

ORDINANCE NO. 616

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ATASCADERO, CALIFORNIA, AMENDING THE
ATASCADERO MUNICIPAL CODE, TITLE 9, CHAPTER 11,
ATASCADERO NATIVE TREE ORDINANCE**

(PLN 2017-1679)

WHEREAS, an application has been received from the City of Atascadero (6500 Palma Ave., Atascadero, CA 93422), to consider Zone Change Text Amendments to Title 9, Chapter 11 Atascadero Native Tree Ordinance and Atascadero Native Tree Guidelines (PLN 2017-1679); and

WHEREAS, a Notice of Exemption was prepared for the project and made available for public review in accordance with the requirements of the California Environmental Quality Act (CEQA); and

WHEREAS, the Planning Commission has determined that it is in the best interest of the City to enact amendments to Title 9 Planning and Zoning of the Atascadero Municipal Code for consistency with the General Plan and to maintain a clear and legible set of Zoning Regulations that is easily interpreted by the public and staff; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject Planning and Zoning Text Change application was held by the Planning Commission of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said Planning and Zoning Text Amendments; and

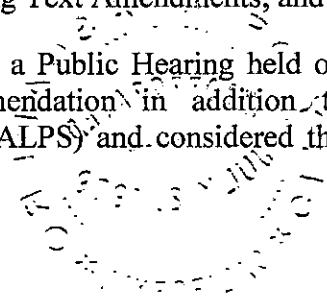
WHEREAS, the Planning Commission of the City of Atascadero, at a Public Hearing held on February 20, 2018, studied and considered PLN 2017-1679; and

WHEREAS, the Planning Commission of the City of Atascadero has recommended approval of proposed amendments to Title 9, Chapter 11 of the Atascadero Municipal Code as presented to them on February 20, 2018 and encouraged staff to work with the Atascadero Land Preservation Society (ALPS) to incorporate recommendations by ALPS in the code update prior to bringing the item to Council; and

WHEREAS, the laws and regulations relating to the preparation and public notice of environmental documents, as set forth in the State and local guidelines for implementation of the California Environmental Quality Act (CEQA) have been adhered to; and

WHEREAS, a timely and properly noticed Public Hearing upon the subject Zoning Text Change application was held by the City Council of the City of Atascadero at which hearing evidence, oral and documentary, was admitted on behalf of said Zoning Text Amendments; and

WHEREAS, the City Council of the City of Atascadero, at a Public Hearing held on March 27, 2018, studied the Planning Commission's recommendation in addition to recommendations from the Atascadero Land Preservation Society (ALPS) and considered the proposed zoning text amendments.



**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF ATASCADERO
HEREBY ORDAINS AS FOLLOWS:**

SECTION 1. The above recitals are true and correct.

SECTION 2. Findings for Approval of a Zone Text Change. The City Council finds as follows:

1. The Planning and Zoning Text Change is consistent with General Plan policies and all other applicable ordinances and policies of the City.
2. This Amendment of the Zoning Ordinance will provide for the orderly and efficient use of lands where such development standards are applicable.
3. The Text Change will not, in itself, result in significant environmental impacts.

SECTION 3. Environmental Review. A categorical exemption for the Zoning Ordinance Text Amendments has been prepared and adopted as shown in Exhibit A, attached hereto and incorporated herein by reference.

SECTION 4. Introduction. The City Council of the City of Atascadero, in a regular session assembled on March 27, 2018, resolved to introduce for first reading, by title only, an Ordinance that would amend the City Zoning Code Text as shown Exhibit B, attached hereto and incorporated herein by this reference.

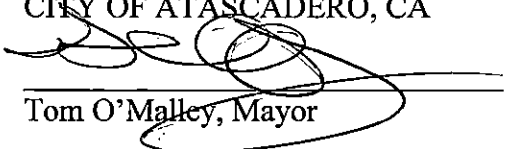
SECTION 5. Approval. Atascadero Municipal Code Title 9 Zoning Regulations is amended as detailed in Exhibit B, attached hereto and incorporated herein by this reference.

SECTION 6. A summary of this Ordinance, approved by the City Attorney, together with the ayes and noes, shall be published twice: at least five days prior to its final passage in the Atascadero News, a newspaper published and circulated in the City of Atascadero, and; before the expiration of fifteen (15) days after its final passage in the Atascadero News, a newspaper published and circulated in the City of Atascadero. A copy of the full text of this Ordinance shall be on file in the City Clerk's office on and after the date following introduction and passage and shall be available to any interested member of the public.

