



City of Gilroy
 COMMUNITY DEVELOPMENT DEPARTMENT
 PLANNING DIVISION
 7351 Rosanna Street, Gilroy CA 95020
 (408) 846-0451 (408) 846-0429 (fax)
www.cityofgilroy.org

Protected Tree Removal Permit Application Instructions

APPLICATION SUBMITTAL CHECKLIST

REQUIRED SUBMITTAL ITEMS:

	<u>No. of copies</u>
Completed Protected Tree Removal Permit Application	1
Signed Owner/Applicant Certification	1
Uniform Application & Indemnification Agreement	1
Site Plan (See Exhibit 1, attached)	2
Arborist Report	1
Planning Application Fee - \$300.00	

APPLICATION INSTRUCTIONS

1. Purpose

The City recognizes that existing and future trees and tree communities located in the city are a valuable and distinctive resource and that they augment the economic base of the city through encouragement of tourism and enhancement of the living environment. The removal of significant trees and diminishing of tree communities reduces property values and the scenic beauty and attractiveness of the city to residents and visitors. Gilroy City Code, Section 30.38.270 establishes the requirement for a permit to authorize the removal of a Protected Tree, Community of Protected Trees, or Heritage Tree on private property.

2. Definitions

- A. **Community of Protected Trees.** Any grouping of Protected Trees which are ecologically or aesthetically related to each other such that the loss of several of them would cause a protected ecological, aesthetic or environmental impact in the immediate area, as determined by a certified arborist. In sections (d), (e), (g), and (h) of this ordinance, the term "tree" shall refer to each and every tree in the Community of Protected Trees that is proposed for removal.
- B. **Heritage Tree.** A tree of any species with a single trunk of 90 inches in circumference or more at a point four and one half feet (4 ^{1/2'}) above the ground or with multiple trunks, two of which collectively measure 72 inches in circumference or more at a point four and one half feet (4 ^{1/2'}) above the ground.

- C. **Indigenous Tree.** A tree which is native to the Gilroy region, including oaks (all types), California Bay (*Umbellularia californica*), Big Leaf Maple (*Acer macrophyllum*), Madrone (*Arbutus menziesii*), California Sycamore (*Platanus racemosa*), California Buckeye (*Aesculus californica*) and Alder (*Alnus glutinosa*).
- D. **Protected Tree.** Any indigenous tree characterized by having a single trunk of thirty-eight inches (38") in circumference or more at a point four and one half feet (4^{1/2'}) above the ground. Nonindigenous tree species and orchards (including individual fruit and nut trees) are exempt from this definition for the purpose of this section.
- E. **Tree.** A woody perennial plant characterized by having a main stem or trunk, or a multi-stemmed trunk system with a more or less definitely formed crown, and is usually over ten feet high at maturity. This definition shall not include trees planted, grown and held for sale by licensed nurseries or the first removal or transplanting of such trees pursuant to and as a part of operation of a licensed nursery business.

3. Permit Required

Gilroy City Code Section 30.38.270 (c) Permit Required states as follows: "It is unlawful for any person to cut down, remove, poison or otherwise damage, kill or destroy or cause to be removed any of the following on any private property without first securing a tree removal permit:

- A Protected Tree
- Greater than 25% of the trees within the outermost dripline of a Community of Protected Trees
- A Heritage Tree

A separate tree removal permit is not required for projects which have been approved through a discretionary process by the Planning Division, Planning Commission or City Council and the removal of Protected Trees or Community of Protected Trees were reviewed to ensure compliance with all requirements of the Protected Tree Removal Ordinance."

4. Arborist Report Required

The application shall include submittal of a report prepared by an arborist certified by the International Society of Arboriculture (ISA) or other equivalent organization acceptable to the Planning Manager. The arborist report shall include all of the following, unless otherwise approved by the Planning Manager:

- Site plan showing location of the tree (include buildings, driveways, etc.)
- Clear pictures of the tree indicating location, details signs of failure or disease
- Description of species of the tree
- Estimated height of the tree
- Circumference at breast height (4'-6") of the tree
- Discussion of the general health of the tree
- Value of the tree according to the ISA tree valuation formula
- Discussion of the tree's risk

- Discussion of why the tree cannot be saved, including consideration of the following techniques:
 - Discussion of risk management pruning
 - Discussion of installation of structural support system
 - Discussion of improving site conditions/cultural conditions
 - Discussion of implementing integrated pest management programs
- Description of the method to be used for removal of the tree
- Reason for removal of the tree
- Proposed replacement tree, including species, size, location.

