

DIVISION D5

Resource Management

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Chapter I - Hillside, Creek, and Ridgeline Areas

Sections:

- D5-1 - Purpose
- D5-2 - Applicability
- D5-3 - Exemptions
- D5-4 - Hillside, Creek, Ridgeline Area Development Standards
- D5-5 - Design Guidelines
- D5-6 - Slope Methodology

D5-1 - Purpose

This Chapter provides standards for the protection and preservation of hillside, creek, and ridgeline areas. The purpose of this Chapter is to:

1. Preserve significant features of hillsides, creeks, and ridgeline areas in essentially their natural state;
2. Preserve existing vegetation, soils, geology, slopes, and drainage patterns;
3. Preserve the natural topography, including swales, canyons, knolls, ridgelines, and rock outcrops, wherever feasible;
4. Minimize grading and cut and fill practices to retain the natural terrain and character of the hillsides and ridgelines;
5. Avoid development that would result in unacceptable fire, flood, slide, or other safety hazards;
6. Avoid unwarranted, high maintenance costs for public facilities;
7. Provide a mechanism for flexible design of development projects so that development may be clustered to allow environmentally sensitive areas to be preserved as open space;
8. Encourage design of street systems and driveways that blend with the natural contours and minimize extensive grading; and
9. Provide adequate buffer areas between creek corridors and adjacent development, to retain the creek corridors as valuable natural, scenic, and recreational amenities as appropriate.

Definitions of technical terms and phrases used in this Section may be found in Division D8 (Glossary) under "Resource Management."

D5-2 - Applicability

The provisions of this Chapter apply to proposed development, other than Public Works projects, on any sites as identified below:

1. The Resource Management Area and Creeks as identified in General Plan Figure 8-3 (Resource Management); or
2. All property over 500 feet in elevation; or
3. Property with a natural gradient in excess of 10 percent; or
4. Property within 1,000 feet of a major or minor ridgeline;

D5-3 - Exemptions

The provisions of this Chapter shall not apply to:

1. The Built Urban Land as identified in General Plan Figure 8-3 (Resource Management), except for creek setback regulations.

D5-4 - Hillside, Creek, and Ridgeline Area Development Standards

A. Development standards. Development proposed within the Hillside, Creek, and Ridgeline Areas shall comply with the development standards of the primary zone, except as follows.

1. **Density.** The density on all developable and undevelopable land shall be limited to the following densities based upon the existing natural slope as determined by the method described in Section D5-6 (Slope Methodology).

Slope	Density
Greater than 20 percent	1 dwelling unit per 320 acres
15 to 20 percent	1 dwelling unit per 5 acres (1)
10 to 15 percent	1 dwelling unit per 1 acre (1)

Note: (1) Densities may be averaged over the project site (Within these density ranges, units may be transferred so as to create a relatively even density gradient from higher density on 10 percent slopes to lower density on 20 percent slopes, without increasing the total number of units.)

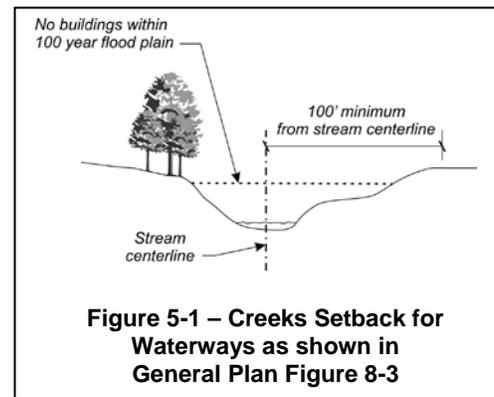
Densities on undevelopable land may be exercised only upon transfer to developable land. Undevelopable land is defined by Zoning Ordinance Division D8 (Glossary) as:

- a. Land with an existing, natural slope in excess of 20 percent with a minimum elevation differential of 40 feet and a minimum contiguous area of three acres; or
- b. Riparian corridors or associated vegetated areas of creeks, intermittent streams, perennial streams, or lakes.

