

## Chapter 17

### TREE PRESERVATION

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#### **17.010 Purpose.**

The City of Petaluma contains a variety of both native and non-native trees. Trees are a source of great beauty, provide shade and other environmental benefits, enhance property values, create community identity, and generally enhance the quality of urban life. Trees also serve to mitigate some of the known effects of global warming and climate change. The City is committed to planting new trees, as well as protecting existing trees to the greatest extent possible.

This Chapter provides regulations for the protection, preservation, and maintenance of groves and stands of mature trees, and mature trees in general. The City's objective is to establish regulations that will result in no net loss of tree canopy in the community. It is also the intent of this Chapter to promote and perpetuate the urban forest through the replacement of trees removed as a result of a new development.

#### **17.020 Applicability.**

The provisions of this Chapter shall apply to all zoning districts in the City relative to the removal or relocation of protected trees as identified in Section [17.040](#) (Protected Trees). Exceptions to the provisions of this Chapter are outlined in Section [17.030](#) (Exceptions). Public property, including the City owned rights of way, and City sponsored and/or funded projects are subject to the tree protection and preservation requirements herein.

### **17.030 Exceptions.**

The removal or relocation of protected trees is exempt from the provisions of this Chapter under the following circumstances:

- A. *Tree removal not related to discretionary development applications or other development permits.* This exception does not include trees that were required to be preserved, relocated, or planted as a condition of approval of a previous development application or permit.
- B. *Emergency situations.* Cases of emergency where the City of Petaluma, determines that a protected tree poses an imminent threat to the public safety, or general welfare or when private property or persons are threatened by a tree it may be removed without City review or approval.
- C. *Traffic visibility obstructions.* Removal or relocation of trees necessary to maintain adequate line-of-sight **distances** as required by the City's Traffic Engineer or Director of Public Works.
- D. *Public utility damage.* Removal of trees for the protection of existing electrical power or communication lines.

### **17.035 Tree Technical Manual.**

Standards, guidelines and best management practices supplementary to this Ordinance are contained in the City of Petaluma "Tree Technical Manual". This manual will be developed, maintained and periodically updated as needed by the Petaluma Tree Advisory Committee. The manual will be made available to the public and shall include but not be limited to standards and specifications regarding: (1) protection of trees during construction; (2) replacement of protected trees; (3) maintenance of protected trees; (4) format and content of tree plans/reports.

### **17.040 Protected Trees.**

A protected tree is any of the following:

- ? Black Oak (*Quercus kelloggii*) four inches DBH\* or greater
- ? Valley Oak (*Quercus lobata*) four inches DBH or greater
- ? Blue Oak (*Quercus douglasii*) four inches DBH or greater
- ? Interior Live Oak (*Quercus wislizenii*) four inches DBH or greater
- ? Coast Live Oak (*Quercus agrifolia*) four inches DBH or greater
- ? Oracle Oak (*Quercus x morehus*) four inches DBH or greater
- ? Oregon Oak (*Quercus garryana*) four inches DBH or greater

- ? Other native California Oak four inches DBH or greater
- ? California Buckeye (*Aesculus, californica*) six inch DBH or greater
- ? California Bay (*Umbellularia, californica*) twelve inch DBH or greater
- ? California or Coast Redwood (*Sequoia*) eighteen inches DBH or greater
- ? Heritage trees as approved by Council resolution per Title [8](#) of the Petaluma Municipal Code.
- ? Significant groves or stands of trees.
- ? Trees located in riparian corridors.
- ? Any tree required to be planted or preserved as environmental mitigation or condition of approval for a discretionary development application or other development permit.
- ? Trees in the public rights of way.

\* Size is trunk diameter measured at a height of 4.5 feet or diameter at breast height (DBH) from surrounding grade. Multiple trunk trees must possess at least one trunk with the above diameter (based on species) to be considered protected. Smaller trees may also be protected under special circumstances and shall be considered on a case by case basis during the development review process.

## **17.050 Preservation of Existing Trees in Development Proposals.**

A. The design of every development project (that which requires a discretionary approval or other development permit) shall recognize the desirability of preserving protected trees to the greatest extent possible. The design of the grading and site improvements shall reflect consideration of the following safeguards:

1. Provision of sufficient growing areas as required by individual species;
2. No disruption or removal of structural roots or majority loss of feeder roots;
3. Fencing of trees at or beyond their drip lines during grading and construction activities;
4. No ornamental landscape, filling, cutting, development, or compaction of soils within the drip line;
5. Other measures required by the particular species of tree(s) to be preserved as recommended by the consulting arborist, horticulturist, or landscape architect.

B. It is recognized that the preservation of all existing trees on a development site may sometimes conflict with reasonable land developmental considerations (e.g., adequate drainage, grading, circulation, safety, and provision of utilities.) However, the design of the proposed development shall address preservation of the most desirable and significant of the healthy trees and the developer is encouraged to utilize creative land planning techniques to achieve this goal.

C. Grading and landscaping plans shall implement the approved tree preservation plan. The locations of all protected trees shall be indicated on the plans by the number of the tree as described in the City approved arborist report. Notes shall identify which trees are to be preserved, and which may be removed. Plans shall be consistent with the required tree protection mitigation measures included in the project application, initial study, mitigated negative declaration, or environmental impact report and monitoring plan, and the conditions of the development approval. The precise vertical and horizontal locations (plus or minus one foot) of all protected trees to be preserved or removed shall be shown on the site plan as part of the initial application unless the project does not involve exterior alterations or construction activities.

### **17.055 Project Arborist Requirements.**

An arborist report and/or Tree Preservation and Protection Plan shall be required to accompany all development applications that potentially affect protected trees. Arborist reports must be prepared by a certified arborist and are subject to review and approval of the City Arborist and or City designated peer review arborist at the applicant's expense. All project arborists must possess a current Certified Arborist Certificate from the International Society of Arboriculture and be a current member of the American Society of Consulting Arborists.

### **17.060 Tree Removal.**

A. *Permit required.* No protected tree shall be removed, cut down, or otherwise destroyed, unless a permit is issued by the Community Development Department. For site development that allows for tree removal as part of a project's conditions of approval, the written permit may be in the form of signed authorization by the Community Development Department, a tree preservation plan approved by the Community Development Department, written approval for a grading permit, encroachment permit, or other similar permit.

B. *Tree replacement requirement.* The following conditions determine whether a protected or designated tree must be replaced.

1. *Protected Trees.* If the City authorizes the removal of a protected tree(s) because it is dead, dangerous, or a nuisance, no tree replacement is required. In all other cases, the tree(s) must be replaced, with the exception of protected trees approved for removal by the approving body in relation to a development application.
2. *Street Trees.* If the City authorizes removal of a street tree in connection with a development project, it shall specify the replacement requirements in the permit authorizing removal.
3. *Development Projects.* If a project applicant chooses to remove trees from a development site the project applicant will be required to replace the tree or trees. Refer to the "Tree Technical Manual" for approved forms of tree replacement. On projects where Planning Commission/City Council approval is not required, replacement will be at the direction of the Community Development Director. For development projects that require Planning Commission/City Council approval, protected trees authorized for removal will be addressed

as part of the development conditions of approval. The approving body shall be the deciding factor on appropriate replacement and the project will be conditioned accordingly.

C. *Appraisal valuations.* All trees to be replaced shall be the same native species as those removed, unless specific approval has been granted, by the Director or the appropriate approval authority. Appraisal value shall be determined by using the most recent edition of the "Guide for Plant Appraisal", published by the Council of Tree and Landscape Appraisers. The appraisals shall be completed on the most recent "Form for Northern California" published by the International Society of Arboriculture.

D. *Location of replacement trees.* Trees will be replaced on the development site or in reasonable proximity as required by the approving authority through the development review process or as approved by the Community Development Director during the review of a development permit.

E. *Considerations for denial of Tree Removal Permit.* A finding of any one of the following situations shall be grounds for denial of the permit.

1. Removal or damage of a healthy tree could be avoided by:

- a. Reasonable redesign of the site plan prior to construction;
- b. Trimming, thinning, tree surgery, or other reasonable treatment, as determined by the Community Development Director.

2. Adequate provisions for drainage, erosion control, land stability, windscreen buffers along the road and between neighbors have not been made where these problems are anticipated as a result of the removal.

F. *Security Deposits.* A security deposit shall be posted to cover the value of protected trees for preservation during the construction process. The security deposit will be collected with and subject to the same requirements as site improvements. Typical methods may be improvement agreements, encroachment permit, building permit, or other similar methods used by the City to secure improvement requirements. Release of security for tree preservation shall be the same as the time frames defined within the agreement/permit method used to secure improvements. Security deposits for tree preservation shall be subject to a tiered system as defined below:

1. Up to the first \$100,000 of tree value the deposit is 20%, thereafter tree valuations in excess of \$100,000 shall be 10% of the valuation in excess of \$100,000.

2. Creeks, riparian corridors and significant groves or stands of trees are considered a significant biological resource and construction activity is restricted in these areas. Creeks, riparian corridors and significant groves or stands of trees are exempted from security deposit requirements unless required by the approving authority through the development review process.

3. City of Petaluma sponsored and/or funded projects are exempt from security deposit requirements.

4. If any tree fails to survive, or declines to a point where it is deemed to not be expected to survive, the City may use the security value of the dead or declining tree(s) to purchase new trees for on or off-site use. In the event that replacement cannot be accomplished on-site, the security will be placed in a fund for use in

planting trees within public right-of-way, parks, public landscape areas, or other areas as deemed appropriate by the City of Petaluma.

5. If a tree or trees, that have been designated to be protected, are determined to have failed or died on their own and not through impacts from development, the security deposit shall not be used for replacement. This determination shall be made at the discretion of the Community Development Director and may include the requirement for an evaluation by a certified arborist and/or the City Arborist, the cost to be borne by the developer.

## 17.065 Tree Mitigation and Replacement.

Tree mitigation may be in the form of in-kind replacement, in-lieu replacement, and/or a combination of both.

A. *New Commercial and/or Residential (2 or more parcels) Development Projects.* In the event that there are no viable and/or practical alternatives except to remove a protected tree, the City will require replacement trees at the following ratios:

1. All protected trees, determined by the project arborist to be in good (4) or excellent (5) health, and/or with moderate (3) to good (4) structure, shall be replaced on a one-to-one trunk diameter basis. (Example: A 24-inch protected tree in good or excellent condition must be replaced with new trees totaling 24 inches in trunk diameters.)
2. All protected trees, determined by the project arborist to have fair (3) or marginal (2) health, and/or with marginal (2) structure, shall be replaced on a two-to-one trunk diameter basis. (Example: A 24-inch protected tree in fair-to-marginal condition must be replaced with new trees totaling 12 inches in trunk diameter.)
3. All protected trees, determined by the project arborist to have poor (1) health or poor (1) structure, are not required to be replaced.

c. *Tree Mitigation.*

- 1) A tree designated for preservation in a development project must have a good chance of long-term survival as determined by an assessment of proposed development impacts. Simply preserving a tree does not excuse it from designated mitigation requirements; it must, in the professional opinion of the project and/or City arborist, have a good chance to survive after all the impacts of construction are considered.
- 2) *In-Kind Replacement.* If the location of replacement tree planting will remain as a natural area suitable for the healthy and long-term growth of native trees, replacement of protected trees should occur in-kind. If the location of replacement tree planting will be part of an irrigated, ornamental landscape area, replacement of protected trees may occur with a species as identified by the project arborist and approved by the City arborist.
- 3) Replacement tree ratios shall be applied as follows:

- a) 24-inch box replacement tree = 2-inch replacement trunk diameter
- b) 36-inch box replacement tree = 3-inch trunk replacement diameter
- c) 48-inch box replacement tree = 4-inch trunk replacement diameter

Replacement trees shall be at minimum 24-inch box size.

4) *In-Lieu Replacement.* In the event that a development site is insufficient in size or use to plant any or all of replacement trees, the City may accept payment of in-lieu fees by the applicant. In-lieu fees will be utilized by the City to purchase and install trees in future public open space, park space, or other areas designated for tree planting. Replacement tree costs for the purposes of satisfying in-lieu fees shall be based on the typical northern California wholesale tree cost plus average installation cost.

In-lieu fees for replacement trees shall be based on a minimum 24-inch box size.

B. *Tree Protection/Removal Requirements for additions, pools, and/or other accessory structure.* The City requires the land developer to protect and preserve trees during the development and/or subdivision of residential parcels. The resulting lots are then sold to property owners with the understanding that the trees should be protected. Property owners may request any number of modifications to their properties that may in turn result in impacts to the protected trees. Lots with protected trees are subject to the following requirements for additions, pools, and/or other accessory structures that may result in an impact to the protected trees.

1. An arborist report is required for all properties considering additions, pools, and/or accessory structures that may have an impact on a protected tree, including improvements within the tree protection zone.
2. In the event that there is no viable and/or practical alternative to removal of protected trees to accommodate the addition, pool, and/or accessory structure the following shall apply:
  - a. A request for a Tree Removal Permit for protected trees 15" or greater, determined by the project arborist to be in good (4) or excellent (5) health, and/or with moderate (3) to good (4) structure will require review and action by the Planning Commission at a noticed public hearing. The request will require a Tree Removal Permit, arborist report, statement justifying removal of the tree, and payment of a permit application fee. For protected trees 14" or less which are requested to be removed, the Community Development Director shall review the request and make the determination for removal. If the Community Development Director authorizes removal, mitigation shall be required either by in-kind replacement or in-lie fee payment, as defined in this ordinance. If the Community Development Director denies the request for removal, the decision may be appealed.
  - b. A request for a Tree Removal Permit for all protected trees, determined by the project arborist to be in fair (3) or marginal (2) health, and/or with marginal (2) structure may be approved and require mitigation. The Community Development Director shall review the request and make the determination for removal. If the community Development Director authorizes removal, mitigation shall be required either by in-kind replacement or in-lie fee payment, as defined in this ordinance. If the Community

Development Director denies the request for removal, the decision may be appealed to the Planning Commission as allowed by Section [24.090\(B\)\(3\)](#).

- c. A request for a Tree Removal Permit for a protected tree, determined by the project and/or City arborist to be in poor (1) health, poor (1) structure, or to be structurally unsafe or hazardous (1), will be approved and will not require mitigation.
- d. *In-Kind Replacement.* In-kind replacement shall be the same as outlined in Section A.1.a. The arborist report shall specify the replacement value. The applicant/owner shall include a replacement landscape plan with the Tree Removal Permit. The building permit for the addition, pool, and/or other accessory use shall be conditioned to require installation of the replacement trees, prior to building permit final.
- e. *In-Lieu Replacement.* In-lieu replacement shall be the same as outline in Section A.1.b. The arborist report shall specify the replacement value. The applicant/owner shall pay to the City the in-lieu fee with the Tree Removal Permit. The building permit for the addition, pool, and/or other accessory use shall be conditioned to require a Tree Removal Permit and payment of the in-lieu fee, prior to initiation of the work. (Ord. 2811 § 4, 2022.)

## **17.070 Tree Protection and Preservation Plan.**

- A. Where an applicant proposes to remove one or more protected trees, the Community Development Director may require a tree protection and preservation plan.
- B. Tree preservation and protection plans shall be prepared by an arborist, horticulturist, or registered landscape architect.
- C. All tree protection and preservation Plans must include the following basic information:
  - 1. The location of all trees present that are greater than 4 inches in trunk diameter at a height of 4.5 feet above surrounding grade, including all that will be preserved, removed, or transplanted.
  - 2. All trees that overhang the proposed project site and are located on immediately adjacent properties.
  - 3. The report cover shall include the arborist's name, certification number, project reference name and address, and report date.
  - 4. A cover letter describing the project site, the date of inspection, and summarizing the total number of trees present, to be removed, and preserved.
  - 5. A site plan that identifies the location of each tree, including its report reference number.
  - 6. Assessment data for each tree.
  - 7. Comments and observations regarding health or structure.

8. Estimate of the impacts of proposed development activities on long-term health and structural integrity.
9. Recommendations for removal or preservation based on the development impacts expected from the proposed plan.
10. Recommendations for modification of the proposed plan to reduce or eliminate impacts to the tree.

Refer to the “TREE TECHNICAL MANUAL” for more detailed information related to the preparation and contents of the Tree Protection and Preservation Plan.

### **17.080 Tree Protection Requirements.**

The Community Development Director shall determine, consistent with the “Tree Technical Manual” and any applicable conditions a discretionary development approval or other development permit approval, whether and to what extent measures will be required to protect the existing trees during construction. This decision shall be based upon the proximity of the area of construction activity to existing protected trees.

