13. PUBLIC HEARINGS

A. *City Council Business*

1. A Continued Public Hearing Regarding Tentative Tract Map No. 71583 for the Properties Located at 4610 Peck Road.

RECOMMENDATION OF BUSINESS ITEM UNDER CONSIDERATION:
Continue the public hearing regarding this matter to March 20, 2012.

m) s) 4-0 To continue to 3/20/2012 meeting

2. Public Hearing to Consider Ordinance Numbers 2789 and 2790, Ordinances of the City of El Monte Amending Chapters Amending Chapter 8.10 (Tobacco Permits) and 8.44 (Property Maintenance) of the El Monte Municipal Code.

RECOMMENDATION OF BUSINESS ITEM UNDER CONSIDERATION:
The proposed amendments make non-substantive changes to the municipal code provisions governing tobacco permits and property maintenance to reflect current City practices and correct typographical errors. It is recommended that the City Council:

Open the Public Hearing to consider the proposed ordinances; Close the public hearing;
Move to introduce the Ordinances by a first reading of the title only; and
Direct staff to resubmit the Ordinances for a second reading at the March 20, 2012 City Council Meeting.

m) Quintero **m) Gomez**
s) Martinez 4-0 to Open P.H. **s) Martinez 4-0 to Close P.H.**

m) Quintero
s) Gomez 4-0 to approve & wave 1st reading

3. Public Hearing to Adopt Urgency Ordinance to Establish Permanent Regulations for the Protection and Preservation of Trees in the City. Adopt Related Resolution Establishing A Schedule of Fees Relating to Urgency Ordinance

RECOMMENDATION OF BUSINESS ITEM UNDER CONSIDERATION:
Adopt and implement regulations for the purpose of protecting and preserving trees on public and privately owned properties in the City.
Ordinance No. 2791
Resolution No. 9271

m) Gomez **m) Martinez**
s) Martinez 4-0 to Open P.H. **s) Patel 4-0 to Close P.H.**

m) Gomez
s) Patel 4-0 to Approve P.H.

URGENCY ORDINANCE NO. 2791

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL MONTE, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AMENDING TITLE 14 (SUSTAINABILITY) OF THE EL MONTE MUNICIPAL CODE SETTING FORTH REGULATIONS TO PROTECT AND PRESERVE THE EL MONTE URBAN FOREST AND ESTABLISH THE PROCEDURES FOR THE PROPER REMOVAL AND MAINTENANCE OF TREES ON PUBLIC AND PRIVATE PROPERTY.

WHEREAS, trees protect the community from climatic extremes by moderating temperatures, absorbing carbon dioxide, releasing oxygen and providing shade and windbreak protection; and

WHEREAS, trees enhance the architectural character of a neighborhood, accent and soften the effect of structures, promote visual aesthetic interest and screen undesirable views; and

WHEREAS, trees screen dust; absorb pollutants; and diffuse the effects of rain that weather homes, erode topsoil and increase the likelihood of flooding; and

WHEREAS, trees can act as an aesthetically pleasing natural buffer between adjacent, but sometimes incompatible, land uses; and

WHEREAS, mature trees are a valuable long term community asset that tend to enhance property values; and

WHEREAS, business and other economic considerations traditionally associated with land development frequently fail to redress, or even factor in, the aesthetic, environmental and social costs incurred by the public and by the environment as a result of the indiscriminate removal of trees, especially mature or native trees, to make way for new development; and

WHEREAS, the rapid and largely unregulated removal of mature trees within the City of El Monte threatens the public health, safety and welfare in that it will lead to the virtually irreversible depletion of an important environmental and aesthetic resource; and

WHEREAS, the City Council of the City of El Monte ("City Council") adopted Interim Urgency Ordinance No 2753 ("Ordinance No. 2753") at its regular meeting of March 2, 2010, establishing a preliminary forty-five (45) day moratorium prohibiting, subject to exceptions, the removal, destruction and/or relocation of certain varieties and types of mature trees within the City of El Monte; and

