

ORDINANCE 226

AN ORDINANCE AMENDING SECTIONS 15-05.020, 15-45.070, 15-45.080, 15-46.030, 15-46.040, AND ARTICLE 15-50 OF ZONING REGULATIONS OF THE CITY OF SARATOGA RELATING TO TREE REGULATIONS AND ADOPTING BY REFERENCE THE INTERNATIONAL SOCIETY OF ARBORICULTURE PRUNING STANDARDS (2001 EDITION) AND TREE VALUATION FORMULA CONTAINED IN THE GUIDE FOR PLANT APPRAISAL (APRIL 2000 EDITION)

THE CITY COUNCIL OF THE CITY OF SARATOGA DOES ORDAIN AS FOLLOWS:

Section 1. Findings.

The City Council finds and declares as follows:

- A. The Planning Commission has conducted a public hearing to consider an amendment to the Zoning Regulations with respect to the City Code provisions relating to Tree Regulations and made a recommendation that the City Council amend the City's Tree Regulations.
- B. The adoption of this ordinance is consistent with the provisions of the Saratoga General Plan Open Space Element which states on page 16, "The City should provide information and assistance to the public in the preservation and care of native trees whose existence can be threatened by environmental stress and development."
- C. The adoption of this ordinance is consistent with the provisions of the Saratoga General Plan Conservation Element, which states in Policy CO.3.0, "Preserve the quality of the natural environment and the character of the City through appropriate regulation of site development."
- D. The procedures required by Government Code Sections 50022.1 through 50022.8 for adoption of the ISA Standards by reference have been satisfied as follows:
 - (1) The title of the Tree Ordinance and the title of the ISA Standards to be adopted by reference have been read at a meeting of the City Council.
 - (2) The title of the ISA Standards to be adopted by reference are specified in the title of the ordinance.
 - (3) The Council subsequently scheduled a public meeting, notice of which was published in the local newspaper once a week for two successive weeks stating the time and place of the hearing; stating that copies of the ISA Standards being adopted are on file with the City Clerk and open to

public inspection; and describing the purpose and subject matter of the ordinance in a manner the City Council deemed sufficient, as required by the Government Code.

(4) A certified copy of the ISA Standards, which are adopted by reference, were on file in the Office of the City Clerk at least 15 days preceding the public hearing.

(5) The City Council held a public hearing on the Tree Ordinance and the ISA Standards adopted by reference in the Ordinance.

(6) At least one copy of the ISA Standards adopted by reference will be kept in the Office of the City Clerk for public inspection while the ordinance is in force.

(7) Upon adoption, copies of the adopted ISA Standards will be available for purchase by the public in the Office of the City Clerk, at a cost not to exceed the actual cost of them to the City.

Section 2. Adoption.

Section 15-05.020 of the Saratoga City Code is amended to read:

15-05.020 Purposes of Chapter.

The purposes of this Chapter shall be to promote and protect the public health, safety, peace, comfort, convenience, prosperity and general welfare, including the following more specific purposes:

- (a) To control the physical development of the City in such a manner as to preserve it as essentially a residential community with a rural atmosphere.
- (b) To achieve the arrangement of land uses depicted in the General Plan.
- (c) To foster a harmonious, convenient, workable relationship among land uses.
- (d) To promote the stability of existing land uses which conform with the General Plan, and to protect them from inharmonious influences and harmful intrusions.
- (e) To ensure that public and private lands ultimately are used for the purposes, which are most appropriate and most beneficial from the standpoint of the City as a whole.
- (f) To prevent population densities in excess of those prescribed in the General Plan, and to maintain a suitable balance between structures and open spaces on each site.
- (g) To ensure adequate light, air and privacy for each dwelling unit.
- (h) To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the land around them.
- (i) To facilitate the appropriate location of community facilities and institutions.
- (j) To provide for adequate off-street parking and loading facilities.
- (k) To provide for the orderly, attractive development of commercial facilities in those areas where permitted by the General Plan.

- (l) To exclude new industrial development in order to preserve the essential residential character of the City.
- (m) To preserve the natural beauty of the City.
- (n) To ensure that uses and structures enhance their sites and harmonize with improvements in the surrounding area.
- (o) To protect and enhance real property values within the City.
- (p) To protect and preserve heritage, native, and other significant trees at all times, including, the real property development planning and implementation processes.

Section 15-45.070 is amended to read:

15-45.070 Application requirements.

