Atascadero City Council
Staff Report - Community Development Department

Title 9 Tree Ordinance Update
PLN 2017-1679
(City of Atascadero)

RECOMMENDATIONS:

Planning Commission recommends City Council:

1. Introduce for first reading, by title only, Draft Ordinance A, amending the Atascadero Native Tree Ordinance: Title 9, Chapter 11 of the Atascadero Municipal Code, based on findings.

2. Adopt Draft Resolution A, amending sections of the Atascadero Native Tree Guidelines and Standards consistent with the proposed code text amendments.

DISCUSSION:

Background:
The Atascadero Native Tree Ordinance was established in 1998 and includes the process, methods, and findings for native tree protection and removal. The Tree Ordinance was adopted to protect the oak woodlands that blanket Atascadero while allowing for the reasonable removal when conflicts with development occur or safety risks arise. The Ordinance is designed to require regeneration of the native woodland habitat by encouraging replanting of trees when a removal is necessary. Mitigation funds are collected to fund projects aimed at restoration and revegetation of native trees.

The Ordinance includes standards and procedures for tree removal when a construction activity is proposed or when trees are within commercial or multi-family areas. The Ordinance currently requires Planning Commission review and approval for any native tree proposed for removal that is 24” or greater in diameter. Smaller tree removals may be approved by staff without Planning Commission review; however, mitigation is still required.

The City Council has directed staff to evaluate code amendments that help to save staff time and reduce processing time in an effort to preserve staff resources. An amendment
to the Tree Ordinance to reduce the level of review was suggested since most tree removals do not generate community or Planning Commission discussion. This amendment would streamline the process by transferring review authority to staff for most native tree removals, thereby saving staff time, public hearing time, and other costs associated with the public hearing process.

The Planning Commission reviewed the proposed amendments on March 6, 2018 and recommended the City Council adopt amendments to both the Tree Ordinance and Tree Guidelines to reduce the level of review for tree removal permits and to clarify associated sections of the code.

Analysis:
Chapter 11 of Title 9 of the Atascadero Municipal Code, known as the Atascadero Native Tree Ordinance, sets forth procedures for the review of projects that impact native trees as well as review authority and findings for any native tree proposed for removal. Currently, all trees measuring 24” diameter at breast height (dbh) or greater must be brought before the Planning Commission for review and approval. Staff has the authority to approve native tree removals of less than 24” dbh. All native tree removals must meet at least one of the 5 findings listed in the Ordinance, whether approved by staff or Planning Commission.

Tree removals are generally requested when conflicts arise with proposed new development or when trees are found to be diseased or dead and become a safety hazard to adjacent structures or people. Dead or diseased trees are exempt from removal permit fees, although mitigation payment is still required.

The Atascadero Native Tree Guidelines and Standards were adopted concurrently with the Native Tree Ordinance. The guidelines provide additional information such as tree protection and planting details, mitigation fees, and expanded explanation of process. The guidelines are adopted by resolution. Amendments to the guidelines are proposed to provide consistency with the amended code language.

The proposed amendments are summarized below:

1. **Transfer review authority from the Planning Commission to staff**
   Proposed amendments would allow native tree removals, except for those trees designated as Heritage Trees, to be reviewed and approved by staff. Heritage trees would still be referred to the Planning Commission for review. The same findings would remain and be required to be made by staff prior to approval.

2. **Establishment of a Heritage Tree List and procedures for removal**
   There are a number of trees throughout the City that have historic, cultural, or neighborhood significance that continue to warrant heightened review and public input. Staff has developed a list of such trees and a procedure for review by the Planning Commission for any proposed removal. Staff has included this list as part of the Native
Tree Guidelines so that changes can be adopted by resolution rather than by Ordinance. The draft list includes the following trees within public property:

- Deodar Cedar trees in Sunken Gardens.
- Oak trees lining East and West Mall.
- Sycamore Trees lining Atascadero Avenue between the Atascadero High School and Curbaril Ave.
- Sycamore trees lining Tecorida Avenue between Marchant and San Andres.
- Valley Oak trees at Atascadero Lake Park.
- Valley Oak trees lining El Camino Real north of Del Rio Road.
- Large Valley and Live Oaks at Paloma Park.

Staff is proposing a procedure for public nomination that will allow trees on private property to be included on the list. The nomination process requires that the landowner of the property initiate the nomination and that a deed notification be recorded to notify any future property owners of the removal process and restrictions.

