

SECTION 6.070

LANDSCAPING, VEGETATION & REVEGETATION AND TREE PRESERVATION

1. All new sub-divisions shall provide landscaping to buffer the sub-division from Highway 101. A landscape plan and time schedule for the implementation of the plan will be submitted as a part of the development application to the Planning commission for approval.
2. A landscaping plan shall be submitted to the City Administrator for approval before building permits are issued for any new development on lots adjacent to Highway 101.
3. As a minimum requirement, a 10-foot wide strip of landscaping adjoining the Highway right-of-way shall be provided.
4. Landscaping requirements adjacent to US Highway 101:
 - A As a minimum requirement, a 10-foot wide strip of landscaping shall be provided adjoining the Highway right-of-way.
 - B A landscaping plan shall be submitted to the City Administrator for approval before building permits are issued for any new development on lots adjacent to Highway 101. The landscaping plan shall include a maintenance schedule with a provision for routine placement of plants that fail to survive. Landscaping plans shall comply with the standards of Section 6.030 Clear Vision Area.
 - C All new subdivisions shall provide a landscaping area to buffer the subdivision from Highway 101. A landscape plan and time schedule for the implementation of the plan shall be submitted to the City as part of the development application to the Planning Commission.
 - D Required landscaping areas shall preferably consist of native plant species which are compatible with the weather of the coastal environment and the soils types of the site. Examples of native plants are described by the book "*Plants of the Pacific Northwest Coast*" by Pojar and MacKinnon" and on the list from "*The Western Gardener*" available at City Hall. In addition to native plants, edible plants, fruits, vegetables, and nuts shall also be permitted.
 - E With Planning Commission review, applicants may request that non-native plants be placed on the list of acceptable plants within required landscaping areas.
 - F No plants prohibited by the City of Gearhart shall be permitted.
 - G All structures, including any fence, shall be setback ten feet from the property line adjacent to US Highway 101.
5. RIPARIAN VEGETATION
Riparian vegetation adjacent to streams and lakes in Gearhart shall be protected in accordance with the following provisions:
 - A The following area of riparian vegetation are defined:
 - (1) Fifty feet on either side of Neacoxie Creek.

- (2) Fifty feet on either side of Mill Creek.
- (3) Twenty-five feet adjacent to the unnamed lake north of east Pacific Way. The setback shall be measured from the mean high-water line on estuarine portions and the ordinary high-water line for non-estuarine portions of these streams. Riparian vegetation within this setback shall be protected as specified in Section 6.070.

B All structures and uses shall be located outside of areas listed in (A) above with the following exceptions:

- (1) Where direct water access is required in conjunction with a water-dependent use; or
- (2) Access to a lot where the proposed access is the only reasonable alternative; or
- (3) Structural shoreline stabilization; or
- (4) Trails or other pedestrian walkway that provide access to the water.

C For area described in (A) above all vegetation shall be retained within the areas listed with the following exceptions:

- (1) Removal of dead, diseased or dying trees, or trees that pose a safety hazard.
- (2) Removal of vegetation necessary to provide for uses listed in (B) above.
- (3) Vegetation removal in conjunction with an approved in-water project.
- (4) The removal of noxious weeds as defined by the City's nuisance ordinance.
- (5) Vegetation removal necessary to maintain proper stream drainage.

D The City may approve the removal of riparian vegetation not covered by provisions of (C) above where a proposed plan of vegetation removal has been reviewed and approved by the Oregon Department of Fish and Wildlife.

6. REVEGETATION STANDARDS

The following standards shall apply to all areas from which vegetation is removed by either natural or man caused means. Except that in the Beaches and Dunes Overlay Zone vegetation removal and revegetation unrelated to the earth movement and earth removal standards of this section are provided in B.A.D. Zone Section 3.1240 2. D.

- A. Areas from which vegetation is removed shall be replanted in accordance with the sections below within one growing season after the removal.
- B. Areas on the Active or Conditionally Stable Dune from which beach grass is removed shall be replanted with beach grass or other native and typical vegetation for the area.
- C. All other areas shall be planted with a plant material that will achieve 70% ground coverage within three years of planting.

7. VIOLATIONS

Violations of this section, including non-conformance with the provisions of a revegetation permit, shall be penalized as provided in Section 15.

