

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE CITY OF GLENDALE, CALIFORNIA AMENDING PORTIONS OF TITLE 12, CHAPTERS 12.40 AND 12.44 OF THE GLENDALE MUNICIPAL CODE, 1995, TO UPDATE STANDARDS AND IMPLEMENT GREATER ENFORCEMENT MECHANISMS FOR PUBLIC AND INDIGENOUS TREE PROTECTION**

**WHEREAS**, the City Council of Glendale has reviewed City-owned and indigenous tree standards within the City, as codified in Chapters 12.40 and 12.44 of the Glendale Municipal code, 1995; and

**WHEREAS**, the City Council has set a 25% tree canopy goal across the City of Glendale, and reaching this goal requires the protection and preservation of existing City and private trees; and

**WHEREAS**, the City Council has directed staff to assess existing City ordinance and enhance tree protections; and

**WHEREAS**, the proposed amendments to Title 12 update tree protections to protect all City-owned trees, and provide additional protections to trees in line with current City policy and practice; and

**WHEREAS**, the City Council has considered the report dated March 28, 2023 along with the proposed amendments to Chapters 12.40 and 12.48 and by this ordinance amends Title 12 of the Glendale Municipal Code, 1995.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE:**

**SECTION 1.** The above recitals are true and correct.

**SECTION 2.** Chapter 12.40 of the Glendale Municipal Code, 1995 is amended to read as follows:

**Chapter 12.40 CITY-OWNED STREET TREES**

**12.40.005 Purpose and intent.**

This chapter establishes regulations and standards to promote the benefits of a healthy urban forest. The intent of this chapter is as follows:

A. Establish and maintain to the greatest possible extent a maximum amount of street tree coverage along all public rights-of-way, public parks, city facility grounds, and other city-owned land;

B. Maintain city ~~street~~ trees in a healthy condition through good and current arboricultural practices;

C. Promote appropriate diversity in city ~~street~~ tree species and age classifications to perpetuate a sustainable urban forest; and

D. Preserve and protect city ~~street~~ trees from the rigors and adverse conditions of the urban environment and create favorable conditions for the protection of trees.

#### **12.40.007 Definitions.**

For the purposes of this chapter, the following words shall have the meanings ascribed to them unless otherwise noted:

"City tree" means any tree where, as determined by the director, the centerline of the trunk of same lies within the public right-of-way or is located upon City-owned land.

"City street tree" means any tree where the centerline of the trunk of same lies within the public right-of-way.

"Community forest" or "community forestry" means the management of all of the City's trees, plants and shrubs emphasizing practices of proven, professional and planned management standards for the benefit of the entire community.

"Community forest ~~City street tree~~ management plan" means a plan developed and implemented by the city which sets forth city policies, procedures, standards and other relevant guidelines regarding the selection, planting, maintenance and removal of all city street trees, and establishes general preservation and planned management objectives to promote and perpetuate a sustainable urban forest.

"Construction permit": means any official document or official certificate, issued by the city, which is deemed by the director to potentially impact a City tree and authorizes or provides discretionary approval for:

1. Development activities, including but not limited to, grading, excavation, construction, erection, installation, enlargement, alteration, conversion, reconstruction, remodeling, rehabilitation, improvement, demolition, moving, or repair of a building or a structure on public or private property; or

2. Includes, but is not limited to: a building permit, building-combination permit, building-fence-wall permit, demolition permit, electrical permit, encroachment permit, excavation permit, grading permit, industrial waste permit, mechanical permit, parkway landscaping permit, plumbing permit, pool permit, roofing permit, sidewalk-driveway permit, or street use permit; or

3. A land use entitlement, permit, or approval, issued by the city under title 16 or Title 30 of this code, which the city has discretion to approve or deny and includes, but is not limited to: a conditional use permit, parking use permit, variance, administrative exception, design review, tentative parcel or tract map, subdivision, parking reduction permit, parking exception, general plan amendment, specific plan or a specific plan amendment, change of zone or district, administrative relocation, relocation permit, historic designation, ridgeline or blue-line stream exception, setback ordinance, or special recreation zone development plan review.

"Damage" means any act or omission that substantially affects or jeopardizes the long-term health of, or causes disfigurement to, a City tree, as determined by the director.

“Designated street tree list” means a master list of specific City street tree species which have been designated by the director of public works, for each city street, or portion thereof, as the preferred species of tree to be planted and maintained within said street.

“Director” means the director of public works or the director’s authorized designee or agent.

“Dripline” means the largest outside perimeter of the canopy of a tree drawn on the ground as an imaginary line. ~~ground area at the outside edge of the tree branches or canopy.~~

“Hardscape” means any permanent structure or street improvement made of concrete, asphalt, brick or other such material, located in areas including, but not limited to, sidewalks, curbs, gutters, driveways, driveway aprons and streets.

“Maintain” or “maintenance” means activities such as but not limited to root pruning, trimming, ~~thinning~~, spraying, watering, fertilizing, mulching, treating for disease or injury, or any other similar act which promotes growth, health, beauty and life of a tree.

“Parkway” has the same meaning ascribed to the term “parkway” in Section 12.04.005 of this code.

“Open space tree” means any tree where the centerline of the trunk of same lies within city-owned land designated as open space or otherwise unmaintained land. These trees are left in a natural condition and not maintained by the city, excepting situations where the city receives notice of an adverse condition in any tree, in line with the city’s Open Space and Conservation Element.

“Person” means an individual, company, firm, organization, association, trust, estate, partnership, corporation, limited liability company, or entity however organized.

“Professionally accepted standards” means those standards established by the International Society of Arboriculture, National Arborists Association or American National Standards Institute, and as such other standards as may be subsequently amended, which standards are for the care, maintenance, preservation, protection, removal and planting of trees.

“Property owner” means a person who is the record owner, as shown on the Los Angeles County Assessor’s latest secured real property assessment roll, of the real property on which or adjacent to which a city tree was planted, destroyed, removed, or damaged.

“Pruning” also known as “trimming” or ~~“thinning”~~ means the reduction of the density of a tree using professionally accepted standards to control the structure and spread of a tree, lessen wind resistance, preserve its health and natural appearance, produce fuller branching and shaping, aid in disease prevention by allowing more light and air passage within the branches, or making adjustments which will increase its longevity in an urban environment.

“Qualified tree expert” means an individual who performs professional services and has met the qualifications of one (1) of the following: International Society of Arboriculture (ISA) Certified Arborist, American Society of Consulting Arborists (ASCA) Registered Consulting Arborist, California State Board of Forestry Registered State Forester, or California Urban Forest Council (CaUFC) Certified Urban Forester.

“Replacement tree” means the largest commonly available transplantable nursery specimen for the Southern California region of a species required by the director to

replace the tree proposed for cutting, moving, encroachment upon, or removal, or of the tree actually damaged or destroyed.

“Right-of-way” means a strip of land acquired for use by the public for the right of passage and maintenance of improvements including but not limited to public streets, sidewalks and parkways.

“Topping” also known as “heading back” “stubbing” or “pollarding” means a severe type of trimming which results in the cutting back of large diameter branches to stubs. Similar practices include “hat-rack” or “coat-rack” cuttings and are also included in this definition. Such severe practices produce undesirable results than more moderate pruning with respect to a tree’s natural form and which is generally hazardous to the overall health and stability of a tree.

“Tree” means a woody perennial plant usually having a single elongate main stem generally with few or no branches on its lower part and which attains a minimum height of eighteen (18) feet, and is not inclusive of woody perennial plants closely spaced and trained to form a barrier or hedge, or to mark the boundary of an area, such as between neighboring properties.

“Urban forest” or “urban forestry” means the management of all of the city’s trees, plants and shrubs emphasizing practices of proven, professional and planned management standards for the benefit of the entire community.

“Urban forest fund” means a fund held by the city, dedicated to community forestry projects on public property, and established and administered by the director.

#### **12.40.010 Authority.**

A. The director shall have charge of, direct and supervise the planting, removal, trimming, pruning, cutting and maintenance of city ~~street~~ trees—and shall have charge of all work incidental thereto, and shall have the authority to grant, suspend, revoke or deny all permits for the replacement, removal, planting, cutting, pruning or trimming of city ~~street~~ trees.

B. The director is further authorized to do the following:

1. Determine the variety, size and spacing of city ~~street~~ trees that may be planted in any public right-of-way or any portion thereof, or on any city-owned land.

2. Determine the needs of the city in connection with its urban forestry program.

3. Have charge of, direct and supervise the planting, removal, trimming, pruning, root pruning, cutting and maintenance of all city street trees and all work incidental thereto;

4. Establish and revise a city-street-tree community forest management plan and a designated street tree list;

5. Review all landscaping, construction permit or development plans as said plans may affect city ~~street~~ trees;

6. Have charge of enforcing and carrying out the regulations prescribed in this chapter.

7. Prepare and keep records, maps or plans showing the species of city ~~street~~ trees under the director’s supervision.

