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

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING SECTION 13.28.140 OF CHAPTER 13.28 OF TITLE 13 OF THE SAN JOSE MUNICIPAL CODE TO INCREASE THE POSTING PERIOD FOR POTENTIAL STREET TREE REMOVALS FROM SEVEN TO FOURTEEN DAYS AND IF NO TIMELY OBJECTION HAS BEEN RECEIVED BY THE DIRECTOR OF THE DEPARTMENT OF TRANSPORTATION, THE PROPOSED STREET TREE REMOVAL MAY BE CARRIED OUT SEVENTEEN DAYS FROM THE INITIAL DATE OF POSTING**

**WHEREAS**, City believes that amending the current San José Municipal Code Section 13.28.140 to increase the posting notice period for the potential removal of a street tree from seven to fourteen days will respond to the concerns of residents that the seven day posting period for street tree removals was insufficient and did not provide a reasonable amount of time to object to the potential removal of street tree;

**NOW, THEREFORE**, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Section 13.28.140 of Chapter 13.28 of Title 13 of the San José Municipal Code is hereby amended to read as follows:

**13.28.140 Posting Notice of Tree Removal**

- A. Any street tree for which a permit is required pursuant to Section 13.28.130, and the surrounding area, within one hundred and fifty (150) feet on both sides of the tree and on both sides of the street, shall be posted with a notice of proposed removal in accordance with this Section, unless the Director of Transportation determines that such tree poses an immediate danger to persons or property.

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- B. The notice shall be in a form prescribed by the Director, and shall be posted in a manner prescribed by the Director, for a period of not fewer than fourteen (14) calendar days.
- C. Any resident of the City who wishes to object to the proposed removal may file an objection in writing with the Director within fourteen (14) calendar days of the date the notice was first posted.
- D. The proposed removal may be carried out seventeen (17) calendar days from the initial date of posting if no timely written objection is received by the Director.
- E. The Director shall give any person(s) who file(s) a timely written objection an opportunity to be heard and will thereafter render a written decision regarding the proposed removal.
- F. A copy of the Director's decision shall be made available to any person who has filed a timely written objection, and such decision will be final.
- G. The provisions of this Section shall not apply to City-approved public projects, or Redevelopment Agency projects.

RD:MH  
3/8/2006

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PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2006, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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RON GONZALES  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk