

Article I General Provisions

§ 8.48.100. Title.

This chapter shall be known as "The City of Temecula Heritage Protected Tree Ordinance" and is referred to herein as the "Ordinance." hereby amended in its entirety to read as follows:

(Ord. 09-05 § 1)

§ 8.48.110. Purpose.

A. This Chapter will incorporate the City's Urban Forest Management Plan which sets forth the City's policies and guidelines for planting and maintenance programs for the care and protection of its trees. The Public Works Director shall periodically update and make revisions and amendments to the plan, subject to City Council approval. This plan shall include the species, sizes, and locations of street trees to be planted.

B. This Chapter will set forth that trees on the street tree master list shall be designated by the Director and approved by the City Council. The list shall be reviewed periodically by the Director and Commission and shall be kept on file in the Director's office.

C. The purpose of This Chapter Ordinance is established to recognize to protect and preserve oak (*Quercus spp.*), California Bay Laurel (*Umbellularia californica*), California Black Walnut (*Juglans californica*), Toyon (*Heteromeles arbutifolia*), California Holly, and California Sycamore (*Platanus racemosa*) trees as well as other mature trees as significant valuable ecological resources as well as valuable environmental assets of special significance to the community; and to justify special efforts to preserve and protect them from development activity.

D. This Chapter Ordinance will also encourage the application of management techniques to control the pruning, cutting, shaping, removal, and relocation of Heritage Protected Trees within the city. The preservation program outlined in this Chapter Ordinance will contribute to the welfare and aesthetics of the community and retain the great historical and environmental value of these trees.

(Ord. 09-05 § 1)

§ 8.48.120. Applicability.

A. Except as noted under subsection B of this section, this Chapter Ordinance shall apply to:

1. Any Protected Tree that is located on private property; between the city right-of-way and an adjacent residential single-family or multi-family home;
2. Any development application for parcels larger than five acres in size that requires a discretionary permit;
3. Any tree designated as a Heritage Protected Tree through the nomination process; or

4. Designated species pursuant to Section 8.48.160(A), located within General Plan Open Space areas, within riparian areas, within Western Riverside County Multi-Species Habitat Conservation Plan Important Wildlife Corridor Linkage areas, or within Heritage Protected Tree Grove areas.
- B. This Chapter Heritage Tree Ordinance shall not apply to:
1. Statutory extensions of time for previously approved parcel and tract maps when there are no changes to the project and no amendments to the adopted conditions of approval;
 2. Previously adopted specific plans and future specific plan areas. Such plans contain their own requirements for protection and preservation of Heritage Protected Trees.
- (Ord. 09-05 § 1)

§ 8.48.130. Definitions.

For purposes of this Chapter Ordinance, the following words and phrases shall have the meaning set forth in this section.

"Certified arborist" ~~means an~~ are third party arborists that are certified by either who is ~~registered with~~ the International Society of Arboriculture (ISA) or the American Society of Consulting Arborists (ASCA). ~~and approved by the planning director.~~

"City" means the city of Temecula.

"City right-of-way" means the part of the public street right-of-way between the curb, or edge of paved roadway where there is no curb, and the property line separating the street right-of-way from abutting private property. Parkways are generally used for public sidewalks, public utility poles, fire hydrants, street signs and other public facilities.

"City's tree policy" means a document prepared by the public works department which states policies, standards, procedures, and other relevant information regarding the selection, planting, maintenance, and removal of all city trees.

"Cutting" means the detaching or separating, from a protected tree, any limb, branch, or root. Cutting shall include pruning.

"Damage" means any unpermitted action, including, but not limited to, cutting, poisoning, over watering, removal, relocation, transplanting, trenching, excavating, or paving within the protected zone of a tree, that causes the injury, death, or disfigurement of a Heritage Protected Tree.

"Director" means the City's Director of Community Development or his or her designee or such person as designated by the City Manager. Director shall also mean the Director of Planning or Planning Director as used elsewhere in this Code.

