of existing trees in the area and the effect of the requested action upon shade, noise buffers, protection from wind damage, air pollution, historic value, scenic beauty and upon the health, safety, and general welfare of the area and the City as a whole; and

(5) The number of healthy trees the parcel is able to support.

(d) The Director may refer the application to another department, committee, or person for a report or recommendation. The Director may also require the applicant to furnish a written report from a qualified horticulturist, arborist or licensed landscape architect acceptable to the Director.

(e) To mitigate the adverse effects of tree removal, a tree removal permit shall include conditions that require relocation of tree(s) on-site as recommended by a certified arborist, and/or replacement planting of a minimum of two (2) replacement trees for every otherwise healthy tree removed and may be required to pay the replacement value of the mature Protected Tree minus the cost of the two replacement trees or payment of the full replacement value of a mature tree or trees in lieu thereof if on-site replacement is not feasible. No applicant shall be required to expend more on the replacement trees than the appraised value of the trees for which a permit is required. The Director shall determine the replacement value of the trees utilizing the most recent edition of the Guide for Plant Appraisal by the Council of Tree and Landscape Appraisers.

(1) Replacement tree shall be the same species as the tree removed or a species of similar mature stature, unless otherwise specified by the Director.

(2) Replacement tree shall be a minimum of one and a half (1.5") inches measured with calipers and at least a 15-gallon tree, unless otherwise approved by the Director.

(3) Replacement trees shall be planted to the satisfaction of the Director and in the event the original replacement tree(s) fail to establish, a subsequent replacement tree(s) shall be required.

(f) In his or her proposed decision on an application for such permit, the Director may attach reasonable conditions to insure compliance with the content and purpose of this chapter. If a permit is to be denied or conditions attached, the Director shall provide the applicant with a written statement of the reasons for the denial or conditions.

(g) If an application for a building permit would require any removal of a protected tree or trees, including on adjacent properties or in the public rights-of-way, the applicant shall be required to obtain a tree removal permit under this chapter.

(1) The Director may require submission of additional information as necessary, including but not limited to photographs.

(2) Disclosure of information pursuant to this section shall not be required when the development for which the approval or permit is sought does not involve any change in building footprint nor any grading or paving that would otherwise require a tree encroachment permit.

(3) Knowingly or negligently providing false or misleading information in response to this disclosure requirement shall constitute a violation of this chapter.

(4) All decisions and deadlines regarding the building permit will be suspended until the final decision regarding the tree permit has been made.

(5) Tree removal based off a tree removal permit shall not occur until all required grading/and or building permits have been issued.

(6) Once a building permit has been submitted, the Planning Director may issue a grading permit if the Director determines it would advance public health and safety.

(h) The Director shall give priority to those applications based upon disease or imminent hazard to persons or property.

(i) The Director shall have the authority to require property owners to remove any tree or other plant materials from private property if it is determined by the Director to be interfering with streetlights, signals, and signage or any other public infrastructure or the resident may choose to pay for relocation of the infrastructure at their own expense.

Sec. 4-12.05 - Applications for Tree Pruning Permits.

(a) Tree pruning permit. Any person who desires to perform Significant Pruning on any part of a Protected Tree or City tree as defined in Chapter 14 of Title 4 this Code shall apply in writing to the Director and specify the number, species, diameter, and exact location of the tree(s) involved, a statement of the reason for the pruning and any other pertinent information as may be required by the City. The applicant may be required to provide a plot plan or survey drawn to scale depicting the tree(s) and any improvements on the property and/or an arborist's report. The Director or the Director's appointed City Staff will assess the need for a permit related to dead/dying tree(s). No person may perform regulated work for which a permit application is pending. By submitting the application the property owner certifies the director staff, or any agent of the City may enter the property where the tree is located for (14) calendar days after the application is received by the City.

(b) Within fourteen (14) calendar days after the receipt of the application for a pruning permit, the Director, or his or her appointed representative, shall inspect the premises and the tree(s) involved and issue a proposed decision to approve or deny the tree pruning permit and setting forth the conditions to be imposed. The Director shall give notice in accordance with Section 4-12.07 herein.

(c) The Tree Pruning permit shall be granted by the Director based on the following criteria:

(1) The condition of the tree, presence of disease, pest infestation, damage, public nuisance, risk, proximity to existing or proposed structures, and/or interference with utility services;

(2) Whether the requested action is necessary for the economically viable use of the property; and

(3) Pruning will be conducted in accordance with ANSI A-300 Standards.

(d) The Director may refer the application to another department, committee, or person for a report or recommendation. The Director may also require the applicant to furnish a written report from a qualified horticulturist, arborist or licensed landscape architect acceptable to the Director.

(e) In his or her proposed decision on an application for such permit, the Director may attach reasonable conditions to insure compliance with the content and purpose of this chapter. If a permit is to be denied or conditions attached, the Director shall provide the applicant with a written statement of the reasons for the denial or conditions.

