

## Chapter 18.40 – HERITAGE TREES.

### ~~18.1040.010317 318~~ Special provisions—~~Heritage heritage trees.~~

~~A.~~ All heritage trees qualifying for protection provide valuable local habitat and protection by the City. The tree protection area shall be equal to 10 times the trunk diameter of the tree or the average diameter of the area enclosed within the outer edge of the drip line of the canopy, whichever is greater.

~~A.B.~~ Heritage trees include:

1. Oregon white oaks with a trunk diameter larger than fourteen inches,
2. All other tree species with a trunk diameter greater than eighteen inches, or
3. Any tree designated as a heritage tree by the ~~City-City Council-Council~~ in accordance with the nomination process detailed below.

~~B.C.~~ To be considered a heritage tree, the tree must be nominated by the landowner of the ground sustaining the tree and be accepted by the ~~city-City~~ onto the inventory list of heritage trees compiled and maintained by the ~~city-City~~.

~~C.D.~~ Heritage trees may be designated in accordance with the following nomination and designation process:

1. Trees with smaller trunk diameters may also be nominated for heritage status by the property owner, by submitting a map, a photograph, and a narrative description, including the location, species, approximate age, and the specific characteristics and reasoning on which the nomination is based. To receive such a designation, a tree must be an outstanding specimen, especially old or large, or of distinctive form, location, or of ecological, cultural, or historical significance.
2. The ~~city-City~~ shall inspect the tree, consider public comments, consult with a certified arborist if relevant, and decide whether or not the tree is to be designated a heritage tree. Notice of the ~~city-City's~~ decision shall be mailed to the land-owner and any other parties participating in the evaluation process.
3. The ~~Council~~ may be asked to reverse its designation of a heritage tree.

~~D.E.~~ Tree inventory is required.

1. The ~~city-City~~ shall maintain a list of heritage trees designated within the city limits in response to the voluntary nomination process. The inventory may include a map identifying the location of the trees and a brief narrative description of each heritage tree.

~~E.F.~~ Maintenance and preservation of heritage trees is required.

1. Any owner or applicant shall use reasonable efforts to maintain and preserve all heritage trees located thereon in a state of good health pursuant to the provisions of this chapter. Failure to do so shall constitute a violation of this chapter. Reasonable efforts to protect heritage trees include:

Commented [AC1]: See Review Memo. Heritage trees are not a critical area, as defined by the State, and are not typically included in critical areas regulations. As a result, this has been re-located outside Chapter 18.10 into its own chapter.

- a. Avoidance of grading, excavation, demolition, or construction activity within the heritage tree protection area where possible. The ~~city~~City shall consider special variances to allow ~~the~~ location of structures outside the building setback line of a heritage tree whenever it is reasonable to approve such variance to yard requirements or other set-back requirements.
  - b. Grading, excavation, demolition, or construction activity within the heritage tree protection area shall require submittal of a tree protection plan, prepared in accordance ~~with~~ applicable guidelines for a critical area report and habitat management plan per ~~Section~~ 18.10.200, General Provisions.
  - c. Consideration of the habitat or other value of mature trees in the request for a variance or other modification of land use standards may require listing ~~of~~ the tree as a heritage tree. Once listed for protection, ~~the~~ approval of variances or modification of standards are considered reasonable actions and not the result of a ~~self-self~~-created hardship.
2. The critical areas ~~s~~ report for purpose of this section shall include a heritage tree protection plan and shall be prepared by a certified arborist. The plan shall address issues related to protective fencing and protective techniques to minimize impacts associated with grading, excavation, demolition, and construction. The ~~city~~City may impose conditions on any permit to assure compliance with this section. ~~(Note: Some provisions in section 18.10.200, such as 18.10.211, Buffers, 18.10.214, Native growth protection easement, 18.10.215, Critical areas tracts, and 18.10.216, Marking and/or fencing requirements, may not be applicable to protection areas for heritage trees.)~~
  - ~~3. Building set back lines stipulated by subsection 18.10.212 shall be measured from the outer line of the tree protection area for heritage trees.~~
  - ~~4.3~~ Review and approval of the critical areas report and tree protection plan by the ~~city~~City is required prior to issuance of any permit for grading or construction within the heritage tree protection area.
  - ~~5.4~~ In lieu of the NCPE required in subsection 18.10.214, ~~a~~ heritage tree protection easement (HTPE) shall be required. An HTPE is an easement granted to the ~~city~~City ~~for the protection to protect~~ of a heritage tree protection area. HTPEs shall be required as specified in these rules and shall be recorded on final development permits and all documents of title and with the county recorder at the applicant's expense. The required language is as follows:

