



## DEPARTMENT OF CITY PLANNING RECOMMENDATION REPORT

### CITY PLANNING COMMISSION

**DATE:** March 22, 2018  
**TIME:** after 8:30 a.m.\*  
**PLACE:** Van Nuys, Council Chamber  
14410 Sylvan Street  
Second Floor  
Van Nuys, CA 91401

**CASE NO:** CPC-2016-4520-CA  
**COUNCIL FILE:** 13-1339  
**CEQA:** ENV-2016-4521-CE  
**LOCATION:** Citywide  
**COUNCIL DISTRICT:** All  
**PLAN AREAS:** All

**PUBLIC HEARING HELD ON:** January 20, 2017

**SUMMARY:** An ordinance to amend Sections 12.21, 17.02, 17.05, 17.06, 46.01, and 46.02 of the Los Angeles Municipal Code (LAMC) to modify provisions pertaining to "Protected Trees" and to include the Mexican Elderberry (*Sambucus mexicana*) and Toyon (*Heteromeles arbutifolia*) as Protected Trees or Shrubs and update regulations.

### RECOMMENDED ACTIONS:

1. **Consider** based on the whole of the administrative record, that the proposed ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15308 (Class 8).
2. **Approve and recommend that the City Council adopt** the proposed ordinance;
3. **Adopt** the staff report as the Commission report on the subject; and
4. **Adopt** the Findings as recommended by staff.

VINCENT P. BERTONI, AICP  
Director of Planning

  
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KEVIN KELLER, AICP, Executive Officer

  
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**ADVICE TO PUBLIC:** \*The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communication may be mailed to the Commission Secretariat, 200 North Spring Street, Room 532, Los Angeles, CA 90012 (Phone No. 213/978-1300). While all written communications are given to the Commission for consideration, the initial packets are sent a week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agenda itemized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services, and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request no later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at 213/978-1300.

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## Summary

In an effort to better protect the City's natural resources, the Department of City Planning has drafted a proposed ordinance to protect two indigenous shrubs- the Mexican Elderberry (*Sambucus mexicana*) and the Toyon (*Heteromeles arbutifolia*). In addition to being critical components of local ecosystems, both of these shrubs hold cultural significance in Los Angeles, and are thus deserving of enhanced protection. The proposed ordinance would extend the protective measures that are afforded to the four species of indigenous trees that constitute the City's list of Protected Trees to the Mexican Elderberry and the Toyon.

In addition to extending protected status to the Mexican Elderberry and Toyon shrubs, the proposed ordinance also updates the definition of a Tree Expert, modifies measurement criteria for Protected Trees and Shrubs to require that at least one trunk or stem meets the qualifying diameter, and increases the number of trees and shrubs that are required to be planted when a Protected Tree or Shrub is removed. The proposed ordinance seeks to fortify the protective measures granted to Protected Trees and Shrubs, and ensure the survival of culturally and ecologically valuable indigenous species.

## Initiation

In October of 2013, the City Council adopted Motion 13-1339, directing the Department of City Planning and the Bureau of Public Works to add the Mexican Elderberry and Toyon shrubs to the list of Protected Trees. In response to the City Council Motion, the Department of City Planning has drafted a proposed ordinance (Exhibit A) that would amend the Los Angeles Municipal Code (LAMC) by changing the name of the list of Protected Trees to the list of Protected Trees and Shrubs so as to accommodate the addition of the Mexican Elderberry and Toyon.

## Background

The City first adopted regulations to protect indigenous trees in 1980, providing protections for native Oak trees. In 2006, in order to slow the elimination of other indigenous trees, the City extended protected status to three additional indigenous trees - the Southern California Black Walnut, Western Sycamore, and California Bay trees, creating a list of "Protected Trees".

The list of Protected Trees currently includes four trees that are indigenous to the greater Los Angeles region:

- Oak, including Valley Oak (*Quercus lobota*) and California Live Oak (*Quercus agrifolia*), or any other tree of the oak genus indigenous to California but excluding the Scrub Oak

- Southern California Black Walnut (*Juglans californica*)
- Western Sycamore (*Platanus racemosa*)
- California Bay (*Umbellularia californica*)

Existing regulations mandate that Protected Trees that are removed be replaced by other Protected Trees at a rate of 2:1. Trees are to be replaced on-site, however if site conditions do not allow for on-site replacement, trees may be donated to the Bureau of Street Services, Urban Forestry Division (Urban Forestry) to be planted elsewhere in the City. If there are Protected Trees on the site of a by-right project, the applicant is required to submit a tree report to Urban Forestry for review and consideration by the Board of Public Works. For discretionary projects, Protected Trees are required to be identified as part of the environmental assessment, and the applicant is required to submit a tree report to be reviewed by Urban Forestry. The recommendations in the report become the basis of the project's conditions of approval.

The City is proposing to extend these protections to two species of shrubs: The Mexican Elderberry (*Sambucus mexicana*) and Toyon (*Heteromeles arbutifolia*). The Mexican Elderberry and Toyon are bushy, multi-stemmed shrubs that are capable of growing very large. Both shrubs are native to California, require very little water, and are fire resilient, meaning that their underground root systems are usually preserved and kept healthy during fires, even when above ground portions of the shrubs burn, a feature that renders them useful for controlling soil erosion in hillsides. They both produce berries, attract butterflies, birds, and other wildlife, and play an important role in maintaining natural habitats. When one of these shrubs is removed, the impacts go far beyond aesthetics, often affecting entire ecosystems. These shrubs are often found below or near the trees on the current list of Protected Trees, and they play an equally important role in maintaining the native environment. Additionally, both the Mexican Elderberry and Toyon have historical and cultural importance in the City of Los Angeles.