- (a) Application for design review approval shall be filed with the Community Development Director on such form, as he shall prescribe. The application shall include the following exhibits:
 - (1) Site plan showing (i) property lines, (ii) easements and their dimensions, (iii) underground utilities and their dimensions, (iv) structure setbacks, (v) building envelope, (vi) topography, (vii) species, trunk diameter at breast height (DBH as defined in Section 15-50.020(g)), canopy driplines, and locations of all heritage trees (as defined in Section 15-50.020(l), trees measuring at least ten (10) inches DBH, and all native trees measuring at least six (6) inches DBH on the property and within 150 feet of the property, (viii) areas of dense vegetation and (ix) riparian corridors.
 - (2) A statement of energy conserving features proposed for the project. Such features may include, but are not limited to, use of solar panels for domestic hot water or space heating, passive solar building design, insulation beyond that required under State law, insulated windows, or solar shading devices. Upon request, the applicant shall submit a solar shade study if determined necessary by the Community Development Director.
 - (3) Elevations of the proposed structures showing exterior materials, roof materials and window treatment.
 - (4) Cross sections for all projects located on a hillside lot, together with an aerial photograph of the site if requested by the Community Development Director.
 - (5) Engineered grading and drainage plans, including cross sections if the structure is to be constructed on a hillside lot.
 - (6) Floor plans that indicate total gross floor area, determined in accordance with Section 15-06.280 of this Chapter.
 - (7) Roof plans.
 - (8) Landscape and irrigation plans for the site, showing the location of existing trees proposed to be retained on the site, the location of any proposed replacement trees, the location and design of landscaped areas, types and quantities of landscape materials and irrigation systems, appropriate use of native plants and water conserving materials and irrigation systems and all other landscape features.
 - (9) Tree Preservation Plan, as required in Section 15-50.140.
 - (10) Preliminary title report showing all parties having any interest in the property and any easements, encumbrances and restrictions, which benefit or burden the property.
 - (11) Such additional exhibits or information as may be required by the Community Development Director. All exhibits shall be drawn to scale, dated and signed by the

person preparing the exhibit. Copies of all plans to be submitted shall consist of two sets drawn on sheets eighteen inches by twenty-eight inches in size and fifteen reduced sets on sheets eleven inches by seventeen inches in size.

(12) A geotechnical clearance as defined in Section 15-06.325 of this Code, if required by the City Engineer.

(a) The application shall be accompanied by the payment of a processing fee, in such amount as established from time to time by resolution of the City Council.

Section 15-45.080 is amended to read:

15-45.080 Design Review findings.

The Planning Commission shall not grant design review approval unless it is able to make the following findings:

(a) **Avoid unreasonable interference with views and privacy.** The height, elevations and placement on the site of the proposed main or accessory structure, when considered with reference to: (i) the nature and location of residential structures on adjacent lots and within the neighborhoods; and (ii) community view sheds will avoid unreasonable interference with views and privacy.

(b) **Preserve natural landscape.** The natural landscape will be preserved insofar as practicable by designing structures to follow the natural contours of the site and minimizing tree and soil removal; grade changes will be minimized and will be in keeping with the general appearance of neighboring developed areas and undeveloped areas.

(c) **Preserve native and heritage trees.** All heritage trees (as defined in Section 15-50.020 (l)) will be preserved. All native trees designated for protection pursuant to Section 15-50.050 will be preserved, or, given the constraints of the property, the number approved for removal will be reduced to an absolute minimum. Removal of any smaller oak trees deemed to be in good health by the City Arborist will be minimized using the criteria set forth in Section 15-50.080.

(d) **Minimize perception of excessive bulk.** The proposed main or accessory structure in relation to structures on adjacent lots, and to the surrounding region, will minimize the perception of excessive bulk and will be integrated into the natural environment.

(e) **Compatible bulk and height.** The proposed main or accessory structure will be compatible in terms of bulk and height with (i) existing residential structures on adjacent lots and those within the immediate neighborhood and within the same zoning district; and (ii) the natural environment; and shall not (i) unreasonably impair the light and air of adjacent properties nor (ii) unreasonably impair the ability of adjacent properties to utilize solar energy.

(f) **Current grading and erosion control methods.** The proposed site development or grading plan incorporates current grading and erosion control standards used by the City.

(g) **Design policies and techniques.** The proposed main or accessory structure will conform to each of the applicable design policies and techniques set forth in the Residential Design Handbook and as required by Section 15-45.055.

Section 15-46.030 is amended to read:

15-46.030 Application requirements.

(a) Application for design review approval shall be filed with the Community Development Director on such form, as he shall prescribe. The application shall include the following exhibits:

(1) A site plan showing property lines, easements, dimensions, topography, and the proposed layout of all structures and improvements including, where appropriate, driveways, pedestrian walks, parking and loading areas, landscaped areas, fences and walls, and the species, trunk diameter breast height (DBH as defined in Section 15-50.020(g)), canopy driplines, and locations of all heritage trees (as defined in Section 15-50.020(l)), trees measuring at least ten (10) inches DBH, and all native trees measuring at least six (6) inches DBH on the property and within 150 feet of the property. The site plan shall indicate the locations of entrances and exits and the direction of traffic flow into and out of parking and loading areas, the location and dimension of each parking and loading space, and areas for turning and maneuvering vehicles.

