

30-2.C.9 STANDARDS AND REQUIREMENTS FOR DEVELOPMENT APPLICATIONS, CLEAR-CUTTING PERMIT

(a) Purpose and Intent

It is the purpose of this section to promote and protect the health, safety and general welfare and enhance the quality of life in Fayetteville by providing guidance and regulation in the removal of trees on any development site. This section is intended to ensure that prior to proceeding with development activities, such as clearing and grubbing of a site or other significant land-disturbing activities taking place on land not yet subject to an approved Site Plan, Subdivision Plan, or Building Permit, the property owner shall be made aware of the substantial benefits of trees and the substantial cost savings in retaining on-site trees that will meet the city's development regulations for the establishment of a tree save area over the cost of having to replant and restore a portion of what was unknowingly removed.

The purpose of a Clear-Cutting Permit is to:

- (1) Retain significant trees that contribute to the city's visual and aesthetic quality and ensure that significant trees are not unknowingly eliminated without appropriate consideration;
- (2) Ensure that the property owner is made aware of the value existing trees give to a development and the substantial cost savings associated with retaining trees that will meet the city's development regulations over the cost of having to replant and restore a portion of what was unknowingly removed;
- (3) Retain a buffer of naturally existing vegetation along all boundaries of the property to protect adjacent properties from harmful effects and exposure unless it is the intent of the applicant to submit a site plan, subdivision plan or building permit within six months of the clearing;
- (4) Retain a percentage of tree canopy in furtherance of the city's effort to maintain and restore tree canopy coverage across the city;
- (5) Enhance air and water quality;
- (6) Minimize heat and noise impacts; and
- (7) Minimize soil erosion and flooding.

(b) Applicability

(1) General

Except for development exempted in accordance with Section 30-2.C.9.b.2, Exemptions, a Clear-Cutting Permit, approved in accordance with the procedures and standards of this section and Section 30-5.B.6, Tree Preservation; Section 30-5.B.7, Tree Preservation Incentives; and Section 30-5.B.8, Tree Protection During Construction, is required before any clear-cutting or significant land-disturbing activities that would impact healthy trees.

(2) Exemptions

The following activities are exempt from the requirement to obtain a Clear-Cutting Permit:

- a. The removal of vegetation by public or private agencies, including the PWC, within the lines of any right-of-way, easement, or other City-owned lands as may be necessary to ensure public safety.
- b. Land disturbing activities undertaken on land under agricultural, horticultural, or forestry production and taxed at present-use value in accordance with Sections 105-277.2 through 277.7 of the North Carolina General Statutes, as long as a vegetated perimeter buffer is retained or provided consistent with Subsection 9(e)(3) below.
- c. The removal of a severely diseased, dead or dying tree.
- d. Exemptions included under Section 30-5.B.6, Tree Preservation.

(c) Initiation

An application for a Clear-Cutting Permit may be initiated by any person who may submit applications in accordance with Section 30-2.B.1, Authority to File Applications.

(d) Procedure

(1) Basic Procedures

Except as modified by Sections 30-2.C.9.d.2-4 below, procedures and requirements for the submission, completeness determination, review, recommendation, and decision on applications are as established in Section 30-2.B, Common Review Procedures.

(2) Review and Action by City Manager

The city manager shall review and take action on the application in accordance with the procedures of Section 30-2.B.9, Decision by Technical Review Committee or city manager, and the standards in Section 30-2.C.9(e), Clear-Cutting Permit Standards.

(3) Conditions of Approval

In approving a Clear-Cutting Permit, the city manager may impose appropriate conditions on the approval in accordance with Section 30-2.B.16, Conditions of Approval.

(4) Appeal

An appeal from the city manager's decision on a Clear-Cutting Permit application shall be reviewed and decided by the Board of Adjustment in accordance with Section 30-2.C.18, Appeal.

(e) Clear-Cutting Permit Standards

A Clear-Cutting Permit shall be approved only upon a finding that all of the following standards are met:

(1) No trees proposed for removal are located in areas off limit to development, such as conservation easements, dedicated open space or tree save areas, floodplains, stream buffers and wetlands;

(2) No trees proposed for removal are greater than 30 inches in caliper (see Section 30-5.B.6.e, Specimen Trees Identified) or if specimen trees are proposed to be removed, then the applicant shall submit with the application, a survey illustrating the location, species, size and condition of the specimen tree(s), along with a compelling argument why such tree(s) should be removed (see Section 30-5.B.6, Tree Preservation). Approval shall be at the discretion of the city manager. If approved, a removal fee of \$100 per caliper inch shall be paid to the city;

(3) No trees proposed for removal are located within the following buffer yards:

a. 30-foot wide buffer along all boundaries of the property that adjoin other properties, exclusive of areas required for access connection to adjoining sites; and

b. 50-foot buffer along public rights-of-way or private streets, exclusive of areas required for access to the site or connection to adjoining sites;

c. Alternately, such buffers may be replaced with the installation of a Type D buffer along boundaries of the property that adjoin other properties where buffers are required and the installation of a 25 foot wide street yard buffer along public rights-of-way or private streets that adjoin the property, with said buffer and street yard installed in accordance with the materials and specifications of Section 30-5.B., or the property owner agrees to submit a site plan for the development of the property within six months of the date of initiation of clear-cutting. It shall be a violation of this Section if a site plan is not submitted or the applicable buffer and street yard is not installed within six months of the initiation of clear-cutting.

(4) Plans describe proposed tree barriers and identify the extent and location of all tree protection zones (at the appropriate scale), to ensure that any tree qualifying under (1), (2), &/or (3) above, are protected from damage, consistent with the requirements of Section 30-5.B.8, Tree Protection During Construction.

(f) Clearing in Violation

Failure to obtain a Clear-Cutting Permit prior to tree removal, or to abide by its conditions including damage to any tree not designated to be removed, or damage to any tree in a tree protection zone established as part of a Clear-Cutting Permit or approved plan is a violation of this Ordinance and subject to the remedies and penalties in this section and Article 30-8: Enforcement.