

## **Chapter 21.32 TREE PROTECTION REGULATIONS**

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### **21.32.010 Purpose.**

In enacting this chapter, the city recognizes the substantial aesthetic, environmental and economic importance of its tree population. The purpose of this chapter is to establish policies, regulations, and standards to protect and manage trees on private property to ensure that development is compatible with and enhances Campbell's small town quality and character.

(Ord. 2070 § 1 (Exh. A)(part), 2006; Ord. 2043 § 1 (part), 2004; Ord. 1969 § 2 (part), 1998).

### **21.32.020 Definitions.**

The following words and phrases when used in this chapter shall have the meaning set forth herein, except where the context clearly indicates a different meaning:

"Approval authority" means the person or body officially responsible for rendering decisions on requests to remove trees protected by this chapter.

"Arborist report" means a professional report prepared by a certified arborist that includes photographic documentation of each tree proposed to be removed and indicates the location(s), variety or species, size(s), and condition of all such tree(s). An arborist report also includes a visual examination of damage associated with the tree(s) and provides potential measures that may be taken to preserve the tree(s) or prevent further damage. The report shall conclude with a recommendation as to whether, in the professional judgment of the arborist, the tree(s) should be removed or preserved.

"Certified arborist" means a person having expertise in the care and maintenance of trees, who is certified by the International Society of Arboriculture (ISA) or the American Society of Consulting Arborists (ASCA).

"Dead tree" means a tree that is no longer alive.

"Dying tree" means a tree that is in such an advanced state of decline due to damage or disease—where an insufficient amount of live tissue, green leaves, limbs or branches exists to sustain life—that death is unavoidable.

"Developed single-family residential property" means any legal lot of record with a minimum net lot area of six thousand square feet that is developed with a main dwelling unit and zoned either "single-family" (R-1), or "planned development" (PD), and cannot be further subdivided into additional lots under its current zoning designation.

"Development application" means an application for land alteration or development, including, but not limited to, site and architectural review, variance, use permit, rezoning, planned development permit and subdivisions of property.

"Dripline" means the outermost line of the tree's canopy projected straight down to the ground surface. In plan view, the dripline generally appears as an irregularly shaped circle.

"Emergency" means a sudden, or generally unexpected occurrence that decisively determines that immediate action is warranted.

"Fruit tree" means any tree that has the characteristic of bearing edible fruit, common to commercial production varieties including, but not limited to, stone fruits (e.g., prunes, peaches, etc.), citrus (e.g., lemons, oranges), nut varieties (e.g., almonds, English walnut (except for California Black Walnut), peppers (g. Schinus), and olives (g. Oleaceae). A "fruit tree" shall not mean any tree that bears a fruit or nut produced primarily as seed, (e.g., oaks, pines, etc.).

"Heritage tree" means any tree so designated by the historic preservation Board based on the finding that the tree has character, significant age and girth, interest or value as part of the development of, and/or exemplification of the cultural, educational, economic, agricultural, social, indigenous or historical heritage of the city and identified on the historic resources inventory.

"Landscaping plan" means a plot plan illustrating the location of ground cover, shrubs, trees, hardscaping, and irrigation in relation to a site's property lines and on-site structures.

"Main structure" means a primary structure allowed under the zoning district in which a property is located to provide reasonable economic use of a property. For developed single-family properties, this specifically includes dwelling units, in-ground swimming pools, detached garages, and other accessory structures over two hundred square feet.

"Net lot area" means the total area within the lot lines of a lot, excluding any street right-of-way or common areas owned collectively by a group of property owners in a planned development.

"Protected tree" means any class of tree specified in Section 21.32.050, (Protected trees).

"Pruning" means the standard practice of maintenance consisting of trimming or cutting away any limbs or branches of a tree to control growth and enhance performance or function by developing and preserving tree structure and health.

"R-1" means any developed single-family residential property.

"Remove", "removal", and "tree removal" means taking action that directly leads to or foreseeably leads to the death of a tree or permanent damage to its health (e.g., cutting, girdling, poisoning, over-watering, unauthorized relocation or transportation of a tree or trenching, excavating, or altering the grade or paving within the dripline of a tree).

"Severe trimming" means cutting back large diameter branches or the main trunk of a mature tree to stubs,(including topping and severe root pruning) which either destroys the existing symmetrical appearance or natural shape of the tree and/or compromises the long-term health or survival of a tree.

"Significant damage" means structural damage to a building foundation, floor framing, roof framing, or exterior walls, or to the wall of a swimming pool.

