

City of Grants Pass Municipal Code



Title 10

TREES

Chapters:

- 10.01 Public Trees
- 10.02 Heritage Trees

# City of Grants Pass Municipal Code



## Chapter 10.01

### PUBLIC TREES

Ord. 997, 999 and 1433 have been repealed.  
Chapter 6.42 has been amended by Ord. 4633 §1, 1988.  
Chapter 6.42 has been repealed and replaced by Ord. 5507 §17, 2010

#### Sections:

- 10.01.100 Purpose and Objectives
- 10.01.200 Definitions
- 10.01.300 Authority of the Manager
- 10.01.400 Permit Required
- 10.01.500 Standards
- 10.01.600 Certain Trees Prohibited
- 10.01.700 Responsibility for Trees
- 10.01.800 Protection of Trees on Public and Semi-Public Lands from Wanton, Malicious, and Negligent Harm
- 10.01.850 Stumps
- 10.01.900 Arborist Insurance
- 10.01.925 Violation
- 10.01.950 Enforcement
- 10.01.975 Severance

# City of Grants Pass Municipal Code



## 10.01.100 Purpose and Objectives

Public trees, as defined, regulated and protected herein, are declared to be a natural community resource, and it is the intent of the Grants Pass Council to protect and regulate them as a means to achieve the following objectives:

1. To purify the air by reducing dust and other air contaminants.
2. To provide shade and wind protection.
3. To reduce street noise and glare.
4. To screen unsightly objects and scenes.
5. To keep the City streets free from dead, unhealthy, or hazardous trees.
6. To beautify and provide a pleasing, restful, healthy environment.

These objectives are in the interest of the health, safety and welfare of citizens and visitors to the City.

The Grants Pass Council also finds that (a) the better use of this resource will improve the appearance of the City and enhance tourism, a major component of the economy of the City, and (b) the enhancement of this resource is consistent with, and materially aids, the accomplishment of the purposes of the City's Comprehensive Plan (including Sections 3.1, 3.2, 3.40, 3.50, 5.24, 5.25, 7.1, and 7.4).

## 10.01.200 Definitions

For the purpose of this chapter, the following words shall have the meaning ascribed to them in this section:

- A. Tree. A woody perennial plant, usually with one main trunk, attaining a height of at least six (6) feet at maturity, and a shrub when planted in, or projecting upon, a City right-of-way.
- B. Public Tree. Any tree located on public or semi-public property, as defined in this chapter.
- C. City. Means the City of Grants Pass, Oregon.
- D. Person. Includes any individual, firm, association, or corporation of any kind, whether acting directly or through an agent.
- E. Owner. The possessor of title to the land on which particular trees stand (or the owner's agent); in the case of a tree on semi-public land the owner is considered to be the owner of the fee title to the land.
- F. Manager. The City Manager of the City of Grants Pass or any City employee appointed by the Manager to act for the Manager.

# City of Grants Pass Municipal Code



- G. Public Property. Any property under the ownership of the City of Grants Pass.
- H. Semi-Public Property. Property on which the City of Grants Pass has (a) a right-of-way or other easement such that the City has the legal right to control or regulate the planting, care, and disposal of trees on such property, or (b) the right, pursuant to intergovernmental agreement, contract, lease, or law, to exercise control over the property, that is broad enough to encompass the planting, care and disposal of trees on such property.
- I. Topping. The severe cutting back of limbs to stubs larger than three inches in diameter within the tree's crown to such a degree so as to substantially remove the normal canopy.

## 10.01.300 Authority of the Manager

- A. Regulation. The Manager shall have the authority to enforce this ordinance, including the planting, maintenance and removal of trees on public and semi-public property to preserve or enhance safety or aesthetics.
- B. Supervision. The Manager shall have the authority and it shall be his duty to supervise or inspect all work done under an Encroachment Permit issued in accordance with the terms of this ordinance.
- C. Conditions of Permit. The Manager shall have the authority to affix reasonable conditions to the granting of a permit in accordance with this Chapter.

