

Staff Report

November 1, 2023

To: Gearhart Planning Commission

From: Garrett Phillips, AICP City Planner

City File: Gearhart Zoning Ordinance Amendments: Section 6.070(8) Preservation and Removal of Trees Amendments

Attachments: Draft Amendments

I. Proposal

The proposal is a legislative text amendment to the Gearhart Zoning Ordinance (GZO) Section 6.070(8) Preservation and Removal of Trees. The proposal does not include Comprehensive Plan amendments, Geographically, Section 6.070(8) is applicable everywhere except in the Beach and Dune Overlay Zone. The amendments do not affect the applicable geography of the section.

The existing Gearhart Zoning Ordinance requires a tree removal permit for cutting more than 5 trees in a year, and the permit decision is made by the Planning Commission. The proposed amendments require a tree removal permit for removing less than five trees in a year, give staff the authority to issue the permit, and direct staff to issue the permit upon receiving a complete application.

The proposed amendments were drafted, deliberated over in open Planning Commission meetings, and refined over the course of several months in 2023.

II. Applicable Amendment Review Criteria and Procedures

GZO Section 6.070(8) Preservation and Removal of Trees
GZO Article 11 Amendments
GZO Article 13 Administrative & Procedural Provisions
Gearhart Comprehensive Plan

III. Testimony Received

No Testimony was received prior to completing this report.

IV. Findings

GZO Section 11.010 to 11.030 and related Comprehensive Plan policies on the authority and procedure to initiate and approve amendments.

Finding: Proposed amendments to the Zoning Ordinance are legislative and may be initiated by the Planning Commission, the City Council, or a property owner. After public notice has been provided the amendments shall be reviewed in accordance with the procedures of GZO Article 11 Amendment Criteria and Article 13 Administrative Provisions.

The first evidentiary public hearing by the Planning Commission is to be scheduled and the Planning Commission is to make a recommendation. The Planning Commission will forward their recommendation to the City Council. The City Council will hold a public hearing. A person defined as a "party" to the subject amendment process may appeal the City Council decision to the state Land Use Board of Appeals (Article 12). Anyone who sent a letter or testified at the hearing will be notified of the decisions.

Following review and deliberation about draft amendments over the course of multiple Planning Commission meetings, the Planning Commission in their October 2023 meeting directed staff to prepare hearings ready amendments and schedule a hearing. Staff provided public notice and made this report available to the public consistent with the requirements of Articles 11 and 13.

GZO Section 11.040 Amendment Criteria

Before an amendment to the text of the Zoning Ordinance is approved, findings will be made that it is consistent with the policies of the Comprehensive Plan and there is a public need for the proposed amendment.

Finding: A finding related to the Comprehensive Plan is provided later in this report. There is a public need for the amendment because of the following reasons:

- 1) Mature trees are valued by the public and serve many public purposes including but not limited to the following: providing benefits related to public health, aesthetic appearance, noise reduction, reducing stormwater discharges, removing air pollution, removing carbon from the atmosphere, reducing extreme summer temperatures. Therefore, the public and City have an interest in monitoring and managing trees.
- 2) The City does not have a system for monitoring tree removal activity prior to an applicant requesting approval to remove more than five trees in year. Requiring a permit to remove less than five trees will help ensure that the City has accurate information about tree removal activity to inform decisions on whether to grant approvals for cutting more than five trees in a year and to inform long term tree related policy considerations.
- 3) Staff and planning commissioners report that they regularly are asked by residents to investigate tree removal activity and to identify whether violations of the tree removal requirements are occurring. A permit for all tree removals will ensure that the City has early knowledge about allowed tree removals.

Comprehensive Plan Review Criteria and Findings

Finding: The comprehensive plan references trees in two Goal 5 element policies, and they are quoted here for reference.

“The City will protect identified fresh- water wetlands from conflicting uses and activities, such as filling, drainage and tree removal through the application of a Freshwater Wetland Zone designation.”

"The harvesting of trees for commercial purposes shall be prohibited. In other circumstances, trees may be removed subject to the appropriate standards in the Zoning Ordinance."

These policies are not applicable to the proposed amendments or otherwise the proposed amendments do not conflict with these policies. There are no other policies related to landscaping, the urban forest or other related concepts that conflict with the amendments. Therefore the proposed amendments are consistent with the policies of the comprehensive plan.

IV. Decision Options

- A. Motion recommending approval of the proposed amendments based on the findings in the staff report or on alternate findings.
- B. Motion recommending denial of the proposed amendments based on alternate findings.
- C. Motion to continue the hearing to a future date for further investigation of some issue or to re-draft the proposed amendments.