

ORDINANCE NO. 769

AN ORDINANCE OF THE CITY OF ROHNERT PARK, CALIFORNIA AMENDING CHAPTER 12.24 (PUBLIC TREE CARE) AND TITLE 17 (ZONING ORDINANCE) OF THE ROHNERT PARK MUNICIPAL CODE TO ADDRESS TREE PRESERVATION AND PROTECTION

WHEREAS, the purpose of the proposed Tree Preservation and Protection Ordinance is to implement General Plan Policy EC-12 which states, "Protect oaks and other native trees that are of significant size through the establishment of a heritage tree preservation ordinance;"

WHEREAS, the proposed Tree Preservation and Protection Ordinance furthers this General Plan policy in that it preserves and protects trees located on private property and trees that the City Council has deemed to have particular significance; and

WHEREAS, on August 25, 2006, the Planning Commission conducted a public hearing, reviewed the reports and testimony and recommended to the City Council adoption of the Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ROHNERT PARK, CALIFORNIA, does hereby ordain as follows:

SECTION 1. Recitation. That the above recitations are true and correct.

SECTION 2. Findings. The City Council makes the following findings per Rohnert Park Municipal Code, Section 17.25.073, to wit:

1. The project is consistent with the General Plan, specifically General Plan Policy EC-12, which states: "Protect oaks and other native trees that are of significant size through the establishment of a Heritage Tree Preservation Ordinance." The proposed Tree Preservation and Protection Ordinance would apply to any tree that is not listed as exempt, including Oak trees.
2. The project would benefit the public's overall health, safety and welfare, insofar as preserving and protecting private property trees would assist in beautifying, shading, and mitigating the 'urban heat island effect' by shading pavement and other dark surfaces through the cooling effects of the trees' natural evapotranspiration.
3. The proposed ordinance would not impact parcels that have been zoned for housing developments that have been targeted to meet state and regional housing requirements.

SECTION 3. The City Council of the City of Rohnert Park does ordain as follows:

A. Section 12.24.050 (Tree Planting, alteration, removal, relocation) of Chapter 12.24 (Public Tree Care) of Title 12 (Street and Sidewalks) of the Rohnert Park Municipal Code is amended as follows:

"A. Any person desiring to plant, engage in tree maintenance, alter, remove, or relocate any street tree or any tree located on public places shall apply in writing to the

- director of public works to do so. The application shall state the number, identity, and location of each tree sought to be planted, maintained, altered, removed, or relocated; shall contain a statement of the reason(s) the permit is requested; and shall contain such other pertinent information as the director of public works may require. The application may also include documentation of any type, including written recommendations from a certified arborist concerning the health, quality and desirability of alternatives to the tree or trees in question.
- B. Property owners fronting along the proposed area of the tree planting, removals, or replacements will be notified.
 - C. Upon receipt of an application, the director of public works may make a determination as to the acceptability of the requested tree planting, maintenance, alteration, removal, or relocation including an analysis of:
 - 1. The overall condition of the tree, including any diseases and pests that may or have attacked it, the tree's projected lifespan, the area the tree would hit if it, or any substantial part of it, were to fall, its symmetry and aesthetics, its proximity to existing structures, and any interference it may or has caused with underground or overhead utility lines.
 - 2. The topography of land and the effect the tree may have on possible erosion or soil retention problems or on decreasing the flow or diversion of surface waters.
 - 3. The number, species, size, and location of other existing trees in the area and the effect the requested action will have on shade areas, air pollution, historic values, scenic beauty, and the general welfare of the city.
 - 4. Whether the request is supported by good urban forestry practices and standards such as, but not limited to, the number of healthy trees that a given parcel of land will support.
 - D. Prior to making a determination on the application, the director of public works may inspect the tree(s) sought to be planted, maintained, altered, removed, or relocated. The director of public works may also refer the application to another department, board, commission or committee of the city, as deemed appropriate, and may cause such additional investigation to be made deemed necessary in order to make an informed decision on the application.
 - E. If the director of public works approves an application to plant, maintain, alter, remove, or relocate a street tree or a tree located on public places, written notification shall be sent to the applicant.
 - F. The provisions of this section shall not apply if the trimming, removal, or clearing of any street tree or its branches or roots eliminates:
 - 1. Interference with the lines of any public utility, city water, sewer, or storm drain lines, or open storm drain channels;
 - 2. Interference with any city streets, sidewalks, curbs and gutters, parks, or public activities;
 - 3. A public nuisance; or
 - 4. Interference with the maintenance of adequate lines of sight along city streets, and entrances to such streets, including lines of sight of vehicles and pedestrians to traffic control signs and signals.”