The Mexican Elderberry is significant for the cover it provides small nesting birds, as well as for the partial shade it creates that facilitates ground cover growth. Young pheasants and quail can often be found feeding underneath the shrubs, demonstrating the Mexican Elderberry's importance in local ecosystems. They are also known to attract at least 50 species of songbirds, upland game birds, and small mammals. The Mexican Elderberry is also fire resilient, and useful for controlling soil erosion. In addition to how Mexican Elderberry shrubs benefit the ecosystems in which they are naturally found, the shrub was also historically significant to local Native American tribes, who not only ate the berries for food, but also utilized them as medicine. To this day, elderberries are widely consumed both for culinary and medicinal purposes.

The Toyon shares many of the ecological qualities of the Mexican Elderberry in that it helps to support local ecosystems and assists with erosion control in hillside areas. In addition to these environmental attributes, the Toyon also has local historic and cultural significance. In 2012, the Toyon was named the official Native Plant of the City of Los

Angeles. Due to its green leaves and the red berries it produces, the Toyon is also sometimes referred to as the Christmas Berry or California Holly, and, because of this, the shrub has long been rumored to have been the naming inspiration for Hollywood, due to its prevalence in the area that is now the Hollywood Hills. While this claim has not been substantiated, it does speak to the cultural importance of the Toyon shrub in the City of Los Angeles. The Toyon also has special significance for local Native American tribes. In addition to the shrub holding the unique distinction of being one of the only native California plants that has maintained its Native American name, the Toyon's berries were a valuable source of food and medicine for the Chumash, Tongva, and Tataviarn tribes.

While the Toyon and Mexican Elderberry shrubs are prime candidates for enhanced protection based on their ecological and cultural significance alone, they are also very limited in terms of both gross numbers and prevalence among local forests. In 2011, the United States Department of Agriculture's Forest Service Northern Research Station published Resource Bulletin NRS-47, titled *Assessing Urban Forest Effects and Values: Los Angeles' Urban Forest*. The bulletin documents the City of Los Angeles' urban forest population from 2007 through 2008 and quantifies its environmental value. The study found that, at the time, Los Angeles had six million trees, and that native species only accounted for approximately 16% of the population. It also concluded that Elderberry shrubs made up 0.6% of the urban forest, while Toyon shrubs only constituted 0.2%. These numbers, though they may be ten years old, indicate that native species, and especially the Elderberry and Toyon, are few in number. The proposed ordinance would serve as an important tool to ensure that the limited number of Elderberry and Toyon shrubs do not decline. Additionally, the study found that approximately 4,500 tons of trees and plants are removed per year. It is important to expand the list of Protected Trees in order to promote greater protection of these native plants and to also ensure that trees and shrubs that are removed will be adequately replaced.

Furthermore, in recent years, local trees have been dramatically affected by disease that can lead to devastation of forests and tree populations. The severity of these disease outbreaks is magnified when the urban forest is dominated by a monoculture, which is large numbers of the same species located in close proximity to each other. Species diversity is key to preventing monocultures and to protecting the health of trees. Because of this, it is important to not only maintain protections for the four indigenous tree species already classified as Protected Trees, but to also protect the indigenous shrubs that often grow beneath and near them. The Mexican Elderberry and Toyon shrubs are equally important components of native habitats as the trees already covered by the Protected Tree provisions in the City of Los Angeles Municipal Code. An expanded list comprised of Protected Trees and Shrubs is needed to promote overall tree health and resiliency, as well as to maintain local ecosystems.

Several local municipalities have already identified the value of the Mexican Elderberry and Toyon shrubs, and have legislated their protection. Both shrubs are included in the City of Pasadena's Specimen Tree list which provides protections for both shrubs. The

Cities of Malibu and Thousand Oaks also include the Toyon as a protected species within their Native Tree Protection Ordinance and Landmark Tree Ordinance, respectively.

## **Proposed Ordinance**

In January 2017, the Department released a draft ordinance and held a public hearing. Based on feedback from the public, the Department revised the January draft ordinance and prepared the proposed ordinance (Exhibit A).

The proposed ordinance accomplishes the following:

### **Extends Protection to Two Species of Shrubs**

The proposed ordinance (Exhibit A) will give protected status to two species of shrubs: the Mexican Elderberry and the Toyon. Once a species of tree or shrub has been given protected status, it is subject to provisions of the LAMC that regulate its relocation, removal, and replacement in order to preserve native populations.

While both protected trees and shrubs contribute to local ecosystems and are culturally, historically, and ecologically significant in the City of Los Angeles, they also differ in key ways. For example, the protected indigenous tree species generally grow taller than both the Mexican Elderberry and Toyon shrubs, and as a result, house different animals, provide different levels of shade, and generally serve different functions in native habitats. To acknowledge these differences, this proposed ordinance categorizes trees and shrubs separately.

### **Changes Terminology**

The proposed Code amendment will change the defined term “Protected Tree” to “Protected Tree or Shrub” in order to accommodate the addition of two shrubs, the Mexican Elderberry and the Toyon, to the list.

