



City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Meeting Agenda Natural Resources Committee

Wednesday, September 25, 2013

8:00 PM

Commission Chambers

Worksession

1. Worksession

[13-560](#)

Heritage Tree Code Amendments - Worksession

Sponsors: Planner Pete Walter

Attachments: [Staff Report](#)

[PWalter Email to NRC 9.21.2013](#)

[OCMC 12.08.040 Draft for Sept 25 NRC Worksession](#)

[Heritage Code August Draft](#)

2. Adjournment

Public Comments: The following guidelines are given for citizens presenting information or raising issues relevant to the City but not listed on the agenda.

- *Complete a Comment Card prior to the meeting and submit it to the staff member.*
- *When the Chair calls your name, proceed to the speaker table and state your name and city of residence into the microphone.*
- *Each speaker is given 3 minutes to speak. To assist in tracking your speaking time, refer to the timer at the dais.*
- *As a general practice, Oregon City Officers do not engage in discussion with those making comments.*

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City of Oregon City

625 Center Street
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Staff Report

File Number: 13-560

Agenda Date: 9/25/2013

Status: Agenda Ready

To: Natural Resources Committee

Agenda #:

From: Planner Pete Walter

File Type: Report

SUBJECT:

Heritage Tree Code Amendments - Worksession

RECOMMENDED ACTION (Motion):

Discuss and review latest staff amendments in anticipation of formal approval by NRC at the next regular meeting on October 9, 2013.

BACKGROUND:

See attached email explaining revisions to the code. Changes include:

- Clarify the respective roles of staff, NRC, PRAC and the City Commission, with the City Commission as ultimate decision maker.
- Clarify when owner consent is required depending on whether the nomination is on private land, city right-of-way, city property (not ROW), and public property or ROW that is not city (e.g. county or ODOT).
In the latter instances, the consent of the applicable jurisdiction would be a requirement for designation.
- Clarify the process of final designation and legal protection for various ownership / jurisdictions, bearing in mind that the City Commission is the ultimate decision maker and that each situation is unique.
- Formatting and numbering for readability.

Due to formatting differences between the electronic .pdf version and the Word version, a paper public review copy of the "tracked changes" version of the document is available.

BUDGET IMPACT: N/A

Amount:

FY(s):

Funding Source:

Pete Walter

From: Pete Walter
Sent: Saturday, September 21, 2013 11:50 AM
To: Bob Roth (rjroth@ix.netcom.com); Bryon Boyce; Douglas DeHart; Jerry Herrmann (usa5303@fedex.com); Richard Craven; Sha Spady
Cc: Nancy Ide; Tony Konkol; Doug Neeley; David Frasher; John M. Lewis; Scott Archer
Subject: Heritage Tree Code Amendments
Attachments: OCMC 12.08.040 Draft for Sept 25 NRC Worksession.doc; OCMC 12.08.040 GSB comments Draft.DOC

Good morning NRC members,

In anticipation of our Wednesday work session, attached are staff's (my) latest revisions to the heritage tree code based on my best recollection of the NRC discussions that have been held to date. For reference, I have also included the previous version that was discussed at our August meeting. This version includes the previous changes that we discussed and agreed on which were reviewed by the city attorney.

If by chance I have missed anything, please let me know ASAP or at the work session the specific language you feel should be added or changed.

This document continues to be a "tracked-changes" version, as always, but for legibility ease of formatting it is much easier to view the document in "Final" mode. If you are using the latest version of Microsoft Word you should be able to easily flip between the various modes, which are Original, Original showing Markup, Final, and Final showing Markup.

We have made many, many revisions to the original document, and each revision has been saved separately. All are available for review.

To summarize the changes that I have made to the current version:

- I have attempted to clarify the respective roles of staff, NRC, PRAC and the City Commission, with the City Commission as ultimate decision maker.
- I have attempted to clarify when owner consent is required depending on whether the nomination is on private land, city right-of-way, city property (not ROW), and public property or ROW that is not city (e.g. county or ODOT). In the latter instances, the consent of the applicable jurisdiction would be a requirement for designation.
- I have attempted to clarify the process of final designation and legal protection for various ownership / jurisdictions, bearing in mind that the City Commission is the ultimate decision maker and that each situation is unique.
- Formatting and numbering for readability.

