

TREE PROTECTION GUIDELINES

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TREE PROTECTION GUIDELINES

I. INTRODUCTION AND PURPOSE

The purpose of these Guidelines is to explain and amplify the County's Tree Permit requirements for the benefit of County staff and individuals applying for tree permits and companies performing tree trimming services.

The Ventura County Zoning Ordinance provides for the protection of certain species of trees, defined as "Protected Trees," in Article 7, Section 8107-25 - Tree Protection Regulations. All non-coastal base zones in the unincorporated County are affected by these regulations. In addition, all areas covered by the Scenic Resources Protection Overlay Zone (SRP) and Scenic Highways Protection (SHP) Overlay Zone are affected by these regulations.

II. MINISTERIAL PERMIT APPROVAL STANDARDS

There are several standards that the Planning Director must find have been met before approving a Ministerial Tree Permit. These standards are defined in Sec. 8107-25.6. Outlined below are the standard requirements for the approval of most tree permits.

A. Basic Standards

1. Complete application (Zone Clearance, Project Description, Site Plan and Photos).
2. Payment of permit fees:
 - a) No site visit required
 - b) Site visit required
3. Violations abated or resolvable with permits.
4. Legal lot status established.

B. Certification Statement by Authorized Expert

1. This must be submitted on the expert's letterhead (except necessary agricultural operations, see Sec. 8107-25.6 g & h).
2. The statement must be applicable to the situation and refer to the appropriate Ordinance Section number(s).
3. The expert's qualifications must be apparent and documented with any professional license number and/or membership in organizations.
4. The certification statement must justify the proposed tree alteration.

C. Farm Plan or Forest Resource Management Plan (FRMP) (Sec. 8107-25.6.g & h) if applicable to requested tree removal.

D. Planning Director Imposed Conditions - to ensure that the ordinance requirements are met, conditions relating to proposed activities would be imposed. Example are listed below:

1. Tree tagging and fencing to protect remaining trees.
2. Tree replacement/offsets.
3. Project supervision by County designated arborist.

III. DISCRETIONARY TREE PERMIT APPROVAL STANDARDS

Based on the required application information, the Planning Director shall approve or deny the Discretionary Tree Permit application. Outlined below are the basic standards that must be met:

A. Basic Standards

1. Complete application (Zone Clearance, Tree Permit Questionnaire, and Site Plan).
2. Payment of permit fees:
 - a) No site visit required
 - b) Site visit required
3. Violations abated or resolvable with permits.
4. Legal lot status established.

B. Conditions:

The Planning Director or designee, in approving an application for a Discretionary Tree Permit, may impose such conditions as deemed necessary to ensure that the permit will be in accord with the intent of the Ordinance and these Guidelines. These conditions may include, but are not limited to, the following issues:

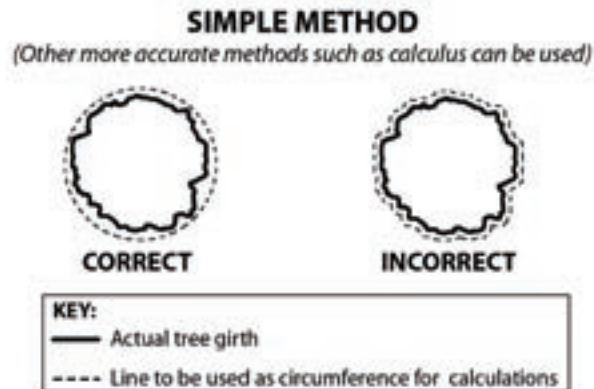
1. Requiring the “offset” replacement of trees proposed for removal with a tree or trees on an equal basis, as determined by cross-sectional area of the tree(s) to be removed, when measured, at 4½ feet above the ground. Offset guidelines are outlined in Section IV of these materials.
2. Providing protection of other protected trees on the site during the construction period.
3. That a maintenance and care program be initiated to ensure the continued health and care of protected trees on the property and those planted as replacements.
4. Providing bonding for performance of some conditions, including tree health.
5. Establishing time frames for completion of the work.
6. Providing plans and field identification markers to ensure that only the approved tree alterations occur.
7. Requiring an agricultural grading plan by the Soil Conservation District.
8. Providing a contract for services with a qualified tree consultant.
9. Requiring the preparation of a Farm Plan or Forest Resource Management Plan.

IV. TREE REPLACEMENT/OFFSETS

A. Computing Cross-Sectional Area for Tree Replacement

Section 8107-25.10 of the Ventura County Zoning Ordinance Code (Tree Protection Regulations) states tree replacement shall be on a “Cross-sectional” basis. This basis is defined as the aggregate areas of the cross sections of the replacement trees must be equal to or greater than the cross sectional areas of the altered elements of a tree (e.g., trunks, limbs, or roots).