#### **12.40.020 Inspection—Infection or infestation.**

It shall be the duty of the director to cause to be inspected all city ~~street~~ trees, ~~excepting open space trees, and, upon discovering that if~~ any such trees are infected with a disease, or infested ~~with scale by insect, plant, or animal, life or growth, or any insect detrimental to the growth, health, or life of such trees,~~ shall remove, eradicate or destroy such condition. If any such trees are so infected or infested to such a degree that such condition cannot be removed, eradicated or destroyed by the usual means and efforts employed, the director may cause the removal and destruction of any such trees, if in the director's judgment it shall seem best.

#### **12.40.030 Duties and prohibitions.**

A. Owners, occupants or any persons having control of private property upon which one (1) or more city ~~street~~ trees reside, shall provide adequate water to all said city ~~street~~ trees.

B. Any person (including, but not limited to, an architect, engineer, contractor or developer) who applies for a construction permit shall submit an accurate plan showing the exact location of each city tree adjacent to the subject property and all city trees whose trunks or branches are located within twenty (20) feet outside the subject property line. The tree's size, species, diameter, and dripline shall be included on this plan.

CB. It is unlawful for any owner, occupant, or person having the control or care of any lot or premises in the city to allow the following acts upon such premises or upon the sidewalk or parkway adjacent to such premises:

1. Cut, damage, carve, transplant, prune, root prune or remove any city ~~street~~ tree, except as permitted by permit issued pursuant to this chapter. Tree topping, heading back, stubbing and pollarding of city ~~street~~ trees is strictly prohibited.

2. Attach or keep attached to any city ~~street~~ tree or to any guard or stakes intended for the protection thereof, any rope, wire, nails, tacks, staples, advertising posters or any other device or artificial arrangement.

3. Intentionally misrepresent, mislabel, or fail to identify the location, size, species, diameter, or dripline of a city tree on an application or plan submitted to the city for a construction permit.

4. Fail to adhere to tree protection requirements, or any other requirements, imposed as a condition of approval in a construction permit with the city.

53. Cause or allow, without written permission of the director:

a. Any substances harmful to trees to lie, leak, pour, flow or drip upon, or be applied into a city tree, or into the soil within the dripline of any city ~~street~~ tree;

b. Fire or heat to be set to any city ~~street~~ tree so as to injure any portion of said tree;

c. The operation of any equipment, such as mechanical weeding devices, in such a manner as to cause damage to a city ~~street~~ tree;

d. Use any heavy equipment or machinery under the dripline of any city tree, outside of existing hardscape in a manner as to cause damage to a city tree, without sufficient safeguards and protections as determined by the director;

e. Change the natural grade of the land by excavation or filling-in within the dripline of any city tree;

fd. The injury to any city ~~street~~ tree due to neglecting to provide the necessary amount of water, as determined by the director, for said tree's continued good health and viability;

ge. ~~Without written permission of the director, apply or maintain~~ Application or maintenance of any paving or storage of any materials encroachment in such a manner as to damage or interfere with the root system of any city ~~street~~ tree, including but not limited to: artificial turf, plastic landscape fabric, and decomposed granite with a binding compound;

hf. ~~Pile~~ Place building material or other material about any city ~~street~~ tree in any manner that will in any way injure such tree, inclusive of soil, rocks, and new plant and turf installation.

6D. ~~As a condition of any permit for construction, repair, alteration, relocation or removal of any building, structure or any other type of construction permit,~~ a permittee shall provide such sufficient safeguards and protections as determined by the director, so as to prevent injury to any affected city ~~street~~ trees, and shall not begin work until such determinations have been made.

#### **12.40.050 City trees species to be plants.**

No city street tree shall be planted other than the species designated by the director for the particular street, or portion of a street in accordance with the designated city street tree list and the conditions as may be set forth in a city-street tree community forest management plan. No city street tree shall be planted, except by the city, unless the director issues a permit as provided in this chapter. No species of tree or trees intended to be maintained as hedges shall be planted within public rights-of-way, planting easements, or other public property, except by the city, unless the director issues a permit as provided in this chapter.

#### **12.40.060 City street tree planting in subdivisions.**

~~When required pursuant to Section 16.36.030F of this code, and as that section may subsequently be amended, all subdividers shall plant city street trees in accordance with all provisions of this chapter and the director's requirements.~~

#### **12.40.070060 City street trees—Permit required.**

A. No person shall plant, remove, relocate, or damage, as defined in this Chapter, any city tree, ~~destroy, cut, prune, apply pesticides, disturb, deface or in any manner injure any city street tree~~ without first obtaining a permit under this Chapter to do so from the director of public works. Additionally, no owner, occupant, or person having the control or care of any lot or premises in the city shall allow the planting, removal, relocation, or damage, as defined in this Chapter, of any city tree upon such premises or upon the sidewalk or parkway adjacent to such premises except as subject to a permit under this Chapter. This section shall not apply to city staff performing assigned duties, or to Glendale Water and Power, the public service division or to any telephone or electric utility when trimming trees to comply with Rule 35 Overhead Line Construction, General Order No. 95, California Public Utilities Commission.

B. Permit applications and fees.

1. Applications for permits under this chapter shall be made to the public works division on forms provided by the director and shall include such information as the director deems necessary to review the application.

2. An application for any permit under this chapter shall be accompanied by a nonrefundable application fee established by resolution of the city council.

3. The director shall issue the permit if, in his or her judgment, the proposed work is desirable and the proposed method and workmanship is performed to professionally accepted standards as defined in this chapter. Any permit so issued shall contain a date of expiration and the work shall be completed in the time allowed on the permit and in the manner described therein. The permit issued for the planting of such trees shall state the variety of trees that shall be planted, the distance apart at which the same shall be planted, the location of each tree and the size thereof.

4. As a condition of a permit, the director may impose additional measures or requirements to preserve and protect the health of trees that remain, relocated trees, and/or new trees planted to replace those removed. The measures may include, but are not limited to, any of the following:

a. Erecting temporary or permanent protective fencing around the trees, so that no substantial disruption or removal occurs to the structure of the feeder roots of a city tree;

b. Prohibiting mechanical activity within the dripline of a city tree;

c. Prohibiting placement of fill material within the dripline of a city tree, unless an adequate drainage and aerification system is provided for the tree(s) to the director's satisfaction.

d. Requiring the employment of qualified tree expert to perform the permitted work, or at that's person's expense to provide a tree report as detailed in Chapter 12.44, to provide a complete analysis of the proposed impacts to the trees, and follow recommended actions in that report, with the qualified tree expert retained to monitor impacted trees for the duration of the project.

e. Requiring the installation of irrigation systems suited to tree establishment and mature tree watering within the right of way.

54. The director may order the work to immediately cease in the event that the director determines the work or conditions set forth in the permit are in violation of this chapter.

6. Approval of a permit issued under this chapter is contingent upon full compliance with all terms and condition imposed as part of the approval. If the director determines the property owner, developer, or permit holder has violated, or failed to comply with any of the permit's terms or conditions, the director, upon written notice to the property owner, developer, or permit holder, may suspend, revoke, or restrict the permit, or impose new or additional conditions on the permit.

#### **12.40.080070 Permitted removals – Issuance of permit. City street tree removals.**

The director shall not issue a permit for removal of a city ~~street~~ tree unless the director finds one of the following conditions to be present:

A. The city ~~street~~ tree is infected or infested to such a degree that such condition cannot be removed, eradicated or destroyed by the usual means and efforts employed;

B. The city ~~street~~ tree is dead, or is seriously injured or damaged;

C. The removal of the city ~~street~~ tree is necessary to provide vehicular ingress or egress to adjoining property;

D. The removal of the city ~~street~~ tree is necessary for street opening, widening and improvement;

E. The city ~~street~~ tree is of a kind determined by the director to be undesirable in parkways by reason of its habits of growth;

F. There are exceptional circumstances or conditions applicable to the city ~~street~~ tree involved or to the intended use or development of the property in front of which the city ~~street~~ tree is located that the director deems do not apply generally to other city ~~street~~ trees in the same neighborhood.

#### **12.40.090080 Permitted removals – Replacement requirements Replacement of city street trees.**

As a condition to any permit to remove or ~~destroy~~ any city ~~street~~ tree, the director may require that the permittee plant a replacement city ~~street~~ tree or trees in place of the one to be ~~destroyed or removed~~. ~~Whenever any such tree has been destroyed or removed pursuant to any permit, it shall be a misdemeanor. It is a violation of this code~~ for the permittee to fail, refuse or neglect to plant a replacement city ~~street~~ tree of the type and size specified in the a permit in place of the one ~~destroyed or removed~~, within forty (40) days from the date of the issuance of the permit.

#### **12.40.090 Permitted removals – In lieu replacement**

Whenever the director determines that a replacement city tree of any type cannot be located within the adjacent right of way or city property due to lack of sufficient space, before issuance of the permit, the property owner, developer, or permit applicant may be required to pay into the urban forestry fund: a tree installation and establishment fee, in an amount established by resolution of the council, to plant and establish the replacement tree or trees on public property.