"Tree" means a woody perennial plant characterized by having a main stem or trunk or a multi-stemmed trunk system with a more or less definitely formed crown, and is usually over ten feet high at maturity.

"Tree removal permit" means a permit to remove a protected tree as required by this chapter.

"Unprotected tree" means any class of tree not specified as a "protected tree".

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

### **21.32.030 Applicability.**

This article shall apply to every owner of private property within the city, and to every person responsible for undertaking the removal of a tree on private property, unless exempted herein.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

### **21.32.040 Actions prohibited.**

The following is deemed unlawful under this article:

- A. To remove any protected tree specified in Section 21.32.050, (Protected trees) from private property without approval of a tree removal permit.
- B. To severely trim any protected tree specified in Section 21.32.050, (Protected trees) on private property.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

### **21.32.050 Protected trees.**

Except as otherwise provided in Section 21.32.060, (Exemptions) the following trees are classified as protected trees and shall not be removed from private property without approval of a tree removal permit:

- A. The following trees are protected on all properties in all zoning districts:
  - 1. Heritage trees designated in compliance with Section 21.32.130, (Heritage tree designations); and
  - 2. Any tree shown on an approved landscaping plan or required to be planted or retained as a condition of approval of a development application, a building permit, or a tree removal permit;
- B. For trees on all commercial, industrial, multi-family residential, mixed-use, and undeveloped single-family residential properties in all zoning districts, any tree or multi-trunk tree with at least one trunk measuring twelve inches or greater in diameter (thirty-eight inches or greater in circumference), measured four feet above the adjacent grade.
- C. For developed single-family residential properties, trees or multi-trunk trees with at least one trunk measuring twelve inches or greater in diameter (thirty-eight inches or greater in circumference) of the following species:
  - 1. Oak (Quercus);
  - 2. Redwood (Sequoia);
  - 3. Cedar (Cedrus);
  - 4. Ash (Fraxinus).

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

### **21.32.060 Exemptions.**

The following tree types and conditions are exempt from this chapter and may be removed without approval of a tree removal permit:

- A. Emergencies. Trees that pose an immediate threat to persons or property during an emergency or are determined to constitute an emergency, upon order of the community development director, or any member of the police or fire services agency. The community development director shall be notified of such emergency before removal, and a tree removal permit shall be filed within ten calendar days of the emergency removal.
- B. Public nuisance. Any tree in a condition to constitute a public nuisance, as defined in Section 6.10.020 of the Campbell Municipal Code when the declaration of a public nuisance has been made by the building official, the community development director or the fire chief.
- C. Public utilities. Trees that undermine or impact the safe operation of public utilities that are subject to the jurisdiction of the public utilities commission of the State of California.
- D. Fruit trees. Fruit tree(s) in any zoning district.
- E. Eucalyptus trees. All trees of the genus Myrtaceae.
- F. Dead or dying trees. Any protected tree determined by the community development director to be dead or dying in compliance with Section 21.32.065, (Removal of dead or dying trees).

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

### **21.32.065 Removal of dead or dying trees.**

A protected tree determined to be dead or dying may be removed without a tree removal permit subject to the following procedure:

- A. Form of determination. The community development director shall determine whether or not the tree is dead or dying as a zoning clearance in compliance with Chapter 21.40, (Zoning Clearances).
- B. General Criteria. A request for a determination of a dead or dying tree shall be made to the community development department and be accompanied by the following information, unless waived by the community development director in writing:
  1. Photograph(s) of the tree;
  2. Signature of the property owner and homeowners association (when applicable);
  3. Other information deemed necessary by the community development director to evaluate the condition of the tree;
  4. Payment of any required permit fee.
- C. Arborist Report. When the condition or viability of the tree is not readily evident, the community development director may require preparation of an arborist report in compliance with Section 21.32.155, (Arborist reports).
- D. Replacement required. In the event a protected tree shown on an approved landscaping plan or required to be planted or retained as a condition of approval of a development application, building permit, or tree removal permit is determined to be dying, the tree shall be subject to replacement in kind.
- E. Heritage tree. In the event a heritage tree is determined to be dead or dying by the community development director, the community development director shall provide written notice of the determination to the historic preservation board.