2. **Height Limit.** Structures shall be limited to 32 feet in height measured from the lowest to the highest points of the structure which are above the ground. The review authority may allow up to a 15 percent increase in height for multi-family development projects that incorporate sustainable building and development practices similar to Leadership in Energy and Environmental Design (LEED) Gold or Platinum certifications.
3. **Building prohibited on “undevelopable land.”** No building shall be allowed on undevelopable land, as defined in Zoning Ordinance Division D8 (Glossary) under "Resource Management," and the land shall not be included in density calculations that establish the development potential of a site. However, permanent open space dedication may include “undevelopable land” (see General Plan Table 4-4). Streets, driveways, non-residential accessory structures, park and recreation facilities and utilities may be constructed on undevelopable land. The review authority may allow minor grading (three acres or less) with review to create buildable lots on otherwise undevelopable land if a corresponding amount of contiguous land with slopes less than 20 percent is retained by deed restriction as permanent open space.
 - a. **Exception:** A single-family dwelling shall be permitted on a lot created prior to October 25, 2012, provided there is a suitable building site and all structures, driveways and grading conform to the standards of this Section.
4. **Ridgeline setback.** No structure shall be located within 100 feet, measured vertically, of the centerline of a major ridge, or within 50 feet, measured vertically, of the centerline of a minor ridge. For purposes of this Section, the ridge centerlines shall be as identified in General Plan Figure 8-3 (Resource Management), unless the review authority approves a more precise delineation, based on a topographic map with a contour interval of not more than 10 feet.
 - a. **Exception:** Within pocket areas, as defined in Zoning Ordinance Division D8 (Glossary) under "Resource Management," the vertical ridge setback may be reduced by up to 50 percent and buildings may project, measured vertically, up to 33 percent into the reduced ridge setback area on not more than 25 percent of the lots upon making the following special Variance findings in addition to the Variance findings in Zoning Ordinance Section D6-29 (Variances):
 - i. The pocket development will not significantly impact visually, neighboring communities; and
 - ii. The exception meets the intent of the Zoning Ordinance.

Where structures are proposed within 1,000 feet of a major ridge as identified in General Plan Figure 8-3 (Resource Management), the building pad shall be graded and the building designed so that the structure maintains a low-profile appearance and conforms to the natural grade of the hillside, as determined by the review authority.
5. **Street and driveway grades.** Maximum street grades shall be 12 percent, and maximum driveway grades shall be 15 percent. Special streets, including one-way streets, split-level streets, and dead-end streets, and minor variations from the maximum grade standard, may be allowed when the review authority determines that their use is justified by detailed engineering and traffic circulation studies submitted by the applicant and approved by the City Engineer finding that the streets are necessary to achieve the purposes of this Section.

6. **Creek setback.** No habitable structure shall be located within 100 feet of the centerline of a creek or stream channel identified in General Plan Figure 8-3 (Resource Management) plus any additional horizontal distance to be determined by an approved drainage report; provided that no habitable structure shall be located midslope or within the 100 year flood plain plus one foot of free board. Improvement within the setback areas shall be limited to open space and recreation amenities and access roads incidental to achieving effective circulation patterns.



- a. **Exception:** A required creek setback may be modified to avoid a “taking” of private property if the review authority can make the following special Variance findings in addition to the Variance findings in Zoning Ordinance Section D6-29 (Variances):
- The modification is consistent with the General Plan;
 - Riparian vegetation comprises less than 50 percent of the plant species within the normal 100-foot setback area;
 - There is no historical evidence that riparian vegetation could be easily reestablished within a five-year period; and
 - A reduced setback will not expose structures to bank erosion, or flooding damage, increase downstream flooding, flood hazard or impair access to the creek or stream channel for maintenance.
7. **Creek Setback Development Standards.** Development within a creek setback shall meet the following development standards:
- Alteration of natural features.** No grading or filling, planting of exotic/non-native or non-riparian plant species, or removal of native vegetation shall occur within a creek or creekside setback area, except where authorized for flood control purposes and by the proper permits issued by the California State Department of Fish and Game, all other applicable State and Federal agencies having authority over the creek
 - Design of drainage improvements.** Where drainage improvements are required, they shall be placed in the least visible locations and in manners that achieve natural appearance through the use of river rock, earthtone concrete, and landscaping with native plant materials.
 - Use of permeable surfaces.** The proposed development should incorporate permeable surfaces (for example, wood decks, sand-joined bricks, and stone walkways) where feasible, to minimize off-site flows and facilitate the absorption of water into the ground.
 - Creek bank stabilization.** Development or land use changes that increase impervious surfaces or sedimentation may result in channel erosion. This may require measures to stabilize creek banks.
 - Creek rehabilitation is the preferred method of stabilization, with the objective of maintaining the natural character of the creek and riparian area. Rehabilitation may include enlarging the channel at points of obstruction, clearing obstructions at points of constriction, limiting uses in areas of excessive erosion, and restoring riparian vegetation.
 - Concrete channels and other mechanical stabilization measures shall not be allowed unless no other alternative exists.