### **Increases Replacement Requirements**

Currently, the removal of any Protected Tree must be mitigated by the planting of two Protected Trees. The Code amendment will change the replacement requirements from two trees to be planted for each tree that is removed, to four trees or shrubs for every tree or shrub that is removed. This modification is proposed to codify existing, unwritten practice from Urban Forestry, which has been followed to ensure a higher likelihood of survival for replacement trees and shrubs, and to help ensure that the tree canopy will be restored. When a mature tree needs to be removed, the loss to the tree canopy is often great, since tree canopies expand as trees grow and age. The increased replacement ratio for Protected Trees and Shrubs helps to restore the canopy more quickly by eliminating the need to wait for single trees to develop the same canopy cover as the tree or shrub that was removed.

Related to this issue, the proposed Code amendment stipulates that trees may only be replaced with trees, and shrubs may only be replaced with shrubs. The replacement requirements for Protected Trees and Shrubs are intended to restore the environment to previous conditions before removal occurred, and this stipulation helps to ensure that this occurs. While both the Toyon and Mexican Elderberry shrubs can grow tall and contribute to tree canopies, this function of the urban forest is most often provided by trees. Similarly, shrubs typically provide low, dense ground cover, which is another important component of the urban forest, and similarly critical to the health of ecosystems. In order to keep ecosystems intact and balanced, the requirement for like-for-like tree and shrub replacement is important.

### **Refines Qualifications for Tree Experts**

One of the prerequisites for the removal of a Protected Tree or Shrub is the preparation of a tree report by a certified Tree Expert. Currently, a Tree Expert must have four years of experience being either:

1. A certified arborist with the International Society of Arboriculture who holds a license as an agricultural pest control advisor, or
2. A landscape architect, or
3. A registered consulting arborist with the American Society of Consulting Arborists

With respect to the current requirements, applicants have contended that credentials can be combined to meet the required years of experience and/or areas of expertise. Urban Forestry has expressed concern that some tree reports are inadequate due to an incomplete understanding of the issues involved in proper tree care among landscape architects who lack arborist certification. While Urban Forestry questions whether the Code allows for the combining of credentials, the wording is not sufficiently definitive on this point, and therefore needs to be addressed through this Code amendment. To preclude the combining of credentials, the proposed Code amendment stipulates that a Tree Expert must individually meet one of the three criteria listed to be counted as an expert. Additionally, this ordinance requires any landscape architect to also be a certified arborist with the International Society of Arboriculture in order to count as a Tree Expert. Removing the ability to combine credentials and further restricting who can claim to be a Tree Expert will result in higher quality tree reports and, consequently, in a healthier, more sustainable urban forest.

### **Modifies How Trunk Diameter Is Measured**

In the proposed ordinance, in order for a Protected Tree or Shrub to qualify for protected status, it must have at least one trunk or stem that measures four inches in diameter, at a height of four and one half feet above the ground. Current regulations provide for cumulative measurement, so that all the trunks of multi-trunk trees, such as Black

Walnuts, are added together to qualify as a protected specimen. Urban Forestry has requested that this system of cumulative measurement be eliminated in the Code amendment. According to Urban Forestry, trees and shrubs that do not contain a single trunk or stem that measures four inches in diameter at four and one-half feet above the ground are often unviable, and thus do not rise to the level of significance for protected status. According to Urban Forestry, the current practice of cumulative measurement has led to overreach of the regulation, which has resulted in protection of Black Walnut trees that were not significant or viable.

### **Technical Corrections**

Other minor changes to the City's regulations on Protected Trees have been included in this Code amendment in an effort to make the Code language more precise and consistent. These changes include replacing the word "native" with "indigenous" in both uses of the defined term "Protected Tree or Shrub" contained in this ordinance, and removing the word "woodland" from the definition of Protected Tree or Shrub found in Section 46.01, in order to make that definition consistent with the definition contained in Section 17.02. The removal of the word "woodland" from this definition is also significant due to the fact that some species of Protected Trees, such as the Valley Oak, are not exclusively native to woodland habitats. Both of these changes were requested by Urban Forestry, and help to bring the regulations for Protected Trees and Shrubs in line with industry terminology and standards.

### **Public Comment Summary**

Ten comments received at the public hearing on January 20, 2017 were in support and one comment was neutral regarding the addition of the Mexican Elderberry and Toyon shrubs to the list of Protected Trees and Shrubs. Thirteen people signed in and eleven people spoke at the hearing. Thirty-eight written comments were also received. Thirty-six were in support and two were in opposition.

Organizations that were represented at the hearing or submitted comments in writing include:

- Northeast Trees
- Citizens for Los Angeles Wildlife (CLAW)
- Audubon California
- Plant Native Plants
- Mount Washington Homeowners Alliance
- Neighborhood Council Sustainability Alliance
- Community Forest Advisory Committee
- Studio City Neighborhood Council
- Theodore Payne Foundation



- Atwater Village Neighborhood Council
- Friends of Griffith Park
- Save Coldwater Canyon
- Studio City Residents Association
- California native Plant Society
- Bureau of Public Works, Street Services and Urban Forestry divisions

Below is a summary of the comments received:

- The Mexican Elderberry and Toyon sustain native ecosystems and wildlife.
- The Mexican Elderberry and Toyon are critical to protecting hillsides from erosion and preventing mudslides.
- The Mexican Elderberry and Toyon are chaparral species and should not be used to replace the woodland trees on the Protected Tree list. Chaparral species should replace chaparral species and woodland species should replace woodland species. The chaparral species are equally important as the woodland species, but belong in specific habitats.
- There needs to be better enforcement of the existing regulations, otherwise they are meaningless.
- The city should focus on regulating other things.
- If the Mexican Elderberry and Toyon become Protected Trees, it will be a disincentive for people to plant them.

