

ORDINANCE NO. 2013-18

AN ORDINANCE OF THE CITY OF SANTA CRUZ REPEALING CHAPTER 9.56 AND
ADDING A NEW CHAPTER 9.56 TO THE SANTA CRUZ MUNICIPAL CODE
PERTAINING TO THE PRESERVATION OF HERITAGE TREES

WHEREAS, the City of Santa Cruz has actively encouraged the development of a safe, healthy and attractive environment in which its residents can live and work; and

WHEREAS, in pursuit of these goals the City recognizes the substantial environmental, aesthetic and economic importance of its diverse urban forest consisting of indigenous as well as non-native trees; and

WHEREAS, this invaluable urban forest has been, and continues to be, an asset to the community inasmuch as it contributes to the environmental, aesthetic and economic stability of the community; and

WHEREAS, the citizens of Santa Cruz recognize that the preservation of this invaluable resource is a heritage to the community at large; and

WHEREAS, the citizens of Santa Cruz therefore understand that the preservation of their urban forest existing on both public and private property is important to them and their community in order to:

- (a) Protect, conserve and enhance the City's attractiveness and its aesthetic and scenic environment;
- (b) Develop and promote an awareness and understanding of the importance of urban forests to the citizens of Santa Cruz;
- (c) Encourage and assure the continuation of quality community development where existing trees are incorporated into any development and accorded proper maintenance and protection as a part of the City's urban forest;
- (d) Act as a buffer against urban traffic noise and wind damage, provide protection from wind erosion, and provide a privacy screen;
- (e) Aid in the reduction of air pollution given the known capacity of trees to ingest carbon dioxide and produce oxygen thereby enhancing air quality;
- (f) Assist in the absorption of rain waters thereby protecting against soil erosion by flooding; and
- (g) Protect and enhance property values; and

WHEREAS, the citizens of Santa Cruz recognize that pursuit of the foregoing goals is in the best interest of the City of Santa Cruz and promotes the general welfare of the City of Santa Cruz; and

WHEREAS, the citizens of Santa Cruz recognize the right of individuals to develop, maintain and enjoy private property to the fullest possible extent consistent with the public interest in preserving and maintaining the City's urban forest in general; and

WHEREAS, in light of the foregoing the citizens of Santa Cruz recognize that it is in the best interest of the City of Santa Cruz to enact regulations preserving and maintaining the City's urban forest as it exists and is developed on public and private property within the City limits of Santa Cruz; NOW THEREFORE:

BE IT ORDAINED by the City of Santa Cruz as follows:

SECTION 1. Chapter 9.56 of the Santa Cruz Municipal Code is hereby repealed.

SECTION 2. A new Chapter 9.56 of the Santa Cruz Municipal Code is hereby added to read as follows:

Chapter 9.56
PRESERVATION OF HERITAGE TREES

Sections:

- 9.56.001 Purpose
- 9.56.010 Definitions
- 9.56.020 Director powers and duties.
- 9.56.030 Commission powers and duties.
- 9.56.040 Heritage tree designation.
- 9.56.050 Protection of heritage trees
- 9.56.060 Permits required for work significantly affecting heritage trees
- 9.56.070 Right of appeal.
- 9.56.080 Emergencies.
- 9.56.090 License required.
- 9.56.100 Replanting requirements for approved and unapproved removals of heritage trees
- 9.56.110 Penalty provision.

9.56.001 PURPOSE

This Chapter is enacted to recognize, protect, optimize and responsibly manage the community urban forest by establishing standards and policy consistent with private rights to develop and use property in a manner not prejudicial to the public interest while maintaining the health and safety of both the urban forest and citizenry. It is the purpose of this Chapter to promote and protect a thriving urban forest and to facilitate proper management practices that include the City's ability to protect and preserve tree resources through regulating their removal, and regulating excessive pruning or alteration; to prevent unnecessary tree damage, to minimize environmental impacts from improper tree management, alteration, pruning and removal, to require tree replacement for removed trees, to effectively enforce tree preservation and zoning regulations, and to promote an appreciation and understanding of trees and their intrinsic value.

