

Chapter 16.66

TREE PRESERVATION REGULATIONS

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16.66.010 Title.

This chapter shall be known as the Tree Preservation Regulations.
(Ord. 2286)

16.66.020 Purpose and intent.

The propagation, maintenance, and preservation of trees enhances the scenic beauty, increases property values, encourages quality development, prevents soil erosion, counteracts pollution in the air, and helps to maintain the climatic balance within the city. The council finds that establishing regulations controlling the removal of and the preservation of trees within the city will further the maintenance and advancement of these public values. In establishing these regulations, it is the city's intent to preserve as many trees as possible consistent with the reasonable use and enjoyment of private property, to provide for a healthy urban forest, and to absorb carbon dioxide to help reduce urban impacts on global warming.

(Ord. 2286, Ord. 2402)

16.66.030 Applicability.

This chapter applies to (a) all undeveloped private property within the city which is 10,000 square feet or greater in size and (b) all property that requires discretionary approval of a land use entitlement.

(Ord. 2286, Ord. 2402)

16.66.040 Exemptions.

The following shall be exempt from the provisions of this chapter:

- A. Cemetery, public school, university, and city property; and
- B. Tree work performed by public utilities in public utility easements or public rights of way.

(Ord. 2286)

16.66.050 Definitions.

For the purposes of this chapter:

- A. "Arborist" means a certified arborist who is registered with the International Society of Arboriculture, or a member in good standing with the American Society of Consulting Arborists.
- B. "Damage" means:
 - 1. "Minimal Damage" means any intentional action or gross negligence which causes injury to or disfigurement of a tree that will not result in the destruction of the tree, as certified by the urban forest manager or an arborist.
 - 2. "Major Damage" means any intentional action or gross negligence which causes injury to, disfigurement, destruction, or effective removal of a tree as certified by the urban forest manager or an arborist
- C. "Development" means any improvement of real property which requires the approval of grading permits, building permits, encroachment permits, parcel or tentative subdivision maps, planned development permits, or use permits.
- D. "Diameter at breast height" or "DBH" means the diameter of a tree at four and one-half feet above adjacent ground.
- E. "Director" means the director of the general services department or a designee.
- F. "Drip line" means the area within a circle defined by a radius measured from the trunk to the outermost branch, plus an additional 10 feet.
- G. "Effectively remove" includes, but is not limited to, any extreme pruning that is not consistent with standard arboriculture practices for a healthy tree and that results in the tree's permanent disfigurement, destruction, or removal pursuant to this chapter.
- H. "Private property" means property owned by a private person or entity. "Private property" does not include property owned by the state or federal government, or by any local public agency.
- I. "Protect" means the protection of an existing tree from damage and stress such that the tree is likely to survive and continue to grow normally in a healthy condition, through measures that avoid or minimize damage to branches, canopy, trunk, and roots of the tree. Such measures may include, but are not limited to, installation of tree protective fencing, mulching and watering of roots, supervision of work by an arborist, installation of aeration or drainage systems, root pruning, and use of nondestructive excavation techniques.
- J. "Remove" or "removal" means cutting a tree to the ground, extraction of a tree, or killing of a tree by spraying, girdling, damaging the roots of a tree, or any other means.
- K. "Tree" or "trees" means any of the following:
 - 1. Any live woody plant having a single perennial stem of 18 inches or more in diameter, or multistemmed perennial plant greater than 15 feet in height having an aggregate circumference of 40 inches or more, measured at four feet six inches above adjacent ground;
 - 2. Any tree that meets the following criteria:

12-inch DBH or greater	6-inch DBH or greater
All Oaks (<i>Quercus</i>)	Blue oak (<i>Q. douglassii</i>)
Sycamores (<i>Platanus racemosa</i>)	Canyon live oak (<i>Q. chrysolepsis</i>)
Oregon ash (<i>Fraxinus latifolia</i>)	Interior live oak (<i>Q. wislizenii</i>)
Big leaf maple (<i>Acer macrophyllum</i>)	California buckeye (<i>Aesculus californica</i>)
	Madrone (<i>Arbutus menziessii</i>)
	Toyon (<i>Heteromeles arbutifolia</i>)
	Redbud (<i>Cercis occidentalis</i>)
	California bay (<i>Umbellularia californica</i>)
	Pacific dogwood (<i>Cornus nuttallii</i>)