(f) If an application for a building permit would require any significant pruning of any part of a protected tree or City Tree as defined in Chapter 14 of Title 4 of this code, including on adjacent properties or in the public rights-of-way, the applicant shall be required to obtain a tree pruning permit under this chapter.

(g) The Director may require submission of additional information as necessary, including but not limited to photographs.

(h) Disclosure of information pursuant to this section shall not be required when the development for which the approval or permit is sought does not involve any change in building footprint nor any grading or paving that would otherwise require a tree encroachment permit.

(i) Knowingly or negligently providing false or misleading information in response to this disclosure requirement shall constitute a violation of this chapter.

(j) The Director shall give priority to those applications based upon disease or imminent hazard to persons or property.

Sec. 4-12.06 - Applications for Tree Encroachment Permits.

(a) Tree encroachment permit. Any person who desires to relocate or transport a Protected Tree, or apply fertilizers or chemicals, grading, clearing, excavating, adding fill soil, trenching, boring, compacting, or paving within fifty (50') feet of a Protected Tree or City tree as defined in Chapter 14 of Title 4 this Code shall apply in writing to the Director and specify the number, species, diameter, and exact location of the tree(s) involved, a statement of the reason for the requested action and any other pertinent information as may be required by the City. The applicant may be required to provide a plot plan or survey drawn to scale depicting the tree(s) and any improvements on the property and/or an arborist's report. The Director or the Director's appointed City Staff will assess the need for a permit related to dead/dying tree(s). No person

may perform regulated work for which a permit application is pending. By submitting the application the property owner certifies the director staff, or any agent of the City may enter the property where the tree is located for (14) calendar days after the application is received by the City.

(b) Within fourteen (14) calendar days after the receipt of the application for the tree encroachment permit, the Director, or his or her appointed representative, shall inspect the premises and the tree(s) involved and issue a proposed decision to approve or deny the tree pruning permit and setting forth the conditions to be imposed. The Director shall give notice in accordance with Section 4-12.07 herein.

(c) A Tree Encroachment permit for relocating or transporting a protected tree, applying fertilizers or chemicals, grading, clearing, excavating, adding fill soil, trenching, boring, compacting, or paving within fifty (50') feet of a Protected Tree or City Tree shall be granted based on the following criteria:

(1) If the applicant cannot achieve its goals without performing regulated activities.

(2) The proposed regulated activities comply with ANSI A300, to ensure the safety or health of the tree(s) during pruning or other regulated activities.

(3) Any regulated activity described in subsection (5) of subsection (m) of Section 4-12.02 shall adhere to the provisions of Section 4-12.08 of this chapter.

(d) The Director may refer the application to another department, committee, or person for a report or recommendation. The Director may also require the applicant to furnish a written report from a qualified horticulturist, arborist or licensed landscape architect acceptable to the Director.

(e) In his or her proposed decision on an application for such permit, the Director may attach reasonable conditions to insure compliance with the content and purpose of this chapter. If a permit is to be denied or conditions attached, the Director shall provide the applicant with a written statement of the reasons for the denial or conditions.

(f) If an application for a building permit would require persons to relocate or transport a protected tree, or apply fertilizers or chemicals, grading, clearing, excavating, adding fill soil, trenching, boring, compacting, or paving within fifty (50') feet of a protected tree on private property, pruning of any part of a of a protected tree or City Tree, including on adjacent properties or in the public rights-of-way, the applicant shall be required to obtain a tree encroachment permit under this chapter and must comply with the following:

(1) The Director may require submission of additional information as necessary, including but not limited to photographs.

(2) Disclosure of information pursuant to this section shall not be required when the development for which the approval or permit is sought does not involve any change in

building footprint nor any grading or paving that would otherwise require a tree encroachment permit.

(3) Knowingly or negligently providing false or misleading information in response to this disclosure requirement shall constitute a violation of this chapter.

(4) While the tree encroachment application process is underway, the building permit and associated administrative deadlines will be suspended until the tree permit decision and any appeals is finished.

(g) The Director shall give priority to those applications based upon disease or imminent hazard to persons or property.

Sec. 4-12.07 - Notices of actions on all Tree Removal, Pruning and Encroachment Permits Appeals.

(a) Upon receipt of a tree removal, pruning, or encroachment permit, the Director shall give public notice of the application and his or her proposed decision by:

(1) Posting a notice on the tree or on one of the trees so as to be visible from the street. If the notice is not visible when posted on the tree or trees, it may be posted in another visible location on the property;

(2) Delivering a notice by first-class mail to a person who has made a written request to the Director; and

(3) Delivering a notice by first-class mail to adjacent and abutting property owners to the tree or trees involved. The City will post notice of application and the Director's proposed decision for tree removal permits on the City website.

(b) Within ten (10) Calendar days, the proposed decision may be appealed to the Parks, Beaches, and Recreation Commission by filing a written notice of appeal with the Director. No person may perform regulated work for which a permit appeal is pending.