The proposed ordinance (Exhibit A) includes the suggested revision that tree species be classified separately from shrub species, and that in the event of a necessary removal, protected trees may only be replaced with other protected trees, and protected shrubs may only be replaced with other protected shrubs.

## **Conclusion**

This ordinance (Exhibit A) seeks to address the concerns raised by the City Council and members of the community with regard to expanding the list of Protected Trees. Even though the Mexican Elderberry and Toyon shrubs are not trees, these species are important for maintaining ecosystems and biodiversity, preventing landslides, and preserving indigenous local history and culture. Furthermore, by increasing replacement ratios for Protected Trees and Shrubs, the City is further ensuring the survival of replacement Protected Trees and Shrubs, replacing the lost tree canopy, and further discouraging the removal of these protected species. The intended result of this Code amendment is to preserve more plants that are indigenous to Los Angeles, and, as a result, make Los Angeles' urban forest healthier and more sustainable.

## **Exhibits**

- A. Proposed Ordinance
- B. Findings (Land Use and CEQA)
- C. Environmental Clearance (ENV-2016-4521-CE)
- D. Initiating Motion

**EXHIBIT A: PROPOSED ORDINANCE**

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

An ordinance amending provisions of Sections 12.21, 17.02, 17.05, 17.06, 46.01, and 46.02 of the Los Angeles Municipal Code (LAMC) to modify provisions pertaining to “Protected Tree” to include the Mexican Elderberry (*Sambucus mexicana*) and Toyon (*Heteromeles arbutifolia*) and update regulations.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

**Section 1.** Subdivision 12 of Subsection A of Section 12.21 of the Los Angeles Municipal Code is amended to read as follows:

**12. Protected Tree and Shrub Relocation and Replacement.** All existing protected trees and shrubs and relocation and replacement trees and shrubs specified by the Advisory Agency in accordance with Sections 17.02, 17.05, 17.06, 17.51 and 17.52 of this Code shall be indicated on a plot plan attached to the building permit issued pursuant to this Code. In addition, the trees or shrubs shall be identified and described by map and documentation as required by the Advisory Agency. A Certificate of Occupancy may be issued by the Department of Building and Safety, provided the owner of the property or authorized person representing the owner of the property (licensed contractor) obtains from the Advisory Agency in consultation with the City’s Chief Forester, prior to the final inspection for the construction, a written or electronic document certifying that all the conditions set forth by the Advisory Agency relative to protected trees have been met.

**Sec. 2.** The definition of Protected Tree in Section 17.02 of the Los Angeles Municipal Code is amended to read as follows:

**Protected Tree or Shrub** – Any of the following Southern California ~~native~~ indigenous tree species, which contain a trunk that measures four inches or more in ~~cumulative~~ diameter, four and one-half feet above the ground level at the base of the tree, or any of the following Southern California ~~native~~ indigenous shrub species which contains at least one stem that measures four inches or more in diameter, four and one-half feet above the ground level at the base of the shrub:

Protected Trees:

- (a)** Oak tree including Valley Oak (*Quercus lobate*) and California Live Oak (*Quercus agrifolia*), or any other tree of the oak genus indigenous to Southern California but excluding the Scrub Oak (*Quercus dumosa*).
  
- (b)** Southern California Black Walnut (*Juglans California var. californica*)

(c) Western Sycamore (*Platanus racemosa*)

(d) California Bay (*Umeellularia californica*)

Protected Shrubs:

(a) Mexican Elderberry (*Sambucus Mexicana*)

(b) Toyon (*Heteromeles arbutifolia*)

The definition shall not include any tree or shrub grown or held for sale by a licensed nursery, or trees planted or grown as part of a tree planting program.

**Sec. 3.** The definition of Tree Expert in 17.02 of the Los Angeles Municipal Code is amended to read as follows:

**Tree Expert** – A person with at least four years of experience in the business of transplanting, moving, caring for and maintaining trees who is either (a) a certified arborist with the International Society of Arboriculture and who holds a valid California license as an agricultural pest control advisor, or (b) a certified arborist with the International Society of Arboriculture and who is a licensed landscape architect, or (c) a registered consulting arborist with the American Society of Consulting Arborists.

**Sec. 4.** Subdivision 7 of Subsection H of Section 17.05 of the Los Angeles Municipal Code is amended to read as follows:

7. Where the Advisory Agency finds the project is consistent with the dwelling unit density permitted by the General Plan, and that the public health, safety or welfare and good subdivision design will be promoted by the preservation of protected trees and shrubs, the Advisory Agency may permit the required area of one or more of the lots in a subdivision in an "RA," "RE," "RS" or "R1" Zone to be reduced by an amount sufficient to provide for protected tree and shrub preservation in accordance with Section 17.05 R. of this Code. Provided, however, that in no event shall the reduction exceed 50 percent of the required lot area; no "RA" or "RE" lot shall be reduced below 50 feet in width; no "RS" or "R1" lot shall be reduced below 40 feet in width; and no lot in a designated "K" Horsekeeping District shall be reduced below 17,500 square feet.

**Sec. 5.** Subsection R of Section 17.05 of the Los Angeles Municipal Code is amended to read as follows:

**R. Protected Tree or Shrub Regulations.** No protected tree or shrub may be relocated or removed except as provided in this article or Article 6 of Chapter IV of this Code. The term "removed" or "removal" shall include any act that will cause a protected tree or shrub to die, including but not limited to acts that inflict damage upon the root system or other parts of the tree or shrub by fire, application of toxic substances, operation

of equipment or machinery, or by changing the natural grade of land by excavation or filling the drip line area around the trunk.

