



Summary of the Heritage Tree Ordinance

Updated July 2011

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 Whitney Loy in the Public Works Department at (650) 330-6740. 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 \$150 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.