

## EXHIBIT A

*Note: Proposed language is highlighted. Existing language (not highlighted) is from the “Trees, Shrubs and Plants” ordinance in Chapter 2 of Title 12 in the Municipal Code.*

### **Title 10. Zoning and Site Development**

#### **Chapter 1. Zoning**

#### **Article 15. Tree and Landscape Preservation**

##### **10-1.1401 Purpose**

Protect significant trees in order to maintain the Town’s rural character, protect habitat, control erosion, stabilize slopes, provide shade and privacy screening, and maintain air quality consistent with the General Plan while allowing for reasonable enjoyment of private property.

##### **10-1.1402 Definitions.**

For the purposes of this article, the following defined terms shall have the meaning set forth in this section unless the context clearly indicates or requires a different meaning.

**Arborist** means a person certified by the International Society of Arboriculture.

**Exempt Tree** means a tree that is specifically exempted from the requirements outlined in this Article. By reason of their tall height at maturity, rapid growth, dense foliage, shallow root structure, flammability, breakability, or invasiveness, certain types of trees have been deemed “undesirable” by the Town, including Blue Gum Eucalyptus, Monterey Pine and Monterey Cypress trees.

**Hedge** means and includes any plant material, shrub, or plant when planted in a dense, continuous line or area so as to form a thicket or barrier.

**Heritage Oak** means any tree of the genus quercus, including, but not limited to, Valley Oak (*Quercus lobata*), California Live Oak (*Quercus agrifolia*), Black Oak (*Quercus kelloggii*) and Blue Oak (*Quercus douglasii*) that has a trunk or multiple trunk thirty-six (36) inches in circumference (approximately twelve (12) inches in diameter) at a point four (4) feet above the root crown.

**Heritage tree** means any tree that, due to age, size, location, visibility, historic nature, or other unique attribute, has been deemed by the Town to be a heritage tree and accordingly deserves special consideration for preservation and protection.

**Protected Tree** means any tree that has a trunk or multiple trunk ninety-four (94) inches in circumference (approximately 30 inches in diameter) at a point four (4) feet above the root crown. Heritage Oaks and Screening Trees as defined in this section are also Protected Trees.

**Public place** means and include all grounds, other than streets or parks, owned by or leased to and under the control of the Town.

**Screening Tree** means any tree approved to screen a new development as required by the Planning Department.

**Street** means any street, highway, sidewalk, alley, avenue, or other public way in the Town, or any public utility easements or pathway easements granted to the Town.

**Street tree** means and include any woody perennial plant having a single main axis or stem commonly achieving ten (10) feet in height and capable of shaping and pruning to develop a branch-free trunk at least nine (9) feet in height.

#### **10-1.1403 Street Trees - Control and maintenance.**

The Town shall have control of all street trees, shrubs, and plants or flowers now or hereafter growing in any street, park or public place within the Town limits, but the owner of the property which abuts the street or public place shall be responsible for the care and maintenance of such trees, shrubs and plants.

In connection with the approval of a landscaping plan required for the subdivision of land within the Town or as part of any Site Development Permit, the City Council, Planning Commission or Site Development Authority, as the case may be, may include as a part thereof the planting and maintenance of street trees within the portion of any street lying between the property line of the property which is the subject of a Subdivision or Site Development Permit application and the paved or otherwise improved portion of that street.

Unless required to plant street trees as a part of a landscaping plan described in subsection (b) above, no other person shall plant, trim, remove, or interfere with street trees, shrubs, plants, or flowers in any street, park, or public place without a permit therefor issued as provided in Sections 10-1.1404 and 10-1.1405.

If the owner of the property which abuts the street or public place upon which are located trees, shrubs or plants and who is responsible for their care and maintenance, fails to care and maintain them, a notice may be sent by ordinary United States mail to the owner or any tenant involved. Such notice shall describe the condition, state the work necessary to remedy the condition, and shall specify the time within which the work must be performed. If, at the end of the time specified, such work has not been performed, the Town may perform such work, and the cost thereof shall constitute a charge against such owner or tenant, and such charge shall be a lien on such property.

#### **10-1.1404 Street Trees - Permits required.**

No person, unless authorized by permit, shall:

- (a) Plant, remove, top, or in any way injure or mutilate any street tree;
- (b) Fasten any sign, wire, or injurious material to any street tree; or
- (c) Excavate any ditch or tunnel or place concrete or other pavement within a distance of ten (10) feet from the center of the trunk of any street tree.

#### **10-1.1405 Street Trees - Permit application.**

Any person desiring to do any of the work described in Section 10-1.1403 may apply for a permit to do so. The application for a permit shall be made on forms provided for the purpose and shall state the work proposed to be done and in the case of removal the number and location of the trees to be removed by types and the reason for removal for each.

