

Chapter 17.70 TREE REMOVAL AND PROTECTION

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17.70.010 Purpose.

A. The purpose of this chapter is to establish protective regulations for trees within the city in order to better control problems of soil erosion, landslide, air pollution, noise, wind and destruction of scenic values and wildlife habitat, and to protect trees as a natural resource which establishes the wooded character of the city.

B. The intent is not to prohibit the removal of trees completely, or to require extraordinary measures to build structures; rather the intent is to stop the wanton and oftentimes thoughtless destruction of that vegetation which has a beneficial effect on the value of property, and on the city in general. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 96-18 § 1; Ord. 79-4 § 1 (4.600) (1))

17.70.012 Definitions.

“Dead tree” means that the tree is lifeless.

“Immediate danger of collapse” means that the tree is already leaning, with the surrounding soil heaving, and there is a significant likelihood that the tree will topple or otherwise fail and cause damage before a tree removal permit can be obtained. “Immediate danger of collapse” does not include hazardous conditions that can be alleviated by pruning or treatment.

"certified arborist"

"tree protection zone"
TPZ

"Solar energy system" means either: (1) a device employed in the collection of solar radiation for the purpose of heating or cooling a building, the heating of water, or the generation of electricity; or (2) the south facing windows of a dwelling where such windows constitute fifty percent or more of the building's total window area; or (3) the roof of a dwelling which has been designed for the collection of solar energy for space heating purposes.

"Tree" is defined as any woody plant having at least one well-defined stem at least six inches in diameter measured at a height of four and one-half feet above the natural grade. All tree measures specified in this chapter shall be measured at a height of four and one-half feet above the natural grade.

"Tree topping" is defined as the severe cutting back of limbs to stubs within the tree's crown to such a degree so as to remove the normal canopy and disfigure the tree. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 14-4 § 1)

17.70.015 Tree removal without a permit prohibited.

No person shall remove a tree (tree removal) without first obtaining a permit from the city pursuant to this chapter, unless the tree removal is exempted by provisions of this chapter. Application for a tree removal permit shall be made on forms prescribed by the city. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 14-4 § 2; Ord. 96-18 § 1)

17.70.017 Permit administration.

A. A property owner or designated representative may initiate a request for approval for removal of a tree on the owner's property by filing an application with the city using forms prescribed by the city. The property owner's signature is required. A tree removal request signed by the property owner shall clearly and explicitly grant permission to city staff or to the city's arborist to enter the subject property for purposes of examining the tree(s) proposed for removal.

B. Anyone may initiate a request for approval of tree removal in a city right-of-way or on city-owned property by filing an application with the city using forms prescribed by the city.

C. An applicant for a tree removal permit, or their arborist, shall mark each tree proposed for removal with plastic flagging tape or other suitable means approved by the city.

D. A copy of the approved tree removal permit shall be kept on-site when the removal is carried out. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 14-4 § 3)

17.70.020 Permit issuance—Criteria.

The city shall issue a tree removal permit if the applicant demonstrates that one of the following criteria is met:

A. Removal of a tree which poses ^{an immediate} safety hazard. The applicant must demonstrate that:

1. The condition or location of the tree presents either a foreseeable danger to public safety, or a foreseeable danger of property damage to an existing structure; and

2. Such hazard or danger cannot reasonably be alleviated by pruning or treatment of the tree.
- B. Removal of a tree damaged by storm, fire, or other injury and which cannot be saved by pruning.
- C. Removal of a dead tree.
- D. Removal of a tree(s) in order to construct a structure or development approved or allowed pursuant to the Cannon Beach Municipal Code, including required vehicular and utility access, subject to the requirements in Section 17.70.030(B) and (Q).
- E. Removal of a tree where required to provide solar access to a solar energy system where pruning will not provide adequate solar access to permit effective operations of the solar energy system.
1. The city may require documentation that a device qualifies for an Oregon Department of Energy solar tax credit, or other incentive for the installation of solar devices offered by a utility. *The solar panels should be installed first.*
2. No tree measuring more than twenty-four inches in diameter shall be removed for the purpose of obtaining solar access.
- F. Removal of a tree for the health and vigor of the surrounding trees.
- G. Removal of a tree for landscape purposes subject to the following conditions:
 1. The tree(s) to be removed under this criterion cannot exceed ⁸~~ten~~ inches in diameter;
 2. A landscape plan for the area affected by the tree removal is approved by the city;
 3. The landscape plan incorporates a replacement tree(s) ^{each} for ~~tree~~s to be removed. The replacement tree shall be at least six feet in height or have a two-inch caliper; and
 4. The city shall review the property one year after the approval of the tree removal permit. The purpose of the review is to ensure that the approved landscape plan has been implemented. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 14-4 §§ 4, 5; Ord. 08-8 § 1; Ord. 98-22 § 1; Ord. 96-18 § 1; Ord. 90-10 § 1 (Appx. A § 41); Ord. 79-4 § 1 (4.600) (2))