(1) Proposed decisions involving dead/dying trees as determined by the Director may not be appealed.

(c) The Parks, Beaches, and Recreation Commission shall fix the time and place for the hearing of the appeal and shall cause a written notice of the hearing to be mailed to the appellant and the persons mentioned in subsection (a) of this section at least ten (10) Calendar days before the hearing. The Parks, Beaches, and Recreation Commission may approve, disapprove or modify the decision of the Director, including any conditions he or she may have imposed.

(d) The decision of the Parks, Beaches, and Recreation Commission may be appealed to the Council by filing a notice of appeal with the City Clerk within ten (10) calendar days of the date of the decision of the Parks, Beaches, and Recreation Commission. Appeals shall be heard and determined according to the procedures set forth in Chapter 4 of Title 1 of this Code.

The Council may approve, disapprove, or modify the decision of the Parks, Beaches, and Recreation Commission, including any condition it may have imposed.

Sec. 4-12-.08 - Designation of Heritage Trees.

(a) All trees currently known to meet the following criteria within the City of Pacifica are hereby designated as Heritage Trees:

(1) Any trees that are of the species *Quercus agrifolia* (coast live oak), *Quercus lobata* (valley oak), *Aesculus californica* (California buckeye), *Pinus radiata* (Monterey pine), or *Sequoia sempervirens* (redwood), which have a trunk diameter of twelve (12") inches or more; or

(2) Any trees that are of the species *Heteromeles arbutifolia* (toyon) which have a trunk diameter of four (4") inches DBH or more.

(3) The Director may also designate Heritage Trees that meet any of the following criteria:

- i. Tree(s) of historic value;
- ii. Specimen tree(s) of any species;
- iii. Any tree of substantial size of its species;
- iv. is one of the largest and oldest trees in Pacifica; or
- v. Significant habitat value.

(b) Upon designation of any Heritage Tree, the Director shall post on the City's website and on any newly designated Heritage Tree a Notice of Designation and notify the property owner via regular mail. Within 10 calendar days of any such postings/notifications, any interested party may submit an appeal to the City Clerk regarding any such designation by the Director.

(1) Any appeal received within the appeal period shall be scheduled for an administrative hearing before the City Manager. The City Manager will then schedule a hearing date wherein the appellant will be able to state their grounds for appeal. At the conclusion of the hearing the City Manager shall render a decision within 30 days and provide notice of his/her decision within 30 days.

(2) The decision of the City Manager will be final and no further administrative review will be available.

Sec. 4-12-.09 - Emergency Tree Removals.

(a) In the event the condition of a tree requires immediate action for the safety of life, limb, health, safety, welfare or property, the tree may be removed immediately upon the order of the Director or the Director of the Department of Public Safety or his or her designee.

(b) Notwithstanding any other fee or penalty described in this chapter, the costs of emergency tree removals are to be charged to the property owner and collected in accordance with any of the methods provided for in this Code. Should the costs not be paid, the City may enforce collection according to the procedures set forth in Article 3 of Chapter 25 of Title 5 of this Code,

(c) Public utilities subject to the jurisdiction of the Public Utilities Commission of the State may take such action as may be necessary to comply with the safety regulations of the Commission and as may be necessary to maintain a safe operation of their facilities.

Sect. 4.12.10 - Fire Mitigation Programs.

Any Tree removals undertaken by the City as part of a fire mitigation program shall be exempt from requirements of this Chapter.

Sec. 4-12.11 - Tree Protection and Preservation Plans.

(a) A Tree protection and preservation plan must be submitted in conjunction with any development proposal which requires a discretionary permit or other land use approval as set forth in Title 9 of this Code, or a proposal to engage in regulated work within fifty (50') feet of a protected tree., The Tree Preservation and Protection Plan shall insure the preservation of protected trees during construction so as to maximize chances for their survival. Such projects are exempt from obtaining a tree removal permit from the Director pursuant to Section 4-12.06. The official or public body authorized to grant the development approval sought shall implement the purposes of this chapter by means of review and approval of the tree protection plan and shall condition the plan to insure compliance with and to further the purposes of this chapter, including requirements for replacement plantings and/or an in lieu fee. Public notice of the proposal to remove trees shall be given in conjunction with and in the same manner as the notice requirements applicable to the permit or land use approval sought.

(b) Plan preparation. The plan shall be prepared by a qualified arborist, horticulturist, landscape architect or other qualified person a person who possesses a current ISA certification, be a member of the American Society of Consulting Arborists, or a member of good standing in another nationally recognized tree research, care, and preservation organization.

(c) Plan content. The plan shall include all the following information:

(1) Tree inventory for all trees that are six (6") inches or greater within the proposed project site and within fifty (50') feet of the project's limits of disturbance, including trees that are on adjacent property and within the public rights-of-way. The tree inventory shall be conducted by a person who possesses a current ISA certification, be a member of the American Society of Consulting Arborists, or a member of good standing in another nationally recognized tree research, care, and preservation organization. The tree inventory shall include species, diameter, condition and whether tree is proposed to be preserved or removed.