1. **Required Determinations.** Subject to historical preservation requirements set forth in Subdivision 3. of this subsection, when a protected tree or shrub exists within a proposed subdivision, the tree or shrub may be relocated or removed if the Advisory Agency, in consultation with the City's Chief Forester, determines the existence of either (a) or (b) below:

(a) There has been prior applicable government action in which:

(i) The removal of the tree or shrub had been approved by the Advisory Agency; or

(ii) The property upon which the protected tree or shrub is located has been the subject of a determination by the City Planning Commission, the City Council, a Zoning Administrator, or an Area Planning Commission, the appeal period established by this Code with respect to the determination has expired, the determination is still in effect, and pursuant to the determination, the protected tree's or shrub's removal would be permissible; or

(iii) A building permit has been issued for the property upon which the protected tree or shrub is located, the permit is still in effect, and the removal or relocation is not prohibited by the permit.

(b) The removal of the protected tree or shrub would not result in an undesirable, irreversible soil erosion through diversion or increased flow of surface waters that cannot be mitigated to the satisfaction of the City's Chief Forester, and the physical condition or location of the tree or shrub is such that:

(i) Its continued presence in its existing location prevents the reasonable development of the property; or

(ii) According to a report required pursuant to Section 17.06 C., acceptable to the Advisory Agency and prepared by a tree expert, there is a substantial decline from a condition of normal health and vigor of the tree or shrub, and its restoration through appropriate and economically reasonable preservation procedures and practices is not advisable; or

(iii) It is in danger of falling due to an existing and irreversible condition.

(iv) Its continued presence at its existing location interferes with proposed utility services or roadways within or without the subject property, and the only reasonable alternative to the interference is the removal of the tree or shrub; or

(v) It has no apparent aesthetic value, which will contribute to the appearance and design of the proposed subdivision; or it is not located with

reference to other trees, shrubs or monuments in such a way as to acquire a distinctive significance at the location.

2. **Supplemental Authority.** In the event the Advisory Agency, in consultation with the City's Chief Forester, determines pursuant to Subdivision 1.(b) above, that a protected tree or shrub may be removed or relocated, the Advisory Agency may:

(a) Require relocation elsewhere on the same property where a protected tree or shrub has been approved for removal, and where the relocation is economically reasonable and favorable to the survival of the tree or shrub. Relocation to a site other than upon the same property may be permitted where there is no available or appropriate location on the property and the owner of the proposed off-site relocation site consents to the placement of a tree or shrub. In the event of relocation, the Advisory Agency may designate measures to be taken to mitigate adverse effects on the tree or shrub.

(b) Permit protected trees or shrubs of a lesser size, or trees or shrubs of a different protected species, to be planted as replacement trees or shrubs for protected trees or shrubs permitted by this Code to be removed or relocated, if replacement trees or shrubs required pursuant to this Code are not available. In that event, the Advisory Agency may require a greater number of replacement trees or shrubs.

3. **Historical Monuments.** The Advisory Agency, except as to Subdivision 1.(b)(iii) above, shall require retention of a protected tree or shrub at its existing location, if the tree or shrub is officially designated as an Historical Monument or as part of an Historic Preservation Overlay Zone.

4. **Requirements.** In the event the Advisory Agency, in consultation with the City's Chief Forester, determines pursuant to Subdivision 1. (b) above that a protected tree or shrub may be removed or relocated, the Advisory Agency shall require that:

(a) The protected tree or shrub ~~is- be~~ replaced within the property by at least ~~two~~ four trees-specimens of a protected variety included within the definition set forth in Section 17.02 of this article, except where the protected ~~tree-species~~ is relocated pursuant to Subdivision 2(a) above. A protected tree shall only be replaced by other protected tree varieties and shall not be replaced by shrubs. A protected shrub shall only be replaced by other protected shrub varieties and shall not be replaced by trees. The size of each replacement tree shall be a 15-gallon, or larger, specimen, measuring one inch or more in diameter at a point one foot above the base, and not less than seven feet in height, measured from the base. The size and number of replacement trees shall approximate the value of the tree to be replaced.

(b) The subdivider record those covenants and agreements approved by the Advisory Agency necessary to assure compliance with conditions imposed by the Advisory Agency and to assure protected tree and shrub preservation.

(c) The subdivider provide protected tree and shrub maintenance information to purchasers of lots within the proposed subdivision.

(d) The subdivider post a bond or other assurance acceptable to the City Engineer to guarantee the survival of trees and shrubs required to be replaced or permitted or required to be relocated, in a manner to assure the existence of continuously living trees and shrubs at the approved replacement or relocation site for three years from the date that the trees or shrubs are replaced or relocated. The City Engineer shall use the provisions of Section 17.08 G. as its procedural guide in satisfaction of the bond requirements and processing. Any bond required shall be in a sum estimated by the City Engineer to be equal to the dollar value of the replacement tree or shrub or of the tree or shrub that is to be relocated. In determining value for these purposes, the City Engineer shall consult with the Advisory Agency, the City's Chief Forester, the evaluation of trees guidelines approved and adopted for professional plantmen by the International Society of Arboriculture, the American Society of Consulting Arborists, the National Arborists Association and the American Association of Nurserymen, and other available, local information or guidelines.