"Discretionary permit" means an application for new construction that requires the exercise of judgment or deliberation or decision on the part of the decision-making authority in the process of approving or disapproving a particular activity, as distinguished from situations where the decision-making authority merely has to determine whether there has been conformity with applicable statutes, ordinances, or regulations.

~~"Disfigurement" means the unsightly and injurious cutting of a Heritage Tree, including, but not limited to tree trimming practices not in conformance with standards established by the International Society of Arboriculture and pruning practices such as stubbing, heading, heading back, stubbing off, pollarding, tipping, topping off, de-horning, lopping, and rounding.~~

"Deadwood" means limbs, branches, or a portion of a tree that contains no green leaves during a time of year when they would be present on a healthy tree of that type.

"Development" means the improvement or use of real property that requires the city's discretionary review and approval.

"Drip line" means the area from the trunk of a tree to the outermost edge of the tree canopy, ~~which when depicted on a map, will appear as an irregular shaped circle that follows the contour of the tree's branches as seen from overhead.~~

"Excessive pruning" means removing more branches, stems, and roots than necessary to accomplish the desired objective. Typical maintenance requires that no more than twenty-five (25) percent of a tree's total number of major branches or canopy volume be removed in a single year. Any maintenance that requires pruning in excess of the twenty-five (25) percent threshold described this section can injure a tree and is prohibited unless approved by the tree manager.

"Encroachment" means any intrusion into or human activity within the protected zone of a Heritage Protected Tree including, but not limited to, pruning, grading, excavating, trenching, parking of vehicles, storage of materials or equipment, or the construction of structures or other improvements.

"Hazard" or "hazardous" means a tree, or part of a tree, that has been assessed for risk and found to be very likely to fail and cause severe consequences by causing injury, damage, or disruption.

"Injury" means any damage to a tree resulting from any activity, including but not limited to excessive pruning, cutting, topping, trenching, excavating, altering the grade, paving or compaction within the tree protection zone, including deliberate damage such as vandalism.

"International Society of Arboriculture (ISA)" is a tree care industry (private and public) membership association and credentialing program for the professional practice of arboriculture.

"Licensed landscape architect" means an individual who holds a professional license to practice landscape architecture, as defined under Business and Professions Code (BPC) Section 5615, or is licensed by the state of California Landscape Architects Technical Committee (the licensing and regulatory agency for the practice of landscape architecture in California).

"Oak Tree" means any oak tree of the genus *Quercus* including, but not limited to, California or Coast Live Oak (*Quercus agrifolia*), Coastal Sage Scrub Oak (*Quercus dumosa*), Engelmann Oak (*Quercus engelmannii*), Scrub Oak (*Quercus berberidifolia*), and Valley Oak (*Quercus lobata*).

"Owner" means a legal owner of real property within the city of Temecula or any lessee of the owner.

"Person" means any individual, firm, association, corporation, organization, or partnership or any city, county, district, the state or any department or agency thereof.

"Planning director" means the city's planning director, or designee.

"Private property" means any land or property not owned by the City or another governmental agency.

"Heritage Protected Tree" means a tree designated as a Heritage Protected Tree pursuant to Section 8.48.160 of this Chapter.

"Heritage Protected Tree grove" means a location confirmed by site visit or other empirical evidence that is known to contain multiple Heritage Protected Trees. Such Heritage Protected Tree grove areas may occupy portions of one or more parcels, the location(s) of which shall be indicated on maps maintained by the planning department.

"Protected Tree Preservation and Protection Guidelines" means the collection of administrative rules, procedures, and requirements prepared and published by the Director pursuant to Section 8.48.140 of this Chapter.

"Protected zone" means the area extending horizontally outward from the trunk of a Heritage Protected Tree to a point five feet beyond the drip line but in no case extending less than fifteen feet from the trunk.

"Pruning" means ~~the removal of water sprouts, crossed limbs, or other unhealthy branching structures in accordance with standards established by the International Society of Arboriculture.~~ to reduce the size of a tree in order to control the height and spread of a tree, preserve its natural appearance, improve structure, increase safety in the landscape by removing dead, damaged, or diseased branches, or make adjustments which will increase its longevity in an urban environment.

