

City of Calistoga's Tree Ordinance

Chapter 19.01 TREES

Sections:

- 19.01.010 Purpose.
- 19.01.020 Definitions.
- 19.01.030 Designations.
- 19.01.040 Requirements.
- 19.01.050 Violations and penalties.
- 19.01.060 Appeal.

19.01.010 Purpose.

A. In enacting this chapter, the Council finds that this City is primarily a residential and tourist community and that the economics of property values is inseparably connected with the rural attractiveness of the area, to which much is contributed by the wooded hillsides and the native and ornamental trees scattered throughout our City. Further, the Council finds that such trees contribute to the health, safety, welfare and well-being of the City and the residents thereof by:

1. The establishment of natural watershed areas;
2. The control of damage resulting from soil erosion and flooding; and
3. The known capacity of trees for the conversion to oxygen from carbon dioxide thereby reducing air pollution.

B. The Council finds that the destruction of trees injures the scenic beauty of the City; causes erosion of topsoil, creates flood hazard and risk of landslides; reduces property values, increases the cost of construction and maintenance of draining systems through the increased flow and diversion of surface waters; and eliminates one of the prime oxygen producers in this area.

C. For these reasons, the Council finds it is in the public interest, convenience and necessity to enact regulations controlling the removal of trees within this City. (Ord. 465, 1991).

19.01.020 Definitions.

For purposes of this chapter, the following words and phrases shall be construed as defined in this section.

A. "Arborist" shall mean an arborist certified by the Western Chapter of the International Society of Arboriculture (hereafter "WCISA") National Arborist's Association, or American Society of Consulting Arborists.

B. "DBH (diameter at breast height)" shall mean the diameter of a tree at four and one-half feet (54 inches) above the ground on the high side of the trunk, as determined from a measurement of the circumference at that level and by the formula:

$$\text{Diameter} = \text{Circumference} \div (3.142)$$

In the case of a tree with two or more trunks, the DBH height is the sum of the diameters of all the trunks at breast height.

C. "Disturbance" shall mean any action which is likely to damage or to produce a negative impact of detrimental effect on the life or health of a tree. (See CMC 19.01.040(C)).

D. "Drip line" shall mean the projection to the ground of the outermost edge of a tree's natural canopy. Depicted on a map it would appear as an irregular-shaped circle that follows the contour of the trees outer branches as seen from above.

E. "Establishment" shall mean the ability of a tree to grow well on its own.

F. "Heritage tree" or "landmark tree" shall mean any tree or grove of trees so designated by the Council for reasons of historical significance or for reasons of age, size, visibility, beauty, rarity, or for an ecological or other special/unusual attribute.

G. "Native plant/species" shall mean any species generally recognized by botanical authorities as being native to the State of California or by Munz, Philip A., and Keck, David D. 1963 "A California Flora" U. of C. Press: Berkeley and Los Angeles.

H. Protected Tree. See CMC 19.01.040(A).

I. "Pruning" shall mean removing of any plant/tree part.

J. "Removal" shall mean cutting to the ground, falling, complete extraction, destroying, or killing by girdling, root disturbance, the application of chemicals, or any other means.

K. "Replacement/restoration" shall mean planting and nurturing new, young trees until they become established, i.e., can continue to grow well on their own.

L. "Root protection zone" (hereafter "RPZ") shall mean a circle around the trunk of a tree, the radius of which is equal to the largest radius of the tree's drip line plus 50 percent of that radius.

M. "Temporary protective fencing" shall mean an enclosure at the outer margin of the root protection zone of a tree, sufficient to warn drivers of vehicles and heavy equipment not to enter. Examples that would be satisfactory are a wire fence at least five feet high or bright orange construction fence 40 inches high, supported by iron posts.

N. "Tree" shall mean a woody plant having one or more trunks, and including the monocotyledon known as palm tree.

O. Tree Permit. See CMC 19.01.040(F).

P. Tree Protection Plan. See CMC 19.01.040(E). (Ord. 465, 1991).

19.01.030 Designations.

A. Authority/Responsibility. The Director of Public Works shall have the responsibility and the authority for administering and enforcing this chapter.

The Director shall have the following powers and duties:

1. To hire an arborist to perform site review and, if necessary, develop a mitigation plan for the property, which tasks shall be paid for by the applicant.
2. To provide technical information that will assist landowners in protecting, preserving, maintaining, and replacing trees.
3. To review all development and construction plans and determine their negative impact on trees.
4. To approve or deny applications for tree removal and/or disturbance permits.