17.70.030 Additional requirements.

- A. Where an applicant identifies the necessity to remove a tree pursuant to Section 17.70.020(A) or (B) the application shall include a complete ISA Tree Hazard Evaluation Form prepared by a certified arborist with the tree removal application. An ISA Tree Hazard Evaluation Form prepared by a certified arborist is not required where a tree removal permit proposes the removal of a dead tree pursuant to subsection C of this section, or where a tree removal permit proposes the removal of a tree pursuant to subsection F. Where an applicant identifies the necessity to remove a tree pursuant to Section 17.70.020(F), a certified arborist shall provide a report certifying the need to remove the tree for the health and vigor of surrounding trees.
- B. For actions which require the issuance of a building permit, tree removal shall occur only after a building permit has been issued for the structure requiring the removal of the tree(s).

C. An application for the removal of a dead tree does not require an ISA Tree Hazard Evaluation Form prepared by a certified arborist.

D. The retention of trees shall be considered in the design of partitions, subdivisions or planned developments; placement of roads and utilities shall preserve trees wherever possible. The need to remove trees shall be considered in the review process for partitions, subdivisions or planned developments.

E. The preservation of trees shall provide a basis for consideration of a setback reduction or variance.

F. If the condition of a tree presents an immediate danger of collapse and if such potential collapse represents a clear and present hazard to persons or property, a tree removal permit is not required prior to tree removal. However, within seven days after the tree removal, the tree owner shall make application for an after-the-fact permit. Where a tree presents an immediate danger of collapse, a complete ISA Tree Hazard Evaluation Form prepared by a certified arborist is not required. Where a safety hazard exists, as defined by this subsection, the city may require the tree's removal. If the tree has not been removed after forty-eight hours, the city may remove the tree and charge the costs to the owner.

G. The city may require the replanting of trees to replace those being removed. Tree replanting shall be in conformance with the city's tree replacement policy, Section 17.70.040.

H. Decisions on the issuance of a tree removal permit may be appealed to the planning commission in accordance with Section 17.88.140(A).

I. For tree removal requests of trees located in a street right-of-way, or on property owned by the city, property owners within one hundred feet of the tree(s) requested for removal shall be notified of the proposed action. The notification shall also be posted on the city's website, and on the bulletin board at City Hall, and at the Post Office. In making its decision on such a tree removal request, the city shall consider comments received within ten days of the date of the mailing of the property owner notification. To be considered, comments must address the tree removal criteria of Section 17.70.020. Any person who has commented on the tree removal request shall be notified of the city's decision and may appeal that decision in accordance with subsection H.

J. Tree pruning does not require a permit. However, the following trees shall be pruned in conformance with International Society of Arboriculture (ISA) ANSI A300 Pruning Standards (2008):

1. Trees more than thirty feet in height;
2. Trees more than thirty inches in diameter;
3. ~~South of Ecola Creek, trees located west of Hemlock Street; and~~
4. ~~North of Ecola Creek, trees located west of Laurel Street.~~

③ All
spruce
trees 8"
diameter &
greater

K. Tree topping is prohibited except for where: (1) trees have been severely damaged in a storm; and (2) required for utility line maintenance when other pruning practices are impractical.

L. A monthly report on tree removal permit actions shall be made to the planning commission.

M. If a tree is removed without a tree removal permit, a violation may be determined by measuring the stump at the surface of the cut. A stump that is twenty-two inches or more in circumference or seven inches or more in diameter shall be considered prima facie evidence of a violation of this chapter. Proof of violation of this chapter shall be deemed prima facie evidence that such violation is that of the owner of the property upon which the violation is committed.

