

## CHAPTER 9.21

### HERITAGE TREE PROGRAM

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#### **9.21.010 Intent.**

It is the intent of this chapter to establish a Heritage Tree Program to provide protection, recognition, foster appreciation, and inspire awareness of the contribution that Tacoma's mature trees make to the community. Heritage tree designation helps the City achieve a greater overall tree canopy to preserve the scenic beauty and natural environment of Tacoma, prevent erosion and sedimentation in waterways, encourage quality development, provide shade and wildlife habitat, counteract pollutants in the air, reduce heat island effects, and decrease wind velocities and noise. Designation of Heritage Trees connects the past to the present by preserving historic trees for the enjoyment of future generations.

#### **9.21.020 Applicability.**

This chapter shall apply to the designation and management of Heritage Trees both on public and private property within Tacoma. Public property shall encompass all City-owned property, both General Government and Department of Public Utilities, including, but not limited to: rights-of-way, open space, and property used for facilities, unless specifically stated otherwise.

A Heritage Tree may be an individual tree, or collection of trees, that because of exemplary size, age, cultural/historical significance, ecological value, or rarity is considered irreplaceable. To qualify for Heritage Tree status, tree(s) must be in apparently healthy growing condition and the threshold trunk diameter must be 30" or 65% of the largest documented diameter for a tree of that species in Washington, whichever is less, as established in Champion Trees of Washington State by Robert Van Pelt.

#### **9.21.030 Definitions.**

A. "Heritage tree(s)" means a tree, or collection of trees, that because of exemplary size, age, cultural/historical significance, ecological value, or rarity is considered irreplaceable.

B. "Right-of-way or rights-of-way" is the public streets, roadways, courts, alleys and any other public passages, whether developed or undeveloped, over which the City has a possessory interest or right of use either by easement, license, permit or other such authority, or by fee simple ownership. For purposes of this definition developed rights of way may contain items such as pavement, parking or loading areas, retaining walls or other structures, landscape or planting strips, sidewalks, curbs, vehicle, bicycle or pedestrian traffic lanes, traffic circles and other such development. This definition is intended to be construed so as to be consistent with other definitions of the term Right-of-Way or Rights-of-Way as may be found in Tacoma Municipal Code or Washington State statutory and case law.

C. "Open space" means any space or area characterized by natural scenic beauty and/or existing openness, natural condition, or present state of use, such as a steep slope or gulch. If retained, these areas would enhance the present or potential value of surrounding urban development, or would maintain or enhance the conservation of natural and scenic resources. The term "natural" as it relates to vegetation is intended to mean native vegetation.

D. "Pruning" means the removal of plant parts, dead or alive, in a careful and systematic manner so as to not damage other parts of the plant. Pruning is most often performed for the purposes of improving the health, structure, aesthetics or safety of the vegetation, but may also be performed for other reasons. Pruning includes limbing up, thinning to create viewing windows through the vegetation, shaping, trimming, and removal of dead, decaying or diseased branches.

E. "Drip Line" The area on the ground below the tree in which the boundary is designated by the edge of the tree's crown.

F. "Arborist"; also see "Certified Arborist" is an individual engaged in the profession of arboriculture who, through experience, education and related training, possesses the competence to provide for or supervise the management of trees and

other woody plants.

#### **9.21.040 Nomination.**

Any resident of the City of Tacoma or City official, including members of the City Council, City Staff, or members of City of Tacoma Committees, Boards or Commissions, may request consideration of a nomination of a tree located on public or private property for Heritage Tree designation.

A. Private property trees. Designation of Heritage Trees on private property must be nominated by, or on behalf of, the owner of the property on which they are located. Trees which are located on property that is not owned by the applicant may only be nominate with the written consent of the property owner, verification of which must be submitted to the City in writing.

B. Public property trees. Designation of Heritage Trees on public property, including all City-owned property, both General Government and Department of Public Utilities, including, but not limited to: rights-of-way, open space, and property used for facilities, may be nominated for designation.

C. Written request. A written request, shall be submitted to the City's Urban Forestry Section of the Environmental Services Department utilizing the nomination forms provided by the Urban Forestry program of the City. At a minimum, the nomination form shall contain the following:

1. A narrative statement which addresses the historical or cultural significance of the tree, if known;
2. A narrative statement which addresses the physical condition of the tree, including the species, size (diameter of the tree's trunk), and description of tree health;
3. Photos of the tree, including at least one aerial photo demarcating the location with enough description so that the tree can be positively identified; and,
4. A description of the ownership of the property on which the tree is located;

#### **9.21.050 Designation.**

Heritage tree nominations shall be administered through the City's Urban Forestry Section of the Environmental Services Department, and a determination as to whether a tree should be designated as a Heritage Tree shall be made in accordance with the nomination Section 9.21.040. All applications for trees located on public property must be reviewed and approved or denied by the Director of Public Works or his or her designee, as well as the Department Director or his/her designee whose management authority the property is overseen by.