WHEREAS, the City Council at its regular meeting of April 6, 2010 later approved Interim Urgency Ordinance No. 2754 ("Ordinance No. 2754") extending the 45-day moratorium established under Ordinance No. 2753 by an additional period of ten (10) months and fifteen (15) days commencing immediately upon the expiration of the initial 45-day moratorium; and

WHEREAS, the City Council at its regular meeting of March 1, 2011 later approved Interim Urgency Ordinance No. 2772 ("Ordinance No. 2772") extending the moratorium established under Ordinance No. 2754 by an additional period of one (1) year commencing immediately upon the expiration of the extension of the ten (10) months and fifteen (15) day moratorium and;

WHEREAS, On March 2, 2012, Interim Urgency Ordinance No. 2772 will expire;

WHEREAS, with the termination of the Interim Urgency Ordinance No. 2772 and in the absence of a permanent regulation addressing the proper removal of certain varieties of mature trees, the City of El Monte risks losing many more mature trees to development; and

WHEREAS, the City has completed its development of a permanent Tree Preservation and Protection Ordinance.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF EL MONTE DOES HEREBY FIND AND ORDAIN AS FOLLOW:

SECTION 1. The Recitals stated above are true and correct and are incorporated into the City Council's finding of urgency.

SECTION 2 In order to protect against this current and immediate threat to public health, safety, welfare and sustainability of development and the environment and pursuant to the provisions of California Government Code Section 36937(b), City Council of the City of El Monte does here by amend Title 14 (Sustainable Development) by adding Chapter 14.03 to read as follows:

"Chapter 14.03—Tree Protection and Preservation.

14.03.010 Purpose and Intent

14.03.020 Definitions
14.03.030 Prohibited Activities.
14.03.040 Protection of Protected Trees During Construction.
14.03.050 Exemptions
14.03.060 Permit – Requirements
14.03.070 Permit – Application.
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14.03.090 Tree Replacement Policy
14.03.100 Tree Mitigation and Planting Fund
14.03.110 Emergency Waiver
14.03.120 Violation – Penalties
14.03.130 Fee Schedule
14.03.140 Appeals
14.03.150 [Reserved – No Text]
14.03.160 Surveys and Inspections Incident to Development
14.03.170 Policies and Guidelines

14.03.010 Purpose and intent

Tree protection and preservation is necessary for the health and welfare of the City of El Monte. Trees growing within the City are a natural, aesthetic resource, which help define the character of the City and provide many social, economic, and environmental benefits. Trees are worthy of protection in order to preserve the scenic beauty, prevent soil erosion, provide shade and wind protection, serve as a natural buffer between adjacent land uses, and counteract air pollution.

It is pertinent to the public peace, harmony, and welfare that such trees be protected from indiscriminate cutting or removal of mature trees, especially where such trees are located on properties that are slated for new development. Trees have a positive economic effect on the city by enhancing property values and making the City a more attractive place in which to live, visit, and do business.

This ordinance establishes policies, regulations, and standards necessary to ensure that the City will continue to realize the benefits that a healthy urban forest provides. The provisions of this ordinance are enacted to:

A. Establish polices for the protection of certain categories of trees and criteria for the removal the orderly (as opposed to indiscriminate) removal of such trees;
B. Protect the indiscriminate removal of healthy, mature trees within the City;
C. Prohibit the destruction, "severe pruning" and "topping" of mature, protected trees;
D. Maintain trees and mitigate hazards using the most current acceptable arboricultural standards and practices; and
E. Provide for the enforcement and administration of tree protection, there by promoting and protecting public health, safety and welfare and enhancing the quality of life.

14.03.020 Definitions

For purposes of this Chapter the following terms shall have the meaning set forth below:

A. ANSI A300 Pruning Standards: Industry-developed, national consensus standards for the practice of tree care such as reasons to prune a tree may include, but are not limited to, reducing risk, managing tree health and structure, improve aesthetics, or achieving other specific objectives. Intended for use by federal, state, municipal, private entities including arborists, property owners, property managers, and utilities.

B. Carve: Means to take an object and scrape, cut, gouge, slice, or pierce through the bark of a live tree and remove pieces of the bark and tree, causing damage.