I hope that this version meets the committee's approval. At this point, as Mayor Neeley pointed out, if the NRC is largely happy with the document, following any final revisions the group decides to make at the Work session, staff will be looking for a recommendation from the committee at our October 9 meeting.

The recommendation will then go to both the Planning Commission and onto the City Commission, who may decide to make further revisions to the document prior to adoption.

On Monday, I will be preparing a packet for Wednesday's work session that includes this email and document.

Thanks,

Have a great weekend.

Pete



Pete Walter, AICP, Associate Planner
pwalter@orcity.org
Community Development Department
Planning Division



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Oregon City, Oregon 97045
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Hours: Counter/Walk-in: 8-5 Mon-Thurs.
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12.08.040 - Heritage Trees .

A. PURPOSE.

Certain trees, because of their age, species, natural resource value, ecological or historical association, are of special importance to the city. These trees may grow on private or public property.

1. The purpose of this chapter is to recognize, foster appreciation and provide for voluntary protection of Heritage Trees.
2. In particular, the following trees are considered significant, and therefore will be eligible for heritage tree nomination in Oregon City, if they meet the minimum size requirements of the table below:

Tree Eligibility based on Size

<i>Species</i>	<i>Common Name</i>	<i>Size (d.b.h)*</i>
<i>Quercus garryana</i>	Oregon white oak	8"
<i>Pseudotsuga menziesii</i>	Douglas-fir	18
<i>Thuja plicata</i>	Western red cedar	12"
<i>Pinus ponderosa</i>	Ponderosa pine	12"
<i>Taxus brevifolia</i>	Western yew	6"
<i>Cornus nuttallii</i>	Pacific dogwood	5"
Other broadleaf tree species		20"
Other conifer trees		18"

*d.b.h = Diameter at Breast Height, means a measurement of the trunk or stem diameter of a mature tree at a height 4.5 feet above the ground level at the base of the tree.

B. NOMINATION PROCESS.

1. General Procedure

Any citizen may nominate a tree or stand of trees (s) to be designated as a Heritage Tree or Stand on any property, public or private, or right-of-way.

The City Commission shall make the final decision on all nominations.

The Community Development Director shall prepare a staff report, and forward a staff recommendation to the Natural Resources Committee.

The Natural Resources Committee shall review the nomination and staff report at a regular meeting and make a recommendation regarding the nomination to the City Commission.

In the absence of a functioning Natural Resources Committee then the Community Development Director shall forward the nomination directly to the City Commission.

2. Consent of Owner or Jurisdiction

Depending on the ownership or jurisdiction of the property on which the nomination occurs, the following shall apply.

a. Private Property.

Nominations on private property shall be submitted by the property owner or accompanied by the property owner's written consent.

b. City Owned Property (not Right-of-Way).

For city owned property, including parks and urban renewal lands, the City Commission shall make the final decision following the general procedure described above.

If the nomination is for a city park, the Parks and Recreation Advisory Committee shall also review the nomination and provide an advisory opinion prior to the Natural Resources Committee recommendation to the City Commission.

c. City Public Right-of-Way

For trees located in city public right-of-ways, including alleys, the City Commission shall make the final decision following the general procedure described above.

The abutting property owner responsible for the care and maintenance of the nominated tree pursuant to *OCMC 12.08.025 - General tree maintenance*, shall be notified of the nomination. The consent of the abutting property owner shall be a consideration by the City Commission in their decision.

d. Other Public Properties and Right-of-Ways (Not City)

For county, state or federal right-of-way or property or other public property within the City limit not city owned (for example, Clackamas County or Oregon Department of Transportation), the written consent of the applicable public agency or jurisdiction shall be required.

The applicable public agency shall be notified of the nomination immediate upon receipt of the nomination by the city.

