

7. VIOLATIONS

Violations of this section, including non-conformance with the provisions of a revegetation permit, shall be penalized as provided in Section 15.

8. PRESERVATION AND REMOVAL OF TREES

A Purpose:

The purpose of this section is to recognize that trees are a significant aesthetic and environmental resource within the City of Gearhart and to create conditions favorable to the preservation of this plant heritage for the benefit of the current and future residents of the City. The purpose is not to prohibit the removal of all trees, but to ensure that mature trees are removed only where necessary, and to permit the reasonable development and use of property.

B Definition:

For the purpose of this section, "tree" is defined as follows: Any tree greater than twelve (12) inches in diameter as measured four and one half (4-1/2) feet above the existing grade.

C Applicability:

This section applies to the removal of trees in the City of Gearhart, except that:

D (1) ~~Necessity to remove trees~~ it does not apply to tree removal in order to construct proposed improvements, including the placement of structures and on-site sewerage disposal facilities, access ways, utilities, need to make essential grade changes, and other authorized activities.

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E (2) in the B.A.D. Overlay Zone the preservation and removal of trees are regulated by that zone in Section 3.12.

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D. Requirements:

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(1) Any person proposing to remove, cut down, or otherwise destroy ~~a tree more than five trees within a twelve month period~~ shall first obtain a minor or major tree removal permit from the City.

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(2) One or more minor tree removal permits may be granted for the removal of up to five total trees within any twelve month period. Upon submittal of a complete application and verification by City staff that the proposed permit will not authorize the removal of more than five trees in a 12 month period, the permit shall be issued.

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~~(4)(3)~~ Removal of more than five trees within any twelve month period may be permitted as a major tree removal permit. The Planning Commission may grant or deny a request for a major tree removal permit on the basis of the criteria set forth below in Section 6.070(8)(E), except as provided in Section 6.070(8)(F) below.

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~~(2)(4)~~ Such conditions as are deemed necessary and appropriate to ensure the proper enforcement of this section may be made part of the major removal permit. Such conditions may involve, but are not limited to the following:

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- a. The replacement of the trees proposed for removal with trees of a suitable type, size and location.

b. A Plan for protecting trees on the project site during and after development.

c. Restrictions on cuts, fills and grading within the vicinity of remaining trees.

~~(3)~~(5) Tree removal that is to be undertaken in conjunction with a specific development project shall occur only after a building permit has been issued, or the Planning Commission or City Council has approved an activity requiring the removal of the trees.

~~(4)~~(6) An approved tree removal permit shall be void after one year from its issuance unless a shorter period was specified as a condition for approval.

E. Criteria: The granting of a major tree removal permit shall be based on a finding that at least one of the following criteria is met:

~~(5)~~(1) Necessity to remove trees which poses a safety hazard.

~~(6)~~(2) Necessity to remove trees which are diseased. Evidence of disease shall be provided by a qualified forester or arborist.

~~(7)~~(3) ~~Necessity to remove trees in order to construct proposed improvements, including the placement of structures and on-site sewerage disposal facilities, access ways, utilities, need to make essential grade changes, and other authorized activities.~~

~~(8)~~(4) Solar access; and the need to remove trees which deposit needles or other debris on rooftops.

The burden of proof is on the applicant to show that other design alternatives which do not require the tree removal are not practical or will create a significant economic hardship.

E.F. Exception:

- (1) The City Administrator or designee may grant the immediate removal of trees which pose a safety hazard or dangerous condition, or for a required septic system emergency repair.
- (2) The City Administrator may permit the removal of trees within the footprint of the proposed building, access, or on-site sewage treatment system upon approval of the building permit.

F.G. Appeals of a decision of the City Administrator or Planning Commission shall be in accordance with Section 13.060.

G.H. Enforcement. Enforcement of this section shall be in accordance with Article 15 of this ordinance, or by other ordinances the City Council may adopt to implement the purpose of this section.