N. Penalties.

1. Notwithstanding any other provisions of the code, any party found to be in violation of this chapter shall be subject to a civil penalty of five hundred dollars and the payment of an additional civil penalty representing the value of any unlawfully removed or damaged tree, as determined by an appraisal using the International Society of Arboriculture (ISA) Guide for Plant Appraisal, Ninth Edition, 2000. The unlawful removal of each individual tree shall be a separate offense.

2. A builder, developer, tree service, or any other person holding a city business license who is convicted of violating any provision of this chapter is also subject to a proceeding to consider revocation of their business license, pursuant to Section 5.04.170.

O. The city may seek independent expert opinion when reviewing an ISA Tree Hazard Evaluation, or when reviewing any request to remove a diseased, damaged, dying, or hazardous tree. An arborist retained or hired by the city under this section is expected to render independent expert opinion, consistent with the ISA Certified Arborist Code of Ethics.

P. A tree removal permit approved by the city is valid for twelve months from the date of issuance. The permit may be extended for an additional twelve months at the owner's request if there has been not material change in circumstances.

Q. An application for a tree removal permit under Section 17.70.020(D), submitted under the direction of a certified tree arborist for removal of a tree(s) to construct a structure or development, must include the following:

1. A site plan showing the location of the tree(s) proposed for removal, the location of the proposed structure or development, and the location of any other trees six-inch DBH or larger on the subject property or off site (in the adjoining right-of-way or on adjacent property) whose root structure might be impacted by excavation associated with the proposed structure, or by soil compaction caused by vehicular traffic or storage of materials.

2. Measures to be taken to avoid damaging trees not proposed for removal, both on the subject property and off site (in the adjoining right-of-way or on adjacent property).

3. The area where a tree's root structure might be impacted by excavation, or where soil compaction caused by vehicular traffic or storage of materials might affect a tree's health, shall be known as a tree protection zone (TPZ).

4. Prior to construction the TPZ shall be delineated by hi-visibility fencing a minimum of three and one-half feet tall, which shall be retained in place until completion of construction. Vehicular traffic, excavation and storage of materials shall be prohibited within the TPZ. (Ord. 19-3 § 1; Ord. 17-3 § 1; Ord. 14-4 §§ 6—12; Ord. 08-8 § 2; Ord. 98-22 §§ 2, 3; Ord. 97-30 § 1; Ord. 96-18 § 1; Ord. 90-10 § 1 (Appx. A § 42); Ord. 89-3 § 1; Ord. 79-4 § 1 (4.600) (3))

17.70.040 Tree replacement policy.

A. The overall objective of the city's tree replacement policy is, where practical, to maintain a minimum density of trees on a given parcel of land.

B. The basic standard is that four trees should be maintained on a five thousand square foot lot. For larger lots this standard will be applied on a proportional basis, e.g., a seven thousand five hundred square foot lot would require the maintenance of six trees. This standard is to be implemented as follows:

1. Tree removal in conjunction with construction:

a. If four or more trees existed on the lot prior to construction and approval is granted to remove trees, the replanting of up to four trees may be required.

b. If fewer than four trees existed on the lot prior to construction, the replanting of trees on a one-for-one basis may be required.

c. A minimum density of less than four trees may be permitted where it is found that the remaining trees provide sufficient cover, immature trees (those less than six inches in diameter) will mature to provide adequate cover, or there are no reasonable locations for new trees.

2. Tree removal not in conjunction with construction:

a. If after tree removal the site maintains the standard of at least four trees per five thousand square feet, no replacement is required.

b. If after tree removal the site contains less than four trees per five thousand square feet, the replanting of trees on a one-for-one basis may be required.

c. A minimum density of less than four trees per five thousand square feet may be permitted where it is found that the remaining trees provide sufficient cover, immature trees (those less than six inches diameter) will mature to provide adequate cover, or there are no reasonable locations for new trees.

C. The objective of the tree replacement policy is to require the replanting of native trees. When a replacement tree is required, at least one tree from the native tree list will have to be replanted. The following trees are considered native:

1. Sitka spruce;

2. Western hemlock;

3. Douglas fir;
4. Western red cedar;
5. Red alder;
6. Mountain ash;
7. Big leaf maple;
8. Vine maple.

D. The replacement trees shall be planted so that they do not create future problems in terms of solar access, view protection, building maintenance, or the survivability of other trees. Trees should generally not be planted within five feet of the property line.