3. Nomination Submittal Requirements

Individual trees and stands of trees may be submitted for nomination by completing a form provided by the Community Development Director and attaching the required information. For

individual trees, the applicant shall provide, at a minimum, the size, age, diameter, species and condition of the tree. If the nomination is for a stand of trees, the nomination shall be accompanied by sufficient information, such as a stand health report, that describes the overall condition of the stand.

All nominations shall provide written responses to the designation criteria in section (D).

The Community Development Director may request further information from the applicant to support the nomination request.

Nominations shall be made on such form as required by the community development director.

The nomination shall include a narrative explaining how the tree or stand of trees meets the review criteria pursuant to the section D - Criteria, and the applicable written consent of the property owner or jurisdiction as described in subsection 1 of this section.

C. REVIEW PROCESS.

1. Completeness Review

a. Within thirty days of receipt of the application, the community development director shall complete an initial review and issue to the applicant a written statement indicating whether the application is complete enough to process, and if not, what information must be submitted to make the application complete for review by the Natural Resource Committee.

b. The applicant has one hundred eighty days from the date the application was made to submit the missing information or, on the one hundred eighty-first-day, the application shall be rejected and all materials (except one copy of the application) returned to the applicant. If the applicant submits the requested information within the one hundred eighty-day period, the community development director shall again verify whether the application, as augmented, is complete. Each such review and verification shall follow the procedure in subsection b. of this section.

The application will be deemed complete for the purpose of this section upon receipt by the community development director of:

- i. All the missing information;
- ii. Some of the missing information and written notice from the applicant that no other information will be provided; or
- iii. Written notice from the applicant that none of the missing information will be provided.

2. Natural Resource Committee Review and Recommendation

a. Within 60 days of deeming the application complete, the Community Development Director shall schedule the nomination for review by the Natural Resources Committee (NRC) at a

regularly scheduled meeting, with regular notice to the general public, applicant and the property owner.

b. If the nominated tree or stand is located on city right-of-way or property under city jurisdiction, notice of the NRC meeting shall be provided to the Community Development Director, the chair of any recognized neighborhood association in which the tree or stand is located, the abutting property owner, and the Parks and Recreation Advisory Committee (PRAC), if applicable.

c. Staff shall prepare a report analyzing the nomination pursuant to the criteria in Section D. The staff report shall include a staff level recommendation to support or not support the nomination.

d. The Natural Resources Committee shall review the nomination, and provide a recommendation to the City Commission for a final decision. If the Natural Resources Committee is not functioning or is inactive, the Community Development Director shall provide a recommendation directly to the City Commission.

3. City Commission Decision.

a. Within 30 days following the NRC meeting, the City Commission shall review all Heritage Tree and Stand recommendations forwarded to them by the Natural Resources Committee at a public meeting.

b. Notice of the city commission meeting shall be provided to the general public, the nominating applicant, the property owner or abutting property owner (if located on city right-of-way), the chair of any recognized neighborhood association in which the tree or stand is located, and the Parks and Recreation Advisory Committee (PRAC), if applicable.

c. After considering any recommendations by city committees, the staff report and any testimony by interested persons, the city commission shall vote to approve or deny the nomination.

4. Designation

Following approval by the City Commission, the designation shall be completed pursuant to the following procedures.

a. Private Property

For private property, the designation shall be complete upon the property owner's execution of a restrictive covenant running with the land suitable for recordation by the city. The covenant shall describe the subject property, generally describe the location of the heritage tree or stand of trees, and covenant that the tree or stand of trees is protected as a "Heritage Tree" or "Heritage Stand" by the City of Oregon City and is therefore subject to special protection as provided in this Title.

b. City Public Right-of-Way.

If the tree or stand of trees is located on city right-of-way, the designation shall be complete upon the staff's listing of the tree or stand of trees on the City of Oregon City Heritage Tree and Stand records and official maps.

The city shall condition any future property owner-requested vacation of the public right-of-way upon the execution of a protective covenant in accordance with subsection a., above, which shall be recorded by the city upon the vacation of the right-of-way.

c. Other City property.

