

[Chapter 12.36 - TREE CONSERVATION* \(DRAFT 5/19/20\)](#)**Sections:****12.36.010 - Purpose.**

The purposes of this ordinance shall be as follows:

- A. The city council finds that it is necessary and in the interest of the public, health, safety, and general welfare to enact an ordinance for the conservation and planting of trees on public and private property, and to prevent the indiscriminate removal of certain healthy trees, in a manner which allows for maximum reasonable use and enjoyment of property by its owners.
- B. Trees are recognized as important to the general well-being of the citizens of the city for their shade, cooling, noise and wind reduction, soil stabilization, greenhouse gas reduction, protection of surface water quality, aesthetic value, air filtering and release of oxygen, benefits to wildlife and the area's ecology, and their economic enhancement to property.
- C. It is the intent of this chapter to promote the conservation of a healthy tree population and to maintain and enhance tree canopy throughout the community where feasible and appropriate. This is to be accomplished through (1) the preservation of existing native trees where feasible and consistent with other development requirements; (2) the replacement or transplanting of trees removed where appropriate and feasible; (3) the phasing of development to reduce impacts when tree removal is required; and (3) the planting of new trees in locations, number, and type that is compatible with local conditions.
- D. The city council further finds that the preservation and replacement of trees must be balanced with other public needs related to development of private property including the need to provide protection from wildfire, maintenance of well-designed infrastructure, and to produce adequate housing, commercial and industrial development for the benefit of the citizens of the city.
- E. The city council recognizes that notwithstanding the provisions of this chapter, it may not be physically possible to preserve or replace all trees removed within the boundary of development projects, and alternative mitigation methods for tree protection and replacement are necessary for the benefit of property owners and the citizens of the city.

12.36.015 – Specific Goals

Given the purposes of this ordinance as reflected in Section 12.36.010, the intent and objectives of this chapter shall be to achieve the specific goals as set forth herein. Decisions rendered pursuant to this ordinance shall consider the following goals. The priority of these goals shall be as determined appropriate by the approving authority based on the specific circumstances of the project for which a permit is sought.

- A. Protect the public and property from the potential for catastrophic wildfires.
- B. Protect and enhance the environmental and aesthetic qualities of the community provided by both native and non-native trees.
- C. Preserve the city's valuable natural features wherever feasible and not in conflict with adopted development standards.
- D. Protect trees on developed and undeveloped properties from unnecessary damage or removal.
- E. Require the reasonable replacement or mitigation for trees that are removed.
- F. Establish a range of mitigation strategies to offset the loss of trees when required for new development which is consistent with the General Plan, including but not limited to allowing for payment of in-lieu contributions to support the offsite planting, replanting, or maintenance of trees in parks, natural areas, or other developed locations within the city limits.

12.36.020 - Applicability.

This chapter applies to "protected trees" on developed, underdeveloped, and vacant parcels of land within the city. Protected trees may be removed under specific circumstances as identified in Section 12.36.050 (Exemptions) and in Section 12.36.060 (Tree conservation and replacement), subject to the administrative requirements established pursuant to Section 12.36.115 (Implementation). Trees which are not defined as protected trees are not subject to this ordinance.

12.36.030 - Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them and set forth below.

"Approving authority" means: The individual agency, board, department, or official authorized by law to administer and enforce specified requirements of this ordinance.

"Arborist" means:

1. A person currently certified by the Western Chapter of the International Society of Arboriculture as an expert on the care of trees;
2. A consulting arborist who satisfies the requirements of the American Society of Consulting Arborists;
3. A registered professional forester; or
4. Such other qualified professionals who the director determines have gained through experience or training the qualifications to identify, remove or replace trees.

"Clearing" means the removal above the natural ground surface of vegetative growth of any kind such as trees, logs, upturned stumps, roots of trees, brush, grass and weeds.

