

Summary of the Heritage Tree Ordinance

Updated July 2013

See also: Chapter 13.24 of the Menlo Park Municipal Code
(Available at www.menlopark.org or by calling 330-6740)

Purpose of the Ordinance

The City of Menlo Park desires to protect and preserve the scenic beauty and natural environment of the city, prevent erosion of topsoil and sedimentation in waterways, encourage quality development, provide shade and wildlife habitat, counteract pollutants in the air and decrease wind velocities and noise. The primary intention of the ordinance is to ensure that there will be a significant population of large, healthy trees over the long term in Menlo Park. The ordinance defines heritage trees, establishes permitting policies and procedures for removal, heavy pruning and protection of heritage trees, and specifies penalties for violation.

Definitions of Heritage Tree

- 1) Any tree having a trunk with a circumference of 47.1 inches (diameter of 15 inches) or more measured at 54 inches above natural grade.
- 2) Any oak tree native to California, with a circumference of 31.4 inches (diameter of 10 inches) or more measured at 54 inches above natural grade.
- 3) Any tree or group of trees specifically designated by the City Council for protection because of its historical significance, special character or community benefit.
- 4) Any tree with more than one trunk measured at the point where the trunks divide, with a circumference of 47.1 inches (diameter of 15 inches) or more, with the exception of trees that are under twelve (12) feet in height, which are exempt from the ordinance.

Maintenance and Protection

Heritage trees are required to be preserved and maintained in a state of good health. The intention of this provision is to require reasonable measures such as correct watering, periodic inspection, proper pruning and not engaging in practices that are detrimental to the tree. The ordinance also requires any person who conducts grading, excavation, demolition or construction activity on a property to do so in a manner that does not threaten the health or viability or cause the removal of any heritage tree. Any work performed within an area 10 times the diameter of the tree (i.e., the tree protection zone) requires the submittal of a tree protection plan for approval by the City prior to issuance of any permit for grading or construction.

Permits for Removal or Pruning

Any property owner wanting to remove a heritage tree, or prune more than one fourth of the canopy and/or roots, must apply for a permit from the City. Permit application forms and instructions are available from the City Administration Building (1st floor lobby) or on the City website (www.menlopark.org) or by calling Christian Bonner in the Public Works Department at (650) 330-6780. The permit fee is \$135 per tree for the first three trees and \$90 for each additional tree on the property, applied for at the same time. This fee partially covers the cost of processing the permit. **The application includes a form to be completed by a certified arborist hired by the applicant.**

The City Arborist will review the application and the arborist form, visit the property, and evaluate the tree and related conditions on the property. Applicants are encouraged to mark trees requested for removal with a yellow ribbon to facilitate the site visit for the City Arborist and other City staff. Once the City Arborist visits the property, he will either approve a permit or request further review by staff. He will post a notice on or near the tree stating the reasons for permitting removal (or heavy pruning) and the process for inquiries, comments or appeals for up

to 15 days after posting. Staff will also mail notices to property owners and residents within 100 feet surrounding the applicant's property. If the City Arborist approves the permit, and there are no written appeals of his decision, a permit will be mailed to the owner of the property. If the permit is approved, a copy of it must be in possession of the tree company on site during the tree work. If further review of the application and comments are required, staff will strive to issue a decision in a reasonable period of time.

Construction Related Tree Removals

Applicants are required to submit a site plan with the Heritage Tree Removal Application Permit even if they have submitted a site plan to the City for a planning or building permit. The site plan facilitates the review by the City Arborist. Also for removals of 2 or more trees, applicants shall be required to submit a planting plan indicating the species, size and location of the proposed replacement trees on a site plan. Heritage Tree Permits related to Construction will also be charged for City-retained arborist expenses.

Permit Decision

Any Menlo Park resident or property owner may appeal the permit decision to the Environmental Quality Commission within 15 days after the decision. A further appeal may be made to the City Council. There is an appeal fee of \$200 per appeal.

The ordinance lists the following considerations to be used in determining whether there is good cause for removal or heavy pruning of a heritage tree:

- (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 life-span 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).

Penalties for Violation

Any person who violates the ordinance, including property owners, occupants, tree companies and gardeners, could be held liable for violation of the ordinance. The ordinance prohibits removal or pruning of over one fourth of the tree, vandalizing, mutilating, destruction and unbalancing of a heritage tree without a permit. If a violation occurs during construction, the City may issue a stop-work order suspending and prohibiting further activity on the property until a mitigation plan has been approved, including protection measures for remaining trees on the property. Civil penalties may be assessed against any person who commits, allows, or maintains a violation of any provision of the ordinance. The fine will be an amount not to exceed \$5,000 per violation, or an amount equivalent to the replacement value of the tree, whichever is higher.

Heritage Tree Removal Permit Application

This application must be submitted with the Arborist Report Form
Please submit completed forms to:
701 Laurel St., Menlo Park, CA 94025

Application No. _____

Purpose of application: Removal Pruning of more than 25%

Permit Fee: \$135.00 (each tree, up to 3 trees); \$90 each additional tree (separate forms required for each tree)

PLEASE PRINT CLEARLY

Site Address: _____

Name of Applicant: _____ Phone _____ FAX _____

Mailing Address: _____ Email: _____

Type of Tree: _____ Location on property: _____

Reasons for Request:

IF TREE IS DEAD or DAMAGING STRUCTURE PLEASE ATTACH PHOTOS DEMONSTRATING CONDITION.