3. Clarifying Tree Protection Plan Requirements
An arborist report is currently requested by staff when construction activities encroach within the dripline of protected trees. Arborist reports can vary widely in content and format. Staff utilizes very specific information from these reports to determine native tree impacts. The proposed amendments include specification of a tree impact chart as part of the Tree Protection Plan which would eliminate the need for a full arborist report for a majority of projects that we see. Most arborists already include this chart in their reports. This change would standardize the information that staff receives from the project arborist, reduce the need for lengthy arborist reports in some cases, and streamline the process.

4. Elimination of Ordinance language related to permit fees for dead or diseased trees
Currently the Tree Ordinance specifies that permit fees are exempt for the removal of dead or diseased trees. With tree removals switching to staff approval, permit fees will be reduced for trees 24” or greater and removing fee references in the ordinance will allow for the City Council to consider full cost recovery for all tree removals during the next fee update. The amendment would eliminate the fee exemption for a dead or diseased tree. This amendment would discourage applicants and arborists to declare trees as dead or diseased in an effort to avoid tree removal fees. Almost any older native tree that is in a state of decline could be declared as dead or diseased.

5. Clarification of Arborist Report Responsibility
Current Code states that when an arborist report is required, the arborist shall be hired by the City with costs to be reimbursed by the applicant. The City does not currently use this process. At this time, each applicant hires and manages their own arborist. The proposed changes simplify this code section and removes language that requires that the arborist be under City contract. This will allow the Director to determine who retains the arborist.
6. **Clarification of posting requirements for trees proposed for removal to be consistent with current City practices**

The current ordinance requires that a site be posted for a minimum of 5 days following approval of a tree removal permit. This 5-day period is intended to be an appeal period for the tree removal action. This is problematic as a permit has already been approved for the removals and any appeal would negate the prior approval. In addition, current city processes combine tree removal permit approval and building permit approval when tree removals require a staff level review. Posting the site at building permit issuance does not give neighbors a chance to appeal before construction begins.

The Native Tree Guidelines have been amended to clarify how trees proposed for removal should be identified on-site. Each tree proposed for removal must be tagged using brightly colored ribbon or paint. Enforcing this section of the guidelines will provide visual notification to the surrounding property owners that tree removals are proposed. In addition, staff has added language to require the site to be posted to notify the community regarding a proposed tree removal. Further discussion about this change is listed below.

7. **Other minor changes:**

- Inclusion of the Atascadero Land Preservation Society as a cooperating organization.
- Changes to tree planting requirements for multi-family projects where 1 tree per unit is not consistent with lot coverage and density standards.

**Stakeholder Coordination:**

The City met with members from the Atascadero Land Preservation Society (ALPS), which is the successor organization to ANTA (Atascadero Tree Preservation Society). ALPS expressed a number of concerns regarding the reduction of public noticing as a result of the proposed changes. In addition, ALPS felt some revisions needed additional clarification. Based on these concerns, staff has made a number of edits to the proposed ordinance that was reviewed by the Planning Commission to include the following:

1. **Noticing for Tree Removals:** Add language to section 9-11.105(c)(5) to read as follows: When a tree removal permit is sought, the lot shall be posted for a minimum of 15 calendar days prior to approval. The notice shall be in a form approved by the City.
2. **Appeal language:** Add language to Section 9-11.105(d)(1) referencing the standard appeal process. Any decision related to a tree removal permit may be appealed to the Planning Commission in accordance with AMC Section 9-1.111.
3. **Tree Replacement and Regeneration:** Re-word to correlate tree replacement standards to zoning designations and add an exemption for residential units provided in the downtown zone. (9-11.107)
4. **Tree Protection Plan:** Add language to ensure that the project arborist certifies that the tree protection plan is accurate if prepared by a civil engineer or other design professional. (9-11.106(b) and 9-11.104)
5. Heritage Trees: Change process for amendment of the Heritage Tree List and approval of heritage tree removals from the Planning Commission to the City Council. (9-11.105(d)(1) and Guidelines 11.16.2)
6. Delete reference to ANTA and replace with ALPS. (9-11.104)

**Proposed Environmental Determination**

The California Environmental Quality Act (CEQA) (Section 15061.(3), (b)) exempts activities which 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. Tree removal findings and mitigation requirements will not change as a result of the text amendments.

