

## NOTICE OF PUBLIC HEARING

### EUREKA PLANNING COMMISSION

**NOTICE IS HEREBY GIVEN** that the Eureka Planning Commission will hold a public hearing on **Monday, October 12, 2020**, at 5:30 p.m., or as soon thereafter as the matter can be heard. Pursuant to Executive Order N-29-20, by Governor Gavin Newsom, this meeting will be conducted telephonically through Zoom. Please be advised that pursuant to the Executive Order and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, City Hall will not be open for the meeting.

**Project Title:** Tree Removal Amendment - June 2020 Zoning Code Update

**Project Applicant:** City of Eureka **Case No:** TA-19-0002 (mod 2)

**Project Location:** Inland Portion of the City of Eureka **APN:** Various

**Project Zoning and Land Use:** Varies

**Project Description:** The City is proposing to amend the language in Eureka Municipal Code Section 155.304.104 regarding Tree Removal by reassessing the purposes and goals for controlling the removal of trees, and instead of regulating the removal of merchantable, commercial timber, is proposing to protect and preserve certain types of trees that give Eureka its character. The amendment to the Tree Removal section was originally proposed in the June 2020 Zoning Code Update, which became effective on September 18 2020, but was pulled from the update to allow additional review and opportunity for public input.

The proposed changes include language to allow removal without a permit of hazardous protected trees, and protected trees within and adjacent to building sites, neither of which are included in the currently adopted version of the zoning code. And, since solar is now required for certain types of construction by the Building Code, regulations relating to solar access are proposed. Five new tree types are proposed for addition to the list of protected trees, and the diameter used to determine whether a tree qualifies as a protected tree is proposed to be reduced from 3 feet to 2 feet.

The public is invited to participate in the following manner:

1. You can view the Planning Commission meetings live on the City of Eureka's website at [www.ci.eureka.ca.gov](http://www.ci.eureka.ca.gov) or on Cable Channel 10. To view from the website, select Agendas, Meeting and Videos on the home page.
2. If you wish to speak and be heard during the hearing or oral communications, please submit your name, phone number and name of the item you would like to comment on by e-mail to [planning@ci.eureka.ca.gov](mailto:planning@ci.eureka.ca.gov) or leave a message at 707-441-4160 on or before

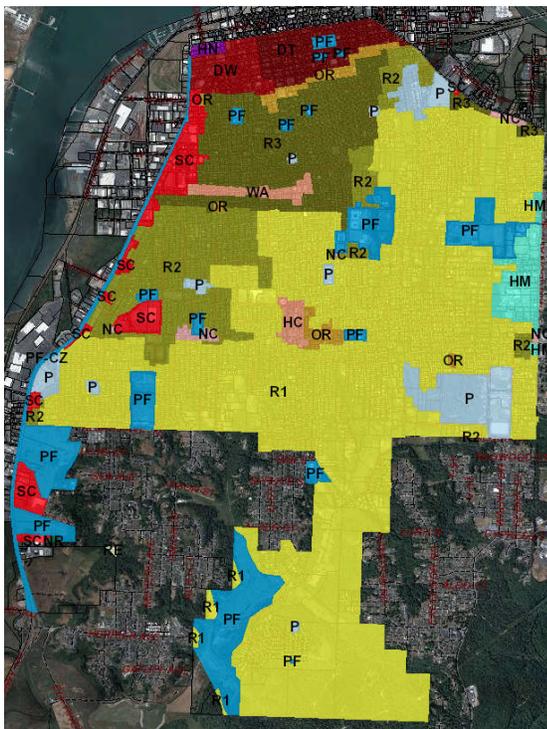
Monday, October 12, 2020 at 12:00 noon. A Development Services staff member will call you during the public hearing for the item.

3. If you don't want to participate during the meeting but want to submit comment on a project or for oral communications, please submit your comment via email to [planning@ci.eureka.ca.gov](mailto:planning@ci.eureka.ca.gov) or you may leave a message at 707-441-4160 prior to Monday, October 12, 2020 at 12:00 noon to ensure that the Commission receives your comment before the meeting. All comments received by email or mail will be part of the public record for consideration but may not be read aloud during the meeting.

If you challenge the nature of the proposed action in court, you may be limited to raising only those issues that you or someone else raised at the public hearing or written correspondence received during or prior to the public hearing. Accommodations for handicapped access to City meetings must be requested of the City Clerk, 441-4175, five working days in advance of the meeting. The project file is available for review at Development Services - Planning. If you have questions regarding the project or this notice, please contact Kristen M. Goetz, Principal Planner, [planning@ci.eureka.ca.gov](mailto:planning@ci.eureka.ca.gov) or (707) 441-4160.