"Relocation" means the transplanting of a tree from its original location to another suitable location.

"Removal" means the physical removal of a tree or causing the death of a tree through damaging, poisoning, or other direct or indirect action.

"Right-of-way" means any dedicated street right-of-way, or recorded easement for maintenance or utility purposes.

"Routine maintenance" means actions needed for the continued good health of a Heritage Tree including, but not limited to, removal of deadwood, insect control spraying, and watering. pruning, spraying, fertilizing, watering, treating for disease or injury, or other similar acts which promote the growth, health, safety, beauty, and the life of trees.

"Special district" means an agency having a board of directors that is voted in by the public, such as a school district or water district.

"Street trees" are any City owned or maintained tree located within the City right-of-way or easement, including, but not limited to, park-strips located between the sidewalk and the curb, City-maintained medians, and all trees located within 12 feet from the curb-line in locations where the sidewalk and curb are adjacent.

"Tree canopy" means the top layer or crown of mature trees.

"Urban Forest Management Plan (UFMP)" is the City of Temecula's Management Plan, on file with the City Manager. This plan shall be periodically reviewed by the Director of Public Works and Community Development, subject to City Council approval.

(Ord. 09-05 § 1)

§ 8.48.140

§ 8.48.160

§ 8.48.140. Heritage Protected Tree Preservation and Protection Guidelines.

The city shall formulate and publish "The City of Temecula Heritage Protected Tree Preservation and Protection Guidelines." The planning commission shall have the authority to change, update, or revise the guidelines as necessary in order to implement the provisions of this Chapter Ordinance.

(Ord. 09-05 § 1)

§ 8.48.150. Heritage Protected Tree Preservation and Protection Plan.

Upon submittal of an application for a discretionary permit on parcels larger than five acres, the applicant shall also submit a tree inventory as part of the required conceptual landscape plans which shall list and identify all trees located within the proposed project site. Such tree inventory shall identify all trees by their common and scientific names, diameter at standard height, and location on the site. If Heritage Protected Trees are identified on site, the applicant shall adhere to the preservation standards contained in the Heritage Protected Tree Preservation and Protection Guidelines, or may hire a certified arborist or a licensed landscape architect to prepare a Heritage Protected Tree Preservation and Protection Plan for each potential Heritage Protected Tree to protect them during grading and construction activities and for the life of the project.

(Ord. 09-05 § 1)

§ 8.48.160. Designation of Heritage Protected Trees.

A. Protected Trees are recognized as valued environmental assets and significant aesthetic and ecological resources. Any proposed removal or encroachment upon the canopy or Protected Zone of a Protected Tree shall be subject to the provisions set forth in subsection 8.48.210 Permit Requirements and Exemptions. Protected Trees shall include the following:

1. Any of the following species with a trunk diameter that measures twelve (12) inches or more when measured at a point four and a half feet above the natural grade of the base of the tree. Trees with multiple trunks are deemed to have reached the required diameter if the sum of the diameters of the multiple trunks exceeds the diameter required for a single trunk tree by two inches:
2. ~~Designated Species. Any specimen of the following species that has been identified in a tree inventory in connection with the submittal of an application for a discretionary permit and has reached the required diameter is a Heritage Tree:~~
 - a. Oak trees of the genus *Quercus* including, but not limited to, California or Coast Live Oak (*Quercus agrifolia*), Coastal Sage Scrub Oak (*Quercus dumosa*), Engelmann Oak (*Quercus engelmannii*), Scrub Oak (*Quercus berberidifolia*), and Valley Oak (*Quercus lobata*) more than eighteen inches in diameter when measured at a point four feet above the natural grade at the base of the tree;
 - b. California Sycamore (*Platanus racemose*); ~~more than twelve inches in diameter when measured at a point four feet above the natural grade at the base of the tree;~~