(2) Site plan with the accurate location of tree trunks and Tree Protection Zones for all trees or groups of trees to be preserved within and adjacent to the project site;

(3) A description of the plan for watering trees during the duration of construction activities; (4) Acknowledgement of tree protection standards herein;

(4) The species and diameter of all trees involved;

(5) The applicant may be required to provide a plot plan, survey drawn to scale depicting the tree(s), or photographs. Standards For Approval of Plan; and

(6) Other information pertinent to the project.

(d) A Plan will only be approved if it complies with the following standards:

(1) Tree root protection. Plan must include a statement certifying that the applicant is responsible to use his or her best efforts to preserve all trees which are to remain on the project site.

(2) With respect to protected trees, the following specific construction practices shall also be included in Plan:

(3) The radius of the Trunk Protection Zone (TPZ) is calculated by using the following methods:

i. For all trees up to twenty-four (24") inches in diameter the radius of the TPZ is one and half (1.5) times the trunk diameter (DBH).

ii. For all tree greater than twenty-four (24") inches in diameter the radius of the TPZ is two (2) times the trunk diameter (DBH).

iii. Common TPZ radii and areas are shown and calculated in Table 1.

(e) Table 1. Minimum Trunk Protection Zone Areas for trees less than 25 inches in diameter.

Trunk Diameter (inches)	Radius of TPZ (ft)	Area of TPZ (ft ²)
0 to 4 inches	6	113
5	7.5	177
6	9	254
7	10.5	346

Trunk Diameter (inches)	Radius of TPZ (ft)	Area of TPZ (ft ²)
8	12	452
9	13.5	573
10	15	707
11	16.5	855
12	18	1,018
13	19.5	1,195
14	21	1,385
15	22.5	1,590
16	24	1,810
17	25.5	2,043
18	27	2,290
19	28.5	2,552
20	30	2,827
21	31.5	3,117
22	33	3,421
23	34.5	3,739
24	36	4,072
25 and over	50	7,854

i. The Plan shall not include any of the following prohibited activities within the TPZ:

a. Storage or parking vehicles, building materials, refuse, excavated spoils or dumping of poisonous materials on or around trees and roots.

b. The use of tree trunks as a winch support, anchorage, as temporary pole, signpost, or other similar function.

c. Cutting of tree roots by utility trenching, foundation digging, placement of curbs and trenches and other miscellaneous excavation without prior approval from the Director.

d. Soil disturbance or grade change.

e. Drainage changes.

ii. The Director may require the following in the TPZ:

a. Wood chips or mulch spread within the TPZ of a depth of four (4") inches to six (6") inches, leaving the trunk clear, to help reduce moisture loss and compaction.

b. Root buffers for areas that cannot be fenced or as a temporary buffer and shall cover the TPZ and shall be maintained to a minimum depth as specified by the Director.

c. Irrigation and aeration.

d. Erosion control.

iii. A warning sign shall be prominently displayed on each fence, indicating WARNING Trunk Protection Zone on a minimum of 8.5 x 11-inches and shall not be removed.

iv. The Tree Protection and Preservation Plan shall be displayed in a conspicuous place or in proximity to the tree or trees on the construction site.

v. The TPZ for each protected tree or group of trees to be preserved shall be protected by installing a five (5') or six (6') foot high chain link fencing mounted on two (2") inch diameter galvanized iron posts, driven into the ground to a depth of at least two (2') feet at no more than ten (10') foot spacing to enclose the entire TPZ prior to demolition, grading, paving, movement of heavy equipment, or other construction activity begins.

(2) Landscape plans. Landscape plans, when required, must show the proposed landscaping within the TPZ of trees and the proposed replacement plantings on site.

(3) Nonconformance. In case of nonconformance with the tree protection requirements set forth in specific construction practices in this section, the Director may issue a Stop Work Order until a mitigation plan has been reviewed and approved by the Director and shall be subject to a penalty, at a damage rate determined and periodically revised by the

Director. Measurement of the damage shall be determined by the width of the wound measured at the widest point. Penalty shall be paid to the City and deposited to the Tree Fund.

(4) Tree damage or destruction. Should unauthorized work or nonconformance lead to the threat of tree damage or destruction, the Director shall issue a Stop Work Order until a mitigation plan has been reviewed and approved by the Director.

(5) Mitigation Plan. A mitigation plan shall include measures for protection of any remaining trees on the project site and include replacements for each tree removed at a replacement ratio set forth by Section 4.12.04.