(2) Architectural drawings or sketches showing all elevations of the proposed structures as they will appear upon completion. All exterior surfacing materials and their colors shall be specified, and the size, location, material, colors and illumination of all signs shall be indicated.

(3) A landscape and irrigation plan for the site, showing the locations of existing trees proposed to be retained on the site, the location of any proposed replacement trees, types and quantities of landscape plants and materials and irrigation systems, appropriate use of native plants, and water conserving plants and materials and irrigation systems, and all other landscape features.

(4) Cross sections for all projects located on a hillside lot.

(5) Engineered grading and drainage plans, including cross sections if the structure is to be constructed on a hillside lot.

(6) Floor plans showing total gross floor area, determined in accordance with Section 15-06.280 of this Chapter.

(7) Roof plans.

(8) Such additional exhibits or information as may be required by the Community Development Director or the Planning Commission. All exhibits shall be drawn to scale, dated and signed by the person preparing the exhibit. Copies of all plans to be submitted shall consist of two sets drawn on sheets eighteen inches by twenty-eight inches in size and 15 sets on sheets eleven inches by seventeen inches in size.

(b) The application shall be accompanied by the payment of a processing fee, in such amount as established from time to time by resolution of the City Council, together with a deposit toward the expense of noticing the public hearing as determined by the Community Development Director.

Section 15-46.040 is amended to read:

15-46.040 Design criteria.

In reviewing applications for design review approval under this Article, the Planning Commission shall be guided by the following criteria:

(a) Where more than one building or structure will be constructed, the architectural features and landscaping thereof shall be harmonious. Such features include height, elevations, roofs, material, color and appurtenances.

(b) Where more than one sign will be erected or displayed on the site, the signs shall have a common or compatible design and locational positions and shall be harmonious in appearance.

(c) Landscaping shall integrate and accommodate existing trees and vegetation to be preserved; it shall make use of water-conserving plants, materials and irrigation systems to the maximum extent feasible; and, to the maximum extent feasible, it shall be clustered in natural appearing groups, as opposed to being placed in rows or regularly spaced.

(d) Colors of wall and roofing materials shall blend with the natural landscape and be nonreflective.

(e) Roofing materials shall be wood shingles, wood shakes, tile, or other materials such as composition as approved by the Planning Commission. No mechanical equipment shall be located upon a roof unless it is appropriately screened.

(f) The proposed development shall be compatible in terms of height, bulk and design with other structures in the immediate area.

Article 15-50 is amended to read:

Article 15-50 TREE REGULATIONS

15-50.010 Findings; purposes of Article.

15-50.020 Definitions.

15-50.030 Application of Article.

15-50.040 Street trees.

15-50.050 Removal of certain trees without permit.

15-50.060 Exceptions.

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15-50.090 Development or improvement projects

15-50.100	Appeals
15-50.110	No liability upon City
15-50.120	Setback of new construction from existing trees.
15-50.130	Arborist Report
15-50.140	Tree Preservation Plan
15-5-.150	Tree Fund
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15.50-170	Violations; penalties and remedies
15-50.180	Tree Companies Operating in the City
15-50-190	Possession of an Approved Tree Removal Permit

15-50.010 Findings; purposes of Article.

The City Council finds that the City is primarily a residential community; that the economics of property values is inseparably connected with the rural attractiveness of the area, much of which is attributable to the wooded hillsides and the native and ornamental trees located throughout the City; that the preservation of such trees is necessary for the health, safety and welfare of the residents of the City in order to preserve scenic beauty, prevent erosion of topsoil, protect against flood hazards and the risk of landslides, counteract pollutants in the air, maintain the climatic balance and decrease wind velocities.

To compliment and strengthen zoning, subdivision and other land use standards and regulations, while at the same time recognizing the privileges of private property ownership, the City Council adopts this ordinance to establish basic standards and measures for the maintenance, removal, and replacement of trees. Thus, this ordinance is designed to provide a stable and sustainable urban forest to preserve and protect significant historic heritage values, and to enhance the unique aesthetic character and environment of this City.