(a) Among the environmental assets that contribute to the livability and attractiveness of the City of Santa Cruz are its trees, both indigenous and introduced. Growing in urban settings, neighborhoods, business and commercial districts, in parks and in open spaces, as single specimens or in groves, trees contribute significant tangible benefits, both psychological and environmental, for the residents and visitors to our community alike.

(b) Trees contribute beneficially to the urban environment and contribute to our community's and the state's climate action goals. Tree canopy coverage reduces heat buildup, noise and air pollutants; improves air quality, reduces particulates, and provides oxygen. Trees also enhance the aesthetic environment and contribute visually to the City by providing scenic views, scale, color, silhouette and mass. Trees contribute to the protection of other natural resources by providing erosion control, management of storm water and urban runoff, increased infiltration and groundwater recharge, and improved water retention capacity of soils. Trees provide screens and buffers to separate land uses and are often landmarks or contribute to the significance of the City's history. Trees contribute to the economy of the City by increasing and sustaining property values, creating employment and training opportunities, and reducing energy costs.

(c) The urban forest requires stewardship from both community members and the City to maximize its benefits, such as tree canopy coverage, shaded areas, and enhanced habitat for wildlife on private and public lands. To promote and manage a stable urban forest in a healthy non-hazardous condition, trees must be regulated by agencies and professionally maintained through proper management and arboricultural practices.

(d) The City's trees collectively constitute an urban forest and an ecosystem. Removal and planting of trees can create both negative and positive impact, affecting the urban forest and the City as a whole. Managing diversity in tree species and the age of the urban forest are key components of urban forest management. Proper urban forest management includes addressing potential public hazards and protecting public safety, limiting infrastructure conflicts, managing invasive tree species, and mandating appropriate replanting. These concepts are critical components of sustainable urban forestry. The removal of mature trees may in some cases take generations to fully restore.

(e) Appropriate management of non-native invasive species is encouraged by the City of Santa Cruz. Non-native invasive species can be managed for public safety, fuel load reduction in the urban interface areas and also for native habitat restoration upon City approval. Responsible management of non-native invasive tree populations; i.e. acacia and blue gum eucalyptus, is encouraged outside of designated habitat areas and is conditional upon required tree replacement. Management of non-native acacia and blue gum eucalyptus species is encouraged inside of designated habitat areas, if approved by the City, when no adverse impacts to habitat occur, as defined by a qualified biologist and upon adequate tree replacement ensuring native habitat restoration. Designated habitat areas are protected through the City's General Plan and Zoning Ordinance, Title 24, including areas with sensitive habitats, species, plant communities, birdlife and butterflies, riparian corridors, slope areas and protected Coastal Zone areas. Approved management strategies are not limited to tree removal, but also include alternatives such as alteration, pruning and thinning of non-native invasive groves of trees, removal of understory vegetation, debris and duff, management of ladder fuels, soil erosion protective measures, and tree replacement with appropriate plant varieties and nursery stock. Tree replacement requirements are designed to bolster native plant and animal communities and habitats.

(f) The city Heritage Tree Ordinance and tree preservation requirements are consistent with the Solar Shade Control Act enacted in 1978 and later amended in 2008, Sections 25980-25986 of

the California Public Resources Code. Trees are a natural resource and asset to the community and will be evaluated accordingly for proposed solar installations.

9.56.010 DEFINITIONS

For the purpose of this chapter, the following words shall have the meaning ascribed to them in this section:

(a) “Alter” shall mean to take action by cutting, pruning or removing living parts from any tree, or by changing grade, filling, resurfacing, trenching, grading, compacting or changing the drainage pattern of the soil surrounding any tree in a manner that threatens or diminishes the vigor of any tree.

(b) “Certified Arborist” shall mean an Arborist with a Certification from the International Society of Arboriculture who has regional experience in evaluating trees and preparing tree reports. A current list of Certified Arborists that meet these requirements may be maintained by the City.