C. Certified Arborist: Means a person who has demonstrated extensive knowledge regarding trees and their culture and holds a current arborist certificate by the International Society of Arboriculture and/or is a Registered Consulting Arborist by the American Society of Consulting Arborists.

D. Circumference measured at breast height: The measurement around the tree trunk that is measured at four and one-half feet (4 ½') above ground level. Trees that split into multi-trunks below four and one-half feet (4 ½') shall use the sum of each individual trunk measured at four and one-half feet (4 ½') above ground level to determine the circumferences.

E. City-owned tree: Any tree in the public right-of-way, parks, parkway, median, easement and on other City-owned property.

F. Destroy(s) or Destruction: With regard to a tree, any physical state or condition in which a tree is dead or is so severely damaged that its death is imminent.

G. Diameter at breast height (dbh): A form of measurement of an existing tree trunk. Diameter is measured at four and one-half feet (4 ½') above ground level. Trees that split into multi trunks below four and one-half feet (4 ½') shall use the sum of each individual trunk measured four and one-half feet (4 ½') above the natural grade to determine the diameter

H. Drip Line: A line which may be drawn on the ground around a tree directly under its outermost branch tips and which identifies that location where rainwater tends to drip from the tree.

I. Hazard or Hazardous condition: Any condition in a tree that poses a significant and imminent threat of serious injury or harm to the public or catastrophic damage to real property.

J. Heritage Tree: The capitalized term "Heritage Tree" means any tree, shrub, or plant that meets one of the following criteria:

(i) Any woody plant having a single trunk circumference of thirty-six inches (36") or more measured at breast height, a point four and one-half feet (4 ½') above the natural grade;

(ii) Any multi-trunk tree whose multiple trunks have a combined circumference of seventy-five inches (75") or more measured at a point four and one-half feet (4 ½') above the root crown;

(iii) Any tree that is thirty-five feet (35') or more in height as measured from the root crown to the highest point above the root crown;

(iv) Any stand of trees the nature of which makes each dependent upon the others for survival;

(v) Any other tree as may be deemed historically or culturally significant by the City Arborist or the Economic Development Director because of its size, connection to the City's history or lore,, location, or aesthetic qualities.

K. Lion-tailing: The excessive removal of branches from the lower two-thirds of a stem or branch, or the removal of only the lower and interior branches when pruning.

L. ISA: The International Society of Arboriculture ("ISA") which is a professional association of arborists and tree workers that is recognized internally as one of the leading agencies in the research and establishment of high standards for all aspects of tree care.

M. Maintain or Maintenance: The act of routinely pruning, trimming, spraying, fertilizing, watering, treating for disease or injury or any other similar act which promotes growth, health, beauty, and life of trees.

N. Multi-trunk: Any tree with multiple trunks attributed to a single tree. Each trunk shall be measured at a height of four and one half feet (4 ½') above ground level, and the combined circumference of the trunks shall be used to determine the tree's size for purposes of this ordinance.

O. Native Tree: The capitalized term "Native Tree" means any tree with a trunk more than eight inches (8") in diameter measured at a height of four and one half (4 ½) feet above natural grade that is one of the following species: Quercus agrifolia (Coast live oak), Quercus engelmannii (Engelmann oak), Quercus chrysolepis (Canyon oak), Platanus racemosa (California sycamore), Juglans californica (California walnut), Quercus berberidifolia (Scrub oak), Quercus lobata (Valley oak), Umbellularia californica (California bay), Populus fremontii (Cottonwood), Alnus rhombifolia (California alder), Populus trichocarpa (Black cottonwood), Salix lasiolepis (Arroyo willow), Aesculus californica (California buckeye) and Sequoia sempervirens (California redwood),..

P. Protected Tree: The capitalized term "Protected Tree" means any Public Tree, Heritage Tree or Native Tree as the foregoing are defined under this ordinance.

Q. Protected Zone: The word "protected zone" shall mean a specifically defined area totally encompassing a Protected Tree within which work activities are strictly controlled. When depicted on a map, the outermost edge of the protected zone will appear as an irregular shaped circle that follows the contour of the drip line of the Protected Tree. In no case shall the protected zone be less than fifteen feet (15') from the trunk of a Protected Tree, or exclude the known root structure in the case of irregularly shaped trees.

