

Chapter 816-4 - HERITAGE TREE PRESERVATION (HTP) DISTRICT

Sections:

Article 816-4.2. General

816-4.202 - HTP district.

All land within Contra Costa County shall be subject to the provisions in this chapter.

(Ord. 88-83).

816-4.204 - Intent and findings.

- (a) Among the features that contribute to the attractiveness and livability of the county are its heritage trees growing as single specimens, in clusters or in woodland situations. These trees have significant psychological and tangible benefits for both residents of and visitors to the county.
- (b) Heritage trees contribute to the visual framework of the county by providing scale, color, silhouette and mass. Heritage trees contribute to the climate of the county by providing shade, moisture and wind control. Heritage trees contribute to the protection of other natural resources by providing erosion control for the soil, oxygen for the air, replenishment of groundwater, and habitat for wildlife. Heritage trees contribute to the economy of the county by sustaining property values and reducing the cost of drainage systems for surface water. Heritage trees provide landmarks of the county's history, and a critical element of nature in the midst of urban settlement.
- (c) For all these reasons, it is in the interest of the public health, safety and welfare of the county to regulate the removal of heritage trees, to require adequate protection of trees during construction, and to promote the appreciation and understanding of heritage trees.

(Ord. 88-83).

816-4.206 - Regulations.

- (a) The community development department, after consulting with and considering the recommendations of the building inspection, public works and agriculture department, may from time to time propose to the board of supervisors regulations to establish procedures to implement this chapter and to make more specific the standards and guidelines prescribed in this chapter. Such regulations as are approved by resolution of the board of supervisors shall have the force and effect of law unless otherwise indicated.
- (b) Regulations may be promulgated to set forth criteria for granting and denying destruction permits and, among other things, to govern the marking of heritage trees and the prevention of excessive pruning.

(Ord. 88-83).

816-4.208 - Arboricultural expertise.

All departments engaged in decisions regarding heritage trees may utilize such qualified arboricultural expertise as is required to implement this chapter in accordance with their current budget accounts.

(Ord. 88-83).

Article 816-4.4. Definition and Designation

816-4.402 - Heritage tree definition.

"Heritage tree" means:

- (1) A tree seventy-two inches or more in circumference measured four and one-half feet above the natural grade; or
- (2) Any tree or a group of trees particularly worthy of protection, and specifically designated as a heritage tree by the board of supervisors pursuant to the provisions of this chapter, because of:
 - (A) Having historical or ecological interest or significance, or
 - (B) Being dependent upon each other for health or survival, or
 - (C) Being considered an outstanding specimen of its species as to such factors as location, size, age, rarity, shape, or health.

(Ord. 88-83).

816-4.404 - Designation.

- (a) The county or regional planning commission for its territorial area of jurisdiction shall receive nominations through the county community development department from any person for the registration of heritage trees on any property. When any property's owner has not joined with or consented to a nomination, that owner shall be provided timely notice of the date and time at which the planning commission and/or board will consider the nomination.
- (b) If the planning commission approves the nominated trees, this decision shall be forwarded to the board for its consideration. If the board approves the heritage tree designation as recommended, then the tree shall be officially registered by resolution and thereafter a permit shall be required for its removal.
- (c) If the planning commission does not approve a heritage tree nomination, its decision is final unless appealed to the board pursuant to and otherwise regulated by the special permit provisions of Chapter 26-2.
- (d) The planning commission or board in designating a heritage tree shall consider the criteria of Section 816-4.402.
- (e) All designated heritage trees shall be appropriately marked with the permission of involved property owners so as to provide continuing notice to the public of heritage tree status.
- (f) A nomination fee of one hundred dollars shall be imposed per application. An appeal fee of fifty dollars per appeal shall be assessed.

(Ord. 88-83).

Article 816-4.6. Destruction or Removal

816-4.602 - Prohibition.

Except as provided in this chapter, no person shall destroy or remove any designated heritage tree unless a permit has been obtained therefor. This chapter does not require a permit for nor prevent trimming, pruning, or maintenance of a heritage tree where such does not result in destruction nor substantially change the tree's form or shape.

(Ord. 88-83).

816-4.604 - Emergency destruction.

In case of an emergency caused by any designated heritage tree being in a hazardous or dangerous condition requiring immediate action for the safety of structures or human life, such tree may be removed with the permission of the zoning administrator or building inspector if designated by the zoning administrator, without formal application. The zoning administrator may request certification from a tree expert as to the immediate need for action if the need is not clearly apparent.