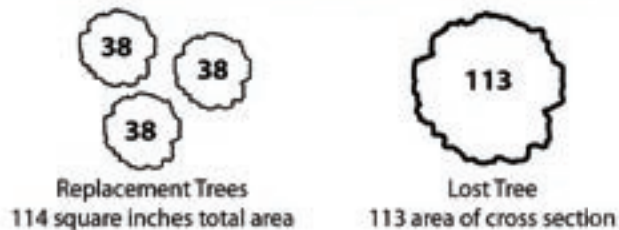
A tree's cross section is usually not a perfect circle. In order to calculate the cross sectional area of a tree, measure the girth at 4½ feet above the ground on the uphill side with a tape measure. You can eliminate any major indentations--see illustration below.



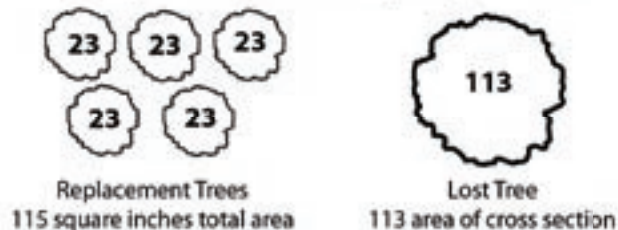
Use the resulting circumference, divide by pi (3.14) to get the diameter. Divide the diameter by 2 to get the radius (or use the chart on next page). The radius squared (times itself) multiplied by pi is the cross sectional area. ($r^2 \times 3.14 = \text{Area}$) As long as the aggregate areas of the replacement trees equal or exceed the lost tree elements, any number of trees can be used. Trees below one inch in area cannot be used.

EXAMPLES OF TREE REPLACEMENT

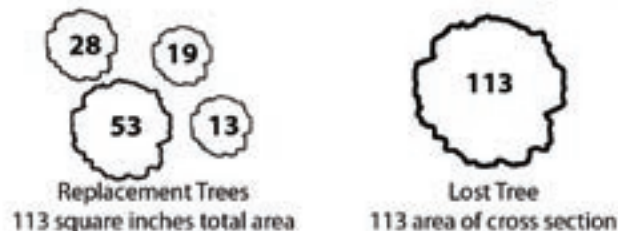
Example 1: Three trees replacing one tree



Example 2: Five Trees Replacing One Tree



Example 3: Four Different Sized Trees Replacing One Tree



B. REFERENCE TABLE TREE GIRTH conversion to AREA

GIRTH (INCHES)	DIAMETER	RADIUS (INCHES)	RADIUS SQ. (INCHES)	TIMES PI = (3.14)	CROSS-SECTIONAL AREA IN SQUARE INCHES
3.14	1 INCH	.5	.25	X 3.14	.78 SQ. IN.
6.28	2 INCHES	1.	1.	X 3.14	3.14 SQ. IN.
9.42	3 INCHES	1.5	2.25	X 3.14	7.07 SQ. IN.
12.56	4 INCHES	2	4.	X 3.14	12.6 SQ. IN.
15.7	5 INCHES	2.5	6.25	X 3.14	19.6 SQ. IN.
18.84	6 INCHES	3	9.	X 3.14	28.27 SQ. IN.
21.98	7 INCHES	3.5	12.25	X 3.14	38.48 SQ. IN.
25.12	8 INCHES	4.	16.	X 3.14	50.27 SQ. IN.
28.26	9 INCHES	4.5	20.25	X 3.14	63.6 SQ. IN.
31.4	10 INCHES	5.	25.	X 3.14	78.54 SQ. IN.

C. Offset/Replacement Guidelines

The Tree Protection Ordinance, Sec. 8107-25.10, requires the replacement of lost trees on a cross-sectional area basis. The ratio of replacement can vary. The purpose of these guidelines is to outline the operational ways in which the required replacement area can be achieved. Because the methods are not limited to the literal planting of new trees, the term “offset” is used to better describe the range of options available to meet the intent of the ordinance.

1. The following are optional ways of achieving the ordinance required amount of “replacement” trees. The use of one or a combination of options is permitted in accordance with Sec. 8107-25.10.1.
 - a. Transplanting of trees on or off site. This can include transplanting to a nursery for holding purposes. (Under the ordinance this transplanted technically is not considered a loss that requires replacement, but it bears repeating here.)
 - b. Reforestation in accordance with a professionally prepared plan, such that the anticipated growth can be legitimately counted towards the total replacement area required.
 - c. Planting of new trees.
 - d. Dedication of land in fee or through appropriate easements which is suitable for the planting and survival of protected trees.
 - e. Dedication of land in fee or through appropriate easements which contains protected trees or significant habitat suitable for preservation.
 - f. Financial contributions to appropriate agencies/entities which further the above options as well as the following objectives; the general preservation, regeneration and maintenance of protected trees and significant habitat; the identification and official designation of “historical” trees; and educational and informational programs related to the value of protected trees and significant habitat.
2. The “offset” options described above are to be implemented in accordance with the following guidelines:
 - a. On or off the site where the loss of protected trees occurred, but always within the County.
 - b. The species serving as “replacement/offset” need not always be the same as the species that was removed.