R. Pruning: Pruning, trimming, or thinning means to reduce the size of a tree using industry accepted standards, as established by the International Society of Arboriculture and/or the American National Standards Institute (ANSI) A300 Standards-Pruning, to control the height and spread of the tree, preserve its health and natural appearance, produce fuller

branching and shaping, or make adjustments which will increase its longevity in an urban environment.

S. Public Tree: Any tree planted in the public right-of-way, park, parkway, median, easement or on any other City-owned property.

T. Removal/Remove: Removal or remove means the uprooting, cutting or severing of the main trunk, or major branches of a tree or any act which causes, or maybe reasonably expected to cause a tree to die, including but not limited to the following; inflicting damage upon the root system of a tree by machinery, storage of materials, or soil compaction; substantially changing the grade above the root system or trunk of the tree and excessively or severely pruning or root pruning.

U. Root Prune: The process of cutting roots behind the line of a planned excavation to prevent tearing and splintering of remaining roots.

V. Serious Harm: With regard to any tree, any act or activity that causes damage to a tree thereby leaving the tree in a physical state that, in the judgment of the City Arborist or any other Certified Arborist retained by the City, (i) makes the death of the tree reasonably eminent; (ii) significantly shortens the normal life expectancy of the tree; or (iii) makes it impossible or reasonably unlikely that the tree can be fully restored to a condition of good health and/or normal appearance within thirty (30) calendar days of such harm having been inflicted.

W. Severely Prune: means pruning the tree that deviates from industry standards by "Topping," "Lion's Tailing," removal of more than twenty-five percent (25%) of the foliage or leaving stubs.

X. Topping: Also known as "heading back," "stubbing," and or "pollarding" means a severe type of trimming which results in the indiscriminate cutting back of large diameter branches to stubs. Such severe practices disfigures the tree and is generally hazardous to the overall health and stability of a tree.

14.03.030 Prohibited Activities.

A. It shall be unlawful for any person to carve, remove, severely prune or relocate a Protected Tree, unless such activity is performed incident to the lawful removal, relocation or destruction of the Protected Tree pursuant to a tree removal permit issued pursuant to this Chapter.

B. It shall be unlawful for any person to engage in the practice lion-tailing or topping of a Protected Tree, unless such activity is performed incident to the lawful removal or destruction of the Protected Tree pursuant to a tree removal permit issued pursuant to this Chapter.

C. It shall be unlawful for any person to attach or keep attached to any Protected Tree any rope, wire, nail(s), tack(s), staples, advertising posters, or other contrivance whatsoever.

D. It shall be unlawful for any person to poison or allow any agent, employee, licensee or invitee allowed to enter upon a property to poison a Protected Tree.

E. It shall be unlawful for any person deposit, discharge, release or apply or allow any agent, employee, invitee or licensee allowed to enter upon his or her property to deposit, discharge, release or apply any hazardous material or toxic substance upon the ground that lies within the drip line of a Protected Tree.

F. It shall be unlawful for any person to engage in any activity or practice that causes or otherwise results the removal of more than twenty-five percent (25%) of the foliage of a protected tree or that otherwise leaves a Protected Tree completely deprived of branches (i.e., only stubs), unless such activity or practices is performed incident to the lawful removal or destruction of the Protected Tree pursuant to a tree removal permit issued pursuant to this Chapter.

G. It shall be unlawful for any person to engage in any activity or practice that causes or otherwise results in the destruction of a Protected Tree or that is reasonably likely to cause or result in the destruction of a Protected Tree unless such activity is performed incident to the lawful removal or destruction of the Protected Tree pursuant to a tree removal permit issued pursuant to this Chapter.

H. It shall be unlawful for any person to engage in any activity or practice that causes serious harm to a Protected or that is reasonably likely to cause serious harm to a Protected Tree, unless such activity is performed incident to the lawful removal, relocation or destruction of the Protected Tree pursuant to a tree removal permit issued pursuant to this Chapter.