<b>Subject:</b>	Tree Removal Amendment - June 2020 Zoning Code Update TA-19-0002 (mod 2)
<b>Location:</b>	Inland portion of the City of Eureka
<b>APNs:</b>	Various
<b>Applicant:</b>	City of Eureka
<b>Property Owner:</b>	Various
<b>Purpose/Use:</b>	Amend EMC tree removal section 155.304.010
<b>Application Date:</b>	NA
<b>General Plan:</b>	Varies
<b>Zoning:</b>	Varies
<b>CEQA:</b>	Exempt under §15061 “Common Sense Exemption”
<b>Staff Contact:</b>	Kristen M. Goetz, Principal Planner
<b>Recommendation:</b>	Adopt a Resolution recommending Council approve
<b>Motion:</b>	<i>“I move the Planning Commission adopt a Resolution recommending the City Council adopt the proposed June 2020 Zoning Code Update.”</i>

Figure 1: Site Map – Inland Portion of City



**PROJECT SUMMARY**

During the June 8, 2020 Planning Commission meeting, there was concern expressed about the extent of the changes proposed by Staff for Tree Removal in Section 155.304.140. Staff had reassessed the purpose and the goal for regulating the removal of trees by asking whether the intent was to regulate the removal of merchantable, commercial timber, or was it to protect and preserve trees that give Eureka its character. Staff believes the gulches, greenways, stands of timber, and certain trees that exist on both public and private property within the City are part of what contributes to making our City inviting and livable.

On July 13, 2020, the Commission forwarded a recommendation to the City Council that no changes be made to the tree removal section of the June 2020 Zoning Code Amendment, and instead recommended the language be brought

back to the Planning Commission to allow public input on the tree removal changes.

At their meetings in August, 2020, the City Council took action to introduce and subsequently adopt the June 2020 Zoning Code Update without the inclusion of the proposed changes to the tree section. Council asked that the tree removal ordinance come back separately to allow another opportunity for public input.

Following Council's action, the City forwarded a draft of the proposed changes to the tree removal ordinance to Keep Eureka Beautiful (KEB) for their review and input. On September 11, 2020, KEB responded with a recommendation to increase the proposed diameter of protected trees from 16 inches to 24 inches and to add five non-native deciduous trees, and one new conifer tree to the list of protected trees.

Although the types of trees originally included in the list of protected trees was not proposed to change from the version adopted by Council in 2019, Staff has added the five new trees based on KEB's recommendation. Staff is also proposing to incorporate the 24-inch diameter as the trigger to require a tree permit for removal of protected trees.

Staff continues to propose language to allow removal of hazardous trees, and trees within and adjacent to building sites, neither of which are included in the currently adopted version of the zoning code. And, since solar is now required for certain types of construction by the Building Code, regulations relating to solar access are also proposed. A comparison of the existing tree removal regulations to the proposed regulations is attached. The changes recommended by KEB are highlighted in yellow in both the comparison and the attached draft amendment language.

## **ANALYSIS**

To recommend Council approve a Text Amendment, the Planning Commission must make all of the following findings:

- a. The proposed amendment is consistent with the General Plan and any applicable specific plan or area plan.
- b. The proposed amendment is internally consistent with other provisions of the Zoning Code.
- c. The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare

### **1. Plan and Code Consistency**

#### **General Plan**

California Government Code §65860 and Eureka Municipal Code § 155.104.050 both require the Zoning Code be consistent with the General Plan. Consistency is achieved through the regulations in the Zoning Code, which implement the goals and policies of the General Plan. Chapter 155 of the current Zoning Code was found consistent with the 2040 General Plan upon adoption by the City Council in May, 2019.

The 2040 General Plan does not specifically include policies for the regulation of commercial tree species, but it does support the preservation of trees through the following 2040 General Plan Policies:

Historic Preservation HCP-1.1 Preservation. Encourage and support the identification, preservation, rehabilitation, and restoration of historically significant buildings, landscape features, significant trees and plantings, hardscapes, fountains, lighting, sculptures, signs and other natural or designed features through incentives such as reduction of Historic Preservation application fees and programs such as the Local Register of Historic Places and the Mills Act. (RDR, MP) (Imp HCP-1 through Imp HCP-7, Imp HCP-9 and Imp HCP-10)

Natural Resources NR-2.7 Tree and Native Vegetation Preservation and Use. Encourage preservation of existing healthy trees and native vegetation through site planning and maintenance, promote the use of low-maintenance, low water-use native plants and trees, prohibit the use of highly invasive plants, and discourage the use of invasive species in landscaping. (RDR)

Agriculture AG-1.12 Timber Management in Residential Zones. Allow management of timberlands and hazardous trees, including removal of trees on residentially zoned properties, balanced with protection of timber as a resource.

The proposed Tree Removal Amendment - June 2020 Zoning Code Update does not modify the intent, purpose or applicability of the General Plan. Therefore, the proposed amendment remains consistent with, and preservation of trees is supported by, the 2040 General Plan.