**CONCLUSION**

The proposed text amendments are consistent with the General Plan and will help to streamline the process for native tree removals throughout the City. The proposed changes will shift review authority for native tree removals from the Planning Commission to staff. In addition, a Heritage Tree list will be established to protect trees of historic, cultural, or neighborhood significance and set forth procedures for removal that includes public review and input.

**ALTERNATIVES**

1. The Council may make modifications of the text amendments.

2. The Council may determine that more information is needed on some proposed revisions and may refer the item back to staff to develop the additional information. The Council should clearly state the type of information that is required and move to continue the item to a future date.

3. The Council may deny some or all of the proposed text amendments. The Council should specify the reasons for denial of the project and recommend an associated finding with such action.

**ATTACHMENTS:**

- Attachment 1: Proposed Zoning Regulation Amendments with Tracked Changes
- Attachment 2: Draft Resolution 2018-A – Tree Ordinance Amendments
- Attachment 3: Draft Resolution 2018-B – Tree Guideline Amendments
9-11.101 Purpose and intent.

Preservation of natural flora and fauna is a basic community goal of the Atascadero General Plan and native trees are valued community assets. The purpose of this chapter is to establish regulations for the installation, maintenance, planting, preservation, protection and selected removal of native trees within the City limits. In establishing these regulations, it is the City’s intent to encourage the preservation, maintenance and regeneration of a healthy urban forest. This enhances other values that Atascadero holds for its community including clean air and water, soil conservation, aesthetics, property values and an ecological diversity that will ensure that Atascadero will continue to be a healthy and desirable place to live.

9-11.102 Applicability.

(a) The provisions of this chapter shall apply to all native trees, as defined by this chapter, two (2) inches dbh or greater for deciduous native oaks, California sycamore (Plantanus racemosa Nutt) and madrones (Arbutus Menziesii) and four (4) inches dbh or greater for all other protected native trees, as defined in this chapter. It shall be illegal to intentionally harm, damage and/or cause the death or decline of a native tree or remove a native tree without a City-issued tree removal permit, where such a permit is required by this chapter.

(b) The provisions of this chapter shall apply to all public and private property and protected native trees within the City of Atascadero, and to any person, firm, corporation and public or private utility company doing work within the City limits.

9-11.103 Adoption of standards and guidelines.

The “Tree Standards and Guidelines” (the “Guidelines”) set forth the procedures, guidelines and standards that shall be used to implement this chapter. They shall be used to provide details about preservation, maintenance, installation, protection, regeneration and selected removal of trees. They shall be adopted and amended by resolution of the City Council and have the force of law.

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:

<table>
<thead>
<tr>
<th>Native Tree Species</th>
<th>Common Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arbutus menziesii Pursh.</td>
<td>Madrone</td>
</tr>
<tr>
<td>Heteromeles arbutifolia Lindl.</td>
<td>Toyon, California Holly</td>
</tr>
<tr>
<td>Juglans hindsii Jeps.</td>
<td>California Black Walnut</td>
</tr>
<tr>
<td>Plantanus racemosa Nutt.</td>
<td>California Sycamore</td>
</tr>
<tr>
<td>Quercus agrifolia Eastw.</td>
<td>Coast Live Oak</td>
</tr>
<tr>
<td>Quercus alvordiana Nee</td>
<td>Blue Oak/Desert Oak</td>
</tr>
<tr>
<td>Quercus dumosa Jeps.</td>
<td>Scrub Oak</td>
</tr>
<tr>
<td>Quercus durata Jeps.</td>
<td>Leather Oak</td>
</tr>
<tr>
<td>Quercus douglasii H&amp;A</td>
<td>Blue Oak</td>
</tr>
<tr>
<td>Quercus lobata Nee</td>
<td>Valley</td>
</tr>
<tr>
<td>Quercus turbinella</td>
<td>Desert Oak</td>
</tr>
<tr>
<td>Umbellularia californica Nutt.</td>
<td>California Bay Laurel</td>
</tr>
</tbody>
</table>

“Native Tree Association” refers to the Atascadero Native Tree Association, 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 and 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. Fees shall not be required for applications for the removal of dead or diseased trees, as defined in subsection (d)(2)(i) of this section.