I. For purpose of this Chapter, actions or activities that are reasonably likely to cause serious harm to a Protected Tree or result in its destruction include but are not limited to the following prohibited activities:

(i) Setting fire to or otherwise burning any part of the root system, bark or branches of a Protected Tree;
(ii) The depositing, discharge, release or application of hazardous materials, toxic substances or poisons upon the Protected Tree (excluding the use of legal and properly applied pesticides or fungicides) upon the tree itself or upon the ground that lies within the drip line of the tree;
(iii) Changing the grade above the root system or the trunk;
(iv) Any action or activity deemed unlawful pursuant to subsections A through F of this Section;
(v) Trenching, excavating or paving within the protected zone of the tree;
(vi) Excessive paving with concrete, asphalt or other impervious materials in such a manner which may reasonably be expected to kill the tree;
(vii) Substantially changing the grade above the root system or trunk;
(viii) Excessive watering within the drip line of the tree;
(ix) Damage, disfigurement or other injury inflicted upon the trees branches, trunk or root system by machinery, the storage of materials or soil compaction.

14.03.040 Protection of Protected Trees During Construction

Except with protected trees whose removal is authorized pursuant to a permit issued pursuant to this Chapter, all persons shall undertake the following prior to the commencement of any construction or demolition activities and until the issuance of a certificate of occupancy or a temporary certificate of occupancy:

A. Install a sturdy fence at the perimeter of the protected zone of a Protected Tree,

B. Prohibit excavation, grading, drainage and leveling within the protected zone of a Protected Tree;

C. Prohibit the storage or disposal of oil, gasoline, chemicals or other harmful materials within the protected zone or in drainage channels, swales or other areas that may lead to the protected zone;

D. Refrain from any of the unlawful activities set forth under Section 4.03.030;

E. Design utility services and irrigation lines to be located outside of the protected zone of a Protected Tree to the extent reasonable feasible;

F. Notify the City Aborist of any serious harm, destruction or other damage that befall a Protected Tree during construction or demolition activities and I no event shall the applicant undertake the removal of any Protected Tree not otherwise slated for removal unless and until the City Aborist has been given the opportunity to inspect the subject tree, evaluate its prospects for survival and issue a written determination as to whether the tree should be allowed to remain or removed pursuant to a retroactively issued permit pursuant to this Chapter.

14.03.050 Exemptions:

The following types of trees and/or activities shall be exempt from the provisions of this Chapter:

1. Trees planted, grown, and/or held for sale by licensed nurseries and/or tree farms or the removal or transplanting of such trees pursuant to the operation of a licensed nursery and or tree/farm;

2. Routine pruning and maintenance that adheres to those industry accepted pruing and maintenance standards set forth under the ANSI A300 Pruning Standards;

3. Trees which are determined by a Certified Arborist to be a hazard and/or pose a threat to public safety or personal property;

4. Trees which, in the opinion of the Director of Public Works/City Engineer or his or her designee, has caused damage or the potential to cause damage to public infrastructure;

5. Trees which require maintenance or removal action for the protection of existing electrical power or communication lines or other property of a public utility;

6. Trees located within existing or proposed public rights-of-way where their removal or relocation is necessary to obtain adequate line-of-sight distances as required by the Director of Public Works/City Engineer or his or her designee;

7. Trees which are fruit, nut bearing and all species of palms; and

8. Any tree located on the site of a development project for which a variance, conditional use permit, design review, or tentative map approval was obtained from the city prior to March 2, 2010 for a development project for which a valid building permit was lawfully issued by the city prior to March 2, 2010, provided that the physical improvements contemplated and authorized under such land use entitlements and/or building permits necessarily require the removal or relocation of the tree in order to construct the improvements in the manner approved under the land use entitlement(s) or permit(s). Prior to removal or relocation of any Protected Tree pursuant to this exemption that property or developer shall notify the City Arborist of its intent to remove or relocate a Protected Tree so that the arborist may evaluate whether or not the tree may be preserved or relocated without undue burden or expense to the developer or property owner..

