



MEMORANDUM

Date: December 8, 2010

To: Prospective Heritage Tree Board of Appeals Members

From: Mike Fulford, City Landscape Architect
Lee Phillips, Landscape Architect Assistant

Subject: Tree Preservation Ordinance and Appeal Hearings

Summary

- Chapter 17.16 of the Municipal Code protects large, or "Heritage trees" on public and private property.
- Removal requires a permit.
- The penalty for unpermitted removal is a fine, equal to the value of the tree.
- The Tree Preservation Ordinance provides for an appeal process in the event that a permit for tree removal has been denied.
- Appeals are heard before the Heritage Tree Board of Appeals.

The following was prepared to acquaint you with the Tree Preservation Ordinance and how it is administered. It will explain the procedures that citizens and staff follow when a permit is requested for the removal of a Heritage tree. Next, the requirements of the Ordinance and various interpretations are explained, as well as the appeal process, including staff's role and your role.

The following is simply an overview of the key points of the Ordinance. We have attached a copy of the Tree Preservation Ordinance for your further review. Please feel free to ask staff any questions that you may have about the Ordinance or the permit process.

Permit Process

When a person wishes to remove a Heritage tree, they are required to fill out an application for permit. They may also write a letter requesting permission, but the application is most common. The application form is brief, and no fee is required. Once the application is received by staff, we review the information on the application and make a site visit to confirm the conditions surrounding the request. At the site, we first verify whether the tree is a Heritage tree. Next we consider the applicant's listed reasons for requesting permission to remove the tree. These reasons may require staff to: 1) assess the health and structure of the tree; 2) consider whether the tree is close enough to the house to be affecting the foundation; 3) consider the ultimate size of the tree and what impact the tree will have when it reaches this size; 4) consider whether other trees are on the property; 5) consider other extenuating circumstances. We consider this information and compare it to the reasons cited in the Ordinance that would allow the removal of the Heritage tree. If any of the conditions are contained within the Ordinance, we allow for removal of the tree. If the tree is in the front yard and is the only tree in the front yard, we require that the applicant plant a replacement tree somewhere in the front. If the conditions of the tree do not fall within the reasons for removal listed in the Ordinance, then we will deny the removal request and advise the applicant of the appeal process should they wish to further pursue the removal.

Tree Preservation Ordinance, Background

In 1971, the City of Pleasanton adopted Chapter 17.16 of the Municipal Code – the Tree Preservation Ordinance. The Ordinance recognizes certain trees as "Heritage Trees". In 1995, the City made changes to the Ordinance with respect to pruning requirements and penalties for illegal removal of a Heritage tree. The changes include a provision which requires that all Heritage trees be pruned in accordance with International Society of Arboriculture (ISA) Tree Pruning guidelines. It also allows the City to fine persons whom are responsible for improper pruning. This modification was prompted by a property owner being denied permission to remove several very tall Eucalyptus trees. The property owner responded to the denial by pruning the trees so severely that they resembled "telephone poles".

The City Council also modified the penalty for removal of a Heritage tree without a permit. Instead of a flat fine of \$5,000 per tree, the change allows for a fine of \$5,000 or the appraised value of the tree, whichever is greater. This modification was prompted by a property owner in the Golden Eagle Farm development who removed two very large Oak trees and was fined only \$10,000 total, whereas the actual value of the trees was much greater.

The most recent changes to the Ordinance (approved by City Council in February 1998) address the reasons why a Heritage tree may be removed. These changes were prompted by several cases which did not fall within any of the listed criteria for removal as the Ordinance then read. The other major change again involved the fine for the unlawful removal of a Heritage tree. The Ordinance was modified so that the fine for an unlawful removal would be the appraised value of the tree. This change was prompted by a property owner who was fined for the unlawful removal of 10 Eucalyptus trees. According to the Ordinance in effect at that time, the fine for unlawful removal was \$5,000 per tree, or \$50,000 total. The property owner argued that the "value" of a Eucalyptus tree is not the same as an Oak tree and thus the fine should be reduced accordingly. The fine was reduced to \$3,000 per tree (the appraised value), or \$30,000 total.