## 10.01.400 Permit Required

No person shall plant, set out, prune, root prune, remove, cut above ground, kill, or otherwise disturb any tree on public or semi-public property without first filing an application for, and procuring, a Public Tree Permit from the City Manager. The person receiving the permit shall abide by the standards adopted pursuant to Section 10.01.500 below.

- Planting. The application required herein shall state (1) the number of trees to be planted or set out, (2) the location, size, species or variety of each tree and (3) such other information to allow a fair determination of whether a permit should be issued.

### Removal and Replacement

- 1. The application required herein shall list the reason(s) for requesting tree removal. The property owner shall bear the cost of removal and replacement of all trees removed and the costs of any public property



## City of Grants Pass Municipal Code

damaged during removal or replacement. The tree(s) need not be replanted if such tree(s) is inconsistent with the easement.

2. Whenever it is necessary to remove a tree or trees from semi-public land in connection with the paving or widening of a street, the City shall replant such trees or replace them. This requirement will be satisfied if any equivalent number of trees are planted according to standards adopted pursuant to Section 10.01.500.
3. Trees may be removed or relocated in the following cases:
  - a. Trees which pose a safety hazard to pedestrian or vehicular traffic or unmanageably threaten or cause a disruption to public utilities service;
  - b. Trees which pose a safety hazard to building;
  - c. Trees which prevent physical ingress and egress to a building, lot or parcel of property;
  - d. Trees which prevent the development of a lot or parcel, or the physical use thereof;
  - e. Diseased trees which are a hazard to people, buildings, or other improvements on a lot or parcel, or to other trees;
  - f. Trees so weakened by age, storm, fire, ice, or other injury so as to cause danger to persons or property;
  - g. Dead trees;
  - h. Trees which are replaced by other trees within four months pursuant to a plan mutually approved by the property owner and the City;
  - i. Trees of the species listed in Section 10.01.600, if the property owner and the City agree to the removal.

### 10.01.500 Standards

The Manager shall develop reasonable standards for the planting, maintenance and removal of trees to carry out the purposes of this ordinance. These standards will apply to trees within Grants Pass city limits on public or semi-public land. These standards may be amended as the need arises, by the Manager. The standards shall include, but not be limited to, the following:



## City of Grants Pass Municipal Code

- A. Acceptable tree species and varieties with information on the appropriate placement of each.
- B. Height clearances over streets, sidewalks, or other sections of the right-of-way.
- C. Sight clearances for traffic signs and signals, street lights, intersections and other traffic related fixtures.
- D. Utility clearances including, but not limited to, sewers, storm drains, curbs, sidewalks, driveway aprons, streets, power or telephone lines, fire hydrants and water meters.
- E. Circumstances requiring, and procedures for planting, care or removal of trees.

### 10.01.600 Certain Trees Prohibited

No person shall plant in any semi-public area the following trees; poplar, willow, cottonwood, fruit trees, nut trees, or ailanthus (tree of heaven).

### 10.01.700 Responsibility for Trees

Owner Tree Care. Trees on semi-public property, or those on private property affecting the use of public or semi-public property, are the responsibility of the owner of the land where the tree is rooted. With regard to such trees:

1. When such tree(s) become hazardous to person or property, it is the owner's responsibility to remove the hazard at the owner's expense;
2. Tree maintenance required for the protection and proper operation of public utilities, safe public use of rights-of-way, etc., shall be done in accordance with the standards adopted pursuant to Section 10.01.500. The consent of the owner need not be obtained; however, a reasonable attempt shall be made to notify the owner before work is begun.
3. Private Trees. No person shall have on his land a tree that constitutes a hazard to person or property.
4. Semi-Public Tree Care. The City shall have the right to plant, prune, maintain and remove trees in accordance with standards developed pursuant to Section 10.01.300, within the right-of-way of all streets, alleys, squares and public ground, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such semi-public grounds.