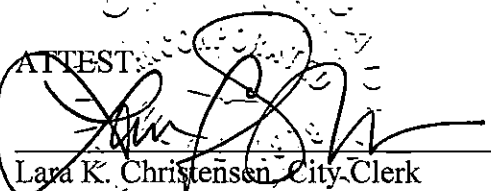
SECTION 7. This Ordinance shall take effect 30 days from the date of final passage.

INTRODUCED at a regular meeting of the City Council held on March 27, 2018, and **PASSED** and **ADOPTED** by the City Council of the City of Atascadero, State of California, on April 10, 2018.

CITY OF ATASCADERO, CA


Tom O'Malley, Mayor

ATTEST:


Lara K. Christensen, City Clerk

APPROVED AS TO FORM:



Brian A. Pierik, City Attorney

**EXHIBIT A: CEQA Exemption
Title 9 Zoning Ordinance Text Amendments**



**CITY OF ATASCADERO
NOTICE OF EXEMPTION**

6500 Palma Avenue

Atascadero, CA 93422

805.461.5000

TO: File

FROM: Kelly Gleason, Senior Planner
City of Atascadero, 6500 Palma Avenue
Atascadero, CA 93422

SUBJECT: Filing of Notice of Determination in Compliance with Section 21152 of the Public Resources Code.

Project Title: PLN 2017-1679

Project Applicant: City of Atascadero, 6500 Palma Ave, Atascadero, CA 93422

Project Location: Citywide

Project Description: This action consists of proposed Zoning Ordinance Text Amendments to The Atascadero Native Tree Ordinance Title 9, Chapter 11 to streamline the review process for native tree removals and establish a heritage tree list. The Atascadero Native Tree Guidelines is proposed to be amended for consistency with the Ordinance changes.

Name of Public Agency Approving Project: City of Atascadero

Name of Person or Agency Carrying Out Project: City of Atascadero

Exempt Status:

- | | | | |
|--------------------------|-------------------------------------|-------------------------------------|---|
| <input type="checkbox"/> | Ministerial (Sec. 15073) | <input type="checkbox"/> | Emergency Project (Sec. 1507 (b) and (c)) |
| <input type="checkbox"/> | Declared Emergency (Sec. 15061 (a)) | <input checked="" type="checkbox"/> | General Rule Exemption (Sec. 15061(b)(3)) |
| <input type="checkbox"/> | Categorically Exempt (Sec. 15303) | | |

Reasons why project is exempt: The Guidelines of the California Environmental Quality Act (CEQA) (Section 15061.(3), (b)) exempts activities that are covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The proposed text amendment will not have any significant adverse environmental impacts associated with this project application.

Contact Person: Kelly Gleason (805) 470-3446

Date: February 20, 2018

Kelly Gleason
Senior Planner

EXHIBIT B: Zone Text Change – Title 9 Zoning Ordinance

9-11.104 Definitions.

“Arborist” means a person certified by the International Society of Arboriculture or other recognized professional organization of arborists that provides professional advice and licensed professionals to do physical work on trees in the City.

“Damage” means any intentional action or gross negligence, which causes injury, death or disfigurement of a tree. Actions include, but are not limited to, cutting, girdling, poisoning, overwatering, soil compaction, unauthorized relocation or transportation of a tree or trenching, excavating, altering the grade or paving within the dripline of a tree.

“Dbh” means “diameter at breast height,” specifically four (4) feet six (6) inches above natural grade.

“Dripline” means the outermost line of the tree’s canopy projected straight down to the ground surface.

“Hazardous” means presenting an immediate danger to people or existing structures.

“Removal” means the physical destruction, displacement or removal of a tree, or portions of a tree caused by poisoning, cutting, burning, relocation for transplanting, bulldozing or other mechanical, chemical or physical means.

“Native tree” means a tree species as listed below:

Arbutus menziesii Pursh.	Madrone
Heteromeles arbutifolia Lindl.	Toyon, California Holly
Juglans hindsii Jeps.	California Black Walnut
Platanus racemosa Nutt.	California Sycamore
Quercus agrifolia Eastw.	Coast Live Oak
Quercus alvordiana Nee	Blue Oak/Desert Oak
Quercus dumosa Jeps.	Scrub Oak
Quercus durata Jeps.	Leather Oak
Quercus douglasii H&A	Blue Oak
Quercus lobata Nee	Valley
Quercus turbinella	Desert Oak
Umbellularia californica Nutt.	California Bay Laurel

“Native Tree Association” refers to the Atascadero Land Preservation Society or other successor organization recognized by the City Council to cooperate with the City in educational programs and provide advice to the City on matters related to native trees.