#### **12.40.100 Conditional permit—Deposit.**

In addition to any other requirement of law, the director may require that no permit be issued to remove, relocate or destroy a tree shall be valid unless, prior to ~~issuance~~ removing, relocating or destroying such tree, the permittee deposits with the director an amount equal to the value of such tree, and in the event replacement of the tree is required, such additional amount as determined by the director as sufficient to cover the cost of installation and equipment to replace such tree or trees. Such amounts deposited shall be nonrefundable except as follows:

A. Upon verification by the director that the permittee has satisfactorily complied with the provisions of such permit, the permittee shall be entitled to a return of the entire installation and equipment deposit and additionally for such amounts as the permittee demonstrates were actually incurred for the replacement tree(s), exclusive of accessories or attachments, provided such reimbursement shall not exceed the amount of the deposit.

B. Upon determination by the director that the permittee has failed to comply with the permit, all amounts deposited by such permittee shall be forfeited to the city and



may be used for any public purpose for which the city is authorized to expend public money.

C. In the case of a relocation permit, upon determination by the director that the relocated tree or trees have been successfully relocated, and have thrived for a sufficient period of time to insure their continued survival, the permittee shall be entitled to a return of the entire amount so deposited. In the event that the director determines that the tree or trees have not been successfully relocated, or are not thriving, then such deposit shall be forfeited and may be used in accordance with subsection B of this section. The determination by the director as to whether a relocation has been successful, or whether a tree is thriving, shall be final.

#### **12.40.130 Appeals.**

Any person aggrieved by any action of the director in determining the variety of city street trees that may be planted in any street may appeal to the council within the time and in the manner provided in Chapter 2.88.

#### **12.40.140 Removal, destruction, or damage without permit—Penalty.**

A. The penalties of this chapter are non-exclusive and supplementary to existing rights and remedies. Nothing in this chapter shall be deemed to prevent the city from commencing a criminal or civil action with respect to any violation of the provisions herein.

B. Any person who destroys, removes, ~~or~~ damages a city street tree to such a degree where the director determines the damage is irreversible and the tree must be removed; or allows destruction, removal, or irreversible damage to occur to a city tree without having a valid permit to do so, shall be liable to the city in an amount equal to the value of the tree and such additional amounts as determined by the director to cover the administrative cost of enforcing this chapter as to such person. Such costs shall be considered restitution to the city and shall be deposited into the city's urban forestry fund.

C. Any person who damages a city tree or causes or allows damages to a city tree, without having a valid permit to do so, shall be responsible for returning such tree to a condition acceptable to the director. Methods for remedy of the tree's condition shall be as proscribed or required by the director, including, but not limited to, requiring any person to employ a qualified tree expert at that's person's expense to provide a tree report as detailed in Chapter 12.44, and follow recommended actions in that report.

D. Upon determination by the director that a replacement tree is necessary and required, an amount shall also be assessed upon such person equal to the estimated cost of installation and equipment necessary to replace and establish such tree. Such cost shall not exceed one hundred (100) percent of the value of such tree.

~~C.—In addition to subsection A of this section, upon determination by the director that a replacement tree is necessary and required, an amount shall also be assessed upon such person equal to the estimated cost of installation and equipment necessary to replace such tree. Such cost shall not exceed one hundred (100) percent of the value of such tree pursuant to Section 12.40.170, but in no event shall it be less than one hundred dollars (\$100.00).~~

**12.40.150 Removal, destruction, or damage without permit – Enforcement.**

In addition to any other penalties or remedies allowed by law or prescribed in this chapter, violation of any provision of this chapter shall constitute grounds for administrative citation under Chapter 1.24 of this code, subject to all procedures of that section.

**12.40.160 Removal when permit denied—Penalty.**

In addition to the liability imposed by Section 12.40.140, any person who destroys, removes or damages a city ~~street tree~~, or allows destruction, removal, or damage to occur on any property where such person is a property owner, after having been previously denied a permit to do so, or who does so with knowledge that such permit is required, shall be liable to the city for restitution in the form of a ~~civil~~ penalty in an amount equal to three (3) times the value of such tree. Such ~~civil~~ penalty shall be a debt owned to the city.

**12.40.170 Penalties—Not exclusive.**

The forfeitures, penalties, assessments, restitutions and remedies provided for in this chapter are in addition to any other remedies provided by law.

**12.40.180 Determination of tree valuation.**

Whenever this chapter requires the value of a city ~~street tree~~ to be determined, the director shall utilize the most recent guide for establishing values of trees published by the International Society of Arboriculture insofar as practical, and if such guide is not practical or applicable, may use any other recognized and established method which the director or public works deems appropriate to establish such tree valuation.

**SECTION 3.** Chapter 12.44 of the Glendale Municipal Code, 1995 is amended to read as follows:

**Chapter 12.44 INDIGENOUS TREES**

**12.44.010 Purpose and intent.**

The indigenous oak, bay, and sycamore trees within the city are natural aesthetic resources which help define the character of the city. These trees are worthy of protection in order to preserve the natural environment and to protect the city's native plant life heritage for the benefit of all residents. Oak, bay, and sycamore trees are unique because of their size and beauty and their relative abundance adds distinction and character to certain neighborhoods within the community. It is pertinent to the public interest, health and welfare that these trees be protected from mutilation, indiscriminate cutting, damage, destruction or removal in order to provide for conservation purposes, for counteracting air and noise pollution and minimizing soil erosion and related environmental damage, as well as for the preservation of the natural beauty which the oak, bay, and sycamore trees lend to the city. It is the intent of this ordinance to create

favorable conditions for the preservation of indigenous trees in the community while respecting individual rights to develop, maintain and enjoy private property to the fullest possible extent consistent with the public interest, health and welfare.

#### **12.44.020 Definitions.**

For the purposes of this chapter, the following words have the meaning ascribed to them, unless otherwise noted. Words not defined shall be given their common ordinary meaning:

“Construction permit”:

1. Means any official document or official certificate, issued by the city, which authorizes:

a. Construction, erection, installation, enlargement, alteration, conversion, reconstruction, remodeling, rehabilitation, improvement, demolition, moving, or repair of a building or a structure; or

b. Grading, excavation, or encroachment of real property, public or private; and

2. Includes, but is not limited to: a building permit, building-combination permit, building-fence-wall permit, demolition permit, electrical permit, encroachment permit, excavation permit, grading permit, industrial waste permit, mechanical permit, parkway landscaping permit, plumbing permit, pool permit, roofing permit, sidewalk-driveway permit, or street use permit.

“Damage” means any act or omission that substantially affects or jeopardizes the long-term health of, or causes disfigurement to, a protected indigenous tree, as determined by the director. Such action may be taken by, but is not limited to, cutting, topping, girdling, poisoning, trenching, grading or excavating within the drip line of the protected tree.

“Development activities” means activities including, but not limited to, grading, excavation, construction, erection, installation, enlargement, alteration, conversion, reconstruction, remodeling, rehabilitation, improvement, demolition, moving, or repair of a building or a structure.

“Director” means the director of public works or the director’s authorized designee or agent.

“Discretionary approval”:

1. Means a land use entitlement, permit, or approval, issued by the city under title 16 or Title 30 of this code, which the city has discretion to approve or deny; and

2. Includes, but is not limited to: a conditional use permit, parking use permit, variance, administrative exception, design review, tentative parcel or tract map, parking reduction permit, parking exception, general plan amendment, specific plan or a specific plan amendment, change of zone or district, administrative relocation, relocation permit, historic designation, ridgeline or blue-line stream exception, setback ordinance, or special recreation zone development plan review.

“Drip line” means the largest outside perimeter of the canopy of a tree drawn on the ground as an imaginary line.

“Encroach” or “encroachment” means to install, store, place, maintain or use a material, equipment, machinery, or vehicle inside the protected zone of a protected indigenous tree, except for the purpose of routine pruning.

“Hat racking” means a severe act of pruning a tree by reducing the length of branches, lowering the tree height, stubbing or removing foliage so that the tree resembles a hat or coat rack.

“Lion’s tailing” means a severe act of pruning a tree by removing all the interior branches and foliage, leaving a limited amount of foliage at the end of each branch or limb so as to resemble the tail of a lion.

“Person” means an individual, company, firm, organization, association, trust, estate, partnership, corporation, limited liability company, or entity however organized.

“Property owner” means a person who is the record owner, as shown on the Los Angeles County Assessor’s latest secured real property assessment roll, of the real property on which a protected indigenous tree is growing or was destroyed, removed, or damaged.