14.03.060 Permit - Requirements:

A. No person shall remove, relocate, or destroy Protected Tree or engage in any activity that causes serious harm to a Protected tree unless such actions are incident to the authorized removal or destruction of a Protected Tree pursuant to a permit issued by the Economic Development Department. The requirement to first obtain a permit pursuant to this Chapter shall apply equally to the holders of any building permit or certificate of occupancy or any business license or business permit. The requirement to first obtain a permit pursuant to this Chapter shall also apply equally to the holder of any discretionary land use entitlement issued by the Planning Commission, however, if the terms of the terms of a discretionary land use entitlement expressly call for the removal of a Protected Tree, the permit shall be granted upon the issuance of building permits for the improvements requiring the removal of the Protected Tree. .

B. Routine pruning and maintenance of Protected Trees shall not require a permit but shall in all cases be in conformance with the most current guidelines of International Society of Arboriculture and the American National Standards Institute (ANSI) A300-Pruning Standards. Pruning which, in the opinion of a Certified Arborist, deviates from these guidelines, such as "topping," "lion's tailing," and severely pruning shall be subject to fines and penalties.

14.03.070 Permit - Application:

An application for a tree removal permit shall be filed, together with any required fees as set by resolution of the city council. Applications shall be filed with Economic Development Department care of the City Aborist. The application shall be submitted with a report which shall contain information as determined by the City Arborist to be necessary for evaluating the proposed removal of any Protected Tree, and shall include, but not be limited to the following information:

1. A statement as to reasons for removal or relocation;

2. The number, species, and size (circumference as measured four and one-half feet (4 ½') from ground level) and height of tree;

3. The location of all trees onsite on a plot plan in relation to structures and improvements (e.g. streets, sidewalks, fences, slopes, retaining walls, etc.);

4. Photographs of the trees to be removed or relocated;

5. If the tree is proposed to be relocated, the relocation site shall be identified and site preparation and relocation methods described;

6. Proposed method of removal or relocation;

7. The health of any tree declared dead, diseased, infested, or dying shall be determined by a Certified Arborist; and

8. Proposed tree replacement plan the substantive features and content of which shall be established administratively by the City Arborist.

The City Arborist may require a report by a "third party" certified arborist to assist in making a determination on the tree removal permit application. All costs associated with using a certified arborist shall be paid by the applicant. For purposes of this Chapter, the City Arborist shall be the Economic Development Director or designee.

14.03.080 Permit – Procedure:

A. Upon receipt of the application, the City Arborist shall visit and inspect the subject property and the tree(s) proposed for removal and shall ascertain the following;

1. Confirm that the tree or trees in question are in fact Protected Trees..
2. The general health, vigor, and condition of the tree.
3. The presence of existence of any signs of disease, decay, or infestations that may be present.
4. Any damage or the potential to cause damage to public infrastructure, utilities, and property caused by the tree.
5. Any hazardous conditions or imminently hazardous conditions that may be present. If so, a Tree Risk Assessment will be performed by the City Arborist. The cost incurred by the City for the tree risk assessment, requiring a certified arborist's report or tree appraisal shall be paid by the applicant.

The City Arborist may grant the issuance of a tree removal permit if any one or more of the following findings can be made:

1. The condition of the tree(s) is such as to create a hazardous condition;
2. The tree(s) pose a threat to the public health and safety;
3. The tree(s) are dead, severely diseased or decayed, infested, and in a state of irreversible decline;
4. The tree(s) have an abnormal and incorrectable structure or appearance due to severe pruning practices;
5. The tree(s) significantly interfere with utilities and utility service;
6. The tree(s) are causing damage to structures as follows:
   a. *Sidewalks, curbs, drives, buildings, and other structures.* Removal shall be granted if the cost to repair the damage exceeds the appraised value of the tree (using the method established by the Guide for Plant Appraisal 9th edition, by the Council of Tree and Landscape Appraisers) or if the tree is incompatible with the growing space or proposed development.
   b. *Sewer, gas, electrical, water and other utilities.* Removal shall be granted if it can be determined that the tree caused the damage to the utility. It will be the applicant's responsibility to demonstrate the cause. Interference with underground utilities, which can be rerouted or repaired and protected from root pruning, generally does not constitute grounds for tree removal.

