



**PARKS & RECREATION SERVICES DEPARTMENT**  
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## Protected Native Tree Information

### PRIVATE TREES

#### Protected Native Tree Chapter 12.45

Protective Native tree is a tree which meets both of the following requirements:

A. Is one of the following species of tree with a diameter as shown:

<u>(Common Name)</u>	<u>(Botanical name)</u>	<u>(Diameter)</u>
1. Valley Oak	Quercus lobata	12 inches or greater
2. Coast Live Oak	Quercus agrifolia	12 inches or greater
3. Black Oak	Quercus kelloggii	12 inches or greater
4. Blue Oak	Quercus douglasii	6 inches or greater
5. Coast Redwood	Sequoia sempervirens	36 inches or greater
6. California Bay	Umbellularia californica	12 inches or greater
7. Black Walnut	Juglans hindsii	12 inches or greater

B. Is located on private property over one acre in size zoned for residential or agricultural purposes, or is located on property zoned for commercial or industrial purposes.

#### **Safeguarding Protected Native Trees**

A. No person shall, without first securing a permit from the Director, do any of the following which would have the potential for injuring a tree:

1. Prune any branch or limb of a protected native tree greater than four inches in diameter or remove more than 10% of any live foliage in any one-year period.
2. Cut any root over two inches in diameter within the drip line area of a protected native tree.
3. Change, by more than two feet, grade elevations within the drip line area of a protected native tree.
4. Place or allow to flow into or over the drip line area of any protected native tree any oil, fuel, concrete mix or other substance that could injure the tree.

B. The removal of any protected native tree shall be prohibited unless a permit therefor is first applied for by the property owner or person authorized by the property owner and granted under Section 12.45.090.

C. A permit, under subsections A or B above or other applicable sections of this chapter, shall not be required to prune or remove a protected native tree under the following circumstances:

1. Trees damaged by windstorms, floods, earthquakes, fires or other natural disasters or causes and, to the extent possible with the information provided, determined to be dangerous by the City Manager or designee acting in their official capacity. The Director shall be promptly notified of the nature of the emergency and action taken.
2. When removal is determined necessary by Fire Department personnel actively engaged in fighting a fire.
3. Trees otherwise determined to be a hazard by the Director. Director shall require evidence of the hazardous condition.

D. Where a permit from the Director is sought under subsection A above, the following shall apply:

1. Any person who desires a permit shall apply to the Director on the designated form.
2. The Director shall not issue a permit under this section unless he or she finds that the activity proposed will not significantly harm or reduce the health of the tree, and any decision by the Director shall be based upon the following standards:
  - a. The size and species of tree and nature of the proposed activity;
  - b. The age and condition of the tree with respect to its general health;
  - c. The necessity of the requested activity;
  - d. Any other information pertinent to the decision including a tree protection plan submitted by the applicant from a qualified consulting arborist.
3. The Director may impose such reasonable conditions as he or she determines may be necessary to effectuate the intent and purpose of this chapter including, without limitations, adherence to the city's Standard Specifications for Tree Preservation and the most current American National Standard (ANSI) for Tree Care Operations.
4. Any applicant dissatisfied with the decision of the Director may appeal such decision to the Commission. Such appeal shall be in writing, stating the reasons therefor, and shall be filed with the Department not later than 10 days after the date of the Director's letter approving or denying the permit. Any appeal not timely filed shall be barred, and the Director's decision shall become final. The Commission shall consider all appeals at the Commission's next regularly scheduled meeting providing said appeal is received at least 14 days prior to the date of the meeting. Appeals received within 14 days of the Commission's meeting shall be scheduled on the following regularly scheduled meeting. The Commission shall base its decision upon the standards set forth in subsection (D)(2).
5. Any applicant dissatisfied with the decision of the Commission may appeal such decision to the City Council. Such appeal shall be in writing, stating the reasons therefor, and shall be filed with the City Clerk not later than 10 days after the date of the Commission's decision. Any appeal not timely filed shall be barred, and the Commission's decision shall become final. In appeals heard by the City Council, the decision of the City Council shall be final. The Council shall base its decision upon the standards set forth in subsection (D)(2).

