

Division C16 TREE PRESERVATION AND REMOVAL

Sec. C16-1. Intent.

The Board of Supervisors finds that it is necessary to enact this ordinance to promote the public health, safety, general welfare and prosperity of the County, while recognizing and respecting individual rights to develop, maintain and enjoy private property to the fullest possible extent, consistent with the public interest, convenience and necessity. The County recognizes the substantial economic, environmental and aesthetic importance of its tree population. The County finds that the preservation of all trees in private and public property is necessary for the best interests of the County and its citizens in order to:

- (a) Establish and maintain the optimum amount of tree cover on public and private lands in the County;
- (b) Protect property values;
- (c) Preserve and protect aesthetic and scenic beauty;
- (d) Prevent erosion of topsoil and protect against flood hazards and the risk of landslides;
- (e) Counteract the pollutants in the air;
- (f) Protect against high winds;
- (g) Maintain the climatic balance and provide shade;
- (h) Provide habitat to a variety of wildlife species; and
- (i) Protect valuable historical and community assets.

The Board of Supervisors further finds that it is necessary and desirable to protect and preserve those trees which, because of their history, girth, height, species, or other unique quality, have a special significance to the community. As a result, heritage trees shall be given additional protections under this chapter, as provided in Section C16-13 and Section C16-17(c).

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-2. Definitions.

When used in this division, the following terms shall have the following meanings:

Commercial tree species shall mean any tree species defined as "commercial species" by the California Forest Practice Rules, which include but are not limited to Coast Redwood, Douglas Fir, Monterey Pine, Jeffrey Pine, and Ponderosa Pine (Group A). Commercial tree species shall also include Tanoak, Eucalyptus, California Black Oak and Pacific Madrone (Group B) when such trees are found on lands where the species in Group A are now growing naturally or have grown naturally in the recorded past.

Encroachment permit provides authorization to remove, cut or alter any tree growing within or upon any County road right-of-way.

Hardwood shall mean trees that are angiosperms, usually broad leaved, which include but are not limited to Oak, Maple, Madrone, Blue Gum and Bay.

Heritage tree shall include any tree which, because of its history, girth, height, species, or other unique quality, has been recommended for inclusion on the heritage resource inventory by the Historical Heritage

Commission and found by the Board of Supervisors to have special significance to the community, and which has therefore been included in the heritage resource inventory adopted by resolution of the Board of Supervisors.

Notice shall refer to notice in writing, sent by first class mail.

Oak tree shall mean hardwood tree or shrub in the genus *Quercus*. This includes but is not limited to Valley Oak (*Quercus lobata*), Coast Live Oak (*Quercus agrifolia*), Blue Oak (*Quercus douglasii*), California Black Oak (*Quercus kelloggii*), Scrub Oak (*Quercus dumosa*), Canyon Live Oak (*Quercus chrysolepis*), Interior Live Oak (*Quercus wislizeni*), and Oregon White Oak (*Quercus garryana*).

Person shall mean an individual, firm, association, corporation, and their employees, agents and representatives, or a public agency, including the County and its departments.

Private property shall mean all property not owned by the County of Santa Clara or any other public agency.

Prune shall mean to trim or cut away any limbs or branches of a tree which will not adversely impair the health of the tree.

Public property shall mean all property owned or leased by the County of Santa Clara, any other city, county, special district or other public agency in the unincorporated area of Santa Clara County.

Remove and *removal* shall include cutting down, burning, poisoning, or otherwise diminishing the vigor of or destroying a tree, as well as adversely pruning or topping a tree.

Tree means any woody plant rising above the ground with a trunk which has a circumference of 37.7 inches or more (12 inches or more in diameter) measured at 4.5 feet above the ground or immediately below the lowest branch, whichever is lower, or in the case of multi-trunk trees a trunk size of 75.4 inches in circumference or more (24 inches or more in diameter).

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.302, § 4, 12-18-01)

Sec. C16-3. Administrative permit/encroachment for tree removal required.

Except as otherwise provided below in Section C16-4 of this division, it shall be unlawful for any person to remove any protected tree on any private or public property in designated areas of the County without having first obtained an administrative permit [(a) through (f) ~~(e)~~ below] from the County Planning Office or an encroachment permit [(g) ~~(f)~~ below] from the Department of Roads and Airports. Requirements for obtaining a use permit or special permit are outlined in Section C16-5 and Section C16-6 below.