4. Arborist Report. When applicable by this chapter, the applicant is required to submit a tree condition report prepared by an arborist selected and retained by the City. The applicant shall reimburse the City for all costs related to the preparation of the report. An arborist report shall be provided when determined necessary by the Planning 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 issued, the City shall post a copy of the permit in City Hall and the applicant will post a copy on-site for a public appeal period of five (5) business days. 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 Planning Commission City Council shall make decisions regarding all tree removal application requests involving trees twenty-four (24) inches dbh or larger designated heritage trees. All other tree removal application decisions will be made by the Community Development Department. Any Community Department Decision can be appealed 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.

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

(ed) 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.

(de) 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.

(ef) 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 residential dwelling units in project sites with densities that exceed 15 units per acre, the high density residential zoning district. Mixed Use Residential developments in the Downtown Commercial zoning district shall be exempt from tree replacement requirements.

9-11.108 Tree abatement: nuisances, pests and disease.

(Reserved).

9-11.109 Tree management plans.

(a) Tree Management Plans. Tree management plans allow for the management of trees as a resource for the benefit of both the landowner and the community. Tree management plans will allow for comprehensive woodlot management practices as an alternative to the submission of individual tree removal applications. Tree management plans may be permitted on the following types of property.

(1) Minimum area of site of five (5) acres or larger in single, contiguous ownership; and
(2) Parcels where the existing zoning is single-family residential or agriculture; and
(3) Canopy cover of site is equal to or greater than fifty percent (50%); and
(4) The woodlot will be managed for personal use only.

(b) Standards for Tree Removal. The standards for tree removal and contents of the tree management plan shall be set forth in the Guidelines.

9-11.110 Procedures for public projects.

(a) Definition. Public projects are any construction project that may impact native trees initiated by any department of the City.

(b) Binding City to Tree Ordinance. Public initiated projects will comply with the Tree Ordinance unless explicitly exempted by City Council. The City shall consult with an arborist during the planning and inspection of all construction projects impacting native trees.

(c) Exemptions. Applicant from the City shall submit a written statement to City Council describing project and reason that an exemption should be granted.

9-11.111 Landmark Heritage trees.

(a) Defined. Landmark 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) Landmark 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. Landmark 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 Planning Commission 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.

9-11.112 Street trees.

(Reserved).

9-11.113 Repeat applications.

When any application made pursuant to Title 9 or Title 11 has been denied, no new application that is substantially the same shall be filed within one (1) year of the date of the previous denial unless the physical facts upon which the decision making body based the denial have changed. The Community Development Director shall determine whether physical facts have changed or when an application is substantially the same as the previous application.

9-11.114 Enforcement.

(a) Authority. It shall be the responsibility of the Community Development Director, or individuals designated by the Director, for the implementation and enforcement of all provisions of this chapter. For the purposes of this chapter, the Director may consult with and employ an arborist, certified by the International Society of Arboricultural or other recognized professional organization of arborists, on technical matters related to the implementation of this chapter, including, but not limited to, the review and approval of tree removal applications, tree protection plans. It shall be the role of the Community Development Department, in conjunction with the Native Tree Association, to develop educational materials and provide information to all applicants requesting permits from the Department, including, but not limited to, building permits, land use permits and other permits issued by the Department.

(b) Penalties. Violations of this chapter are specifically declared misdemeanors, and upon conviction may be punished as set forth in Chapter 3 of Title 1 of this Code.

(c) Restitution. In addition to any penalties provided by subsection (b) of this section, any person who damages a tree in violation of the terms of this chapter is responsible for proper restitution and/or conditions as described in Section 9-11.105. The City may bring a civil action for restitution to enforce this section.

(d) Stop Work. In cases of non-conformance with this chapter, the inspecting official shall immediately issue a stop work order until all requirements have been met. Should unauthorized work or nonconformance lead to tree removal or damage (as defined), the inspecting official shall also issue a stop work order.

(e) Conditions and Signed Agreements. Should unauthorized work or non-conformance lead to tree removal or damage (as defined), the Community Development Director may also require additional conditions as penalty and as described in this chapter.
DRAFT ORDINANCE A

ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF ATASCADERO, CALIFORNIA, AMENDING THE ATASCADERO
MUNICIPAL CODE BY APPROVING PLN 2017-1679 TITLE 9, CHAPTER
11 ZONING
ORDINANCE CODE TEXT AMENDMENTS

ATASCADERO NATIVE TREE ORDINANCE

(City of Atascadero)

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 and Atascadero Native Tree Guidelines; 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 these amendments to Title 9 Planning and Zoning of the 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 the proposed amendments to Title 9 of the Atascadero Municipal Code; 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 and considered the proposed zoning text amendments; and,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Atascadero hereby ordains as follows:

SECTION 1. 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 2. Approval. 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 Planning and Zoning Code Text consistent with the following:

EXHIBIT A: Categorical Exemption
EXHIBIT B: Zone Text Change – Title 9 Zoning Ordinance

SECTION 3. 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.
On motion by Council Member ______________________, and seconded by Council Member ______________________, the foregoing resolution is hereby adopted in its entirety by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ADOPTED:

CITY OF ATASCADERO, CA

______________________________
Tom O’Malley, Mayor

Attest:

______________________________
Lara Christensen, City Clerk

APPROVED AS TO FORM:

______________________________
Brian A. Pierik, City Attorney
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:

☐ Ministerial (Sec. 15073)  ☑ Emergency Project (Sec. 1507 (b) and (c))
☐ Declared Emergency (Sec. 15061 (a))  ☑ General Rule Exemption (Sec. 15061(b)(3))
☐ 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
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:

<table>
<thead>
<tr>
<th>Species</th>
<th>Common Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arbutus menziesii Pursh.</td>
<td>Madrone</td>
</tr>
<tr>
<td>Heteromeles arbutifolia Lindl.</td>
<td>Toyon, California Holly</td>
</tr>
<tr>
<td>Juglans hindsii Jeps.</td>
<td>California Black Walnut</td>
</tr>
<tr>
<td>Plantanus racemosa Nutt.</td>
<td>California Sycamore</td>
</tr>
<tr>
<td>Quercus agrifolia Eastw.</td>
<td>Coast Live Oak</td>
</tr>
<tr>
<td>Quercus alvordiana Nee</td>
<td>Blue Oak/Desert Oak</td>
</tr>
<tr>
<td>Quercus dumosa Jeps.</td>
<td>Scrub Oak</td>
</tr>
<tr>
<td>Quercus durata Jeps.</td>
<td>Leather Oak</td>
</tr>
<tr>
<td>Quercus douglasii H&amp;A</td>
<td>Blue Oak</td>
</tr>
<tr>
<td>Quercus lobata Nee</td>
<td>Valley</td>
</tr>
<tr>
<td>Quercus turbinella</td>
<td>Desert Oak</td>
</tr>
<tr>
<td>Umbellularia californica Nutt.</td>
<td>California Bay Laurel</td>
</tr>
</tbody>
</table>

“Native Tree Association” refers to the Atascadero Native Tree Association, 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 and ensure viability of tree after construction, and includes a tree status and impact chart for all applicable trees.

“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 Planning Director or his designee.
Posting. All native trees proposed for removal shall be identified by the applicant for field inspection as set forth in the Guidelines.

(d) Review and Approval.

(1) Authority. The Planning Commission 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.

(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.

9-11.107 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 or one for every five units on project sites with densities that exceed 15 units per acre.

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 Planning Commission 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.
DRAFT RESOLUTION A

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATASCADERO, CALIFORNIA, APPROVING AMENDMENTS TO THE ATASCADERO NATIVE TREE GUIDELINES AND STANDARDS

PLN 2017-1679

(City of Atascadero)

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 and Atascadero Native Tree Guidelines; 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 these amendments to the Atascadero Native Tree Guidelines to provide consistency with the proposed amendments to Title 9, Chapter 11 the Atascadero Native Tree Ordinance; 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 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 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, 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 and considered the
proposed zoning text amendments; and,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Atascadero makes the following findings:

SECTION 1. Findings for Approval of Amendments to the Native Tree Guidelines and Standards. The Planning Commission finds as follows:

1. Amendments are consistent with AMC Chapter 11: Native Tree Ordinance.

2. The Text Change will not result in significant environmental impacts.

SECTION 2. Approval. The City Council of the City of Atascadero, in a regular session assembled on March 27, 2018, resolved to approve amendments to the Atascadero Native Tree Guidelines and Standards, consistent with the following:

EXHIBIT A: Atascadero Native Tree Guidelines & Standards – Proposed Amendments
On motion by Council Member ______________________, and seconded by Council Member ___________________, the foregoing resolution is hereby adopted in its entirety by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ADOPTED:

CITY OF ATASCADERO, CA

____________________________
Tom O’Malley, Mayor

Attest:

____________________________
Lara Christensen, City Clerk

APPROVED AS TO FORM:

____________________________
Brian A. Pierik, City Attorney
PROTECTED TREE GUIDELINES & STANDARDS

G.11.15 NATIVE TREES GUIDELINES & STANDARDS

6. Guidelines for Identification of Trees

Identification of trees and posting of all property when trees are to be removed and identification of trees to be protected is required. All sites that have trees to be protected or removed shall be posed for field inspection and during any applicable appeal period.