5. Public Notice

The applicant will be required to post a notice of the proposed removal on the affected tree and in at least two conspicuous locations on the site clearly visible to and readable from public property on a form provided by the Planning Division. The notice must also be mailed to the owners of record of all properties which are immediately adjacent to and directly across the street from the property on which the tree is located. A minimum of 10 days from the date of posting shall be given for comments to be received. No action shall be taken on any application until the applicant has filed an affidavit that such posting and mailing have been accomplished and the review period has expired. Emergency situations, as described below, are not subject to this provision.

6. Application Review and Approval

The Planning Division will review the application for removal of Protected Tree, Community of Protected Trees or Heritage Tree and will determine on the basis of the information provided and the findings listed below whether to approve, approve with conditions or deny the request.

In order to approve an application for tree removal, the following findings must be made:

- A. At least one of the following findings must be made:
 - i. The tree is dead, diseased or in danger of falling
 - ii. The tree is determined to be an immediate threat to life or property
 - iii. The tree is determined to be causing damage or reasonably expected to cause damage to existing buildings or interfere with utility services
 - iv. The retention of the tree restricts the economic enjoyment of the property or creates an unusual hardship for the property owner by severely limiting the use of the property in a manner not typically experienced by owners of similarly situated properties, and the applicant has demonstrated to the satisfaction of the Community Development Director that there are no reasonable alternatives to preserve the tree.
 - v. Retention of the tree would result in reduction of the permissible building envelope by more than twenty-five (25) percent, and

- B. None of the tree management techniques referenced in Section (3), above are deemed feasible to save the tree.

7. Replacement Trees

Any tree approved for removal under this section shall be replaced. Replacement trees shall be of the same species as the tree that was removed unless otherwise approved by the Community Development Director. Replacement trees shall be planted on the same site as the removed tree; however, if the site is inadequate in size to accommodate the replacement tree, the replacement tree may be planted on public property with the approval of the Director of Public Works. Alternatively, the Director of Public Works, at his/her discretion, may accept an in lieu payment equal to the value of the replacement trees required by Table 1, below. The in lieu payment shall include funds sufficient for the care of the replacement tree during their establishment period as determined by the Director of Public Works. The number and size of replacement trees shall be based on the number and size of trees approved for removal, as indicated in Table 1, below. If the tree being replaced is a tree that was required as a part of an approved Landscaping Plan, the replacement species must be consistent with the Landscaping Plan. Otherwise, the replacement tree may be of any species included on the City’s Master Tree Planting Plan.

Table 1 REPLACEMENT TREE REQUIREMENTS		
Trunk Size of Removed Tree (measured at 4 ^{1/2} feet above grade)	Replacement Ratio Required (per tree removed)	
Circumference (inches)	Number of replacement trees	Minimum Size
38 to 75	2	24 inch box
Greater than 75	2	36 inch box
Heritage Trees	2	48 inch box

If a mitigation measure for removal of a Protected Tree, Community of Protected Trees or a Heritage Tree contained in a certified environmental document requires greater numbers or size of replacement trees than specified in Table 1, above, that requirement shall supercede the requirements of this Section.

8. Emergency Situations

In emergency situations caused by the hazardous or dangerous condition of a tree that poses an immediate threat to the safety of life or property, the minimum necessary actions may be

taken to reduce or eliminate the hazard without complying with the other provisions of this Section, except that the person responsible for actions taken to reduce the hazard or to remove the tree shall report such action to the Community Development Department within five working days of that action. Photographs thoroughly documenting the hazardous or dangerous condition of the tree shall be taken prior to any action to reduce the immediate threat. A Tree Removal Permit shall be submitted prior to removal of the tree. The required arborist report shall document the conditions that warrant removal of the tree, including the photographs referenced above.

9. Appeal

Anyone so desiring may appeal the decision of the Community Development Director by written request to the Planning Commission and payment of the appeal fee within twenty (20) days after the date of the decision of the Community Development Director.

9. Enforcement

Violations of this ordinance may result in the issuance of an Administrative Citation imposing a fine in an amount set forth in the schedule of penalties established by resolution of the City Council. In addition, as part of a civil action brought by the city, a court may assess a civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) per violation.