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

### **21.32.070 Tree removal permit/application requirements.**

- A. Application information. Applications for a tree removal permit shall be available from and filed with the community development department and shall contain the following information, unless waived by the community development director:
  1. A written explanation of why the tree(s) should be removed;
  2. Photograph(s) of the tree(s);
  3. Signature of the property owner and homeowners association (when applicable);
  4. Replanting plan, as required by Section 21.32.100, (Replacement trees);
  5. Other information deemed necessary by the community development director to evaluate the tree removal request;
  6. Permit fee, where applicable.
- B. Arborist Report. When the condition or viability of the tree or its impact to property is not readily evident, the community development director may require preparation of an arborist report in compliance with Section 21.32.155, (Arborist reports).

- C. Additional application requirement for all properties except developed single-family residential properties. Applications for a tree removal permit on all properties except developed single-family residential properties shall include a tree survey plan indicating the number, location(s), variety or species, and size(s) (measured four feet above grade) of tree(s) to be removed.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

### **21.32.080 Determination on permit.**

- A. General criteria. The approval authority shall approve a tree removal permit only after making at least one of the following findings:
1. Diseased or danger of falling. The tree or trees are diseased or presents a danger of falling that cannot be controlled or remedied through reasonable preservation and/or preventative procedures and practices such that the public health or safety requires its removal.
  2. Structure Damage. The tree or trees have caused or may imminently cause significant damage to the existing main structure(s) that cannot be controlled or remedied through reasonable modification of the tree's root or branch structure.
  3. Utility Interference. The tree or trees have interfered with utility services where such interference cannot be controlled or remedied through reasonable modification/relocation of the utility services and/or reasonable modification of the tree's root or branch structure.
  4. Overplanting. The tree(s) is crowding other protected tree(s) to the extent that removal is necessary to ensure the long-term viability of adjacent tree(s).
  5. Economic enjoyment and hardship. The retention of the tree(s) restricts the economic enjoyment of the property or creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly zoned and situated properties, and the applicant has demonstrated to the satisfaction of the approval authority that there are no reasonable alternatives to preserve the tree(s). A minor reduction of the potential number of residential units or building size due to the tree location does not represent a severe limit of the economic enjoyment of the property.
- B. Additional recommendations. The community development director may refer the application to another department or commission for a report and recommendation.
- C. Inspections and permit availability. City staff shall have the authority to conduct on-site inspections of all trees proposed for removal. If a tree removal permit is approved, the permit shall be on-site at all times prior to and during the removal of a tree and/or shall be made available to any city official at the site, upon request.
- D. Action. Based on the criteria outlined in this section, the approval authority shall either; approve, conditionally approve or deny the application. Conditions of approval may include any of the following:
1. Revisions to development plans to accommodate existing trees; or
  2. Replacement trees of a species and size planted at locations designated by the approval authority in compliance with Section 21.32.100, (Replacement trees); or

3. Payment of an in-lieu fee in compliance with Section 21.32.110, (Site limitations/in-lieu fee for replacement); or
4. A combination of replacement trees and in-lieu fees that in total provide for the number of replacement trees required by this chapter.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

### **21.32.090 Approval authority and permit process.**

A. The following provisions shall apply to requests for removal of protected tree(s) located on a developed single-family residential property filed independent of a development application:

1. Approval authority. The community development director is the approval authority for tree removal requests, except for heritage trees.
2. Decision. Upon acceptance of a complete application in compliance with Chapter 21.38, (Application Filing, Processing, and Fees), the community development director shall render a decision on the tree removal request.
3. Notice of decision. Upon rendering of a decision on the tree removal request, the community development director shall provide written notification of the decision to the applicant. The notification shall include findings for the decision, the ending date of the appeal period, and in the case of approval, shall include all conditions and time limits imposed by the community development director.

On the day of the decision, the community development director shall also mail a notice of decision to owners of record of properties abutting or directly across a public right(s)-of-way from the subject property at the address set forth on the most currently available assessment roll. The notice shall provide a brief description of the tree removal request, the location of the subject property, the decision rendered, the appeal process, and the ending date of the appeal period.

4. Appeals. A decision of the community development director may be appealed in compliance with Chapter 21.62, (Appeals).

B. The following provisions shall apply to requests for removal of protected tree(s) located on all properties except for developed single-family residential properties filed independent of a development application:

1. Approval authority. The community development director is the approval authority for tree removal requests, except for heritage trees.
2. Notice and decision. The notice and decision for a tree removal request shall be subject to the administrative decision process as prescribed in Chapter 21.72, (Administrative Decision Process).
3. Appeals. A decision of the community development director may be appealed in compliance with Chapter 21.62, (Appeals).

C. Tree removal requests filed with a development application.

1. Approval authority. The approval authority for tree removal requests filed in conjunction with a development application shall be the same approval authority as established for the accompanying development application.

