



A RESIDENT’S GUIDE TO THE DEL MAR TREE ORDINANCE

Why We Protect Our Trees

The City of Del Mar has what many would call, a “community,” or “urban” forest. The continued preservation of this forest is one of the major goals of the Del Mar Community Plan. The Torrey Pine and the Monterey Cypress, which are two of the most unique species in our urban forest, have gained a highly valued, and protected status in the City of Del Mar. The Torrey Pine tree is widely associated with the City of Del Mar and is an unofficial symbol of the City.

What Kind of Trees Are Protected?

Protected trees in Del Mar include the Torrey Pine (*Pinus torreyana*) and the Monterey Cypress (*Cupressus macrocarpa*). Protected trees also include all tree species located within the Central Commercial (CC) Zone and the environmentally sensitive Open Space (OS) Overlay Zone (provided the tree exceeds a certain size). Additionally, a protected tree also includes any species of tree located within the public-right-of-way, on publicly owned property, or any tree planted as a required condition of an approved of a Tree Removal Permit (TRP), regardless of size.

What Is a Tree Removal Permit?

A Tree Removal Permit (TRP) is authorization, from either the Director of Planning and Community Development, or the Design Review Board to cut down, remove, destroy, or move a Protected Tree. The Director of Planning and Community Development is the permit-issuing authority in most cases. The Design Review Board only acts with the approval of an associated development permit. Currently, the application fee for a TRP is **\$550.00**. The trimming or pruning of a protected tree, which is located completely on private property, does not require a TRP or City authorization. A fillable PDF TRP application, and a TRP guide are available online at the following links:

TRP Application

<https://www.delmar.ca.us/DocumentCenter/View/95/Tree-Removal-Permit-Application-PDF>

TRP Guide

<https://www.delmar.ca.us/DocumentCenter/View/96/Tree-Removal-Permit-Guide-PDF>

*Fee quoted as of July 24, 2023. Please check with the Planning Dept for any update in fees.

An application for the removal of a tree that is dead, diseased, or deemed a safety hazard must be supported by the assessment, and written report of a Certified Arborist. The Arborist's fees for the assessment and report are at the Applicant's expense. The following link is offered as a research tool in finding a Certified Arborist.

Find a Certified Arborist

<https://www.isa-arbor.com/For-the-Public>

If the Planning Director determines that the professional review of the City's Arborist is necessary for a particular application, a \$300.00 deposit will be required to pay for the City Arborist's services. Any unused portion will be returned to the Applicant.

Exemptions - Notices of Intent (NOI)

There are times when the removal of a Protected Tree located on private property will be exempt from requiring a Tree Removal Permit. If the Protected Tree qualifies for one of the below listed exemptions, you must first submit a Notice of Intent (NOI) application to the Planning Department for review, and a site inspection will be conducted within 48 hours to assure that the tree qualifies for an exemption. A Notice of Intent only applies to Protected Trees located on private property. Currently, the application fee for an NOI is ***\$310.00**. An NOI application can be found on the City's website at the following link,

<https://www.delmar.ca.us/DocumentCenter/View/81/Notice-of-Intent-Application-PDF>

Section 23.50.050 of the Del Mar Municipal Code lists those exemptions as,

1. When measured two feet above ground level,
 - (a) the Protected Tree has a single trunk circumference of 20 inches or less and is not a replacement tree pursuant to Section 23.50.090, or
 - (b) the Protected Tree has multi-trunks having a total circumference of 30 inches or less and is not a replacement tree pursuant to Section 23.50.090.
2. When measured two feet above ground level, the trunk of the Protected Tree is located no more than 12-feet from the exterior wall of any Primary Structure or Accessory Structure.
3. When both trees are measured two feet above ground level, the Protected Tree is located no more than 12-feet from another Protected Tree. Only one of the Protected Trees may be removed.
4. When the removal of a Protected Tree is required for the immediate protection of the public's safety. (This refers to imminent and immediate danger only).

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Are There Penalties for Removing a Protected Tree Without a TRP?

Yes. DMMC 23.50.030 (d) states that any person who cuts down, removes, destroys, or moves a protected tree without first obtaining a TRP, may be subject to fines and/ or imprisonment. Additionally, the violator may have to remedy the situation by replacing the the tree and / or pay an amount equal to the value of the tree that has been removed.

Under What Circumstances Can a Protected Tree be Removed?

DMMC 23.50.080 lists all acceptable reasons for which a Tree Removal Permit may be approved. In short, they include the following. Please refer to the DMMC 23.50 link for more details.

[https://library.municode.com/ca/del_mar/codes/municipal_code?nodeId=TIT23BUCO_CH23.50
TR](https://library.municode.com/ca/del_mar/codes/municipal_code?nodeId=TIT23BUCO_CH23.50_TR)

- The tree is dead, diseased, or severely injured beyond reclamation – requires a Certified Arborist Report.
- The tree is crowded by other healthier Protected Trees – Certified by a tree condition report from an Arborist.
- The tree is interfering with public or private utilities and the situation cannot be reasonably remedied.
- The tree has been determined to be a future safety hazard by a Certified Arborist - A tree condition report that includes an ISA Hazard Evaluation or other acceptable methodology is required.
- Required by the Planning Commission by way of the Tree, Scenic View and Sunlight process.
- The tree qualifies as a fire hazard in accordance with DMMC 23.50.080 (C)(8)
- Voluntary replacement onsite which is in accordance with DMMC 23.50.090 (A)(1) - replacement ratio – a Covenant on the property is required.
- The tree would obstruct proposed improvements that cannot be designed to avoid the need for the tree's removal.

Do I Need to Replace the Tree I Remove?

It is the City's goal to maintain a healthy, diverse a safe community / urban forest, so a replacement is generally required when a Protected Tree is removed. When approving the removal of a Protected Tree, the Director of Planning and Community Development, or Design Review Board will consider the factors associated with the species of the removed tree, the removal site, the surrounding area, and its existing vegetation, as well as other factors when determining whether mitigation measures are necessary.

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There are two forms of mitigation that may be required. One is the replacement of the removed tree in accordance with DMMC 23.50.090 (A) (1), and the other is payment into the tree mitigation fund in-lieu of replacement. If planting a replacement tree is deemed infeasible by the City, then a payment equal to the cost of purchasing, transporting, and planting the required number of trees may be required. These fees are placed in to the City's Tree Mitigation Fund and used to pay for the cost of purchasing and planting other trees elsewhere in the City.

What if my Neighbor Does Not Want me to Remove a Protected Tree?

The decision of the Planning Director and Design Review Board are appealable to the City Council. If your neighbor objects to the TRP approval, they may file an appeal with the City Clerk within 10-business days of the approval date.

Where can I Find the Complete Tree Ordinance?

DMMC 23.50 can be found on the City's website at,

https://library.municode.com/ca/del_mar/codes/municipal_code?nodeId=TIT23BUCO_CH23.50_TR_23.50.110EX