“Site planner” means licensed professionals, such as architects, engineers, who are hired by applicants to prepare site plans including tree protection plans.

“Tree protection plan” means a plan prepared to the specification of a certified arborist that shows how specific trees shall be protected during development and related work, including any

required mitigation measures to ensure viability of tree after construction, and includes a tree status and impact chart for all applicable trees. The project arborist shall certify that the tree protection plan is accurate if prepared by a civil engineer or other design professional.

“Tree pruning” means the cutting, detachment or separation of any limb branch or roots from a native tree.

9-11.105 Tree removal.

(a) Permit Required. Except as set forth in subsection (b), a tree removal permit shall be required for the removal of any deciduous native tree two (2) inches dbh or greater and four (4) inches dbh or greater for all other protected native trees, and for pruning of more than twenty-five percent (25%) of the live canopy in native trees. Any private or public entity doing regular maintenance in the City may seek a blanket pruning permit that may be renewed on a yearly basis.

(b) Exemptions. The following are exempt from the permit requirements of this chapter:

(1) Emergency situations which cause hazardous or dangerous conditions that have serious potential to cause immediate damage to persons or improvements on real property. Such situations must be reported to the City within forty-eight (48) hours;

(2) Trees planted, grown and maintained as part of a licensed nursery or tree farm business;

(3) Tree pruning that affects less than twenty-five percent (25%) of a tree’s live canopy within one (1) years’ time. The pruning shall be done according to current tree pruning standards as adopted by the International Society of Arboriculture;

(4) Trees removed as part of an approved “tree management plan”;

(5) Single-family residences in single-family zoning districts where a permanent dwelling exists and building or grading permits are not being sought;

(6) Emergency septic system repair and/or replacement in a single-family zoning district, where a septic system has failed as determined by the City Engineer and is considered a hazard to the health, safety, and welfare of the homeowner and adjacent property owners.

(c) Application for Tree Removal.

(1) Early Consultation. All applicants are encouraged to consult with the Community Development Department before site development that may involve any tree removal. Early consultation shall be a factor used in determining whether proposed improvements can be reasonably designed to avoid the need for tree removal.

(2) Content. The content of the tree removal application and permit shall be in a form as established by the Community Development Director. The applicant must provide the factual data to make the required finding(s) as required in this chapter.

(3) Fees. Application fees shall be established by resolution of the City Council.

(4) Arborist Report. An arborist report shall be provided when determined necessary by the Community Development Director or his designee.

(5) Posting. All native trees proposed for removal shall be identified by the applicant for field inspection as set forth in the Guidelines. When a tree removal permit is sought, the lot shall also be posted at a visible location along the project frontage for a minimum of 15 calendar days prior to approval. The notice shall be in a form approved by the City.

(d) Review and Approval.

(1) Authority. The City Council shall make decisions regarding all tree removal application requests involving designated heritage trees. All other tree removal application decisions will be made by the Community Development Department. Any Community Development Department decision may be appealed to the Planning Commission in accordance with AMC section 9-1.111.

(2) Required Findings. At least one (1) of the following findings must be made in order to approve a tree removal application:

(i) The tree is dead, diseased or injured beyond reclamation, as certified by a tree condition report from an arborist;

(ii) The tree is crowded by other healthier native trees; thinning (removal) would promote healthier growth in the trees to remain, as certified by a tree condition report from an arborist;

(iii) The tree is interfering with existing utilities and/or structures, as certified by a report from the site planner;

(iv) The tree is inhibiting sunlight needed for existing and/or proposed active or passive solar heating or cooling, as certified by a report from the site planner;

(v) The tree is obstructing proposed improvements that cannot be reasonably designed to avoid the need for tree removal, as certified by a report from the site planner and determined by the Community Development Department based on the following factors:

- a. Early consultation with the City,
- b. Consideration of practical design alternatives,
- c. Provision of cost comparisons (from applicant) for practical design alternatives,
- d. If saving tree eliminates all reasonable use of the property, or
- e. If saving the tree requires the removal of more desirable trees.