It should be noted that consulting arborists utilize a formula for the empirical determination of a tree's value. The formula considers tree size, species, condition (health), and location.

Definition of Heritage Tree

A Heritage tree is defined as any of the following:

- any single-trunked tree with a circumference of fifty-five inches (55") or more measured four and one half feet (4½') above ground level;
- any multi-trunked tree of which the two largest trunks have a circumference of fifty-five inches (55") or more measured four and one half feet (4½') above ground level;
- any tree thirty-five feet (35') or more in height;
- any tree of particular historical significance specifically designated by official action; and/or
- a stand of trees, the nature of which makes each dependent upon the other for survival or the area's natural beauty.

Pruning Procedures and Standards

The Ordinance requires that all pruning of Heritage trees be performed by a California licensed contractor familiar with the International Society of Arboriculture's "Best Management Practices, Tree Pruning", and that the pruning itself shall comply with these guidelines. Copies of these standards are available to the general public through the Landscape Architecture Division of the Community Services Department and on-line at www.isa-arbor.com.

Utility companies, in particular PG&E, are also required to prune Heritage trees in accordance with the International Society of Arboriculture guidelines. If for some reason topping is the only way to achieve the necessary line clearance, the City may grant permission after careful review of the situation. In the event that improper pruning techniques are performed on Heritage trees, the City may assess a civil penalty commensurate with the damage to the tree based on the "Guide for Plant Appraisal" written by the International Society of Arboriculture.

Procedure for Tree Preservation During New Construction

The Ordinance requires that a tree survey (location, number of trees, size and species), report (health, appraisal and recommendations for preservation) and appraised value be provided during the development review process. The appraisal shall be performed for all trees to remain as noted in the tree report. If the subject tree is damaged or removed without prior approval during construction, "the developer shall pay a fine in the amount of the appraised value of such tree".

A final tree report, prepared by a certified or consulting arborist, must be submitted prior to acceptance of the project improvements or occupancy of the project. This report will evaluate any damage or unapproved tree removal and determine the total value of the damage or loss.

Protection of Existing Trees

A number of means and methods may be utilized to protect trees from construction damage. The City's Community Development Department, Engineering Division, maintains Standard Specifications for tree protection and Development plans routinely include arborist's recommendations which become a part of the Development approval by Council action. For instance: A sturdy fence must be installed at the dripline of any tree affected by construction. The fence shall be installed prior to construction and shall not be altered during the course of construction. Installing utility lines within the dripline of a Heritage tree is prohibited unless no other location is feasible. Installing utilities within the dripline of the tree can compromise the stability of the tree as well as damage the root structure of the tree. Unfortunately, these problems may not materialize until months or years later. The Ordinance requires that a certified or consulting arborist periodically monitor the site and the health of the tree(s) during any construction activities that might pose a threat to the health of the tree(s).

Fines and Penalties

The penalty for unpermitted removal or destruction of a Heritage tree is its "appraised value"; however, should there be inadequate plant material to properly appraise the value of the tree, the penalty shall be a minimum of \$5,000.

Miscellaneous

Contractors engaged in the trimming of Heritage trees must be California licensed and carry insurance. While most tree-trimming contractors working in the City conform with these requirements, there are many small operators that do not. The requirement that the contractor be licensed and insured will ensure that both developers and homeowners are protected against damage and liability caused by the contractor's work.

Heritage Tree Removal Permits

Following are the conditions for which the City shall issue a permit to remove a Heritage tree:

1. The Heritage tree is in such a dangerous or hazardous condition as to threaten or endanger the safety of people, structures, other property or other Heritage trees;
2. The Heritage tree has a significant impact on the property;
3. The Heritage tree is dead, dying or diseased and good forestry practices cannot be reasonably undertaken to preserve the tree; or
4. Where the Heritage tree in question is not diseased or hazardous, the removal of the tree is consistent with the purpose and intent of this chapter and in keeping with the health, safety and general welfare of the community.

The City will not normally approve requests for removal due to maintenance-related issues, such as leaves clogging up rain gutters, normal limb drop and/or continual leaf or pod/seed drop. The City also does not generally consider minor damage to concrete patios and pathways a dangerous condition so as to warrant the removal of the tree.

