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## A RESIDENT'S GUIDE TO THE DEL MAR TREE ORDINANCE

### **Why protect trees?**

The City of Del Mar has what many 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, 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*), along with all tree species located within the Central Commercial (CC) Zone and the environmentally sensitive Open Space (OS) Overlay Zone, provided they are over a certain size. Additionally, 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 Tree Removal Permit are also protected, no matter what size they are.

### **What is a Tree Removal Permit and when do I need one?**

A Tree Removal Permit is an 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 as the permit-issuing authority when a Tree Removal Permit is needed in association with the approval of an associated development permit. Tree Removal Permit applications are available at City Hall or on the City website at [www.delmar.ca.us](http://www.delmar.ca.us). A \$50.00 (non-refundable) application fee is required. If the Planning Director determines that the professional review of the City Arborist is necessary for a particular application, a \$300.00 deposit will be required to pay the Arborist's services. Any unused portion of the deposit will be returned to the applicant. **TRIMMING OR PRUNING OF PROTECTED TREES ON PRIVATE PROPERTY DOES NOT REQUIRE CITY AUTHORIZATION.**

## **What is a Notice of Intent?**

Sometimes, protected trees are exempt from the provisions of the Tree Ordinance (removal permit requirement). Section 23.050.050 lists four different situations for which a Tree Removal Permit may not be required and, in summary, they are as follows:

- 1) If the circumference of the tree, when measured 2-feet above the ground is less than 20-inches for a single-trunk tree, or 30-inches for a multi-trunk tree.
- 2) If, when measured two-feet above the ground, the trunk of the tree is located no more than 12-feet from the exterior wall of any residential structure.
- 3) If, when measured two-feet above the ground, the trunk of the tree is located no more than 12-feet from another protected tree.
- 4) If the emergency removal of the tree is necessary for the immediate protection of public health, safety and welfare.

If you would like to remove a tree that qualifies under the above-mentioned standards, you must first submit a Notice of Intent form to the Del Mar Planning Department for review (forms are available at City Hall or on the City website at [www.delmar.ca.us](http://www.delmar.ca.us)). Planning Department staff will then verify whether the subject tree does, in fact, qualify for the exemption stated on the submitted form.. There is no fee for a Notice of Intent submittal. PLEASE NOTE: Notices of Intent do not pertain to trees located within the public right-of-way or on publicly-owned property.

## **Can I get in trouble for removing a Protected tree without a Permit?**

Yes, you can. Pursuant to DMMC 23.50.030-D, any person who cuts down, removes, destroys or moves a protected tree without first having obtained a Tree Removal Permit, may be subject to a fine and/or imprisonment. Additionally, such a person may have to remedy the situation they caused by replacing the protected tree and/or pay an amount equal to the value, as determined by the City Arborist, of the removed tree.

## **What is an acceptable reason to have a Protected Tree removed?**

Section 23.50.080 of the Tree Ordinance contains all the acceptable “reasons” for which a Tree Removal Permit can be approved. In short, they include the following (please refer to DMMC Chapter 23.50 for more detail):

- The tree is dead, diseased or severely injured.
- The tree is crowding, or is crowded by other (healthier) protected trees.
- The tree is interfering with public or private utilities and the situation cannot be reasonably remedied.
- The tree has been determined to be a safety hazard
- Removal of the tree has been recommended by the Trees, Scenic Views and Sunlight Board.
- The tree qualifies as a fire hazard(in accordance with DMMC 23.50).
- The tree owner is willing to replace the tree, on site, with 1-3 trees (depending on the size of the tree removed).
- The tree would obstruct proposed improvements and no reasonable design solutions can be identified to avoid the need for tree removal.

## *How does the fire safety reason for removing a protected tree work?*

*The ordinance states that a Tree Removal Permit request for any protected tree that is located within thirty-feet of a Primary or Accessory Structure may be approved if the canopies of the subject trees cannot be reduced (trimmed) so as to: 1) avoid overhanging the roof of a Primary or Accessory Structure; and 2) be at least ten-feet (clear) from the canopy of any other tree; and 3) be at least ten-feet from the chimney of any residence. The feasibility of reducing the tree(s) canopy would be determined by the City's Arborist and Fire Chief.*



*1"=30'*

*In the above shown scenario, all three trees are Torrey Pines. Two of the trees are within thirty-feet of the Primary Structure. The tree to the right of the house would not be eligible for a Tree Removal Permit because its canopy is not overhanging the house, within ten-feet of the chimney, or within ten-feet of another tree canopy. The canopy of the tree to the left of the house is not within ten-feet of the chimney; however, it is clearly overhanging part of the house. Therefore, a Tree Removal Permit request for the tree to the left of the house could possibly be approved.*

## *If I take a tree out, do I have to put one back?*

*The City's goal is to maintain a healthy, diverse and safe community/urban forest so the planting of new trees is generally required when protected species are removed. When approving the removal of a tree, the Director of Planning and Community Development or the Design Review Board will consider factors associated with the species of removed tree, the removal site, the surrounding area and its existing vegetation, as well as other factors when determining whether or not mitigation measures are necessary.*

*There are two forms of mitigation that may be required. One is replacement of the removed tree. The other is the payment of funds in-lieu of replacing the removed tree. Typically, if mitigation is required, replacement of the removed tree in accordance with the Mitigation Replacement Scale found in DMMC Section 23.50.090 is preferred. However, if the planting of a new tree(s) is deemed infeasible by the City, then a payment equal to the cost of buying, transporting and planting the required number of replacement trees may be remitted to the City. The money would be placed into the Tree Mitigation Fund and used to pay for the planting of trees elsewhere in the City or any other Community Forest-related need deemed appropriate by resolution of the City Council (educational materials, etc.).*

***What if my neighbor doesn't want me to remove a Protected Tree?***

*The decision of the Planning Director or the Design Review Board is appealable to the City Council. If the applicant, neighbor, or any concerned citizen does not agree with the decision to approve (or deny) a Tree removal Permit, that person may file an appeal (an administrative fee is required) with the City Clerk within 10 working days of the date of the decision.*