5. **Grading.** The Advisory Agency is authorized to prohibit grading or other construction activity within the drip line of a protected tree or shrub.

**Sec. 6.** Subdivision 13 of Subsection B of Section 17.06 of the Los Angeles Municipal Code is amended to read as follows:

**13.** The approximate location and general description of any large or historically significant trees and of any protected trees or shrubs and an indication as to the proposed retention or destruction of the trees or shrubs.

**Sec. 7.** Subsection C of Section 17.06 of the Los Angeles Municipal Code is amended to read as follows:

**C. Protected Tree and Shrub Reports for Tentative Tract Maps** No application for a tentative tract map approval for a subdivision where a protected tree or shrub is located shall be considered complete unless it includes a report, in a form acceptable to the Advisory Agency and the City's Chief Forester, which pertains to preserving the tree or shrub and evaluates the subdivider's proposals for the preservation, removal, replacement or relocation of the tree or shrub. The report shall be prepared by a tree expert and shall include all protected trees and shrubs identified pursuant to Section 17.06 B.13. of this Code.

In the event the subdivider proposes any grading, land movement, or other activity within the drip line of a protected tree or shrub referred to in the report, or proposes to relocate or remove any protected tree or shrub, the report shall also evaluate any mitigation measures proposed by the subdivider and their anticipated effectiveness in preserving the tree or shrub.

**Sec. 8.** Subsection D of Section 17.51 of the Los Angeles Municipal Code is amended to read as follows:



**D. Protected Tree or Shrub Reports for Parcel Maps.** No application for a preliminary parcel map approval for a parcel where a protected tree or shrub is located shall be considered complete unless it includes a report pertaining to preserving the tree or shrub. The report shall be prepared by a tree expert and shall evaluate the subdivider's proposals for protected tree or shrub preservation, removal, replacement and/or relocation. In the event the subdivider proposes any grading, land movement, or other activity within the drip line of any protected tree or shrub referred to in the report, or proposes to relocate or remove any tree or shrub, the report shall also evaluate any mitigation measures proposed by the subdivider and the anticipated effectiveness in preserving the tree or shrub.

**Sec. 9.** Section 46.01 of the Los Angeles Municipal Code is amended to read as follows:

**Sec. 46.01. DEFINITION.**

“**PROTECTED TREE or Shrub**” means any of the following Southern California ~~indigenous native woodland~~ tree species, which contain a single trunk that measures four inches or more in ~~cumulative~~ diameter, four and one-half feet above the ground level at the base of the tree, or any of the following Southern California native indigenous shrub species, which contains at least one stem that measures four inches in diameter, four and one-half feet above the ground level at the base of the shrub:

Protected Trees:

- (a) Oak tree including Valley Oak (*Quercus lobate*) and California Live Oak (*Quercus agrifolia*), or any other tree of the oak genus indigenous to California but excluding the Scrub Oak (*Quercus dumosa*).
- (b) Southern California Black Walnut (*Juglans California var. californica*)
- (c) Western Sycamore (*Platanus racemosa*)
- (d) California Bay (*Umeellularia californica*)

Protected Shrubs:

- (a) Mexican Elderberry (*Sambucus Mexicana*)
- (b) Toyon (*Heteromeles arbutifolia*)

This definition shall not include any tree or shrub grown or held for sale by a licensed nursery, or trees or shrubs planted or grown as a part of a ~~tree~~-planting program.

**Sec. 10.** Paragraph (c) of Section 46.02 of the Los Angeles Municipal Code is amended to read as follows:

(c) **Additional Authority.** The Board of Public Works or its authorized officer or employee may:

1. Require as a condition of a grant of permit for the relocation or removal of a protected tree or shrub, that the permittee replace the tree or shrub within the same property boundaries by at least ~~two trees~~ four specimens of a protected variety included within the definition set forth in Section 46.01 of this Code, in a manner acceptable to the Board. A protected tree shall only be replaced by other protected tree varieties and shall not be replaced by shrubs. A protected shrub shall only be replaced by other protected shrub varieties and shall not be replaced by trees. In size, each replacement tree shall be at least a 15-gallon, or larger, ~~specimen,~~ measuring one inch or more in diameter one foot above the base, and be not less than seven feet in height measured from the base. The size and number of replacement trees shall approximate the value of the tree to be replaced.

2. Permit protected trees or shrubs of a lesser size or trees or shrubs of a different species to be planted as replacement trees or shrubs, if replacement trees or shrubs of the size and species otherwise required pursuant to this Code are not available. In that event, a greater number of replacement trees or shrubs may be required.

3. Permit a protected tree or shrub to be moved to another location on the property, provided that the environmental conditions of the new location are favorable to the survival of the tree or shrub, and there is a reasonable probability that the tree or shrub will survive.

**Sec. 11.** The City Clerk shall certify that...

**EXHIBIT B: LAND USE AND ENVIRONMENTAL FINDINGS**

## **LAND USE FINDINGS**

In accordance with Charter Section 556, the proposed ordinance (Appendix A) is in substantial conformance with the purposes, intent, and provisions of the General Plan in that it supports Section 12 of the General Plan Conservation Element, which discusses habitat conservation. This section concludes that “the City has an important role in preserving, protecting, enhancing, creating, and monitoring habitats to ensure the maintenance of the rich local bio-diversity.” The proposed ordinance also supports the objective of this section of the Conservation Element of the General Plan, which is to “preserve, protect, restore, and enhance natural plant and wildlife diversity, habitats, corridors, and linkages so as to enable the healthy propagation and survival of native species, especially those species that are endangered, sensitive, threatened, or species of special concern”, as well as Policy 4 from this section, which is to “continue to support legislation that encourages and facilitates protection of local native plant and animal habitats.” This ordinance substantially advances a legitimate public interest in that it extends protection to two additional native plant species and updates regulations, which helps to ensure the maintenance of local bio-diversity by preserving and protecting native plants.