(6) Performance security. Performance security, whether by security bond, cash deposit, or other security acceptable to the City, shall be required prior to issuance of a tree encroachment permit in order to assure protection of trees on the site. The amount of any said performance security shall be set at 50% of the value of the affected tree or trees, whichever is greater. Tree value shall be determined by using the Guide for Plant Appraisal (10th Edition or newer). The performance security shall be forfeited if, prior to final building permit inspection, the Director finds that the tree has suffered permanent damage. If no permanent damage has occurred, the performance security shall be returned two (2) years after the final building permit inspection has been completed. The applicant must submit a request for the two (2) year inspection and release of the security, in writing to the Director. If the tree(s) fail to survive, the applicant shall replace them. If the applicant fails to replace the tree(s), the performance security shall be forfeited. Funds collected through the forfeiture of performance security shall be deposited into the Tree Fund.

(f) Reporting. Any damage or injury to the roots, trunk, or branches of a Protected Tree(s) or City Tree(s) shall be reported to the Director within twelve (12) hours by contacting the Director in writing with a detailed description of the damage and location of the tree.

Sec. 4-12-.12 - Establishment of Tree Fund.

(a) The City shall establish a Tree Fund to further the purposes set forth in Section 4-12.01.

(b) The following sources may be deposited into the Tree Fund:

- (1) All moneys received pursuant to Chapters 12 and 14 of this Code.
- (2) Agreed-upon restoration payment or settlement in lieu of penalties;
- (3) Donations and grants for tree purposes;
- (4) Other moneys allocated by the Council.

(c) The City shall administer and use the Tree Fund for the following purposes:

- (1) Purchasing, planting, and maintaining trees within the City;

- (2) Acquiring, maintaining, and preserving trees within the City to remain in a naturalistic state in perpetuity;
- (3) Performing and maintaining a City-wide tree inventory;
- (4) Educating residents and developers on the preservation, care, maintenance, benefits and value of trees within the City of Pacifica; and
- (5) Supporting programs for the purpose of increasing the tree canopy within the City of Pacifica as approved by the Council

Sec. 4-12-.13 - Permits: Fees.

The fees for any permits required by this chapter shall be those adopted by the Council in its Administrative Policy No. 2.

Sec. 4-12.14 - Violations: Penalties.

(a) Any person, including an individual, firm, association, tree removal service, corporation and its agents, officers, employees, or representatives, violating any of the provisions of this chapter shall be guilty of a misdemeanor which shall be punishable by a fine of not more than One Thousand and no/100ths (\$1,000.00) Dollars, or by imprisonment in the county jail for a period not exceeding six (6) months, or both in accordance with Chapter 2, Title 1 of this Code.

(b) Violations of this chapter are a public nuisance.

(c) Any person, including an individual, firm, association, tree removal service, corporation and its agents, officers, employees, or representatives, that removes, relocates or transports a Protected Tree without a Tree Removal Permit shall be required to either: 1) replace the removed Protected Tree to the satisfaction of the Director which replacement plantings will require a minimum of two (2) replacement trees for every otherwise healthy tree removed including the payment of the replacement value of the mature Protected Tree minus the cost of the two replacement trees; or 2) payment of the full replacement value of mature tree(s) in lieu thereof if on-site replacement is not feasible. Any replacement of Protected Trees shall be reviewed and approved by the Director in her/his sole discretion.

(d) All remedies prescribed under this Chapter are cumulative, and the election of one or more remedies does not bar the City from the pursuit of any other remedy, including, but not limited to those referenced in Chapter 2 of Title 1 of this Code, for the purpose of enforcing this chapter.”

Section 4. Repeal and Replace. Chapter 14 (Maintenance and Preservation of City Trees) within Title 4 of the Pacifica Municipal Code is hereby repealed and replaced in its entirety to read as follows:

“Maintenance and Preservation of City Trees - Chapter 14

Sec. 4-14.01. - Scope and intent.

It is the intent and policy of the City of Pacifica to protect and maintain the unique and characteristic arboreal landscape of the City by employing and using best management practices with respect to the selection and maintenance of City trees. To accomplish this, the City may, as specified in this chapter, prepare, adopt and use written guidelines and policies for healthy urban forest management, and may amend such policies from time to time as necessary.

Sec. 4-14.02. - Definitions.

(a) "ANSI A300 Standards" shall refer to the American National Standards Institute (ANSI) for Tree Care Operations—Tree, Shrub and Other Wood Plant Maintenance-Standard Practices.

(b) "Deleterious substances" shall mean any materials that are detrimental to tree health including, but not limited to paint, petroleum products, concrete, and other harmful substances.

(c) "Diameter" or "DBH" shall be the diameter of a tree measured at a standard height of four and half (4.5') feet or fifty-four (54") inches above grade (referred to as diameter at breast height). Multi-stemmed trees shall be measured by averaging the stem's diameters.

(d) "Director" shall refer to the Director of the Department of Public Works, or his/her designee.

(e) "Person" shall mean an individual, firm, association, tree removal service, corporation and its agents, officers, employees, or representatives.

(f) "Routine maintenance" shall mean irrigating, applying mulch, mowing or trimming grass or other ground cover close to a tree.

