

Chapter 816-6 - TREE PROTECTION AND PRESERVATION

Sections:

Article 816-6.2. Title and Purpose

816-6.2002 - Title.

This chapter shall be known as the "tree protection and preservation ordinance" of Contra Costa County.

(Ords. 94-59, 94-22).

816-6.2004 - Purpose.

This chapter provides for the preservation of certain protected trees in the unincorporated area of this county. In addition, this chapter provides for the protection of trees on private property by controlling tree removal while allowing for reasonable enjoyment of private property rights and property development for the following reasons:

- (1) The county finds it necessary to preserve trees on private property in the interest of the public health, safety and welfare and to preserve scenic beauty.
- (2) Trees provide soil stability, improve drainage conditions, provide habitat for wildlife and provide aesthetic beauty and screening for privacy.
- (3) Trees are a vital part of a visually pleasing, healthy environment for the unincorporated area of this county.

(Ords. 94-59, 94-22).

816-6.2006 - Coordination.

This chapter's requirements are intended to be in addition to those otherwise required by this code. In the case of any conflicts, the director shall determine the requirements applicable and the director's decision shall be final in the absence of a timely filed appeal pursuant to Chapter 26-2.

(Ords. 94-59, 94-22).

Article 816-6.4. Definitions

816-6.4002 - Generally.

The definitions in this article govern the construction of this chapter, unless the context otherwise requires.

(Ords. 94-59, 94-22).

816-6.4004 - Arborist.

"Arborist" means a person currently certified by the Western Chapter of the International Society of Arboriculture, as an expert on the care of woody trees, shrubs and vines in the landscape, a consulting arborist who satisfies the requirements of the American Society of Consulting Arborists or such other arborist who, after review by the director, is determined to meet the standards established for certified or consulting arborists hereinabove described.

(Ords. 94-59, 94-22).

816-6.4006 - Arborist report.

An arborist report is a report prepared by an arborist on:

- (1) The possible impact of development on trees or existing tree condition;
- (2) The impact of any alteration; and/or
- (3) Restorative or other remedial action that might be feasible to address tree alterations.

(Ords. 94-59, 94-22).

816-6.4008 - Department.

"Department" means the community development department.

(Ords. 94-59, 94-22).

816-6.4010 - Development.

"Development" means any modification of land for human use from its existing state which requires a discretionary entitlement for its establishment or a building and/or grading permit involving a protected tree or trees.

(Ords. 94-59, 94-22).

816-6.4012 - Development application.

A development application is an application for development (as defined in this article) requiring either ministerial or discretionary approvals including design review, use permits, subdivisions, rezoning applications, building and/or grading permits.

(Ords. 94-59, 94-22).

816-6.4014 - Director.

"Director" means the director of community development or his/her designee.

(Ords. 94-59, 94-22).

816-6.4015 - Riparian.

Riparian vegetation is found along creeks and streams. Runoff streams that only carry runoff during the rain seasons in this area are known to support significant riparian vegetation.

(Ords. 94-59, 94-22).

816-6.4016 - Routine pruning.

"Routine pruning" means the removal of dead or dying, diseased, weak or objectionable branches of a tree in a reasonable and scientific manner which does not structurally harm the tree.

(Ords. 94-59, 94-22).

816-6.4018 - Topping.

"Topping" is the removal of the upper twenty-five percent or more of a tree's trunk(s) or primary leader.

(Ords. 94-59, 94-22).

816-6.4020 - Tree.

"Tree" means a large woody perennial plant with one or more trunks, branches and leaves, not including shrubs shaped to tree forms.

(Ords. 94-59, 94-22).

816-6.4022 - Tree removal.

"Tree removal" means the destruction of any protected tree by cutting, regrading, girdling, interfering with water supply, applying chemicals or by other means.

(Ords. 94-59, 94-22).

816-6.4024 - Undeveloped property.

"Undeveloped property" is:

- (1) A parcel of private land which is vacant or a developed parcel which has remaining development potential;
- (2) A parcel of land which can be further divided in accordance with zoning regulations of the county;
- (3) A parcel of land on which the structures are proposed to be demolished or relocated.

(Ords. 94-59, 94-22).

Article 816-6.6. Protected Trees

816-6.6002 - Prohibition.

No person shall trench, grade or fill within the dripline of any protected tree or cut down, destroy, trim by topping or remove any protected tree on private property within the county without a tree permit, except as provided for in Section 816-4.1002.