2. Concurrent filing. All tree removal requests associated with a development application shall be filed concurrently with the development application and shall be subject to any required public hearing for the development application subject to the provisions of Chapter 21.64, (Public Hearing).
- D. Heritage tree removal requests. Notwithstanding any other provision of this Chapter, the following provisions shall apply to requests for removal of heritage trees:
1. Requests filed independent of development applications. The historic preservation Board is the approval authority for tree removal requests for heritage trees filed independent of a development application.
  2. Requests filed in conjunction with a development application. The approval authority for heritage tree removal requests filed in conjunction with a development application shall be the same approval authority as established for the accompanying development application. Prior to the hearing before the approval authority, requests to remove heritage trees filed in conjunction with a development application shall be referred to the historic preservation Board that shall make a recommendation to the approval authority.
  3. Public hearing. A public hearing by the approval authority is required for all heritage tree removal requests in compliance with the provisions of Chapter 21.64, (Public Hearing).
- E. Final decision/timing of tree removal. No tree for which a tree removal permit is required shall be removed until all conditions of the permit have been satisfied and the decision has become final. In addition, tree or trees approved for removal in conjunction with a development application shall not be removed prior to the issuance of building permit or unless all of the conditions of approval of the development application are satisfied.

**Table 3-4 TREE TYPE AND PERMIT PROCESS SUMMARY**

<b>TYPE OF TREE REMOVAL REQUEST</b>	<b>PROTECTED TREE TYPES</b>	<b>SIZE TREE PROTECTED<sup>1</sup></b>	<b>PERMIT AUTHORITY FOR REMOVAL</b>	<b>APPEAL PROCESS<sup>2</sup></b>
Tree removal requests on all properties (except R-1 <sup>3</sup> ) not in conjunction with a development application.	Any tree except fruit trees <sup>5</sup> and trees of the genus Myrtaceae <sup>6</sup>	12-inch diameter (38-inch circumference)	Community Development Director	Planning Commission and City Council
Tree removal requests on R-1 <sup>3</sup> not in conjunction with a development application	Trees of the species: Oaks (Quercus) Cedars (Cedrus) Ash (Fraxinus) Redwoods (Sequoia)			



Tree removal requests on all properties in conjunction with a development application	Any tree except fruit trees <sup>5</sup> and trees of the genus Myrtaceae <sup>6</sup>	12-inch diameter (38-inch circumference)	Community Development Director Planning Commission or City Council	Planning Commission and/or City Council
Heritage tree removal requests in all zoning districts (not in conjunction with a development application) <sup>4</sup>	Any Heritage tree	None specified	Historic Preservation Board	Planning Commission and City Council
Heritage tree removal requests in all zoning districts (in conjunction with a development application) <sup>4</sup>	Any Heritage tree	None specified	Planning Commission or City Council	City Council
Trees required as a Condition of a Development Approval	Any tree required to be retained or planted	None required	Community Development Director	Planning Commission and City Council

Notes:

- <sup>1</sup> Minimum size and greater - measured four feet above grade adjacent to the trunk.
- <sup>2</sup> Appeals shall be filed in writing to the city clerk within ten calendar days from the decision on the permit.
- <sup>3</sup> Developed single-family residential property zoned R-1 or Planned Development.
- <sup>4</sup> Tree removal request filed in conjunction with a development application shall be reviewed concurrently with the development application in compliance with section 21.32.090.C, (Tree removal request filed with a development application).
- <sup>5</sup> Fruit trees as defined in Section 21.32.020, (Definitions).
- <sup>6</sup> Any variety of eucalyptus (genus Myrtaceae) tree.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

**21.32.100 Replacement trees.**

A. Number and size of replacement trees. The minimum number and size of replacement tree(s) shall be based on the number, size, and species of tree(s) requested to be removed. The species of replacement tree(s) shall continue the diversity of trees found in the community.

