

## Chapter 17.54

# TREE PRESERVATION AND PROTECTION

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### **17.54.010 Purpose.**

The trees of Cotati, particularly native oaks and other tree species common to oak woodlands, are significant community resources that play an important role in defining the character of the city. The trees within the city serve as wildlife habitat, assist in energy conservation by providing shade, and provide other environmental values. Therefore, this chapter provides regulations for the protection, preservation, and maintenance of native trees and their habitat value, trees of historic or cultural significance, groves and stands of mature trees, and mature trees in general that are associated with proposals for development. It is also the intent of this chapter to perpetuate the community tree canopy through the replacement of trees removed through development. (Ord. 766 § 2 Exh. A (part), 2004).

### **17.54.020 Applicability.**

A. Applicability of Requirements. The provisions of this chapter shall apply in all zoning districts to the removal or relocation of any tree with a circumference of twelve inches or more, measured at fifty-four inches above natural grade.

B. Tree Permit Required.

1. Activities Requiring a Permit. A tree permit shall be required prior to:

- a. The relocation, removal, cutting-down, or other act that causes the destruction of a tree;
- b. Prior to any grading, paving, or other ground-disturbing activity within the protected zone of a tree; and
- c. The approval of a use permit, minor use permit, variance, minor variance, or subdivision, hereafter referred to as “discretionary projects.”

2. Permit Issuance. The procedure and review authority for a tree permit is as follows:

a. Developed Parcel. A tree permit for the removal of other than a native oak from a developed parcel shall be issued as follows:

- i. A permit for a parcel developed with one single-family dwelling may be issued by the director after a site inspection. In this case, the director may waive the prior submittal of a site plan.
- ii. A permit for a parcel developed with multiple dwellings or a nonresidential structure may be issued by the director after the review of a complete tree permit application in compliance with Section [17.54.030](#) (Tree permit application requirements) of this chapter.

b. Vacant Parcel. A tree permit for the removal of other than a native oak from a vacant parcel shall require commission approval, and shall not be granted except in conjunction with:

- i. The approval of a discretionary project for the same site;
- ii. The approval of a building permit for the same site; or
- iii. The approval of improvement plans for a subdivision of the same property.

C. Native Oak Removal. The removal of a native oak with a trunk circumference of twelve inches measured at fifty-four inches above natural grade shall be prohibited, except where approved by the council after a public hearing in compliance with Chapter [17.88](#) (Public Hearings) of this title, in conjunction with the approval of a subdivision or other specific development project.

D. Timing of Removal of Large-Stature Trees. The removal of a tree with a height of fifty feet or more shall not occur between April 15 and June 15 of any year, to provide for the nesting and stopover patterns of raptors, migratory birds, and other bird species.

E. Exceptions. The removal or relocation of a tree that would otherwise require a tree permit is exempt from the provisions of this chapter only in case of emergency, where the director, city engineer, a member of a law enforcement agency, or the fire district determines that a tree poses an imminent threat to the public safety, or general welfare. (Ord. 766 § 2 Exh. A (part), 2004).

### **17.54.025 Definitions.**

Definitions of the technical terms and phrases used in this chapter are in Article 9 (Glossary) of this title under "Landscape and Tree Preservation." (Ord. 766 § 2 Exh. A (part), 2004).

### **17.54.030 Tree permit application requirements.**

A. Application Contents. Each tree permit application shall include the information and materials required by the department, and:

1. Shall be accompanied by the application fee required by the city fee schedule;
2. The application may be required to include an arborist's report, at the discretion of the director;  
and
3. If the site is subject to conditions, covenants, and restrictions (CC&Rs) that address tree removal and are administered by an active homeowners' association, the application shall include a letter from the homeowners' association authorizing the tree removal.

B. Application Filing. An application for a tree permit involving a discretionary project shall be included as part of the application for the discretionary project. An application for a tree permit not associated with a discretionary project shall be filed with the department separately. (Ord. 766 § 2 Exh. A (part), 2004).