### **Specific or Area Plan**

The main goal of the City of Eureka's March 2015 Economic Development Strategic Plan is to improve the quality of life for Eureka's residents, businesses and employees, and visitors through positive actions to attract, retain, and expand businesses within the city. The amendment is intended to protect and preserve trees that give Eureka its character. The gulches, greenways, stands of timber, and certain trees that exist on both public and private property within the City are part of what contributes to making our City inviting and livable, which in turn, improves the quality of life for Eureka's citizens, businesses and tourists. Therefore, the proposed Update is consistent with the Economic Development Strategic Plan.

There are no other Specific or Area Plans that apply to the inland portion of the City.

### **Zoning Code**

The amendment will protect existing and future trees that contribute to the character and history of Eureka. But, even though protection of the trees is important, allowing and encouraging orderly development is one of the main purposes of the zoning code. The tree removal amendment also encourages development by not requiring tree permits for protected trees located within and immediately surrounding the footprint of proposed development and access drives, and by providing solutions to allow solar access without always requiring a tree permit. The public health and safety is also enhanced by providing a process to remove protected trees that are deemed hazardous by an arborist or Registered Professional Forester without requiring a tree permit. Additionally, the amendment does not alter the internal consistency within the zoning code itself. Consequently, the proposed amendment can be found internally consistent with the zoning code.

## **2. Public Interest, Health, Safety, Convenience, and Welfare**

In addition to enhancing the public's safety through the hazardous tree removal language, protection of trees contributes to greenhouse gas reduction and helps remove carbon dioxide which affects climate change, as noted in the 2040 General Plan:

In general, there are two sets of strategies to cope with climate change: mitigation and adaptation. Mitigation strategies attempt to stop future warming by lowering the level of greenhouse gases in the atmosphere, or capturing emitted greenhouse gases prior to release into the atmosphere. Examples of mitigation strategies include planting trees to absorb carbon dioxide from the air, increasing vehicle fuel efficiency to reduce the amount of carbon dioxide emitted per mile driven, and conserving electricity to lower greenhouse gas emissions from energy production. While mitigation efforts may curb some greenhouse gas emissions, these efforts are unlikely to halt climate change entirely, requiring some adaptation to a changing environment.

■ **Our Infrastructure, Mobility:** Policies address reduction in and/ or sequestration of greenhouse gas emissions through providing for alternative modes, providing for development that is more walkable, encouraging shared transportation, considering vehicle miles traveled as a metric to measure impacts to the transportation system, planting trees, creating the infrastructure for greater bicycle and pedestrian connectivity and use, providing for transit services, making it easier to use transit, decreasing parking requirements, and providing alternative vehicle parking.

Adopting the Text Amendment will not frustrate the purpose and objectives of the zoning regulations to protect the public interest, health, safety, peace, comfort, convenience, prosperity, or general welfare.

### **ENVIRONMENTAL ASSESSMENT**

In 2018, the City of Eureka prepared the City of Eureka 2040 General Plan Update Program EIR (State Clearinghouse #2016102025) in its capacity as lead agency and in compliance with CEQA. The EIR consisted of the Notice of Preparation, the Draft EIR including technical appendices, the Responses to Comments, Final Corrections and Additions, and the Project Findings and Statement of Overriding Considerations. The City of Eureka 2040 General Plan EIR was certified by the City Council on October 15, 2018, at the same time the General Plan was adopted.

In order to adopt the 2019 Zoning Code Update and pursuant to Public Resources Code Section 21166 and Section 15162 of the CEQA Guidelines, an Environmental Impact Report Addendum was prepared and accepted by Council in May, 2019. Staff has subsequently reviewed the amendment proposed, and has determined the Tree Removal Amendment - June 2020 Zoning Code Update does not meet any of the conditions required by CEQA to prepare a subsequent EIR or even another addendum. The language proposed by the Tree Removal Amendment - June 2020 Zoning Code Update generally proposes to preserve trees, and provides a process to review their removal, which will help insure either impacts are identified and dealt with, or that there are no negative impacts to the environment. The proposed Tree Removal Amendment - June 2020 Zoning Code Update does not diminish the intent, purpose or applicability of Chapter 155. Further, pursuant to the CEQA Guidelines, section 15061, there is a general rule that CEQA 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, in this case, amending the text of the zoning code, may have a significant effect on the environment, the activity is not subject to CEQA. The original intent, purpose, and applicability of Chapter 155 is maintained, and adoption of the amendment will have no significant effect on the environment.

**PUBLIC HEARING NOTICE**

Public notification consisted of publication of a display advertisement in the Times Standard newspaper on Friday, October 2, 2020, and posting of the notice on the City's website and bulletin boards.

