

## **Division C16 - TREE PRESERVATION AND REMOVAL**

### **Sec. C16-1. - Intent.**

The Board of Supervisors finds that it is necessary to enact this ordinance to promote the public health, safety, general welfare and prosperity of the County, while recognizing and respecting individual rights to develop, maintain and enjoy private property to the fullest possible extent, consistent with the public interest, convenience and necessity. The County recognizes the substantial economic, environmental and aesthetic importance of its tree population. The County finds that the preservation of all trees in private and public property is necessary for the best interests of the County and its citizens in order to:

- (a) Establish and maintain the optimum amount of tree cover on public and private lands in the County;
- (b) Protect property values;
- (c) Preserve and protect aesthetic and scenic beauty;
- (d) Prevent erosion of topsoil and protect against flood hazards and the risk of landslides;
- (e) Counteract the pollutants in the air;
- (f) Protect against high winds;
- (g) Maintain the climatic balance and provide shade;
- (h) Provide habitat to a variety of wildlife species; and
- (i) Protect valuable historical and community assets.

The Board of Supervisors further finds that it is necessary and desirable to protect and preserve those trees which, because of their history, girth, height, species, or other unique quality, have a special significance to the community. As a result, heritage trees shall be given additional protections under this chapter, as provided in Section C16-13 and Section C16-17(c).

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS- \_\_\_\_\_, \_\_\_\_\_)

### **Sec. C16-2. - Definitions.**

In addition to the provisions of Chapter 1 of Division A-1 of this Code concerning definitions, applicability, and rules of construction, the following definitions apply to this Division unless otherwise specified:

*Commercial tree species* shall mean any tree species defined as "commercial species" by the California Forest Practice Rules, which include but are not limited to Coast Redwood, Douglas Fir, Monterey Pine, Jeffrey Pine, and Ponderosa Pine (Group A). Commercial tree species shall also include Tanoak, Eucalyptus, California Black Oak and Pacific Madrone (Group B) when such trees are found on lands where the species in Group A are now growing naturally or have grown naturally in the recorded past.

*Administrative Permit* shall mean a type of permit issued by the County authorizing the removal of a protected tree, as specified in Section C16-3, on Public or Private property.

*Cord* shall mean 128 cubic feet of firewood, when racked and well stowed.

*County Tree* shall mean a woody plant rising above the ground with a trunk which has a circumference of 37.7 inches or more (12 inches or more in diameter) measured at 4.5 feet above the ground or immediately below the lowest branch, whichever is lower, or in the case of multi-trunk trees a trunk size of 75.4 inches in circumference or more (24 inches or more in diameter) or which exceeds 20 feet in height, and is located on property owned or leased by the County including a County road right of way.

*Encroachment permit* provides authorization to remove, cut or alter any tree growing within or upon any County road right-of-way.

*Hardwood* shall mean trees that are angiosperms, usually broad leaved, which include but are not limited to Oak, Maple, Madrone, Blue Gum and Bay.

*Heritage tree* shall include any tree which, because of its history, girth, height, species, or other unique quality, has been recommended for inclusion on the heritage resource inventory by the Historical Heritage Commission and found by the Board of Supervisors to have special significance to the community, and which has therefore been included in the heritage resource inventory adopted by resolution of the Board of Supervisors.

*Parcel* is land described as a lot or parcel in a recorded deed or shown as a lot or parcel on a subdivision map or parcel map on file in the County Recorder's office.

*Person* shall mean an individual, firm, association, corporation, and their or its employees, agents and representatives, or a public agency, including the County and its departments.

*Private property* shall mean any and all real property located within the unincorporated territory of Santa Clara County excluding real property owned or leased by the County or otherwise defined herein as Public property.

*Prune* shall mean to trim or cut away any limbs or branches of a tree which will not adversely impair the health of the tree.

*Public Agency* shall mean any city, special district, school district, public utility or other public agency located or operating within the unincorporated Santa Clara County.