The minimum guidelines for tree replacement are as follows:

**Table 3-5  
Replacement Tree Requirements**

Trunk Size of Removed Tree (measured at 4 feet above grade)		Replacement Ratio Required (per tree removed)	
Diameter (in inches)	Circumference (in inches)	Number of replacement trees	Minimum Size
12 to 24	38 to 75	1	24 inch box
greater than 24	greater than 75	1	36 inch box
Heritage Trees		1	48 inch box

- B. Replanting plan. A replanting plan shall be made a requirement of the tree removal permit, and is subject to approval by the approval authority prior to issuance of the tree removal permit unless an in-lieu fee in compliance with Section 21.32.110, (Site limitations/in-lieu fee for replacement) is approved by the approval authority. The replanting plan shall be subject to the following:
1. The replanting plan shall include a site plan of the subject property with the location and species of the proposed replacement trees.
  2. All replacement trees required by the approved replanting plan shall be obtained and planted at the expense of the applicant.
  3. If the tree removal request was filed in conjunction with a development application, in compliance with Section 21.32.090, (Approval authority and permit process), all replacement trees shall be installed prior to the issuance of a certificate of occupancy for the development.
  4. If the tree removal request was not filed in conjunction with a development application all replacement trees shall be installed within thirty days from the date the tree removal permit is issued unless accepted arboricultural practices dictate a preferential planting period for the species chosen as the replacement tree. The community development director may require a cash deposit to secure the planting of a replacement tree(s).
  5. City staff shall be allowed to enter the property to verify the installation of the replacement trees.
  6. The community development director shall have the authority to approve an increase in the number of the on-site replacement trees and reduce the required size of the trees for developed single-family residential properties, when appropriate.
- C. Maintenance bond. The approval authority may require a faithful performance bond, maintenance bond or other security deposit when tree replacement is required by this chapter. The bond shall be in an amount of money and for a period of time determined by the community development director to ensure acquisition and proper planting and maintenance of the replacement trees. The bond shall be paid to the city prior to the issuance of the tree removal permit.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

### **21.32.110 Site limitations/in-lieu fee for replacement.**

- A. Site limitations. If the site layout cannot reasonably accommodate the number of trees required in compliance with the replacement ratios and/or tree spacing consistent with standard forestry practices, the approval authority shall either:
1. Approve an increase in the size of the on-site replacement trees and reduce the number of trees required. The quantity and quality of the replacement trees shall be sufficient to produce a reasonable tree canopy for the size of the lot; or
  2. Require payment of an in-lieu fee in compliance with subsection B of this section for the required number of trees or any portion thereof.
- B. In-lieu fee. Payment of a fee shall be made to the city for tree planting elsewhere in the community should on-site location of the replacement trees not be possible, subject to the following:
1. The in-lieu fee will be based on the fair market value of the number of trees required by Section 21.32.100, (Replacement trees) for the same or equivalent species, delivered and installed, as determined by the public works director.
  2. The fees will be used to purchase trees that will be planted within the public right-of-way or on other public property as directed by the public works department.
  3. Payment of the in-lieu fee shall be made prior to issuance of the tree removal permit.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

### **21.32.120 Delegation of functions.**

The community development director may delegate any or all of the administrative duties authorized by this article to one or more staff members.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

### **21.32.130 Heritage tree designations.**

- A. Applications. Applications for designation of a heritage tree on private or public property may be initiated by any person subject to the property owners' written consent. The applicant requesting heritage tree designation shall submit an application in compliance with instructions provided by the community development director and shall include the following:
1. Assessor's parcel number of the site;
  2. Description detailing the proposed heritage tree's special aesthetic, cultural, or historic value of community interest;
  3. Photographs of the tree(s).
- B. Historic preservation Board review. The historic preservation Board shall conduct a review of the proposed heritage tree, based upon the information or documentation as it may require from the applicant, a commission, staff or from other available sources. A tree may

be designated as a heritage tree upon a finding that it is unique and important to the community due to any of the following factors:

1. It is an outstanding specimen of a desirable species;
  2. It is one of significant age and/or girth in Campbell;
  3. It has cultural, educational, economic, agricultural, social, indigenous, or historical heritage of the city.
- C. Historic preservation Board hearing. The historic preservation Board shall hold a public hearing on any proposed designation within thirty days after the application is deemed complete and shall render a decision to approve, deny, or continue the hearing for more information.
- D. Recordation of heritage tree designation. If the heritage tree designation is approved, the city shall record the designation with the county recorder's office and a copy shall be provided to the property owner and the community development department. A listing of designated heritage trees and their locations shall be listed on the historic resources inventory and maintained by the community development department.
- E. Posting and notice. Hearings for heritage tree designation shall be subject to public hearing notice procedures specified in Chapter 21.64, (Public Hearings). In addition, the community development department shall post the site or tree under consideration ten calendar days prior to the hearing date with a sign setting forth the nature of the application and the date, time and place of the hearing.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

#### **21.32.140 Appeals.**

- A. Appeals. Any person aggrieved by a decision of the approval authority as specified in this chapter may appeal a decision in compliance with Chapter 21.62, (Appeals).
- B. Decisions on appeals. No decision made in compliance with this chapter shall be final until all appeal rights have expired. All applicable hearings shall be public hearings subject to Chapter 21.64, (Public Hearings).