Significant Impact

The Ordinance allows the removal of a Heritage tree if it has been determined that the tree is creating a "significant impact" (assumed to be "negative"). The process for determining significant impact is somewhat subjective; therefore, it allows the City some latitude when deciding the fate of a Heritage tree which is in an unusual situation.

To receive permission to remove a Heritage tree due to significant impact, the property owner applies through the normal permit process. Upon review by staff, if it is determined that the tree does not fit within any of the criteria of the Ordinance except the significant impact category, an administrative hearing is held. All property owners within 300 feet of the subject tree are notified of the hearing. The hearing is informal, and is held before staff only to receive input from the neighboring area. Any person may speak regarding the preservation or removal of the tree. After all public testimony is heard, the City issues a written decision to preserve or allow the removal of the tree. This decision will be sent to the resident as well as all property owners within 300 feet. The decision will not be effective for 20 days. This will allow the property owner and/or neighbors to appeal the decision to the Board of Appeals.

Appeal Process

If staff denies permission to remove a Heritage tree, the decision may be appealed. The appeal consists of a letter to the City Clerk requesting an appeal of staff's decision within 20 days after receipt of the letter denying permission. Once the City Clerk receives a request for an appeal, staff will schedule a hearing with the Board of Appeals. This meeting must be set and held within 45 days following receipt of the request. In the past staff has had few appeals. Therefore, in lieu of a scheduled hearing date every month, the Heritage Tree Board of Appeals meets on an "as needed" basis.

The process for hearing an appeal is similar to most other public hearings. Staff provides a brief report about the subject tree, the appellant makes a presentation, the community has an opportunity to speak (residents within 300 feet are notified of the hearing), and the appellant may rebut. The public hearing is then closed, and the Board discusses the matter and makes its decision. Once a decision by the Board has been made, its decision is final.

If you have any questions about the Ordinance, any of the process or general ideas, please contact Mike Fulford at 931-5672 or Lee Phillips at 931-5673. Thank you.

Attachment: Pleasanton Municipal Code, Chapter 17.16 - Tree Preservation Ordinance

Chapter 17.16

TREE PRESERVATION¹

Sections:

- 17.16.003 Purpose And Intent
- 17.16.006 Definitions
- 17.16.009 Exceptions
- 17.16.010 Permit – Required
- 17.16.020 Permit – Procedure
- 17.16.025 Significant Impact –
Administrative Hearing
- 17.16.030 Action By Director –
Findings
- 17.16.040 Appeal
- 17.16.043 Heritage Tree Board
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- 17.16.046 Heritage Tree Board
Of Appeals – Duties
- 17.16.050 New Property Develop-
ment
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Trees
- 17.16.080 Pruning And Main-
tenance
- 17.16.090 Public Utilities
- 17.16.100 Insurance Require-
ments
- 17.16.110 Fines And Penalties
- 17.16.120 Additional Provisions

17.16.003 Purpose And Intent:

The City lies largely in a valley in which substantial portions were and are covered by native and indigenous trees. The City recognizes that preservation of such trees enhances the natural scenic beauty, sustains the long-term potential

increase in property values which encourages quality development, maintains the ecology, moderates the effect of extreme temperatures, prevents the erosion of topsoil, helps create an identity and quality, which enhances the attractiveness of the City to visitors and increases the oxygen output of the area which is needed to combat air pollution. For these reasons the City Council finds that in order to promote the public health, safety and general welfare of the City while at the same time recognizing individual rights to develop and maintain private property in a manner which will not be prejudicial to the public interest it is necessary to enact regulations controlling the removal and preservation of Heritage trees within the City. However, the City Council also recognizes that under certain circumstances Heritage trees may properly be removed. Those circumstances include where Heritage trees are dangerous; are dead or diseased; are so situated on undeveloped land that their preservation would preclude feasible development; are so abundant their removal would not destroy the area's natural beauty or ecology or cause erosion; or have a significant impact on the property. It is the intent of this Chapter to preserve as many Heritage trees as possible throughout the City through staff review and the development review process. (Ord. 1737 § 1, 1998)