ARE YOU CONSIDERING ANY CONSTRUCTION ON YOUR PROPERTY IN THE NEXT 12 MONTHS?

Yes No

If yes, please submit additional information describing what type of construction is planned and a site plan.

- Tree may not be removed (or pruned over 25%) unless and until the applicant has received final permission from the City as indicated below.
- The signed permit approval form must be on site and available for inspection while the tree work is being performed.
- A suitable replacement tree, 15 gallon size or larger with a mature height of 40 feet or more, is to be installed in the time frame indicated below.

I (we) hereby agree to hold the City harmless from all costs and expenses, including attorney's fees, incurred by the City, including but not limited to, all cost in the City's defense of its actions in any proceeding brought in any State or Federal Court challenging the City's actions with respect to the proposed tree removal.

Incomplete applications will not be processed.

Signature of property owner authorizing access and inspection of tree in his/her absence.

Date: _____

-----PLEASE DO NOT WRITE BELOW THIS LINE -----

PERMIT APPROVED

PERMIT DENIED

TIMING OF REMOVAL

- Upon receipt of this approved permit
- After applying for a Building Permit for associated construction

TIMING OF REPLANTING

- Within 30 days of Heritage Tree removal
- Prior to final building inspection of associated construction

Staff Signature: _____ Date: _____

Print name and title: _____

Arborist Form

Please complete one form for each tree. Mark each tree with colored ribbon or tape prior to our inspection.

Site Address:

ARBORIST INFORMATION:

Name of Certified Arborist _____

ISA or ASCA number: _____ Menlo Park Business License number: _____

Company: _____

Address: _____

Phone: _____ FAX: _____ Email: _____

TREE INFORMATION:

Date of Inspection: _____

Common Name: _____ Botanical Name: _____

Location of Tree: _____ Height of Tree: _____

Diameter of tree at 54 inches above natural grade: _____

Circumference of tree at 54 inches above natural grade _____

Condition of Tree:

If recommending removal or pruning, please list all reasons:

Suggested Replacement Tree:

Signature of Arborist: _____ Date: _____

Heritage Tree Replacement Procedures

All residential applicants who are granted approval to remove a heritage tree are required to replace the lost tree(s) on a 1 to 1 basis.

All commercial applicants who are granted approval to remove a heritage tree are required to replace the lost tree(s) on a 2 to 1 basis.

A suitable replacement tree in #15 container is the current acceptable minimum size. However, the City staff may exercise discretion on the size and number of trees an applicant may be required to install.

The tree must be a species that can reach a **mature height of 40 or more feet** as described on **Select Tree web site**, <http://selectree.calpoly.edu/>

The replacement tree is to be installed within 30 days after the heritage tree is removed, unless otherwise noted on the approved permit.

On the reverse side of this sheet is a list of suggested replacement trees recommended for Menlo Park neighborhoods.

Please keep the following suggestions in mind when planting your tree:

Choose the right tree for the right place. Careful consideration of the following will help you choose a suitable tree: Tree size, form/shape, growth rate, fruit, frost hardiness, soil, sun, and watering requirements. The following resource is an aid to help in choosing the right tree for your planting site. <http://www.arborday.org/trees/righttreeandplace/>

- You may wish to seek professional assistance to select, plant, and maintain your new tree. A visit to a local nursery is a good place to begin.
- The replacement tree should be planted at least 10 feet away from any structures (homes, garages, sheds, walls or fences) to avoid future conflicts.
- Do not plant your replacement tree under overhead high voltage utility wires. Also be careful to consider solar access to nearby buildings.
- Call USA North, 811, before you dig to avoid conflicts with underground utilities.

Please contact the Public Works Department for more information at 650-330-6780.

RECOMMENDED REPLACEMENT TREE LIST ON REVERSE

Heritage Tree Program

Suggested List of Tree Replacements

Your new tree is an investment in your property and in a significant part of Menlo Park's Heritage, its Urban Forest.

The following is a list of suitable trees for Heritage Tree replacements.* All trees have a mature height of greater than 40 feet. You may choose a different species, but it must reach a mature height of greater than 40 feet as described on Select Tree web site, <http://selecttree.calpoly.edu/>

You may wish to seek the assistance of a certified tree professional. There are several certified Arborists with business licenses in the City of Menlo Park.

Evergreen Trees

(Retain their leaves in winter)

COMMON NAME	BOTANICAL NAME
Brisbane Box	<i>Lophostemon confertus</i>
Camphor Tree	<i>Cinnammomum camphora</i>
Canary Island Pine	<i>Pinus canariensis</i>
Catalina Ironwood	<i>Lyonothamnus floribundus</i>
Coast Live Oak	<i>Quercus agrifolia</i>
Cork Oak	<i>Quercus suber</i>
Deodar Cedar	<i>Cedrus deodara</i>
Incense Cedar	<i>Calocedrus decurrens</i>

Deciduous Trees

(Lose their leaves in winter)

COMMON NAME	BOTANICAL NAME
Accolade Elm	<i>Ulmus 'Morton'</i>
Black Oak	<i>Quercus kelloggii</i>
Blue Oak	<i>Quercus douglasii</i>
Burr Oak	<i>Quercus macrocarpa</i>
California Sycamore	<i>Platanus racemosa</i>
'Columbia' Sycamore	<i>Patanus x acerifolia 'Columbia'</i>
Maidenhair Tree	<i>Gingko biloba</i>
Sawleaf Zelkova	<i>Zelkova serrata</i>

* Suggested species may not be appropriate for some sites based on specific site restrictions and growing conditions.