(g) "Topping" or "topped" shall mean the practice of the removing tops of trees, or large branches or trunks from tops of trees, leaving large stubs or lateral branches that are too small to assume the role of a terminal leader.

Sec. 4-14.03. – Inspection, maintenance, and removal by City.

(a) The preservation and maintenance of City trees shall be managed and conducted by the Department of Public Works. The Director of the Department of Public Works, or his/her designee (hereinafter, the "Director"), shall have the authority to adopt written policies and procedures for proper urban forest management consistent with the guidelines set forth in Section 4-14.01 of this chapter. Such written measures may be amended, appended, modified or revoked from time to time, in writing, by the Director or his/her designee, who shall, within ten (10) working days of signing and adopting such measures, make such measures available to the public by depositing a copy of same with the office of the City Clerk be charged with the enforcement of this chapter and the performance of municipal functions as herein established.

(b) The Director shall have the authority to plant, inspect, spray, preserve, prune, and perform routine maintenance on City trees.

(c) The Director shall have the authority to remove a City tree pursuant to Sec. 4-14.06.

(d) The Director shall have the authority to supervise all work done under a permit issued in accordance with the terms of this Chapter and Chapter 12.

(e) The Director shall have the authority to impose conditions to the granting of a permit hereunder and to require that applications for permits contain such information as the Director shall find reasonably necessary to a fair determination of whether a permit should be issued.

(f) No person shall interfere or cause any other person to interfere with any tree related work performed pursuant to this code by any City employee or any City contractor.

(g) Adjacent property owners are responsible for routine maintenance within the planting strip or planting easement. The Director shall have the authority to require property owners to take such action as is necessary to control insects, scales, parasites, fungus, and other injurious pests or plant materials on private property that would cause serious injury to City trees and other plant materials within the City. The Director shall notify the property owners in writing, describe the conditions, state the control necessary to correct the condition, and establish a reasonable time within which the corrective steps shall be taken.

Sec. 4-14.04. – Definition of City Trees.

(a) Notwithstanding any other provision of the Code, and for purposes of this chapter only, "City trees" are those trees which meet one or more of the following criteria:

(1) are located on City-owned property, or on property on which the City has an easement or other property interest;

(2) are not located in areas otherwise prescribed by law, contract, conditions of approval, or similar requirement or obligation to be the responsibility of adjacent property owners, leaseholders, or other public agencies or their respective tenants; and

(3) meet at least one of the criteria set forth below:

i. Sidewalk: Four (4') feet. When a sidewalk abuts private property, and there is no delineated planting strip as described in this chapter, the field measurement shall be four (4') feet, starting from the edge of the sidewalk closest to the abutting property, measured in a straight perpendicular line towards the property or residence, up to the center of the trunk of any existing tree. Any tree with a center which is located within the four (4') foot measurement shall be deemed a City tree for maintenance purposes;

ii. Planting strip or greenbelt: No measurement. Occasionally, trees are located in planting strips which run between the street and the sidewalk. When a planting strip

or greenbelt area exists between a public street and a sidewalk abutting a private property or residence, no measurement shall be taken. Trees located in this planting strip are designated as City trees for maintenance purposes, and trees located between the strip and the abutting property or residence are not City trees;

iii. No sidewalk (curb only): Four (4') feet. When there is only a curb abutting private property, but no sidewalk, and no delineated planting strip, the field measurement shall be four (4') feet, starting from the edge of the curb closest to the abutting property, measured in a straight perpendicular line towards the property or residence, up to the center of the trunk of any existing tree. Any tree with a center which is located within the four (4') foot measurement shall be deemed a City tree for maintenance purposes;

iv. No sidewalk or curb: Four (4') feet from street. When there is no sidewalk, and no curb, and no delineated planting strip, the field measurement shall be four (4') feet, starting from the edge of the asphalt of the City street (notwithstanding any additional subsequent asphalt, paving or hardscaping installed), measured in a straight perpendicular line towards the property or residence, up to the center of the trunk of any existing tree. Any tree with a center which is located within the four (4') foot measurement shall be deemed a City tree for maintenance purposes.

(b) The designation of any tree as a City tree means only that the City will include such tree in its maintenance and evaluation schedule—it does not create any additional rights, responsibilities, liabilities or presumptions on the part of the City.

Sec. 4-14.05. – Tree Planting Permit.

(a) A Tree Planting Permit shall be required for the planting of any tree, shrub or other plant material in a planting strip or planting easement unless performed by an agent or employee of the City.

(b) Any application for a Tree Planting Permit must contain the number of trees/shrubs/other plant material to be planted, the location, size, species, and spacing of each tree, and such other information as the Director may require.

(c) No tree shall be planted within five (5') feet of a driveway, nor shall a tree be planted nearer to the intersection of any two or more streets than forty (40') feet from the point of intersection of any two public rights-of-way lines.

Sec. 4-14-06. – Removal of City Trees.