A. List and Plaques. The City of Tacoma Urban Forestry Section shall maintain the list of designated Heritage Trees. In the case of public property, the Urban Forestry Section may place a plaque, or other such identification, on or near Heritage Trees.

#### **9.21.060 Maintenance, care and protection.**

A. Maintenance and Protection. The City of Tacoma is responsible for the maintenance of Heritage Trees located on streets and property owned or managed by the City, including those portions of right-of-way under the management authority of the City. Heritage Trees on private property, or within the right-of-way adjoining private property not under the management authority by the City, shall be maintained by the owner of the property on which they are located.

In accordance with TMC Title 9.18.070 care must be taken to protect all Heritage Trees located within the public right-of-way during all types of construction.

B. Heritage Tree Removal. A Heritage Tree or collection of trees on public property shall be retained until such tree is dead or a hazard to the public or to public utilities. If an Arborist designated by the City of Tacoma determines that a Heritage Tree is hazardous and a threat to public safety through a tree risk assessment, the City may order the tree hazard to be mitigated, through means up to and including pruning and/or tree removal.

A Heritage Tree or collection of trees on private property is retained by the property owner and does not become the property or responsibility of the City. A Heritage Tree designation does not prohibit a property owner from developing a property and/or removing the Heritage Tree or trees subject to compliance with the City of Tacoma's tree retention regulations. Prior

to removal of a private Heritage Tree, a property owner must notify the City of Tacoma Urban Forestry Section so updates can be made to the Heritage Tree registry.

G. Emergencies. Those activities necessary to prevent an immediate threat to public health, safety, or welfare or pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for normal processing.

Emergency actions that create an impact to a Heritage Tree shall use best management practices to address the emergency and, in addition, the action must have the least possible impact to the Heritage Tree. The person or agency undertaking such action shall notify the City within one (1) working day following the commencement of the emergency activity. The City shall determine if the action taken was within the scope of an emergency action and following that determination, may require the action to be processed in accordance with all provisions of this chapter including the application of appropriate permits within thirty (30) days of the impact. The emergency exemption may be rescinded at any time upon the determination by the City that the action was not, or is no longer necessary. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary mitigative actions including, but not limited to, restoration and rehabilitation or other appropriate mitigation for any impacts to the Heritage Tree resulting from the emergency action in accordance with an approved mitigation plan. All mitigation activities must take place within one (1) year following the emergency action and impact to the Heritage Tree, or within a timeframe approved by the City and reflected within an approved schedule.

#### **9.21.050 Violation - Penalties.**

A. If, as the result of a violation of any provision of Chapter 9.21 TMC, the injury, mutilation, or death of a Heritage Tree located within the public right-of-way is caused, any person violating such provisions shall be penalized in a sum not exceeding the value of the vegetation pruned or removed plus \$1,000.00. The restitution value of trees shall be determined in accordance with the methods prescribed in the most recent edition of The Guide for Plant Appraisal published by the International Society of Arboriculture. Any money collected under this provision shall be placed in the Urban Forest Fund.

#### **B. Violation Review Criteria.**

Each violation requires a review of all relevant facts in order to determine the appropriate enforcement response. When enforcing the provisions of this Chapter, the Director of Public Works and/or his/her designee should, as practical, seek to resolve violations without resorting to formal enforcement measures. When formal enforcement measures are necessary, the Director and/or his/her designee should seek to resolve violations administratively prior to imposing civil penalties or seeking other remedies. The Director and/or his/her designee should generally seek to gain compliance via civil penalties prior to pursuing criminal penalties. A variety of factors may be considered when determining the appropriate enforcement response, including but not limited to:

- a. Severity, duration, and impact of the violation(s), including whether the violation has a probability of placing a person or persons in danger of death or bodily harm, causing significant environmental harm, or causing significant physical damage to the property of another;
- b. Compliance history, including any identical or similar violations or notice of violation at the same site or on a different site but caused by the same party;
- c. Economic benefit gained by the violation(s);
- d. Intent or negligence demonstrated by the person(s) responsible for the violation(s);
- e. Responsiveness in correcting the violation(s); and,
- f. Other circumstances, including any mitigating factors.