# City of Grants Pass Municipal Code



## 10.01.800 Protection of Trees on Public and Semi-Public Lands from Wanton, Malicious, and Negligent Harm

In relation to any tree or shrub on public or semi-public land, the following acts shall also be illegal:

To break, injure, mutilate, burn, kill, remove, or destroy any tree or shrub without authority to do so as set forth in this chapter;

To permit any toxic chemical, either solid or liquid, to pass, drain or be emptied on or about any such tree;

To knowingly permit any wire designed to carry electrical current to be attached to any tree, except as consistent with standards developed pursuant to Section 10.01.300;

To excavate any tunnel, ditch, or trench, or to lay any driveway, sidewalk or pavement through or across the root zone of any such tree, except as consistent with standards developed pursuant to Section 10.01.500;

To attach any wire, rope, cable, poster, sign, nail, or other fastener to such tree or shrub, except as consistent with standards developed pursuant to Section 10.01.500;

To place, deposit or store any stone, brick, sand, earth, or other material as to impede the passage of water, air and fertilizer to the roots of any such tree or shrub, except as consistent with standards developed pursuant to Section 10.01.500;

To move any building or other large object along any street in such a manner as to damage any such tree;

To build any structure, pavement, utility or other construction in violation of any provision of this ordinance;

To prevent, delay, or interfere with the Manager or any of his agents, engaging in or about the planting, maintenance, or removal of any tree or as authorized in this ordinance;

To top any tree on public or semi-public property, except in respect to trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions, where other pruning practices are impractical, as determined by the Manager in accordance with the standards developed pursuant to Section 10.01.500.

# City of Grants Pass Municipal Code



## 10.01.850 Stumps

Stumps of trees or shrubs on public or semi-public land are hereby declared to be a public nuisance and must be removed in accordance with the standards adopted pursuant to Section 10.01.500.

## 10.01.900 Arborist Insurance

- A. It shall be unlawful for any person to engage in the business, occupation or profession of pruning, treating or removing trees in public or semi-public areas within the City limits of Grants Pass without being certified by the International Society of Arboriculture, and without first obtaining liability insurance. Liability insurance requirements shall be set forth by resolution. (Ord. 5517/Res. 5682 §2, 2010)
- B. The Arborist shall maintain on file with the City a Certificate of Insurance or proof of self-insurance acceptable to the City, certifying the coverage required above.

## 10.01.925 Violation

Violating of Sections 10.01.400 through 10.01.990 constitutes an offense. Each day the violation is caused or allowed to exist constitutes a separate offense.

## 10.01.950 Enforcement

1. The Manager or his duly authorized representative shall be charged with the enforcement of this ordinance.
2. A violation of any provision of this ordinance is declared to be a nuisance and may be treated as such by the City and by any court of competent jurisdiction.
3. Nuisances may be abated by any of the procedures set forth in Sections 5.12.140 through 5.12.200 of this Municipal Code.
4. In addition to (C) above, the City may impose fines in accordance with Title 1 of this Municipal Code, and may also seek judicial assistance through injunctive relief.

## 10.01.975 Severance

If any part of this ordinance is declared invalid by court of competent jurisdiction, such decision shall be deemed to apply to that part only and shall not affect the validity of the ordinance as a whole or any part thereof other than the part declared invalid.

City of Grants Pass Municipal Code



CHAPTER 10.02

HERITAGE TREES

Sections:

- 10.02.010 Purpose
- 10.02.020 Applicability
- 10.02.030 Definitions
- 10.02.040 City Manager Powers and Duties
- 10.02.050 Committee Powers and Duties
- 10.02.060 Prohibited Activities
- 10.02.070 Tree Pruning Permits
- 10.02.080 Tree Removal Permits
- 10.02.090 Criteria For Approval of Tree Removal Permit
- 10.02.100 Regulated Trees on Development Sites
- 10.02.110 Hazard Tree Removal Permit
- 10.02.120 Emergencies
- 10.02.130 Topping Permit
- 10.02.140 Mitigation Requirements for Removal of Regulated Trees
- 10.02.150 Appeal Procedures.
- 10.02.160 Heritage Tree Designation
- 10.02.170 Violations
- 10.02.180 Recognition of Heritage Trees

# City of Grants Pass Municipal Code



## 10.02.010 Purpose

The purpose of this chapter is to recognize, foster appreciation and provide for protection of Heritage Trees.