"Critical root zone" means a circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained or protected for the tree's survival. The circumference of the critical root zone is established by drawing a circle around the base of the tree with one foot of radial distance for every inch of tree diameter at breast height (DBH), except that the minimum critical root zone shall be no less than eight-foot radius. The critical root zone shall extend to a depth of five feet beneath the surface ground level.

"Damage" means any action undertaken which may cause death or significant injury, or which places the tree in a hazardous condition or in an irreversible state of decline. This includes but is not limited to cutting, topping, girdling, or poisoning.

"DBH" (diameter at breast height) means the diameter of a tree trunk measured in inches at a height of 4.5 feet above ground.

"Developed parcel" means any individual lot that is occupied by a principal building or use of property as permitted by the Municipal Code. A principal building is one in which the principal use of the lot on which it is located is conducted.

"Director" means the director of the development services department or his or her designee.

"Discretionary permit" means and includes any permit or approval which requires the exercise of judgement or deliberation of a public agency or body to approve a project or activity that is regulated by the Shasta Lake Municipal Code. It includes but is not limited to any of the following permit types: a use permit (including administrative use permit), a parcel map, a tentative subdivision map, a site-plan review, a variance, a rezone, or a planned development.

"Drip line" means a vertical line extending from the outermost edge of a tree's foliage to the ground.

"Fire department" means the Shasta Lake Fire Protection District or other fire protection agency providing mutual aid during a fire event within the city.

"Major project," for purposes of this chapter, means any use of land requiring approval of a discretionary land use application requiring the issuance of permits for property development or redevelopment, grading and/or construction including but not limited to tree removal and clearing permits, conditional use permit, variance, land subdivision, or a modification to such project approval.

"Mass clearing" means the removal of seventy-five (75) percent or more of the vegetation including protected trees within a total project area, except where such activity is otherwise exempt pursuant to Section 12.36.050 - Exemptions.

"Minor project," for purposes of this chapter, means a project for which a grading permit and/or building permit is sought, but which does not require approval of a discretionary land use application or tree removal permit. Such projects include but are not limited to construction of single-family residences on legal lots of record or modifications thereto, grading permits where no construction is proposed, encroachment permits, and demolition permits.

"Minor Tree Removal Permit" means a permit issued by the director that is not associated with a separate discretionary entitlement.

"Major Tree Removal Permit" means a permit issued by the planning commission that is not associated with a separate discretionary entitlement.

"Police" means any law enforcement agency with jurisdiction within the city limits, or an outside law enforcement agency providing mutual aid during an emergency.

"Project area" means the measured geographical area in which an activity subject to this ordinance occurs. For purposes of this ordinance project area includes the combined total of all areas, whether contiguous or not, within the boundaries of a single parcel where activity regulated by this ordinance occurs.

"Protected tree" means:

1. Any living tree, except gray pine (*Pinus sabiniana*), having at least one trunk of ten inches or more DBH; or,
2. A tree that is required to be preserved under discretionary project approval or under a tree removal permit granted by either the Director or the Planning Commission; or,
3. A "heritage" tree. Heritage or landmark trees are trees which are unique because they are an outstanding specimen of a desirable species or are one of the largest or oldest trees in the city, or are of historical interest, or are of distinctive form and will add positively to the environment of the city. A heritage tree is a tree exceeding 36 inches or larger DBH, a blue oak (*Quercus douglasii*) 24 inches or larger DBH, or any tree specifically designated as a heritage tree by the Planning Commission. Removal of a heritage tree shall require approval of a tree removal permit.

"Slash material" means any vegetation debris that has been cut for land clearing or other purposes.

"Tree" means a perennial plant having a self-supporting woody main stem or trunk usually characterized by the ability to grow to considerable height and size and to develop woody branches at some distance above the ground. It is usually distinguished from a bush or shrub by its size, manner of growth, and usual botanical nomenclature. Perennial shrubs are not classified as trees in this chapter.