“Protected indigenous tree” or “indigenous tree” or “protected tree” means any tree with a trunk which is six (6) inches or more in diameter as measured at a height of fifty-four (54) inches above the lowest point where the trunk meets the soil; or in case of a tree with more than one (1) trunk, whose combined diameter of any two (2) trunks is at least eight (8) inches in diameter as measured at a height of fifty-four (54) inches above the lowest point where each trunk meets the soil, which is one (1) of the following Southern California native tree species: California Live Oak (*Quercus agrifolia*), Scrub Oak (*Quercus berberidifolia*), Valley Oak (*Quercus lobata*), Mesa Oak (*Quercus engelmannii*), California Bay (*Umbellularia californica*), and the California Sycamore (*Platanus racemosa*).

“Protected zone” means that area within the drip line of a protected indigenous tree and extending to a point one (1) foot outside the drip line.

“Qualified tree expert” means an individual who performs professional services and has met the qualifications of one (1) of the following: International Society of Arboriculture (ISA) Certified Arborist, American Society of Consulting Arborists (ASCA) Registered Consulting Arborist, California State Board of Forestry Registered State Forester, or California Urban Forest Council (CaUFC) Certified Urban Forester.

“Replacement tree” or “mitigation tree” means the largest commonly available transplantable nursery specimen for the Southern California region of the same species required by the director to replace ~~as the tree proposed for cutting, moving, encroachment upon, or removal, or of the~~ protected tree actually damaged or destroyed, ~~as determined from the stock available at local nurseries located within sixty (60) miles of the city of Glendale.~~

“Routine pruning” means the removal of any dead, dying, or diseased branches of a tree and the cutting of live interfering and weak branches not to exceed two (2) inches in diameter, performed in accordance with arboriculture industry standards. Foliage reduction cannot exceed one-quarter (1/4) of the total tree foliage.

“Tree owner” means a person who is the record owner, as shown on the Los Angeles County Assessor’s latest secured real property assessment roll, of the real property on which the trunk of a protected indigenous tree is wholly located. In cases where a tree trunk is located across a property line, coterminous real property owners will be considered tree owners in common.

“Topping” (also known as “heading back,” “stubbing” or “pollarding”) means a severe type of trimming which results in the cutting back of large branches to stubs; the removal of the upper twenty (20) percent or more of a tree’s trunk or primary scaffold.

“Urban forestry fund” means a fund held by the city, dedicated to community forestry projects on public property, and established and administered by the director.

#### **12.44.030 No permit required for routine pruning.**

No permit shall be required of a property owner for routine pruning of a protected indigenous tree on said property.

#### **12.44.040 Permit required.**

Except as provided in sections 12.44.030 and 12.44.060, a permit shall be required of any person who proposes to cut, remove, encroach upon, or relocate a protected indigenous tree.

#### **12.44.050 Prohibitions.**

It is unlawful for a person to do or cause to do any of the following:

A. Damage or destroy a protected indigenous tree, or that tree’s trunk, bark, foliage, limbs, branches or roots, by any means, including, but not limited to, the following:

1. Subjecting the tree to fire or heat;
2. Applying toxic substances within the tree’s protected zone;
3. Operating equipment or machinery within the tree’s protected zone;
4. Changing the natural grade of land by excavation or filling within the protected zone;
5. Hat racking, lion’s tailing or topping;
6. Overwatering;

B. Attach a rope, light, or lighting system in a manner that tightly binds it or permanently affixes it, attach a wire, nail, tack, staple, advertisement, poster, sign or any other object or device, or using a spike, gaff, spur or other related injurious equipment used for climbing on a protected indigenous tree;

C. Maintain an attached tree stake, tree tie, guy wire, tree guard or rope to the point where a protected indigenous tree is girdled or injured;

D. Allow or permit a substance that is harmful to a tree to lie, leak, pour, flow or drip upon or into the tree or the soil within the protected zone of a protected indigenous tree;

E. Install, place, operate or maintain an irrigation system for watering within three (3) feet from the base of a protected indigenous tree;

F. Without a permit from the director, install, place, store or maintain paving, ornamental rock, or any material within the protected zone of an indigenous tree;

G. Place, store, pile or maintain building or other material within the protected zone of a protected indigenous tree;

H. Intentionally misrepresent, mislabel or fail to identify the location, size, species, diameter, or drip line of a protected indigenous tree on an application or plan submitted to the city for a building permit, grading permit, a land use permit under Title 30 of this code, subdivision map application under Title 16 of this code, or any other similar land development application or plan; or

I. Without a permit from the director, cut or prune a live branch that exceeds two (2) inches in diameter.

J. Install or maintain living plant materials in the protected zone of a protected indigenous tree that causes damage to the protected indigenous tree.

K. Fail to adhere to tree protection requirements, or any other requirements, imposed as a condition of approval in any permit with the city.

#### **12.44.060 Permit—Exemptions.**

The provisions of Section 12.44.070 shall not apply to:

A. Cases of emergency caused by a protected indigenous tree being in a hazardous or dangerous condition and requiring immediate action for the preservation of life or property, or being irretrievably damaged or destroyed through flood, fire, wind or lightning, as determined after visual inspection by an authorized city employee, provided that the person responsible for the cutting, moving, encroachment upon, or removal of the protected tree shall report such action to the director within five (5) working days thereafter, where lack of a report within this time frame, or lack of sufficient evidence as deemed by the director to justify the immediate action, may result in administrative actions as described in Section 12.44.120;

B. Emergency or routine cleaning by a public utility necessary to protect or maintain electrical, power or communication lines or other property of a public utility;

C. Routine pruning involving the removal of any dead, dying, or diseased branches of a protected indigenous tree and the cutting of live interfering and weak branches not to exceed two (2) inches in diameter, performed in accordance with industry standards, and foliage reduction not to exceed one-quarter (1/4) of the total tree foliage;

D. Protected indigenous trees held for sale by a licensed nursery;

E. Any tree whose removal or trimming was specifically approved as part of an approved development plan, subdivision or other discretionary project. Any person

(including, but not limited to, an architect, engineer, contractor or developer) who applies for a grading permit, building permit, land use permit under Title 30 of this code, subdivision map application under Title 16 of this code, or any other similar land development permit or entitlement, shall submit an application from a qualified tree expert including an accurate plan showing the exact location of each protected indigenous tree on the subject property and all protected indigenous trees on adjoining properties whose trunks or branches are located twenty (20) feet outside the subject property line;

F. Employees, agents and contractors of the city acting under the authority of the director;

G. Any trimming of a protected indigenous tree performed to meet minimum clearance requirements for fire and life safety as set forth in a notice to abate fire hazard issued by the fire department;

H. Any trimming or removal of a protected indigenous tree which is required by superseding federal or state law of general application.

#### **12.44.070 Permit—Application.**

A. Except as provided in Sections 12.44.030 and 12.44.060, any person proposing to cut, remove, encroach upon or move any protected indigenous tree or trees within the city must apply and obtain from the director a permit prior to the proposed tree alteration, removal, encroachment or relocation.

B. When the application pertains to the removal or relocation of a protected indigenous tree, or encroachment upon the protected zone of a tree as a result of proposed construction or development activities, which do not require discretionary approval, a qualified tree expert shall prepare a report at the property owner's or developer's expense. The permit applicant shall submit the report with the permit application. ~~In the report, the qualified tree expert shall explain the reason for the removal, relocation or encroachment. On the front page of the report, the qualified tree expert shall state the expert's name, company name, address and telephone number. The qualified tree expert shall attach to the report a copy of the expert's certification or registration and state license, if required by law to have one. If the property owner or developer is hiring an individual or a company to perform work on a protected indigenous tree, the permit applicant shall state on the permit application the individual's or company's name, address, daytime telephone number, and state contractor's license number, if required by law to have a license.~~

C. The report must include:

1. On the front page of the report, the qualified tree expert shall state the expert's name, company name, address and telephone number. The qualified tree expert shall attach to the report a copy of the expert's certification or registration and state license, if required by law to have one. If the property owner or developer is hiring an individual or a company to perform work on a protected indigenous tree, the permit applicant shall state on the permit application the individual's or company's name, address, daytime

telephone number, and state contractor's license number, if required by law to have a license;

24. A plan or map upon which ~~each~~ every tree on the property and within 20 feet must be identified by species, diameter measured at a height of fifty-four (54) inches above the lowest point where the trunk meets the soil, height, outline and dimensions of the canopy and drip line, and health and condition. For any protected indigenous tree, the report must provide recommendations to remedy structural, disease, or pest problems where feasible. In cases of development activity, the report shall be inclusive of each indigenous or city-owned tree on the property and within 20' of the subject property, and it must be indicated if a ~~Each tree is~~ proposed to be removed, moved, or encroached upon must be so designated on the plan or map;

32. Photographs of the all protected trees on site or within 20' of the site to be moved or encroached upon, reflecting the tree(s) position in regard to existing and future proposed structures or construction. The full canopy and a close up of the leaves, trunk, and root flare, and any identified diseases or pests impacting the health of the tree must be provided if relevant;

43. If a tree will be moved or relocated to another location on the property, the relocation site must be identified, and site preparation and relocation methods must be described;

54. The species, number, and size of any proposed replacement tree or trees must be designated;

65. The reason for the removal, relocation or encroachment of a protected indigenous tree must be described. The qualified tree expert shall state that the expert has inspected and verified the health and structure of any tree declared ~~diseased or dying~~ diseased, dying, or otherwise proposed for removal, and provide sufficient evidence, based on sound arboricultural standards and including identification of disease, inspects or pest, for the director to confirm such a declaration; and;

7. If applicable, evaluation of the applicant's construction or development proposal as it impacts each protected tree shown on the site plan, including suggested mitigation, protective measures during and after development activities, and/or future maintenance measures where required.