For designation of heritage trees and stands on city parks and other city owned property, the designation shall be complete upon the City Commission's approval of the nomination and any documents considered by the commission to be legally necessary to ensure the preservation of the heritage tree or stand of trees, whether this be in the form of a restrictive covenant, or other instrument or agreement applicable to the specific site.

d. Other public property

For designation of heritage trees and stands on public property or ROW other than city property or right-of-way, the designation shall be complete upon the City Commission's approval of the nomination and any documents considered by the commission to be legally necessary to ensure the preservation of the heritage tree or stand of trees, whether this be in the form of a restrictive covenant, or other instrument or agreement applicable to the specific site.

D. CRITERIA FOR DESIGNATION.

1. The city commission may designate a tree or stand of trees as a Heritage Tree or Heritage Stand if the commission, determines that the Heritage Criteria (a through d) and Site and Condition Criteria (e) through (g), are met, as far as applicable:

a. Heritage Criteria (at least one criterion i-iv must be met)

- i. The tree (or stand of trees) is associated with events that have made a significant contribution to the broad pattern of Oregon City's history; or
- ii. The tree (or stand of trees) is associated with the life of a person or group of historic significance to Oregon City; or
- iii. The tree (or stand of trees) represents a significant and distinguishable entity within Oregon City; or
- iv. The tree (or stand of trees) has age, size, or species significance (horticultural or ecological), which contributes to Oregon City's heritage status;

b. Site and Condition Criteria (Criteria i-iii must all be satisfied)

- i. A certified arborist, forester, or ecologist has determined in a written report that the tree or stand trees is not irreparably damaged, diseased, hazardous or unsafe or the applicant is willing to have the tree or stand of trees treated by a certified arborist, forester or ecologist and the treatment will alleviate the damage, disease or hazard;
- ii. The tree species is not listed as invasive on any regionally accepted plant list;
- iii. The property owner or (if a street tree) abutting property owner consents to the designation and agrees to sign the protective covenant.

E. PROTECTION OF HERITAGE TREES AND STANDS.

1. No Heritage Tree or Stand may be removed, topped, or otherwise altered unless permitted by this section.
2. An application to remove a Heritage Tree or Stand shall demonstrate that the burden imposed on the property owner, or, if the tree is located within the public right-of-way under city jurisdiction, then the burden imposed on the city by the continued presence of the tree outweighs the public benefit provided by the tree. For the purposes of making this determination, the following tree impacts shall not be considered unreasonable burdens on the property owner, or if appropriate, the city:
 - a. View obstruction;
 - b. Routine pruning, leaf raking and other maintenance activities; and
 - c. Infrastructure impacts or tree hazards that can be controlled or avoided by appropriate pruning or maintenance.
3. If the tree is permitted to be removed due to poor health or hazard as determined in a certified arborist's report and as approved by the city, the applicant shall be required to mitigate for the loss of the tree pursuant to Table 12.08.035.
4. Any person who removes a Heritage Tree or Stand in violation of this chapter shall be subject to the penalties provided in this chapter.

F. RECOGNITION OF HERITAGE TREES AND STANDS.

1. A Heritage Tree plaque may be designed and furnished by the city to the property owner, or if the tree is in the public right-of-way, to the appropriate city official, of a designated Heritage Tree or Stand. The city may charge a fee to cover the costs of the providing the plaque. The plaque shall be posted at a location at or near the heritage tree or stand and, if feasible, visible from a public right-of-way.

2. The community development director shall maintain a list and map of designated Heritage Trees and Stands.

G. REMOVAL OF HERITAGE TREE OR STAND DESIGNATION.

1. A Heritage Tree or Stand may be removed from designation if it dies or is removed pursuant to this chapter. If removed from private property, the city shall record a document extinguishing the covenant.

DEFINITIONS

17.04.1355 - Tree, Stand.

"Tree,/Tree Stand" means a stand of three or more trees who together create a mutual canopy continuous over eighty or more percent of the area within the boundaries of the stand.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.04.1360 - Tree, hazardous or diseased.