- iii. If bank stabilization requires other than rehabilitation or vegetative methods, hand-placed stone or rock rip-rap are the preferred methods.
- e. Physical and visual access.** The following physical and visual access standards shall apply unless a resource agency establishes a different standard for the project:
- i. Public access and visibility to creeks should be provided through the use of single-lane width frontage roads adjacent to creeks, but outside of the creek setback. Structures or lots that back-up to creeks or creek frontage roads are discouraged.
 - ii. The provision of multipurpose creekside trails and public open space is encouraged. Open space areas should include planting for riparian enhancement with native shrubs and trees, paths and trails, lighting, benches, play and exercise equipment, and trash receptacles outside of the riparian habitat area, where appropriate.
 - iii. Where streets are not used, frequent access to creekside trails and public open space should be provided at least every 300 feet, and may occur at the end of cul-de-sacs.

D5-5 - Design Guidelines

A. Design Guidelines. Development proposed within the Hillside, Creek, and Ridgeline Areas shall consider the following guidelines:

1. **Natural terrain alteration.** Alterations of existing natural or artificial contours of land shall be minimized. Any natural contour altered by grading shall be rounded and shaped to simulate natural terrain, unless on an individual site this would diminish open space or significant natural features of the site. Grading shall follow the natural topographic contours as much as possible, allowing for multi-level foundations to accommodate differences in grade.
2. **Viewshed Criteria.** Development within the Hillside, Creek, and Ridgeline Areas shall consider the following viewshed criteria to promote architecture and designs that are compatible with the natural hillside terrain and minimize visual impacts:
 - a. Retain a significant portion of natural on-site vegetation to naturally screen structures;
 - b. Design and install landscaping to substantially screen structures;
 - c. Design project and site lighting to minimize off-site visibility and glare;
 - d. Blend the exterior color and materials with the surrounding vegetation and landforms;
 - e. Use of non-reflective windows and trim; and
 - f. Design roof angles and composition to conform to existing landforms and landscape

Additional photosimulations, studies, and/or other submittal items may be required by the review authority to determine compliance with the viewshed criteria.

3. **Building and structure design standards.** The following standards are intended to ensure that the design of structures conform to the natural land form and enhance the character of the site.
 - a. The use of multi-level foundations (floor levels separated by a minimum of four feet) shall be encouraged as the standard design for residential structures located on natural

hillsides with slopes of 15 to 20 percent. This requirement does not apply to lots created prior to October 25, 2012.

- b. Roof lines shall relate to the surrounding slope and topography.
- c. Second-story levels of structures shall incorporate a variety of bays, recesses, overhangs, or setbacks, at the downhill side of the structure so that the appearance of vertical mass and the visual impact on the surrounding area are reduced.
- d. All fencing shall be designed and located to be compatible with existing and proposed buildings and surrounding open space.
- e. Exterior mechanical equipment shall be screened from public view. Equipment to be screened includes heating, air conditioning, refrigeration equipment, plumbing lines, ductwork, and transformers. Screening of the top of equipment may be required if necessary to protect views from a Residential Zone.
- f. Exterior structural supports and undersides of floors and decks not enclosed by walls or otherwise screened and more than 12 feet high may be approved only if the Review Authority finds that no alternative type of construction is feasible, and fire-safety and design considerations have been adequately addressed.
- g. A driveway serving three or more residences and that is not entirely visible from both ends shall have passing turnouts. Each driveway shall comply with minimum widths prescribed by the City Engineer.
- h. A dwelling unit adjoining a street where parking is prohibited on both sides shall provide adequate guest parking as required by the Zoning Ordinance.