(Ord. 88-83).

Article 816-4.8. Preservation

816-4.802 - Encroachment, construction or excavation.

When proposed developments or construction encroach into the drip line or a radius of twelve feet from the trunk of any designated heritage tree, whichever is greater, special construction to allow the roots to breathe, obtain water and nutrients shall be required, as determined necessary by the building inspection department to minimize damage to such tree visible above ground level. Excavation, cuts, fills or compaction of the existing ground surface within the drip line or a radius of twelve feet from the trunk of a designated heritage tree, whichever is greater, shall minimize such damage to the root system so as to result in least damage to such tree. Permission is required prior to back filling. Tree wells may be used where approved by the building inspection department. The cost of required pruning or other treatment to compensate for root damage and/or cost of removal shall be at the expense of the involved developer and/or contractor but may be shared by the owner. Such pruning as is done shall not cause permanent injury or destroy any designated heritage tree.

(Ord. 88-83).

816-4.804 - Storage and dumping.

No person shall store or dump any oil, gas, or chemicals that may be harmful to trees, nor place heavy construction machinery or construction materials in the open within the drip line of any designated heritage tree or within a radius of twelve feet from the trunk of such tree, whichever is greater.

(Ord. 88-83).

816-4.806 - Burning.

Burning of any material within or near the drip line of any designated heritage tree shall not be done where such will injure the tree.

(Ord. 88-83).

816-4.808 - Attachments.

No person shall attach any wire (except as needed for support) or sign (other than approved tree identification signs) to any heritage tree where such wire or sign may damage such designated heritage tree.

(Ord. 88-83).

816-4.810 - Damage notification.

The contractor, developer or owner or any agent thereof shall notify the building inspection department without undue delay of any damage that occurs to any heritage tree during construction. The cost of repair of the damage or tree replacement shall be at the expense of the responsible party and the repair work done according to standards approved by the building inspection department.

(Ord. 88-83).

Article 816-4.10. Permits

816-4.1002 - Application.

- (a) Any application for a permit to destroy, cut down or remove a designated heritage tree shall be submitted to the community development department by the owner or his authorized agent (satisfactory evidence of such authorization to be submitted with the application) on the form provided by the community development department together with any specified fee.
- (b) The application shall contain the location, number, species, size, and heritage designation of the tree to be destroyed, cut down or removed and a statement of reasons for the proposed action, together with such other information as may be required by the community development department.

(Ord. 88-83).

816-4.1004 - Procedure.

Before issuing a permit, the zoning administrator shall have inspected or cause to be inspected, the property, the heritage tree that is the subject of the permit, and the surrounding area. A permit shall be granted, modified, conditioned, or denied based upon the following factors:

- (1) The health, damage, danger of falling of the designated heritage tree that is the subject of the permit and whether said heritage tree acts as a host for plants or animals parasitic to other trees which are endangered thereby.
- (2) The presence of public nuisance factors, and the proximity to or interference with utilities, or interference with existing buildings to the extent that a tree or trees cannot be trimmed or buttressed to fit the site.
- (3) The prevention of development as a result of heritage tree protection and preservation.
- (4) The pursuit of good professional practices of forestry or landscape design.

(Ord. 88-83).

816-4.1006 - Appeal.

The zoning administrator's decision on the permit application is final unless appealed to the planning commission having territorial jurisdiction pursuant to and otherwise regulated by the special permit provisions of Chapter 26-2.

(Ord. 88-83).

816-4.1008 - Development coordination.

- (a) An application for a permit to destroy, cut down or remove any designated heritage tree in connection with any development, shall be submitted and combined with the initial application for

approval of the development and shall be considered together with the review and decision on the development.

- (b) The proposed development shall indicate on its plan all trees designated as heritage trees. The heritage trees shall be evaluated and their individual treatment considered with respect to the land use and proposed development.
- (c) The involved planning agency division may grant, grant with modifications or conditions, or deny the requested heritage tree application.
- (d) Any appeal of a decision made by a planning agency division on the requested heritage tree application shall be made in the same manner and subject to the same procedure as a decision on the involved combined planning or subdivision entitlement for the development.

(Ord. 88-83).

816-4.1010 - Priority.

In the case of any conflict between the provisions of this chapter and those of Chapter 816-2, the provisions of this Chapter 816-4 shall prevail.

(Ord. 88-83).