A. Identification of property subject to tree removal shall be done by posting a notice, as provided by the Community Development Department, during the time specified on the Tree Removal Permit.

B. All trees to be removed shall be flagged with pink or red tape, or other highly visible mark in the field; all trees or groups of trees to be protected shall be flagged with yellow or green tape. Tree protection flagging shall be necessary only if identification is not evident from the submitted plans.

8. Fee Schedule for Permits Effecting Native Trees

C. Application Fees

Tree Removal Permit application fees shall be those adopted by City Council in the most current fee schedule in effect at the time of application. The following fees shall be charged for the permit as indicated.

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dead and diseased tree Removal</td>
<td>No Fee</td>
</tr>
<tr>
<td>Tree Removal Application</td>
<td></td>
</tr>
<tr>
<td>— 2”–24” dbh in size</td>
<td>$35.00</td>
</tr>
<tr>
<td>— 24” dbh or greater</td>
<td>$50.00</td>
</tr>
<tr>
<td>Tree Protection Plans</td>
<td></td>
</tr>
<tr>
<td>Single Family Residential (Including Removal)</td>
<td>$50.00</td>
</tr>
<tr>
<td>All other Tree Protection (Including Removal)</td>
<td>$200.00</td>
</tr>
<tr>
<td>Forestry and Woodlot Management Plans</td>
<td></td>
</tr>
<tr>
<td>5–9 Acres</td>
<td>$250.00</td>
</tr>
<tr>
<td>10–39 Acres</td>
<td>$400.00</td>
</tr>
<tr>
<td>40+ Acres</td>
<td>$600.00</td>
</tr>
<tr>
<td>Annual Pruning, Trenching &amp; Encroachment Permit</td>
<td>$100.00</td>
</tr>
<tr>
<td>Appeals</td>
<td>$50.00</td>
</tr>
</tbody>
</table>
G.11.16 HERITAGE TREES

1. General

These Guidelines set forth standards and procedures for Heritage Trees. Heritage Trees are defined as any native or non-native tree recognized by City Council resolution for its age, size, location, historical, and/or cultural significance. These Guidelines and Standards implement the regulations contained in Chapter 11 of Title 9 of the Atascadero Municipal Code.

2. Establishment and Amendment of Heritage Tree List

The Heritage Tree List shall be established by resolution of the City Council. Future amendments to the established list shall be approved by resolution of the Planning Commission. Any decision made by the Planning Commission may be appealed to the City Council in accordance with appeal procedures set forth in the Atascadero Municipal Code.

3. Nomination Procedure

Any native or non-native tree can be nominated for inclusion on the Heritage Tree List. Trees on private property must be nominated by the owner of the property and, if approved, a deed notification must be recorded against the property to notify future owners of the Tree’s heritage status. Heritage trees shall be nominated based on size, age, location or based on the historical, cultural, or neighborhood significance of the tree or group of trees.

4. Tree Protection and Removal

Heritage trees located within or adjacent to construction activity shall follow the regulations and standards listed in the Atascadero Native Tree Ordinance and Tree Guidelines and Standards for native trees. Proposed removal of Heritage Trees shall be processed consistent with AMC Section 9.11-111.

5. Heritage Tree List

<table>
<thead>
<tr>
<th>Location</th>
<th>Species</th>
<th># trees</th>
<th>Date Listed</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Sunken Gardens Park</td>
<td>Deodar Cedar</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2 Sunken Gardens Park</td>
<td>Magnolia</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3 East Mall/West Mall</td>
<td>Live Oak</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4 Atascadero Avenue</td>
<td>Sycamore</td>
<td></td>
<td></td>
<td>Street trees between the high school and San Andres Ave</td>
</tr>
<tr>
<td></td>
<td>Atascadero Lake Park</td>
<td>Live and Valley Oaks</td>
<td>Street adjacent trees north of Del Rio to Santa Cruz</td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>----------------------</td>
<td>----------------------</td>
<td>-----------------------------------------------------</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>North El Camino Real</td>
<td>Live and Valley Oaks</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Paloma Park</td>
<td>Live and Valley Oaks</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>