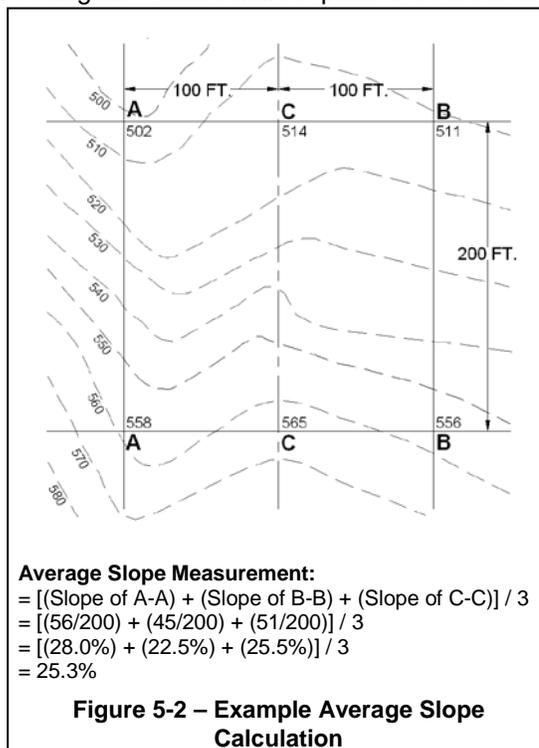
D5-6 - Slope Methodology

A. The purpose of this section is to establish slope methodology standards to achieve consistent application of the Hillside, Creek, and Ridgeline Development Standards in Section D5-4.

1. **Grid.** On a subject property, apply a 200 ft. by 200 ft. grid. Grids shall be placed as close as parallel as possible with the existing contour lines. Contour lines shall be drawn with a maximum interval of 10 ft. with 5 ft. intervals preferable.
2. **Slope.** Determine the average slope of each individual grid square. The average slope is determined by taking three (3) slope measurements within each grid square as follows:
 - a. Along the left boundary;
 - b. Along the right boundary, and
 - c. Along the center.

Average slope is determined by dividing the sum of the three measurements by three (3).

3. **Allowed Density.** Determine the allowed density for all full grid squares and partial grid squares based upon Section D5-4.A.1. The total density shall equal the sum of the allowed density for all full grid squares and partial grid squares.
4. **Net Developable Area.** Determine the net developable area by deducting from the gross area the following areas on which buildings and/or structures are prohibited:
 - a. Existing natural slopes greater than 20 percent;
 - b. Major and minor ridge and creek setback areas as identified in General Plan Figure 8-3 (Resource Management)
5. **Net Density.** Determine net density as the Allowed Density divided by the Net Developable Area.
6. **General Plan Density.** Compare the Net Density with the permitted General Plan density.



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Chapter II - Tree Preservation and Protection

Sections:

- D5-7 - Purpose
- D5-8 - Applicability
- D5-9 - Tree Permit Application Requirements
- D5-10 - Tree Planting and Replacement
- D5-11 - Tree Permit Approval or Denial
- D5-12 - Post Approval Procedures

D5-7 - Purpose

This Chapter provides regulations for the protection, preservation, maintenance, and replacement of:

- A. Native oak trees;
- B. The habitat values of oak woodlands;
- C. Trees of historic or cultural significance;
- D. Groves and stands of mature native trees; or
- E. Mature trees and native habitat in general.

D5-8 - Applicability

- A. Applicability to protected trees.** The provisions of this Chapter shall apply in all zones to the removal or relocation of any protected tree as defined below unless exempt as determined in subsection C of this section. A protected tree is any of the following:
 - 1. A native oak tree with a diameter of six or more inches as measured 54 inches above the ground.
 - 2. A heritage, or landmark tree or grove identified by City Council Resolution.
 - 3. Significant groves or stands of trees identified by City Council Resolution.
 - 4. A tree required to be planted, relocated, or preserved that is specifically identified as a condition of approval for a Tree Removal Permit or other discretionary permit, and/or as environmental mitigation for a discretionary permit.
 - 5. A tree within 100 feet of a perennial stream, or within 50 feet of a seasonal stream that is six inches or more in diameter as measured at 54 inches above the ground.
 - 6. A mature tree other than those listed in Subsections A.1 through A.4, that is eight inches or more in diameter as measured at 54 inches above the ground that is not otherwise exempt from the requirement of this Chapter.
- B. Tree Removal Permit required.**
 - 1. **Activities requiring a permit.** A Tree Removal Permit shall be required prior to:
 - a. Relocation, removal, cutting-down, or other act that causes the destruction of a protected tree;