(Ords. 94-59, 94-22).

816-6.6004 - Protected trees.

A protected tree is any one of the following:

- (1) On all properties within the unincorporated area of the county:
 - (A) Where the tree to be cut down, destroyed or trimmed by topping is adjacent to or part of a riparian, foothill woodland or oak savanna area, or part of a stand of four or more trees, measures twenty inches or larger in circumference (approximately 6.5 inches in diameter) as measured four and one-half feet from ground level, and is included in the following list of indigenous trees: *Acer macrophyllum* (Bigleaf Maple), *Acer negundo* (Box Elder), *Aesculus californica* (California Buckeye), *Alnus Rhombifolia* (White Alder), *Arbutus menziesii* (Madrone), *Heteromeles arbutifolia* (Toyon), *Juglans Hindsii* (California Black Walnut), *Juniperus californica* (California Juniper), *Lithocarpus densiflora* (Tanoak or Tanbark Oak), *Pinus attenuata* (Knobcone Pine), *Pinus sabiniana* (Digger Pine), *Platanus Racemosa* (California Sycamore), *Populus fremontii* (Fremont Cottonwood), *Populus trichocarpa* (Black Cottonwood), *Quercus agrifolia* (California or Coast Live Oak), *Quercus chrysolepis* (Canyon Live Oak), *Quercus douglasii* (Blue Oak), *Quercus kelloggii* (California Black Oak), *Quercus lobata* (Valley Oak), *Quercus wislizenii* (Interior Live Oak), *Salix lasiandra* (Yellow Willow), *Salix laevigata* (Red Willow), *Salix lasiolepis* (Arroyo Willow), *Sambucus callicarpa* (Coast Red Elderberry), *Sequoia sempervirens* (Coast Redwood), *Umbellularia californica* (California Bay or Laurel);
 - (B) Any tree shown to be preserved on an approved tentative map, development or site plan or required to be retained as a condition of approval;
 - (C) Any tree required to be planted as a replacement for an unlawfully removed tree.
- (2) On any of the properties specified in subsection (3) of this section:
 - (A) Any tree measuring twenty inches or larger in circumference (approximately six and one-half inches diameter), measured four and one-half feet from ground level including the oak trees listed above;
 - (B) Any multistemmed tree with the sum of the circumferences measuring forty inches or larger, measured four and one-half feet from ground level;
 - (C) And any significant grouping of trees, including groves of four or more trees.
- (3) Specified properties referred to in subsection (2) of this section includes:
 - (A) Any developed property within any commercial, professional office or industrial district;
 - (B) Any undeveloped property within any district;
 - (C) Any area designated on the general plan for recreational purposes or open space;
 - (D) Any area designated in the county general plan open space element as visually significant riparian or ridge line vegetation and where the tree is adjacent to or part of a riparian, foothill woodland or oak savanna area.

(Ords. 94-59, 94-22).

Article 816-6.8. Applications

816-6.8002 - Permit requirement.

Any person proposing to trench, grade or fill within the dripline of any protected tree or cut down, destroy, trim by topping or remove any protected tree shall apply to the department for a tree permit, not less than ten days prior to the proposed tree removal or tree alterations.

Persons who would be eligible to apply for three or more individual tree permits under provisions of this chapter may apply for a collective tree permit for the site.

(Ords. 94-59, 94-22).

816-6.8004 - Application.

In addition to any other applicable requirements of this code and county ordinances, the application shall include the following information and items:

- (1) The number, size (including height and diameter measured four and one-half feet above ground), species, location, dripline and condition of each tree proposed to be altered or removed;
- (2) The reason(s) for alteration or removal;
- (3) A plot plan showing the approximate location of all trees on the site, including those proposed to remain;
- (4) Proposed method of tree alteration or removal;
- (5) Information indicating the effect of tree alteration or removal on soil stability and erosion if located on a steep slope or near any creek;
- (6) The signature of the property owner or if the permit is requested by someone other than the owner, a written authorization from the owner;
- (7) Photographs of the tree/s to be affected by grading or trenching, topping or removal;
- (8) A list and set of stamped envelopes addressed to adjacent property owners and other individuals and organizations as may otherwise be indicated by the director of community development. Such envelopes, with no return address, shall be required for notification of the tentative decision to grant a tree permit;
- (9) Additional information as may be required by the county upon review of the above information;
- (10) Application and permit fees.

(Ords. 94-59, 94-22).

816-6.8006 - Review and site inspection.