15-50.020 Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this Section, unless the context or the provision clearly requires otherwise:

- (a) **“Agricultural tree”** means a fruit or nut tree grown for the production of fruit or nuts.
- (b) **“Approving body”** means the body having authority to approve or deny an application and includes the Planning Commission and the Community Development Director.
- (c) **“Arborist Report”** means a report prepared by a certified arborist and accepted by the Community Development Director containing specific information on the location, condition, structure, potential impacts of development, and recommended actions and mitigation measures regarding one or more trees on an individual lot or project site.
- (d) **“Bond or security deposit”** means a financial instrument which guarantees a future condition and may include an irrevocable letter of credit or cash.
- (e) **“Canopy”** or tree canopy means all portions of the tree with foliage. As context requires, the term also describes the area inside the drip line.
- (f) **“Crown”** means the portion of the tree above the trunk including the limbs and foliage.
- (g) **“DBH”** means diameter at breast height. It is the diameter of a single stem trunk tree measured at four and one-half (4 ½) feet above the ground while standing on the high side of the tree. The diameter may be calculated using the following formula:

$$\text{Diameter} = \text{Circumference} / 3.142$$
To measure trees with multi-stem trunks, the tree diameter equals the full diameter of the largest trunk plus 50% of the diameter of all other trunks on the tree; each trunk is measured at four and one-half (4 ½) feet above the ground while standing on the high side of the tree.
- (h) **“Damage”** means any action undertaken which causes short term or long term injury, death, or disfigurement to a tree. This includes, but is not limited to: cutting of roots or limbs, poisoning, over-watering, relocation, or transplanting a tree, or trenching, grading, compaction, excavating, paving or installing impervious surface within the root zone of a protected tree.
- (i) **“Destroy”** means to cause the premature decline of tree health or life as evaluated and determined by the City Arborist.
- (j) **“Dripline”** means the outermost edge of the tree’s canopy. When depicted on a map or plan, the dripline is the irregular shaped circle that follows the contour of the tree’s branches as seen from overhead.
- (k) **“Encroachment”** means any intrusion or human activity occurring within the root zone of a tree, including, but not limited to structural pruning in excess of International Society of Arboriculture Commission (ISA) Pruning Standards (2001 Edition), grading, excavating, trenching, parking of vehicles, permanent or temporary storage of materials or equipment, or the construction of structures or other improvements within the root zone of a tree
- (l) **“Heritage tree”** means any tree of historic significance as a tree having historic value related to the heritage of the City and designated by action of the City Council upon recommendation of the Heritage Preservation Commission.
- (m) **“ISA Standards”** means the 2001 Edition of the pruning standards and the Tree Valuation Formula contained in the April 2000 Guide for Plant Appraisal published by the International Society of Arboriculture.

(n) **“Native tree”** means Coast Live Oak (*Quercus agrifolia*), Valley Oak (*Quercus lobata*), Tan Oak (*Lithocarpus densiflorus*), Black Oak (*Quercus kellogi*), Blue Oak (*Quercus douglasi*), Scrub Oak (*Quercus dumosa*), Big Leaf Maple (*Acer macrophyllum*), California Buckeye (*Aesculus californica*), Douglas fir (*Pseudotsuga menziesii*) and Coast Redwood (*Sequoia sempervirens*).

(o) **“Oak”** means any native oak tree of the Genus *Quercus*, regardless of size. This definition shall not include oak trees planted, grown and held for sale by licensed nurseries or the first removal or transplanting of such trees pursuant to and as part of the operation of a licensed nursery business.

(p) **“Project site”** means the site of the proposed tree removal, pruning, or encroachment affecting a protected tree.

(q) **“Protected tree”** has the meaning set forth in section 15-50.050.

(r) **“Pruning”** means any and all work performed on or adversely affecting the roots, branches or limbs of a protected tree.

(s) **“Remove”** and **“Removal”** mean the physical removal or destruction of a tree or causing the death of a tree through damaging, pruning, encroaching or other direct or indirect action on the canopy or root zone.

(t) **“Root zone”** means a specifically defined area commencing at the trunk and moving outward to form an irregularly shaped circle that follows the contour of the tree canopy and extending beyond the dripline of the tree by five (5) feet or such greater distance determined by the City Arborist.

(u) **“Routine maintenance”** means actions needed for the continued good health of a tree including, but not limited to, removal of deadwood, insect control spraying and watering.

(v) **“Street tree”** means any tree within the Public Street or right-of-way.

(w) **“Shrub”** means a bushy, woody plant, usually with several permanent stems, and usually not over fifteen feet high at maturity. The Community Development Director, after consultation with the City Arborist may determine whether any specific woody plant shall be considered a tree or a shrub.

(x) **“Structural Pruning”** means pruning to maintain the size of lateral branches to less than three-fourths the diameter of the parent branch or trunk.

(y) **“Tree”** means a woody perennial plant characterized by having a main stem or trunk, or a multi-stemmed trunk system with a more or less definitely formed crown, and is usually over ten feet high at maturity. This definition shall not include trees planted, grown and held for sale by licensed nurseries or the first removal or transplanting of such trees pursuant to and as part of the operation of a licensed nursery business.