- c. California Bay Laurel (*Umbellularia californica*); ~~more than twelve inches in diameter when measured at a point four feet above the natural grade at the base of the tree;~~
- d. California Black Walnut (*Juglans californica*); ~~more than twelve inches in diameter when measured at a point four feet above the natural grade at the base of the tree;~~
- e. Toyon (*Heteromeles arbutifolia*); ~~(California Holly) or (Toyon) more than twelve inches in diameter when measured at a point four feet above the natural grade at the base of the tree;~~

B. Mature Tree. Any tree that has a trunk diameter larger than twenty-four (24) inches measured at a point four and one-half (4½) feet above the root crown, or trees with multiple trunks if the sum of the diameters of the multiple trunks exceeds the diameter required for a single trunk tree by two inches.

~~Trees of the above-listed species with multiple trunks are deemed to have reached the required diameter if the sum of the diameters of the multiple trunks exceeds the diameter required for a single trunk tree by two inches.~~

- C. Designated Areas. For purposes of this Chapter Ordinance, designated species pursuant to Section 8.48.160(A) and located within the following areas are determined to be Heritage Protected Trees:
- 1. General Plan Land Use Map Open Space areas;
 - 2. Riparian areas;
 - 3. Western Riverside County Multi-Species Habitat Conservation Plan Important Wildlife Corridor Linkage areas;
 - 4. Heritage Protected Tree grove areas identified by the city of Temecula and shown on exhibits maintained by the planning department.

D. Designation of Heritage Protected Trees Through Nomination.

1. Public Initiated Nominations. Upon the submission of a Heritage Protected Tree nomination application by any member of the public, the planning commission may, after holding a noticed public hearing, designate any tree, regardless of species or location, as a Heritage Protected Tree if the owner of the subject tree supports the application and the planning commission determines the tree should be preserved and protected due to one or more of the following criteria:

- a. Rarity. The nominated tree is an unusual species in Temecula, California, or North America;
- b. Size. The nominated tree is of notable size, height, diameter, or canopy width compared to other trees of the same species;

- c. Age. The nominated tree is of significantly advanced known or estimated age for its species;
 - d. Historical Association. The nominated tree is related to a historic or cultural building, site, street, person or event;
 - e. ~~Ethnic~~ **Cultural** Appreciation. The nominated tree is of particular value to certain ethnic groups in the neighborhood or the city;
 - f. Neighborhood Appreciation. The nominated tree is supported by multiple indicators including but not limited to letters of support, petition, outdoor gatherings and celebrations adjacent or related to the tree;
 - g. Planting Defines Neighborhood Character. The nominated tree defines or contributes to the neighborhood aesthetic;
 - h. Profiled in a Publication or Other Media. The nominated tree has received print, internet, and/or video media coverage;
 - i. High Traffic Area. The nominated tree has a high level of visibility and/ or a possible traffic calming effect;
 - j. Low Tree Density. The nominated tree exists in a neighborhood with few trees;
 - k. Extends Between Multiple Properties. The nominated tree has a high level of visibility and provides benefits to two or more adjacent properties;
 - l. Accessible from Public Right-of-Way. The nominated tree possesses high visibility and provides benefits to the general public;
 - m. Important Wildlife Habitat. The nominated tree provides or potentially provides source of shelter and/or food for wildlife;
 - n. Interdependent Group of Trees. The nominated tree is part of a supercanopy and removal may have an adverse impact on adjacent trees;
 - o. Erosion Control. The nominated tree contributes to soil stability and prevents erosion;
 - p. Wind or Sound Barrier. The nominated tree reduces wind speed or deflects wind, and/or mitigates undesirable noise;
 - q. Prominent Landscape Feature. The nominated tree is a striking and outstanding natural feature;
 - r. Character Defining Form. The nominated tree is an example of good form for its particular species;
 - s. Tree Condition. The condition of the nominated tree shall be a factor in determining its status for protection as a ~~Heritage~~ **Protected** Tree.
2. City-Initiated Nominations. The city, in exercising its police powers, may designate any tree in the city of Temecula as a ~~Heritage~~ **Protected** Tree, regardless of species or size. Any city-initiated ~~Heritage~~ **Protected** Tree nomination application shall be subject to the same noticed public hearing of the planning commission as detailed in Section 8.48.160(C)(1), except that there shall be no application fee and the property owner's consent shall not be