"Hazardous or diseased tree" means a tree that has a naturally occurring disease that is expected to kill the tree or that presents a significant risk to life or property as determined by a certified arborist. To the extent that the community development director determines that the hazardous or diseased condition of the tree is the result of intentional action, the removal of that tree shall require mitigation pursuant to Section 17.41.060. An otherwise healthy tree that may become a hazard to a proposed future development shall not be considered a hazardous tree. Hazardous trees may include, but are not limited to dead, diseased, broken, split, cracked, leaning, and uprooted trees. A tree harboring communicable diseases or insects of a type that could infest and cause the decline of adjacent or nearby trees may also be identified as a hazardous tree.

17.04.1365 - Tree (or Stand), Heritage.

"Heritage Tree" means a tree that has been designated by the city as having unique importance, and subject to the Heritage Tree Regulations of Section 12.08.050. Where a grouping of two or more Heritage Trees has been so designated, the term Heritage Stand may be used.

"Heritage Stand" means a group of two or more trees that have been designated by the city as having unique importance, subject to the Heritage Tree Regulations of Section 12.08.040.

17.04.1370 - Tree, imminent hazard.

"Imminent hazard tree" means a hazardous tree — all or more than thirty percent of which has already fallen or is estimated to fall within seventy-two hours into the public right-of-way or onto a target that cannot be protected, restricted, moved, or removed. (See also Tree, Hazard.) Determination of Imminent Hazard is made by the City of Oregon City Public Works or Emergency Personnel, a PGE forester, or a certified arborist.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.04.1380 - Tree (or Tree Stand), native.

"Native Tree" or "Native Tree Stand" refers to a regulated native tree or stand of trees that are defined as such on the Oregon City Native Plant List or Portland Native Plant List. Significant native trees are those that contribute to the landscape character of the area and include Douglas fir, cedar, redwood, sequoia, oak, ash, birch, and maple. Significant native trees are typically suitable for retention next to streets and are not of a species that would likely create a public nuisance, hazard, or maintenance problem.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.04.1385 - Tree (or Tree Stand), ornamental.

"Ornamental tree" means for purposes of tree removal, any tree (including shade trees) that originated as nursery stock as opposed to native trees that originated at the site prior to development. (Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

12.08.040 - Heritage Trees .

A. Purpose.

Certain trees, because of their age, species, natural resource value, ecological or historical association, are of special importance to the city. These trees may grow on private or public property.

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

2. In particular, the following trees are considered significant, and therefore will be eligible for heritage tree nomination in Oregon City, if they meet the minimum size requirements of the table below:

Tree Eligibility based on Size

Species	Common Name	Size (d.b.h)
Quercus garryana	Oregon white oak	8"
Pseudotsuga menziesii	Douglas-fir	18
Thuja plicata	Western red cedar	12"
Pinus ponderosa	Ponderosa pine	12"
Taxus brevifolia	Western yew	6"
Cornus nuttallii	Pacific dogwood	5"

Other broadleaf tree species 20"

Other conifer trees 18

B. Nomination.

Any citizen may nominate a tree or stand of trees (s) to be designated as a Heritage Tree or Stand. All nominations are to be forwarded to the City Commission with a prior review and recommendation from the Natural Resources Committee. In the absence of a functioning NRC then the Community Development Director shall forwarded the nomination directly to the City Commission.

1. Private Property.

If the nomination is for a tree or stand of trees located on private property or other than city property or public right-of-way under city jurisdiction, the recommendation shall be submitted to the Community Development Director by the property owner or accompanied by the property owner's written consent.

2. Public Property. If the nomination is for a tree or stand of trees located on public property, the following procedures will apply.

a. City Owned Property (not Right-of-Way).