17.16.006 Definitions:

For the purpose of this Chapter, certain words and terms used in this Chapter are defined as follows:

1. Prior ordinance history: Prior Code §§ 2-17.02-2-17.12; Ord. 1152 § 1, 1984; Ord. 1653 § 1, 1995.

17.16.006

A. "Heritage tree" means any of the following:

1. Any single-trunked tree with a circumference of fifty five inches (55") or more measured four and one-half feet (4½') above ground level;

2. Any multi-trunked tree of which the two (2) largest trunks have a circumference of fifty five inches (55") or more measured four and one-half feet (4½') above ground level;

3. Any tree thirty five feet (35') or more in height;

4. Any tree of particular historical significance specifically designated by official action;

5. A stand of trees, the nature of which makes each dependent upon the other for survival or the area's natural beauty.

B. "Director" means the Director of Public Works and Utilities or the Director's designated representative.

C. "Topping" means heading back of the crown and/or creating large stubs without regard to form.

D. "Certified or consulting arborist" means an arborist who is registered with the International Society of Arboriculture and approved by the Director.

E. "Applicant" means a property owner requesting permission to remove a tree on improved property.

F. "Significant impact" means an unreasonable interference with the normal and intended use of the property. In determining whether there is a significant impact, the typical longevity of the subject tree species, as well as the size of the tree relative to the prop-

erty, shall be considered. Normal maintenance, including, but not limited to, pruning, and leaf removal and minor damage to paving shall not be considered when making a determination of significant impact. (Ord. 1737 § 1, 1998)

17.16.009 Exceptions:

The provisions of this Chapter shall not apply to fruit or nut trees when part of an orchard, the produce of which is used for commercial purposes. (Ord. 1737 § 1, 1998)

17.16.010 Permit – Required:

A. No person shall remove, destroy or disfigure, any Heritage tree growing within the City without a permit except as provided in this Chapter.

B. Normal maintenance pruning of Heritage trees shall not require a permit but shall in all cases be in conformance with the guidelines of the International Society of Arboriculture, Tree Pruning Guidelines, current edition. Pruning which, in the opinion of the Director, varies from these guidelines shall be subject to fines and penalties as provided in Section 17.16.110 of this Chapter. (Ord. 1737 § 1, 1998)

17.16.020 Permit – Procedure:

A. Except as provided in Section 17.16.050 of this Chapter, any person desiring to remove any Heritage tree in the City shall make application to the Director. Said application shall contain

the number, species, size and location of Heritage trees to be removed and a brief statement of the reason for removal as well as any other pertinent information the Director may require. The permit, if granted, shall entitle the applicant to remove only those Heritage trees designated by permit.

B. The Director shall visit and inspect the property, the Heritage tree or trees in question, and the surrounding area and shall ascertain the following:

1. The condition of the Heritage tree with respect to disease, general health, damage, public nuisance, danger of falling, proximity to existing or proposed structures, interference with utility service and whether or not the Heritage tree acts as host for a plant which is parasitic to another species of tree which is in danger of being exterminated by the parasite;

2. Whether the tree has a significant impact on the property;

3. The necessity to remove any Heritage tree in order to construct any proposed improvements to allow for the economic enjoyment of the property;

4. The number of existing trees in the neighborhood or area on improved property and the effect removal would have upon the public health, safety, general welfare of residents and upon the property value and beauty of the area;

5. The topography of the land upon which the Heritage tree or trees are situated and the effect of removal thereof upon erosion, soil retention and diversion or flow of surface waters;

6. Good forestry practices, i.e., the number of healthy trees that a given

parcel of land will support.

C. The Director may refer any application to any City department or commission for review and recommendation. (Ord. 1737 § 1, 1998)

17.16.025 Significant Impact – Administrative Hearing:

A. Where the applicant applies to remove a Heritage tree on grounds that it has a significant impact on the property, the Director shall conduct a hearing. The hearing shall be set not less than fifteen (15) days and not more than sixty (60) days from the date the application is filed.