#### **12.44.080 Permit—Grant or denial conditions.**

A. The director shall approve, conditionally approve, or deny the application to cut, remove, encroach upon or move any protected indigenous tree or trees. The director may require the applicant to provide additional information, which does not appear on the application and may be needed for evaluating the application. The director may impose any reasonable conditions that the director deems necessary to implement the provisions of this chapter.

B. The director shall consider the following criteria, where applicable, in evaluating applications for issuance of permits required by this chapter:



1. Necessity to remove the protected indigenous tree because its continued existence at the location prevents the reasonable development of the subject property, as determined by the director;

2. The protected indigenous tree shows a substantial decline from a condition of normal health and vigor, and restoration, through appropriate and economically reasonable preservation procedures and practices, is not advisable;

3. Due to an existing and irreversible adverse condition of the tree, the protected indigenous tree is in danger of falling;

4. The presence of the protected indigenous tree interferes with, or is damaging to, utility services and roadways, walkways, foundations, drainage or other existing structures, within or without the subject property. The damage is beyond mitigation and the only reasonable alternative is the tree's removal;

5. The topography of the land and the effect of protected indigenous tree removal on erosion, soil retention, and the diversion or increased flow of surface waters;

6. The number or location of protected indigenous trees existing on the site or in the neighborhood on surrounding property; and the effect of tree removal upon enjoyment of the residents, the general public, and on property values in the area; ~~and~~

7. Good forestry practices (such as the necessity to remove diseased or dying protected indigenous trees due to overcrowded conditions), the effect of tree removal in altering the natural habitat, and the selective preservation of healthier trees; and

8. The presence of a pest infestation in a protected indigenous tree, which cannot be treated or mitigated through appropriate, industry recommended, and economically reasonable preservation procedures and practices, and which may spread to other trees.

C. The director may require the protected indigenous tree's relocation to another site on the property, or off-site location within city limits, in which case the applicant shall post a performance bond in an amount equal to 100% of the appraised value of relocated tree(s), calculated using the most recent edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, to ensure that the relocated trees are properly established and maintained for three years. ~~that the director deems appropriate, The director's determination to require such relocation shall only be made if:~~

1. The environmental conditions of the new location are favorable to the survival of the protected indigenous tree;

2. The cost is reasonable;

3. A reasonable probability exists that the tree will survive; and

4. The relocation is accomplished by qualified personnel.

D. As a condition of a permit authorizing a person to cut, remove, encroach upon or relocate any protected indigenous tree or trees, or when any protected indigenous tree dies or is destroyed as a result of permitted development activities, the director ~~may~~ shall require that one (1) or more trees ~~of the same species as the tree or trees~~

proposed to be cut, removed, encroached upon or relocated, or of the tree or trees actually destroyed, must be planted as a mitigation measure, with the species as determined by the director. Mitigation trees cannot be planted on city property, easements, or other setbacks unless permission is explicitly given by the director. Mitigation or replacement trees shall also meet the following criteria:

1. The combined diameter of the trees proposed to be planted cannot exceed the diameter of the protected indigenous tree, or the combined diameter of the protected indigenous trees, proposed to be cut, moved, encroached upon or removed, or of the protected indigenous tree or trees actually destroyed;

2. The container size of trees planted as a mitigation must be at least 24" box container size, unless the director determines that the nursery availability of a required species is limited, and a smaller container size may be permitted after reasonable efforts have been undertaken to locate such a tree;

3. The replacement tree or trees must be planted to the city's current tree planting standards and specifications, specific to the size of the required replanting, as provided by the director to the property owner; and

4. Tree condition monitoring during and post-project may be required for any project with affected protected indigenous trees and/or the planting to ensure that trees are properly established and maintained for a minimum period of three years.

E. When the director specifies in a permit issued under this chapter that a particular species of protected indigenous tree must be planted as a condition of the permit or as a mitigation measure for damaging or destroying a protected indigenous tree, the property owner, developer or permit holder shall not plant a species other than the one designated by the director for the particular site or location.

F. The director shall establish and administer an urban forestry fund, which will be used for planting and maintaining protected indigenous trees on public property. As a condition of a permit authorizing the cutting, removal, encroachment upon, or relocation of a protected indigenous tree, or when any protected indigenous tree dies or is destroyed as a result of permitted development activities and the property owner, developer or permit applicant cannot plant a replacement tree as determined by the director, the property owner, developer or permit applicant may be required to pay into the urban forestry fund:

1. A tree replacement fee, as restitution and for deposit in the city's urban forestry fund, in an amount equal to the value of the replacement tree;

2. A tree installation and establishment fee, as restitution and for deposit in the city's urban forestry fund, in an amount equal to the city's estimated cost, as established by a resolution of the council, to plant, water, and maintain for three years a replacement tree on public property; and

3. An administrative enforcement fee, as established by resolution of the council, in an amount sufficient to cover the administrative cost of enforcing this chapter.

G. The director may impose additional measures or requirements to preserve and protect the health of a protected indigenous trees that remain, relocated trees, and new

protected indigenous trees planted to replace those removed. The measures may include, but are not limited to, any of the following:

1. Erecting temporary or permanent protective devices around the protected indigenous trees, so that no substantial disruption or removal occurs to the structure or feeder roots of a protected indigenous tree;
2. Prohibiting mechanical activity within the protected zone of a protected indigenous tree;
3. Prohibiting placement of fill material within the protected zone of a protected indigenous tree, unless an adequate drainage and aerification system is provided for the tree(s) to the director's satisfaction.

H. As a condition of any permit for construction, repair, alteration, relocation, or removal of any building, structure or any other type of construction, a permit holder shall provide sufficient safeguards and protections, as determined by the director, to prevent injury to a protected indigenous tree. The director has the authority to issue a stop work notice for any work, construction, activity or operation which damages, or threatens to damage, a protected indigenous tree; or when tree preservation measures have been violated; or in both situations.

I. Approval of a permit issued under this chapter is contingent upon full compliance with all terms and conditions imposed as part of the approval. If the director determines that the property owner, developer or permit holder has violated, or has failed to comply with any of the permit's terms or conditions, the director, upon written notice to the property owner, developer or permit holder, may suspend, revoke, or restrict the permit, or impose new or additional conditions on the permit.

#### **12.44.090 Appeals of permit decisions.**

A. A permit applicant, aggrieved or adversely affected by the decision of the director regarding the denial or issuance of a permit or any conditions thereof may appeal the decision to the building and fire board of appeals by filing a written appeal with the city clerk within fifteen (15) calendar days after receipt of the director's notice of decision. A statement of the appellant shall be required indicating how the appellant is aggrieved or adversely affected by the decision. Any such written request to be heard filed with the city clerk shall also be copied to the director. The written request shall specify the name and address of the person to which all subsequent notices and communications should be mailed.

B. If no appeal is filed within such time, the director shall promptly implement his or her intended decision on the permit or permit application. An appeal shall automatically stay execution of the implementation of the director's intended decision until the appeal has been considered and decided on by the building and fire board of appeals.

C. Within fifteen (15) calendar days of the filing of a written appeal, the building and fire board of appeals shall notify each appellant and the director of the time, date and location of the scheduled hearing. The hearing date shall be set at the board's sole discretion, except that the hearing must commence within sixty (60) calendar days of

the date of the filing of the written appeal. The board may extend the 60-day period only upon good cause shown.

D. The building and fire board of appeals may, in its sole discretion, direct any named appellant and the director to submit in advance of the hearing, statements, lists of witnesses, exhibits, documents or any other information the board deems pertinent to the appeal. The board may request either party to the appeal to submit rebuttals to such information. The board may limit the length, scope or content of any such statement, list, rebuttal, document, or other requested information. The board shall set firm due dates for all written presentations.

E. All notices and writings required to be served under this section shall be delivered by personal service or United States mail in a manner ensuring written confirmation of delivery.

F. The proceedings shall be as informal as is compatible with the requirements of justice. The building and fire board of appeals need not be bound by the common law or statutory rules of evidence and procedure, but may make inquiries in the matter through all means and in a manner best calculated to make a just determination. In considering the appeal, the building and fire board of appeals shall apply the criteria set forth in section 12.44.080. The board shall render a decision on the appeal within fifteen (15) calendar days of such hearing.