- c. Financial contributions are to be based on the purchase price of the replacement tree stock of the same species as the removed tree(s).
- d. Adequate provisions are to be made for the maintenance of new plantings to ensure their survival.

V. AGRICULTURAL OPERATIONS

Permit requests relating to agriculture have two broad sets of “standards” to meet. One set of standards relates to on-going maintenance activities or cultural practices for existing agricultural operations. The other set of standards relate to the expansion of existing operations or the establishment of new agricultural operations. These standards are outlined below. To have a fuller appreciation of them, the intent of the several agricultural-related definitions should be discussed: “farm plan”, “Forest Resource Management Plan”, “commercial agriculture”, and “necessary agricultural operations”.

DEFINITIONS

- A. **Farm Plan** - The existence of a farm plan demonstrates that the proposed alteration of trees is for a bona fide agricultural purpose (namely the expansion of existing uses or the establishment of new agricultural uses) and that the applicant is serious about the project. These uses may be for row or tree crops or grazing. By requiring a farm plan, the County is guarding against individuals who would use agricultural uses as the rationale for tree alteration when they may have no intention of following through with the agricultural uses once the protected trees are removed. The existence of a farm plan is therefore, a statement of intent and commitment. The ordinance language outlines elements of a typical farm plan, but there may be other or alternate elements in a legitimate plan.
- B. **Forest Resource Management Plan** - The existence of a forest resource management plan is to demonstrate that the proposed alteration of trees is for a bona fide forestry purpose (namely the improvement or enhancement of forest resources) and that the applicant is serious about the project. By requiring a forest resource management plan, the County is guarding against individuals who would use forestry uses as the rationale for tree alteration when they have no intention of following through with the forestry uses once the protected trees are removed. The existence of a forest resource management plan is therefore, a statement of intent and commitment. The ordinance language, in conjunction with the California Code of Regulations (CCR), outlines elements for a typical forest resource management plan, but there may be other or alternative elements in a legitimate plan. The actual plan is a long-term forest and land management plan and guidelines in text and map form which outlines among other things, compliance with the Tree Protection Ordinance, improvement project plans, and phasing of implementation. The plan should also include plans for the conservation of soil, vegetation, water and fish and wildlife habitat. This plan will be required for any firewood cutting operations or harvesting of live limbs or trees for decoration or timber products.
- C. **Commercial Agriculture** - The definition is aimed at bona fide agricultural operations and so is limited to land zoned A-E or O-S. In addition, the agricultural use must be customary and appropriate. The intent is to avoid situations where agriculture is used as a rationale for tree alteration which is really inappropriate and unnecessary given the proposed agricultural use.
- D. **Necessary Agricultural Operations** - This definition relates to the definition of commercial agriculture and calls for appropriate cultural practices which are spelled out in example form below:

1. **Agricultural Maintenance/Cultural Practices** - Where a request is made to alter protected trees for reasons associated with an existing agricultural operation, these reasons must relate to the ordinance definitions of Commercial Agriculture and Necessary Agricultural Operations. The following activities are examples of customary and accepted practices that would warrant issuance of a tree permit to alter a protected tree.
 - a. Shading of crops.
 - b. Providing access for vehicles and implements of husbandry over farm roads.
 - c. Movement of livestock over the property, particularly to water sources.
 - d. Removal of habitat for pests and rodents.
 - e. Reduction of water consuming vegetation and trees that compete with crops.
 - f. Preservation of air flow/drainage for frost protection.
 - g. Maintenance of healthy trees by repairing damaged limbs, split trunks, etc.
 - h. Preservation of existing water conveyance facilities, farmworker housing, packing facilities, barns, fences and other structures.
2. **Expansion/Establishment of Agricultural Operations** - There are three tests associated with new agricultural operations that require the alteration of protected trees:
 - a. **Intent to implement new operations.** This is best confirmed by the existence of a viable farm plan or Forest Resource Management Plan.
 - b. **Appropriateness of the new operations.** There are customary agricultural practices for different agricultural uses, grazing, dry farming, irrigated row crops, and irrigated orchards. In evaluating what is customary and appropriate, the Farm Advisor and other technical experts should be consulted. The factors that should be considered include, but are not limited to, the following:
 - 1) slope
 - 2) soil stability
 - 3) soil type for the crop
 - 4) climatic conditions
 - 5) water quality and quantity
 - 6) erosion potential
 - 7) ability to conduct normal cultural practices
 - 8) accessibility to the property
 - 9) success rate of like plantings
 - c. **Necessity of the Agricultural Uses.** If proposed agricultural operations causing tree alteration meet the first two standards, it may be inappropriate to approve the tree alteration given other policy considerations. Among these could be the following:
 - 1) inconsistent with General Plan policies.
 - 2) inconsistent with Zoning Ordinance standards of approval (Sec. 8111-2.1.2). (consistency with General Plan, compatible with surrounding land uses, not detrimental to public interest, etc.)