B. Section 17.04.030 (Definitions of words and terms) of Chapter 17.04 (Definitions) of Title 17 (Zoning) is amended to include new definitions under the letter “T” beginning with the following:

“Tree: any living, woody plant having a single trunk diameter of 4 inches or more, or a combination of multiple trunks with a total diameter of 8 inches or more. The diameter shall be measured at a point 4.5 vertical feet above the undisturbed, natural grade. The diameter is the circumference divided by 3.14. The following six definitions shall apply when implementing Chapter 17.15 (Tree Preservation and Protection):

- Alter: To take an action that could foreseeably diminish the health or vigor of a tree, including but not limited to, excessive or improper pruning of a tree, grade changes around or near a tree, excessive irrigation of a tree, and trenching within the root zone of a tree. Alter does not include periodic trimming, shaping, thinning, or pruning of a tree to preserve or protect its health, growth, or appearance in accordance with accepted arboricultural standards and practices.
- Dripline: A line drawn on the ground around a tree directly under its outermost branches which locates where rainwater tends to drip from the tree. When depicted on a map, the dripline will appear as an irregular shaped circle that follows the contour of the tree’s branches as seen from overhead.
- Protected: Includes any tree which is not exempt pursuant to Section 17.15.030(B) (Exemptions), any tree which was required to be planted as environmental mitigation, or any tree identified by Council resolution as having protected tree status.
- Relocate: To move a tree from the place where it is growing and replant it in another location in accordance with accepted arboricultural standards and practices and with the intent and a reasonable expectation that the tree will survive and grow in the new location.
- Remove: The cutting down of a tree or the relocation of a tree in a manner that is not in accordance with accepted arboricultural standards and practices.
- Value: The value of a tree shall be determined using the latest edition of the “Guide for Plant Appraisal,” published by the Council of Tree and Landscape Appraisers. The appraisals shall be completed on the most recent “Form for Northern California,” published by the International Society of Arboriculture (ISA).”

C. Chapter 17.15 (Tree Preservation and Protection) of Title 17 (Zoning) of the Rohnert Park Municipal Code is added to read as follows:

“Chapter 17.15 TREE PRESERVATION AND PROTECTION

Sections

- 17.15.010 Purpose and Intent.
- 17.15.020 Applicability.
- 17.15.030 Requirements.
- 17.15.040 Permit Processing.
- 17.15.050 Tree Replacement.
- 17.15.060 Tree Protection During Construction.
- 17.15.070 Security Deposits.
- 17.15.080 Enforcement.

17.15.010 Purpose and Intent.

The City Council of the City of Rohnert Park establishes that these policies, regulations and standards are necessary to ensure that the City will continue to realize the benefits provided by its urban forest and adopts this ordinance in the interest of public health and safety and with the intention to:

- A. Foster a vibrant, attractive, and healthy mixed-age and mixed-species urban forest;
- B. Establish and maintain existing and future tree cover on private lands in the city; and
- C. Maintain city trees in a healthy, attractive, and non-hazardous condition through good arboricultural practices.

17.15.020 Applicability.

The contents of this Chapter shall apply to all trees as defined in Chapter 17.04 (Definitions) which are located on private lands except those trees which are exempted in Section 17.15.030(B) (Exemptions).