B. After-the-Fact Permit Fees: The standard tree removal permit fee shall be doubled for tree removals or other work requiring a tree removal permit pursuant to this section if the work commenced prior to issuance of said permit.

C. Subsequent to investigation, the City Arborist may deny or approve the permit for removal of all or some of the trees included in the application, and may attach conditions of compliance as deemed necessary, including but not limited to the replacement of the removed tree(s) with a reasonably equivalent replacement tree(s) from the City's recommended tree palette at a 2:1 ratio.

D. The permit shall be valid for a period of ninety (90) days, unless an extension is requested fourteen (14) days prior to the expiration of the permit.

E. The decision of the City Arborist can be appealed by the applicant by submitting a letter of appeal and the appropriate fee to the Economic Development Director within ten (10) calendar days of the City Arborist's decision. The appeal letter shall state with reasonable specifity the facts and grounds for the appeal and be signed by the appellant. Appeals shall be considered by the Economic Development Department within thirty (30) calendar days of the date of the filing of the appeal.

14.03.090 Tree Replacement Policy:

All removed trees shall be replaced with a tree ratio of 2:1. Two, thirty-six inch (36") box trees with a minimum height of twelve feet (12') shall be planted with suitable species selected from the City's recommended tree palette and with the approval from the Economic Development Department. If any trees cannot be planted on the subject property, or the immediate public right-of-way, an in lieu fee may be paid into the City's Tree Mitigation and Planting Fund pursuant to the fee schedule as adopted in Section 14.03.130 (Fee Schedule).

14.03.100 Tree Mitigation and Planting Fund:

The tree fund shall consist of fees generated as a result of tree replacement requirements as well as general donations for public tree planting.

1. *Establishment of fund.* A tree fund is hereby established
2. *Funds to be deposited.* Tree replacement fees for the installation of replacement trees, as provided for in Section 14.03.090, shall be deposited in the tree fund.
3. *Use of funds.* Expenditures from the tree fund shall be used solely for the purpose of purchasing and installing trees on public rights-of-way, public parks and any other city-owned property.

14.03.110 Emergency Waiver:

A permit shall not be required for the removal or destruction of a Protected Tree under this Chapter, in cases of emergency weather conditions or other catastrophic events including, but not limited to, earthquake, fire, flood, windstorms, or lightening wherein such conditions have created or are creating an immediate danger to the health, safety and welfare of persons or property and the immediate removal of a Protected Tree is deemed necessary to abate a hazardous condition, provided such removal is performed by (i) City of El Monte Public Works Maintenance personnel acting under the authority and direction of the City Manager, the Chief of Police or their designees; or (ii) emergency response personnel of the Los Angeles County Fie Department, the El Monte Police Department and/or the Los Angeles County Sheriff's Department in the course of responding to an emergency event or occurance.

14.03.120 Violations – Penalties:

1. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor punishable by fine of up to $1000, six months in jail or combination thereof.

2. Any person who violates any provision of this Chapter shall pay a civil penalty in the amount of the appraised value of each Protected Tree but no more than $5,000 per tree. If there is inadequate plant material to properly appraise the value of the Protected Tree, the penalty shall be no more than $5,000 per Protected Tree unlawfully removed or destroyed. The collection of the penalties may be enforced by civil action brought in the name of the City of El Monte by the City Attorney.

   Any person who violates this Chapter shall also be required to obtain a retroactive Tree Removal Permit, if applicable and to comply with any tree replacement policy fees and replacement ratios and any other mitigation measures that may be required under this Chapter.
3. If a violation occurs in the course of any construction activities authorized pursuant to a conditional use permit, variance, design review, tentative map or other discretionary land use approval or any City-issued grading permit, building permit, excavation permit or temporary certificate of occupancy, the City, in addition to all other remedies available to it under this Ordinance, may issue a stop-work order suspending and prohibiting further activity on the property until a mitigation plan has been filed with and approved by the Economic Development Director, agreed to in writing by the property owner(s) and either implemented or guaranteed by the posting of adequate security. The mitigation plan shall include measures for the protection of any remaining Protected Trees.