A protected tree shall consist of any of the following:

- (a) Any tree having a main trunk or stem measuring 37.7 inches or greater in circumference (12 inches or more in diameter) at a height of 4½ feet above ground level, or in the case of multi-trunk trees a total of 75.4 inches in circumference (24 inches or more of the diameter) of all trunks in the following areas of the County:
 - (1) Parcels zoned "Hillsides" (three acres or less);
 - (2) Parcels within a "-d" (Design Review) combining zoning district;
 - (3) Parcels within the Los Gatos Hillside Specific Plan Area.
- (b) Any tree within the "-h1" Historic Preservation zoning district for New Almaden having a main trunk or stem measuring six inches or more in diameter (18.8 inches or greater in circumference) at a height of 4.5 feet above ground level, or in the case of multi-trunk trees, a total of 12 inches in diameter (37.7 inches in circumference) of all trunks at 4.5 feet above ground. For parcels having a base zoning district of "HS, Hillside" within the "-h1" combining zoning district, this provision supersedes C16-3(a)(1).

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- (c) Any heritage tree, as that term is defined in Section C16-2.
 - (d) Any Oak tree, as defined in Section C16-2, located within the County and with circumference of 117 inches or greater (37.5 inches or more in diameter) at a height of 4 1/2 feet above ground level.
 - (e) ~~(d)~~ Any tree required to be planted as a replacement for an unlawfully removed tree, pursuant to Section C16-17(e) of this division.
 - (f) ~~(e)~~ Any tree that was required to be planted or retained by the conditions of approval for any use permit, building site approval, grading permit, architectural and site approval (ASA), design review, special permit or subdivision.
 - (g) ~~(f)~~ On any property owned or leased by the County, any tree which measures over 37.7 inches in circumference (12 inches or more in diameter) measured 4.5 feet above the ground, or which exceeds 20 feet in height.
 - (h) ~~(g)~~ Any tree, regardless of size, within road rights-of-way and easements of the County, whether within or without the unincorporated territory of the County.

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.302, § 5, 12-18-01)

Sec. C16-4. Exceptions.

Except in the case of heritage trees and protected oak trees, no permit shall be required from the Planning Office for the cutting, removal, destruction, or pruning of a tree in the following circumstances:

- (a) The tree is (1) irreversibly diseased, is dead, or is dying (a determination by a licensed arborist, tree surgeon, or forester may be required to verify that a tree is diseased or dying); or (2) the tree is substantially damaged from natural causes. A tree shall be found to be substantially damaged when one-third or more of the tree has been destroyed or must be removed.
- (b) Tree cutting to remove a hazard to life and personal property as determined by the Planning Director, or his or her designee. In the case of an emergency or dangerous condition of a tree requiring immediate action for the safety of life or property, such necessary action may be taken to remove the tree or otherwise reduce or eliminate the hazard without complying with the other provisions of this part, except that the person responsible for the cutting or removal of the trees shall report such action to the Planning Director or his or her designee within five working days thereafter.

It shall be the responsibility of the property owner or other person responsible for removing the tree to demonstrate that any tree removed without a permit was irreversibly diseased, substantially damaged, or presented an imminent danger to human life or safety or to property. Credible evidence shall include, but shall not be limited to, a photograph, video, or written opinion of an arborist, forester, or other expert qualified to render such an opinion. Such reports are to be obtained at the expense of the applicant. If possible, request verbal permission from the Planning Director or his or her designee before taking any action. *Note:* In the case of a road right-of-way, refer to the Road Commissioner or his or her designee.

- (c) Trees planted, grown and/or held for sale by licensed nurseries and/or tree farms or the removal or transplanting of such trees pursuant to the operation of a licensed nursery and/or tree farm.
- (d) Trees in the active production of agriculture or orchard production, where there is no active plan to convert the property to another use.
- (e) Tree removal necessary to carry out building site approval or other land use application approved by the County. However, no removal shall be permitted until such grading or building permit has been

issued by the County as indicated on approved plans. The number of trees cut may not exceed the minimum number necessary to carry out the permitted action.

- (f) Maintenance work within public utility easements.
- (g) Trees removed or pruned as part of maintenance of County parks under established policies and procedures of the Parks and Recreation Department.
- (h) Trees removed or pruned as part of maintenance of County right-of-way under established policies and procedures of the Department of Roads and Airports.
- (i) Trees removed on properties with a comprehensive vegetative management program approved by the County.

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-5. Tree removal in the Agricultural Ranchlands (AR) zoning district.