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1 (part), 2004).

#### **21.32.150 Pruning and maintenance.**

- A. Adoption. The City of Campbell adopts the current version of the "American National Standards Institute (ANSI) A300 Part I: Tree, Shrub, and Other Woody Plant Management - Standard Practices (Pruning)", for the regulation of pruning and maintenance of protected trees. The City of Campbell recognizes the use of the current version of "Best Management Practices—Tree Pruning", prepared by the International Society of Arboriculture (ISA), as an explanatory guide for applying the ANSI A300 standards in daily tree care practice.
- B. Requirement. Pruning of a protected tree shall be performed in compliance with the adopted standards for pruning and maintenance of protected trees specified by subsection (A), above.
- C. Violation. Pruning of a protected tree not performed in compliance with subsection (A), above, as determined by the community development director, shall constitute severe trimming, and is a violation of this Chapter, subject to applicable penalties pursuant to Section 21.70.040, (Penalties).

### **21.32.155 Arborist reports.**

Preparation of an arborist report required under this Chapter shall be subject to the following:

- A. Selection. The arborist report shall be prepared by a certified arborist selected by the community development director and under the direction of the community development department.
- B. Fees and payment. The cost of the arborist report, plus an administrative review fee as adopted by the City Council, shall be remitted by the applicant prior to preparation of the arborist report.
- C. Content. The content of the arborist report shall be in compliance with Section 21.32.020, (Definitions - arborist report), or as otherwise required by the community development director as necessary to provide sufficient information to determine the merits of the application.
- D. Action of the City. The approval authority shall take into consideration the conclusions and recommendations of the arborist report. However, the arborist report shall be considered advisory only and its conclusions and recommendations shall not be binding upon the approval authority as to any determinations made under this Chapter.
- E. No involvement in removal. A certified arborist, including any tree maintenance firm or corporation, owned, operated or otherwise affiliated with such arborist, shall refrain from any and all involvement in removal of the tree reviewed under this Chapter. Violation of this provision shall be subject to applicable penalties pursuant to Section 21.70.040, (Penalties).

### **21.32.160 Violations/penalties.**

The violation of any provision contained in this chapter shall be punishable as prescribed in Chapter 21.70, (Enforcement). In addition thereto, any person unlawfully removing or destroying any tree without a permit or severely trimming a protected tree shall be subject to the following:

- A. Tree replacement penalty. Replacement trees shall be planted at a minimum of two times the replacement ratio described in Section 21.32.100, (Replacement trees) for trees unlawfully removed from developed single-family residential. Replacement trees shall be planted at a minimum of four times the replacement ratio described in Section 21.32.100, (Replacement trees) for tree unlawfully removed from all other properties. The exact replacement ratio shall provide, in the opinion of the community development director, an equivalent aesthetic quality that shall be based on the size, height, location, appearance, and other characteristics of the unlawfully removed tree.
- B. Payment for value of unlawfully removed tree(s). Where replacement trees will not provide equivalent aesthetic quality because of the size, age, or other characteristics of the unlawfully removed tree, the community development director shall estimate the value of the removed tree using the latest edition of The Guide for Establishing Values of Trees and Other Plants, prepared by the council of tree and landscape appraisers, as a resource. Upon the determination of the value, the community development

director, may require a cash payment to the city to be added to a street tree fund for the cost of purchasing trees for installation within the public right-of-way or on other public property as directed by the public works department.

- C. Combination of cash payment and tree replacement. If the site layout cannot reasonably accommodate the required number of trees in compliance with the tree replacement penalty ratios and/or tree spacing consistent with standard forestry practices, the community development director may approve a combination of a cash payment either in whole or in part and a portion of the replacement trees in compliance with this section. The cumulative value of the cash payment and the replacement trees shall be equivalent to the monetary, aesthetic, and environmental value of the unlawfully removed tree.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1(part), 2004).

(Ord. No. 2169, § 2(Exh. A), 6-4-2013)

### **21.32.170 No liability upon city.**

Nothing in this chapter shall be deemed to impose any liability upon the city or upon any of its officers or employees, nor relieve the owner or occupant of any private property from the duty to keep in safe condition any trees upon his/her property or upon a public right-of-way over his/her property.

(Ord. 2070 § 1 (Exh. A)(part), 2006: Ord. 2043 § 1(part), 2004).