(c) “Certified Arborist Report” shall mean a report from a Certified Arborist that includes pictures, an accurate inventory of the number, species, size, condition, structure, and a map with properly identified tree locations including drip line and/or critical root zones of each subject heritage tree. Recommendations for removal or suitability for preservation, tree life expectancy, potential impacts from erosion and drainage requirements, soil stability issues, wind dynamics and impacts from removal or from the proposed project to adjacent trees, whether on the parcel or on an adjoining parcel, impacts from structures, utilities and site improvements and proposed replacement trees shall be included as necessary. Arborist reports pertaining to development shall include procedures for pre-and post- construction treatments, alternative construction methods, preservation and maintenance recommendations and tree protection zones. All reports shall clearly describe the scope of work being proposed and the reason for the requested action. All reports are subject to approval by the Director of Planning and Community Development or Parks and Recreation Department. The City may reject arborist reports when it deems them incomplete.

(d) “City” shall mean the City of Santa Cruz, acting by and through its authorized representatives.

(e) “Commission” shall mean the City of Santa Cruz Parks and Recreation Commission or the Planning Commission.

(f) “Council” shall mean the City Council of the City of Santa Cruz.

(g) “Crown/Canopy” shall mean the totality of a heritage tree’s above-ground living parts, including trunk, branches, twigs and leaves.

(h) “Damage” shall mean any action undertaken which alters the existing state of any heritage tree in any way and that violates this ordinance as defined in Section 9.56.050.

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- (i) “Department” shall mean the City of Santa Cruz Parks and Recreation Department or the Planning and Community Development Department.
- (j) “Director” shall mean the Director of the Parks and Recreation Department of the City of Santa Cruz, or the Director of Planning and Community Development Department or his/her designee.
- (k) “Drip line” shall mean the area directly located under the outer circumference of the tree branch tips and canopy.
- (l) “Emergency” shall mean a sudden, unexpected occurrence, or recent information supporting defensible findings consistent with adopted City Council resolution, demanding immediate action to prevent or mitigate loss of, or damage to, life, property, or essential public services. Emergency includes such occurrences as fire, flood, wind storms, earthquake, other soil or geologic movements and partial or entire tree failures.
- (m) “Grove” shall mean three or more trees of like species, randomly distributed and sharing a common canopy.
- (n) “Heritage tree” shall mean any tree meeting criteria set forth in Section 9.56.040 of this chapter.
- (o) “Non-Native invasive species” shall mean any blue gum eucalyptus (*E. globulus*) or acacia species growing within the city limits of Santa Cruz.
- (p) “Owner” shall mean the owner of real property as shown on the most recent county assessor’s roll.
- (q) “Person” shall mean any individual, firm, business, partnership, association, public utility, corporation, legal entity, and/or agent, employee or representative thereof.
- (r) “Private property” shall mean all property within the boundaries of the City of Santa Cruz, as shown on the most recent county assessor’s roll to be owned by persons, firms or corporations other than the City of Santa Cruz or another public agency.
- (s) “Prune” shall mean the cutting, trimming, detaching, separating or removing of any part of a heritage tree.
- (t) “Public Property” shall include all property owned by any governmental agency, except those legally exempt from this chapter, within the boundaries of the City of Santa Cruz including those noncontiguous areas incorporated by the City of Santa Cruz.
- (u) “Removal” shall mean the physical removal of any heritage tree, or causing the death or destruction of any heritage tree, through damaging, poisoning or other direct or indirect detrimental action.

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(v) “Riparian corridor” shall mean any defined stream channel including the area up to the ordinary high water (or bank full-flow line), as well as all riparian streamside vegetation in contiguous adjacent uplands. This definition is consistent with the City’s definition as stated in the General Plan/LCP.

(w) “Significant work” shall mean the pruning, root pruning, trimming, cutting off, removal or any action altering the physical structure or condition of any heritage tree.

(x) “License required” shall mean a contractor’s license adequate to perform tree work issued by the State of California.

(y) “Urban forest” shall mean all the trees, or a grove of trees, including but not limited to street trees, growing both on public or private property within the City limits of the City of Santa Cruz.

(z) “Utility” shall mean a public utility or private utility and includes any pipeline corporation, gas corporation, electrical corporation, telephone, telegraph or other communications corporation, water corporation, sewer system or heat corporation the services of which are performed for, or the commodity delivered to, the general public or any portion thereof.