**CONCLUSION**

Based on the discussion above, the proposed Tree Removal Amendment - June 2020 Zoning Code Update is consistent with the General Plan and the Economic Development Plan and is internally consistent with other provisions of the zoning code. The proposed Tree Removal Amendment - June 2020 Zoning Code Update is not detrimental to, and will protect the public interest, health, safety, convenience, or welfare.

**DOCUMENTS ATTACHED**

- Attachment 1: Planning Commission Resolution 2020-\_\_\_\_ ..... Document page 6
- Attachment 2: Summary of Changes ..... Document page 9
- Attachment 3: Proposed Tree Removal Amendment (strikeout)..... Document page 11
- Attachment 4: Proposed Tree Removal Amendment (clean)..... Document page 16

## **RESOLUTION NO. 2020-**

### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EUREKA MAKING FINDINGS REQUIRED FOR A TEXT AMENDMENT AND RECOMMENDING THE CITY COUNCIL APPROVE THE TREE REMOVAL AMENDMENT - JUNE 2020 ZONING CODE UPDATE**

WHEREAS, the City Council of the City of Eureka repealed and replaced Eureka Municipal Code Chapter 155, the Zoning Code, and found the Zoning Code consistent with the 2040 Eureka General Plan by adopting City of Eureka Ordinance No. 885-C.S. on May 20, 2019; and

WHEREAS, Staff anticipated occasional clean-up amendments would be needed to clarify and revise the newly adopted language; and

WHEREAS, in the June 2020 Zoning Code Update, Staff had proposed changes to the Section 155.304.140 Tree Removal of the zoning code; and

WHEREAS, on July 13, 2020, the Commission forwarded a recommendation to the City Council that no changes be made to the tree removal section of the June 2020 Zoning Code Amendment, and instead recommended the language be brought back to the Planning Commission to allow public input on the tree removal changes; and

WHEREAS, on August 18, 2020, the City Council adopted the June 2020 Zoning Code Update which was the first clean-up amendment without including the proposed changes to the Tree Removal section and asked that the tree removal ordinance come back separately to allow another opportunity for public input; and

WHEREAS, the draft Tree Removal amendment was sent to Keep Eureka Beautiful (KEB) for their review and input, and on September 11, 2020, KEB responded with a recommendation to increase the proposed diameter of protected trees from 16 inches to 24 inches and to add five non-native deciduous trees, and one new conifer tree to the list of protected trees; and

WHEREAS, the Planning Commission of the City of Eureka did hold a duly noticed public hearing at City Hall in the City of Eureka on October 12, 2020 at 5:30 p.m. via Zoom from the Council Chamber, to consider the Tree Removal Amendment - June 2020 Zoning Code Update; and

WHEREAS, the Planning Commission of the City of Eureka has reviewed the proposed Tree Removal Amendment - June 2020 Zoning Code Update amendment in accordance with Eureka Municipal Code Chapter 155, and after due consideration of all testimony, evidence, and reports offered at the public hearing, does hereby find and determine the following facts:

1. The proposed Tree Removal Amendment - June 2020 Zoning Code Update does not modify the intent, purpose or applicability of the General Plan and the

proposed amendment remains consistent with, and preservation of trees is supported by, the 2040 General Plan.

2. The amendment is intended to protect and preserve trees that give Eureka its character.
3. The gulches, greenways, stands of timber, and certain trees that exist on both public and private property within the City are part of what contributes to making Eureka inviting and livable, which in turn, improves the quality of life for Eureka's citizens, businesses and tourists.
4. The proposed Tree Removal Amendment is consistent with the Economic Development Strategic Plan.
5. The Tree Removal Amendment encourages development by not requiring tree permits for protected trees located within and immediately surrounding the footprint of proposed development and access drives.
6. The Tree Removal Amendment provides solutions to allow solar access without always requiring a tree permit.
7. The public health and safety is enhanced by providing a process to remove protected trees that are deemed hazardous by an arborist or Registered Professional Forester without requiring a tree permit.
8. The amendment does not alter the internal consistency within the zoning code itself and the proposed amendment is internally consistent with the zoning code.
9. Protection of trees contributes to greenhouse gas reduction and helps remove carbon dioxide which affects climate change, as noted in the 2040 General Plan.
10. Adopting the Text Amendment will not frustrate the purpose and objectives of the zoning regulations to protect the public interest, health, safety, peace, comfort, convenience, prosperity, or general welfare.
11. The City of Eureka 2040 General Plan Update Program EIR (State Clearinghouse #2016102025) was certified by the City Council on October 15, 2018, at the same time the 2040 General Plan was adopted.
12. Pursuant to Public Resources Code Section 21166 and Section 15162 of the CEQA Guidelines, an Environmental Impact Report Addendum was prepared and accepted by Council in May, 2019 for adoption of the Zoning Code Update.
13. The Tree Removal Amendment generally proposes to preserve trees, and provides a process to review their removal, which will help insure either impacts are identified and dealt with, or that there are no negative impacts to the environment.
14. The proposed Tree Removal Amendment - June 2020 Zoning Code Update does not diminish the intent, purpose or applicability of Chapter 155 and does not meet any of the conditions required by CEQA to prepare a subsequent EIR or another addendum.
15. Pursuant to CEQA Guidelines Section 15061, there is a general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. The original intent, purpose, and applicability of Chapter 155 is maintained, and adoption of the amendment will have no significant effect on the environment.