If located on city property that is not public right-of-way (such as parks and other properties), the nomination shall be submitted to the Community Development Director, who shall forward the nomination to the NRC for a recommendation once the application has been deemed complete per section (C) or this Chapter.

b. City Public Right-of-Way

If the nomination is for a tree within city public right-of-way, including alleys, the nomination shall be submitted to the Community Development Director, who shall forward the nomination to the NRC for a recommendation once the application has been deemed complete per section (C) of this Chapter. The Community Development Director shall also notify the abutting property owner responsible for the care and maintenance of the nominated tree pursuant to *OCMC 12.08.025 - General tree maintenance*.

c. Other Public Right-of-Way and Public Properties (Not City)

If the nomination is for county, state or federal right-of-way or property or other public property within the City limit but not city owned (for example, Clackamas County or Oregon Department of Transportation), the nomination shall be submitted to the Community Development Director, who shall forward the nomination to the NRC for a recommendation once the application has been deemed complete per section (C) of this Chapter. The written consent of the applicable jurisdiction shall be required in order to deem the application complete. The applicable public agency shall be notified of the nomination immediate upon receipt of the nomination by the city.

3. Nomination Submittal Requirements

Individual trees may be submitted for nomination by completing a form provided by the Community Development Director and attaching the required information. If the nomination is for a stand of trees, the nomination shall be accompanied by sufficient information, such as a stand health report, to adequately assess how the stand of trees meets the designation criteria in section (D). The Community Development Director may request further information from the applicant to support the nomination request.

3. Nomination shall be made on such form as required by the community development director. The nomination form shall include a narrative explaining how the tree or trees meets the review criteria for Heritage Tree or Stand status pursuant to the section D - Criteria, and the written consent of the property owner as described in subsection 1. of this section.

C. Review Process.

1. Completeness Review by Staff

a. Within thirty days of receipt of the application, the community development director shall complete an initial review and issue to the applicant a written statement indicating whether the application is complete enough to process, and if not, what information must be submitted to make the application complete for review by the Natural Resource Committee.

b. The applicant has one hundred eighty days from the date the application was made to submit the missing information or, on the one hundred eighty-first-day, the application shall be rejected and all materials (except one copy of the application) returned to the applicant. If the applicant submits the requested information within the one hundred eighty-day period, the community development director shall again verify whether the application, as augmented, is complete. Each such review and verification shall follow the procedure in subsection b. of this section.

The application will be deemed complete for the purpose of this section upon receipt by the community development director of:

- i. All the missing information;
- ii. Some of the missing information and written notice from the applicant that no other information will be provided; or
- iii. Written notice from the applicant that none of the missing information will be provided.

2. Natural Resource Committee Review and Recommendation

a. Within 60 days of deeming the application complete, the Community Development Director shall schedule the nomination for review by the Natural Resource Committee (NRC) at a regularly scheduled meeting, with regular notice to the general public, applicant and the property owner.

b. If the nominated tree or stand is located on public right-of-way or property under city jurisdiction, notice of the NRC meeting shall be provided to the Community Development Director, the chair of any recognized neighborhood association in which the tree or stand is located, and the Parks and Recreation Advisory Committee (PRAC), if applicable.

c. Staff shall prepare a report analyzing whether the tree or stand complies with the criteria for designation in section D. The staff report shall include a recommendation to support or not support the nomination.

d. The Natural Resources Committee shall review the nomination, and provide a recommendation to the City Commission for a final decision. If the Natural Resources Committee is not functioning or is inactive, the Community Development Director shall provide a recommendation directly to the City Commission.

e. [What's this?]

3. City Commission Decision.

a. Within 30 days following the NRC meeting, the City Commission shall review all Heritage Tree and **Stand** recommendations forwarded to them by the Natural Resources Committee at a public meeting.

b. Notice of the city commission meeting shall be provided to the general public, the recommending applicant, the property owner (unless the recommended tree or stand is located on public right-of-way under city jurisdiction, in which event notice shall be given to the community development director), the chair of any recognized neighborhood association in which the tree or stand is located, and the parks and recreation advisory committee (PRAC), if applicable.

c. After considering any recommendations by city committees, the staff report and any testimony by interested persons, the city commission shall vote to approve or deny the nomination.