B. The Director shall send notice of the hearing to all property owners and residents within three hundred feet (300').

C. At the hearing, the applicant and any interested party shall be given the opportunity to be heard concerning the preservation or removal of the Heritage tree.

D. After considering all relevant evidence, the Director shall issue a written decision to preserve or remove the tree.

E. The Director shall send a copy of the written decision to the applicant and neighboring property owners and residents within three hundred feet (300') of the tree.

F. Unless appealed, the decision of the Director shall become effective twenty (20) days after being issued.

G. The Director's decision may be appealed as provided in Section 17.16.040 of this Chapter. (Ord. 1737 § 1, 1998)

17.16.030

17.16.030 Action By Director – Findings:

A. The Director shall issue a permit to remove a Heritage tree or trees if it is determined that one of the following conditions exists:

1. The Heritage tree is in such a dangerous or hazardous condition as to threaten or endanger the safety of people, structures, other property or other Heritage trees;

2. The Heritage tree has a significant impact on the property;

3. The Heritage tree is dead, dying or diseased and good forestry practices cannot be reasonably undertaken to preserve the tree; or

4. Where the Heritage tree in question is not diseased or hazardous, the removal of the tree is consistent with the purpose and intent of this Chapter and in keeping with the health, safety and general welfare of the community.

B. The Director shall notify the applicant in writing of the determination giving the reason for the application's approval or denial. (Ord. 1737 § 1, 1998)

17.16.040 Appeal:

A. The Director's decision may be appealed. Such appeal must be submitted in writing to the City Clerk within twenty (20) days of the decision, shall briefly state facts and the grounds of the appeal and be signed by the appellant.

B. Any appeal concerning property with four (4) or fewer residential units

on the subject property, not concerning new development, shall be heard by the Heritage Tree Board of Appeals. All other appeals shall be heard by the City Council.

C. The City Clerk shall set a date for hearing before the appropriate appellate body and shall notify all interested parties. The Director shall submit a report to the appropriate appellate body, along with any departmental recommendations.

D. The appellate body shall conduct a hearing on the appeal. Following the hearing of any such appeal, the appellate body may affirm, reverse or modify the action of the Director and may take any action thereon which would have been authorized in the first instance. The action of the appellate body on any such appeal shall be final and conclusive. (Ord. 1737 § 1, 1998)

17.16.043 Heritage Tree Board Of Appeals – Established:

There is created and established a Board of Appeals consisting of three (3) members, two (2) Planning Commissioners and one Park and Recreation Commissioner appointed by their respective Commissions. The Board shall elect a chairperson. The Director shall be an ex officio member of said Board and shall serve as secretary. The Board shall adopt reasonable rules and regulations for conducting its business. (Ord. 1737 § 1, 1998)

17.16.046 Heritage Tree Board Of Appeals – Duties:

The Board of Appeals shall:

A. Hold a hearing within forty five (45) days after the City's receipt of appeal, to hear such testimony by any department of the City, the appellant, or any interested party.

B. Make written findings of fact upholding, reversing or modifying the Director's decision. The decision of the Board shall be final. (Ord. 1737 § 1, 1998)

17.16.050 New Property Development:

A. Any person desiring to remove one or more trees on any property in the City which is related to the development of such property requiring City approval or where any tree may be affected by a proposed development shall include in the application to the appropriate City reviewing body as part of the regular application, the following:

1. A tree survey plan, including all trees which will be affected by the new development. The survey, noting all trees six inches (6") in diameter and greater, shall specify the precise location of trunk and dripline, size, health and species of all existing trees on the property with a special notation of those classified as a Heritage tree;

2. The applicant shall provide a report by a certified or consulting arborist. The report, based on the findings of the tree survey plan and other necessary information, shall be used to determine the health of existing trees,

the effects of the proposed development upon the trees, recommendations for any special precautions necessary for their preservation and shall also indicate which trees are proposed for removal;

3. The tree survey plan and report shall be forwarded to the Director who shall, after making a field visit to the property, indicate in writing which trees are recommended for preservation using the same standards set forth in Section 17.16.020 of this Chapter. This report shall be made part of the staff report to the City reviewing body upon its consideration of the application for new property development;