The protective measures shall include, but are not limited to, the following:

- A. Prior to initiating any construction activity on a construction project, including demolition or grading, temporary protective fencing shall be installed at each site tree.
  1. Fencing shall be located at the Tree Protection Zone (TPZ) illustrated on the Improvement Plans.
  2. Fencing shall serve as a barrier to prevent encroachment of any type by construction activities, equipment, materials storage, or personnel.
- B. The Tree Protection Zone (TPZ) is illustrated on the Improvement Plans and represents the area around each tree, or group of trees, which must be protected at all times with tree protection fencing.
  1. No encroachment into the TPZ is allowed at any time without approval from the project arborist.
  2. Any unauthorized entry into the TPZ is a violation of this Ordinance and shall be subject to enforcement through civil, criminal or administrative remedies, including applicable penalties.
- C. Contractors and subcontractors shall direct all equipment and personnel to remain outside the fenced area at all times until project is complete, and shall instruct personnel and sub-contractors as to the purpose and importance of fencing and preservation.
- D. No grading shall occur within the protective barriers without prior approval by the Director.
- E. No attachments or wires other than those of a protective or non-damaging nature shall be attached to a protected tree.

- F. Excavation or landscape preparation within the protective barriers shall be limited to the use of hand tools and small hand held power tools and shall not be of a depth that could cause root damage.
- G. When the existing grade around a protected tree is to be raised the project and/or City arborist shall provide written directions on which method(s) may be used to drain liquids away from the trunk.
- H. When the existing grade around a protected tree is to be lowered the project and/or City arborist shall provide written directions on which method(s) may be used (terracing, retaining wall, etc) to allow the dripline to be left at the original grade.
- I. No equipment, solvents, paint, asphalt, or debris of any kind shall be placed, stored, or allowed within the protective barrier.

Refer to the "TREE TECHNICAL MANUAL" for additional information on tree protection requirements.

### **17.090 Appeals, Extensions, Revocation.**

- A. *Appeals.* As prescribed in Section [24.090](#).
- B. *Expiration/extension.* A Tree Removal Permit shall be exercised within one year from the date of approval or other time limit established through a discretionary permit approval. If a Tree Removal Permit is not exercised within the established time frame the permit shall expire.
- C. *Performance guarantee.* The applicant/owner may be required to provide adequate performance security for the faithful performance of conditions of approval imposed as part of the Tree Removal Permit.
- D. *Construction monitoring.* Monitoring of tree protection and restoration measure specified as conditions of approval shall be performed by site inspection conducted by the Director.
- E. *Revocation.* A Tree Removal Permit may be revoked or modified with any of the following findings:
1. Cannot support the original findings;
  2. Resulted from misrepresentation or fraud;
  3. Has not been implemented in a timely manner;
  4. Has not met, or has violated any condition of approval;
  5. It is in violation of any code, law, ordinance, or statute;
  6. Is detrimental to public health, safety, or welfare; or
  7. Constitutes a nuisance. (Ord. 2811 § 4, 2022.)

## 17.100 Enforcement.

A. *Enforcement.* Any person who cuts, damages, or removes a protected tree in violation of this Chapter shall be deemed guilty of a misdemeanor. A violation of this Chapter shall also constitute a public nuisance and may be abated and/or enforced through civil, criminal, or administrative proceedings in accordance with Title [1](#) of the Petaluma Municipal Code. In addition to other remedies available, a violation of this Chapter during construction may result in an immediate stop-work order until permits are obtained and required mitigation procedures are in place.

If a civil or administrative action is brought by the City, a penalty may be assessed against anyone who violates any provision of this Ordinance or any approved Tree Protection and Preservation Plan.

Where a tree is illegally removed, or damaged to a degree that survival is not expected, the penalty shall include full replacement value of each tree, and shall be paid to the City. Replacement values shall be developed using the most recent edition of the "Guide for Plant Appraisal", published by the Council of Tree & Landscape Appraisers. If a violation occurs during development, appraised values for each tree will be found in the Tree Protection & Preservation Plan.

Where a tree is illegally damaged and the damage cannot be fully corrected but the tree is expected to survive, then the penalty shall include full replacement value times the percentage of the tree damaged.

A civil or administrative action may also be implemented to provide appropriate relief to abate, enjoin, or otherwise compel the cessation of such violation.

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**The Petaluma Implementing Zoning Ordinance is current through Ordinance 2865, passed October 16, 2023.**

Disclaimer: The city clerk's office has the official version of the Petaluma Implementing Zoning Ordinance. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

[City Website: cityofpetaluma.net](http://cityofpetaluma.net)

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