required. The property owner shall be notified of the public hearing and will have the opportunity to speak in favor of or against the nomination. A city-initiated Heritage Protected Tree nomination application shall be approved only if the decision maker determines that: (i) the tree should be preserved and protected due to its age, size, rarity, location or appearance; or (ii) the tree is determined to be historically significant. A tree shall be deemed historically significant if any of the following findings can be made:

- a. The tree is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage;
- b. The tree is associated with the lives of persons important in our past;
- c. The tree embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
- d. The tree has yielded, or may be likely to yield, information important in prehistory or history.
- e. The planning commission or city council, may, when reviewing a development application, designate any tree on the site of the proposed development, regardless of species, as a Heritage Protected Tree if it determines the tree should be preserved and protected as a condition of development due to its age, size, rarity, location or appearance. Any Heritage Protected Tree so designated shall continue to be a Heritage Protected Tree for purposes of this Chapter Ordinance regardless of whether the approved development is ever initiated.
- f. Any tree planted as a replacement for a Heritage Protected Tree pursuant to this Chapter Ordinance shall constitute a Heritage Protected Tree.
- g. Any tree designated as a Heritage Protected Tree shall cause the applicant/owner to record with the Riverside County clerk and recorder's office a covenant and/or a Notice of Condition Affecting Real Property to protect the tree from future ground disturbing activities.
- h. If a tree is designated as a Heritage Protected Tree under Section 8.48.160(C)(2), the city shall pay the recordation fees.

(Ord. 09-05 § 1)

§ 8.48.170. Non-liability of city.

Nothing in this Chapter Ordinance shall be construed to impose any liability for damages or a duty of care and maintenance upon the city or its officers, employees, agents, or volunteers.

(Ord. 09-05 § 1)

Article II. Cutting, Removal, Relocation, or Encroachment Upon Heritage Protected Trees**§ 8.48.200. Heritage Protected Tree maintenance and preservation.**

- A. All owners of real property on which a Heritage Protected Tree is located and that is improved, approved for development, or part of or associated with the approved development of another piece of property, including but not limited to property required to be maintained as permanent open space or for recreational purposes, shall maintain such Heritage Protected Trees in a state of good health. Failure to do so will constitute a violation of this Chapter Ordinance.
- ~~B. Recreational and resort uses may prune, cut, plant, encroach upon, or relocate Heritage Trees, and or modify irrigation systems in a manner consistent with the normal and accepted industry business practices to maintain the property in good condition to support its use, provided such activities are consistent with the Heritage Tree Preservation and Protection Guidelines. Heritage Trees may be removed from such uses after providing the city of Temecula forty-eight hours prior notice to allow the city an opportunity to evaluate the tree(s) in question.~~
- C. Damaging a Heritage Protected Tree is prohibited. Each action that damages a Heritage Protected Tree shall be a separate violation.
(Ord. 09-05 § 1)

§ 8.48.210. Permit requirement and exceptions.

- A. Except as allowed under subsection B of this section, no person shall cut, remove, or relocate a Heritage Protected Tree, or encroach into the protected zone of any Heritage Protected Tree without first obtaining a Heritage Protected Tree Removal or Relocation Permit from the city in accordance with the provisions of this Chapter Ordinance.
- B. A Heritage Protected Tree may not be cut, removed, relocated, or encroached upon without a Heritage Protected Tree Removal or Relocation Permit, except under the following circumstances:
- ~~1. Pruning and routine maintenance~~ according to International Society of Arboriculture standards and maintenance activities that promote the health and vigor of the tree;
 - ~~2. The tree has been determined by a licensed landscape architect~~ city arborist to be irreparably diseased or dead;
 - ~~3. A peace officer, fireman, civil defense official, or code enforcement officer,~~ or city arborist, has determined in his or her official capacity that the tree poses an imminent danger to the public or to property, in which case the tree may be cut, removed, relocated, or encroached upon only to the extent necessary to avoid the danger presented. ~~The planning department~~ Director shall be promptly noticed of the nature of the emergency and action taken;
 - ~~4. Fire department personnel actively engaged in fighting a fire have determined that removal of the tree is necessary to their firefighting efforts;~~