4. The City reviewing body through its site and landscaping plan review shall endeavor to preserve all trees recommended for preservation by the Director. The City reviewing body may determine that any of the trees recommended for preservation should be removed, if there is evidence submitted to it, that due to special site grading or other unusual characteristics associated with the property, the preservation of the tree(s) would significantly preclude feasible development of the property;

5. Approval of final site or landscape plans by the appropriate City reviewing body indicating which trees are to be removed shall constitute the approval and permit for the purpose of this Chapter; and

6. Prior to issuance of a grading or building permit, the applicant shall secure an appraisal of the condition and replacement value of all trees included in the tree report affected by the devel-

opment which are required to remain within the development. The appraisal of each tree shall recognize the location of the tree in the proposed development. The appraisal shall be performed in accordance with the current edition of the "Guide for Plant Appraisal" under the auspices of the International Society of Arboriculture. The appraisal shall be performed at the applicant's expense, and the appraiser shall be subject to the Director's approval.

B. Prior to acceptance of subdivision improvements, the developer shall submit to the Director a final tree report to be performed by a certified or consulting arborist. This report shall consider all trees that were to remain within the development. The report shall note the trees' health in relation to the initially reported condition of the trees and shall note any changes in the trees' numbers or physical conditions. The applicant will then be responsible for the loss of any tree not previously approved for removal. For trees which are not Heritage trees which were removed, the developer shall pay a fine in the amount equal to the appraised value of the subject tree. For Heritage trees which were removed, the developer shall pay a fine in the amount of the appraised value of such tree. The applicant shall remain responsible for the health and survival of all trees within the development for a period of one year following acceptance of the public improvements of the development.

C. Prior to the issuance of any permit allowing construction to begin, the applicant shall post cash, bond or other

security satisfactory to the Director, in the penal sum of five thousand dollars (\$5,000.00) for each tree required to be preserved, or twenty five thousand dollars (\$25,000.00), whichever is less. The cash, bond or other security shall be retained for a period of one year following acceptance of the public improvements for the development and shall be forfeited in an amount equal to five thousand dollars (\$5,000.00) per tree as a civil penalty in the event that a tree or trees required to be preserved are removed, destroyed or disfigured.

D. An applicant with a proposed development which requires underground utilities shall avoid the installation of said utilities within the dripline of existing trees whenever possible. In the event that this is unavoidable, all trenching shall be done by hand, taking extreme caution to avoid damage to the root structure. Work within the dripline of existing trees shall be supervised at all times by a certified or consulting arborist.

E. Any decision by a City reviewing body under this Section may be appealed as in Section 17.16.040 of this Chapter. (Ord. 1737 § 1, 1998)

17.16.060 Emergency Action:

A person may remove or prune a Heritage tree without a permit if there is an emergency caused by a Heritage tree being in a hazardous or dangerous condition requiring immediate action for the safety of structures or human life. In such event, the Director shall be notified at the earliest opportunity in

order to confirm the emergency situation. If the Director determines that the situation was not an emergency requiring immediate action, the person removing or damaging the Heritage tree shall be subject to fines and penalties set forth in Section 17.16.110 of this Chapter. (Ord. 1737 § 1, 1998)

17.16.070 Protection Of Existing Trees:

All persons, shall comply with the following precautions:

A. Prior to the commencement of construction, install a sturdy fence at the dripline of any tree which will be affected by the construction and prohibit any storage of construction materials or other materials inside the fence. The dripline shall not be altered in any way so as to increase the encroachment of the construction.

B. Prohibit excavation, grading, drainage and leveling within the dripline of the tree unless approved by the Director.

C. Prohibit disposal or depositing of oil, gasoline, chemicals or other harmful materials within the dripline or in drainage channels, swales or areas that may lead to the dripline.

D. Prohibit the attachment of wires, signs and ropes to any Heritage tree.

E. Design utility services and irrigation lines to be located outside of the dripline when feasible.

F. Retain the services of a certified or consulting arborist for periodic monitoring of the project site and the health of those trees to be preserved. The

certified or consulting arborist shall be present whenever activities occur which pose a potential threat to the health of the trees to be preserved.