"Tree canopy" means the total area of the tree or trees where the leaves and outermost branches extend, also known as the "drip line."

"Tree removal" or "removal of a tree" means the physical removal of a tree, or causing the death of a tree through damage, poison, or other direct or indirect action.

"Underdeveloped parcel" means any parcel that can be more intensively developed under the zoning regulations of the city.

"Vacant parcel" means an individual lot that is not occupied by a principal building or use.

12.36.040 - Prohibition on tree removal.

Any tree which qualifies as a protected tree shall not be removed from a property or damaged except as provided for in Section 12.36.050 (Exemptions), or as provided for in Section 12.36.060 (Tree conservation and replacement), and subject to the administrative requirements established pursuant to Section 12.36.115 (Implementation).

12.36.045 – Permit Required.

No protected tree on any developed or undeveloped property in the city shall be destroyed, killed, or removed unless a tree removal permit is first obtained, except as may otherwise be allowed pursuant to the terms of this Chapter including Section 12.36.050 (Exemptions). Activities including clearing may also require a permit in accordance with Section 15.08.080 (Clearing permit requirements) of the Shasta Lake Municipal Code. An application for any discretionary project approval shall also be considered an application for a tree removal permit in those instances where trees will be removed, and no separate tree removal permit shall be required. The approving authority threshold for tree removal permits shall be as set forth below:

- A. The development services director or designee shall be the responsible authority for approval of minor tree removal permits (administrative level) on parcels or within project areas of 20,000 square feet or less in size.
- B. The planning commission shall be the responsible authority for approval of major tree removal permits on parcels or within project areas of 20,001 square feet or larger in size.

12.36.050 - Exemptions.

The removal of a protected tree is only allowable and exempt from the requirements of this chapter under the following circumstances:

- A. The property is developed with an existing single-family residence and the tree removal will not result in the mass clearing of more than twenty thousand (20,000) square feet.
- B. The tree removal is required to make way for improvements related to the construction of a single-family residence and/or related improvements, on a legal lot of record and:
 1. Building permits have been issued;
 2. The trees proposed to be removed are not required to be preserved as part of a previous discretionary permit or subdivision approval; and
 3. The construction work does not result in the mass clearing of trees on parcels, or within project areas of more than twenty thousand (20,000) square feet in size.
- C. The tree is in a condition that presents an immediate or imminent hazard to life or property and the city manager, development services director, public works director, electric department director, or a member of the police or fire department has ordered the tree removed.
- D. The removal of a tree on any property where it has been determined necessary by the fire department for an existing structure to comply with local or state fire safe regulations.
- E. The removal of a tree which a qualified professional has determined to be unhealthy or because of its characteristics it can be reasonably determined the tree presents a danger to life or

property. In such case, the opinion of the qualified professional shall be made available to the director prior to removal of the tree(s).

- F. The removal or pruning of trees by the electric department, or other municipal, private, or public utility to maintain proper clearances from existing utility lines and other public improvements or when necessary to comply with the City of Shasta Lake Wildfire Mitigation Plan or other applicable city, state, or federal safety regulations, to prevent potential future interruption of service, to provide a residential service connection, to repair damage to facilities, or to restore interrupted services.
- G. The removal of a tree within the public right-of-way by the public works department when necessary to prevent damage to existing or approved public improvements.
- H. Removal of trees on property owned or controlled by the federal government, the state of California, the county of Shasta, the city of Shasta Lake, or any school or special district.
- I. Removal of trees on developed nonresidential properties of 20,000 square feet in size or less, which have been developed to the maximum density or intensity allowed by the zoning of the property, provided that no trees which have been specifically required to be preserved or planted under the terms of a discretionary approval or previous permit of any type, shall be removed.
- J. Removal of trees when determined necessary by the fire department while engaged in firefighting in order to prevent the spread of fire or to prevent a dangerous situation to life or property.
- K. Tree removal which is in accordance with the provisions of Public Resources Code Sections 4291 et seq., at the direction of the Shasta Lake Fire Protection District for fire prevention and safety purposes where such removal does not destroy, remove or negatively affect sensitive biological species or sensitive biological habitats, or cultural/archaeological resources, or as allowed pursuant to agreements with the California Department of Fish and Game and the U.S. Fish and Wildlife Service.