(z) **“Tree fund”** means a City-held monetary account accounted for separately from other City funds. The express functions of the Tree fund are: (1) To receive and hold any fines, penalty assessments civil penalties, bonds or other remedial funds or sources of funds for violations of Article 15-50 of this code; (2) To receive and hold monetary valuations and payments for replacement trees pursuant to Section 15-50.170, as prescribed by the Community Development Director, or as a condition of development approval; and (3) To pay for new or replacement trees, their planting and maintenance, as determined by the Community Development Director, on public properties, streets, easements and dedicated open spaces.

(aa) **“Tree Preservation Plan”** means a detailed plan containing all protective measures to be implemented before, during, and, after any encroachment or other activity affecting

one or more protected trees including provision for future maintenance, to preserve and protect all trees to be retained on any project site.

15-50.030 Application of Article.

This Article shall apply to every owner of real property within the City, and to every person responsible for removing, damaging, pruning or encroaching upon a tree regardless of whether such person is engaged in a business for such purpose.

15-50.040 Street trees.

(a) **Policies and standards.** The Community Development Director shall implement policies and standards for street tree planting and maintenance as established from time to time by resolution of the Planning Commission or City Council.

(b) **Planting required condition of approval.** The planting of street trees may be required as a condition of any approval granted under this Chapter.

(c) **Responsibility for maintenance.** The City shall provide maintenance for street trees located within a commercial district and on arterial roads, unless such maintenance responsibility has been assumed by a property owner or other person under a landscape maintenance agreement with the City. In all other areas of the City, the City shall not conduct but shall control the planting, maintenance and removal of street trees and shrubs which might affect the public right-of-way; the owner or occupant of such property shall be responsible for the maintenance of street trees on the property and in the public right-of-way abutting the property.

15-50.050 Removal of certain trees without permit.

Except as otherwise provided in Section 15-50.060, it is unlawful for any person to remove, damage, prune, or encroach upon, or cause to be removed, damaged, pruned, or encroached upon any protected tree, located on any private or public property in the City without first having obtained a tree removal, pruning or encroachment permit issued pursuant to this Article and authorizing the proposed action. A protected tree shall consist of any of the following:

(a) Any native tree having a DBH of six (6) inches or greater

(b) Any other tree having a DBH of ten (10) inches or greater.

(c) Any street tree, as defined in Section 15-50.020(v), regardless of size.

(d) Any heritage tree, as defined in Subsection 15-50.020(1) regardless of size.

(e) Any tree required to be planted or retained as a condition of any approval granted under this Chapter or Chapter 14 of this Code.

(f) Any tree required to be planted as a replacement, as provided in Subsection 15-50.170 of this Article.

15-50.060 Exceptions.

The permit requirement set forth in Section 15-50.050 shall not apply to any of the following:

(a) **Emergencies.** If the condition of a tree presents an immediate hazard to life or property, it may be removed without a permit on order of the City Manager, the Public Works Director, the Community Development Director, their designated representatives, or a Peace Officer, or the fire department having jurisdiction.

(b) **Public utilities.** Public utilities subject to the jurisdiction of the State Public Utilities Commission may without a permit take such action as may be necessary to comply with the safety regulations of the Commission and as may be necessary to maintain a safe operation of their facilities.

(c) **Project approval.** Where removal of a protected tree or encroachment upon one or more protected trees has been specifically authorized as part of any project approval granted under this Chapter or Chapter 14 or 16 of this Code, no permit pursuant to this Article shall be required for such activity, provided the Community Development Director determines in writing that the criteria specified in sections 15-50.080 and 15-50.120 and 15-50.140 have been met. Any protected tree authorized for removal, pruning or encroachment pursuant to such project approval shall not be removed, pruned or encroached upon, until the issuance of a building or grading permit for the improvements, which are subject of the approval.

15-50.070 Application for permit.

(a) **Application.** Application for a tree removal pruning or encroachment permit shall be made to the Community Development Director on such form as he or she may prescribe. The application shall contain the number and location of each tree to be removed, pruned or encroached upon, the type and approximate size of the tree, the reason for removal, pruning or encroachment and such additional information as the Director may require. The application shall be signed by the owner of the property upon which the tree is located and if the applicant is not the owner of said property shall include a statement that the owner consents to the activity described on the permit application.

(b) **Notice.** Prior to acting on an application for a tree removal permit affecting one or more protected trees, notice shall be given to property owners within 150 feet at the time of application, at least ten (10) days before a decision on the permit is made.

(c) **Pruning Permit:** A permit is required for structural pruning in excess of ISA Standards (the 2001 Edition of which is hereby adopted by reference) during any given growth period or year of any protected tree. Pruning shall not exceed 25% of the canopy. No permit is required for structural pruning, which complies with ISA Pruning Standards, or for the pruning of productive agricultural trees.