- (a) *Matter of right.* Hardwood tree cutting for firewood, including for sale provided that:
 - (1) The following cord limitations apply:
 - a. No more than ten cords per year shall be cut on parcels 100 acres or less.
 - b. No more than 25 cords per year shall be cut on parcels between 100 acres and 300 acres.
 - c. No more than 50 cords per year shall be cut on parcels between 300 acres and 600 acres.
 - d. No more than 100 cords per year shall be cut on parcels over 600 acres.
 - (2) No more than ten percent of the trees on a parcel shall be clear cut in any one year.
 - (3) No more than ten percent of the trees over 37.7 inches in circumference may be cut in any one year on any parcel.
- (b) *Special permit.* Hardwood tree cutting for firewood, including for sale; when the requirements of Section C16-4(a)(1) are exceeded the following cord limitations shall apply:
 - (1) No more than 20 cords per year may be cut on any parcel of 100 acres or less.
 - (2) No more than 50 cords per year may be cut on any parcel between 100 and 300 acres.
 - (3) No more than 100 cords per year may be cut on any parcel between 300 and 600 acres.
 - (4) No more than 200 cords per year may be cut on any parcel over 600 acres.

A written statement shall be provided indicating the location of the operation and describing the operation and, if necessary, mitigation measures to control excessive erosion.

Specific findings:

- (1) Adequate erosion control measures are provided.
 - (2) Only chain saws, pickups, small trucks (2T) and splitters shall be used.
- (c) *Use permit.* Hardwood tree cutting for firewood, including for sale, when the following cord limitations are exceeded:
 - (1) Over 20 cords per year on any parcel of 100 acres or less.
 - (2) Over 50 cords per year on any parcel between 100 and 300 acres.
 - (3) Over 100 cords per year on any parcel between 300 and 600 acres.

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- (4) Over 200 cords per year on any parcel over 600 acres.

A harvesting program shall be provided, including necessary maps and a description of the operation and, if necessary, mitigation measures to control excessive erosion.

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-6. Tree removal in the Hillside (HS) zoning district.

- (a) *Matter of right.* Except for parcels within the "-h1, New Almaden Historic Preservation zoning district," the following provisions shall apply: Parcels greater than three acres: Tree removal provided the yield is not more than ten percent of trees over 37.7 inches circumference (12 inches or more in diameter) measured 4.5 feet above the ground per year on any parcel, together with contiguous parcels under the same ownership. No more than ten cords of wood per year shall be cut on parcels of 100 acres or less, and no more than 25 cords per year shall be cut on parcels larger than 100 acres.

Note: Cutting of "commercial" tree species (as defined in Section C16-2) may require a permit from the California Department of Forestry and Fire Protection (CDF). Prior to cutting, it shall be the property owner's responsibility to obtain any necessary permit(s) or notice of exemption from CDF.

- (b) *Use permit.* Removal of more than ten percent of trees over 37.7 inches circumference (12 inches or more in diameter) measured 4.5 feet above the ground per year on any parcel, together with contiguous parcels under the same ownership; cutting of trees for wood in an amount more than ten cords per year on any parcel of 100 acres or less or more than 25 cords per year on any parcel larger than 100 acres. In no case shall yield exceed 100 cords of wood per year on any parcel and contiguous parcels under the same ownership.

Specific findings:

- (1) The use shall not create noise, water pollution or traffic congestion adversely affecting the neighborhood.
 - (2) The applicant has submitted a plan showing that good harvesting practices will be used.
 - (3) The applicant has obtained any necessary permit(s) or notice of exemption from the California Department of Forestry and Fire Protection for such cutting.
- (c) *Commercial timber harvest plans.* Tree cutting as part of commercial timber harvest plans shall be conducted in accordance with the state forest practice rules, as administered by the California Department of Forestry and Fire Protection.

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.302, § 6, 12-18-01)

Sec. C16-7. Permit applications.

Any person desiring to remove any tree regulated herein shall file an application with the County Planning Office for an administrative permit not less than ten days prior to the date of such planned removal. In the case of heritage trees, such application must be made not less than 90 days prior to the date of the planned removal, following the hearing procedures set forth in Section C16-12 and Section C16-13 below. Any application for a special permit or use permit for tree cutting shall be filed in accordance with procedures set forth in Chapters 5.60 and 5.65 of the County Zoning Ordinance. Removal of any tree, regardless of size, located within a County road right-of-way shall require an encroachment permit from the Department of Roads and Airports not less than 60 days prior to planned removal.