12.36.60 - Tree conservation and replacement.

All development projects subject to the provisions of this chapter shall be designed to the extent possible to minimize destruction or damage to protected trees. Project design shall recognize the desirability of conserving trees. Plans for grading and infrastructure improvements shall reflect this consideration, and shall include the following safeguards:

- A. Minimal disruption or removal of structural or feeder roots.
- B. Minimal filling, cutting, development, or compaction of soils within the drip line.
- C. Any other special measures as recommended by an arborist or as required by the city to ensure efforts to save a protected tree are adequate.
- D. It is recognized that the preservation of healthy trees may conflict with other land development considerations such as proper drainage, grading, circulation, safety, lot configuration, and installation of utilities. Within most developments it will not be practical to preserve all healthy trees given the necessity of addressing development standards and public safety requirements. In such instances, creative land-planning techniques to retain the most desirable healthy trees, and notable stands of such trees, shall be utilized.
- E. The set-aside of a natural area or areas within a project site, or at other locations as may be authorized by the approving authority, which are suitable for the planting, retention, and/or natural regeneration of trees is considered to be a means of accomplishing the goals of this chapter. At a minimum, the area of any set-aside shall be roughly equivalent to or exceed the canopy area of the protected trees that are to be mitigated. Planting set-aside areas shall be in

addition to any area classified as "open space" under the policies of the Shasta Lake general plan, except when such "open space" areas are approved for utilization in the replanting of trees.

- F. When a protected tree is removed from a property to facilitate development allowed by zoning, replacement trees or other mitigation shall be provided to compensate for the loss. Replacement trees shall be provided in accordance with the standards provided in Section 12.36.070. Alternately, in-lieu fee contributions shall be paid as provided for in Section 12.36.075.
- H. If a property owner desires to remove a protected tree from a vacant or underdeveloped parcel without the approval for establishment of a primary use on the property, a permit shall be required as set forth in Section 12.36.045. The permit shall include conditions requiring provisions for the removal of slash material, appropriate mitigation for loss of trees, replanting and erosion control measures, and other measures as determined necessary by the approving authority to meet the requirements of this Chapter.
- I. The approving authority may consider tree preservation as adequate grounds to approve minor exceptions or variances associated with building setbacks, building separations, parking requirements, driveway grades or other development standards if the approving authority determines that (1) the preservation and retention of protected tree(s) outweighs the disadvantages associated with any minor exception or variance granted to save it, and (2) there is an expectation that the tree(s) will survive for more than five years.

12.36.062 - Pre-development review for major projects.

- A. Pre-development Review.
 - 1. For any major project involving land disturbance on an area greater than 20,000 square feet, a pre-development review shall be required. The purpose of this review is to ensure that tree conservation is considered early in the planning process with respect to placement of buildings, roads and driveways, parking, utilities, and other site improvements.
 - 2. A tree delineation map shall be required for the pre-development review meeting with the development services director or his or her designee. This map shall show location and size of groups of similar trees (stands), and any landmark trees. The director may require information on existing grades when determined necessary based on the topography of the site.
 - 3. Conceptual development plans submitted at the pre-development review phase shall show one or more methods of ensuring that tree conservation has been considered in project design. In general, development plans shall consider the following measures to achieve compliance:
 - a. Stands of trees shall be preserved where feasible, rather than individual trees, as they provide better habitat and have a greater likelihood of survival than individual trees surrounded by development. Where possible, stands of trees shall be left in place to connect with other stands of trees on adjacent properties, rather than separating natural treed areas within developed areas.
 - b. For residential subdivisions, the development shall consider potential neighborhood park areas and subdivision entrance areas in designating set-aside areas for the purpose of preserving trees throughout the project boundaries.
 - c. The development shall be designed such that suitable land will be placed in an open space area which will: (1) retain as many protected trees as possible while providing for tree growth consistent with healthy forest practices; or (2) be particularly suitable for the planting and/or natural regeneration of trees. The set-aside area shall be in addition to any area classified as "open space" under the policies of the Shasta Lake General Plan.