## 10.02.020 Applicability

The requirements of this chapter shall apply to any tree designated as a Heritage Tree by City Council, whether located on public or private property.

## 10.02.030 Definitions

For the purpose of this chapter, the following words shall have the meaning ascribed to them in this section:

- A. Arborist: A person who has met criteria for certification from the International Society of Arboriculture and maintains his or her accreditation.
- B. City Manager: The City Manager of the City of Grants Pass, or his/her designee.
- C. Committee: The City of Grants Pass Urban Tree Advisory Committee.
- D. Damage: Any action undertaken which alters the existing state of any Heritage Tree in any way. This shall include, but is not limited to, the cutting, topping, girdling, or poisoning of any Heritage Tree, any trenching or excavating at or within the drip line of any Heritage Tree, or any action which may cause death, destruction or injury to any Heritage Tree, or which places any Heritage Tree in jeopardy or in an irreversible state of decline.
- E. Diameter at breast height or DBH: The diameter of the tree trunk, at its maximum cross section, measured 54 inches (4.5 feet) above original ground level on the uphill side of the base of the trunk.
- F. Drip line: An imaginary vertical line extending downward from the outermost tips of a tree's branches to the ground.
- G. Heritage Tree: Any tree or stand of trees designated by resolution of the City Council to be of significant community benefit due to age, size, species, horticultural quality or historical value;
- H. Pollarding: Cutting a tree back to the trunk, or nearly to the trunk, so as to produce a dense mass of new shoots.
- I. Prune: The cutting, trimming, detaching, separating or removing of any part of a Heritage Tree, including the root structure, with the exception of the following:
  - (1) The cutting, trimming, detaching, separation or removal of branches having a diameter of 3 inches or less at all points, and located at 10 feet or less above grade, shall be considered routine maintenance and not pruning;



## City of Grants Pass Municipal Code

- (2) Any cutting, trimming, detaching, separation or removal exceeding one-quarter (1/4) of the tree structure, on a single occasion or cumulatively, shall constitute removal.
- J. Removal: The physical removal of any Heritage Tree, including any cutting, trimming, detaching, separation or removal exceeding one-quarter (1/4) of the Heritage Tree structure on a single occasion or cumulatively, or causing the death or destruction of any Heritage Tree, through damaging, poisoning or other direct or indirect action.
- K. Superintendent: The superintendent of parks and recreation of the City of Grants Pass, or his/her designee.
- L. Topping: The severe cutting back of a tree's limbs and / or trunk to stubs 3 inches or larger in diameter within the tree's crown to such a degree so as to remove the natural canopy and disfigure the tree.
- M. Tree: Any perennial plant or grove of perennial plants having a self-supporting woody main stem or trunk usually characterized by the ability to grow to considerable height and size and the development of woody branches at some distance above the ground.
- N. Utility: A public utility or private utility and includes any pipeline corporation, gas corporation, electrical corporation, telephone, telegraph or other communications corporation, water corporation, or sewer system, the services of which are performed for, or the commodity delivered to, the general public or any portion thereof.

### 10.02.040 City Manager Powers and Duties

The City Manager shall be responsible for administering and enforcing this chapter. The City Manager shall have the following powers and duties:

- A. Grant or deny permit applications in accordance with this chapter;
- B. Maintain the City's Heritage Tree records, including a list, description and map of the City's designated Heritage Trees;
- C. Provide technical information to assist owners in maintaining trees on private property;
- D. Review all development and construction plans for the purpose of determining their negative impact on Heritage Trees;
- E. Order the emergency alteration or removal of hazardous Heritage Trees when they are found to pose a threat to other trees or to the community in general, in accordance with Section 10.02.120 of this chapter;
- F. Make recommendations to the Urban Advisory Tree Committee pertaining to the management of the City's Heritage Trees;



## City of Grants Pass Municipal Code

- G. Determine mitigation requirements for approved and unapproved alterations, damage or removal of Heritage Trees in accordance with the mitigation requirements established by this chapter.