*Public property* shall mean any and all real property owned or leased by the County or within rights of way or easements of the County, or any real property owned or leased by any public agency.

*Remove* and *removal* shall include cutting down, destructing, burning, poisoning, or otherwise diminishing the vigor of or destroying a tree, as well as adversely pruning or topping a tree.

*Tree* shall mean any woody plant rising above the ground with a trunk which has a circumference of 37.7 inches or more (12 inches or more in diameter) measured at 4.5 feet above the ground or immediately below the lowest branch, whichever is lower, or which exceeds 20

feet in height, or in the case of multi-trunk trees a trunk size of 75.4 inches in circumference or more (24 inches or more in diameter).

*Tree canopy* shall mean the extent of the outer layer of leaves of an individual tree or group of trees.

*Woodland Clearance Permit* shall mean a type of permit issued by the County authorizing the removal of multiple trees within the Hillside and Agricultural Ranchlands zoning districts as defined herein.

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.302, § 4, 12-18-01; Ord. No. NS-\_\_\_\_, \_\_\_\_)

### **Sec. C16-3. - Administrative permit/encroachment for tree removal required.**

Except as otherwise provided below in Section C16-4 of this Division, it shall be unlawful for any person to remove any protected tree on any Private or Public property in designated areas of the County without having first obtained an Administrative Permit [(a) through (e) below] from the County Planning Office or an Encroachment Permit [(f) below] from the Department of Roads and Airports. On County parkland, additional review and approval is required by the Parks and Recreation Department. Additional requirements for tree removal in Agricultural Ranchlands and Hillside zoning district areas are provided in Section C16-5 and Section C16-6.

A protected tree shall consist of any of the following:

- (a) Any Tree located on Private property in the following areas of the County:
  - (1) Parcels zoned "Hillside" (three acres or less);
  - (2) Parcels within a "-d" (Design Review) combining zoning district;
  - (3) Parcels within the Los Gatos Hillside Specific Plan Area.
  - (4) Parcels zoned One-Family Residence (R1), One-Family Residence—Estate (R1E), Two-Family Residence (R2), Multi-Family Residential (R3) and Urban Hillside Residential (RHS).
- (b) Any tree within the "-h1" Historic Preservation zoning district for New Almaden having a main trunk or stem measuring six inches or more in diameter (18.8 inches or greater in circumference) at a height of 4.5 feet above ground level, or in the case of multi-trunk trees, a total of 12 inches in diameter (37.7 inches in circumference) of all trunks at 4.5 feet above ground. For parcels having a base zoning district of "HS, Hillside" within the "-h1" combining zoning district, this provision supersedes C16-3(a)(1).
- (c) Any Heritage tree, as that term is defined in Section C16-2.
- (d) Any tree required to be planted as a replacement for an unlawfully removed tree, pursuant to Section C16-17(e) of this division.

- (e) Any tree that was required to be planted or retained by the conditions of approval for any use permit, building site approval, grading permit, architectural and site approval (ASA), design review, special permit or subdivision.
- (f) Any County tree on any property owned or leased by the County.
- (g) Any County tree, within County road rights-of-way or easements.

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.302, § 5, 12-18-01 Ord. No. NS-\_\_\_\_, \_\_\_\_)

**Sec. C16-4. - Exceptions.**

Except in the case of Heritage trees or County Trees on County parkland (not otherwise allowed in Section C16-4(g) below), no permit shall be required from the Planning Office to remove or prune a tree in the following circumstances:

- (a) The Tree is (1) irreversibly diseased, is dead, or is dying (a determination by a licensed arborist, tree surgeon, or forester may be required to verify that a Tree is diseased or dying); or (2) the Tree is substantially damaged from natural causes. A Tree shall be found to be substantially damaged when one-third or more of the tree has been destroyed or must be removed not otherwise caused by the property owner.
- (b) Tree cutting to remove a hazard to life and personal property as determined by the Planning Director, or his or her designee. In the case of an emergency or dangerous condition of a Tree requiring immediate action for the safety of life or property, such necessary action may be taken to remove the Tree or otherwise reduce or eliminate the hazard without complying with the other provisions of this part, except that the person responsible for the cutting or removal of the Trees shall report such action to the Planning Director or his or her designee within five working days thereafter.  
  