*"Dedication of a heritage tree protection easement (HTPE) conveys to the public a beneficial interest in the land within the easement. This interest includes the preservation of existing heritage tree for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, visual and aural buffering, and protection of plant and animal habitat. The HTPE imposes upon all present and future owners and occupiers of land subject to the easement the obligation, enforceable on behalf of the public of the ~~city~~City of White Salmon, to leave undisturbed all heritage trees*

*within the easement. The heritage tree protection area may not be impacted by grading, excavation, demolition or construction without express permission from the ~~city~~City of White Salmon, which permission must be obtained in writing."*

~~F.G.~~ Heritage tree removal and major pruning ~~is are~~ prohibited. It is unlawful for any person to remove, or cause to be removed, any heritage tree from any parcel of property in the city, or to prune more than one-fourth of the branches or roots within a ~~twelve~~12-month period, without obtaining a permit, ~~provided, that if~~ in case of ~~an~~ emergency, when a tree is imminently hazardous or dangerous to life or property, it may be removed by order of the police chief, fire chief, the director of public works, or their respective designees. Any person who vandalizes, grievously mutilates, destroys, or unbalances a heritage tree without a permit or beyond the scope of an approved permit shall be in violation of this chapter.

~~G.H.~~ Exceptions to the provisions in this section include:

1. A heritage tree can be removed if it is dead, dangerous, or a nuisance, as attested by an arborist's report, submitted to the ~~city~~City and paid for by the tree owner or by order of the police chief, fire chief, the director of public works, or their respective designees.
2. A heritage tree in or very close to the ~~"building area"~~ of an approved ~~design for a single-single-family residence design~~ can be replaced by another tree. A heritage tree can be removed if its presence reduces the building area of the lot by more than ~~fifty~~50 percent after all potential alternatives, including possible ~~set backs~~setbacks to minimum yard depth and width requirements, have been considered.
3. Any person desiring to remove one or more heritage trees or perform major pruning (per ~~subsection~~18.10.316 F, above) shall apply for an exception pursuant to procedures established by this section rather than ~~subsection~~18.10.125. Exceptions, which generally applies elsewhere in this chapter.
4. It is the joint responsibility of the property owner and ~~the~~ party removing the heritage tree or trees, or portions thereof, to obtain ~~a written~~ exception. The ~~city~~City may ~~only~~ issue a permit for the removal or major pruning of a heritage tree ~~only~~ if it is determined that there is good cause for such action. In determining whether there is good cause, the ~~city~~City shall consult with a certified arborist, paid for by the applicant, as appropriate. The ~~city~~City shall also ~~give consideration to~~consider the following:
  - a. 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.
  - b. The necessity to remove the tree or trees in order to construct proposed improvements to the property.
  - c. The topography of the land and the effect of the removal of the tree on erosion, soil retention, and ~~the~~ diversion or increased flow of surface waters.
  - d. The long-term value of the species under consideration, particularly ~~its~~ lifespan and growth rate.

- e. The ecological value of the tree or group of trees, such as ~~for~~ food, nesting, habitat, protection, and shade for wildlife or ~~other~~ plant species.;
- f. 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.;
- g. The number of trees the particular parcel can adequately support according to good arboricultural practices; ~~and~~.
- h. The availability of reasonable and feasible alternatives that would allow ~~for~~ the preservation of the tree(s).