- d. In evaluating tree preservation with respect to building placement, the developer shall consider the relative health and viability of trees. .
- e. Tree preservation locations shall be reviewed in relation to planned roads, driveways, pavement, structures, overhead utility lines and underground utility trenches, to ensure that trees identified for preservation will not be damaged by construction or development. If the root system of any existing tree may be damaged during construction, or if the tree will conflict with any structure or improvement, the site shall be redesigned or the tree shall be designated for removal. At least fifty (50) percent of the critical root zone shall remain undisturbed from construction for any tree proposed to remain on site.
- f. Utility trenches shall avoid the critical root zone of any tree to be retained and minimize encroachment to the extent feasible.
- k. Fire safety standards including the requirements of California Government Code Section 51182 et. seq., shall be considered in the design of all projects (i.e., setback from proposed main and accessory structures, creation of defensible space, clearance from the canopy of other trees or vegetation on the property or on adjacent properties).

B. Tree removal and replacement plan for major projects.

For major projects on sites containing protected trees, a Tree Removal and Replacement Plan shall be submitted with the formal application, subject to the administrative requirements established pursuant to Section 12.36.115 (Implementation). Failure to provide this information will result in a determination that the application is incomplete. The Tree Removal and Replacement Plan shall contain the following information, except as otherwise waived by the development services director based on the scale of the project or inapplicability to the proposed project:

- a. A plan showing the location of trees or groups of trees ten inches or greater DBH on the site. In cases where a project site includes a stand or stands of trees closely grouped, having a common and unbroken canopy, the entire stand rather than individual trees may be depicted if approved by the director, provided that the total canopy is accurately delineated;
- b. A table keyed to the tree location plan, which indicates the species, diameter, condition and health;
- c. The location of existing or proposed lot lines, buildings, roads, driveways and other improvements;
- d. Grading information of enough detail to ascertain whether proposed cuts and fills will affect trees proposed to be saved;
- e. Trees proposed to remain after development, and trees proposed for removal;
- f. Where such information is known at the time of application submittal the following information shall be provided: locations of proposed underground utilities or other trenching including storm drains, sewers, area drains, gas lines, electrical service, cable TV and water mains. All lateral lines serving the site shall be shown and shall be located so as not to damage remaining trees;
- g. Locations of overhead utility lines which could impact existing or trees or proposed tree planting areas;
- h. Locations of proposed areas of new landscaping which could impact existing trees, including type of vegetation and irrigation proposed;

- i. Locations of streams, wetlands or drainage courses, and any proposed changes to drainage patterns, which could impact trees;
- j. If deemed appropriate by the development services director or his or her designee, a photographic record of trees affected by development may be required.

12.36.065 - Findings required.

Upon review of an application and consideration of the written or oral evidence received for the discretionary permit or tree removal permit, the approving authority shall render its decision. The application shall be approved only if the approving authority affirmatively finds based on the circumstances of the particular application that:

1. The condition of the trees, with respect to disease, form, general health, damage, public nuisance, danger of falling, proximity to existing structures, interference with utility services including preservation of solar energy access, implementation of good forestry practices, or damage to existing sidewalks and driveways, warrants their removal; or
2. The preservation of the trees which will be removed will unreasonably restrict the economic potential of the property upon which the trees are situated to be developed as allowed by the General Plan; and
3. The development has been designed such that suitable land will be set aside in an open space area which will retain as many protected trees as are proposed to be removed, or an alternative mitigation measure has been established as a condition of project development. When the preservation of as many protected trees as are proposed to be removed unreasonably restricts the economic potential of the property upon which the trees are situated, any set-aside area or other mitigation will likely result in an equivalent number of replacement trees; and
4. Trees proposed for removal will interfere with existing or planned utility services or streets and highways either within or outside of the subject property, or will unreasonably interfere with development of the property consistent with the General Plan and adopted development standards, and no reasonable alternative to such interference exists other than removal of the tree(s); and
5. Construction proposed within the drip line of any tree to be retained on-site will not cause harm or damage to such tree; and
6. Tree removal will not result in the degradation of any officially designated scenic resource.

12.36.070 - Tree-planting and replacement standards.

The following tree-planting provisions shall apply to all new construction and to projects that result in the removal of a protected tree.

1. New Construction Replacement Landscaping Standards.

Property Zoned For:	Minimum Planting Standard:
a. Residential: (Single-Family and Multifamily)	Three 15-gallon trees shall be planted for each proposed single-family unit/lot; and, two 15-gallon trees for each multifamily unit.
b. Commercial and Public	Two 15-gallon trees shall be planted for each 1,000 square feet of gross floor area or covered space.
c. Industrial	One 15-gallon tree shall be planted for each 2,000 square feet of gross floor area or covered space.

2. If the provisions in the table above do not apply to a project involving tree removal (such as clearing to expand a parking lot or to create a storage area), then as an alternative, a minimum of two fifteen (15) gallon trees shall be planted for every one protected tree removed.
 3. In addition to the tree-planting standards set forth above, three fifteen (15) gallon trees shall be planted for each protected tree removed that exceeds ten inches DBH. Landscaping trees required pursuant to the above standards shall be credited as replacement trees towards removal of a protected tree.
- A. The approving authority may allow for an alternative tree-planting requirement as a condition of a tree removal or discretionary permit approval upon a finding that the alternative standard is consistent with the purpose and goals of this chapter. This may include alternative mitigation as set forth in Section 12.36.075 "Alternative Mitigation" .
 - B. Trees required pursuant to this section shall be planted prior to the issuance of a certificate of occupancy or final permit in those instances where planting is in conjunction with construction under a valid building permit, unless alternate timing for planting is approved by the Director prior to issuance of a certificate of occupancy or final permit.
 - C. The species of any tree used for replacement pursuant to this section shall be suited to the city's climate zone and be chosen with consideration of any site specific limitations or other regulatory requirements. The use of native trees is preferred. The replacement tree shall be planted in a manner that is recognized as standard accepted planting practice unless an alternative method is prescribed by an arborist.
 - D. If the standards of this section conflict with any other tree-planting requirements applicable to the proposed development, such as those set forth in Section 17.84.040 (Landscaping) of the city zoning code, or those established by the City of Shasta Lake Electric Utility Wildfire Mitigation Plan, the most restrictive requirement shall apply.

12.36.075 Alternative Mitigation for Tree Replacement including Payment of Contribution In-lieu of Tree Planting

The approving authority may allow for a different tree-planting requirement as a condition of a discretionary permit or tree removal permit upon a finding that the alternate standard is consistent with the purpose and goals of this chapter. This may include but are not limited to the following:

- A. Credit of three replacement trees for the preservation of each native heritage tree (such as mature valley oaks).
- B. The permanent protection of land not designated as open space for tree preservation off-set.
- C. In-Lieu Tree Mitigation Contribution. The approving authority may determine that replacement of trees on site or set-aside of property are not feasible or desirable, and may allow the payment of a cash contribution based upon the cost of purchasing, planting, and irrigating replacement trees, or for use in maintaining existing trees, in a number equivalent to that required by Section 12.36.070. The cost of purchasing, planting, irrigating or maintaining a fifteen (15) gallon replacement tree of an appropriate replacement species shall be established by resolution of the City Council. Such contributions shall be placed in a fund specifically established for this purpose. Such fund shall be used by the city to purchase, plant, irrigate, protect, and maintain replacement trees; or to protect and maintain existing trees within the city for the benefit of residents and visitors.

