

ATTACHMENT 2
MVCC Article II, Protection of the Urban Forest

ARTICLE II. PROTECTION OF THE URBAN FOREST*

SEC. 32.35. Criteria for removal; Conditions; Findings.

- a. **Criteria for removal.** The determination on each application shall be based upon a minimum of one of the following criteria; however, the decision-maker shall consider additional criteria, if applicable, in weighing the decision to remove a heritage tree, with an emphasis on the intent to preserve heritage trees.
 1. The condition of the tree with respect to age of the tree relative to the life span of that particular species, disease, infestation, general health, damage, public nuisance, danger of falling, proximity to existing or proposed structures, and interference with utility services.
 2. The necessity of the removal of the heritage tree in order to construct improvements and/or allow reasonable and conforming use of the property when compared to other similarly situated properties.
 3. The nature and qualities of the tree as a heritage tree, including its maturity, its aesthetic qualities such as its canopy, its shape and structure, its majestic stature and its visual impact on the neighborhood.
 4. Good forestry practices such as, but not limited to, the number of healthy trees a given parcel of land will support and the planned removal of any tree nearing the end of its life cycle and the replacement of young trees to enhance the overall health of the urban forest.
 5. **Balancing criteria.** In addition to the criteria referenced above which may support removal, the decision-maker shall also balance the request for removal against the following which may support or mitigate against removal:
 - A. The topography of land and effect of the requested removal on erosion, soil retention, water retention, and diversion or increased flow of surface waters.
 - B. The effect of the requested removal on the remaining number, species, size and location of existing trees on the site and in the area.
 - C. The effect of the requested removal with regard to shade, noise buffers, protection from wind damage and air pollution and the effect upon the historic value and scenic beauty and the health, safety, prosperity and general welfare of the area and the city as a whole.

- b. **Conditions of approval.** Approval of an application for a permit may include reasonable conditions to insure compliance with the content and purpose of this article, including but not limited to:
1. Requiring the replacement or placement of an additional tree or trees on the subject property or off-site to offset the loss of a tree, limbs, or encroachment into the drip line. The number, species, size and location of said replacement tree(s) shall be determined by the director upon recommendation of the city arborist.
 2. Requiring construction fencing or barriers to protect adjacent heritage trees or other landscaping.
 3. Requiring protective grading requirements to avoid damaging the root structure of the tree or adjacent trees.
 4. Requiring posting of a security bond to ensure that replacement trees are planted and become established (one year after planting) and to compensate for the lost trees due to illegal removal.
 5. Requiring the relocating of a tree on-site or off-site, or the planting of a new tree on-site or off-site to offset the loss of a tree.
 6. Requiring a maintenance and care program be initiated to ensure the continuing health and care of heritage trees on the property.
 7. Requiring payment of a fee or donation of a boxed tree(s) to the city or other public agency to be used elsewhere in the community should a suitable replacement location of the tree not be possible on-site. The fee for replacement of a tree or trees shall be, at a minimum, based on the cost of a 24" boxed tree of same species, delivered and installed.
- c. **Findings.** If a permit is denied or conditions are attached, the director or decision-maker shall provide the applicant with a written statement of the reasons for said denial or conditions based upon the criteria and conditions set forth in this section.
- d. **Off-site replacement option.** An applicant for a preremoval permit may request that any replacement trees be placed off-site or that he/she be permitted to pay a fee in lieu of replacement. The decision-maker shall consider the request in light of the balancing criteria set forth in Section 32.35(a)(5), above.