It shall be the responsibility of the property owner or other person responsible for removing the Tree to demonstrate that any Tree removed without a permit was irreversibly diseased, substantially damaged, or presented an imminent danger to human life or safety or to property. Credible evidence shall include, but shall not be limited to, a photograph, video, or written opinion of an arborist, forester, or other expert qualified to render such an opinion. Such reports are to be obtained at the expense of the applicant..
- (c) Trees planted, grown and/or held for sale by licensed nurseries and/or tree farms or the removal or transplanting of such Trees pursuant to the operation of a licensed nursery and/or tree farm.
- (d) Trees in the active production of agriculture or orchard production, where there is no active plan to convert the property to another use.

- (e) Tree removal necessary to carry out building site approval or other land use application approved by the County provided that all of the following criteria are met:
- (1) A grading or building permit has been issued by the County with the Trees to be removed as indicated on approved plans prior to removal of any trees.
  - (2) The number of Trees cut does not exceed the minimum number necessary to carry out the permitted action.
  - (3) For any removal of a County Tree in a County road right-of-way or easement, a public notice shall be posted for a minimum of seven calendar days prior to the issuance of building site approval or other land use permit approval and prior to any Tree removal activity. Said notice shall be posted in a conspicuous place at eye level at a point near the closest street or roadway. Building site approval or other land use permit approval that indicate Tree removal from the right-of-way on the plans may be granted if no written objection to the tree removal has been received by the County. Removal of the subject County Tree(s) may take place only after: (i) the noticing period has expired, (ii) approval of the building site approval or other land use application permit approval, and, (iii) issuance of an Encroachment Permit from the Department of Roads and Airports.
- (f) Maintenance work within public utility easements.
- (g) County Trees removed or pruned, with the prior authorization of the Director of the Parks and Recreation Department, or authorized designee, for the maintenance of County parks under established policies and procedures of the Parks and Recreation Department.
- (h) County Trees removed or pruned as part of maintenance of County right-of-way under established policies and procedures of the Department of Roads and Airports.
- (i) Trees removed on properties with a comprehensive vegetative management program approved by the County.
- (j) County Tree removal in County road rights-of-way necessary to carry out development approved by a city having land use jurisdiction adjacent to the County road right-of-way, provided that the noticing requirements of the city meet or exceed the requirements set forth in Section C16-9. However, an Encroachment Permit from the Roads and Airports Department shall be issued prior to any tree removal.
- (k) County Trees in County road rights-of-way removed or pruned in accordance with the terms of a Landscape Maintenance Agreement (LMA) between the County and a public agency, provided the terms of the LMA are consistent with the requirements of Section C16-9.

(Ord. No. NS-1203.107, § 1, 2-11-97 Ord. No. NS- \_\_\_\_\_, \_\_\_\_\_)

**Sec. C16-5. - Tree removal in the Agricultural Ranchlands (AR) zoning district.**

(a) *Matter of right.* Hardwood tree cutting for firewood, including for sale, is allowed as a matter of right on Private Property provided that:

(1) The following cord limitations apply:

- a. No more than ten cords per year shall be cut on parcels 100 acres or less.
- b. No more than 25 cords per year shall be cut on parcels between 100 acres and 300 acres.
- c. No more than 50 cords per year shall be cut on parcels between 300 acres and 600 acres.
- d. No more than 100 cords per year shall be cut on parcels over 600 acres.

(2) No more than ten percent of the Trees or one-half acre of trees (as measured by tree canopy), whichever is less, shall be cut in any one year on a parcel, or contiguous parcels under the same ownership.