WHEREAS, in the opinion of the Planning Commission of the City of Eureka, the proposed Tree Removal Amendment - June 2020 Zoning Code Update should be approved.

NOW THEREFORE, BE IT RESOLVED that the Planning Commission of the City of Eureka does hereby recommend the City Council approve the proposed Tree Removal Amendment - June 2020 Zoning Code Update.

PASSED, APPROVED AND ADOPTED by the Planning Commission of the City of Eureka in the County of Humboldt, State of California, on the 12<sup>th</sup> day of October, 2020 by the following vote:

AYES: COMMISSIONERS  
NOES: COMMISSIONERS  
ABSENT: COMMISSIONERS  
ABSTAIN: COMMISSIONERS

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Jeff Ragan, Chair, Planning Commission

*Attest:*

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Kristen M. Goetz, Executive Secretary

Regulation	Current Zoning Code	Proposed June 2020 Zoning Code Update
Purpose	Establish permit requirements to regulate removal of commercial trees	Establish permit requirements to: <ul style="list-style-type: none"> <li>• protect and preserve trees that are important to the character of the City and its neighborhoods;</li> <li>• protect the public's safety by allowing hazardous tree removal;</li> <li>• allow for tree removal, or tree mass reduction for residential development and solar arrays.</li> </ul>
By right removal	Commercial trees not requiring a Tree Permit or Conditional Use Permit	<ul style="list-style-type: none"> <li>• Protected trees not requiring a Tree Permit or Conditional Use Permit</li> <li>• Protected trees within 15 feet of the footprint of a proposed structure, and within the boundary of the associated access road.</li> <li>• See Hazardous Trees for other by-right allowances.</li> </ul>
Hazardous Trees	<ul style="list-style-type: none"> <li>• Removal of commercial trees requires Tree Permit or Use Permit.</li> <li>• Removal of non-commercial trees allowed by right.</li> </ul>	<ul style="list-style-type: none"> <li>• Removal of protected tree allowed by right by certain staff with arborist or Registered Professional Forester determination of immediate hazard.</li> <li>• Reduction of mass of protected tree allowed by-right with arborist or Registered Professional Forester determination the tree(s) pose a safety hazard or danger to property value.</li> </ul>
Solar access (Installation of solar is required per the Building Code for certain new residential construction)	<ul style="list-style-type: none"> <li>• No reference to solar access or reduction of mass.</li> <li>• Removal of commercial trees requires Tree Permit or Use Permit.</li> <li>• Removal of non-commercial trees allowed by right.</li> </ul>	Reduction of mass of protected tree allowed with Tree Permit and arborist or Registered Professional Forester determination that trees hinder direct sunlight
Tree Permit Required	To remove a commercial tree species with a diameter at breast height (DBH) of three feet or more	<ul style="list-style-type: none"> <li>• To relocate, remove, cut down, top, or undertake any other act that causes the destruction of a protected tree except Hazardous Trees and Solar Access.</li> </ul>
Tree Size requiring a Permit	3-foot Diameter at Breast Height	1624-inch diameter, or a circumference of 5075 inches, as measured four and one-half feet above the ground
List of Commercial Trees vs. Protected Trees	Douglas-fir	Douglas fir ( <i>Pseudotsuga menziesii</i> )
	Redwood	Redwood ( <i>Sequoia sempervirens</i> )
	White, grand, and red firs	White fir ( <i>Abies concolor</i> ) Grand fir ( <i>Abies grandis</i> ) Red fir ( <i>Abies magnifica</i> )
	Western white pine	Western white pine ( <i>Pinus monticola</i> )
	Sugar pine	Sugar pine ( <i>Pinus lambertiana</i> )
	Bishop pine	Bishop pine ( <i>Pinus muricata</i> )