(a) The Director may remove any City tree when the condition of the tree constitutes an imminently dangerous condition to the public health, safety or welfare or is a threat to the health of other trees because of pests or disease, and any such determination will be in the sole discretion of the Director.

(b) The Director may remove or cause the removal of any City trees or other plant materials planted in a planting strip or planting easement if such City trees or plant materials are

deemed by the Director to be unhealthy, hazardous, causing excessive damage to existing public improvements or City trees, or a trip hazard, or a species that is located in an area that is inappropriate for the tree species. In order to remove a tree, the City will meet all the requirements of a permit (listed below), including the criteria listed in (e), a qualified arborists report with reasons for removal in (f), and mitigation for tree removal including 2 to 1 tree replacements in (g).

(c) Tree Removal Permit. Any person who desires to remove a City Tree shall apply in writing to the Director and specify the number, species, diameter, and exact location of the tree or trees involved, a statement of the reason for the removal, and any other pertinent information as may be required by the City. The applicant may be required to provide a plot plan or survey drawn to scale depicting the tree(s) and any improvements on the property and/or an arborist's report. The Director or the Director's appointed City staff will assess the need for a permit related to dead/dying tree(s). An arborist's report including an ISA basic tree risk assessment form will be required for removal of a City tree needing a permit. No person may perform regulated work for which a permit application is pending. By submitting the application the property owner certifies the Director, staff, or any agent of the City may enter the property where the tree is located for fourteen (14) calendar days after the application is received by the City.

(d) Within fourteen (14) calendar days after the receipt of the application, the Director, or his or her appointed representative, shall inspect the premises and the tree(s) involved and shall issue a proposed decision to approve or deny the tree removal permit and setting forth the conditions to be imposed. The Director shall give notice of the application and proposed decision pursuant to Section 4-12.07 herein.

(e) A tree removal permit shall be granted based on the following criteria:

(1) The condition of the tree, presence of disease, pest infestation, damage, public nuisance, risk, proximity to existing or proposed structures, and/or interference with utility services;

(2) Whether the requested action is necessary for the economically viable use of the property;

(3) The topography of the land and effect of the requested action on it;

(4) The number, species, size, and location of existing trees in the area and the effect of the requested action upon shade, noise buffers, protection from wind damage, air pollution, historic value, scenic beauty and upon the health, safety, and general welfare of the area and the City as a whole; and

(5) The number of healthy trees the parcel is able to support.

(f) The Director may refer the application to another department, committee, or person for a report or recommendation. The Director may also require the applicant to furnish a

written report from a qualified horticulturist, arborist or licensed landscape architect acceptable to the Director.

(g) To mitigate the adverse effects of tree removal, a tree removal permit shall include conditions that require relocation of tree(s) on-site as recommended by a certified arborist, and/or replacement planting of a minimum of two (2) replacement trees for every otherwise healthy tree removed and may be required to pay the replacement value of the mature Protected Tree minus the cost of the two replacement trees or payment of the full replacement value of a mature tree or trees in lieu thereof if on-site replacement is not feasible. No applicant shall be required to expend more on the replacement trees than the appraised value of the trees for which a permit is required. The Director shall determine the replacement value of the trees utilizing the most recent edition of the Guide for Plant Appraisal by the Council of Tree and Landscape Appraisers.

(1) Replacement tree shall be the same species as the tree removed or a species of similar mature stature, unless otherwise specified by the Director.

(2) Replacement tree shall be a minimum of one and a half (1.5") inches measured with calipers and at least a 15-gallon tree, unless otherwise approved by the Director.

(3) Replacement trees shall be planted to the satisfaction of the Director and in the event the original replacement tree(s) fail to establish, a subsequent replacement tree(s) shall be required.

(h) In his or her proposed decision on an application for such permit, the Director may attach reasonable conditions to insure compliance with the content and purpose of this chapter. If a permit is to be denied or conditions attached, the Director shall provide the applicant with a written statement of the reasons for the denial or conditions.

(i) If an application for a building permit would require any removal of a protected tree or trees, including on adjacent properties or in the public rights-of-way, the applicant shall be required to obtain a tree removal permit under this chapter.

(1) The Director may require submission of additional information as necessary, including but not limited to photographs.

(2) Disclosure of information pursuant to this section shall not be required when the development for which the approval or permit is sought does not involve any change in building footprint nor any grading or paving that would otherwise require a tree encroachment permit.

(3) Knowingly or negligently providing false or misleading information in response to this disclosure requirement shall constitute a violation of this chapter.

(4) All decisions and deadlines regarding the building permit will be suspended until the final decision regarding the tree permit has been made.

(5) Tree removal based off a tree removal permit shall not occur until all required grading/and or building permits have been issued.

(6) Once a building permit has been submitted, the Director may issue a grading permit if the Director determines it would advance public health and safety.

(j) The Director shall give priority to those applications based upon disease or imminent hazard to persons or property.