9.56.020 DIRECTOR POWERS AND DUTIES

The Director of Parks and Recreation or Planning and Community Development shall be responsible for administering and enforcing this chapter. The Director shall have the following powers and duties:

(a) Grant or deny permit applications pursuant to Section 9.56.060, including a determination of whether a report from a Certified Arborist shall be required in conjunction with any application, and directing appeals pertaining to construction projects to the Planning Commission. In the Coastal Zone, the Zoning Administrator shall determine the disposition of applications pursuant to Title 24 of the Zoning Ordinance.

(b) Provide technical information to assist owners in maintaining heritage trees on private property or on land for which they are responsible under Chapters 13.30 and 15.20 of the City of Santa Cruz Municipal Code;

(c) Abate public nuisances pursuant to Chapter 13.30 of the City of Santa Cruz Municipal Code;

(d) Review all development and construction plans for the purpose of determining their negative impact on the urban forest;

(e) Order the alteration or removal of hazardous trees when they are found to pose a threat to other trees or to the community in general, pursuant to the criteria and standards adopted by City Council resolution;

(f) Make recommendations to the Parks and Recreation Commission pertaining to the management of the City’s urban forest;

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(g) Determine tree replanting requirements and required time of performance for approved and unapproved alterations, damage or removal of heritage trees pursuant to the City's approved tree removal replanting requirements established by City Council resolution and pursuant to Section 9.56.100 of this Chapter.

9.56.030 COMMISSION POWERS AND DUTIES

The Parks and Recreation Commission or Planning Commission shall have the following powers and duties:

- (a) Make recommendations to the City Council concerning policies, programs and decisions relating to the City's urban forest;
- (b) Grant or deny permit applications on appeal pursuant to Section 9.56.070 of this chapter.

9.56.040 HERITAGE TREE DESIGNATION

Any tree, grove of trees, growing on public or private property within the City limits which meet(s) the following criteria shall have the "heritage" designation:

- (a) Any tree which has a trunk with circumference of forty-four inches (44") (approximately fourteen inches (14") inches in diameter) or more, measured at fifty-four inches (54") above existing grade and consistent with the measuring standards as defined by the International Society of Arboriculture;
- (b) Any tree or grove of trees, designated by City Council Resolution as having historical significance, or listed on an approved City Area Planning Document or designated for protection through an approved zoning entitlement, or including but not limited to those which were/are:
 - (1) Planted as a commemorative;
 - (2) Planted during a particularly significant historical era; or
 - (3) Marking the spot of an historical event.
- (c) Any tree, grove of trees, designated by City Council Resolution as having horticultural significance, including but not limited to those which are:
 - (1) Unusually beautiful or distinctive;
 - (2) Old (determined by comparing the age of the tree in question with other trees of its species within the City);
 - (3) Distinctive specimen in size or structure for its species (determined by comparing the tree to average trees of its species within the City);
 - (4) A rare or unusual species for the Santa Cruz area (to be determined by the number of similar trees of the same species within the City); or

- (5) Providing a valuable habitat.

9.56.050 PROTECTION OF HERITAGE TREES

No property owner or other person responsible for the property shall allow any of the following conditions which may be harmful to any heritage tree to exist or occur:

- (a) Any tree, heritage or otherwise, within the City limits that is dead, that is irretrievably infested or infected with insects, scale or disease detrimental to the health of any heritage tree;
- (b) Filling up or altering the ground area around any heritage tree, or to prevent the tree from receiving needed air, light or water, or any paving, root loss/damage, trenching or excavating near any heritage tree conducted without direction from a Certified Arborist;
- (c) Piling building materials, parking equipment and/or pouring any substance which may be detrimental to the health of any heritage tree;
- (d) Posting any sign, poster, notice or similar device by stapling, nailing, or by any other physically intrusive method into the trunk or branches on any heritage tree;
- (e) Driving stakes into any part of the heritage tree, or its root area for any purpose other than supporting the heritage tree;
- (f) Causing or allowing a fire to burn within the drip line or near any heritage tree such that it causes an unreasonable risk of harm to the heritage tree.
- (g) Physically damaging any heritage tree by way of, topping, over-pruning, girdling, root loss, or poisoning of the heritage tree, or any action which may cause death, destruction or injury to the heritage tree or which places the heritage tree in a hazardous condition or in an irreversible state of decline.