Prior to making a decision, the director or his designee shall review the application using the criteria and factors specified in this article. Application review may include a site visit.

(Ords. 94-59, 94-22).

816-6.8008 - Arborist or forester report.

If the reasons for alteration or removal relate to the health of the tree or if grading, trenching or filling is proposed under the dripline of an existing tree, or the review is of a collective tree permit and the director determines that more technical expertise is necessary to make the decision, a report prepared by an arborist may be required, to be paid for by the applicant.

(Ords. 94-59, 94-22).

816-6.8010 - Factors.

In granting or denying the tree permit the following factors shall be considered:

- (1) General.

- (A) The proximity and number of other trees in the vicinity;
 - (B) The relationship of the subject property to general plan open space or open space plans and policies.
- (2) For Approval.
- (A) The arborist report indicates that the tree is in poor health and cannot be saved;
 - (B) The tree is a public nuisance and is causing damage to public utilities or streets and sidewalks that cannot be mitigated by some other means (such as root barriers etc.);
 - (C) The tree is in danger of falling and cannot be saved by some other means (such as pruning);
 - (D) The tree is damaging existing private improvements on the lot such as a building foundation, walls, patios, decks, roofs, retaining walls, etc.;
 - (E) The tree is a species known to be highly combustible and is determined to be a fire hazard;
 - (F) The proposed tree species or the form of the tree does not merit saving (i.e., a tree stunted in growth, poorly formed, etc.);
 - (G) Reasonable development of the property would require the alteration or removal of the tree and this development could not be reasonably accommodated on another area of the lot;
 - (H) The tree is a species known to develop weaknesses that affect the health of the tree or the safety of people and property. These species characteristics include but are not limited to short lived, weak wooded and subject to limb breakage, shallow rooted and subject to toppling.
 - (I) Where the arborist or forester report has been required, and the director is satisfied that the issuance of a permit will not negatively affect the sustainability of the resource.
- (3) For Denial.
- (A) The applicant seeks permission for the alteration or removal of a healthy tree that can be avoided by reasonable redesign of the site plan prior to project approval (for nondiscretionary permits);
 - (B) It is reasonably likely that alteration or removal of the tree will cause problems with drainage, erosion control, land stability, windscreen, visual screening, and/or privacy and said problems cannot be mitigated as part of the proposed removal of the tree;
 - (C) The tree to be removed is a member of a group of trees in which each tree is dependent upon the others for survival;
 - (D) The value of the tree to the neighborhood in terms of visual effect, wind screening, privacy and neighboring vegetation is greater than the hardship to the owner;
 - (E) If the permit involves trenching or grading and there are other reasonable alternatives including an alternate route, use of retaining walls, use of pier and grade beam foundations and/or relocating site improvements;
 - (F) Any other reasonable and relevant factors specified by the director.

(Ords. 94-59, 94-22).

816-6.8012 - Decision.

The director shall grant or deny tree permits in accordance with this chapter and code. If a permit is granted, the director may attach conditions to insure compliance with this chapter and code. These

conditions may include a requirement to replace any or all trees on a comparable ratio of either size or quantity. Single tree permits shall be valid for a period of ninety days and may be renewed for additional periods by the director upon request by the applicant. Collective tree permits shall be valid for a period of time to be determined by the director based upon individual circumstances.

If a permit is denied, the director shall state the reason for denial. Notice of decision shall be mailed to the applicant.

(Ords. 94-59, 94-22).

816-6.8014 - Appeals.

Any person may appeal the director's decision within ten calendar days of the director's decision to the planning commission having jurisdiction in accordance with Chapter 26-2. Further appeals may be made as provided by Chapter 26-2. Appeals shall be made in writing and state the specific reasons why the decision does not meet the criteria and factors for granting or denial of a permit as stated in this chapter.

(Ords. 94-59, 94-22).

Article 816-6.10. Permit Exceptions

816-6.1002 - No permit.