- ~~5. The tree is less than ten inches in diameter and is held for sale by a licensed nursery;~~
5. An owner of real property is prohibited from obtaining insurance coverage to adequately secure and protect said property;
6. City staff has determined it is necessary to cut, remove, relocate, or encroach upon the tree to prepare a site or undertake an approved capital improvement project that has received environmental clearances under the California Environmental Quality Act;
7. The director of public works or the city traffic engineer has directed the cutting, removal, relocation, or encroachment in order to: (i) maintain public rights-of-way or adequate line-of-sight distances; and (ii) construct improvements within existing or proposed General Plan Circulation Element rights-of-way, adjacent slopes, and appurtenances;
8. Cutting, removal, relocation, or encroachment is required to widen a principal intersection to accommodate additional dedicated turning lanes in accordance with adopted goals, objectives and policies contained in the General Plan Circulation Element;
9. Cutting, removal, relocation, or encroachment occurs as part of construction or maintenance activities for facilities owned or operated by or for a public agency, special district, or a utility company under the jurisdiction of the public utilities commission;
- ~~10. Recreational and resort uses shall not be required to obtain permits for cutting, removal, relocation, or encroachment of or on Heritage Trees when such activities are necessary subject to Section 8.48.200(B).~~

(Ord. 09-05 § 1)

§ 8.48.220. Permit application and review.

- A. An applicant for a Heritage Protected Tree Removal or Relocation Permit shall submit an application on a form designated by the ~~planning~~ Director and pay the appropriate filing fee as set by council resolution.
- B. If an application for a Heritage Protected Tree Removal or Relocation Permit pertains to five or fewer trees located on a single parcel, the ~~planning~~ Director, or designee, shall review the application and approve, deny, or conditionally approve the request. The ~~planning~~ Director's decision may be appealed to the planning commission, which may uphold, modify, or reverse the decision of the ~~planning~~ Director.
- C. The planning commission shall review all applications for a Heritage Protected Tree Removal or Relocation Permit not reviewed in the first instance by the ~~planning~~ Director, or designee. The planning commission shall approve, deny, or conditionally approve the request. The planning commission's review shall be consolidated with its consideration of all other entitlement applications for the property, if any.

- D. All decisions of the planning commission pursuant to this Chapter Ordinance may be appealed to the city council in accordance with Section 17.03.090 of the Temecula Municipal Code.

(Ord. 09-05 § 1)

§ 8.48.230. Standards of approval.

- A. An application for a Heritage Protected Tree Removal or Relocation Permit may be approved only if the decision-maker finds and determines that the requested cutting, removal, relocation, or encroachment is necessary to:
1. Maintain or aid the health, balance, or structure of the Heritage Protected Tree;
 2. Protect life or property from a danger posed by the Heritage Protected Tree that cannot be reduced or eliminated by use of reasonable preservation and/or preventative procedures and practices; or
 3. Enable the reasonable and conforming use of the property, which is otherwise prevented by the presence of the tree.
- B. When deciding whether to approve, deny, or conditionally approve a Heritage Protected Tree Removal or Relocation Permit, the decision maker may consider the following factors:
1. Whether a public purpose is being provided by the issuance of the permit or if the removal is primarily to facilitate private development;
 2. The overall condition, species, approximate age, size and general health of the Heritage Protected Tree(s) to be removed;
 3. A certified arborist's ~~or licensed landscape architect's~~ report on the likelihood for survival of any Heritage Protected Tree(s) to be relocated;
 4. The species, size and number of replacement tree(s) being provided as mitigation; and
 5. Other factors as appropriate, in accordance with a certified arborist's or licensed landscape architect's report.
- C. The decision maker may impose conditions to offset or mitigate the requested cutting, removal, relocation, or encroachment, including, but not limited to, any of the following:
1. The relocation of the subject tree to another location on-site or off-site;
 2. The on-site ~~or off-site~~ planting of ~~one~~ three replacement tree of ~~the same or similar~~ species which will achieve the same approximate size at maturity as the removed Protected Tree for every one Protected Tree removed; ~~age and health as the Heritage Trees for every one Heritage Tree removed;~~
 3. The ~~on-site or off-site~~ planting of two forty-eight-inch box trees of ~~the same~~ species which will achieve the same approximate size at maturity as the removed Heritage Protected Tree for every one Heritage Protected Tree removed when it is not feasible to meet the requirements of Section 8.48.230(C)(2);