9.56.060 PERMITS REQUIRED FOR WORK SIGNIFICANTLY AFFECTING HERITAGE TREES

- (a) No person shall prune, or perform any work, on a single occasion or cumulatively, over a three-year period, affecting twenty-five percent or more of the living parts of the crown of any heritage tree without first obtaining a permit pursuant to this section. No person shall root prune, relocate or remove any heritage tree without first obtaining a permit pursuant to this section.
- (b) All persons, utilities and any department or agency located in the City shall submit a permit application, together with the appropriate fee for applications and to ensure replanting, as set forth by City Council resolution, to the Department prior to performing any work requiring a permit as set forth in subsection (a) of this section. The Director shall determine whether a report from a Certified Arborist shall be required. Arborist reports shall be prepared at the applicant's expense, and shall meet the criteria set forth in Section 9.56.010(c). The Certified Arborist report, if required, shall be submitted along with the application, and fees for tree removal or alteration and replanting requirements consistent with adopted City Council

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Resolution. The applicant may include a report from a Certified Arborist as supplemental information when not required by the Director. Any supplemental reports which may be submitted by the applicant and staff are advisory only and shall not be deemed conclusive or binding on the Director's findings.

(c) An authorized representative of the Department may inspect the tree which is the subject of the application. If such inspection is not feasible as determined by the Director, this determination shall be a valid basis for the Director to require a report from a Certified Arborist. Pursuant to that inspection, or based upon the Certified Arborist report, the authorized Department representative shall file with the Director written findings of fact based on and consistent with the adopted City Council Resolution setting forth the criteria and standards for tree alteration and removal.

(d) If, upon said inspection, or review of the Certified Arborist report, it is determined that the tree which is the subject of the permit application meets none of the criteria set forth in Section 9.56.040 (i.e. it is not a heritage tree as defined), no further action on the part of the Director or the permit applicant is necessary.

(e) If the tree which is the subject of the permit application meets any of the criteria set forth in Section 9.56.040 based upon a review of the permit application, inspection, or the Certified Arborist Report, then the Director shall make findings of fact, based on and consistent with the adopted City Council Resolution setting forth the criteria and standards for tree alteration and removal, upon which he/she shall: grant the permit; conditionally grant the permit specifying replanting requirements, consistent with Title 24, the Zoning Ordinance, and the adopted City Council Resolution specifying approved tree removal replanting requirements; or deny the permit; or allow a portion of the proposed work outlined in the permit application to be completed.

(f) The decision of the Director shall be final unless appealed to the Commission by the permit applicant or any other aggrieved person pursuant to Section 9.56.070.

(g) The Director shall issue any permit granted pursuant to this section, which permit shall be conspicuously posted by staff, or the applicant or the applicant's authorized representative, upon direction by the Director, near the tree(s) that are subject of the permit.

(h) Unless appealed, the permit shall take effect ten (10) calendar days after it is issued, except where the tenth day occurs on a Saturday, Sunday or City holiday, in which case the effective date shall be extended to the next following business day.

(i) All work performed on any designated heritage tree pursuant to a permit as provided in this section shall be completed within ninety (90) days from the effective date of the permit or within such longer period as the Director may specify.