## **Permits for removal of Protected Native Trees**

***A. Where there is no pending discretionary development application, the removal of any protected native tree shall be prohibited unless a permit therefor is first obtained by the property owner or person authorized by the property owner from the Tree Commission in accordance with the following:***

1. An application for a permit shall be made on the form provided by the Director and shall include a plan describing each protected native tree on the property, its species, size, drip line area, and location. The location of all other trees on the site and in the adjacent public right-of-way and trees located on adjacent property with drip lines over the property shall be shown on the plan and identified by species. The applicant shall include such other information as the Director may determine is necessary to further the purposes of this chapter including, but not limited to, photographs and arborist reports.
2. A permit may be granted by the Tree Advisory Commission if it finds any of the following:
  - a. That the protected native tree must be removed in order for the applicant to use the property for any use permitted by the city for property where the tree is located, and that such use could not be reasonably made of the property unless the tree is removed. In this context, it shall be the burden of the person seeking the permit to demonstrate to the satisfaction of the Commission that there are no reasonable alternatives to the proposed design and use of the property; or
  - b. That the condition of the tree with respect to disease, danger of falling, or interference with utility services is such that the public health, safety and welfare requires its removal; or
  - c. That the tree or tree roots are causing or threatening to cause, serious or unmitigatable damage to any building.
3. The Tree Advisory Commission shall not act on such an application until a public hearing is held thereon. Notice of the time and place of the hearing shall be posted in a conspicuous place near the native tree and shall be mailed to the applicant and to all owners of real property located within a 300-foot radius of the real property upon which the significant tree is located. Notices shall be posted and mailed at least 10 days in advance of the hearing. As used in this section, "owner" means the person to whom the property was assessed in the latest equalized assessment roll of the county of Napa.
4. Any person dissatisfied with the decision of the Tree Advisory Commission may appeal such decision to the City Council. Such appeal shall be in writing, stating the reasons therefor, and shall be filed with the City Clerk not later than 10 days after the date of the Tree Advisory Commission's decision. Any appeal not timely filed shall be barred, and the Tree Advisory Commission's decision shall become final. The City Clerk shall set the appeal for hearing within 45 days after the appeal is filed. Notice of time and place of the hearing shall be given to the appellant, those who spoke at the hearing and those persons requesting notification of the hearing at least 10 days in advance thereof by mail, postage prepaid. The decision of the City Council shall be final. The City Council shall base its decision upon the standards set forth in subsection (A)(2).

***B. Where there is a pending discretionary development application, the removal of any protected native tree shall be prohibited unless the following procedure is followed:***

1. The property owner or authorized agent shall provide the following information to the Planning Director with the application for discretionary development approval pursuant to the filing requirements established by such Director.
  - a. A statement which discloses whether any protected native tree exists on the property which is the subject of the application, and describing each such tree, its species, size, drip line area, and location. This requirement shall be met by including the information on plans submitted in connection with the application.
  - b. The location of all other trees on the site and in the adjacent public right-of-way that are within 30 feet of the area proposed for development, and trees located on adjacent property with drip lines over the project site, shall be shown on the plans, identified by species.

- c. Such other information as the Planning Director may determine is necessary to further the purposes of this chapter including, but not limited to, photographs and arborist reports.
2. Removal of a protected native tree in connection with a discretionary development approval may be authorized by the city if the decision-making body finds any of the following:
  - a. That the protected native tree must be removed in order to allow construction of improvements and that no reasonable use of the property can be made of the property unless the tree is removed. In this context, it shall be the burden of the person seeking the permit to demonstrate to the satisfaction of the decision making body that there are no reasonable alternatives to the proposed design and use of the property, or
  - b. That the condition of the tree with respect to disease, danger of falling or interference with utility services is such that the public health, safety, and welfare requires its removal, or
  - c. That the tree or tree roots are causing, or threatening to cause, serious or unmitigatable damage to any significant building or structure on the owner's property, or
  - d. That the project has minimized tree loss to the extent possible when balanced with General Plan land uses and policies and applicable design guidelines.
3. Every discretionary approval for property containing protected native trees shall include appropriate mitigation measures and/or conditions providing for the protection of such retained trees and for maintenance of the trees thereafter.

#### **Replacement Program**

***Any person who has received permission to remove a protected native tree shall be required to replace the protected native tree approved for removal. Each protected native tree removed or damaged shall be replaced as follows:***

- A. For each six inches or fraction thereof of the protected native tree, two trees of the same species as the protected tree (or any other species with approval) and a minimum 15-gallon container or larger size as determined by the Director shall be planted on the project site.
- B. If the project site is inadequate in size to accommodate the replacement trees, with the recommendation of the Director, the trees shall be planted on public property. The Director may accept an in-lieu fee, per 15-gallon replacement tree with the moneys to be used for tree-related educational projects and/or planting programs. In lieu fees shall be set by City Council resolution and adjusted on an annual basis as necessary and include the cost of planting.
- C. Each protected native tree approved for removal shall be replaced within 60 days or at a reasonable time approved by the Director or according to the conditions of any discretionary permit allowing removal of a protected native tree.
- D. The Director shall ensure that security is posted in an amount sufficient to secure the maintenance and protection of any replacement tree not planted on public property for a period of three years. Said security shall be returned at the end of the three-year period if, in the Director's judgment, the replacement trees are healthy and free of any defects. Any replacement tree that is not healthy or free of defects at the end of the three-year period shall be replaced, and security shall be held for another three-year period or until, in the Director's judgment, the tree has been well established.