(3) Evaluative Criteria for Tree Removal. The following criteria will be considered when evaluating each tree removal application:

(i) The potential effect that tree removal could have on topography, knowing that hilltops, ravines, streambeds and other natural watercourses are more environmentally sensitive than flat or gentle sloping lands;

(ii) The potential effect that tree removal could have on soil retention and erosion from increased flow of surface waters;

(iii) The potential effect that tree removal could have on the ambient and future noise level;

(iv) The potential effect that tree removal could have on the ability of existing vegetation to reduce air movement and wind velocity;

(v) The potential effect that tree removal could have on significantly reducing available wildlife habitat or result in the displacement of desirable species;

(vi) Aesthetics;

(vii) The number, size, species, condition and location of trees to be removed;

(viii) The special need to protect existing blue and valley oaks because of regeneration problems;

(ix) The cumulative environmental effects of tree removal.

(4) Conditions of Approval. Tree removal permits shall be conditioned by one (1) or more of the following methods:

(i) Depending on the characteristics of the site the applicant may plant replacement trees on site. This method shall include payment in advance for three (3) site inspections during a four (4) year establishment period;

(ii) Payment of fee to the Tree Replacement Fund;

(iii) Establishment of conservation easements, which will restrict removal of any tree within a designated area of the property.

9-11.106 Tree protection plans.

(a) Plan Required. Tree protection plans shall be required if any listed activity occurs within twenty (20) feet of the dripline of any native tree. Activities include but are not limited to the following: remodeling or new construction, grading, road building, utility trenching, etc. A tree protection plan shall be included as part of the submittal for a road plan, plot plan, precise plan, building permit and/or conditional use permit.

(b) A Tree Protection Plan shall be prepared to the specification of a certified arborist. The project arborist shall certify that the tree protection plan is accurate if prepared by a civil engineer or other design professional.

(c) Consultation. Early consultation with the Community Development staff is strongly encouraged prior to the submittal of plans.

(d) Review and Approval. The protection plan shall be in place and verified before an applicant receives any City permits to begin work, with the exception of tree protection measures proposed during construction. Plans shall be reviewed and approved by the Community Development Department concurrent with the review of any construction or building permit.

(e) Surety Requirements. In large projects involving valuable trees, the City may require a surety prior to issuance of entitlement. Determination for use of the surety will be based on the complexity of the project and number of trees being impacted. The type of surety must be approved in writing by the City Attorney.

(f) Tree Protection Plans for Private/Public Utilities. Utility companies doing regular maintenance and construction are not required to submit tree protection plans for each individual project, but shall meet the tree protection requirements set forth in this chapter and the Guidelines through conditions placed in a revocable pruning, trenching and encroachment permit that may be issued on a yearly basis.

9-11.107 Tree replacement and regeneration.

For each residential building permit issued, the planting of one (1) five (5) gallon native tree shall be required, based on the rate of one (1) native tree per residential dwelling unit in a single-family or medium density residential zoning district; or one (1) native tree for every five (5) residential dwelling units in the high density residential zoning district. Mixed Use Residential developments in the Downtown Commercial zoning district shall be exempt from tree replacement requirements.

9-11.111 Heritage trees.

(a) Defined. Heritage tree means any native or non-native tree recognized by City Council resolution for its age, size, location, historical, and/or cultural significance.

(b) Heritage Tree Protection. Any tree (native or non-native) may receive protection by City Council resolution for its age, size, location, historical, and/or cultural significance. Heritage trees receive the same protection and are subject to all conditions set forth in this chapter regarding native trees. They may not be removed without *City Council* approval. Removal applications and approvals shall be consistent with the procedures and findings set forth in section 9.11-105(c) and (d). The Heritage Tree list shall be established by resolution and shall be published in the City's Tree Guidelines.

STATE OF CALIFORNIA)
COUNTY OF SAN LUIS OBISPO) ss
CITY OF ATASCADERO)

I, LARA K. CHRISTENSEN, City Clerk of the City of Atascadero, DO
HEREBY CERTIFY that Ordinance No. 616 was duly introduced at a regular
meeting held on March 27, 2018 and adopted at a regular meeting of the City
Council held on the 10th day of April, 2018 by the following roll call vote, to wit:

AYES: Council Members Bourbeau, Moreno, Sturtevant, Mayor Pro Tem
Fonzi and Mayor O'Malley

NOES: None

ABSENT: None



LARA K. CHRISTENSEN, CITY CLERK



I hereby certify that the foregoing is the original of Ordinance No. 616 duly
passed and adopted by the Atascadero City Council at their regular meeting held
on April 10, 2018 and that summaries of the Ordinance were published on
March 16, 2018 and March 30, 2018 in the Atascadero News newspaper.



LARA K. CHRISTENSEN, CITY CLERK