(b) Administrative Permit When the requirements of Section C16-4(a)(1) are exceeded, an Administrative Permit shall be required for hardwood tree cutting for firewood, including for sale, and the following cord limitations shall apply:

- (1) No more than 20 cords per year may be cut on any parcel of 100 acres or less.
- (2) No more than 50 cords per year may be cut on any parcel between 100 and 300 acres.
- (3) No more than 100 cords per year may be cut on any parcel between 300 and 600 acres.
- (4) No more than 200 cords per year may be cut on any parcel over 600 acres.

The Administrative Permit application shall include a written statement indicating the location of the operation and describing the operation and, if necessary, mitigation measures to control excessive erosion.

The Planning Manager may grant an Administrative Permit if it is able to make all of the specific findings:

- (1) Adequate erosion control measures are provided.
- (2) Only chain saws, pickups, small trucks (2T) and splitters shall be used.

(c) Woodland Clearance Permit ~~Special Permit~~. A Woodland Clearance Permit shall be required for (i) the removal of more than ten percent of Trees or one half acre of Trees (as measured by Tree canopy), whichever is less, per year on any parcel of Private Property, together with contiguous parcels under the same ownership, or (ii) hardwood tree cutting for firewood, including for sale, when the following cord limitations are exceeded:

- (1) Over 20 cords per year on any parcel of 100 acres or less.

- (2) Over 50 cords per year on any parcel between 100 and 300 acres.
- (3) Over 100 cords per year on any parcel between 300 and 600 acres.
- (4) Over 200 cords per year on any parcel over 600 acres.

The Woodland Clearance Permit application shall include a description of a harvesting program, including necessary maps and a description of the operation and, if necessary, mitigation measures to control excessive erosion.

The Planning Commission may grant a Woodland Clearance Permit if it is able to make all of the specific findings:

- (1) The amount, design, location, and the nature of the proposed Tree removal is necessary to establish or maintain a use presently permitted by law on the property.
- (2) The Tree removal shall not create noise, water pollution or traffic congestion adversely affecting the neighborhood.
- (3) The applicant has submitted a plan showing that good harvesting and vegetative management practices will be used.
- (4) The Tree removal will not endanger public or private property, will not endanger public health and safety, will not result in excessive deposition of debris or soil sediments on any public right-of-way, and will not impair any spring or existing watercourse.
- (5) The applicant has obtained any necessary permit(s) or notice of exemption from the California Department of Forestry and Fire Protection for such cutting.

(Ord. No. NS-1203.107, § 1, 2-11-97 Ord. No. NS- \_\_\_\_\_, \_\_\_\_\_)

**Sec. C16-6. - Tree removal in the Hillsides (HS) zoning district.**

(a) *Matter of right.* Except for parcels within the "-h1, New Almaden Historic Preservation zoning district," the following limitations shall apply to Trees removed as a matter of right on Private Property in the Hillsides (HS) zoning district:

1. Parcels greater than three acres: Tree removal less than ten percent of trees or one half acre of trees (as measured by tree canopy) removed, whichever is less per year on any parcel, together with contiguous parcels under the same ownership.
2. Parcels less than 100 acres: No more than ten cords of wood per year shall be cut.
3. Parcels greater than 100 acres: No more than 25 cords per year shall be cut.

Cutting of "commercial" tree species (as defined in Section C16-2) may require a permit from the California Department of Forestry and Fire Protection (CDF). Prior to cutting, the

property owner shall obtain any applicable permit(s), and, if required, a notice of exemption, from CDF.

- (b) ~~Use Permit~~ *Woodland Clearance Permit*. A Woodland Clearance Permit is required for (i) the removal of more than ten percent of Trees or one half acre of Trees (as measured by tree canopy), whichever is less, per year on any parcel, together with contiguous parcels under the same ownership; (ii) the cutting of Trees for wood in an amount more than ten cords per year on any parcel of 100 acres or less; and, (iii) the cutting of Trees for more than 25 cords per year on any parcel larger than 100 acres. In no case shall yield exceed 100 cords of wood per year on any parcel and contiguous parcels under the same ownership.