4. The initiation of an objectively observable maintenance and care program in accordance with a certified arborist's ~~or licensed landscape architect's~~ report to insure the continued health and care of Heritage Protected Trees on the property for a period of 5 years;
 5. Payment of a fee equal to the cost of procuring, planting, establishing, and maintaining one replacement tree for every one Heritage Protected Tree removed, which cost shall be based on the latest edition of either the "Guide for Plant Appraisal" by the International Society of Arboriculture or the "Standards for Valuation of Amenity Trees" of the International Society of Arboriculture. Such payments shall be used solely to fund the cost of replacing trees that have been removed.
- (Ord. 09-05 § 1)

Article III Violations and Enforcement

§ 8.48.300. Violations.

- A. Violations of this Chapter Ordinance are subject to criminal misdemeanor penalties and administrative citations ~~civil penalties~~ pursuant to Chapters 1.16, 1.20 and 1.21, of this Code.
- B. Intimidating, harassing, or otherwise retaliating against any person who seeks to attain compliance with this Chapter Ordinance is prohibited.
- C. Causing, permitting, aiding, abetting or concealing a violation of any provision of this Chapter Ordinance is prohibited.
- D. A violation of this chapter is declared to be a public nuisance and may be abated pursuant to the procedures I Chapter 8.12 of this Code.

(Ord. 09-05 § 1)

§ 8.48.310. Remedies.

- A. The remedies provided by this Chapter Ordinance are cumulative and in addition to any other remedies available at law or in equity. The city may seek to remedy any violation of this Chapter Ordinance by a civil action, including, without limitation, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings, and suits for injunctive relief.
- B. If a violation occurs during development, the city may issue a stop work order suspending and prohibiting further activity on the property pursuant to the grading, demolition, and/or building permit(s) (including construction, inspection, and the issuance of certificates of occupancy) until a mitigation plan has been prepared by a certified arborist ~~or a licensed landscape architect~~, filed by the developer and approved by the ~~planning~~ Director.
- C. If a violation occurs in the absence of development, or while an application for a building permit or discretionary development approval is pending for the property upon which the tree is located, the ~~planning~~ Director may: (1) issue a stop work order halting all activity on the parcel; or (2) request the city council issue a temporary moratorium on development of the subject property pursuant to law if the violation is found to be the result of willful misconduct. The purpose of this stop of activity shall be to provide the city an opportunity to determine appropriate mitigation measures, if any, for the tree removal and to ensure such measures are incorporated into any future or pending development approvals for the property. Mitigation measures may be imposed as a condition of any subsequent permits for development on the subject property.

(Ord. 09-05 § 1)

§ 8.48.320. Restitution.

- A. In addition to any other remedy or penalty provided for by this Chapter Ordinance, the city

may seek restitution from any person who damages, removes, or relocates a Heritage Protected Tree in violation of this Chapter Ordinance in the form of replacement of the Heritage Protected Tree so removed or damaged or a fine in lieu of restitution. The ~~decision-maker~~ Director shall determine the form of restitution required.