Regulation	Current Zoning Code	Proposed June 2020 Zoning Code Update
	Ponderosa or Jeffrey pine	Ponderosa pine ( <i>Pinus ponderosa</i> ) Jeffrey pine ( <i>Pinus jeffreyi</i> )
	Sitka spruce	Sitka spruce ( <i>Picea sitchensis</i> )
	Western hemlock	Western hemlock ( <i>Tsuga heterophylla</i> )
	Western red cedar	Western red cedar ( <i>Thuja plicata</i> )
	Incense-cedar	Incense cedar ( <i>Calocedrus decurrens</i> )
	Port Orford cedar	Port Orford cedar ( <i>Chamaecyparis lawsonia</i> )
		<b>Big Leaf Maple (<i>Acer macrophyllum</i>)</b>
		<b>Black Cottonwood (<i>Populus trichocarpa</i>)</b>
		<b>California Laurel (<i>Umbellularia californica</i>)</b>
		<b>Madrone (<i>Arbutus menziesii</i>)</b>
		<b>Monterey Cypress (<i>Cupressus macrocarpa</i>)</b>
		<b>Red Alder (<i>Alnus rubra</i>)</b>
Maximum Number Allowed	No more than five trees every ten years with a Tree Permit	<ul style="list-style-type: none"> <li>No more than five protected trees every ten years with Tree Permit</li> <li>Hazardous trees or trees removed for solar access are not counted in maximum number allowed</li> </ul>
Conditional Use Permit Required	Removal of more than five commercial tree species with a DBH of three feet or more within a ten-year period	The removal of more than five protected tree species within a ten-year period
Review Authority	Not included	Tree Permits - Director Conditional Use Permits - Planning Commission
Findings for Approval	Not included	Why protected trees should be allowed to be removed.
Conditions of Approval	Not included	Examples of possible conditions
Timing of Removal of Large Stature Trees	Not included	Bird nesting season may impact trees more than 150' tall – denial, postponement, or CEQA.
Other approvals	Approval from Cal Fire and other State agencies may be required.	<ul style="list-style-type: none"> <li>Encroachment Permit</li> <li>Approval from Cal Fire and other State agencies may be required.</li> </ul>

## 155.304.010 – Tree Removal

**A. Purpose.** This subsection establishes permit requirements to remove trees in residential zoning districts. Much of Eureka is forested with stands of redwoods and other trees that are a distinctive part of the City's history and character, and every effort should be made to preserve and protect these trees, while protecting the public's safety and supporting residential development. When trees pose a hazard or are located in areas of planned growth, they may need to be removed. These regulations are intended to:

1. Protect and preserve trees that are important to the character of the City and its neighborhoods.
2. Protect the public's safety by allowing hazardous tree removal.
- 1-3. Allow for tree removal, or tree mass reduction, as necessary to allow for residential developments and supporting solar arrays.

### **B. By-Right Tree Removals.**

1. The removal of a tree or trees not defined as a protected tree in 155.304.140.F do not require a Tree Permit or Conditional Use Permit.
2. The removal of any protected tree or trees defined in 155.304.140.F from within 15 feet of the footprint of a proposed structure, and within the boundary of the associated access road, provided the trees are identified on the project's site plan, is allowed by-right with a Zoning Clearance.

~~B. requiring a Tree Permit or Conditional Use Permit as described below is allowed by-right without Department approval.~~

### **C. Hazardous Trees.**

1. **Emergencies.** The removal or relocation of a protected tree or trees that would otherwise require a Tree Permit is exempt from the provisions of this subsection only in case of an emergency, where a member of a law enforcement agency, the Humboldt Bay Fire District, the Public Works Director, or the Director based on a report from an arborist or Registered Professional Forester (RPF), determines that a tree is hazardous and presents an immediate danger of collapse and poses an imminent threat to the public safety, or general welfare.
2. **Reduction of Tree Mass.** When recommended in a report prepared by an arborist or a RPF, a hazardous protected tree may have its mass reduced to protect property values and to address safety concerns and does not require a Tree Permit.

**D. Solar access.** When authorized as part of a Tree Permit and verified in a report prepared by an arborist or a RPF, a protected tree or trees that hinder direct sunlight for solar energy systems may have their mass reduced to provide solar access.

### **E. Tree Permit Required.**

A Tree Permit is required to relocate, remove, cut down, top, or undertake any other act that causes the destruction of a protected tree identified in 155.304.140.F, except as provided in

Division C (Hazardous Trees) and D (Solar Access) of this subsection. Hazardous trees or trees removed for solar access are not counted in the number of trees removed per Division G of this subsection.

**F. Protected Trees.** A protected tree includes any of the following:

1. A tree species listed in 155.304.140.F.2. with a 1624-inch diameter, or a circumference of 5075 inches, as measured four and one-half feet above the ground.