In accordance with the Charter Section 558 (b)(2), the proposed ordinance will be in conformance with public necessity, convenience, general welfare, and good zoning practice because this ordinance modifies regulations in the Zoning Code by protecting two additional species of native plants and updates regulations. Given that these regulations are necessary to preserve and improve the health and bio-diversity of local ecosystems and preserve Los Angeles’ urban forest, which has an effect on the health and aesthetics of neighborhoods around the City, this Code amendment provides for the general welfare of the community, and implements good zoning practice.

## **ENVIRONMENTAL FINDINGS**

In accordance with the California Environmental Quality Act (CEQA), this proposed project is exempt pursuant to General Exemption Article 19, Section:

Article 19, Section 15308, Class 8 of the State’s Guidelines applies when a project consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The proposed project is a Code amendment that will extend the same protection that is applied to a list of four Southern California indigenous trees currently protected, Oak, including Valley Oak (*Quercus lobota*) and California Live Oak (*Quercus agrifolia*), Southern California Black Walnut (*Juglans californica*), Western Sycamore (*Platanus racemosa*), and California Bay (*Umbellularia californica*), to two Southern California indigenous shrubs, the Mexican Elderberry (*Sambucus Mexicana*) and Toyon (*Heteromeles arbutifolia*). In addition to extending protection to two additional plant species, the proposed project will also increase the number of specimens required for replacement when any species on the list is removed, from two replacements for every one removed to four replacements for every one removed to ensure restoration of the environment, and update the regulations with respect to how diameter is measured, by eliminating cumulative measurement of multi-trunk trees and make minor changes to terminology. Finally, the proposed project refines the qualifying criteria for tree experts, who prepare required reports when

trees or shrubs are proposed to be removed, by requiring that experts individually meet the criteria, and that any landscape architect also be a certified arborist.

The indigenous tree species have been granted protected status due to their importance in sustaining local ecosystems, including providing habitat for native animal species and providing shade through their tree canopies. While the Mexican Elderberry and Toyon are not trees, they serve equally important roles in sustaining local ecosystems by providing habitat for native animal species such as pheasants and small mammals. The increase in replacement requirements is not anticipated to have a significant impact on water usage, as both the Mexican Elderberry and the Toyon are drought tolerant shrubs that require little water. The change in how a tree is measured affects only Black Walnut trees, because they are the only tree species on the list of Protected Trees that grow with multiple trunks. The updated qualifying criteria provides regulations that are consistent for trees and shrubs, and corrects the existing regulations so that protections apply only to significant and viable tree specimens. The refinement of tree expert criteria will ensure higher quality, more comprehensive tree reports. For the reasons stated, the proposed project will provide for the maintenance, restoration, and protection of the environment, and is, therefore, categorically exempt under Class 8.

**EXHIBIT C: ENVIRONMENTAL CLEARANCE**

OFFICE OF THE CITY CLERK  
 200 NORTH SPRING STREET, ROOM 360  
 LOS ANGELES, CALIFORNIA 90012

**CALIFORNIA ENVIRONMENTAL QUALITY ACT**

**NOTICE OF EXEMPTION**

(California Environmental Quality Act Section 15062)

Filing of this form is optional. If filed, the form shall be filed with the County Clerk, 12400 E. Imperial Highway, Norwalk, CA 90650, pursuant to Public Resources Code Section 21152 (b). Pursuant to Public Resources Code Section 21167 (d), the filing of this notice starts a 35-day statute of limitations on court challenges to the approval of the project. Failure to file this notice with the County Clerk results in the statute of limitations being extended to 180 days.

LEAD CITY AGENCY <b>City of Los Angeles Department of City Planning</b>	COUNCIL DISTRICT All
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PROJECT TITLE Protected Tree and Plant Code Amendment	LOG REFERENCE ENV-2016-4521-CE CPC-2016-4520-CA
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PROJECT LOCATION Citywide
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DESCRIPTION OF NATURE, PURPOSE, AND BENEFICIARIES OF PROJECT:  
 An ordinance amending provisions of Sections 12.21, 17.02, 17.05, 17.06, 46.01, and 46.02 of the Los Angeles Municipal Code (LAMC) to modify provisions pertaining to "Protected Tree" to include the Mexican Elderberry (*Sambucus mexicana*) and Toyon (*Heteromeles arbutifolia*) and update regulations.

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT, IF OTHER THAN LEAD CITY AGENCY:

CONTACT PERSON Patrick Whalen	AREA CODE 213	TELEPHONE NUMBER 978-1370	EXT.
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EXEMPT STATUS: (Check One)		
	STATE CEQA GUIDELINES	CITY CEQA GUIDELINES
MINISTERIAL	Sec. 15268	Art. II, Sec. 2b
DECLARED EMERGENCY	Sec. 15269	Art. II, Sec. 2a (1)
EMERGENCY PROJECT	Sec. 15269 (b) & (c)	Art. II, Sec. 2a (2) & (3)
<input checked="" type="checkbox"/> CATEGORICAL EXEMPTION	Sec. 15300 <i>et seq.</i>	Art. III, Sec. 1
Class <u>8</u> Category _____ (City CEQA Guidelines)		
OTHER (See Public Resources Code Sec. 21080 (b) and set forth state and City guideline provision.)		

