



Legislation Details (With Text)

File #:	17-591	Version:	1	Name:	Maximum Fine for the Removal of a Heritage Tree or Stand
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On agenda:		Final action:			
Title:	Continue Discussion of Incentives for Heritage Tree Program				
Sponsors:	Pete Walter				
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Attachments:	1. Staff Report, 2. Heritage Tree Ordinance 16-1002, 3. Planning Commission Memo 01.26.2016				

Date	Ver.	Action By	Action	Result
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Continue Discussion of Incentives for Heritage Tree Program

RECOMMENDED ACTION (Motion):

Worksession.

BACKGROUND:

The NRC will discuss ways to improve participation in the City's Heritage Tree program. The Heritage Tree code is codified at OCMC Chapter 12.32 - HERITAGE TREES. The purpose of this Code is to recognize, foster appreciation and provide for voluntary protection of heritage trees.

A primary concern is the provision of incentives for property owners to voluntarily designate heritage trees. At the NRC meeting on October 11, 2017, the NRC raised the following questions and ideas:

- Could there be a set aside from the Metro Enhancement grant funding annually? Are there any restrictions on that funding from Metro?
- Perhaps the code requirements could be changed from a certified arborist report to just a simple checklist, making it cheaper for applicants to get it reviewed?
- We could start off with CCC students at a city park, such as Mtn View Cemetery or even the grounds at CCC.
- The NRC could select development sites where owners already have tree covenants and arborists reports, as required by land use. Maybe the owners would be more willing to designate the trees as heritage trees if they are already protected by a covenant.

Additionally, one area of new focus that the NRC may want to consider is the use of an on-line survey to engage property owners directly to raise awareness about the program and to ask property owners what aspects of the program could be improved that would increase the number of nominations. A series of questions could be designed fairly quickly to determine what is working and what is not. NRC should consider adding this to their current workplan for implementation by staff. The NRC would provide input on the questions that should be included in the survey.

Staff has invited Rodney Walters, CCC Arboriculture Instructor, to the regular meeting on December 13, 2017. Mr. Walters teaches class the evening of November 8, 2017 and cannot attend.

Currently, staff requires a professional opinion (usually a Certified Arborist report) regarding the overall health and condition of any tree or stand of trees to be designated as a heritage tree. There are several practical reasons why this is a good idea, including public safety, expected longevity of the tree, presence of any weak limbs, or hazardous conditions, and a fair and impartial assessment of the tree prior to a decision for permanent, legal protection covenants being placed on the private property or public property on which the tree is growing. This requirement is codified in OCMC 12.32.050.(A)(2)(a):

2. Site and Condition Criteria (all criteria must be satisfied): a. 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;

As with many heritage tree programs, including Clackamas County and the State of Oregon, participation in Oregon City's heritage tree program is voluntary, with a unique difference being that that any private citizen may nominate trees on City-owned property for protection provided the nomination criteria are met and the City Commission approves the nomination. All nominations require a recommendation from the Natural Resources Committee.

Nominated trees that are approved for inclusion in the program receive legal protection through the recordation of a deed restriction that runs with the land on private property. This means that the tree is protected even if the property is sold. The removal of a Heritage Tree or Stand in violation of the municipal code constitutes a civil infraction that is subject to a fine of \$600 for each tree that is removed or damaged. This legally binding covenant may serve as a disincentive for owners to nominate trees since it potentially restricts the future use of private property.

The City Commission adopted the revised heritage tree code on March 18, 2016 by passage of Ordinance 16-1002. Planning Commission recommended approval of the proposed revisions on December 14, 2015. At the direction of the City Commission, between June and October 2014, planning staff and the Natural Resources Committee (NRC) drafted amendments to the Heritage Tree Code.

To date, there have been five Heritage Tree and one Heritage Grove nomination approved by the City Commission. See <http://www.orcity.org/planning/heritage-trees-and-groves> for details.