A tree permit is not required for the following situations:

- (1) Hazardous Situation. Any tree whose condition creates a hazardous situation which requires immediate action as determined by the director, building inspector, sheriff, involved fire district or a utility company to protect its facilities. During off-hours, when officials described above are unavailable, the hazardous situation may be corrected and a report of the incident and description of the hazard shall be submitted to the director within ten days of the incident.
- (2) Prior Approval. Any tree whose removal was specifically approved as a part of an approved development plan, subdivision, other discretionary project or a building permit.
- (3) Routine pruning not involving topping or tree removal.
- (4) Commercial plantings. Planting, removal and harvesting in connection with Christmas tree farms, orchards and nurseries.
- (5) Rangeland Management. Normal activities associated with range management and the disposition of wood incidental to rangeland management on agriculturally zoned properties (with each parcel containing at least twenty acres but also including properties in adjacent common ownership interest of at least twenty acres), will not require a tree permit. "Rangeland management activities" are defined as including but not limited to the clearing and thinning of trees for purposes of reducing fire risk or enhancement of forage production, removing obstruction to stormwater runoff flow, maintaining adequate clearance on range roads and fire trails, fencing maintenance and protecting equipment and constructions.
- (6) Public Agencies/Utilities. Trimming and clearing within public agency or utility easements and rights-of-way for maintenance of easement or right-of-way will not require a tree permit. Lands owned by public utilities and used for administrative purposes or uses unrelated to the public service provided by the utility are not exempted under this provision.

(Ords. 94-59, 94-22).

816-6.1004 - Proposed development.

- (a) On any property proposed for development approval, tree alterations or removal shall be considered as a part of the project application.
- (b) All trees proposed to be removed, altered or otherwise affected by development construction shall be clearly indicated on all grading, site and development plans. Except where the director otherwise provides, a tree survey shall be submitted as a part of the project application indicating the number, size, species and location of the dripline of all trees on the property. This survey shall be overlaid on the proposed grading and development plans. The plan shall include a tabulation of all trees proposed for removal.
- (c) The granting or denial of a tree removal program which is a part of a development proposal covered by this section shall be subject to Sections 816-6.8008 and 816-6.8014. A separate tree removal permit shall not be required.

(Ords. 94-59, 94-22).

Article 816-6.12. Tree Protection

816-6.1202 - Tree protection.

Except where otherwise provided by the involved development's conditions of approval or approved permit application, on all properties where trees are required to be saved during the course of development, the developer shall follow the following tree preservation standards:

- (1) Prior to the start of any clearing, stockpiling, trenching, grading, compaction, paving or change in ground elevation on a site with trees to be preserved, the applicant shall install fencing at the dripline or other area as determined by an arborist report of all trees adjacent to or in the area to be altered. Prior to grading or issuance of any permits, the fences may be inspected and the location thereof approved by appropriate county staff.
- (2) No grading, compaction, stockpiling, trenching, paving or change in ground elevation shall be permitted within the dripline unless indicated on the grading plans approved by the county and addressed in any required report prepared by an arborist. If grading or construction is approved within the dripline, an arborist may be required to be present during grading operations. The arborist shall have the authority to require protective measures to protect the roots. Upon completion of grading and construction, an involved arborist shall prepare a report outlining further methods required for tree protection if any are required. All arborist expense shall be borne by the developer and applicant unless otherwise provided by the development's conditions of approval.
- (3) No parking or storing vehicles, equipment, machinery or construction materials, construction trailers and no dumping of oils or chemicals shall be permitted within the dripline of any tree to be saved.

(Ords. 94-59, 94-22).

816-6.1204 - Deposit conditions.

Prior to the issuance of any grading or building permit for a property where trees are required by this chapter to be saved, the owner or developer shall deposit cash or other acceptable security with the department on a per tree basis in the amount established by the involved development's conditions of approval or approved applications.

As required, the county may hold the deposit for a two-year period to guarantee the health of the trees for a two-year period upon completion of construction. In addition, the applicant or developer may be required to enter into a tree maintenance agreement secured by said deposit/bond by which they agree to maintain said trees in a living and viable condition throughout the term of the agreement. This

agreement may be transferred to any new owner of the property for the remaining length of the agreement.

(Ords. 94-59, 94-22).

816-6.1206 - Construction tree damage.

A development's property owner or developer shall notify the department of any damage that occurs to any tree during the construction process. The owner or developer shall repair any damage as determined by an arborist designated by the director.

Any tree not approved for destruction or removal that dies or is significantly damaged as a result of construction or grading shall be replaced with a tree or trees of equivalent size and of a species as approved by the director to be reasonably appropriate for the particular situation.

(Ords. 94-59, 94-22).

816-6.1208 - Violations.

Violations of this chapter are punishable and may be corrected in any manner provided by this code or as otherwise allowed by law. Each tree damaged or removed in violation of this chapter shall constitute a separate offense.

(Ords. 94-59, 94-22).