- 3) prospects for adverse impacts on the environment and the neighboring property is probable or certain.
- 4) the economic return from the agricultural use is limited when contrasted with the negative impacts of the use.
- 5) other economic uses can be made of the property.
- 6) irrigated crops would have a significant adverse impact on local ground water supplies
- 7) the removal of the identified trees would be a significant reduction of an integrated natural stand of trees or habitat.
- 8) historic tree(s) would be removed.
- 9) significant visual impact from public places and thoroughfares would result.

E. Firewood Operations

Firewood operations are addressed in the Tree Protection Ordinance (Section 8125.7.3) under “Timber Growing and Harvesting” this is defined as, “An activity which may or may not be part of an agricultural operation which involves the cutting of trees for forest product or firewood purposes. Such trees can be planted or of a natural growth, standing or down, on privately or publicly owned land, including Christmas trees but excluding nursery stock.”

Permission to operate such an enterprise could be applied for under the Discretionary Tree Permit (Section 8107-25.7.3) of the ordinance. A Forest Resource Management Plan (FRMP) which assures a safe-yield harvesting operation prepared by a state licensed forester, should be a condition of approval.

Tree replacement or offset conditions should involve “set aside” areas to remain in their natural habitat state, either on the same parcel or elsewhere in the County, to offset areas converted to managed forests.

The proposed timber harvesting activities must be consistent with proper and accepted customs and standards as established and followed by similar sustaining yield operations.

An additional standard condition is that a Timber Harvesting Plan must be submitted to the California Department of Forestry and Fire Protection, (Southern Region, 2524 Mulberry Street, Riverside, CA 92501). This plan must be submitted by the person who owns, leases, contracts or operates on timberland to harvest timber for commercial purposes.

VI. ENFORCEMENT ACTIONS FOR VIOLATIONS

The County will use its full array of enforcement powers to bring about compliance with the ordinance and compensation for lost trees. The following are typical actions that can be taken where violations of the ordinance occurs:

- A. Recording of a Notice of Non-Compliance on the property.
- B. Pursuing the suspension, modification, or revocation of applicable permits on the property.
- C. Seeking forfeiture of applicable bonds and sureties.

- D. Compliance agreements with full cost recovery to resolve the violation.
- E. Criminal prosecution with terms of probation sought that include the following:
 - 1. Ten to one replacement of felled trees on the ordinance's cross-sectional basis for each tree that was removed illegally.
 - 2. Three year probation to obey all laws.
 - 3. Right of Inspection by County personnel as needed.
 - 4. All future tree alteration work during the probation period be conducted by a qualified tree expert after notifying the Planning Director.
 - 5. Fine of at least \$300 for each tree that is removed as a first offense. This rate could escalate if the guilty party has been involved in such situations previously or has received constructive notice of the Ordinance's requirements.
 - 6. Obtain tree permit and pay violation penalty fee.

VII. OTHER LAWS AND AUTHORITIES

The granting of a Tree Permit by Ventura County shall not be construed as a permit to ignore any other law or authority. Among the laws that should be considered are the following:

- A. California State level:
 - 1. Fish and Game Code Laws which prohibit the destruction a tree that contains the nest of certain birds.
 - 2. State law also includes the California Environmental Quality Act (CEQA) which speaks to tree removal.
 - 3. The State Department of Forestry has an Integrated Hardwood Range Management Program which has specific guidelines for oak rangeland.
 - 4. California Public Resources Code, Division 4, Chapter 3, 8, and 10
 - (3) Mountains, Forest, Brush, and Grass Covered Lands.
 - (8) Z'Berg-Nejedley Forest Practice Act of 1973
 - (10) Forest, Insect, and Plant Disease Control
 - 5. California Code of Regulations, Title 14 Natural Resources, Division 1.5, Department of Forestry, Chapters 1-5, and 7.
 - 6. California Penal Code Section 384 c, d, e, f, and 384.5.
 - (384 c, d, e, and f) Transportation of trees, shrubs or boughs; necessity of transportation tags
 - (384.5) Minor Forest Products and Transport
- B. County of Ventura level:
 - 1. The Public Works Agency has a Hillside Erosion Control Ordinance.
 - 2. Public Works Grading Ordinance.

VIII. INTERNATIONAL SOCIETY OF ARBORICULTURE (ISA) -- TREE TRIMMING STANDARDS