E. The replacement trees shall be at least six feet in height at the time of planting. (Ord. 19-3 § 1; Ord. 17-3 § 1)

Contact:

City Hall: 503-436-8052, Email: cityhall@ci.cannon-beach.or.us

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ATTACHMENT A

Removing Trees Because of Construction

If you are constructing a structure or development which involves any kind of ground disturbance; including required vehicular or utility access, prior to beginning construction, you must:

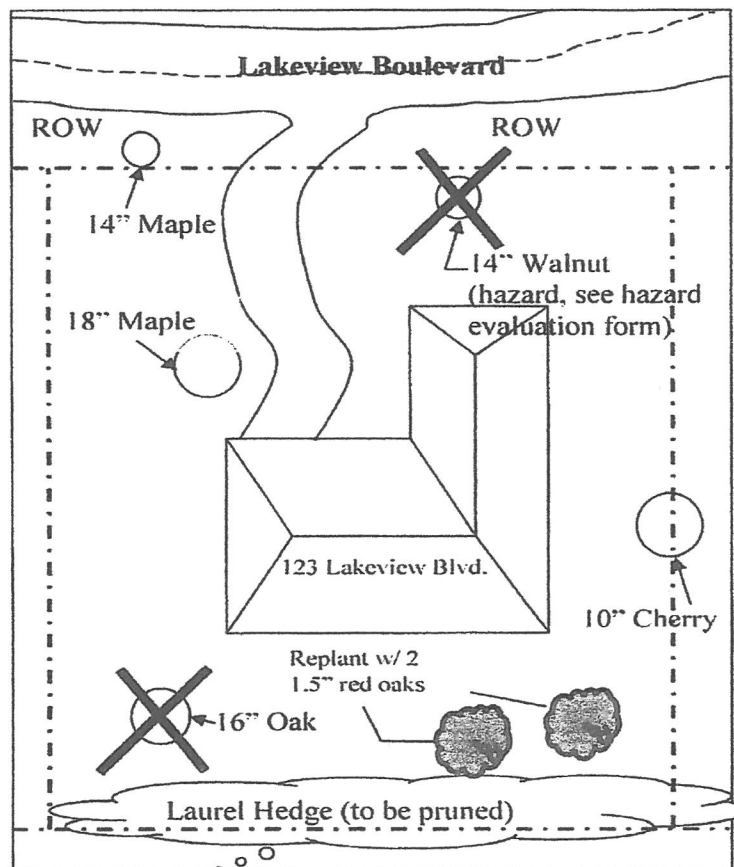
- 1) Contact a certified arborist
- 2) If the certified arborist determines that no trees will be affected by the proposed construction, then the certified arborist should write a letter stating these findings.
NOTE: The City reserves the right to have the City Arborist review all arborist recommendations and make an independent report for Administrative review. All administrative decisions may be appealed.
- 3) If the certified arborist determines that trees will be affected,
 - a. A site plan must be submitted with a Tree Removal permit. The Site Plan should indicate the location of all trees over 6" DBH on the subject property or off-site (in the adjoining right-of-way or on adjacent property) whose root structure might be impacted by excavation associated with the proposed structure, or by soil compaction caused by vehicular traffic or storage of materials.
 - b. Measures must be taken to avoid damaging trees not proposed for removal, both on the subject property and off-site (in the adjoining right-of-way or on adjacent property).
 - c. The area where a tree's root structure might be impacted by excavation, or where soil compaction caused by vehicular traffic or storage of materials might affect a tree's health, shall be known as a Tree Protection Zone (TPZ).
 - d. Prior to construction the TPZ shall be delineated by hi-visibility fencing a minimum of 3.5 feet tall, which shall be retained in place until completion of construction. Vehicular traffic, excavation and storage of materials shall be prohibited within the TPZ.

The city may require the replanting of trees to replace those being removed.

ATTACHMENT B

SITE PLAN EXAMPLE FOR A TREE REMOVAL APPLICATION

A site plan is required as part of your tree removal request. The site plan should be on an 8.5" x 11" size paper, or larger and include the following information.



Items to include on your Site Plan:

- Address of the Tree Removal Site;
- Property lines;
- Public Right of Way, including the name of any streets;
- Existing or proposed structures;
- Creeks, Streams, or any other natural features;
- Location of any existing 6" or larger tree, as measured from breast height (approximately 4' from the ground), with diameter size and type of tree;
- Please indicate by clearly marking those proposed for removal with an "X"

Within 24 Hours of submitting your application, mark the tree(s) with yellow ribbon.