- b. Issuance of building or grading permits resulting in the removal of a protected tree; or
 - c. The approval of a, Development Plan, Use Permit, Minor Use Permit, Variance, or subdivision map, hereafter referred to as "discretionary projects" resulting in the removal of a protected tree.
- C. Exceptions.** The removal or relocation of a protected tree is exempt from the provisions of this Chapter under the following circumstances and shall not require the issuance of a tree removal permit:
- 1. **Trees exempt from a permit.** In all zones a willow tree, fruit tree, eucalyptus tree, alder tree, cottonwood tree, pine tree, redwood tree, or similar ornamental tree, as determined by the Director, are not protected trees.
 - 2. **Existing trees on single-family residential property that cannot be further subdivided.** Within a RC, HR, RE, RS, RM and PD residential zones, the removal of an existing tree of the type described in Subsection A.6 shall be exempt from a tree removal permit.
 - 3. **Nursery.** Removal of trees planted, grown, or held for sale by a nursery, tree farm, or similar commercial operation.
 - 4. **Orchards.** Removal of orchards or fruit trees grown, planted, or held for sale for cash crop or commercial purposes.
 - 5. **Dead trees.** Any protected tree which is determined by the Director, or an arborist approved by the Director, to be dead, has become hazardous or unsightly as a result, and provides limited habitat value.
 - 6. **Emergency situation.** Cases of emergency where the Director, City Engineer, a member of a law enforcement agency, or the Fire Department determines that a protected tree poses an imminent threat to the public safety, or general welfare such as but not limited to:
 - a. **Traffic visibility obstructions.** Removal or relocation of trees necessary to maintain adequate line-of-sight distances as required by the Director, or City Engineer.
 - b. **Public utility damage.** Removal of trees for the protection of existing electrical power, communication lines, or other utility facilities.
- D. Enforcement.** Any person who cuts, damages, or moves a protected tree in violation of this Chapter shall be subject to the enforcement provisions of the Municipal Code.

D5-9 - Tree Removal Permit Application Requirements

- A. Application contents.** An application for a Tree Removal Permit shall contain the information as required by the Director which may include submittal of studies such as an Arborist report or Arborist's statements disclosing the conditions of trees to be removed and reasons for the removal.
- B. Application filing.**
- 1. **Discretionary Project:** An application for a Tree Removal Permit involving a discretionary project shall be included as part of the application for the discretionary project, and the review authority for a discretionary project shall act upon the application.
 - 2. **Non-discretionary Project:** An application for a Tree Removal Permit not associated with a discretionary project shall be filed with the Planning Services Division, and the Director or Director's designee shall act upon the application.

D5-10 – Tree Planting and Replacement

The City's principal objective for the Tree Removal Permit process is the preservation and replacement of protected trees. Where the review authority determines that preservation is infeasible, replacement plantings or in-lieu fees may be required in compliance with this Section.

Replacement Trees for Existing Development

Removal of protected trees on already improved commercial or single-family residential property may be subject to replacement trees as determined by the Director or an arborist's recommendation approved by the Director. The tree replacement ratio may depend on the ability of the property to accommodate replacement trees, as determined by the Director or an arborist's recommendation approved by the Director.

Replacement Trees for Proposed Development

Subsection A through D are applicable to proposed subdivisions, new developments and/or other project requiring discretionary approval.

- A. Extent of replacement required.** The review authority may condition any Tree Removal Permit for the removal of a protected tree upon the replacement of trees in kind. The replacement requirement shall be calculated as provided by Table 5-1. The review authority may reduce the required number of replacement trees if it is determined that the subject site would not adequately support the total number of required replacement trees. The review authority may approve a replacement program using one of the methods identified in Subsections B. through D., or any combination of the methods.

TABLE 5-1 - REQUIRED REPLACEMENT TREES

Species of Tree to be Removed	Diameter of Tree to be Removed ⁽¹⁾	Mitigation Value (required number of replacement trees)	Required Size and Species of Replacement Trees for Mitigation Value
Blue oak	6 to 9 inches	8	15-gallon blue oaks
	10 to 15 inches	12	
	16 to 25 inches	20	
	26 or more inches	26	
Valley oak	6 to 9 inches	6	15-gallon valley oaks
	10 to 15 inches	9	
	16 to 25 inches	15	
	26 or more inches	19	
Live oak	6 to 9 inches	4	15-gallon oaks
	10 to 15 inches	6	
	16 to 25 inches	10	
	26 or more inches	13	
Other protected tree	19 to 25 inches	12	15-gallon trees
	26 or more inches	15	

Notes:

- (1) Diameter shall measure at a point 54 inches above the ground at the base of the tree.