#### **10-1.1406 Street Trees - Review and Conditions.**

Each application shall be reviewed to determine:

- (a) Whether the proposed work:
  - (1) Will create, continue or aggravate any hazardous condition, or public nuisance;
  - (2) Will prevent or interfere with the growth; location or planting of approved street trees;
  - (3) Will be consistent with the planting plan being followed by the Town.
- (b) The condition of the tree or trees with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility service;
- (c) In the case of removal:
  - (1) The necessity to remove the tree or trees;
  - (2) The topography of the land and the effect of the removal of the tree on erosion, soil retention and diversion or increased flow of surface waters;
  - (3) The number of trees existing in the neighborhood on improved property and the effect the removal would have on the established standard of the area and the property values.
- (d) The City Manager (or designee) may issue the permit with or without reasonable conditions, or may deny the permit, after making the determinations described above. If a permit is issued the City Manager (or designee) may attach as a condition, the replacement by the applicant of the tree with another tree contained in a list of trees determined by the City Council to meet the criteria set forth in Section 11-8.08.
- (e) If the application for a permit is denied, the applicant may appeal to the City Council which shall hear and determine the appeal at its next regularly scheduled meeting. The appeal shall be conducted in accordance with Section 10-1.1009 of the Municipal Code.

#### **10-1.1407 Street Trees - Liability.**

Damages to any street tree caused by any act or omission by any person whenever such act or omission is prohibited by, or not authorized pursuant to, the provisions of this chapter shall be charged to such person.

#### **10-1.1408 Public nuisances**

- (a) The following are hereby declared to be public nuisances:
  - (1) Any dead, diseased, infested, or dying tree in any street or on any private property so near to any street as to constitute a danger to street trees, or streets, or portions thereof;
  - (2) Any tree on any private property or in any street of a type or species apt to destroy, impair, or otherwise interfere with any street improvement, sidewalk, curb, approved street tree, gutter, sewer, or other public improvement, including utility mains or services: or
  - (3) Any tree reaching a height more than three (3) feet above the street center adjacent thereto, except tree trunks having no limbs lower than nine (9) feet above the street center, within the eighty (80) foot triangle of private property at the intersection on any streets improved for vehicular traffic;

- (4) The existence of any tree which is infested or infected, or in danger of becoming infested or infected, with objectionable insects, scale, fungus. or growth injurious to trees;
- (5) The existence of any branches or foliage which interfere with the visibility of, or free use of. or access to any portion of any street improved for vehicular or pedestrian travel;
- (b) When a public nuisance, as set forth in Section 10-2.206 of this chapter, exists, it shall be subject to abatement procedures set forth in Chapter 5 of Title 6 of the Municipal Code.

**10-1.1410 Interference with administration and enforcement work.**

No person shall interfere with or delay the authorized representative of the Town from the administration and enforcement of the provisions of this chapter, except as provided by law.

**10-1.1411 Adoption of regulations.**

The City Council, by resolution, may adopt regulations prescribing standards of landscaping and planting of streets and public places, therein, together with a list of appropriate street trees. A copy of such regulations and street tree list shall be available for public inspection upon request, and all work performed in streets or public places shall be performed in accordance therewith. The following criteria shall be considered in compiling any list of appropriate street trees. Each tree should:

- (a) Be disease resistant;
- (b) Not require extensive pruning or leaf clean-up;
- (c) Be erect and non-drooping for the sake of pedestrians and motorists;
- (d) Be appropriate to the space in which they are to be planted for their root growth and breadth of canopy in order to reduce sidewalk and utility line damage.

**10-1.1412 Protected Trees – Permits required**

No person shall remove, purposefully damage, or purposefully cause to die any Protected Tree on private or public property within the Town of Los Altos Hills without first having obtained a removal permit from the Town. A removal permit is not required when:

- (a) The Protected Tree has been identified for removal on an approved tentative subdivision map or an approved site development permit; or
- (b) The Planning Director (or designee) has determined that the Protected Tree presents an immediate danger to persons or property. Persons believing a Protected Tree presents an immediate danger should call Town Hall during normal business hours and 911 at all other times.

**10-1.1413 Protected Trees – Permit application.**

Application for a Protected Tree removal permit may be made by the owner or authorized representative by telephone or in writing to the Planning Director (or designee), and shall contain the number, size, and location of the Protected Tree(s) requested to be removed, and a brief explanation of the reasons for the requested removal. Such reasons may include, but not be limited to, the fact that the Protected Tree is dead, diseased beyond reclamation, hazardous, or crowded

and that good horticultural practices dictate its removal. The City Council shall fix the amount of the removal permit fee by resolution.