4. Following approval by the city commission:

a. If the tree or stand of trees is located on private property, the designation shall be complete upon the property owner's execution of a covenant running with the land suitable for recordation by the city. The covenant shall describe the subject property, generally describe the location of the heritage tree or stand of trees, and covenant that the tree or stand of trees is protected as a "Heritage Tree" or "Heritage Stand" by the City of Oregon City and is therefore subject to special protection as provided in this Title.

b. If the tree or stand of trees is located on public right-of-way, the designation shall be complete upon the Staff's listing of the tree or stand of trees on the City of Oregon City Heritage Tree and Stand records.

c. If the heritage tree or stand of trees is located on the public right-of-way, the city shall condition any future property owner-requested vacation of the public right-of-way upon the execution of a protective covenant in accordance with subsection a., above, which shall be recorded by the city upon the vacation of the right-of-way.

D. Criteria for Designation.

1. The city commission may designate a tree or stand of trees as a Heritage Tree or Heritage Stand if the commission, determines that the Heritage Criteria (a through d) and Site and Condition Criteria (e) through (g), are met, as far as applicable:

a. Heritage Criteria (at least one criterion i-iv must be met)

- i. The tree (or stand of trees) is associated with events that have made a significant contribution to the broad pattern of Oregon City's history; or
- ii. The tree (or stand of trees) is associated with the life of a person or group of historic significance to Oregon City; or
- iii. The tree (or stand of trees) represents a significant and distinguishable entity within Oregon City; or

- iv. The tree (or stand of trees) has age, size, or species significance (horticultural or ecological), which contributes to Oregon City's heritage status;

b. Site and Condition Criteria (Criteria i-iii must all be satisfied)

- i. A certified arborist, forester, or ecologist has determined in a written report that the tree or stand trees is not irreparably damaged, diseased, hazardous or unsafe or the applicant is willing to have the tree or stand of trees treated by a certified arborist, forester or ecologist and the treatment will alleviate the damage, disease or hazard;
- ii. The tree species is not listed as invasive on any local or regional plant list.
- iii. The property owner or (if a street tree) abutting property owner consents to the designation and agrees to sign the protective covenant.

~~a. The tree or grove is of landmark importance to the City of Oregon City due to age, size, species, horticultural or ecological quality, or historic importance; or~~

~~b. It is listed as a State Heritage Tree, as designated by the state division of forest resources; or~~

~~c. It is a rare, threatened or endangered species as defined in the document "2010 rte book.pdf", available at orbic.pdx.edu/documents/2010-rte-book.pdf, or provides a habitat for, rare threatened or endangered species as defined in the document "2010 rte book.pdf" of plants, animals or birds; and~~

See
heritage
criteria
above

E. Protection of Heritage Trees and Stands.

- 1. No Heritage Tree or Stand may be removed, topped, or otherwise altered unless permitted by this section.
- 2. An application to remove a Heritage Tree or Stand shall demonstrate that the burden imposed on the property owner, or, if the tree is located within the public right-of-way under city jurisdiction, then the burden imposed on the city by the continued presence of the tree outweighs the public benefit provided by the tree. For the purposes of making this determination, the following tree impacts shall not be considered unreasonable burdens on the property owner, or if appropriate, the city:
 - a. View obstruction;
 - b. Routine pruning, leaf raking and other maintenance activities; and
 - c. Infrastructure impacts or tree hazards that can be controlled or avoided by appropriate pruning or maintenance.
- 3. Unless the tree is permitted to be removed due to poor health or hazard pursuant to Section 12.08.042, the applicant shall be required to mitigate for the loss of the tree pursuant to Table 12.08.035.

4. Any person who removes a Heritage Tree or Stand in violation of this chapter shall be subject to the penalties provided in this chapter.

F. Recognition of Heritage Trees and Stands.

1. A Heritage Tree plaque may be designed and furnished by the city to the property owner, or if the tree is in the public right-of-way, to the appropriate city official, of a designated Heritage Tree or Stand. The city may charge a fee to cover the costs of the providing the plaque. The plaque shall be posted at a location at or near the heritage tree or stand and, if feasible, visible from a public right-of-way.