### **17.54.040 Protection of trees to be retained.**

A. Purpose. The purpose of this section is to define procedures necessary to protect the health of affected protected trees. Great care must be exercised when work is conducted upon or around trees that are not authorized for removal.

B. Applicability. The requirements of this section shall apply to all encroachments into the protected zone of a tree that is not authorized for removal from a site when approved grading or other

construction is to occur. All tree permits shall be deemed to incorporate the requirements of this section except as a tree permit may otherwise specifically provide.

C. Trenching Procedure. Trenching within the protected zone of a protected tree, when permitted, may only be conducted with hand tools or as otherwise directed by the city, in order to avoid root injury.

D. Cutting Roots.

1. Minor roots less than one inch in diameter may be cut, but damaged roots shall be traced back and cleanly cut behind any split, cracked or damaged area.

2. Major roots over one inch in diameter may not be cut without the director's approval. Depending upon the type of improvement being proposed, bridging techniques or a new site design may need to be employed to protect the root and the tree.

E. Irrigation Systems. An independent low-flow drip irrigation system may be used for establishing drought-tolerant plants within the protected zone of a tree to be protected.

F. Plant Materials Under Oaks. Planting live material under native oak trees is generally discouraged, and it will not be permitted within six feet of the trunk of a native oak tree with a circumference of less than twelve inches measured at fifty-four inches above natural grade, or within ten feet of the trunk of a native oak tree with a circumference of twelve inches or more measured at fifty-four inches above natural grade. Only drought-tolerant plants will be permitted within the protected zone of native oak trees.

G. Protective Fencing.

1. Type of Fencing. A minimum five-foot high chain link or substitute fence approved by the director shall be installed at the outermost edge of the protected zone of each protected tree or groups of protected trees. Exceptions to this policy may occur in cases where protected trees are located on slopes that will not be graded. However, approval must be obtained from the department to omit fences in any area of the project.

2. Fence Installation. The fences shall be installed in accordance with the approved fencing plan prior to the commencement of any grading operations or such other time as determined by the review authority. The developer shall call the city engineer for an inspection of the fencing prior to grading operations.

3. Signing. Signs shall be installed on the fence in four equidistant locations around each individual protected tree. The size of each sign must be a minimum of two feet by two feet and must contain the following language:

“WARNING, THIS FENCE SHALL NOT BE REMOVED OR RELOCATED WITHOUT WRITTEN AUTHORIZATION FROM THE COTATI PLANNING AND BUILDING DEPARTMENT.”

Signs placed on fencing around a grove of protected trees, shall be placed at approximately fifty-foot intervals.

4. Fence Removal. Once approval has been obtained, the fences shall remain in place throughout the entire construction period and shall not be removed without obtaining written authorization from the department.

H. Retaining Walls and Root Protection. Where a tree permit has been approved for construction of a retaining wall within the protected zone of a protected tree, the developer shall provide for the immediate protection of exposed roots from moisture loss during the time prior to completion of the wall. The retaining wall shall be constructed within seventy-two hours after completion of grading.

I. Preservation Devices. If required, preservation devices such as aeration systems, oak tree wells, drains, special foundation systems, special paving and cabling systems must be installed per approved plans.

J. Grading.

1. Every effort shall be made to avoid cut and/or fill slopes within or in the vicinity of the protected zone of any protected tree.

2. No grade change shall cause water to drain into an area around a protected tree equal to twice the longest radius of the protected zone.

3. No grade changes are permitted that will lower or raise the ground on any side of the tree.

K. Chimney Locations. A chimney for a woodburning fireplace or stove shall not be located within the canopy of a tree or in any location that sparks emitted from the chimney may damage a tree.

L. On-site Information. The following information shall be on-site while any construction activity is on going for a project requiring a tree permit:

1. Any applicable arborist's report and any subsequent modifications to the arborist's report;

2. Tree location map with a copy of the tree fencing plan;
3. Tree permit and approved construction plans;
4. Approved planting and irrigation drawings.