- B. Location and specifications for replacement trees.** The replacement trees required by Table 5-1 shall be planted on site (the City's preferred method of mitigation), except that the review authority may authorize other areas within the City where maintenance to ensure survival of the trees will be guaranteed.
1. All replacement trees shall be of the same native species as the trees being removed. In the case where an approved tree replacement location is characterized as non-native habitat such as an incompatible ornamental landscape, urban development, and/or narrow roadway median, the replacement tree may be non-native species.
 2. Up to 50 percent of the required replacement trees may have a 5-gallon container size, where the review authority 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 15 gallons will not be in a location where it will be more subject to damage while it is becoming established than a larger tree.
 3. Replacement trees shall be in addition to any trees required by provisions of this Zoning Ordinance other than this Chapter (e.g., required parking lot landscaping or street trees).
- C. Revegetation.** The review authority may, instead of requiring replacement trees, require implementation of a revegetation plan.
1. The Developer shall enter into a written agreement with the City obligating the developer to comply with the requirements of the revegetation program.
 2. A performance security or bond for 150 percent of the cost of the revegetation plan shall be required to insure that the agreement is fulfilled.
 3. The revegetation program shall propagate native oak trees from seed using currently accepted methods, and shall identify the seed source of the trees to be propagated, the location of the plots, and the methods to be used to ensure success of the revegetation program.
 4. A revegetation program shall not be considered complete until the trees to be propagated have survived in a healthy state for a minimum of 10 years, or the Commission has approved a revegetation program which demonstrates the need for alternative success criteria and achieves mitigation on an inch-for-inch basis.
- D. 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 and irrigating the number of 15-gallon trees required by Table 5-1 and maintaining for five years. The in-lieu fee shall be calculated based on the unit cost (materials and labor) commonly used in estimating the landscape improvements at the time of the subject applications are deemed to be complete. The in-lieu fee shall be deposited into one of the following funds, as determined by the review authority:
1. **Oak Tree Propagation Fund.** This fund shall be used to propagate and protect native oak trees. Uses of the fund include, but are not limited to, purchasing property to plant or protect native oak trees, propagating native oak trees from seed or container stock and maintaining existing native oak trees.
 2. **Non Native Tree Fund.** This fund shall be used to purchase and plant non-native trees within San Ramon. Uses of the fund include, but are not limited to, purchasing and propagating non-native trees from seed or container stock and maintaining existing non-native trees.
- E. Conditions for tree removal to accommodate agriculture.** A Tree Removal Permit may be granted to allow tree removal within the HR, RC, and RE, zones to accommodate a commercial agricultural use, which is subject to a Minor Use Permit, without mitigation in compliance with Subsections A. through D., subject to the following conditions:

1. The agricultural use, as proposed and ultimately established, shall be limited to crop production, horticulture, orchards or vineyards, but shall not include grazing or other animal uses;
2. The Tree Permit shall be exercised within one year;
3. Once tree removal is commenced, the proposed replacement agricultural use shall be in place within 24 months of the removal of the first tree, or mitigation shall be required in compliance with Subsections A. through E.;
4. Once the replacement agricultural use is established, it shall be maintained for a minimum of five years. If the agricultural use is terminated before five years, and/or if a subdivision application for non-agricultural development is filed with the City within that period, or mitigation shall be required in compliance with Subsections A. through D.; and
5. The approved tree removal and subsequent agricultural use shall retain existing trees:
 - a. Around existing and proposed buildings;
 - b. Adjacent to parcel boundaries; and
 - c. In significant groves, as determined by the Director.

D5-11 – Tree Permit Approval or Denial

Each Tree Removal Permit application shall be reviewed, and approved or denied in compliance with this Section.

A. Application evaluation criteria. The following criteria shall be used to support the findings required by Subsection B. for the approval of a Tree Removal Permit.