### 10.02.050 Committee Powers and Duties

The Urban Tree Advisory Committee shall have the following powers and duties:

- A. Make recommendations to the City Council concerning policies, programs and decisions relating to the City's Heritage Trees.

### 10.02.060 Prohibited Activities

No person shall allow to exist any condition which may be harmful to any Heritage Tree, including but not limited to any of the following:

- A. Existence of any tree, Heritage or otherwise, that is irretrievably infested or infected with insects, disease, or any other condition detrimental to the health of the tree and the urban forest;
- B. Filling up the ground area at or within the drip line of any Heritage Tree so as to shut off air, light or water from its roots;
- C. Piling building materials, parking equipment, or pouring over the ground area beneath the tree canopy any substance which may be detrimental to the health of any Heritage Tree;
- D. Posting any sign, poster, notice or similar device on any Heritage Tree;
- E. Driving metal stakes into the Heritage Tree or its drip line for any purpose other than supporting the Heritage Tree;
- F. Causing a fire to burn near any Heritage Tree.
- G. Topping of a Heritage Tree without an approved topping permit from the City in accordance with this section.
- H. Pruning of a Heritage Tree, including any excavating within the drip line, without an approved Tree Pruning Permit from the City in accordance with this chapter.
- I. Removal of a Heritage Tree without an approved Tree Removal Permit from the City in accordance with this section.

### 10.02.070 Heritage Tree Pruning Permits

- A. No person shall prune a Heritage Tree without first obtaining a permit in accordance with this section.
- B. Prior to performing any work requiring a permit as set forth in subsection (A) of this section, all persons shall submit a permit application to the City. The permit application shall include the address and map and tax lot number of the subject property where the pruning will occur.
- C. Tree Pruning Permits shall be issued over-the-counter, on the same business day as the permit application is received by the City, unless the permit is required for work done in conjunction with a building permit or development permit.



## City of Grants Pass Municipal Code

- D. Work shall be performed by an arborist or under the supervision of an arborist.
- E. Any excavation within the drip line of a Heritage Tree shall require a pruning permit.
- F. Pollarding is not permitted, except for trees that have undergone pollarding in the past for which routine pollarding is necessary to maintain the health of the tree.

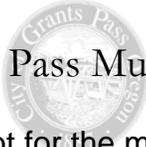
### 10.02.080 Heritage Tree Removal Permits

- A. No person shall perform any work on or near a Heritage Tree that would constitute removal of the tree without first obtaining a permit in accordance with this section, unless removal is performed under an approved Hazard Tree Removal Permit or through the Emergencies procedure outlined below.
- B. Prior to performing any work requiring a permit as set forth in subsection (A) of this section, all persons shall submit a permit application to the City. The permit application shall include all of the following:
  - (1) A site map of the property (including address and map and tax lot number) depicting the number, species, size, and location of each subject Heritage Tree.
  - (2) A statement detailing the specific work being proposed and the reason for the requested action.
  - (3) Proposed mitigation measures.
- C. Within ten (10) business days of the date the permit application is received by the City, the City Manager shall make written findings of fact upon which he/she shall grant the permit, conditionally grant the permit specifying mitigation requirements, deny the permit, or allow a portion of the proposed work outlined in the permit application to be done. The decision shall be based on the Criteria found in Section 10.02.090 of this chapter.
- D. In certain instances, the applicant may be required to submit a report prepared by an arborist.
- E. The decision of the City Manager shall be final unless appealed to the City Council by the permit applicant pursuant to Section 10.02.150.