8. PRESERVATION AND REMOVAL OF TREES

A Purpose:

The purpose of this section is to recognize that trees are a significant aesthetic and environmental resource within the City of Gearhart and to create conditions favorable to the preservation of this plant heritage for the benefit of the current and future residents of the City. The purpose is not to prohibit the removal of all trees, but to ensure that mature trees are removed only where necessary, and to permit the reasonable development and use of property.

B Definition: For the purpose of this section, “tree” is defined as follows: Any tree greater than twelve (12) inches in diameter as measured four and one half (4-1/2) feet above the existing grade.

C Applicability: This section applies to the removal of trees in the City of Gearhart, except that in the B.A.D. Overlay Zone the preservation and removal of trees are regulated by that zone in Section 3.12.

D. Requirements:

- (1) Any person proposing to remove, cut down, or otherwise destroy more than five trees within a twelve-month period shall first obtain a tree removal permit from the City. The Planning Commission may grant or deny a request for a tree removal permit on the basis of the criteria set forth below in Section 6.070(8)(E), except as provided in Section 6.070(8)(F) below.
- (2) Such conditions as are deemed necessary and appropriate to ensure the proper enforcement of this section may be made part of the removal permit. Such conditions may involve, but are not limited to the following:
 - a. The replacement of the trees proposed for removal with trees of a suitable type, size and location.
 - b. A Plan for protecting trees on the project site during and after development.
 - c. Restrictions on cuts, fills and grading within the vicinity of remaining trees.
- (3) Tree removal that is to be undertaken in conjunction with a specific development project shall occur only after a building permit has been issued, or the Planning Commission or City Council has approved an activity requiring the removal of the trees.
- (4) An approved tree removal permit shall be void after one year from its issuance unless a shorter period was specified as a condition for approval.

E. Criteria: The granting of a tree removal permit shall be based on a finding that at least one of the following criteria is met:

- (1) Necessity to remove trees which poses a safety hazard.
- (2) Necessity to remove trees which are diseased. Evidence of disease shall be provided by a qualified forester or arborist.
- (3) Necessity to remove trees in order to construct proposed improvements, including the placement of structures and on-site sewerage disposal facilities, access ways, utilities, need to make essential grade changes, and other authorized activities.
- (4) Solar access; and the need to remove trees which deposit needles or other debris on rooftops.

The burden of proof is on the applicant to show that other design alternatives which do not require the tree removal are not practical or will create a significant economic hardship.

F. Exception:

- (1) The City Administrator or designee may grant the immediate removal of trees which pose a safety hazard or dangerous condition, or for a required septic system emergency repair.
- (2) The City Administrator may permit the removal of trees within the footprint of the proposed building, access, or on-site sewage treatment system upon approval of the building permit.

G. Appeals of a decision of the City Administrator or Planning Commission shall be in accordance with Section 13.060.

H. Enforcement. Enforcement of this section shall be in accordance with Article 15 of this ordinance, or by other ordinances the City Council may adopt to implement the purpose of this section.

SECTION 6.080

EXCAVATION FILL, GRADING AND REVEGETATION.

It is the purpose of this section to provide the administrative means and guidelines to ensure the careful use of the fragile landform that Gearhart is situated on. Recognizing that the City rests on active dunes, conditionally stable dunes, and stable dunes, the excavation, fill and grading elements of this section are designed to assure that earth movement and removal is performed in a manner minimizing negative effects on the site and area, and the revegetation elements of this section are designed to protect the fragile soils and the community from erosion damage.

1. EXCAVATION, FILL AND GRADING STANDARDS

Chapter 70 of the Uniform Building Code (International Conference of Building Officials) is hereby adopted by reference as applicable to all excavation and fill within the Gearhart City Limits and Urban Growth Boundary.

2. PERMIT REQUIRED

- A** Any person undertaking a program of vegetation removal in excess of 1000 square feet, or excavation, fill and/or grading in excess of 50 cubic yards, shall first obtain a permit from the City Administrator.
- B** Such permit shall be granted only after the presentation of revegetation plan that conforms to the standards above.
- C** For an area on which construction is proposed, the permit may be part of the building permit.
- D** Permit fees shall be assessed in accordance with the fee schedule established by resolution of the City Council.

3. VIOLATIONS

Violations of this section, including non-conformance with the provisions of a revegetation permit, shall be penalized as provided in Section 15.