The Planning Commission may grant the Woodland Clearance Permit if the following findings are made:

- (1) The amount, design, location, and the nature of the proposed tree removal is necessary to establish or maintain a use presently permitted by law on the property.
  - (2) The tree removal shall not create noise, water pollution or traffic congestion adversely affecting the neighborhood.
  - (3) The applicant has submitted a plan showing that good harvesting and vegetative management practices will be used.
  - (4) The tree removal will not endanger public or private property, will not endanger public health and safety, will not result in excessive deposition of debris or soil sediments on any public right-of-way, and will not impair any spring or existing watercourse.
  - (5) The applicant has obtained any necessary permit(s) or notice of exemption from the California Department of Forestry and Fire Protection for such cutting.
- (c) *Commercial timber harvest plans*. Tree cutting as part of commercial timber harvest plans shall be conducted in accordance with the state forest practice rules, as administered by the California Department of Forestry and Fire Protection. **No Administrative Permit or Woodland Clearance Permit shall be required.**

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.302, § 6, 12-18-01 Ord. No. NS-\_\_\_\_, \_\_\_\_)

### **Sec. C16-7. - Permit applications.**

**(a) Administrative Permit** Any person desiring to remove any tree regulated herein shall file an application with the County Planning Office for an Administrative Permit not less than ten days prior to the date of such planned removal. In the case of Heritage trees, such application must be made not less than 90 days prior to the date of the planned removal, following the hearing procedures set forth in Section C16-12 and Section C16-13 below.



(b) *Woodland Clearance Permit* Any application for a Woodland Clearance ~~special permit or use~~ Permit for tree cutting shall be filed in accordance with procedures set forth in Chapters 5.20 ~~5.60 and 5.65~~ of the County Zoning Ordinance. The decision-making body for Woodland Clearance Permit shall be the Planning Commission. Removal of any tree, regardless of size, located within a County road right-of-way shall require an Encroachment Permit from the Department of Roads and Airports not less than 60 days prior to planned removal.

Any Administrative Permit or Woodland Clearance Permit application to remove a tree located within the Los Gatos Hillside Specific Plan, as indicated in Section 5.50.070 of the County Zoning Ordinance, shall be reviewed and approved by both the Town of Los Gatos and the County.

The following information shall be included in any application for tree removal:

- (a) A brief statement of the reasons for removal of the tree.
- (b) A photograph of the tree(s) proposed for removal.
- (c) A description of the method to be used in the removal of the tree(s). Applicant should demonstrate that good harvesting practices will be used.
- (d) A tree survey (map) with the accurate location, number, species, size (diameter measured 4.5 feet above ground, approximate height, and approximate canopy diameter), general health, and approximate age, if known, of the tree or trees in question.
- (e) A replanting and/or re-vegetation plan for all trees to be removed. Replacement trees shall be of a like kind and species of tree removed, if native and feasible, or of a kind and species to be determined by the Planning Department. The location of the replacement tree(s) need not be in the same location of the tree removed. Replacement tree planting shall utilize at least five-gallon size stock. The ratio of trees removed to trees planted shall be determined by the Planning Department. An erosion control plan may also be required where deemed appropriate by County staff.
- (f) Any other pertinent information, such as property lines, names of the streets fronting the property and edge of the County road right-of-way.

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.318, § 30, 3-28-06 Ord. No. NS-\_\_\_\_, \_\_\_\_)

#### **Sec. C16-8. - Fees.**

The application for an Administrative Permit or Woodland Clearance Permit ~~special permit or use permit~~ shall be accompanied by a fee, as set by resolution of the Board of Supervisors. ~~No fee shall be assessed for an administrative permit for tree removal.~~

(Ord. No. NS-1203.107, § 1, 2-11-97 Ord. No. NS-\_\_\_\_, \_\_\_\_)