2. The community development director shall maintain a list and map of designated Heritage Trees and Stands.

G. Removal of Heritage Tree or Stand Designation.

1. A Heritage Tree or Stand may be removed from designation if it dies or is removed pursuant to this chapter. If removed from private property, the city shall record a document extinguishing the covenant.

(Ord. No. 08-1014, 7-1-2009)

12.08.045 - Gifts and funding. The City of Oregon City may accept gifts, which are specifically designated for the purpose of planting or maintaining trees within the city. the community development director may allow a fee in-lieu of planting the tree(s) to be placed into a city fund dedicated to planting trees in Oregon City. The community development director may determine the type, caliper and species of the trees purchased with the fund. The cost of each tree may be adjusted annually based upon current market prices for materials and labor as calculated by the community development director. A separate fund shall be established and maintained for revenues and expenditures created by activities specified in this chapter. The Natural Resources Committee shall have authority on behalf of the city to seek grants and alternative funding for tree projects. Funds from such grant awards shall be administered by the city pursuant to this section.

(Ord. No. 08-1014, 7-1-2009)

12.08.050 - Violation—Penalty. The violation of any provision of this chapter shall be constitute a civil infraction, subject to code enforcement procedures of [Chapter 1.16](#) and/or [Chapter 1.20](#).

(Ord. No. 08-1014, 7-1-2009)

The following definitions are provided as background.

17.04.1355 - Tree, Stand.

"Tree,/Tree Stand" means a stand of three or more trees who together create a mutual canopy continuous over eighty or more percent of the area within the boundaries of the stand.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.04.1360 - Tree, hazardous or diseased.

"Hazardous or diseased tree" means a tree that has a naturally occurring disease that is expected to kill the tree or that presents a significant risk to life or property as determined by a certified arborist. To the extent that the community development director determines that the hazardous or diseased condition of the tree is the result of intentional action, the removal of that tree shall require mitigation pursuant to Section 17.41.060. An otherwise healthy tree that may become a hazard to a proposed future development shall not be considered a hazardous tree. Hazardous trees may include, but are not limited to dead, diseased, broken, split, cracked, leaning, and uprooted trees. A tree harboring communicable diseases or insects of a type that could infest and cause the decline of adjacent or nearby trees may also be identified as a hazardous tree.

17.04.1365 - Tree (or Stand), Heritage.

"Heritage Tree" means a tree that has been designated by the city as having unique importance, and subject to the Heritage Tree Regulations of Section 12.08.050. Where a grouping of two or more Heritage Trees has been so designated, the term Heritage Stand may be used.

"Heritage Stand" means a group of two or more trees that have been designated by the city as having unique importance, subject to the Heritage Tree Regulations of Section 12.08.040.

17.04.1370 - Tree, imminent hazard.

"Imminent hazard tree" means a hazardous tree — all or more than thirty percent of which has already fallen or is estimated to fall within seventy-two hours into the public right-of-way or onto a target that cannot be protected, restricted, moved, or removed. (See also Tree, Hazard.) Determination of Imminent Hazard is made by the City of Oregon City Public Works or Emergency Personnel, a PGE forester, or a certified arborist.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.04.1380 - Tree (or Tree Stand), native.

"Native Tree" or "Native Tree Stand" refers to a regulated native tree or stand of trees that are defined as such on the Oregon City Native Plant List or Portland Native Plant List. Significant native trees are those that contribute to the landscape character of the area and include Douglas fir, cedar, redwood, sequoia, oak, ash, birch, and maple. Significant native trees are typically suitable for retention next to streets and are not of a species that would likely create a public nuisance, hazard, or maintenance problem.

(Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

17.04.1385 - Tree (or Tree Stand), ornamental.

"Ornamental tree" means for purposes of tree removal, any tree (including shade trees) that originated as nursery stock as opposed to native trees that originated at the site prior to development. (Ord. No. 08-1014, §§ 1—3(Exhs. 1—3), 7-1-2009)

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