17.15.030 Requirements.

- A. Application. No person shall alter, remove, or relocate any tree on private property that is not exempted by this Chapter, unless the Community Development Director or his/her designee has issued a Tree Removal Permit in accordance with Section 17.15.040 (Permit Processing).
- B. Exemptions. The following trees shall be exempt from the requirements of this Chapter:
 - 1. A street tree, as defined in the Rohnert Park Municipal Code, Title 12 (Streets and Sidewalks), Section 12.24.020(H) , in which case alteration, removal, or relocation shall be governed by Chapter 12.24 (Public Tree Care);

2. Any proposed tree alteration, removal, or relocation which is part of a larger project. In such cases, the alteration, removal, or relocation shall be processed along with the primary entitlement request which was submitted for the project;
3. Tree pruning on private property which will be performed in conformance with the International Society of Arboriculture (ISA) standards and in which no more than one third of the tree canopy will be removed;
4. Trees which have been determined to be an imminent threat to the public's health, safety, or general welfare as determined by either the Director of Public Safety, Director of Public Works, City's Arborist, or Director of Community Development;
5. Any of the following trees: Acacia spp.(Acacia), Ailanthus spp. (Tree of Heaven), Eucalyptus spp., Ligustrum spp. (Privet), Liquidambar styraciflua (Liquidambar), Pinus radiata (Monterey Pine), or Populus lombardii (Lombardi poplar);
6. Any tree which, in the opinion of the City Arborist, is growing in an inappropriate location and should be removed to preserve a structure or other real property.
7. Any tree which is located on a residential lot which is fully developed with a detached, single family residence;
8. Orchard trees which have been planted or held for cash crop or commercial purpose.

17.15.040 Permit Processing.

- A. Application content. For any tree that is not exempt pursuant to Section 17.15.030(B). (Exemptions), the following items shall be included with a Tree Removal Permit:
 1. A site plan drawn to scale showing the location of the tree to be altered, removed or relocated, adjacent structures and utilities, and any other pertinent information;
 2. A brief description of the tree(s), including number, type, diameter, and height, and reason for alteration, removal, or relocation;
 3. A letter or report describing the health and condition of the tree prepared and signed by a licensed and certified Arborist; and
 4. Photographs of the tree(s) to be altered, removed, or relocated.
- B. Review procedure.
 1. Referrals. All applications shall be referred to the City Arborist for review and comment prior to any action or decision.
 2. Processing. The Tree Removal Permit shall be processed pursuant to Article V of Chapter 17.25 (Administrative Permit) of this Code.
 3. Findings. The Tree Removal Permit application shall be approved or conditionally approved if, on the basis of the application and supporting materials, each of the following findings can be made:
 - i. The request is consistent with the General Plan's goals, objectives and policies;
 - ii. The request is consistent with the regulations and standards of the Rohnert Park Municipal Code;
 - iii. The request is necessary in order to protect the public's health, safety and general welfare.

17.15.050 Tree Replacement.

- A. Required. Any non-exempt tree which has been approved for alteration, removal, or relocation shall be replaced in accordance with the formula set forth in Section 17.15.050(B) (Replacement formula) unless other arrangements have been made in writing between the applicant and the City's Department of Community Development.
- B. Replacement formula. Tree replacement shall be based on the value of the tree as defined in Section 17.04.030 (Definitions of words and terms).
- C. Type of replacement. The applicant shall replace the altered, removed, or relocated tree(s) by either depositing an in-lieu fee, as described above, with the City's Recreation Department or by planting an equivalent number of new tree(s). The planting of any new tree(s) must be approved by the City Arborist.
- D. Location of replacement trees. If deemed feasible and appropriate by the City Arborist, replacement trees shall be replanted on the site of the original tree removal. Otherwise, replacement trees may be located on any parcel within Rohnert Park city limits, depending on the feasibility and appropriateness of the site as determined by the City Arborist.

17.15.060 Tree Protection During Construction.

For the purpose of safeguarding trees during construction activities, the following conditions shall apply to all trees that have not otherwise been approved for alteration, removal, or relocation:

- A. Prior to commencement of construction activities, the property owner, developer, and/or contractor shall hire a licensed and certified arborist to inventory all trees on the building site by size, health, species and location.
- B. The property owner, developer, and/or contractor shall erect protective barriers around all trees to be safeguarded on the construction site. The barriers shall be in place prior to the start of construction activities, shall be at least five feet in height, and shall be placed directly beneath the dripline of the tree. Upon the completion of all construction activities, the barriers may be removed pending written authorization as provided by the Community Development Department.
- C. There shall be no storage of equipment, materials or chemicals, rinsing or dumping of paints, solvents, or cementitious products, or vehicle parking within the dripline of any tree to be preserved.
- D. No trenching shall be permitted within the dripline of any tree to be preserved unless authorized and conducted under the supervision of a licensed and certified Arborist.

17.15.070 Security Deposits.

In the interest of maintaining the purpose and intent of this Chapter, the City shall collect a security deposit from the property owner, developer, and/or contractor for any project which includes as a condition of project approval the protection and preservation of on or off site trees. The security deposit shall be used to replace trees which were intended to be protected, but failed to survive for the minimum period of 24 months as measured from the date that the Department of Community Development authorizes removal of the tree protection barrier.

- A. Deposit amount. The property owner, developer, and/or contractor shall submit a security deposit equal to thirty percent of the value, as defined in Section 17.04.030 (Definitions of words and terms), of each tree for the first \$25,000 in tree value. For tree values in excess of \$25,000, applicant shall submit an additional security deposit equal to twenty percent of such value. The total security deposit for any project shall not exceed \$30,000. A separate account shall be established by the Finance Department for this purpose.
- B. Use of security deposits. In the event that a protected tree does not survive or is otherwise harmed as a result of site development within 24 months measured from the date of project occupancy, the City of Rohnert Park shall use the security deposit funds to purchase replacement trees for on- or off-site use. Tree replacement shall be determined in accordance with Section 17.15.050(B) (Replacement Formula).
- C. Security deposit exemptions. The following projects are exempt from paying security deposits:
 - 1. Any project which was sponsored by the City of Rohnert Park.
 - 2. A remodel, repair, or addition to a single family residence on a developed lot.
- D. Security deposit refund. Any unused portion of a security deposit shall be refunded to the entity or person who originally posted the security and returned within 60 days of the expiration of the 24 months, as referenced in Section 17.15.070(B).

17.15.080 Enforcement.

- A. Penalty. A violation of any of the provisions or failure to comply with any of the requirements of this Chapter shall be subject to the penalties set forth in Chapter 1.16 of the City's Municipal Code. Nothing in this section shall preclude or limit the City from seeking any manner of judicial relief for violations of this Chapter, including, but not limited to, seeking recovery of the value of any tree that is altered, relocated, removed or otherwise damaged in violation of this Chapter. The value of any tree altered, relocated, removed or otherwise damaged shall be consistent with Section 17.15.050(B) (Replacement formula)."

SECTION 4. Environmental Clearance. In accordance with CEQA general rule, Section 15061(b)(3), "[C]EQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA." There is no possibility that the preservation and protection of trees would have a significant effect on the environment, and thus the adoption of the Ordinance has been determined to be exempt from CEQA review.

SECTION 5. Severability. The City Council hereby declares that every section, paragraph, sentence, clause and phrase of this Ordinance is severable. If any section, paragraph, sentence, clause or phrase of this Ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

SECTION 6. Effective Date. This ordinance shall be in full force and effective 30 days after its adoption, and shall be published and posted as required by law. Development

applications that have been deemed complete pursuant to Government Code Section 65944 shall be processed in accordance with the laws and ordinances which were in effect at the time the application was deemed complete.

This ordinance was introduced by the Council of the City of Rohnert Park on the 10th day of April, 2007; and ***DULY AND REGULARLY ADOPTED*** this 24th day of April, 2007 by the following vote:

AYES: FIVE (5) Council Members Breeze, Mackenzie, Smith, and Stafford; and Mayor Vidak-Martinez

NOES: NONE (0)

ABSENT: NONE (0)

ABSTAIN: NONE (0)

CITY OF ROHNERT PARK

/s/ Vicki Vidak-Martinez
Mayor

ATTEST:

APPROVED AS TO FORM:

/s/ City Clerk Judy Hauff

/s/ Assistant City Attorney Gabrielle Whelan