
Appendix D3

Menlo Park Heritage Tree Ordinance

Chapter 13.24

HERITAGE TREES

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13.24.010 Intent and purpose.

This chapter is adopted because the city has been forested by stands of oak, bay and other trees, the preservation of which is necessary for the health and welfare of the citizens of this city in order to preserve the scenic beauty and historical value of trees, prevent erosion of topsoil and sedimentation in waterways, protect against flood hazards and landslides, counteract the pollutants in the air, maintain the climatic balance and decrease wind velocities. It is the intent of this chapter to establish regulations for the removal of heritage trees within the city in order to retain as many trees as possible consistent with the purpose of this chapter and the reasonable economic enjoyment of private property.

(Ord. 928 § 1 (part), 2004).

13.24.020 Heritage tree defined.

As used in this chapter "heritage tree" means:

- (1) A tree or group of trees of historical significance, special character or community benefit, specifically designated by resolution of the city council;
- (2) An oak tree (*Quercus*) which is native to California and has a trunk with a circumference of 31.4 inches (diameter of ten (10) inches) or more, measured at fifty-four (54) inches above natural grade. Trees with more than one trunk shall be measured at the point where the trunks divide, with the exception of trees that are under twelve (12) feet in height, which will be exempt from this section.
- (3) All trees other than oaks which have a trunk with a circumference of 47.1 inches (diameter of fifteen (15) inches) or more, measured fifty-four (54) inches above natural grade. Trees with more than one trunk shall be measured at the point where the trunks divide, with the exception of trees that are under twelve (12) feet in height, which will be exempt from this section.

(Ord. 928 § 1 (part), 2004).

13.24.025 Maintenance and preservation of heritage trees.

Any person who owns, controls, has custody or possession of any real property within the city shall use reasonable efforts to maintain and preserve all heritage trees located thereon in a state of good health pursuant

to the provisions of this chapter. Failure to do so shall constitute a violation of this chapter. Any person who conducts any grading, excavation, demolition or construction activity on property shall do so in such a manner as to not threaten the health or viability or cause the removal of any heritage tree. Any work performed within an area ten (10) times the diameter of the tree (i.e., the tree protection zone) shall require submittal of a tree protection plan for review and approval by the director of community development or his or her designee prior to issuance of any permit for grading or construction. The tree protection plan shall be prepared by a certified arborist and shall address issues related to protective fencing and protective techniques to minimize impacts associated with grading, excavation, demolition and construction. The director of community development or his or her designee may impose conditions on any city permit to assure compliance with this section. (Ord. 928 § 1 (part), 2004).

13.24.030 Removal and major pruning of heritage trees prohibited.

It is unlawful for any person to remove, or cause to be removed any heritage tree from any parcel of property in the city, or prune more than one-fourth of the branches or roots within a twelve (12) month period, without obtaining a permit; provided, that in case of emergency, when a tree is imminently hazardous or dangerous to life or property, it may be removed by order of the police chief, fire chief, the director of public works or their respective designees. Any person who vandalizes, grievously mutilates, destroys or unbalances a heritage tree without a permit or beyond the scope of an approved permit shall be in violation of this chapter. (Ord. 928 § 1 (part), 2004).

13.24.040 Permits.

Any person desiring to remove one or more heritage trees or perform major pruning as described in Section 13.24.030 shall apply for a permit pursuant to procedures established by the director of public works and shall pay a fee established by the city council. It is the joint responsibility of the property owner and party removing the heritage tree or trees, or portions thereof to obtain the permit. The director of public works or his or her designee may only issue a permit for the removal or major pruning of a heritage tree if he or she determines there is good cause for such action. In determining whether there is good cause, the director of public works or his or her designee shall give consideration to the following:

- (1) The condition of the tree or trees with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility services;
- (2) The necessity to remove the tree or trees in order to construct proposed improvements to the property;
- (3) The topography of the land and the effect of the removal of the tree on erosion, soil retention and diversion or increased flow of surface waters;
- (4) The long-term value of the species under consideration, particularly lifespan and growth rate;
- (5) The ecological value of the tree or group of trees, such as food, nesting, habitat, protection and shade for wildlife or other plant species;
- (6) The number, size, species, age distribution and location of existing trees in the area and the effect

the removal would have upon shade, privacy impact and scenic beauty;

- (7) The number of trees the particular parcel can adequately support according to good arboricultural practices;
- (8) The availability of reasonable and feasible alternatives that would allow for the preservation of the tree(s).

(Ord. 928 § 1 (part), 2004).

13.24.060 Appeals.

Any Menlo Park resident or property owner may appeal the decision of the director of public works or his or her designee to the environmental quality commission in writing within fifteen (15) days after his or her decision. Such a request shall be submitted to the city clerk and it shall state the reasons for the appeal. The matter will be reviewed by the commission at its earliest opportunity. Any Menlo Park resident or property owner may appeal the decision of the environmental quality commission to the city council in writing within fifteen (15) days after the decision of the commission. Such a request shall be submitted to the city clerk and it shall state the reasons for the appeal. The matter will be reviewed by the city council at its earliest opportunity. A permit shall not be issued until all appeals are completed and/or the time for filing an appeal has expired. (Ord. 928 § 1 (part), 2004).

13.24.070 Enforcement--Remedies for violation.

In addition to all other remedies set forth in this code or otherwise provided by law, the following remedies shall be available to the city for violation of this chapter:

- (1) If a violation occurs during development, the city may issue a stop work order suspending and prohibiting further activity on the property pursuant to the grading, demolition, and/or building permit(s) (including construction, inspection and issuance of certificates of occupancy) until a mitigation plan has been filed with and approved by the director of community development or his or her designee, agreed to in writing by the property owner(s), and either implemented or guaranteed by the posting of adequate security. The mitigation plan shall include measures for protection of any remaining trees on the property, and shall provide for replacement of each tree removed or heavily damaged on the property or at locations approved by the director of community development or his or her designee and by the director of public works, if replacement is to occur on public property. The replacement ratio shall be determined by the director of community development or his or her designee and shall be at a greater ratio than that required where tree removal is permitted pursuant to the provisions of this chapter.
- (2) If a violation occurs in the absence of development, or while an application for a building permit or discretionary development approval for the lot upon which the tree is located is pending, the director of community development or his or her designee may issue a temporary moratorium on development of the subject property, not to exceed eighteen (18) months from the date the violation occurred. The purpose of the moratorium is to provide the city an opportunity to study and determine appropriate mitigation measures for the tree removal, and to ensure measures are incorporated into any future development approvals for the property. Mitigation measures as

determined by the director of community development or his or her designee shall be imposed as a condition of any subsequent permits for development on the subject property.

- (3) As part of a civil action brought by the city, a court may assess against any person who commits, allows, or maintains a violation of any provision of this chapter a civil penalty in an amount not to exceed five thousand dollars (\$5,000.00) per violation. Where the violation has resulted in removal of a tree, the civil penalty shall be in an amount not to exceed five thousand dollars (\$5,000.00) per tree unlawfully removed, or the replacement value of each such tree, whichever amount is higher. Such amount shall be payable to the city. Replacement value for the purposes of this section shall be determined utilizing the most recent edition of the Guide for Plant Appraisal, published by the Council of Tree and Landscape Appraisers. Regarding injunctive relief, a civil action may be commenced to abate, enjoin, or otherwise compel the cessation of such violation. In any civil action brought pursuant to this chapter in which the city prevails, the court shall award to the city all costs of investigation and preparation for trial, the costs of trial, reasonable expenses including overhead and administrative costs incurred in prosecuting the action, and reasonable attorney fees.

(Ord. 928 § 1 (part), 2004).