9.56.070 RIGHT OF APPEAL

(a) Decision or Action of Director. Any person, public agency or utility aggrieved or affected by any decision or action taken pursuant to the authority of this chapter by the Director may

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appeal that decision or action to the Commission according to the following rules and regulations:

- (1) A written notice of appeal, together with the appropriate fee as set forth by City Council resolution, must be received by the staff to the Commission not later than ten (10) calendar days following the date of the decision or action from which such appeal is being taken. If the final day for filing an appeal occurs on a weekend day or City holiday, the final filing date shall be extended to the next following business day.
- (2) The appellant shall state the basis for the appeal and shall specifically cite which provision of this chapter or City Council Resolution pertaining to criteria for application approval, is relied upon to support the appellant's contention that the Director acted in error. Any information or reports which may be submitted by the applicant, appellant or staff are advisory only and shall not be deemed conclusive or binding on the Commission's findings. The appeal must be signed by the appellant or appellant's representative, include appropriate appeal fees as set forth by City Council Resolution and must provide a valid mailing address to which the staff to the Commission may direct notice of a hearing.
- (3) Upon receipt of the appeal the staff to the Commission shall schedule the matter for a public hearing at the next regularly scheduled business meeting, but not sooner than ten (10) business days after receipt. The Commission shall complete its action within sixty (60) days from the date the matter is first scheduled for public hearing, unless appellant and/or permit applicant mutually agree to extend said sixty (60) day period.
- (4) Notice of the public hearing shall be sent by first class mail to the permit applicant and appellant at least five (5) calendar days prior to the meeting.
- (5) Notice of the public hearing shall be conspicuously posted by the Director near the heritage tree(s) in question, at least ten (10) calendar days prior to the meeting.
- (6) All notices shall include:
 - (A) The time, place and date of the public hearing;
 - (B) A brief description of the matter to be considered including a concise description of the heritage tree in question, its location and scope of work being proposed;
 - (C) A brief description of the general procedure for submission of comments;
 - (D) The date of the filing of the permit application and the name of the applicant.
- (7) The Commission shall make findings of fact, based on and consistent with the adopted City Council Resolution setting forth the criteria and standards for tree alteration and removal, on which it bases its action. The Commission may conditionally grant the permit specifying tree replanting requirements consistent with Title 24, the Zoning Ordinance, and the adopted City Council Resolution specifying approved tree removal

replanting requirements, as well as time of performance, deny the permit, or allow a portion of the proposed work outlined in the permit application to be completed.

(8) The Commission shall direct the Director to issue any permit granted by the Commission pursuant to this section, which permit shall be conspicuously posted near the subject(s) of the permit.

(9) The decision of the Commission shall be final unless appealed to the City Council pursuant to Chapter 1.16 of the City of Santa Cruz Municipal Code by the permit applicant or any other aggrieved person.

(10) Unless appealed, the permit shall take effect ten (10) calendar days after it is issued, except if the tenth day occurs on a weekend day or City holiday, in which case the effective date shall be extended to the next following business day.

(11) All work performed on any designated heritage tree pursuant to a permit as provided in this section shall be completed within ninety days from the effective date of the permit, or within such longer period as the Commission may specify.

(b) Decision or Action of Commission. Any person, public agency or utility aggrieved or affected by any decision or action taken pursuant to the authority of this chapter by the Commission may appeal that decision or action to the City Council. All such appeals shall be made pursuant to Chapter 1.16 of the Santa Cruz Municipal Code.

(1) Members of the City Council shall be exempt from the appeal fee specified in Chapter 1.16 when acting in their official capacity.

(2) The City Council shall determine all questions raised on appeal pursuant to Chapter 1.16, and the decision of the City Council shall be final.

(3) Permit applications denied by the City Council on appeal shall not be considered for reapplication for a period of one year from the date of the City Council's decision, unless:

(A) There is a significant decline in the health of the subject heritage tree as verified by a Certified Arborist and confirmed by the Director; and

(B) Said decline in health has not been caused by the applicant or any person associated with the applicant.

9.56.080 EMERGENCIES

In the event of an emergency whereby immediate action is required, as defined and set forth in Section 9.56.010 (l) because of imminent danger to life or property, a heritage tree may be pruned, altered or removed by order of the Director, or by order of a responsible member of the Police, Fire, Planning, or Public Works Departments, without the requirement of a permit as defined in Section 9.56.060. Notification to the Parks and Recreation Department of the removal or alteration is required the following business day. Any related permit fees shall be paid within

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thirty (30) days of the said action. In the Coastal Zone, the Zoning Administrator shall determine the disposition of applications requiring a Coastal Permit pursuant to Title 24 of the Zoning Ordinance. The Director shall make findings as stated under Section 9.56.060 (e) and tree replanting requirements as defined in 9.56.100 shall apply.