1. General criteria.

- a. The gross floor area of proposed buildings in relation to the "usable" size of the site and the amount of usable space on the site that does not require the removal of protected trees;
- b. Design features in comparison with other existing or approved projects in the vicinity and in the same zone that have or had protected trees on their sites;
- c. Factors that are unique to the site, such as topographic constraints, lot configuration and other physical limitations;
- d. The overall health and structural condition of the potentially impacted protected trees;
- e. The approximate age of each protected tree compared with the average life span for each species;
- f. The number of healthy protected trees that the site will support, with and without the proposed development;
- g. The effect of tree removal on soil stability/erosion, particularly near watercourses or on steep slopes;
- h. Whether there are any alternatives that would allow for the preservation of the protected tree; and

- i. Any other information the review authority finds pertinent to the decision, including any information obtained at a public hearing.

2. Criteria for removal.

- a. The age of the protected tree with regard to whether its removal would encourage healthier, more vigorous growth of younger similar trees in the area;
- b. The number of existing protected trees in the area and the effect of removal upon public health, safety and the general welfare of the area;
- c. The potential for the protected tree to be a public nuisance or interfere with utility service, as well as its proximity to existing structures; and
- d. Present and future shade potential with regard to solar heating and cooling.

3. Criteria for encroachment. Whether the degree of encroachment is likely to result in the subsequent decline of the affected protected tree or create a future risk to public safety or pose a hazard to adjacent structures.

B. Required findings for approval. 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; and
2. Measures have been incorporated into the project or permit to mitigate impacts to remaining trees or to replace the trees removed.

C. Considerations for denial of a Tree Permit. A Tree Removal Permit shall be denied if the review authority finds that any one of the following situations exists.

1. Removal or damage of a healthy tree could be avoided by:
 - a. Reasonable redesign of the site plan;
 - b. Trimming, thinning, tree surgery, or other reasonable treatment, as determined by the review authority.
2. Adequate provisions for drainage, erosion control, land stability, windscreen, buffers along the road and between neighbors have not been made where these problems are anticipated as a result of the removal.
3. The tree to be removed contains an active nest of a bird covered by the Migratory Bird Treaty Act, that has been identified through the project environmental review process or that is otherwise known to the review authority, and a qualified professional has determined that the relocation of the nest without damage to the nestlings is not possible. In this case, tree removal shall be delayed until nesting is complete.

- D. Limitation on approved activities.** A Tree Removal Permit shall not be issued for temporary parking, or the storage of vehicles, trailers, equipment, construction materials, or temporary structures within the protected zone of a protected tree.
- E. Conditions of approval.** The approval of a Tree Removal Permit shall include conditions of approval as necessary to ensure compliance with Section D5-8 (Tree Planting and Replacement).
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D5-12 – Post Approval Procedures

The following procedures apply after the approval of a Tree Removal Permit application.

- A. Appeals.** The decision of the review authority shall be final unless an appeal is filed in compliance with Chapter D7-II (Appeals and Calls for Review).
- B. Expiration/extension.** Except where otherwise provided by this Chapter, a Tree Permit shall be exercised within six months from the date of approval or other time limit established through a concurrent land use permit approval. Time extensions, for up to a total of two additional years, may be granted in compliance with Chapter D6-III (Permit Implementation, Time Limits, and Extensions). A Tree Permit not exercised within its time limits shall expire in compliance with Chapter D6-III.
- C. Performance guarantee.** The review authority may require that a monetary security deposit be posted and maintained where deemed necessary to ensure:
1. The preservation of protected trees during construction;
 2. The completion of required mitigation measures; and
 3. In the case of tree removal within the RC zone to accommodate an agricultural use, the establishment of the proposed agricultural use.

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 Removal 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 D7-II.

- D. Construction monitoring.** Monitoring of tree protection and restoration measure specified as conditions of approval shall be performed by site inspection conducted by the Director or the Director's designee.
- E. Revocation.** A Tree Removal Permit may be revoked or modified, as deemed necessary by the Director, with any of the following findings that the tree removal, relocation, or protection activities:
1. Cannot support the original findings;
 2. Resulted from misrepresentation or fraud;
 3. Has not been implemented in a timely manner;
 4. Has not met, or has violated any condition of approval;
 5. Is in violation of any code, law, ordinance, or statute;
 6. Is detrimental to public health, safety, or welfare; or
 7. Constitutes a nuisance.

- 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.