14.03.130 Fee Schedule:

By resolution, the City Council may establish and from time to time amend a schedule of fees for the recovery of costs associated with the administration and enforcement of the regulatory program established under this Chapter, including but not limited to the processing and review of appeals made to any decision or determination of the City pursuant to this Chapter.

14.03.140 Appeals

A permit applicant who wishes to overturn a decision of the City Aborist appeal the decision to the Economic Development Director or designee, provided such appeal is submitted to the Economic Development Department care of the Economic Development Director.
The filed appeal shall state the facts and grounds for the appeal, accompanied by the appropriate fee, and must be signed by the appellant and the property owner if different from the appellant.

14.03.150 [Reserved – No Text]

14.03.160 Surveys and Inspections Incident to Development .

Any applicant for a discretionary land use approval (e.g., conditional use permit, variance and the like) issued by the Planning Commission who desires to remove one or more Protected Trees located upon any property in the city in connection with any residential or commercial development to be authorized under the land use approval shall include in their application to the Planning Division the following:

1. A tree survey plan that identifies all Protected Trees located upon the property and identifies those Protected Trees that are proposed to be removed or that may be affected by the proposed development. The plan shall specify the precise location of trunk and drip lines and the size, health and species of all existing Protected Trees on the property; and

2. The applicant shall also provide a report by a certified arborist. The report, based on the findings of the tree survey plan and other necessary information, shall be used to determine the health of existing trees, the effects of the proposed development upon the Protected Trees and recommendations for any special precautions necessary for the preservation of the Protected Trees. The report shall also identify which Protected Trees are proposed for removal.

All new commercial, industrial, or residential development shall require a field verification survey prior to the issuance of any building, demolition, or grading permit. A fee as set by a resolution by the city council shall be charged for this survey.

14.03.170 Polices and Guidelines.

The City Council may establish and from time to time amend or modify administrative policies and guidelines consistent with the provisions of this Chapter to provide more detailed guidance and parameters to staff in the enforcement of this Chapter.

SECTION 3. Declaration of Urgency. This Ordinance is urgently required for the reason that, without a permanent tree preservation ordinance, a significant number of Protected Trees, as defined herein, may be lost or destroyed due to indiscriminate damage, cutting or removal and that such loss would be virtually irreversible. Protecting, Native Trees and Heritage Trees is necessary because such trees are a valuable long term community asset which, among other things, contribute to the aesthetics, the pleasantness and serenity of neighborhoods, enhance the architectural character of neighborhoods, and tend to increase property values.

SECTION 4. Inconsistent Provisions. Any provision of the El Monte Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby suspended or modified to the extent necessary to affect the provisions of this urgency Ordinance and shall remain suspend for the duration of this interim urgency Ordinance or until repealed outright by way of a permanent ordinance.

SECTION 5. Constitutionality. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this urgency ordinance and each and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 6. Effective Date. The Mayor shall sign and the City Clerk attest to the passage of this Ordinance. The City Clerk shall cause the same to be published in the manner and within the time period prescribed by law for urgency ordinances adopted pursuant to Section 65858 of the Government Code. This ordinance shall become effective immediately upon its approval by four-fifths vote of the City Council.

PASSED, APPROVED AND ADOPTED THIS 20th day of March, 2012.

Andre Quintero
Mayor of the City of El Monte

ATTEST:

Lorene Gutierrez
City Clerk of the City of El Monte

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF EL MONTE)

I, Lorene Gutierrez, City Clerk of the City of El Monte, do hereby certify that the above and foregoing Ordinance No. 2791 was passed, approved, and adopted by the City Council of the City of El Monte, signed by the Mayor and attested by the City Clerk at a meeting of said City held on the 20 day of March, 2012 and that said Ordinance was adopted by the following votes to wit:

AYES: Mayor Quintero, Mayor Pro-Tem Gomez, Councilwoman Macias, Councilwoman Martinez and Councilman Patel

NOES: None

ABSTAIN: None

ABSENT: None

Lorene Gutierrez
City Clerk of the City of El Monte