#### **12.44.100 Permit fees.**

The city council shall establish and require permit fees for permits pertaining to cutting, removing, encroaching upon, or relocating a protected indigenous tree. The permit fee must not exceed the cost of administering each permit. Fees will be subject to annual revision and adjustment to reflect current administrative costs. An applicant for a permit shall pay the full fee when the applicant submits the permit application. The director shall not accept an application for a permit under this chapter, unless the applicant pays the fee in full.

#### **12.44.110 Cumulative administrative, civil and criminal remedies.**

The administrative remedies, penalties, and assessments provided for in this chapter are cumulative to each other and to the remedies, penalties, and assessments, civil and criminal, available under this code and all other laws of this state. Nothing in this chapter prevents the commencement of a criminal action, or a civil action, or both, with respect to any violation of this chapter's provisions.

#### **12.44.120 Administrative citation, penalty and hearing.**

A. The administrative remedies provided for in this section shall be deemed to be cumulative and not mutually exclusive to the civil and criminal remedies provided for in this chapter.

B. The director may assess against any person who commits, allows, or maintains a violation of any provision of this chapter an administrative penalty in an

~~amount not to exceed one thousand dollars (\$1,000.00) per violation. Each and every day during any portion of which any violation is committed, continued, or permitted shall constitute a separate offense. Where the violation has resulted in the destruction or removal of a protected indigenous tree, or where the condition of the tree is such that it requires removal as determined by the director, the penalty shall be in an amount as established or modified by resolution of the city council not to exceed ten thousand dollars (\$10,000.00) per tree unlawfully destroyed or removed.~~

C. At ~~his or her~~ their sole discretion, the director may approve a compliance agreement between the city and any person who commits, allows, or maintains a violation of any provision of this chapter. This agreement may include, but is not limited to, requiring the person to post a bond and obtain the necessary permits, directing the person to provide methods of mitigation and replacement for the unauthorized alteration, removal, encroachment upon, or relocation of a protected tree, and prescribing other reasonable measures to abate a specific violation of this chapter.

D. Upon determining that a person has committed a violation of this chapter, the director or ~~his or her~~ their designee shall issue an administrative citation to the responsible party using the procedures set out in this section. As used in this section, the term “responsible party” shall mean the owner of the property or the person who commits, allows, or maintains a violation of any provision of this chapter. The administrative citation shall be served by personal service on the responsible party or by certified mail, return receipt requested, to the responsible party’s last known address. The responsible party’s refusal to accept the administrative citation shall not affect the validity of the administrative citation or any proceeding undertaken under this section.

E. To the extent the following information is reasonably available to the director, the administrative citation shall:

1. State the date the administrative citation is issued;
2. State the responsible party’s name, current residential address, and mailing address;
3. Refer to the code section violated and describe how the responsible party violated the code section;
4. State the date the violation was discovered by the director;
5. State the amount of penalty imposed for the violation;
6. Explain how the responsible party may pay the penalty, including the location and manner, as well as the time period by which the penalty must be paid and the consequences of failure to pay the penalty;
7. Explain the procedure for obtaining an administrative hearing; specifically, notice that the responsible party must make a written request within fifteen (15) calendar days from the date the administrative citation is issued and that the responsible party will be notified by mail of the date of the hearing;
8. Include a warning that a failure to pay the penalty and/or failure to appear at a requested administrative hearing may result in the penalties described in section 12.44.130; and

9. Describe any action necessary to correct the violation and explain that failure to do so may result in the issuance of additional administrative citations and the imposition of additional penalties.

F. Within fifteen (15) calendar days from the date the administrative citation is served on the responsible party, the responsible party must pay the penalty amount designated on the administrative citation and may also make a written request for an administrative hearing. The responsible party's failure to pay the penalty within fifteen (15) calendar days and to correct the violation constitutes a default, upon the occurrence of which, the city may treat the penalty as an account receivable subject to the established policy for delinquent accounts receivable. The city may use all appropriate legal means to collect the penalties imposed pursuant to this chapter.

G. Any responsible party to whom an administrative citation has been issued may contest that there was a violation of this chapter or that he or she is the responsible party by filing a written request with the director for an administrative hearing within fifteen (15) calendar days from the date of service of the administrative citation. Such request shall be accompanied by payment of the administrative penalties. The director shall set a date for an administrative hearing before the building and fire board of appeals not less than fifteen (15) calendar days nor more than thirty (30) calendar days from the date of the request. The director shall, by certified mail, return receipt requested, or personal service, give notice to the responsible party of the time, date and location of the hearing. The director also shall provide the responsible party in advance with any materials provided to the building and fire board of appeals.

H. The responsible party's failure to appear at a noticed hearing shall constitute a waiver of the right to a hearing, a forfeiture of the fine(s), and a failure to exhaust administrative remedies. Upon a showing of good cause by the responsible party, the building and fire board of appeals may excuse the responsible party's failure to appear at the hearing and reschedule the hearing. Under no circumstances shall the hearing be rescheduled more than once.

I. The administrative hearing is intended to be informal in nature. Formal evidentiary rules and discovery shall not apply, except that irrelevant and unduly repetitious evidence may be excluded at the discretion of the building and fire board of appeals. Each party shall have the opportunity to offer testimony and evidence and cross examine witnesses in support of its case. The building and fire board of appeals may continue the hearing or request additional information from either side.

J. Within fifteen (15) calendar days of the conclusion of the hearing, the building and fire board of appeals shall determine whether a violation has occurred and provide the responsible party with its decision in writing, also known as an administrative order. The building and fire board of appeals shall provide the responsible party with the administrative order by personal service or by certified mail, return receipt requested, to the responsible party's last known address. A decision in favor of the responsible party shall constitute a dismissal of the violation. The city shall promptly return any monies paid by the responsible party. If the building and fire board of appeals renders a decision in favor of the city, the responsible party must comply with the administrative order or seek judicial review of the administrative order.

K. If an administrative order is rendered in favor of the city pursuant to this division, the responsible party may appeal any decision made by the building and fire board of appeals to the city council within the time and in the manner provided by the uniform appeal procedure of chapter 2.88 of this code. The decision of the city council shall be final.

#### **12.44.130 Remedies for violations—Penalty.**

The following remedies shall be deemed to be cumulative and not mutually exclusive:

A. Against any person:

1. Criminal Penalties. At the option of the city prosecutor, a violation of any provision of this chapter or any condition imposed upon a permit issued hereunder shall be prosecuted as a misdemeanor or infraction depending on the severity and willfulness of the prohibited conduct and whether the conduct has been repeated. Each protected indigenous tree removed in violation of this chapter shall constitute a separate misdemeanor offense. Any person convicted of knowingly or willfully destroying or removing any protected indigenous tree shall be charged for restitution in full or in part, as deemed appropriate by the court, a monetary amount representing the value of the destroyed or removed protected indigenous tree and calculated to cover the costs of prosecution. The penalty shall be further specified as follows:

a. If charged as an infraction, the penalty upon conviction of such person shall be a fine as set forth in section 1.20.010 of this code.

b. If charged as a misdemeanor, the penalty upon conviction of such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or imprisonment for a term not to exceed six (6) months, or by both such fine and imprisonment, plus restitution in full or in part, as deemed appropriate by the court.

2. Civil Penalties. As a 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 in an amount not to exceed one thousand dollars (\$1,000.00) per violation. ~~Where the violation has resulted in the destruction or removal of a protected indigenous tree, the civil penalty shall be in an amount not to exceed ten thousand dollars (\$10,000.00) per tree unlawfully destroyed or removed plus restitution in full or in part, as deemed appropriate by the court.~~

3. Restitution. As a part of a civil action brought by the city, a court may assess against any person who allows or causes the removal or destruction of a protected indigenous tree, as restitution and for deposit in the city's urban forestry fund, (i) an amount equal to the value of the largest commonly available transplantable nursery specimen for the Southern California region of the ~~same species~~ required by the director to replace as the protected indigenous tree destroyed or removed, as determined from the stock available at local nurseries located within sixty (60) miles of the city of Glendale; and (ii) an amount equal to the prevailing cost, including equipment and labor costs, of planting and establishing a replacement tree on public property in

the City of Glendale. Restitution shall be calculated for each tree unlawfully destroyed or removed.

4. Injunctive Relief. A civil action may be commenced to abate, enjoin, or otherwise compel the cessation of a violation of any provision of this chapter.

5. Costs. In any civil action brought pursuant to this chapter in which the city prevails, the court shall award to the city all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action and reasonable attorneys' fees.

B. Against tree trimming services, arborists and tree experts:

1. Any tree trimming service, arborist or tree expert violating any provision of this chapter is guilty of a crime. This crime can be charged as either an infraction or a misdemeanor. It shall be a separate violation for each protected indigenous tree damaged, removed or destroyed.

2. It shall be an infraction for any tree trimming service, arborist or tree professional to receive pay for such services within the city without a contractor's license, if a license is required by the contractors state license board to perform aforesaid services.