(d) Notwithstanding the foregoing, either written permission or a permit is required for the pruning of a protected tree the trunk of which is at least partially located on a neighboring property.

15-50.080 Determination on permit.

(a) **Criteria.** Each application for a tree removal pruning or encroachment permit shall be reviewed and determined on the basis of the following criteria:

- (1) The condition of the tree with respect to disease, imminent danger of falling, proximity to existing or proposed structures and interference with utility services.
- (2) The necessity to remove the tree because of physical damage or threatened damage to improvements or impervious surfaces on the property.
- (3) The topography of the land and the effect of the tree removal upon erosion, soil retention and the diversion or increased flow of surface waters, particularly on steep slopes.
- (4) The number, species, size and location of existing trees in the area and the effect the removal would have upon shade, privacy impact, scenic beauty, property values, erosion control, and the general welfare of residents in the area.
- (5) The age and number of healthy trees the property is able to support according to good forestry practices.
- (6) Whether or not there are any alternatives that would allow for retaining or not encroaching on the protected tree.
- (7) Whether the approval of the request would be contrary to or in conflict with the general purpose and intent of this Article.
- (8) Any other information relevant to the public health, safety, or general welfare and the purposes of this ordinance as set forth in section 15-50.010.
- (9) The necessity to remove the tree for economic or other enjoyment of the property when there is no other feasible alternative to the removal.

(b) **Additional recommendations.** The Community Development Director may refer the application to another department, commission or person for a report and recommendation. The Director may also require the applicant to furnish a written report from an ISA Certified Arborist acceptable to the Director, such report to be obtained at the sole expense of the applicant. At the discretion of the Community Development Director, City Arborist review may be required before any tree removal, pruning or encroachment permit is issued or before approval of a project involving the removal of, pruning of or encroachment upon one or more protected trees is granted. City Arborist review shall also be at the sole expense of the applicant.

(c) **Decision by Director.** The Community Development Director shall render his or her decision within thirty days (30) after the filing of the application for a permit. The Director may grant or deny the application or grant the same with conditions, including, but not limited to, (1) the condition that one or more replacement trees be planted of a species and size and at locations as designated by the Director, (2) relocation of existing tree desired to be removed, and/or (3) payment of a fee or the posting of a bond or security deposit in favor of the City to the Tree Fund. Any such tree replacement, relocation, fee payment, or bonding or security deposit shall be at the sole expense of the applicant.

(d) **Security deposits and maintenance bonds.** In the case of an application for, or a project involving encroachment on one or more protected trees, the applicant shall post a security deposit with the City in an amount equal to 100 % of the ISA valuation of the trees involved. The City may also require posting of a maintenance bond or security deposit of at least five years designed to ensure long term maintenance of the affected or

replacement trees. Security deposits or maintenance bonds required for protected trees or replacement trees in public or private development may, in the reasonable discretion of the Community Development Director, be refunded upon a determination that the project is in compliance with the City Arborist's requirements and/or Tree Preservation Plan. In the case of violations of this Article or where replacement, restitution, or other remedy required pursuant to Section 15-50.170 cannot be made on the project site, then such payments shall be made from the deposit or bond being held before any refund is made.

15-50.090 Development or improvement projects.

(a) **Subdivision approval.** When any application is made pursuant to Chapter 14 and that proposal would involve removal of, pruning of, or encroachment upon a protected tree, the City shall take into consideration the provisions of this Article in granting or denying the application.

(b) **Project approval.** Removal of, pruning of, or encroachment upon any protected trees pursuant to project approval granted under this Chapter or Chapters 14 or 16 of this Code shall meet the requirements of Section 15-50.140 and be evaluated according to the criteria in section 15-50.080.

(c) **Modifications to approved projects.** In the event of any change or modification to an approved site development plan which results in removal of or an increase in pruning of or encroachment upon any protected tree, the provisions of this Article shall apply.

15-50.100 Appeals.

(a) Except otherwise provided in subsection (b) of this Section, any person objecting to a decision by the Community Development Director made pursuant to any of the provisions of this Article, may appeal such decision in accordance with the procedure set forth in Article 15-90 of this Chapter. Any permit issued pursuant to this Article shall take effect immediately upon the expiration of the appeal period specified in Article 15-90 of this Chapter unless the permit is appealed. If the permit is appealed or a permit denial is appealed and the Planning Commission upholds the permit or reverses the denial, the permit shall take effect immediately upon the decision of the Planning Commission unless appealed to the City Council in accordance with the procedure set forth in Article 15-90 of this Chapter.