M. Information on Standards. The developer shall be responsible for informing all subcontractors and individuals who will be performing work around protected trees of the requirements of this section for working around trees and conditions of approval for the project. This information shall be provided in writing to the subcontractors and employees by the general contractor or applicant.

N. Utility Trenching Pathway Plan. In the event trenching is proposed, the tree permit application shall include a utility trenching pathway plan for approval following approval of the project improvement or civil plans.

1. Contents. The trenching-pathway plan shall depict all of the following systems: storm drains, sewers, easements, water mains, area drains, and underground utilities. Except in lot sale subdivisions, the trenching-pathway plan must show all lateral lines serving buildings. To be completely effective, the trenching-pathway plan must include the surveyed locations of all protected trees on the project as well as an accurate plotting of the protected zone of each protected tree.

2. Standards for Plan. The trenching-pathway plan shall be developed considering the following general guidelines:

- a. The trenching-pathway plan shall be developed to avoid trenching in the protected zone of any protected tree on its path from the street to the building.

- b. Where it is impossible to avoid the protected zone, the design shall minimize the extent of trenching within the protected zone. The required arborist's report shall include mitigation measures for any trenching within the protected zone.

O. Final Certification of Tree Work. All of the tree preservation measures required by the conditions of the discretionary project approval, and/or the tree permit, as applicable, shall be completed, and certified by an arborist selected by the director prior to city issuance of a final building inspection or certificate of occupancy. (Ord. 766 § 2 Exh. A (part), 2004).

#### **17.54.050 Tree planting and replacement.**

The city's principal objective for the tree permit process is the preservation of native oaks and other significant trees, particularly in groves. Where the review authority determines that preservation is infeasible, replacement plantings may be allowed in compliance with this section.

A. Extent of Replacement Required. The review authority may condition any tree permit for the removal of a tree to require tree replacement, as shown in Table 5-2. The review authority may approve a replacement program using one of the methods identified in subsection B or C of this section, or any combination of the methods.

**Table 5-2**

**Minimum Required Replacement Trees**

<b>Species of Tree to be Removed</b>	<b>Circumference of Tree to be Removed<sup>(1)</sup></b>	<b>Mitigation Value (required number of replacement trees)</b>	<b>Required Size and Species of Replacement Trees for Mitigation Value</b>
Oaks (Black, Valley, Live)	12 to 49 inches	5	15-gallon, oak of the same species removed
	50 to 79 inches	10	
	80 or more inches	20	
Other	12 to 49 inches	2	15-gallon, of species determined by city
	50 to 79 inches	4	
	80 or more inches	6	

Notes:

(1) Circumference shall be measured at a point fifty-four inches above the natural grade at the base of the tree.

B. Location and Specifications for Replacement Trees. The replacement trees required by Table 5-2 shall be planted on-site (the city's preferred method of mitigation), except that the review authority may authorize other areas where maintenance to ensure survival of the trees will be guaranteed.

1. All replacement trees shall be of the same species as the trees being replaced, propagated from locally gathered seeds, except in the case where a replacement tree is approved in a location characterized by nonnative species (for example, within a narrow roadway median

where existing trees are ornamental nonnatives), or where the review authority otherwise determines that native species are inappropriate.

2. The review authority may allow up to fifty percent of the required replacement trees to have a five-gallon container size, where it determines that long-term tree health and survival will be improved by starting with a smaller container size, and that each tree with a container size less than fifteen gallons will not be planted where it will be subject to damage while becoming established.

3. The review authority may require fewer and/or larger replacement trees than required by Table 5-2 where it determines that fewer but significantly larger trees are appropriate because of the size of the site, or on-site environmental resources or terrain constraints.

4. Replacement trees shall be in addition to any trees required by provisions of this land use code other than this chapter (e.g., required parking lot landscaping or street trees).