Any permit application to remove a tree having a main trunk or stem measuring 37.7 inches or greater in circumference (12 inches or more in diameter) at a height of 4.5 feet above ground level located within the Los Gatos Hillside Specific Plan, as indicated in Section 5.50.070 of the County Zoning Ordinance, shall be reviewed by both the Town of Los Gatos and the County.

In addition to standard information required as part of all applications for administrative permits, special permits, use permits or encroachment permits, the following information shall be included in such applications for tree removal:

- (a) A brief statement of the reasons for removal of the tree.
- (b) A photograph of the tree(s) proposed for removal.
- (c) A description of the method to be used in the removal of the tree(s). Applicant should demonstrate that good harvesting practices will be used.
- (d) A tree survey (map) with the accurate location, number, species, size (diameter measured 4.5 feet above ground, approximate height, and approximate canopy diameter), general health, and approximate age, if known, of the tree or trees in question.
- (e) A replanting and/or re-vegetation plan for all trees to be removed. Efforts should be made to replace replacement trees on the subject site. Replacement trees shall be as specified in Sec. C16-18. Replacement trees shall be of a like kind and species of tree removed, if native and feasible, or of a kind and species to be determined by the Planning Department. The location of the replacement tree(s) need not be in the same location of the tree removed. Replacement tree planting shall utilize at least five-gallon size stock. The ratio of trees removed to trees planted shall be determined by the Planning Department. as specified in Section C16-18. An erosion control plan may also be required where deemed appropriate by County staff.
- (f) Where there is limited room to plant replacement trees based on licensed arborist's determination, an in-lieu payment will be required and placed in a fund managed by the Office of Sustainability and Resilience in place of replacing trees to be used for future planting and maintenance of replacement trees in priority areas for tree planting. Required in-lieu fee will be in accordance with the pre-determined fee schedule established in partnership with the Office of Sustainability and Resilience at the time of permit issuance.
- (g) (f) Any other pertinent information, such as property lines, names of the streets fronting the property and edge of the County road right-of-way.

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.318, § 30, 3-28-06)

Sec. C16-8. Fees.

The application for a special permit or use permit for tree removal shall be accompanied by a fee, as set by ordinance by the Board of Supervisors. No fee shall be assessed for an administrative permit for tree removal. No amendment of this section to provide for a fee for an administrative permit for tree removal may be approved without the consideration of the Board of Supervisors of all provisions of this Division C16 of the County Ordinance Code.

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-9. Display of permit/notice to neighbors.

For all unincorporated parcels, the approved tree removal permit shall be posted on the site a minimum of seven calendar days prior to actual tree removal operations and shall be available to any person for inspection. The

issued permit shall be posted in a conspicuous place at eye level at a point near the closest street or roadway. It shall be the property owners' responsibility to see that adjoining property owners also receive a copy of said tree removal permit a minimum of seven calendar days prior to actual tree removal operations. Removal of the subject tree(s) shall be allowed to take place at the end of the seven-day noticing period if no written objection to the issuance of the permit has been received by planning staff.

Noticing for a special permit or use permit shall take place in accordance with procedures set forth in Section 5.20.110 of the Zoning Ordinance.

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.318, § 31, 3-28-06)

Sec. C16-10. Appeals.

Any person who disagrees with an action of the Planning Office with respect to an application for a tree removal permit may appeal to the County Planning Commission. A written notice of appeal shall be filed with the Planning Office within seven days of such action. Upon the acceptance and filing of the notice of appeal, the Planning Director shall set a date of public hearing thereon by the Planning Commission. Such hearing shall take place no more than 30 days after the date of filing of the appeal, or the first meeting date of the Planning Commission thereafter, whichever comes later. The Planning Director shall give written notice of the hearing to the appellant (if not the applicant) and to the applicant. The Planning Commission shall hear all matters on appeal de novo and shall take action within a reasonable time after the conclusion of the hearing.

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-11. Criteria for permit approval.