#### **10-1.1414 Protected Trees - Arborist report.**

An arborist report shall be required for any application:

- (a) When a project requiring discretionary development approval requires the removal of one or more trees protected by this Chapter; or
- (b) When one or more trees protected by this Chapter are proposed for removal that are not demonstrably dead, diseased beyond reclamation, or hazardous; and
- (c) For any other projects where the Planning Director (or designee) determines it is necessary.

The Planning Director may require any arborist report to be peer reviewed by a consultant arborist. The Arborist Report and any review by a consultant arborist required by the Planning Director shall be at the sole expense of the applicant.

#### **10-1.1415 Protected Trees - Notice to neighbors and issuance of permit.**

The Town shall mail written notice of the removal permit application to owners of all abutting property, except when the reason for the application is that the Protected Tree is dead, diseased beyond reclamation, hazardous, or crowded such that good horticultural practices dictate its removal. If there is no protest against removing the Protected Tree within ten (10) days of the date of the mailing, the Planning Director (or designee) may issue the removal permit pursuant to Section 12-3.305. If there is a protest received within ten (10) days of the date of the mailing, the matter shall be heard by the Site Development Committee after notice of a hearing is given at least ten (10) days in advance to the applicant and the protestant. For the purposes of this section, an “abutting property” is a property whose property line touches the property of the applicant for the removal permit.

#### **10-1.1416 Protected Trees - Removal criteria.**

A removal permit may be approved when the Town has determined that at least one of the following conditions is satisfied:

- (a) The Protected Tree is dead, diseased beyond reclamation, hazardous, or crowded and that good horticultural practices dictate its removal.
- (b) The Protected Tree is interfering with existing utilities, structures, improved surfaces, or rights-of-way to the extent that the pruning or other measures will not correct the problem.
- (c) Special conditions exist which indicate that removal of the Protected Tree is otherwise of net benefit to the Town and its residents.

#### **10-1.1417 Protected Trees - Removal conditions.**

The Planning Director (or designee) or the Site Development Committee, whichever is applicable, may attach reasonable conditions to the approval of a removal permit, including, but not limited to, the requirement that up to five (5) trees be planted for each one removed. Replacement trees shall be accompanied by the payment of a multi-year bond to ensure the trees are maintained and

cared for. Location, sizing, and number of replacement trees shall be based on best arboricultural practices to avoid crowding and ensure successful establishment.

#### **10-1.1418 Protected Trees - Appeal by applicant.**

An applicant may appeal the decision of the Planning Director (or designee) to the City Council. The applicant or protestant may appeal the decision of the Site Development Committee to the City Council. The appeal shall be conducted in accordance with Section 10-1.1009 of the Los Altos Hills Municipal Code.

#### **10-1.1419 Removal Without Permit**

Removal of a Protected Tree subject to the provisions of this Article without first obtaining a tree removal permit or site development permit approval shall be subject to fines not to exceed \$5,000.00 or based on the valuation of the removed tree, whichever is higher.

The fines shall be equal to the replacement value of the tree. Replacement value for the purposes of this section shall be determined by a certified arborist and using the latest edition of the Guide for Plant Appraisal.

Removal of a Protected Tree subject to the provision of this Article without first obtaining a tree removal permit or site development permit approval shall be subject to removal conditions as detailed in Section 10-1.1417.

#### **10-1.1420 Heritage Trees - Designation**

Upon recommendation of the Environmental Design and Protection Committee and following a noticed public hearing, the City Council, by resolution, may designate a tree as a heritage tree. At the hearing, the Council shall consider a plan of protection for the tree, and may require a report prepared by an arborist and paid for by the Town. If the owner of the property where the proposed heritage tree is located protests the designation of heritage tree, the City Council may override this protest only with a vote of four-fifths of the Council members. If the tree is designated as a heritage tree, the Council shall adopt a plan of protection.

#### **10-1.1421 Heritage trees - Maintenance**

It shall be the responsibility of the owner of a heritage tree to comply with the terms of the adopted plan of protection. The owner may seek modification of the plan and the Council will review the plan at least every ten (10) years. If the owner demonstrates to the City Council's satisfaction that the owner is financially unable to comply with the plan of protection, the Town may provide the funds necessary to perform the work.

#### **10-1.1422 Heritage trees - removal.**

No person shall remove, purposefully damage, or purposefully cause to die a heritage tree except with the approval of the City Council following a noticed public hearing.

#### **10-1.1423 Heritage tree - protection on Town lands.**

The Town shall establish a special fund to maintain and protect heritage trees on Town lands. With the approval of the City Council, a resident may adopt and dedicate a heritage tree located on Town

property upon making a donation to the special fund sufficient to provide for the heritage tree's protection and maintenance.