C. Joint and several liability. If two (2) or more persons are responsible for any violation of the provisions of this chapter, they shall be jointly and severally liable for the penalties and remedies set forth herein.

#### **12.44.140 Imposition of building and development moratorium on property—Penalty.**

A. Construction Permit or Discretionary Approval—Withholding or Revoking. When a person destroys, removes, or damages a protected indigenous tree on a property, the city, after having given notice and having conducted a hearing under subsections (E) and (H) of this section, may take any one (1) of the following actions against a person listed in subsection (C) of this section:

1. Withhold the processing and issuance of a construction permit, or withhold a discretionary approval, or withhold both, that the city otherwise might have issued for that property; or

2. Revoke a construction permit for which construction has not begun on the property, or revoke a discretionary approval, or revoke both, that the city previously had approved or had issued for that property.

B. Maximum Period. The city may take the action described in subsection (A) of this section for a period of time not to exceed ten (10) years from the date on which the city had discovered the protected indigenous tree's destruction, removal, or damage on the property.

C. Persons Subject to Building and Development Moratorium. Subsections (A) and (B) of this section apply to any one (1) of the following persons:

1. The property owner;



2. A person who has an existing and perfected interest in the property, including a legal, equitable, financial, or leasehold interest; or

3. A person who is applying for, or who has been issued, a construction permit for the property, or a discretionary approval for the property, or both.

D. Commencement of Proceeding to Withhold or Revoke. After the neighborhood services administrator, or the director, or either one's designee, has inspected the property and has determined that a person has destroyed, removed, or damaged one (1) or more protected indigenous trees on the property, the director, upon consideration of the factors listed under subsections (H)(4)(a) through (d) of this section:

1. May recommend that the city proceed under subsection (A) of this section;

2. Shall propose a period of time, under subsection (B) of this section, during which a permit, or a discretionary approval, or both, will be withheld, or revoked, or both; and

3. Shall prepare a written notice, in accordance with subsection (E) of this section.

E. Notice. When the director decides that the city will proceed under subsection (A) of this section, the director shall give the persons listed in subsections (F)(1)(a)(i) through (iii) of this section a written notice, which must state:

1. The street address;

2. The assessor's parcel number or the property's legal description;

3. The director has determined that a protected indigenous tree on the property was destroyed, removed, or damaged in violation of Chapter 12.44 of the Glendale Municipal Code, 1995;

4. Under Glendale Municipal Code subsection 12.44.140(A), the city intends to impose a moratorium on the property's development, construction, or improvement by taking any one (1) or more of the following actions:

a. Withholding issuance of a construction permit, or withholding a discretionary approval, or withholding both, that the city otherwise might have issued for the property; or

b. Revoking a construction permit for which construction has not begun on the property, or revoking a discretionary approval; or revoking both, that the city previously had approved or had issued for the property;

5. The start date and end date of the period of time during which the city's proposed action on one (1) or more permits, discretionary approvals, or both, will be in effect;

6. Within seven (7) calendar days after the date on which the director's notice was personally delivered or deposited in the mail, the city will post on the property, and deliver to the Los Angeles County Recorder to record against the property, a notice that describes the city's intention of imposing a restriction on the property's development, construction, or improvement for a fixed period of time;

7. Not later than forty-five (45) calendar days after the date on which the director's notice was personally delivered or deposited in the mail, the property owner, or a

person who has an existing and perfected interest in the property, including a legal, equitable, financial, or leasehold interest, may appeal the city's proposed action on one (1) or more permits, discretionary approvals, or both, by submitting to the director a written request for a hearing with the city's building and fire board of appeals;

8. If the person fails to request a hearing within the 45-day time period, the person will waive all rights to an administrative hearing and a determination of the matter;

9. If the person submits a timely hearing request, the building and fire board of appeals will determine the issues listed under subsections (H)(4)(a) through (d) of this section;

10. At the hearing, the director and the person may submit and refute evidence, present and cross-examine witnesses, and have an attorney or other individual act as a representative; and

11. The person may appeal the building and fire board of appeals' decision to the city council within the time and in the manner provided in chapter 2.88 of the Glendale Municipal Code.

F. Service of Notice.

1. The director shall serve the notice described in subsection (E) of this section, a copy of chapter 12.44, and any amended or supplemental notice:

a. On:

i. The property owner;

ii. A person who has an existing and perfected interest in the property, including a legal, equitable, financial, or leasehold interest, as revealed by either a title search of the property or a Glendale Water and Power utility record; or

iii. A person who is applying for, or who has been issued, a construction permit for the property, or a discretionary approval for the property, or both.

b. By:

i. Personal delivery; or

ii. "Certified" United States Mail, first class postage prepaid, return receipt requested.

c. At the person's address, as known by the director or as it appears on:

i. The Los Angeles County Assessor's latest secured real property assessment roll;

ii. The title document;

iii. The Glendale Water and Power utility record; or

iv. The application for a construction permit or a discretionary approval.

2. If a person's address is not listed on one (1) of the documents described in subsection (F)(1)(c) of this section, or is not known by the director, then the director shall mail a copy of the notice to the person, at the address of the property on which the protected indigenous tree was destroyed, removed, or damaged.

3. Notice to a person in the manner described in subsection (F)(1)(c), (F)(2), or (J)(1)(c) of this section becomes effective, and is deemed duly served, given, delivered, made, or communicated, on the date personal delivery actually occurs or, if mailed:

a. Five (5) calendar days after deposit in the United States mail, if the person's address is within the State of California;

b. Ten (10) calendar days after deposit in the United States mail, if the person's address is outside the State of California, but within the United States; or

c. Twenty (20) calendar days after deposit in the United States mail, if the person's address is outside the United States.

4. The city's failure to serve a person, or to serve a person in the manner that this subsection allows, does not:

a. Invalidate, alter, postpone, delay, cancel, or extinguish any remedy, relief, penalty, hearing, proceeding, or action authorized under this section, or chapter 12.44, as to another person whom the city duly served; or

b. Relieve another person, whom the city duly served, from fully performing or fulfilling a duty or obligation imposed by this section or chapter 12.44

G. Request for Hearing.

1. Not later than forty-five (45) calendar days after the date on which the notice in subsection (E) of this section was personally delivered or deposited in the mail, the property owner, or a person who has an existing and perfected interest in the property, including a legal, equitable, financial, or leasehold interest, may dispute the city's proposed action on one (1) or more permits, discretionary approvals, or both, by submitting to the director a written request for a hearing with the city's building and fire board of appeals.

2. If a person fails to request a hearing within the 45-day time period, the person waives all rights to an administrative hearing and a determination of the matter.

H. Hearing—Setting Date; Issues for Determination. The building and fire board of appeals shall:

1. Set the initial hearing on a date not earlier than fourteen (14) calendar days, and not later than sixty (60) calendar days, after the date on which the notice in subsection (E) of this section was personally delivered or deposited in the mail;

2. Order a postponement or a continuance of a hearing at any time, regardless of whether evidence has been presented, when the building and fire board of appeals determines it is necessary to do so to further the interests of justice and fairness;

3. Conduct the hearing "de novo"; and

4. Determine by a preponderance of the evidence:

a. Whether one (1) or more protected indigenous trees on the property was destroyed, removed, or damaged, in violation of this chapter, by:

i. The property owner;

ii. A person who was acting: (1) On the property owner's behalf;

(2) At the property owner's direction; or

(3) With the property owner's knowledge, authorization, permission, or consent; or  
iii. The person who is applying for, or who has been issued, a construction permit for the property, or a discretionary approval for the property, or both;

b. Whether the property owner, or the person who is applying for, or who has been issued, a construction permit for the property, or a discretionary approval for the property, or both, is a purchaser in good faith and for valuable consideration, who acquired title to the property:

i. After the unlawful destruction, removal, or damage of one (1) or more protected indigenous trees; and

ii. Before the posting or recording of the notice described in subsection (L)(1)(a) or (b) of this section;

c. Whether the facts or circumstances make a restriction on the property's development, construction, or improvement for a fixed period of time an appropriate remedy for the unlawful destruction, removal, or damage of one (1) or more of the property's protected indigenous trees. In making this determination, the building and fire board of appeals shall consider the following factors:

i. The number of protected indigenous trees destroyed, removed, or damaged;

ii. The size and age of each protected indigenous tree destroyed, removed, or damaged;

iii. For one (1) or more protected indigenous trees that were not removed from the property, but were destroyed or damaged, whether partially, fully, temporarily, or otherwise:

(1) The manner or method of each protected indigenous tree's destruction or damage; and

(2) The extent or degree of each protected indigenous tree's destruction or damage;

iv. When the destruction, removal, or damage occurred to one (1) or more of the property's protected indigenous trees, the property owner, or the person who is applying for, or who has been issued, a construction permit for the property, or a discretionary approval for the property, or both:

(1) Knew it was unlawful to cut, remove, prune, encroach upon, or move the protected indigenous tree or trees; or to do so without obtaining a permit from the city; or

(2) Intended to destroy, remove, or damage the protected indigenous tree or trees.