5. To issue tree permits for work within the RPZ, and for removal and replacement of trees.

6. To order the removal of hazardous trees, i.e., those that pose a threat to person or property.

B. Applicability. The contents of this chapter apply to all real property, private or public, within the City limits and to any individual, firm, association, utility, corporation, and/or agent, employee, or representative thereof. (Ord. 465, 1991).

19.01.040 Requirements.

A. Protected Trees.

1. Any tree with a DBH greater than 12 inches.

2. Any native oak with a DBH greater than six inches.

3. Any Valley Oak, seedling, sapling, or older.

4. Any tree bearing an active nest of a fully protected bird (see Fish and Game Code Section 3511).

B. Temporary Protective Fencing. Before the start of any on-site work, every protected tree within or immediately adjacent to the area of on-site work shall have installed around it a temporary protective fence at the outer margin of the root protection zone. It shall remain in place and be properly maintained for the duration of all work at the site.

C. Restrictions. Any disturbances including, but not limited to the following, which might cause harm to a protected tree, are strictly prohibited within the root protection zone of that tree, unless otherwise exempted (see below) or unless a tree permit is obtained that specifically grants such an exemption:

1. Removal of a protected tree;

2. Removal of any heritage tree without specific approval of the Council;

3. Removing, moving, or failing to install and maintain proper temporary protective fencing prior to completion of all on-site work;

4. Parking or use of vehicles, equipment, or of other devices which might compact the soil;

5. Storage or use of construction materials;

6. Storage or use of chemicals or of other substances which might be harmful to trees;

7. Pruning shall be performed in accordance with WCISA standards;

8. Trenching, including that required for an irrigation system;

9. Any permanent or temporary structures;

10. Grading, cutting, filling, or changing the natural grade in any way;

11. Installation of irrigation system;

12. Irrigation within 10 feet of a trunk of a tree;

13. Attaching signs, posters, notices, wires, or devices of any sort to the trunk;

14. Covering with any substance impermeable to air and rain water, such as asphalt, concrete, plastic, etc.;

15. Burning, open fires, open flames;

16. Chemical toilets;

17. Compaction of the soil;

18. Cleaning or washing any tools or equipment such as paint brushes, masonry trowels, cement mixtures, etc.;

19. Installation of a septic system and/or leach lines immediately up-grade from a protected tree;

20. Installation of a drainage barrier such as a swimming pool, retaining wall, etc., immediately down-grade from a protected tree.

D. Exemptions. The following trees are exempted from the provisions of this chapter:

1. Trees judged in an emergency to be hazardous to life or property by responsible members of police, fire, or public works departmental representatives;

2. Trees subject to trimming, bracing, and cutting back by any public utility.

E. Tree Protection Plan. In order to protect trees and to increase their chances for natural survival, a tree protection plan shall be required as part of all applications for discretionary projects and/or permits under any other part of this code. A reasonable effort shall be made to design the plan such that negative impacts on protected trees are minimized.

1. The tree protection plan shall be designed or reviewed by and shall have the approval of an arborist who is hired by the City and paid for by the applicant. The City-hired arborist shall certify that the plan complies with this chapter, protecting and preserving protected trees from indiscriminate or unnecessary removal.

2. The tree protection plan shall include:

a. A simple plot plan showing the location, estimated drip line, size, species, and condition of each protected tree whose root protection zone falls within 20 feet of all proposed activities, including trenching, grading, landscaping, parking of vehicles, and any similar activity.

b. A list of measures that will be taken to ensure the protection and survival of the trees, with special attention given to the restrictions listed in subsection (C) of this section.

c. A landscaping plan, if appropriate, that will not adversely affect said trees.

3. In case of disagreement with the certifying arborist, the Director of Public Works may seek a second, qualified arborist's opinion, who may reject or modify the tree protection plan.

F. Tree Removal/Disturbance Permit Required.

1. Tree removal/disturbance permits may be issued for trees meeting the following criteria:

a. Any tree authorized for removal by other ordinances or laws of the City, County, State, or United States of America;

b. Any tree determined by an arborist to be hazardous, dead, or hopelessly diseased;

c. Trees in commercial orchards and tree farms;

d. Where the continued existence of the tree will produce economic hardship (such as a tree growing against a foundation).

2. All applications directed to the City, including those relating to construction on a vacant lot, construction of an additional structure, changes in height or footprint of an existing structure, replacement or relocation of any utility or driveway or removal/disturbance permits, shall be referred to the Department of Public Works for determination of whether a tree permit is needed before a building permit is issued.

3. All applications directed to the City for tree permits, including those relating to construction on a vacant lot, construction of an additional structure, changes in

height or footprint of an existing structure, replacement or relocation of any utility or driveway or removal/disturbance permits, shall include the following:

- a. A simple plot plan as that required for a tree protection plan, if not already submitted for the project in question, showing all pertinent information such as topography around and near the tree(s) in question, grade changes, etc.;
- b. Nature of the disturbance or removal applied for;
- c. A statement of the reason and necessity for disturbing or removing the tree(s) in question;
- d. Written consent of the owner of the land;
- e. The diameter, drip line parameters, species, condition and number of trees on parcel. The plot plan shall also include the location, specifies, and size of desired replacement trees;
- f. Documentation, including the opinion of an arborist may, at the discretion of the Director of Public Works, be an additional requirement of the application.

4. Replacement/restoration shall conform to the guidelines established by the Public Works Department.

5. Granting of a tree permit shall be at the discretion of the Director of Public Works. Applications shall be complete. Disturbance or removal of any protected tree shall be avoided if reasonable redesign of the project site plan affords it. A tree permit shall not be granted prior to the granting of all other permits required for the project in question.

6. A tree permit may include reasonable conditions that are necessary and appropriate to minimize the impact of disturbance on the tree(s) in question. A tree permit may include directions for replacement of protected trees to be removed. In addition, at the discretion of the Director of Public Works, there may be the requirements of a performance bond.

7. Procedures for application and permits:

a. After an application for a tree permit has been submitted to the Director of Public Works, the applicant shall identify the trees on site in a manner specified by the Director of Public Works.

b. The Director of Public Works shall have an on-site inspection of the site and tree(s) in question executed within 10 days of submission of a completed application.

c. The Director of Public Works shall render a written decision within 15 days of submission of the completed application. The decision shall expressly grant, conditionally grant, or deny a tree permit. The decision shall include reasons for any denial and shall be made available to the applicant within 15 days of the submission of a completed application. The decision shall be final unless otherwise appealed.

d. Tree permits shall be valid for 30 days. Tree permits shall be null and void after that time unless an extension is expressly granted in writing by the Director of Public Works. The applicant may reapply any time after the time for the permit and all extensions have elapsed.

e. After issuance of a tree permit, and prior to taking allowed on-site action, a copy of the permit shall be posted in a conspicuous place nearby.

f. The Director of Public Works may require on-site inspections at any time before or after the allowed action is taken in order to verify that all restrictions have been met and that all directions have been followed.

g. The Director of Public Works shall make at least one annual inspection thereafter of all replacement trees until such time as determined that they can continue to grow on their own. (Ord. 465, 1991).

19.01.050 Violations and penalties.

A. Enforcement. The Director of Public Works shall enforce the provisions of this chapter and respond to all reports of violations. Should any protected trees be disturbed, damaged, destroyed, or removed without authorization, the Director of Public Works may have a stop work order issued. That order shall remain in effect until satisfactory mitigations have been completed.

B. If any protected tree is disturbed, damaged, destroyed, or removed without authorization, as a result of on-site work, the Department of Public Works shall be notified promptly. If such a tree cannot be preserved in a healthy state, its loss shall be mitigated.

C. Mitigation. Any unauthorized disturbance, damage or destruction, or removal of protected trees shall be mitigated. Satisfactory mitigation shall consist of, but not be limited to, any or all of the following: replacement/restoration, monetary reimbursement equal to the cost of repair or replacement, suspension or revocation of permits, and/or criminal penalties. Said mitigation may include the requirements of security or performance bond.

1. Replacement/restoration shall conform to the same guidelines as those for exemptions granted by tree permits.

2. Cost of replacement shall include labor and materials required for removing damaged or destroyed trees as well as cost of labor and materials required for equivalent replacement. The value of removed or damaged trees shall be as determined by use of the methods described within the manual entitled "Guide for Establishing Values of Trees and Other Plants" published by the International Society of Arboriculture, and using the basic value of \$22.00 per square inch of trunk.

3. Suspension or revocation of permits shall remain in force until proper mitigation has been performed. (Ord. 465, 1991).

19.01.060 Appeal.

Any decision made by the Director of Public Works may be appealed to the Council by the applicant by filing a written notice of appeal with the City Clerk within 10 days of the decision being appealed. Such hearing on appeal shall be de novo, and the Council shall be guided by the criteria and standards, and shall make findings in relation thereto, as are required for the issuance of a permit in the first instance. The Council may affirm, reverse, or modify the decision of the Director of Public Works. (Ord. 465, 1991).