The Planning Office or any other person or body charged with determining whether to grant, conditionally grant or deny an administrative permit, special permit, use permit, or encroachment permit for tree removal shall take into account the following factors in determining what action to take upon the permit application:

- (a) The condition of the tree with respect to disease or damage, imminent danger to human life or safety, imminent danger to property, proximity to existing or proposed structures, and interference with utility services where the problem cannot be corrected by pruning.
- (b) The potential impact the removed tree or trees may have upon adjacent trees (i.e. increased windthrow). Where appropriate, removal may necessitate an assessment of potential impacts upon adjacent trees by a certified arborist or forester, along with the development of mitigations to lessen such impacts.
- (c) The required action is necessary to allow reasonable economic or other enjoyment of the property.
- (d) The topography of the land and the effect of the proposed tree removal upon erosion, soil retention, and the diversion or increased flow of sediment.
- (e) The number, species, size, and location of existing trees in the area, and the effect the proposed removal would have upon shade, privacy impact, scenic beauty, and property values of the area.
- (f) The historical significance of the tree to the community.
- (g) The tree is a detrimental/undesirable species for park strip planting. Included are: Lombardy Poplar, palm tree (in a "non-palm" tree area), Silk Oak, Fruitless Mulberry, Siberian Elm, female Ginkgo, Liquidambar, Eucalyptus, fruit bearing and Monterey Pine.
- (h) The tree has caused repeated sewer/sidewalk damage and created a sewer/sidewalk problem that cannot be resolved by any other means.

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- (i) Removal of the tree would benefit roadway usage, i.e. road widening, sidewalk installation, etc., as determined by Department of Roads and Airports staff.

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-12. Heritage trees.

Any tree which, because of its history, girth, height, species, or other unique quality, has been recommended by the Historical Heritage Commission (HHC) and found by the Board of Supervisors to have a special significance to the community shall be designated a heritage tree. Such trees shall be listed individually on the heritage resource inventory, adopted by resolution of the Board of Supervisors. Such resolution may be amended as necessary to add or delete trees from the inventory.

- (a) Any person, including the property owner, as well as the Board of Supervisors and the HHC, may nominate a tree for inclusion on the heritage resource inventory.
- (b) When a tree has been nominated for addition to the heritage resource inventory, a public hearing shall be held before the HHC. Notice of the hearing shall be sent to the owner of the property on which the tree is located at least ten days prior to the date of such hearing.
- (c) The HHC shall conduct a hearing on the issue of placement of a tree on the heritage resource inventory. Any person may present evidence on the issue. The HHC shall make findings supporting its recommendation to the Board of Supervisors to include a tree or trees on the heritage resource inventory.
- (d) The Board of Supervisors shall conduct a hearing on the recommendation of the HHC to place a tree or trees on the heritage resource inventory. Notice of hearing shall be sent to the owner of the parcel upon which the tree is located. Evidence may be presented by any person. Notice of action on the recommendation shall be given to the owner of the parcel on which the tree is located.

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.302, § 7, 12-18-01)

Sec. C16-13. Removal of heritage trees.

Where the tree in question has been designated as a heritage tree, all applications for a tree removal permit shall be forwarded to the County Historical Heritage Commission (HHC) by the Planning Office. A site visit may be conducted by representatives of the HHC and a written opinion from an arborist, forester, or other expert may be required to evaluate the status of the tree. Such reports shall be obtained at the expense of the applicant.

A public hearing shall be conducted, notice of which must be given by the HHC to the owner of the property on which the tree is located, as well as all other persons residing within 300 feet of the subject property, not less than seven days prior to the date of such hearing. Following the hearing, the Commission shall make a recommendation to the Board of Supervisors as to whether to grant, conditionally grant, or deny the application for tree removal permit. The Board of Supervisors shall then adopt or reject the recommendation of the Commission by resolution, unless the applicant elects to withdraw his or her application following the recommendation of the Historical Heritage Commission that such application be denied. The decision of the Board of Supervisors shall be forwarded to the Planning Office for issuance of the final permit. The determination of the Board of Supervisors shall be final.

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-14. Expiration of permit.

If work authorized by an approved tree removal permit has not commenced within one year from the date of approval of such permit, the permit shall be considered void.

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-15. Removal of debris.

Upon completion of tree removal, it shall be the property owner's responsibility to assure that surface fuels created by tree cutting operations which could promote the spread of wildfire, including logging slash and debris, deadwood, branches exceeding one inch in diameter, and brush, shall be chipped or removed within 14 days of completion of all work.

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-16. Liability disclaimer.

The County hereby disclaims liability for any personal injury or property damage caused by trees on private property. Nothing in this article shall be deemed to relieve the owner or occupant of any private property from the duty to keep in safe condition any tree upon his or her property.

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-17. Penalties and remedies.