1. If the ~~decision-maker~~ Director determines that restitution should be made in the form of a replacement of the Heritage Protected Trees removed or damaged, the replacement trees shall be the same or similar species of tree, having the approximate size, age and health as the tree(s) damaged or destroyed, at a ratio of ~~two~~ three new replacement trees for every one damaged or destroyed tree. Additional funds will be provided to the City that will cover the cost of the City to water and maintain the replacement trees for a period of three (3) years after planting. The location of such plantings shall be determined by the ~~decision-maker~~ Director;
 2. If the ~~decision-maker~~ Director determines that payment should be made in lieu of restitution, the payment required shall include but is not limited to, the costs of procuring, transporting, planting, establishing, and maintaining replacement trees for the life of the project at a ratio of two new replacement trees for every one damaged or destroyed tree. The cost of the replacement trees shall be based on the actual replacement cost for the damaged Heritage Protected Tree or the latest edition of either the "Guide for Plant Appraisal" by the International Society of Arboriculture or the "Standards for Valuation of Amenity Trees" of the International Society of Arboriculture. Payments made in lieu of restitution shall be used solely to fund the cost of replacing trees that have been damaged or removed in violation of this Chapter Ordinance.
- B. If the size of a Heritage Protected Tree cannot be determined due to its unauthorized removal, the size shall be determined by measuring the stump that remains, anecdotal evidence, or interpolated from photographs or adjacent trees. The ~~decision-maker~~ Director shall presume that a missing Heritage Protected Tree was in perfect health, unless the photographs or other verifiable evidence demonstrates otherwise.
- C. All decisions of the Direct pursuant to this Section may be appealed to the Planning Commission in accordance with Section 17.03.090 of the Temecula Municipal Code.

(Ord. 09-05 § 1)

§ 8.48.330. Collection of penalties.

- A. Fines and payments in lieu of restitution for violation of this Chapter Ordinance are payable at the city's finance/cashier office. Fines must be paid within thirty business days of the citation date. The city's finance department is authorized to collect all unpaid civil fines.
- B. Any unpaid costs or penalties, or payments in lieu of restitution imposed pursuant to this chapter shall constitute a special assessment against the real property upon which a violation of this chapter has occurred. All costs and/or fines shall be itemized in a written report of assessment. The ~~planning~~ Director shall cause a copy of the report and assessment to be served on the owner of the property not less than five days prior to the time fixed for confirmation of the assessment. Service may be

made by enclosing a copy of the report of assessment in a sealed envelope, postage prepaid, addressed to the owner at his or her last known address as the same appears on the last equalized assessment rolls of the county of Riverside and depositing the same in the United States mail. Service shall be deemed complete at the time of mailing.

- C. A copy of the report of assessment shall be posted in the city clerk's office on the bulletin board designated for the posting of agendas, not less than three days prior to the time when the report shall be submitted to the city council. The city council shall hear the report, together with any objections by the property owner. After the assessment is made and confirmed by the city council, it shall be a lien on said property. The lien shall be ~~turned over~~ submitted to the Riverside County tax collector, where it shall be levied on the next regular property tax bills for said property, and collected at the same time and in the same manner as other municipal taxes are collected, and shall be subject to the same penalties and procedures under foreclosure and sale in case of delinquency as provided for other municipal taxes.

(Ord. 09-05 § 1)

SECTION 2. Chapter 8.49, City Tree Care and Preservation, of the Temecula Municipal Code is hereby repealed.

SECTION 3. California Environmental Quality Act Findings. In accordance with the California Environmental Quality Act, this Ordinance is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Title 14 of the California Code of Regulations, Section 15378(b)(5) and Section 15061 (b) (3) because it can be seen with certainty that there is no possibility that the Ordinance will have a significant effect on the environment. The proposed Municipal Code amendments are minor policy changes, reorganization of existing ordinance provisions, changes required by state law or revisions that reflect the City's standard practice and patterns with respect to preservation, protection, management, and maintenance of trees. The City Council of the City of Temecula hereby adopts a Notice of Exemption for the Ordinance and directs the City Manager to file it as required by law.

SECTION 4. The City Clerk shall certify to the adoption of this Ordinance and shall cause it to be published in the manner required by law.