#### **Sec. C16-9. - Display of permit/notice to neighbors and the Board of Supervisors.**

- (a) Display of Permit/Notice to Neighbors. The approved Administrative Permit shall be posted on the property where the Tree is located for a minimum of seven calendar days prior to actual tree removal operations. The issued permit shall be posted in a conspicuous place at eye level at a point near the closest street or roadway. The property owner shall also provide a copy of the Administrative permit to adjoining property owners and any person who requests a copy. The subject tree(s) may be removed after the end of the seven-day noticing period if no written objection to the issuance of the permit has been received by planning staff.
- (b) Woodland Clearance ~~Special Permit and Use Permit~~ noticing requirements. In addition to the requirement set out herein, noticing for a Woodland Clearance ~~special permit or use Permit~~ shall take place in accordance with procedures set forth in Section 5.20.110 of the Zoning Ordinance.
- (c) Noticing Requirements for County Property. For any County Tree removal within or on County-owned or leased real property, or located on rights-of-way or easements within or on County-owned or leased real property, regardless of location, requires consent of the respective Department and notification to the County of Santa Clara Clerk of the Board of Supervisors at least sixty (60) days prior to such proposed tree removal. Upon receiving such notice, the Clerk of the Board shall immediately notify each Supervisor of such proposed tree removal and, if any Supervisor so directs, shall agendaize such proposed tree removal for due consideration at the next available public meeting of the Board of Supervisors. If a Supervisor requests that the tree removal be agendaized for consideration, then the tree(s) shall not be removed until after the agendaized Board meeting and only if the Board of Supervisors, or as appropriate, the applicable County department director, has authorized such tree(s) removal.

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.318, § 31, 3-28-06 Ord. No. NS-\_\_\_\_, \_\_\_\_)

### **Sec. C16-10. - Appeals.**

With respect to Private property, or public property (other than Public property owned by the County), any person who disagrees with an action of the Planning Office with respect to an application for an Administrative Permit may appeal to the County Planning Commission. A written notice of appeal shall be filed with the Planning Office within seven days of such action. Upon the acceptance and filing of the notice of appeal, the Planning Director shall set a date of public hearing thereon by the Planning Commission. Such hearing shall take place no more than 30 days after the date of filing of the appeal, or the first meeting date of the Planning Commission thereafter, whichever comes later. The Planning Director shall give written notice of the hearing to the appellant (if not the applicant) and to the applicant. The Planning Commission shall hear all matters on appeal de novo and shall take action within a reasonable time after the conclusion of the hearing.

With respect to a Woodland Clearance Permit, any person dissatisfied with an action of the Planning Commission to grant or deny the Woodland Clearance Permit may appeal that

action to the Board of Supervisors. Appeal procedures and timelines shall take place in accordance with procedures set forth in Section 5.30 of the Zoning Ordinance

(Ord. No. NS-1203.107, § 1, 2-11-97 Ord. No. NS- \_\_\_\_\_, \_\_\_\_\_)

**Sec. C16-11. - Findings for permit approval.**

The Planning Office or any other person or body charged with determining whether to grant, conditionally grant or deny an Administrative Permit, Woodland Clearance ~~special permit,~~ ~~use~~ Permit, or Encroachment Permit for tree removal may approve tree removal if all of the following findings are made, in addition to any specific findings for such findings as set forth herein,:

- (a) Removal of the tree or trees is necessary due to one of the following reasons –
  - a. The tree is diseased or damaged, or presents an imminent danger to human life or safety, imminent danger to property due to proximity to existing or proposed structures, or interferes with utility services where the problem cannot be corrected by pruning.
  - b. The tree removal is necessary to allow reasonable economic or other enjoyment of the property.
  - c. The tree is a detrimental/undesirable species for park strip planting. Included are: Lombardy Poplar, palm tree (in a "non-palm" tree area), Silk Oak, Fruitless Mulberry, Siberian Elm, female Ginkgo, Liquidambar, Eucalyptus, fruit bearing and Monterey Pine
  - d. The tree has caused repeated sewer/sidewalk damage and created a sewer/sidewalk problem that cannot be resolved by any other means.
  - e. Removal of the tree would benefit roadway usage, i.e. road widening, sidewalk installation, etc., as determined by Department of Roads and Airports staff
- (b) The removal of the tree or trees will not have a significant impact upon adjacent trees (i.e. such as increased windthrow). Where appropriate, removal may necessitate an assessment of potential impacts upon adjacent trees by a certified arborist or forester, along with the development of mitigations to lessen such impacts.
- (c) The required action is necessary to allow reasonable economic or other enjoyment of the property.
- (d) The topography of the land and the effect of the proposed tree removal upon erosion, soil retention, and the diversion or increased flow of sediment.
- (e) The number, species, size, and location of existing trees in the area, and the effect the proposed removal would have upon shade, privacy impact, scenic beauty, and property values of the area.
- (f) The historical significance of the tree to the community.

- (g) The tree is a detrimental/undesirable species for park strip planting. Included are: Lombardy Poplar, palm tree (in a "non-palm" tree area), Silk Oak, Fruitless Mulberry, Siberian Elm, female Ginkgo, Liquidambar, Eucalyptus, fruit bearing and Monterey Pine.

(Ord. No. NS-1203.107, § 1, 2-11-97)

**Sec. C16-12. - Heritage trees.**

Any tree which, because of its history, girth, height, species, or other unique quality, has been recommended by the Historical Heritage Commission (HHC) and found by the Board of Supervisors to have a special significance to the community shall be designated a heritage tree. Such trees shall be listed individually on the heritage resource inventory, adopted by resolution of the Board of Supervisors. Such resolution may be amended as necessary to add or delete trees from the inventory.

- (a) Any person, including the property owner, as well as the Board of Supervisors and the HHC, may nominate a tree for inclusion on the heritage resource inventory.
- (b) When a tree has been nominated for addition to the heritage resource inventory, a public hearing shall be held before the HHC. Notice of the hearing shall be sent to the owner of the property on which the tree is located at least ten days prior to the date of such hearing.
- (c) The HHC shall conduct a hearing on the issue of placement of a tree on the heritage resource inventory. Any person may present evidence on the issue. The HHC shall make findings supporting its recommendation to the Board of Supervisors to include a tree or trees on the heritage resource inventory.
- (d) The Board of Supervisors shall conduct a hearing on the recommendation of the HHC to place a tree or trees on the heritage resource inventory. Notice of hearing shall be sent to the owner of the parcel upon which the tree is located. Evidence may be presented by any person. Notice of action on the recommendation shall be given to the owner of the parcel on which the tree is located.

(Ord. No. NS-1203.107, § 1, 2-11-97; Ord. No. NS-1200.302, § 7, 12-18-01 Ord. No. NS-\_\_\_\_, \_\_\_\_)

**Sec. C16-13. - Removal of heritage trees.**

Where the tree in question has been designated as a heritage tree, all applications for a tree removal permit shall be forwarded to the County Historical Heritage Commission (HHC) by the Planning Office. A site visit may be conducted by representatives of the HHC and a written opinion from an arborist, forester, or other expert may be required to evaluate the status of the tree. Such reports shall be obtained at the expense of the applicant.

A public hearing shall be conducted, notice of which must be given by the HHC to the owner of the property on which the tree is located, as well as all other persons residing within

300 feet of the subject property, not less than seven days prior to the date of such hearing. Following the hearing, the Commission shall make a recommendation to the Board of Supervisors as to whether to grant, conditionally grant, or deny the application for tree removal permit. The Board of Supervisors shall then adopt or reject the recommendation of the Commission by resolution, unless the applicant elects to withdraw his or her application following the recommendation of the Historical Heritage Commission that such application be denied. The decision of the Board of Supervisors shall be forwarded to the Planning Office for issuance of the final permit. The determination of the Board of Supervisors shall be final.

(Ord. No. NS-1203.107, § 1, 2-11-97 Ord. No. NS- \_\_\_\_\_, \_\_\_\_\_)