2. Protected tree species include:

- a. Big Leaf Maple (*Acer macrophyllum*)
- b. Bishop pine (*Pinus muricata*)
- c. Black Cottonwood (*Populus trichocarpa*)
- d. California Laurel (*Umbellularia californica*)
- e. Douglas fir (*Pseudotsuga menziesii*)
- f. Grand fir (*Abies grandis*)
- g. Incense cedar (*Calocedrus decurrens*)
- h. Jeffrey pine (*Pinus jeffreyi*)
- i. Madrone (*Arbutus menziesii*)
- j. Monterey Cypress (*Cupressus macrocarpa*)
- k. Ponderosa pine (*Pinus ponderosa*)
- l. Port Orford cedar (*Chamaecyparis lawsonia*)
- m. Red Alder (*Alnus rubra*)
- n. Red fir (*Abies magnifica*)
- o. Redwood (*Sequoia sempervirens*)
- p. Sitka spruce (*Picea sitchensis*)
- q. Sugar pine (*Pinus lambertiana*)
- r. Western red cedar (*Thuja plicata*)
- s. Western hemlock (*Tsuga heterophylla*)
- t. Western white pine (*Pinus monticola*)
- u. White fir (*Abies concolor*)

~~1. **When Required.** A Tree Permit is required to remove a commercial tree species with a diameter at breast height (DBH) of three feet or more.~~

~~2. **Commercial Tree Species Defined.** A commercial tree species includes any of the following species:~~

- a.— Douglas fir
- b.— Redwood
- c.— White, grand, and red firs
- d.— Western white pine
- e.— Sugar pine
- f.— Bishop pine
- g.— Ponderosa or Jeffrey pine
- h.— Sitka spruce
- i.— Western hemlock
- j.— Western red cedar
- k.— Incense cedar
- l.— Port Orford cedar

**D.G. Maximum Number Removed.** No more than five protected trees may be removed every ten years with the issuance of a Tree Permit: except as allowed by Division C (Hazardous Trees) and D (Solar Access) of this subsection.

**H. Conditional Use Permit Required.** The removal of more than five commercial-protected tree species with a DBH of three feet or more within a ten-year period is considered a timber harvesting use and requires Planning Commission approval of a Conditional Use Permit. Approval from Cal Fire and other State agencies may be required.

**I. Review Authority.**

1. Tree Permits. The Director reviews and takes action on Tree Permit applications.
2. Conditional Use Permits. The Planning Commission reviews and takes action on Conditional Use Permit Applications.

**J. Findings for Approval.** To approve a Tree Permit, the review authority must make all the following findings:

1. Approval of the Tree Permit will not be detrimental to the public health, safety or welfare, and approval of the Tree Permit is consistent with the General Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
2. Measures have been incorporated, if necessary, into the project or permit to mitigate impacts to remaining trees or to replace the trees removed in compliance with this Division.
3. The removal of a healthy tree cannot be avoided by redesign of the site plan prior to construction or trimming, thinning, tree surgery, or other reasonable treatment, as determined by the Director.
4. Adequate provisions for drainage, erosion control, land stability, windscreen, and buffers along any road and between neighbors have been made where these problems are anticipated as a

result of the removal.

5. The tree(s) to be removed do not contain active nesting or roosting sites that have been identified through the review process or are otherwise known to the review authority as the nests of a listed bird species or bird species of special concern.

**K. Conditions of Approval.** Approval of a Tree Permit must include Conditions of Approval as necessary to ensure compliance with this Subsection and all other applicable provisions of the zoning code. Conditions of Approval may include, but are not limited to:

1. Requiring removal of invasive or noxious vegetation (e.g. English Ivy) from other trees on the applicant's property.
2. Allowing for the removal of non-native trees adjacent to natural areas if replaced with an appropriate native tree.
3. Requiring tree replacement(s) for any tree(s) removed through a Tree Permit.
4. Weekday hours of operation.

**L. Timing of Removal of Large-Stature Trees.** A tree with a height of 150 feet or more may require evaluation to determine if active nesting or roosting sites for listed bird species, or bird species of special concern are occurring within the subject tree(s) during the projected tree removal dates. If such active nesting or roosting activities are occurring during the projected tree removal dates, the review authority can deny the request or require further environmental review.

**E.M. Other Approvals.** An encroachment permit approved by the Public Works Department, and approval from CalFire or other State agencies may be required to remove any tree, including by-right, protected, hazardous, and/or solar access trees.



### **155.304.010 – Tree Removal**

**A. Purpose.** This subsection establishes permit requirements to remove trees in residential zoning districts. Much of Eureka is forested with stands of redwoods and other trees that are a distinctive part of the City's history and character, and every effort should be made to preserve and protect these trees, while protecting the public's safety and supporting residential development. When trees pose a hazard or are located in areas of planned growth, they may need to be removed. These regulations are intended to:

1. Protect and preserve trees that are important to the character of the City and its neighborhoods.
2. Protect the public's safety by allowing hazardous tree removal.
3. Allow for tree removal, or tree mass reduction, as necessary to allow for residential developments and supporting solar arrays.

**B. By-Right Tree Removals.**

1. The removal of a tree or trees not defined as a protected tree in 155.304.140.F do not require a Tree Permit or Conditional Use Permit.
2. The removal of any protected tree or trees defined in 155.304.140.F from within 15 feet of the footprint of a proposed structure, and within the boundary of the associated access road, provided the trees are identified on the project's site plan, is allowed by-right with a Zoning Clearance.