9.56.090 LICENSE REQUIRED

(a) Except as set forth in subsection (b) of this section, any person performing any alteration, pruning, maintenance, care or removal of any heritage tree for hire within the City limits of the City of Santa Cruz shall be duly licensed to the extent required by the State of California.

(b) Any person who is the owner of property in the City where a heritage tree needing alteration, pruning, maintenance, care or removal is located shall be exempted from the requirements of subsection (a) if said owner intends to personally perform, and subsequently does personally perform, himself or herself said needed alteration, pruning, maintenance, care or removal of said heritage tree. Said owner shall comply with all other provisions of this chapter.

9.56.100 TREE REPLANTING REQUIREMENTS FOR APPROVED AND UNAPPROVED REMOVALS OF HERITAGE TREES

(a) Any person who has obtained an approved tentative tree removal permit shall be required to replant pursuant to the approved heritage tree removal replanting requirements adopted by City Council resolution. Prior to commencing any work on a heritage tree(s) and pursuant to an approved tree removal permit, the applicant shall deposit with the City in cash or bond all funds required pursuant to the approved heritage tree removal replanting requirements.

(b) Any person who alters, damages, destroys or removes any heritage tree on public or private property without an approved permit issued pursuant to this chapter shall be liable to the City for the cost of replacement of said heritage tree pursuant to the unapproved heritage tree removal replanting requirements adopted by City Council resolution. In addition, all violations are subject to the penalties prescribed by Section 9.56.110 of this chapter and Title 4.

9.56.110 PENALTY PROVISION

(a) Any person who personally, or through an agent, employee or representative, violates any provision of this chapter shall be guilty of a separate offense for each and every act constituting a violation of this chapter. Any violation of this chapter shall be punishable by a fine of not less than five hundred dollars (\$500) per offense and subject to the unapproved replanting requirement chart adopted by City Council Resolution and as set forth in Section 9.56.100 of this code.

(b) In addition to criminal liability imposed pursuant to subsection (a), the damage, destruction or removal of any heritage tree without a permit issued pursuant to this chapter shall render the owner and/or person performing the work liable for compliance with the replanting requirements set forth in Section 9.56.100 (b) of this chapter and subject to the unapproved replanting requirement chart adopted by City Council Resolution.

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(c) In addition to the penalties and damages set forth in subsections (a) and (b), the owner or occupant of any property on which a violation of the provisions of this chapter was committed, may be denied any approval or permit issued by the City which is necessary for the development or further improvement of such property, until all fines and damages are paid and fulfilled and all required replanting requirements have been fully implemented and approved by the Director. Prohibited approvals or permits may include, but not be limited to, conditional use permits, variances and building or demolition permits.

(d) The provisions of subsection (c) shall not apply to any approval or permit which is needed or required to maintain the health or safety of those occupying existing improvements on the property. Nor shall subsection (c) be construed as precluding the issuance of a permit to perform emergency repairs or to otherwise address an emergency situation on the property.

(e) The remedies and penalties provided for herein shall be in addition to any other remedies and penalties provided by law, including the remedies and penalties provided for in Title 4.

SECTION 3. This ordinance shall be in force and take effect thirty (30) days after its final adoption.

PASSED FOR PUBLICATION this 24th day of September, 2013, by the following vote:

AYES: Councilmembers Terrazas, Comstock, Lane, Mathews, Posner; Vice Mayor Robinson, Mayor Bryant.

NOES: None.

ABSENT: None.

DISQUALIFIED: None.

APPROVED: ss/Hilary Bryant, Mayor

ATTEST: ss/Bren Lehr/City Clerk Administrator

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PASSED FOR FINAL ADOPTION this 22nd day of October, 2013, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

APPROVED: _____
Mayor

ATTEST: _____
City Clerk Administrator

This is to certify that the above and foregoing document is the original of Ordinance No. 2013-18 and that it has been published or posted in accordance with the Charter of the City of Santa Cruz.

City Clerk Administrator