3. Any tree or trees required to be preserved as part of an approved building permit, grading permit, demolition permit, encroachment permit, use permit, tentative or final subdivision map; or
 4. Any tree or trees required to be planted as a replacement for an unlawfully removed tree or trees.
- L. "Tree" or "trees" does not include the following tree species: Ailanthus, Chinese Tallow, Fremont Cottonwood or Poplar, Privet, Box Elder, Silver Wattle, Black Acacia, English Hawthorn, Russian Olive, Olive, Red Gum, Tasmanian Blue Gum, Edible Fig, English Holly, Cherry Plum, Black Locust, Peruvian Peppertree, Brazilian Peppertree, Western Catalpa, Chinese Elm or Winged Elm; or the following fruit and nut trees: Almonds, Apples, Apricots, Avocados, Cherries, Chestnuts, Mandarins, Nectarines, Olives, Oranges, Peaches, Pears, Pecans, Persimmons, Pistachios, Plums or English Walnuts.
- (Ord. 2286, Ord. 2364 §336, Ord. 2402)

16.66.060 Tree removal permit required.

- A. No person shall remove, cause to be removed, or effectively remove any tree from any property which is subject to this chapter without obtaining a permit from the director.
- B. Emergency exception. A permit is not required for removal of a tree that presents an immediate hazard to life or property, as determined by the city manager, director, police chief, fire chief, capital projects services director, building and development services director, urban forest manager, code enforcement officer, public utility companies, or their designees.

(Ord. 2286, Ord. 2364 §337, Ord. 2402)

16.66.070 Tree removal permit application.

- A. Any person wishing to remove one or more trees shall apply to the director for a permit. The application for a permit shall be made on forms provided by the general services department and shall include the following:
 1. A drawing showing all existing trees six inches or larger that may be affected by tree removal, and the location, type, and size of all tree(s) proposed to be removed;
 2. A brief statement of the reason for removal;

3. If the tree(s) are proposed for removal because of a failing condition, an arborist's determination of the state of health of the tree(s) may be required;
 4. Written consent of the owner of record of the land on which the tree(s) are proposed to be removed;
 5. A tree removal permit fee in amount established by resolution by the city council to cover the cost of permit administration. An additional deposit may be required by the director to retain an arborist to assist the city in assessing the condition of the tree(s); and
 6. Other pertinent information as required by the director.
- B. Any person submitting a tree removal application in conjunction with an application for any development shall provide to the director the plan specifying the precise location, size, species, and drip-line of all existing trees on or adjacent to the property. The plan shall also show existing and proposed grades and the location of proposed and existing structures. The plan submitted shall be the same plan approved by the body having final authority over the development application.

(Ord. 2286, Ord. 2364 §338, Ord. 2402)

16.66.080 Tree removal permit review.

- A. The director shall inspect the property and evaluate each application which is not in conjunction with development. In deciding whether to issue a permit, the director shall base the decision on the following criteria:
1. The condition of the tree or trees with respect to health, imminent danger of falling, proximity to existing or proposed structures, and interference with utility services or public works projects;
 2. The necessity to remove the tree or trees for reasonable development or improvement of the property;
 3. The topography of the land and the effect of the removal of the tree on erosion, soil retention, and diversion or increased flow of stream waters; and
 4. Availability of reasonable or feasible alternatives.
- B. The director shall render a decision regarding an application that is not associated with an application for development, within 10 working days after the receipt of a complete application, or within 10 working days of the completion of the review under the California Environmental Quality Act (CEQA).
- C. The director shall issue a permit if:
1. The tree is determined to be dead;
 2. The tree is dying or diseased and removal is recommended by an arborist;
 3. The tree presents a danger to health and safety;
 4. The tree presents a danger to property improvements or structures;
 5. The tree interferes with public utilities in a manner that does not allow pruning as an option; or
 6. The tree interferes with the development or improvement of the property and there are no feasible alternatives available.
- D. If an application to remove a tree is being requested in conjunction with development, then the decision on the tree removal permit shall be rendered simultaneously with the decision on the development and shall be made by the body having final authority over the development application after consideration of the recommendation of the director. In deciding whether to approve a tree removal permit under this subsection, the body having final authority over the development application shall consider the

criteria set forth in subsection C, above.

- E. The director may refer any application to any city department for review and recommendation.

(Ord. 2286, Ord. 2402)

16.66.085 Tree Replacement.

If the director or the body having final authority over a development application grants a tree removal permit, then the director or body shall include a condition that the removed trees be replaced as follows:

- A. On-site. For every six inches in DBH removed, a new 15 gallon tree shall be planted on-site. Replacement trees shall be of similar species, unless otherwise approved by the urban forest manager, and shall be placed in areas dedicated for tree plantings. New plantings' survival shall be ensured for three years after the date of planting and shall be verified by the applicant upon request by the director. If any replacement trees die or fail within the first three years of their planting, then the applicant shall pay an in-lieu fee as established by a fee schedule adopted by the City Council.
- B. Off-site. If it is not feasible or desirable to plant replacement trees on-site, payment of an in-lieu fee as established by a fee schedule adopted by the City Council shall be required.