#### **10-1.1424 Heritage trees - Records.**

The Town Historian shall maintain records and pictures of all heritage trees.

#### **10-1.1425 Removal of trees in anticipation of development.**

An owner, or the owner's representative or agent, shall not remove, purposefully damage, or purposefully cause to die any tree on the owner's property with the intent to avoid the requirements of tree preservation or protection that may be imposed upon the subdivision or further development of the owner's property.

If the City Council finds, after a noticed public hearing, that subsection (a) has been violated, it may impose reasonable conditions upon the subdivision or further development of that property. Such conditions may include, but not be limited to, replacement of each tree removed or damaged by up to five (5) trees and payment of a multi-year bond to ensure these trees are maintained and cared for. (§ 5, Ord. 332, eff. June 1, 1990) Location, sizing, and number of replacement trees shall be based on best arboricultural practices to avoid crowding and ensure successful establishment.

#### **10-1.1426 Removal of trees during the development process.**

The Zoning Administrator, the Site Development Committee, the Subdivision Committee, the Planning Commission, and the City Council, in reviewing development proposals or subdivisions, shall seek to preserve and protect existing trees, especially Heritage Oaks and heritage trees, from unnecessary removal or damage by placing conditions on development approvals. Subdivision lot design and development plans shall accommodate existing trees whenever possible. The reviewing authority may require the developer to provide recommendations by an arborist as to the steps that should be taken to protect and preserve existing trees.

If the City Council finds, after a noticed public hearing, that the conditions of development approval regarding removal or damage of trees has been violated, it may direct a stop work order to be issued. A stop work order may halt processing of an application as well as any on-site work. The stop work order may remain in effect: (1) a plan of restitution has been approved by the City Council; and (2) the plan has been implemented or a bond has been posted to ensure compliance with the requirements of the plan of restitution.

The plan of restitution may include, but not be limited to, the replacement of each tree damaged or removed by up to five (5) trees of reasonable size and the payment of a multi-year bond to ensure the trees are maintained and cared for. (§ 5, Ord. 332, eff. June 1, 1990) Location, sizing, and number of replacement trees shall be based on best arboricultural practices to avoid crowding and ensure successful establishment.

#### **10-1.1427 Tree Protection Measures - Construction**

The following standard protection measures are the minimum required and the approving authority may require additional protection measures:

- (a) A fence shall be installed around the dripline of the Protected Tree(s) prior to any work, and no construction activities shall be carried on within the dripline. Construction activities shall include but not be limited to storage of materials, dumping of waste materials and parking of vehicles. Existing perimeter plantings shall be fenced and retained throughout the entire construction period.
- (b) Site Development Permits that include construction within a dripline of any Protected Tree(s) may include provisions for hand trenching within the dripline; on-site arborist supervision; prohibition of cuts or fills within four feet of a Protected Tree base; and review of any cutting or trimming, subject to the findings of an arborist report as required in Section 10-1.1414.

The above measures may be added to based on the recommendations of the project arborist's report or consultant arborist's peer review. Posting of a bond or deposit to ensure protection of Protected Trees during construction may be required if deemed appropriate.

**10-1.1428 Conservation easement restrictions take precedence.**

Nothing in this article supersedes Town restrictions relating to conservation easements.

**10-1.1429 Pruning permit.**

A permit is required for structural pruning in excess of twenty-five percent of the canopy of any protected tree within a two-year period. (The 2001 edition of the ISA Pruning Standards, known as ANSI A300 (Part 1)—2001 Pruning is adopted for reference.). Permits for structural pruning shall be obtained subject to Section 10-1.1412.

Permission in writing from the owner of the tree is required prior to the pruning of a protected tree located on a neighboring property. If the trunk of a tree is located on a property line, written permission is required from the property owners on both sides of the property line prior to pruning, as it is a tree owned by both property owners.

No permit is required for structural pruning of less than twenty-five percent of the canopy of trees on an owner's own property which complies with ISA Pruning Standards. No permit is required for the pruning of productive agricultural trees.

**10-1.1430 Eucalyptus Trees.**

All existing Blue Gum (*E. globulus*), Pink Ironbark (*E. sideroxylon rosea*), River Red Gum (*E. camaldulensis*), Swamp Gum (*E. rudis*), Honey Gum (*E. melliodora*), and Manna Gum (*E. viminalis*) eucalyptus trees shall be removed at the time of construction of a principal residence or at the time of the construction of any structure, combination of structures, addition or alteration to structures which individually or cumulatively equal or exceed twelve hundred (1,200) square feet of floor area. Exceptions shall be made for eucalyptus trees greater than one hundred fifty (150) feet from any roadways or structures.