C. In-lieu Mitigation Fee. The review authority may determine that the remedies described above are not feasible or desirable and may instead require the payment of an in-lieu fee for the cost of purchasing, planting, irrigating, and maintaining each tree for a period of ten years. The in-lieu fee shall be as required by the city fee schedule. The in-lieu fee shall be deposited into the city's tree fund. (Ord. 766 § 2 Exh. A (part), 2004).

#### **17.54.060 Tree permit approval findings and conditions.**

A. Required Findings. The approval of a tree permit shall require that the review authority first make all the following findings:

1. The approval of the tree permit will not be detrimental to the public health, safety or welfare, and approval of the tree permit is consistent with the provisions of this chapter;
2. Measures have been incorporated into the project or permit to mitigate impacts to remaining trees or to replace the trees removed in compliance with this chapter;
3. The removal of a healthy tree cannot be avoided by:
  - a. Reasonable redesign of the site plan prior to construction, or
  - b. Trimming, thinning, tree surgery, or other reasonable treatment, as determined by the director;

4. Adequate provisions for drainage, erosion control, land stability, windscreen, buffers along the road and between neighbors have been made where these problems are anticipated as a result of the removal; and

5. The tree to be removed does not contain an active nest that has been identified through the environmental process or is otherwise known to the review authority as the nest of a migratory bird, except where a qualified professional has determined that the nest can be relocated without damage to the nestlings.

B. Conditions of Approval. The approval of a tree permit shall include conditions of approval as necessary to ensure compliance with Section [17.54.050](#) (Tree planting and replacement) of this chapter. (Ord. 766 § 2 Exh. A (part), 2004).

#### **17.54.070 Post approval procedures.**

The following procedures apply after the approval of a tree permit application:

A. Appeals. The decision of the review authority shall be final unless an appeal is filed in compliance with Chapter [17.84](#) (Appeals) of this title.

B. Expiration/Extension. Except where otherwise provided by this chapter, the work authorized by a tree permit shall be commenced within six months from the date of approval or other time limit established through a concurrent planning permit approval. Time extensions, for up to a total of two additional years, may be granted in compliance with Chapter [17.64](#) (Permit Implementation, Time Limits, and Extensions) of this title. A tree permit not exercised within its time limits shall expire in compliance with Chapter [17.64](#).

C. Performance Guarantee. The review authority may require that a security deposit be posted and maintained where deemed necessary to ensure:

1. The preservation of protected trees during construction; and
2. The completion of required mitigation measures.

The deposit shall be posted in a form approved by the city attorney prior to any grading or movement of heavy equipment onto the site or issuance of any permits. Each violation of any tree permit condition regarding tree preservation shall result in forfeiture of a portion or the entirety of the deposit, at the discretion of the review authority, provided that this determination may be appealed in compliance with Chapter [17.84](#) (Appeals) of this title.

D. Construction Monitoring. Monitoring of tree protection and restoration measures specified as conditions of approval shall be performed by site inspection conducted by the director.

E. Revocation. A tree permit may be revoked or modified, as provided in Section [17.64.100](#) (Permit Revocation and Modification).

F. Stop Work Orders. Whenever any construction or work is being performed contrary to the provisions of this chapter or applicable conditions of approval, the director may issue a written notice to the responsible party to stop work on the project on which the violation has occurred or upon which the danger exists. The notice shall state the nature of the violation and the risk to the trees. No further work shall be allowed until the violation has been corrected and approved by the department. (Ord. 766 § 2 Exh. A (part), 2004).

#### **17.54.080 Tree removal without permit.**

In the event of the removal of a tree without a permit in compliance with this chapter, the city shall require the property owner to replace each tree in compliance with this chapter, and to pay the penalty fee established by the city's fee schedule. (Ord. 766 § 2 Exh. A (part), 2004).

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The Cotati Municipal Code is current through Ordinance 917, passed December 13, 2022.

Disclaimer: The city clerk's office has the official version of the Cotati Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.cotaticity.org/>

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