Any violation of the provisions of this chapter is hereby declared to be unlawful and shall constitute a public nuisance and/or a misdemeanor, subject to the following civil and/or criminal penalties and remedies:

- (a) Any person violating the provisions of this chapter shall incur a civil penalty in the amount of \$5,000.00 per individual tree cut, destroyed, killed, removed, or adversely pruned. Such civil action shall be brought in the name of the County of Santa Clara by the office of County Counsel.
- (b) In addition to any civil penalty, any person who engages in the removal or adverse pruning of a tree without a permit or failure to comply with the noticing requirements set forth in Section C16-9 is guilty of a misdemeanor, punishable by a fine not to exceed \$1,000.00 and/or six months in the County jail, and for restitution. Such criminal action shall be brought in the name of the County of Santa Clara by the office of the District Attorney.
- (c) Any person violating the provisions of Section C16-11 of this chapter, relating to heritage trees, shall incur a civil penalty in an amount from \$10,000.00 to \$200,000.00 per heritage tree thus cut, destroyed, killed, removed, or adversely pruned. The amount of the fine shall take into account whether the removal was intentional and whether the trees were rare, ancient, of exceptional size or age, or of exceptional historical significance to the community. Such action shall be brought in the name of the County of Santa Clara by the office of County Counsel. In addition to any civil penalty, any person violating the provisions of Section C16-11 of this division shall incur a criminal penalty in an amount from \$10,000.00 to \$200,000.00 per heritage tree thus cut, destroyed, killed, removed, or adversely pruned.
- (d) In addition to any other remedy, the County of Santa Clara may seek to enjoin such unlawful activity, immediately upon receiving notification that any person is engaged in the act of removing or pruning a

tree in violation of this chapter. The cost of such injunction shall become a lien on the property where such unlawful activity took place.

- (e) In addition to any other applicable penalties, any person unlawfully removing or pruning a tree without a permit may be required to replace the unlawfully removed tree with ten trees of a like kind and species where feasible, or of a kind and species to be determined by the Planning Department.
- (f) Any person obtaining a permit to remove any tree subject to the provisions of this article through the intentional use of misinformation or by intentionally providing misinformation to the Planning Department shall be in violation of this chapter and shall incur the criminal and/or civil penalties provided for in Subsections (a) through (e) above.
- (g) All civil and criminal penalties and restitution assessed and collected pursuant to Subsections (b) and (c) shall be placed in a tree preservation fund, to be used for planting trees anywhere in the unincorporated areas of the County of Santa Clara. The tree preservation fund will be administered by the County of Santa Clara or its designee.

(Ord. No. NS-1203.107, § 1, 2-11-97)

Sec. C16-18. Replacement of Trees

All protected trees 12 inches in diameter or more (at 4.5 feet above the ground) proposed for removal shall be replaced.

- (a) For the removal of one small tree (12-18 inches in diameter), three (3) 15-gallon trees or two (2) 24-inch box trees shall be replaced.
- (b) For the removal of one medium tree (18-24 inches in diameter), four (4) 15-gallon trees or three (3) 24-inch box trees shall be replaced.
- (c) For the removal of a tree larger than 24 inches in diameter, five (5) 15-gallon trees or four (4) 24-inch box trees shall be replaced.
- (d) If trees being removed are native and a species on the Preferred Planting Tree List, trees shall be replaced for like for like. Otherwise, replacement trees shall be native and selected from the Preferred Planting Tree List made available by the County. (See Appendix D Santa Clara County native/ naturalized trees list).
- (e) Oak trees shall be replaced with oak trees (no exceptions taken).
- (f) No tree removal shall be permitted until such grading or building permit has been issued by the County as indicated on approved plans. The number of trees cut may not exceed the minimum number necessary to carry out the permitted action. Additional conditions may need to be established for scheduled arborist reports, and stipulations on replanting replacement trees in the case that the original replacement trees die.
- (g) On properties where there is limited room to plant replacement trees based on licensed arborist's determination, an in-lieu payment will be required and placed in a fund managed by the Office of Sustainability and Resilience in place of replacing trees to be used for future planting and maintenance of replacement trees in priority areas for tree planting. Required in-lieu fee will be in accordance with the pre-determined fee schedule established in partnership with the Office of Sustainability and Resilience at the time of permit issuance.
- (h) If project has the potential to cause significant impact to Oak Woodland as stated in The Santa Clara County Planning Office Guide to Evaluating Oak Woodlands Impacts, then additional mitigation measure will be required for discretionary projects.