12.36.080 - Construction standards.

The following standards shall be followed during construction activities to ensure preserved trees will not be damaged. Details of methods to accomplish these standards shall be established as set forth in Section 12.36.115 (Implementation):

- A. Before the start of any clearing, excavation, construction, or other work on the site, every tree designated for preservation which is located outside of any existing or required open space area or dedication shall be clearly delineated in the field. The delineation mark shall remain in place for the duration of all work. When required by the approving authority, a barrier of posts and flagging, exclusion fencing or other appropriate measure may be required to be erected around protected trees. A plan shall be established for the removal and disposal of brush, earth, and other debris in order to avoid injury to any protected tree which is to be saved.
- B. Where the issuance of a discretionary permit will result in encroachment within the drip line of a protected tree, special measures shall be incorporated to allow the roots to obtain oxygen, water, and nutrients. The director may require the applicant to provide recommendations by an arborist setting forth the measures necessary to minimize impacts to the tree.
- C. No storage of construction materials, vehicles or other substances that may be harmful to trees shall occur within the drip line of any protected tree.

12.36.090 - Maintenance.

The property owner or successors-in-interest shall be responsible for the care and maintenance of trees required to be planted under this chapter in a live and healthy condition. The replacement of trees which may die or otherwise be destroyed is explicitly a requirement of this chapter. Replacement trees shall be maintained to ensure such trees are viable and survive for a period of not less than 5 years from the date of planting. Trees which fail within the 5-year period shall be replaced by the responsible party or successors in interest and maintained as required by this ordinance, unless this requirement is modified by the approving authority. Developed single-family residential lots that have been sold by the original developer are subject to the exemption provided in Section 12.36.050(A).

12.36.100 - Nonconforming developed parcels.

Developed commercial or industrial parcels that are nonconforming with the tree-planting standards of Section 12.36.070, shall provide tree-planting that satisfies these standards as a requirement for the issuance of a building permit, for any new construction on the property that is greater than fifteen (15) percent of the existing gross floor area or an equivalent expansion of use. The approving authority may reduce or waive this requirement based on a finding that conforming to the applicable tree-planting standards is not physically possible on the subject property.

12.36.110 - Enforcement and penalty.

It has been determined that trees within the city are valuable assets to the community. The removal or killing of any protected tree in violation of the terms of this chapter shall be punishable by either or a combination of the following means, at the discretion of the city:

- A. Payment of a fine of up to one thousand dollars (\$1,000.00) per tree for the unauthorized removal or damage to trees.
- B. Replacement of trees removed in a manner at a ratio of 3:1 (twenty-four (24) inch) box.
- C. Prohibition of further development of the property, other than corrective action measures, for a period of up to two years from the date notice of the violation is given by the city.

The penalty shall be determined initially by the director. Appeals of his or her decision shall be available to the city's designated hearing officer or hearing agency by filing a written appeal with the planning

division within ten days of the date of delivery or mailing of the decision of the director. A decision of the hearings officer or hearings agency is not appealable.

12.36.115 – Implementation

Any information or requirements which may be necessary for the practical application or administration of this chapter shall be established by resolution of the Planning Commission and maintained by the Director. This shall include but is not limited to a list of trees that are suitable for replanting use and other technical information including measurement of protected trees and appropriate tree planting location criteria.

12.36.120 - Nonliability of city.

Nothing in this chapter shall be deemed to impose any liability for damages, or a duty of care and maintenance, upon the city or upon any of its officers or employees. The person in possession of any private property shall have a duty to keep the trees upon the property and under his or her control in a safe and healthy condition.