Replacement trees shall not receive credit as satisfying shade or street tree requirements otherwise mandated by this code. Removal of a Heritage Tree that has been so designated by the City Council pursuant to Chapter 16.68, that is removed pursuant to a tree removal permit, shall be exempt from this section.

(Ord. 2402)

16.66.090 Appeals.

- A. Any decision of the director, pursuant to this chapter, may be appealed to the council. Appeals shall be in writing, shall be signed by the applicant, shall state the reasons the appeal is made, and be filed with the city clerk within 10 calendar days of written notification of the decision by the director. Any appeal shall be accompanied by an appeal fee in the amount established by resolution of the council.
- B. Appeals shall be conducted in accordance with the procedures set forth in this code. The decision of the council shall be final.

(Ord. 2286)

16.66.100 Protection of trees during construction.

All applicants for demolition permits, grading permits, building permits, use permits, planned development permits, or parcel or tentative subdivision maps, on property containing one or more trees shall prepare a tree protection plan pursuant to Section 16.66.110. The tree protection plan shall comply with the city's "Best Practices Technical Manual: Tree Preservation Measures," as amended, and the approved parcel or tentative subdivision map, if applicable.

(Ord. 2286, Ord. 2402)

16.66.110 Protection plan required prior to issuance of permit.

- A. A plan to protect trees as described in Section 16.66.100 of this chapter shall be submitted to the director prior to the issuance of demolition permits, grading permits, building permits, use permits, planned development permits, or parcel or tentative subdivision maps. The plan shall ensure that the tree(s), including the root system,

will be adequately protected from potential harm during demolition, grading, and construction that could cause damage to the tree(s). Such harm may include excavation and trenching, construction and chemical materials storage, storm water runoff and erosion, and soil compaction. The plan shall be submitted by the applicant and approved by the director. The director may refer the plan to a city-selected arborist for review and recommendation. The cost of this review shall be borne by the applicant requesting a permit.

- B. The director may require that an arborist be present on the project site during grading or other construction activity that may impact the health of the tree(s) to be preserved. The director may also require that an arborist review and inspect projects and certify that the tree protection plan has been properly implemented. The cost of the review, inspection and certification shall all be borne by the permittee.
- C. Minimal or major damage to any tree(s) during construction shall be immediately reported to the director so that proper treatment may be administered. The director may consult with a city-selected arborist to determine the appropriate method of repair for any damage. The cost of any treatment or repair shall be borne by the permittee. Failure to notify the director of damage to tree(s) may result in the issuance of a stop work order.
- D. The permittee shall remain responsible for the health and survival of all trees under the tree protection plan within the development for a period of three years following acceptance of the public improvements of the development.
- E. The director may waive the requirement for a tree protection plan if the director determines that the demolition, grading, or construction activity is minor in nature and that the proposed activity will not significantly modify the ground area within or immediately surrounding the drip line of the tree(s).

(Ord. 2286, Ord. 2402)

16.66.120 Enforcement.

The director shall be responsible for the enforcement of this chapter.

(Ord. 2286)

16.66.130 Violation—Penalty.

- A. Any person who unlawfully removes, destroys, or causes major damage to any tree shall pay a civil penalty equal to twice the amount of the appraised value of each tree or \$5,000.00 per tree, whichever is greater. For purposes of calculating the penalties for each tree, the current edition of the “Guide for Establishing Values of Trees and Other Plants,” as amended, by the Council of Tree and Landscape Appraisers shall be presumed to provide the appropriate basis for determining penalties.
- B. Any person who unlawfully causes minimal damage to any tree shall pay a civil penalty of \$1,000.00 for each tree damaged.
- C. If any person commits three minimal damage violations within a 24-month period, all subsequent minimal damage violations within such 24-month period shall be penalized as major damage violations.
- D. In addition to the abovementioned penalties, any person violating any portion of this chapter that results in the loss of a tree, shall be required to replace said tree with a new tree and/or additional plantings, of the same species, or other species as may be determined by the director. The director shall determine the size and location of

replacement tree(s). The director may refer to the recommendation of a city-selected arborist.
(Ord. 2286)

16.66.140 Additional Provisions.

The provisions of this chapter shall supplement but not supplant other provisions of this code relating to the preservation of trees.
(Ord. 2286)