JUSTIFICATION FOR PROJECT EXEMPTION: See attached justification narrative.

IF FILED BY APPLICANT, ATTACH CERTIFIED DOCUMENT ISSUED BY THE CITY PLANNING DEPARTMENT STATING THAT THE DEPARTMENT HAS FOUND THE PROJECT TO BE EXEMPT.

SIGNATURE	TITLE Planning Assistant	DATE 2/9/2018
FEE:	RECEIPT NO.	REC'D. BY
		DATE

DISTRIBUTION: (1) County Clerk, (2) City Clerk, (3) Agency Record

IF FILED BY THE APPLICANT:

NAME (PRINTED) \_\_\_\_\_ SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

## **Justification for ENV-2016-4521-CE**

Article 19, Section 15308, Class 8 of the State's Guidelines applies when a project consists of actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection of the environment. The proposed project is a Code amendment that will extend the same protection that is applied to a list of four Southern California indigenous trees currently protected, Oak, including Valley Oak (*Quercus lobota*) and California Live Oak (*Quercus agrifolia*), Southern California Black Walnut (*Juglans californica*), Western Sycamore (*Platanus racemosa*), and California Bay (*Umbellularia californica*), to two Southern California indigenous shrubs, the Mexican Elderberry (*Sambucus Mexicana*) and Toyon (*Heteromeles arbutifolia*). The proposed project will also increase the number of specimens required for replacement when any species on the list is removed, from two replacements for every one removed to four replacements for every one removed, and update the regulations with respect to how trunk diameter is measured, by eliminating cumulative measurement of multi-trunk trees, and minor changes to terminology. Finally, the proposed project refines the qualifying criteria for tree experts, who prepare required reports when trees or shrubs are proposed to be removed, by requiring that experts individually meet the criteria, and that any landscape architect also be a certified arborist.

The indigenous tree species have been granted protected status due to their importance in sustaining local ecosystems, including providing habitat for native animal species and providing shade through their tree canopies. While the Mexican Elderberry and Toyon are not trees, they serve equally important roles in sustaining local ecosystems by providing habitat for native animal species such as pheasants and small mammals. The increase in replacement requirements is not anticipated to have a significant impact on water usage, as both the Mexican Elderberry and the Toyon are drought tolerant shrubs that require little water. The change in how a tree is measured affects only Black Walnut trees, because they are the only tree species on the list of Protected Trees that grow with multiple trunks. The updated qualifying criteria provides regulations that are consistent for trees and shrubs, and corrects the existing regulations so that protections apply only to significant and viable tree specimens. The refinement of tree expert criteria will ensure higher quality, more comprehensive tree reports. For the reasons stated, the proposed project will provide for the maintenance, restoration, and protection of the environment, and is, therefore, categorically exempt under Class 8.



**EXHIBIT D: INITIATING MOTION**

13-1339

PUBLIC WORKS & GANG REDUCTION  
OCT 08 2013

MOTION

PLANNING & LAND USE MANAGEMENT

On February 28, 2006, the City Council adopted Ordinance No. 177,404, which added three native trees to the list of Protected Trees in the City. Any removal of a Protected Tree requires a permit from the Board of Public Works, with replacement required. Any removal of a Protected Tree in a project that requires environmental review is required to mitigate the removal of the tree.

On April 17, 2012, the City Council designated the Toyon, *Heteromeles arbutifolia*, as the official City native plant, in conjunction with the re-landscaping of the City Hall grounds to feature water wise plants. The Toyon, known also as Christmas berry and California holly, is a common shrub native to California which typically grows from two to five meters and has a rounded to irregular top. The plant attracts butterflies, and its berries provided food for local Native American tribes, such as the Chumash, Tongva, and Tataviarn.

The Mexican Elderberry, *Sambucus mexicana*, is a tree or large shrub that is native to California and is also found elsewhere in North America and beyond and it can grow from 4 to 25 feet in height. Fruits ripen from late July into September. At least 50 species of songbirds, upland game birds, and small mammals relish the fruit of the elderberry during summer and early fall. White-tailed deer browse the twigs, foliage and fruit during the summer. Elderberries are outstanding as nesting cover for small birds. During summer, the partial shade under elderberries promotes a dense ground cover of grasses and forbs that offer good loafing or feeding areas for broods of young pheasants and quail.

The elderberry is also of well-known value and highly prized to the Indians of North America for the many purposes it serves. Frequently, the elderberry was so greatly enjoyed that families would live for weeks on little else. Many were dried for use in the winter, and were either re-cooked or eaten raw. Elderberries are still highly prized for food by modern Native Americans.

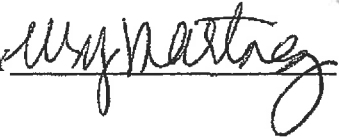
Given the special attributes of these two shrubs it is appropriate that the City consider taking action to protect them.

I THEREFORE MOVE that the Planning Department with the assistance of the Bureau of Street Services be directed to report with recommendations relative to protecting the Mexican Elderberry and the Toyon, including the feasibility of adding these two shrubs to the list of Protected Trees as set forth in § 46.01 of the Municipal Code.

PRESENTED BY

  
MITCH O'FARRELL  
Councilman, 13<sup>th</sup> District

SECONDED BY



ORIGINAL

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OCT 8 2013