**C. Hazardous Trees.**

1. **Emergencies.** The removal or relocation of a protected tree or trees that would otherwise require a Tree Permit is exempt from the provisions of this subsection only in case of an emergency, where a member of a law enforcement agency, the Humboldt Bay Fire District, the Public Works Director, or the Director based on a report from an arborist or Registered Professional Forester (RPF), determines that a tree is hazardous and presents an immediate danger of collapse and poses an imminent threat to the public safety, or general welfare.
2. **Reduction of Tree Mass.** When recommended in a report prepared by an arborist or a RPF, a hazardous protected tree may have its mass reduced to protect property values and to address safety concerns and does not require a Tree Permit.

**D. Solar access.** When authorized as part of a Tree Permit and verified in a report prepared by an arborist or a RPF, a protected tree or trees that hinder direct sunlight for solar energy systems may have their mass reduced to provide solar access.

**E. Tree Permit Required.**

A Tree Permit is required to relocate, remove, cut down, top, or undertake any other act that causes the destruction of a protected tree identified in 155.304.140.F, except as provided in Division C (Hazardous Trees) and D (Solar Access) of this subsection. Hazardous trees or trees removed for solar access are not counted in the number of trees removed per Division G of this

subsection.

**F. Protected Trees.** A protected tree includes any of the following:

1. A tree species listed in 155.304.140.F.2. with a 24-inch diameter, or a circumference of 75 inches, as measured four and one-half feet above the ground.
2. Protected tree species include:
  - a. Big Leaf Maple (*Acer macrophyllum*)
  - b. Bishop pine (*Pinus muricata*)
  - c. Black Cottonwood (*Populus trichocarpa*)
  - d. California Laurel (*Umbellularia californica*)
  - e. Douglas fir (*Pseudotsuga menziesii*)
  - f. Grand fir (*Abies grandis*)
  - g. Incense cedar (*Calocedrus decurrens*)
  - h. Jeffrey pine (*Pinus jeffreyi*)
  - i. Madrone (*Arbutus menziesii*)
  - j. Monterey Cypress (*Cupressus macrocarpa*)
  - k. Ponderosa pine (*Pinus ponderosa*)
  - l. Port Orford cedar (*Chamaecyparis lawsonia*)
  - m. Red Alder (*Alnus rubra*)
  - n. Red fir (*Abies magnifica*)
  - o. Redwood (*Sequoia sempervirens*)
  - p. Sitka spruce (*Picea sitchensis*)
  - q. Sugar pine (*Pinus lambertiana*)
  - r. Western red cedar (*Thuja plicata*)
  - s. Western hemlock (*Tsuga heterophylla*)
  - t. Western white pine (*Pinus monticola*)
  - u. White fir (*Abies concolor*)

**G. Maximum Number Removed.** No more than five protected trees may be removed every ten years with the issuance of a Tree Permit except as allowed by Division C (Hazardous Trees) and D (Solar Access) of this subsection.

**H. Conditional Use Permit Required.** The removal of more than five protected tree species within a ten-year period is considered a timber harvest and requires Planning Commission approval of a Conditional Use Permit.

**I. Review Authority.**

1. **Tree Permits.** The Director reviews and takes action on Tree Permit applications.
2. **Conditional Use Permits.** The Planning Commission reviews and takes action on Conditional Use Permit Applications.

**J. Findings for Approval.** To approve a Tree Permit, the review authority must make all the following findings:

1. Approval of the Tree Permit will not be detrimental to the public health, safety or welfare, and approval of the Tree Permit is consistent with the General Plan, Zoning Code, and any applicable specific plan or area plan adopted by the City Council.
2. Measures have been incorporated, if necessary, into the project or permit to mitigate impacts to remaining trees or to replace the trees removed in compliance with this Division.
3. The removal of a healthy tree cannot be avoided by redesign of the site plan prior to construction or trimming, thinning, tree surgery, or other reasonable treatment, as determined by the Director.
4. Adequate provisions for drainage, erosion control, land stability, windscreen, and buffers along any road and between neighbors have been made where these problems are anticipated as a result of the removal.
5. The tree(s) to be removed do not contain active nesting or roosting sites that have been identified through the review process or are otherwise known to the review authority as the nests of a listed bird species or bird species of special concern.

**K. Conditions of Approval.** Approval of a Tree Permit must include Conditions of Approval as necessary to ensure compliance with this Subsection and all other applicable provisions of the zoning code. Conditions of Approval may include, but are not limited to:

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**M. Other Approvals.** An encroachment permit approved by the Public Works Department, and approval from CalFire or other State agencies may be required to remove any tree, including by-right, protected, hazardous, and/or solar access trees.

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