In making a determination of the person's knowledge or intent, the building and fire board of appeals may consider any one (1) or more of the following facts or circumstances:

(3) Previously the person applied for a protected indigenous tree permit from the city;

(4) Previously the city denied the person a protected indigenous tree permit;

(5) Previously the city or another individual told the person, verbally or in writing, about either the existence of a protected indigenous tree on the property, or the city's requiring a permit to cut, remove, encroach upon, or move a protected indigenous tree;

(6) Previously the person violated a law that either regulates a tree's protection or prohibits a person from cutting, removing, encroaching upon, moving, damaging, or destroying a heritage, historic, landmark, legacy, native, or specimen tree;

(7) The person's reason or purpose for destroying, removing, or damaging one (1) or more of the protected indigenous trees;

(8) The person had a plan or scheme to destroy, remove, or damage one (1) or more of the protected indigenous trees;

(9) The person did not destroy, remove, or damage one (1) or more of the protected indigenous trees by mistake or accident; or

(10) Any other relevant fact or circumstance; and

d. The start date and end date of the period of time during which one or more permits, discretionary approvals, or both, will be withheld, or revoked, or both, if the building and fire board of appeals, under subsection (H)(4)(c) of this section, has decided to impose a restriction on the property's development, construction, or improvement.

I. Hearing—Evidence and Testimony. At the hearing:

1. The person who requested the hearing may:

a. Submit evidence, testimony, and argument that the person deems relevant to the issues that the building and fire board of appeals will decide;

b. Refute the evidence and testimony presented by the director or other city representatives; and

c. Have an attorney or other individual act as the person's representative.

2. The director may:

a. Submit evidence, testimony, and argument that the director deems relevant to the issues that the building and fire board of appeals will decide;

b. Refute the evidence and testimony presented by the person or the person's representative; and

c. Have an attorney or other individual act as the director's representative.

J. Decision.

1. Not later than forty-five (45) calendar days after the hearing's conclusion, the building and fire board of appeals shall:

a. Decide the matter upon the record;

b. Prepare a written decision that contains findings of fact; and

c. Serve the written decision on the person or persons who requested the hearing and on any person or persons who attended the hearing and requested to be notified of the board's decision, by:

i. Personal delivery; or

ii. "Certified" United States mail, first class postage prepaid, return receipt requested.

2. The failure of the building and fire board of appeals to perform the acts described in subsection (J)(1) of this section shall not invalidate any decision of the board. Alternately, no person or persons who requested a hearing shall be denied the ability to appeal any final decision of the building and fire board of appeals to the city council by reason of the board's failure to perform the acts described in subsection (J)(1) of this section.

K. Appeal.

1. The director, the person or persons who requested a hearing, or any person whose property interest may be affected by the final decision of the building and fire board of appeals and who specifically requested to be notified of the board's decision can appeal such final decision to the city council within the time and in the manner provided in chapter 2.88 of the Glendale Municipal Code. Timely filing of the notice of appeal is a jurisdictional requirement.

2. California Code of Civil Procedure Section 1094.6 applies to a petition for judicial review of an adjudicatory administrative decision of the city council. Unless a shorter statute of limitation is applicable, a petition for judicial review must be filed not later than the ninetieth day following the date on which the city council's decision becomes final, which occurs on the date that the city council adopts its decision.

L. Posting and Recording of Preliminary or Permanent Notice of Restriction.

1. Within seven (7) calendar days after the date on which the notice in subsection (E) of this section was personally delivered or deposited in the mail, the director shall:

a. Post on the property a notice, which meets the requirements listed in subsection (L)(3) of this section, that describes:

i. The city's intention of imposing a restriction on the property's development, construction, or improvement for a fixed period of time;

ii. The length of time of the proposed restriction;

iii. The persons subject to the proposed restriction;

iv. The persons who may request a hearing on the proposed restriction; and

v. The telephone number to obtain more information.

b. Deliver to the Los Angeles County Recorder, to record against the property, a document that:

i. Contains the information described in subsections (L)(1)(a)(i) through (v) of this section, to impart constructive notice to subsequent purchasers or subsequent lienholders of the city's intention to impose a restriction on the property's development, construction, or improvement; and

ii. Complies with the property identification requirements of California Government Code Section 27281.5 or any successor legislation.

2. Within seven (7) calendar days after the date on which either the building and fire board of appeals' notice of decision becomes final and non-appealable, or the city council adopts a resolution setting forth a decision and findings of fact, the director shall:

a. Post on the property a notice, which meets the requirements listed in subsection (L)(3) of this section, that describes:

i. The city's restriction on the property's development, construction, or improvement for a fixed period of time;

ii. The length of time of the restriction;

iii. The persons subject to the restriction; and

iv. The telephone number to obtain more information.

b. Deliver to the Los Angeles County Recorder, to record against the property, a document that:

i. Contains the information described in subsections (L)(2)(a)(i) through (iv) of this section, to impart constructive notice to subsequent purchasers or subsequent lienholders of the city's restriction on the property's development, construction, or improvement; and

ii. Complies with the property identification requirements of California Government Code Section 27281.5 or any successor legislation.

3. The notice described in subsection (L)(1)(a) or (2)(a) must be:

a. Posted in a conspicuous place, clearly visible, in one (1) or more of the following locations:

i. On or in front of the property, and if the property exceeds one (1) acre in area, at intervals of not more than three hundred (300) feet along or near the property's boundary; or

ii. At or near an entrance to a building or a structure on the property;

b. Not less than fourteen (14) by twenty (20) inches in size;

c. Printed in not less than 16-point type; and

d. Printed in black letters against a white or yellow background.

4. Notice to a person in the manner described in subsection (L)(3) of this section becomes effective, and is deemed duly served, given, delivered, made, or communicated, on the date posting actually occurs.

5. No person shall alter, deface, hide, destroy, remove, cancel, rescind, or withdraw a notice, document, or sign that this chapter authorizes.

M. Exemption. This subsection's provisions do not apply to:

1. A purchaser, or to the purchaser's agent, who, in good faith and for valuable consideration, acquired title to the property:

a. After the unlawful destruction, removal, or damage of the protected indigenous tree; and

b. Before the posting or recording of the notice described in subsection (L)(1)(a) or (b) of this section.

2. A construction permit or a discretionary approval that the city requires to:
  - a. Maintain the health, safety, or welfare of one (1) or more individuals occupying an existing building or structure on the property; or
  - b. Protect or safeguard an existing building or structure on the property from damage, destruction, or deterioration.

#### **12.44.150 Special assessment lien against property.**

The city council may pass a resolution to place a lien on the real property upon which the violation occurred to collect any unpaid administrative fine(s) as a special assessment against the real property. The resolution shall further direct that the city clerk shall file with the county auditor and the county tax assessor and tax collector certified copies of the resolution. The clerk shall direct the auditor to enter the amounts of the fines against the real property described in the resolution as it appears on the current assessment roll. The amount of the fines shall constitute a lien against the real property against which the fines have been imposed. The tax collector shall include the amount of the fines on bills for taxes levied against the real property. Thereafter, the amount of the charges shall be collected at the same time and in the same manner and by the same person as, together with and not separately from, the general taxes for the city and shall be subject to the same penalties and interest upon delinquent payment. For any special assessment lien imposed under this chapter, once payment in full has been received by the city, the city clerk shall either record a notice of satisfaction or provide the property owner or applicable financial institution with a notice of satisfaction so they may record such notice with the office of the Los Angeles County Recorder. The notice of satisfaction shall cancel the city's lien.

#### **12.44.160 Non-liability 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 property shall have a duty to keep the trees upon the property and under their control in a safe, healthy condition.

#### **SECTION 5. Compliance with California Environmental Quality Act.**

The City Council finds and determines that this ordinance is not subject to the California Environmental Quality Act ("CEQA") because no possibility exists that the activity in question may have a significant effect on the environment (Section 15061(b)(3)), and because it falls under the categorical exemptions for Inspections (Section 15309) and Enforcement Actions by Regulatory Agencies (Section 15321).

#### **SECTION 6. Severability.**



This Ordinance's provisions are severable. If any portion of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional, that decision does not affect the validity of the Ordinance's remaining portions and the Ordinance's application to other persons and circumstances. The City Council declares that it would have passed the

**SECTION 7. Effective Date.** This Ordinance shall take effect and be in force thirty (30) days after the date of its passage.

Adopted by the Council of the City of Glendale on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

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Mayor

ATTEST:

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City Clerk

STATE OF CALIFORNIA   )  
COUNTY OF LOS ANGELES)   SS.  
CITY OF GLENDALE       )

I, Suzie Abajian, Ph.D., City Clerk of the City of Glendale, hereby certify that the foregoing Ordinance was adopted by the Council of the City of Glendale, California, at a regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2023, and that the same was adopted by the following vote:

Ayes:

Noes:

Absent:

Abstain:

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City Clerk