G. The Director shall be notified of any damage that occurs to a tree during construction so that proper treatment may be administered. (Ord. 1737 § 1, 1998)

17.16.080 Pruning And Maintenance:

All pruning of Heritage trees shall be performed by a licensed contractor familiar with International Society of Arboriculture pruning guidelines and shall comply with the guidelines established by the International Society of Arboriculture, Tree Pruning Guidelines, current edition and any special conditions as determined by the Director. For developments which require a tree report, a certified or consulting arborist shall be in reasonable charge of all activities involving Heritage trees. (Ord. 1737 § 1, 1998)

17.16.090 Public Utilities:

A. Any public utility installing or maintaining any overhead wires or underground pipes or conduits in the vicinity of a Heritage tree shall obtain permission from the Director before performing any work, including pruning, which may cause injury to the Heritage tree.

B. The Director shall inspect said pruning work to ensure that appropriate pruning practices are followed. The public utility shall follow pruning prac-

17.16.090

tices conforming to the International Society of Arboriculture pruning standards to promote the well-being of the tree. Topping shall not be permitted unless specifically approved by the Director. The Director shall stop any tree pruning performed by a utility if said practices are not being followed. (Ord. 1737 § 1, 1998)

17.16.100 Insurance Requirements:

Any person engaged in the business of pruning Heritage trees within the City shall be a California licensed contractor and shall carry public liability and property damage insurance as determined by the City Attorney. (Ord. 1737 § 1, 1998)

17.16.110 Fines And Penalties:

A. Any person who unlawfully removes or destroys a Heritage tree shall pay a civil penalty in the amount of the appraised value of the tree. If there is

inadequate plant material to properly appraise the tree, the penalty shall be five thousand dollars (\$5,000.00). Any person who unlawfully disfigures a Heritage tree whether through vandalism, improper pruning or other actions, shall pay a civil penalty commensurate with the damage; the amount shall be determined by the Director in accordance with the "Guide for Plant Appraisal" under the auspices of the International Society of Arboriculture. The collection of the penalties may be enforced by civil action brought in the name of the City by the City Attorney.

B. The cost of replacement plant material may be considered as partial payment of any penalty under this Chapter. (Ord. 1737 § 1, 1998)

17.16.120 Additional Provisions:

The provisions of this Chapter shall supplement but not supplant other provisions of this Code relating to the preservation of trees. (Ord. 1737 § 1, 1998)

**Heritage Tree Board of Appeals
Rules and Regulations**

Created

Created by an amendment to Chapter 17.16 (Tree Preservation) of the Pleasanton Municipal Code effective March 15, 1998.

Membership

The Heritage Tree Board of Appeals ("Board of Appeals") shall consist of two Planning Commission members and one Parks and Recreation Commission member. The Director of Community Development shall be ex officio and an advisory member of the Board with no vote.

Appointment

The Board of Appeals members shall be appointed by their respective Commissions.

Term

Members of the Board of Appeals shall serve a term of two years. Persons appointed to the Board of Appeals shall continue to serve as members of the Board except when:

1. The member's term of office expires;
2. The member voluntarily resigns from the Board; or
3. The member's term of office on the member's respective Commission is expired or terminated.

Quorum and Voting

- A. Three members shall constitute a quorum for the transaction of business.
- B. A majority vote shall be required for any Board action to be taken.

Duties

- A. The Board of Appeals shall hold a hearing within forty-five (45) days after the City of Pleasanton's receipt of appeal of the City's decision.
- B. The Board of Appeals shall make written findings of fact upholding, reversing or modifying the City's decision.

Consultants

The Board of Appeals shall be authorized to employ consultants only with the approval of the City Council.

Chairperson

The Board of Appeals shall appoint from its own members a chairperson. The office of chairperson shall be rotated on an annual basis.

Meetings

Meetings and hearings shall be public and shall be held on an as needed basis in accordance with Pleasanton Municipal Code §17.16.046. Public records shall be kept of all findings, determinations, and correspondence of the Board of Appeals.

Funds

The City Council shall appropriate to the Board of Appeals sufficient funds to perform the duties set out in these rules and regulations.