### 10.02.090 Criteria For Approval of Heritage Tree Removal Permit

An applicant for a Tree Removal Permit shall demonstrate that all of the following criteria are satisfied.

- A. The Heritage Tree(s) is proposed for removal to allow for the installation of a utility, or to construct development approved or allowed pursuant to the Grants Pass Development Code. The City Manager may require the building footprint of the development to be staked to allow for accurate verification of the permit application, and where reasonable, may require minor development alterations when it can be demonstrated that said alterations could save or increase the likelihood of survival of a Heritage Tree(s).
- B. Removal of the Heritage Tree(s) will not have a significant negative impact on erosion, soil stability, flow of surface waters, or protection of adjacent trees.



City of Grants Pass Municipal Code

- C. Removal of the Heritage Tree is not for the main purpose of providing or enhancing views, or to eliminate the nuisance of maintenance such as leaf removal.
- D. The Heritage Tree is not located within a protected area such as a wetland or riparian setback except where such removal is in compliance with (A) above.
- E. Mitigation is provided in accordance with Section 10.02.140. Mitigation requirements shall be a condition of approval of the permit.

10.02.100 Heritage Trees on Development Sites

- A. Applications for building permits or development permits on sites containing Heritage Trees shall be reviewed to ensure that Heritage Trees are preserved, or that pruning or removal is done in compliance with the provisions of this section.
- B. A Tree Removal Permit or Tree Pruning Permit that is required as part of an application for building permit or development permit may be applied for and reviewed as a concurrent application.
- C. No building permit or development permit shall be approved for a site(s) containing a Heritage Tree(s) without an approved Tree Removal Permit or Tree Pruning Permit, unless it is demonstrated that all work will take place outside of the drip line of the Heritage Tree(s), and that the Heritage Tree(s) will be protected throughout development.
- D. Heritage Trees to be preserved on a development site shall be protected throughout development. The protection shall include the use of fencing to protect the tree out to the drip line, with no removal or addition of soil or other materials within the drip line area. Protective fencing shall be flush with the initial undisturbed grade, and shall be installed prior to any development activities, including but not limited to clearing, grading, excavation or demolition work. Protective fencing shall be removed only after completion of all construction activity. Unauthorized removal of protective fencing prior to the completion of construction activity shall constitute a violation of this chapter.
- E. Any excavation, including removal or addition of soil or other materials, within the drip line area of a Heritage Tree shall require an approved Pruning Permit in accordance with the provisions of this Chapter.
- F. It is the intent of this section to supplement, and not replace, Development Code requirements for significant tree preservation on development sites. The provisions of this chapter shall be applied in addition to any significant tree preservation requirements.

# City of Grants Pass Municipal Code



## 10.02.110 Hazard Tree Removal Permit

The City shall issue a Hazard Tree Removal Permit for a Heritage Tree if the applicant demonstrates that the tree is a hazard and warrants removal.

- A. A hazard tree is a tree that is cracked, split, leaning or physically damaged to the degree that it is clear that it is likely to fall and injure persons or property, or a tree that is dead or diseased.
- B. The City may require the applicant to submit an arborist's report confirming the hazard potential or health condition of the tree, along with an analysis of alternative methods to alleviate the hazard or health condition without removal.
- C. Mitigation is required for hazard tree removal in accordance with Section 10.02.140. Mitigation requirements shall be a condition of approval of the permit.

## 10.02.120 Emergencies

In the event of an emergency whereby immediate action is required because of disease or because of danger to life or property, a Heritage Tree may be pruned, altered or removed by order of the City Manager, Superintendent, or a responsible member of the police, fire or public works department. If not the City Manager, the person ordering the pruning, alteration or removal shall file a comprehensive report immediately thereafter with the City Manager. The City Manager shall prepare the report if he or she orders the pruning, alteration or removal. The City Manager shall forward copies of the report to the Committee and City Council for their information.