(b) Where an application for a tree removal permit has been granted and the Community Development Director determines that the tree in question presents a clear and immediate threat of causing injury to persons or property, the Community Development Director may issue the tree removal permit prior to expiration of the appeal period specified in Article 15-90 of this Chapter.

15-50.110 No liability upon City.

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

15-50.120 Setback of new construction from existing trees.

Unless otherwise permitted by the approving authority, no structure, excavation or impervious surface areas of any kind shall be constructed or installed within the root zone of any protected tree without mitigating special design, such as post and beam footings that bridge the roots. No parking, storing of vehicles, equipment or other materials shall be permitted within the dripline of any protected tree without special design considerations approved by the Community Development Director and the City Arborist.

15-50.130 Arborist Report

An Arborist Report shall be required for any application for discretionary development approval that would require the removal of one or more trees protected by this Chapter and for any other projects where the Community Development Director determines it is necessary. The Community Development Director may require any Arborist Report (or portion thereof) to be reviewed by the City Arborist. The Arborist Report and any review of it by the City Arborist required by the Community Development Director shall be at the sole expense of the applicant.

15-50.140 Tree Preservation Plan.

(a) A Tree Preservation Plan shall be required for any project approved pursuant to Chapters 14, 15 and 16 of the Code on any site on which an Arborist Report is prepared.

(b) The Tree Preservation Plan shall consist of a separate detailed plan drawn to a sufficient scale (but no larger than 20 feet to the inch, with any details to be shown at least 10 feet to the inch) to clearly indicate all protection and mitigation measures to be taken as required by the Community Development Director and/or the Arborist Report for the project.

(c) When a project has been submitted for approval pursuant to Chapters 14, 15, or 16, there shall be no permits issued for grading or site improvements until a Tree Preservation Plan for the project has been approved by the Community Development Director and the required protection measures are determined to be in place through City inspection. Protection measures required shall remain in place for the duration of the construction activity at the project site, or as otherwise required by the City and shall not be removed until authorized by the Community Development Director.

(d) The Tree Preservation Plan and any permits for tree removal shall be maintained at the project site at all times during construction activities and until all work has been completed, inspected and approved by the City.

(e) At least three scheduled inspections shall be made by the City to ensure compliance with the Tree Preservation Plan. The inspections shall, at a minimum include the

following: (1) Initial inspection prior to any construction or grading, (2) After completion of rough grading and/or trenching, and (3) Completion of all work including planting and irrigation system installation. Other inspections may be conducted as required by the Community Development Director.

15-50.150 Tree Fund

(a) Purpose and source of funds. A tree preservation fund shall be established for the City for the purposes specified in Section 15-50.020(z). The Tree Fund shall be funded by those fines, penalties, and other remedial payments which may be assessed by courts or administratively imposed, including, but not limited to, those provided for in Chapter 3 of this Code for violations of this Article. In addition, payments required for replacement trees pursuant to Section 15-50.170, as prescribed by the Community Development Director, or as a condition of development approval, or from payments made from a security deposit or bond, shall be held in the Tree Fund and used to purchase new and replacement trees. The Community Development Director and the City Arborist shall determine the selection, planting and location of any such trees.

(b) Tree valuation. Lawfully removed trees to be replaced as a condition of development approval shall be valued and their removal compensated for as follows: Trees replaced on or off site according to good forestry practices, shall provide, in the opinion of the Community Development Director, equivalent value in terms of aesthetic and environmental quality, size, height, location, appearance, and other significant beneficial characteristics of the removed tree/s. The City Arborist shall calculate the value of the removed tree/s in accordance with the ISA Tree Valuation Formula contained in the April 2000 ISA Guide for Plant Appraisal, which is hereby adopted by reference.

15-50.160 Enforcement

(a) General. The City shall vigorously enforce the provisions of this Article. Inspectors shall, in the course of their regular duties, monitor construction activities. Any observed violations shall be immediately reported to the Community Development Director for follow-up action.

(b) Stop work orders. Whenever any activities are in violation of the provisions of this Article, applicable tree permit/s, Tree Preservation Plans, or conditions of project approval, a Building Inspector, Public Works Director, Community Service Officer, or Community Development Director shall issue a written notice to stop work on the project for which a violation has occurred. The notice shall state the nature of the violation or danger and with the exception of ordered remediation, no work shall be allowed to proceed until the violation has been rectified and any remaining activity approved by the City.

(c) Cumulative remedies. All remedies in this Section shall be cumulative and are not exclusive.

15-50.170 Violations; penalties and remedies.