(k) The Director shall have the authority to require property owners to remove any tree or other plant materials from private property if it is determined by the Director to be interfering with streetlights, signals, and signage or any other public infrastructure or the resident may choose to pay for relocation of the infrastructure at their own expense.

Sec. 4-14.07. – Notices of actions on all Tree Removal, Pruning and Encroachment Permits Appeals.

(a) Upon initiating or receiving a tree removal permit for a City Tree, the Director shall give public notice of the application and his or her proposed decision by:

(1) Posting a notice on the tree or on one of the trees so as to be visible from the street. If the notice is not visible when posted on the tree or trees, it may be posted in another visible location on the property;

(2) Delivering a notice by first-class mail to a person who has made a written request to the Director; and

(3) Delivering a notice by first-class mail to adjacent and abutting property owners to the tree or trees involved. The City will post notice of application and the Director's proposed decision for tree removal permits on the City website.

(b) Within ten (10) Calendar days, the proposed decision may be appealed to the Parks, Beaches, and Recreation Commission by filing a written notice of appeal with the Director. No person may perform regulated work for which a permit appeal is pending.

(c) The Parks, Beaches, and Recreation Commission shall fix the time and place for the hearing of the appeal and shall cause a written notice of the hearing to be mailed to the appellant and the persons mentioned in subsection (a) of this section at least ten (10) Calendar days before the hearing. The Parks, Beaches, and Recreation Commission may approve, disapprove or modify the decision of the Director, including any conditions he or she may have imposed.

(d) The decision of the Parks, Beaches, and Recreation Commission may be appealed to the Council by filing a notice of appeal with the City Clerk within ten (10) calendar days of the date of the decision of the Parks, Beaches, and Recreation Commission. Appeals shall be heard and determined according to the procedures set forth in Chapter 4 of Title 1 of this Code. The Council may approve, disapprove, or modify the decision of the Parks, Beaches, and Recreation Commission, including any condition it may have imposed.

Sec. 4.14.08. – Violations: Penalty.

(a) Any person, including an individual, firm, association, tree removal service, corporation and its agents, officers, employees, or representatives, violating any of the provisions of this chapter shall be guilty of a misdemeanor which shall be punishable by a fine of not more than One Thousand and no/100ths (\$1,000.00) Dollars, or by imprisonment in the county jail for a period not exceeding six (6) months, or both in accordance with Chapter 2, Title 1 of this Code.

(b) Any person violating any provision of this chapter may also be subject to administrative civil penalties of up to a maximum of \$1,000 pursuant to Section 1-6.60 of this Code.

(c) Violations of this chapter are a public nuisance.

(d) Any person not employed or empowered by the City that removes a City tree without a Tree Removal Permit shall be required to replace the City tree with at least two (2) trees or payment of the replacement value of the tree or trees in lieu thereof if on-site replacement is not feasible.

(1) Replacement tree shall be the same species as the tree removed or a species of similar mature stature, unless otherwise specified by the Director.

(2) Replacement tree shall be a minimum of 1.5", measured with calipers and at least a 15-gallon tree unless otherwise approved by the Director.

(3) Replacement tree shall be planted to the satisfaction of the Director.

(4) Replacement trees shall require subsequent replacement trees in the event that the original replacement trees fail to establish.

All remedies prescribed under this Chapter are cumulative, and the election of one or more remedies does not bar the City from the pursuit of any other remedy, including, but not limited to those referenced in Chapter 2 of Title 1 of this Code, for the purpose of enforcing this chapter."

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

Section 6. Publication. The City Clerk is hereby ordered and directed to certify the passage of this Ordinance by the City Council of the City of Pacifica, California, and cause the same to be published in accordance with State law.

Section 7. Effective Date. This Ordinance shall go into effect thirty (30) days after the date of its passage and adoption.

Section 8. Repeal of Logging Ordinances. Ordinance Nos. 636 and 637 (“Logging Ordinances”) shall be repealed in their entirety.


PASSED AND ADOPTED this 12th day of September, 2022, by the following vote:

AYES, Councilmembers: Beckmeyer, Bier, Bigstyk, O’Neill, Vaterlaus.

NOES, Councilmembers: n/a.

ABSENT, Councilmembers: n/a.

ABSTAIN, Councilmembers: n/a.


[Mary Bier \(Sep 14, 2022 21:10 PDT\)](#)

Mary Bier, Mayor

ATTEST:



Sarah Coffey, City Clerk

APPROVED AS TO FORM:



Michelle Marchetta Kenyon, City Attorney










For Signature: OrdinanceNo884-CS_UpdatedTreeProtectionOrdinance_ADOPTION

Final Audit Report

2022-09-15

Created:	2022-09-14
By:	Sarah Coffey (scoffey@pacifica.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA12FFv618am900JlyV7W8uo6Op0C6C_MI

"For Signature: OrdinanceNo884-CS_UpdatedTreeProtectionOrdinance_ADOPTION" History

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