## 10.02.130 Topping Permit

- A. A topping permit may be issued only if the following apply:
  - (1) A utility, public agency or other person who routinely tops trees in furtherance of public safety, may apply for a topping permit pursuant to this section based upon an arborist or forester report establishing a methodology for topping in compliance with this subsection.
  - (2) Heritage Trees under utility wires may be topped only where other pruning practices would endanger the public's safety and welfare. Generally, Heritage Trees under utility wires shall be pruned to grow around utility wires.
- B. The City, in granting approval for tree removal in an open space or undeveloped area, may allow a tree to be topped to a designated height in order to maintain a "snag" for wildlife habitat.
- C. A permit obtained for Heritage Tree pruning shall not authorize topping unless said tree cutting permit specifically authorizes such action.

## 10.02.140 Mitigation Requirements for Removal of Heritage Trees

Any person who has obtained an approved conditional Heritage Tree Removal Permit or Hazard Tree Removal Permit shall be required to mitigate said removal in accordance with

# City of Grants Pass Municipal Code



the following:

- A. The applicant shall plant a minimum of one (1) replacement tree for each tree removed. The replacement tree shall be chosen from the approved large street tree list outlined in the Development Code. The height and caliper of the tree shall be based on the applicable zoning district of the property provided in the Development Code. Alternative large tree species may be planted when approved by the City Manager.
- B. Replacement trees shall be planted on the subject property from which the tree was removed, unless the City determines there is insufficient available space on the subject property. If there is insufficient space on the subject property, then replacement trees required in subsection (a) shall be planted on other property in the applicant's ownership or control within the City or Urban Growth Boundary, in an open space tract that is part of the same subdivision as the subject property, or in a City-owned or dedicated open space or park. Such mitigation planting is subject to the approval of the authorized property owners. If planting on City-owned or dedicated property, the City may specify the species of the tree. Nothing in this section shall be construed as an obligation of the City to allow trees to be planted on City-owned or dedicated property.
- C. Replacement trees shall be inspected by the City upon planting to ensure a reasonable likelihood of long-term survival.

## 10.02.150 Appeal Procedure

The applicant for a Heritage Tree Removal Permit or Hazard Tree Removal Permit that has been denied by the City Manager may appeal the City Manager's decision to the City Council in accordance with the following provisions:

- A. A written notice of appeal, together with the appropriate fee as set forth by City Council resolution, must be received by the City Manager not later than ten business days following the date of the decision from which such appeal is being taken.
- B. The appellant shall state the basis for the appeal and shall specifically cite which provision of this chapter is relied upon to support the appellant's contention that the City Manager acted in error. The appeal must be signed by the appellant or appellant's representative, and must set forth the mailing address to which the City Manager may direct notice of a hearing.
- C. Upon receipt of the appeal the City Manager shall schedule the matter for a public hearing at the next regularly scheduled City Council meeting, but not sooner than ten business days after receipt.
- D. Notice of the public hearing shall be sent by first class mail to the permit applicant and appellant at least five calendar days prior to the meeting.
- E. The City Council shall make findings of fact on which it bases its action. The City Council may conditionally grant the permit specifying mitigation measures, deny the



## City of Grants Pass Municipal Code

permit or allow a portion of the proposed work outlined in the permit application to be done.

- F. The City Council shall direct the City Manager to issue any permit granted by the City Council pursuant to this section.
- G. Permit applications denied by City Council on appeal shall not be considered for reapplication for a period of one year from the date of the City Council's decision, unless:
  - (1) There is a significant decline in the health of the subject Heritage Tree as certified by an arborist; and
  - (2) Said decline in health has not been caused by the applicant or any person associated with the applicant.

### 10.02.160 Heritage Tree Designation

The following process shall apply for the designation of a Heritage Tree.