The violation of any provision contained in this Article is hereby declared to be unlawful and shall constitute public nuisance and an infraction. As either a public nuisance or an infraction, the violation shall be subject to the penalties or remedies as described in Chapter 3 of this Code and any other remedies authorized by the City Code, including, but not limited to the following:

(a) Requiring that the violator obtain a tree removal, pruning or encroachment permit for the previously conducted unlawful activity, including one or more of the following conditions as appropriate:

(1) the violator shall replace each unlawfully removed tree with one or more new trees which can be accommodated on the site of the violation according to good forestry practices and, in the opinion of the Community Development Director, will provide equivalent value in terms of cost (as determined pursuant to the City Arborist's calculation of the value of the removed tree/s in accordance with the ISA Tree Valuation Formula adopted by reference), aesthetic and environmental quality, size, height, location, appearance and other characteristics of the unlawfully removed tree; or

(2) where replacement trees cannot be accommodated on site according to good forestry practices, or cannot provide equivalent aesthetic or environmental quality of removed tree/s on site, the violator shall either plant replacement trees off site or make a cash payment to the City Tree Fund (based on the City Arborist's calculation of the value of the removed tree/s in accordance with the ISA Tree Valuation Formula adopted by reference), or any combination thereof, in accordance with the following:

(A) To the extent that a cash payment is required for any portion or all of the value of the removed tree, such payment shall be doubled to reflect the estimated installation costs that would be incurred if replacement trees are planted; and

(B) To the extent that the planting of offsite replacement trees is required, the retail cost of such trees, as shown by documentary evidence satisfactory to the Community Development Director, shall be offset against the value of the removed tree, but no credit shall be given for transportation, installation, maintenance and other costs incidental to the planting and care of the replacement trees; or

(3) Where the unlawful activity did not result in tree removal, but did result in tree damage, the violator shall enhance the condition of the remaining trees or portions of trees according to good forestry practices which in the opinion of the Community Development Director, will provide equivalent value in terms of damage to the tree(s), aesthetic and environmental quality, size, height, location, appearance and other characteristics of the unlawfully damaged tree; provide equivalent enhancement of the condition of trees off site or make a cash payment to the City Tree Fund (based on the City Arborist's calculation of the equivalent value of the unlawful damage to the tree).

(b) Any person who is required to plant replacement trees pursuant to this Section shall permanently maintain such trees in a good and healthy condition, for a minimum of five (5) years to ensure permanent establishment of any such tree/s, as determined by the

City Arborist. Such person shall post a maintenance bond or security deposit in a form prescribed by the Community Development Director and execute a maintenance agreement with the City, which shall be recorded in the office of the County Recorder.

(c) As part of a civil action brought by the City, a court may assess against any person who commits, allows, or maintains a violation of any provision of this Chapter a civil penalty. Where the violation has resulted in removal of a protected tree, the civil penalty shall be in an amount not to exceed \$5,000 per tree unlawfully removed unless the replacement value of a tree unlawfully removed is greater than \$5,000 in which case the civil penalty for removal of that tree shall equal the replacement value (excluding installation) of the tree.

(d) Payment (to the extent authorized by law and determined appropriate by the Community Development Director) of any criminal, civil, administrative, or other penalty or restitution order into the Tree Fund.

(e) The violation of any provision contained in this Article during the conduct by any person of a tree removal, structural pruning, landscaping, construction or other business in the City shall constitute grounds for revocation of any business license issued to such person.

(f) All remedies provided in this Section shall be cumulative and are not exclusive.

15-50.180 Tree Companies Operating in the City

Any business, which performs structural pruning or tree removal on protected trees in the City, must be in possession of a Saratoga business license, and must have an ISA Certified Arborist on staff, in a supervisory position for the accomplishment of such work.

15.50-190 Possession of an Approved Tree Removal Permit

Any person engaged in any conduct requiring a permit pursuant to this Article shall have in his or her possession a copy of the approved permit. Upon request of a Peace Officer, City of Saratoga Code Enforcement Officer or other City Official, the person engaging in the referenced conduct shall produce the approved permit. If the person cannot produce the approved permit, all activity shall be suspended until a permit can be produced or obtained from the Community Development Department.

Section 3. Severance Clause.

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase are held invalid, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of the portion held invalid, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated.

Section 4. Publication.

This ordinance or a comprehensive summary thereof shall be published in a newspaper of general circulation of the City of Saratoga within fifteen days after its adoption.

The foregoing ordinance was introduced and read at the regular meeting of the City Council of the City of Saratoga held on the 17th day of September, 2003, and was adopted by the following vote following a second reading on the 17th day of December, 2003:

AYES: **Councilmembers Stan Bogosian, Norman Kline, Nick Streit,
Vice Mayor Kathleen King, Mayor Ann Waltonsmith**

NOES: **None**

ABSENT: **None**

ABSTAIN: **None**

ATTEST:

/s/ CATHLEEN BOYER, CITY CLERK