City of Cannon Beach Tree Removal Application

Please fill out this form completely. Please type or print.

Applicant Name: _____

Mailing Address: _____

Phone: _____ **Email:** _____

Property Owner Name: _____

Mailing Address: _____

Phone: _____ **Email:** _____

Property Location: _____ **Map/Tax Lot Number:** _____

The city shall issue a tree removal permit if one of the following criteria is met. Please circle the letter of the criteria that applies.

These criteria require a Tree Removal Report from an International Society of Arboriculture (ISA) Certified Arborist:

- A. You are constructing a structure or development approved and allowed by pursuant to Cannon Beach Municipal Code 17.70.030, which involves any form of ground disturbance; including required vehicular and utility access. **SEE ATTACHMENT A – Removing Trees Because of Construction.**
- B. Removal of a tree for the health and vigor of surrounding trees.

These criteria require an ISA Tree Hazard Evaluation Form prepared by an ISA Certified Arborist:

- C. The tree presents a safety hazard, where:
 - 1. The condition or location of the tree presents either a foreseeable danger to public safety, or a foreseeable danger of property damage to an existing structure; and,
 - 2. Such hazard or danger cannot reasonably be alleviated by pruning or treatment of the tree.
- D. The tree was damaged by storm, fire or other injury, which cannot be saved by pruning.

You must submit a tree removal permit with a reason if:

- E. The tree is dead.
- F. Tree removal is necessary to provide solar access to a solar energy system where pruning will not provide adequate solar access:
 - 1. The city may require documentation that a device qualifies for Oregon Department of Energy Solar Tax Credit, or other incentive for installation of solar devices offered by a utility.
 - 2. No tree measuring more than 24 inches in diameter shall be removed for solar access.
- G. Tree removal is for landscaping purposes, subject to the following conditions:
 - 1. The tree cannot exceed 10 inches in diameter.
 - 2. A landscape plan for the affected area must be submitted and approved by the City.
 - 3. The landscape plan must incorporate replacement trees for the trees removed. The replacement trees must be at least six feet in height or have a two-inch caliper; and ,
 - 4. The City shall inspect the property one year after the approval of the permit to insure the landscape plan has been implemented.

If your tree presents an immediate danger of collapse and if such potential collapse represents a clear and present hazard to persons or property, **please contact the Community Development Director (CDD)**. If it is determined by the CDD that there is an immediate danger, then a tree removal permit is not required prior to tree removal. However, within seven days after the tree removal, the tree owner shall make application for an after-the-fact permit. Where a tree presents an immediate danger of collapse, a complete ISA Tree Hazard Evaluation Form prepared by a certified arborist is not required. Where a safety hazard exists, as defined by this subsection, the city may require the tree's removal. If the tree has not been removed after forty-eight hours, the city may remove the tree and charge the costs to the owner.

Attach a site plan showing the location and type of all trees on the property, including the trees to be removed. Indicate the location of replacement trees and the type. SEE ATTACHMENT B – Site Plan. Attach photos of the trees to be removed and mark the trees with ribbon.

Explain how the request meets one or more of the applicable criteria. Include the number and type of trees requested for removal. If appropriate, explain why pruning would not accomplish the same goal as tree removal.

.....
Application fee: \$50.00 for 1-4 trees; \$100 for 5 or more trees

Note: The application fee is a **nonrefundable** fee that is due upon receipt of application, whether the removal request is approved or denied.

Applicant Signature _____ Date: _____

If the applicant is other than the owner, the owner hereby grants permission for the applicant to act in their behalf.

Property Owner Signature: _____ Date: _____

Please attach the name, address, phone number and signature of any additional property owners.

I understand, as property owner, that I am responsible if an approved tree removal permit is violated in any way. As property owner, my signature or an authorized applicant's signature, allows any duly authorized employee of the City to enter upon all properties affected by this permit, for the purpose of follow-up inspection, observation or measurement.

Date: _____ Fee Paid: \$ _____ Receipt Number: _____ Permit #: _____

Application is:

_____ Approved _____ Denied

_____ Approved - Tree replacement required per Cannon Beach Municipal Code 17.70.040, Tree Replacement Policy.

_____ Approved with comments:

By: _____ Date: _____

Decisions on the issuance of a tree removal permit may be appealed to the Planning Commission in accordance with Section 17.88.140 a, of the Municipal Code.