#### A. Nomination.

- (1) Any person may nominate a particular tree or trees as a Heritage Tree. If the proposed Heritage Tree is located on property other than City property or public right-of-way under City or County jurisdiction, the nomination shall be submitted by the property owner or accompanied by the property owner's written consent. If the proposed Heritage Tree is located on City property or public right-of-way under City or County jurisdiction, the nomination shall be submitted to the City Manager or County Public Works Director, as appropriate, for consent.
- (2) Nomination shall be made on such form as required by the City Manager. The nomination form shall include a narrative explaining why the tree qualifies for Heritage Tree status and the written consent of the property owner as described in Subsection (1) above.

#### B. Review Process.

- (1) The Urban Tree Advisory Committee shall review all Heritage Tree nominations at a public meeting. Notice of the meeting shall be provided to the nominating applicant and the property owner, unless the nominated tree is located on public right-of-way under City or County jurisdiction, in which event notice shall be given to the respective City Manager or County Public Works Director.
- (2) Staff shall prepare a report for the Urban Tree Advisory Committee analyzing whether the tree complies with the requirements for designation.
- (3) After considering the staff report and any testimony by interested persons, the Urban Tree Advisory Committee shall make a recommendation to City Council as to the whether the tree should be designated as a Heritage Tree. The recommendation shall be based on the following criteria:
  - a. The tree or stand of trees is of significant community benefit due to age, size, species, horticultural quality or historical value; and



## City of Grants Pass Municipal Code

- b. The tree is not irreparably damaged, diseased, hazardous or unsafe, or the applicant is willing to have the tree treated by an arborist and the treatment will alleviate the damage, disease or hazard.
- C. Following the recommendation meeting of the Urban Tree Advisory Committee, the City Council shall hold a public meeting to consider the nomination. After considering the recommendation of the Urban Tree Advisory Committee and any testimony by interested persons, the City Council shall make a final decision regarding the nomination. The City Council may designate a tree as a Heritage Tree by resolution if the criteria set forth in subsection (3) above are met. The Heritage Tree designation shall be final upon the effective date of the City Council's resolution.
- D. Following the approval of the nomination by the City Council:
  - (1) If the tree is located on private property, the property owner shall execute and deliver to the City Manager a covenant running with the land suitable for recordation by the Josephine County Recorder. The covenant shall describe the subject property, generally describe the location of the Heritage Tree, and covenant that the tree is protected as a "Heritage Tree" by the City of Grants Pass and is therefore subject to special protection as provided in the Grants Pass Municipal Code. Failure to execute and deliver the covenant within 60 days of the City Council resolution's effective date shall render the Heritage Tree designation null and void and of no further force or effect.
  - (2) If the tree is located on public property or right-of-way, the designation shall be complete upon the staff's listing of the tree on the City Heritage Tree records.
- E. If the tree is located in the public right-of-way, the City or County, as appropriate, shall condition any future property owner-requested vacation of the public right-of-way upon the execution of a covenant in accordance with Subsection D (1) above, which shall be recorded upon vacation of the public right-of-way.
- F. A Heritage Tree shall be removed from designation if it dies or is removed pursuant to this Chapter. If removed from private property, the City shall cause a document to be recorded which will extinguish the covenant created in accordance with subsection D(1) above.

### 10.02.170 Violations

- A. Any person who personally, or through an agent, employee or representative, violates any provision of this chapter shall be subject to the "Violation—Penalty" chapter of Title 1 this Municipal Code.
- B. In addition to any fines or penalties provided in the "Violation—Penalty" chapter of this Code, any party found to be in violation of this chapter shall be provide mitigation for any unlawfully removed or damaged tree in the form of double the mitigation requirements otherwise required by Section 10.02.140.

# City of Grants Pass Municipal Code



## 10.02.180 Recognition of Heritage Trees

- A. A Heritage Tree plaque shall be designed and may be furnished by the City to the property owner, or if the tree is in the public right-of-way, to the appropriate agency official, of a designated Heritage Tree. The City will not charge a fee to cover the costs of providing the plaque. The plaque shall be posted at a location at or near the tree.
- B. The City Manager shall maintain a list and map of designated Heritage Trees.