



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



## NOTICE OF ADOPTED AMENDMENT

11/12/2010

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Monmouth Plan Amendment  
DLCD File Number 005-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Friday, November 26, 2010

This amendment was not submitted to DLCD for review prior to adoption pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Mark Fancey, City of Monmouth  
Gloria Gardiner, DLCD Urban Planning Specialist  
Steve Oulman, DLCD Regional Representative

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NOTICE OF ADOPTION

Must be filed within 5 working days See OAR 660-18-040

Jurisdiction: City of Monmouth

Local File Number: LA 10-03

Date of Adoption: November 2, 2010

Date Mailed: November 4, 2010

Date Proposal was Provided to DLCD:

Type of Adopted Action: (Check all that apply)

Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment

X Land Use Regulation Amendment Zoning Map Amendment

New Land Use Regulation Other: (Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

This amendment adds sections to the Monmouth Zoning and Development Ordinance regarding Heritage Trees.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Plan Map Changed from: NA to NA

Zone Map Changed from: NA to NA

Location:

Acres Involved: NA

Specify Density: Previous: NA New: NA

Applicable Statewide Planning Goals:

Was an Exception Adopted? Yes: No: X

DLCD File Number: 005-10 (18604) [16393]

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment

**FORTY FIVE (45) days prior to the first evidentiary hearing.**

Yes:  No:

If no, do the Statewide Planning Goals apply.

Yes:  No:

If no, did the Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: None

Local Contact: Mark Fancey Area Code + Phone Number: (503) 751-0147

Address: 151 Main Street W

City: Monmouth Zip Code+4: 97361

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision** per ORS 197.610, OAR Chapter 660 – Division 18.

1. Send this form and **TWO (2) Copies** of the Adopted Amendment to:  
**ATTENTION: PLAN AMENDMENT SPECIALIST**  
**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**  
**635 CAPITOL STREET NE, SUITE 150**  
**SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** of the adopted material, if copies are bound please submit **TWO (2) complete copies** of documents and maps.
3. Please note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date the “Notice of Adoption” is sent to DLCD.
6. In addition to sending the “Notice of Adoption” to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need more copies?** You can copy this form onto 8 ½ x11 green paper only; or call the DLCD office at (503) 373-0050; or fax your request to: (503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF MONMOUTH, COUNTY OF POLK

STATE OF OREGON

An Ordinance Amending the Monmouth )  
Zoning and Development Ordinance )

ORDINANCE NO. 1285

WHEREAS, the City of Monmouth has deemed it necessary to develop amendments to the Monmouth Zoning and Development Ordinance regarding to Monmouth's Heritage Tree Program; and

WHEREAS, the Planning Commission held a public hearing on said amendments on September 15, 2010, at which time the public was given full opportunity to be present and heard on the matter; and

WHEREAS, the City Council held a public hearing on said amendments on October 5, 2010, at which time the public was given full opportunity to be present and heard on the matter.  
NOW, THEREFORE,

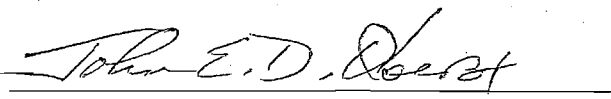
THE CITY OF MONMOUTH DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Monmouth does hereby amend the Monmouth Zoning and Development Ordinance as set forth in Exhibit A.

Read for the first time: October 19, 2010  
Read for the second time: November 2, 2010  
Adopted by the City Council: November 2, 2010  
Approved by the Mayor: November 2, 2010

ATTEST:

  
Phyllis L. Bolman, City Recorder

  
John E. D. Oberst, Mayor

## EXHIBIT A

New language is shown bold and underlined.

### HERITAGE TREES

#### 96.500 Intent and Purpose.

This Heritage Tree Program has been adopted by the City of Monmouth for the purpose of identifying, promoting awareness, maintaining and protecting designated Heritage Trees located within the city. This Program acknowledges that Heritage Trees, whether located on public or private property, are distinct and unique living resources of our community. It is the intent of this Heritage Tree Program to increase public awareness of Heritage Trees located in the City, as well as to provide reasonable assurance that Monmouth's tree heritage will be preserved for future generations. The intent of this program is not to be regulatory or punitive, but rather to heighten public consciousness by informing and educating the public of the benefits that not only Heritage Trees, but trees in general, provide to the community.

#### 96.510 Heritage Tree Program Goals.

The Monmouth Heritage Tree Program has four major goals:

1. To establish a process of designating Heritage Trees located on either public or private property.
2. To encourage proper maintenance, care, and protection of designated Heritage Trees.
3. To inform and educate private property owners regarding the botanical resources they possess.
4. To increase public awareness of the environmental benefit of Heritage Trees and trees in general.

#### 96.520 Heritage Trees and Heritage Groves Defined.

A. Heritage Trees include trees of historical significance, special character, or community benefit, specifically designated by resolution of the City Council. Any tree growing on public or private property within the city limits of the city of

Monmouth that meets the following criteria as described below can be considered for Heritage Tree nomination.

A tree may be considered for Heritage Tree status if it is in healthy growing condition and meets one or more of the following criteria:

1. The tree has historical significance in connection with a person, place or event;  
or
2. The tree has attained significant size in height, caliper, or canopy spread for its age and species; or
3. The tree has special aesthetic qualities for its species; or
4. The tree is prominently visible to the public, along major roads or public places; or
5. The tree possesses rare horticulture value.

B. A grove may be considered for Heritage Grove status if it is in a healthy growing condition and meets one or more of the following criteria:

1. The grove is relatively mature and is of a rare or unusual nature containing trees that are distinctive either due to size, shape, species or age; or
2. The grove is distinctive due to a functional or aesthetic relationship to a natural resource, such as trees located along stream banks; or
3. The grove has cultural or historical significance associated with a historical figure, property, or significant historical event.

C. As used in this ordinance, the term "Heritage Tree" includes trees within a designated Heritage Grove.

#### 96.530 Heritage Tree Nomination

The nomination of a tree as a Heritage Tree or a group of trees as a Heritage Grove may be submitted by any person on a form provided by the City. No trees shall be designated as a Heritage Tree or a Heritage Grove without the voluntary consent of the owner. No trees located in areas identified in the Monmouth Comprehensive

Plan or in adopted master plans as areas for public improvements to road, water, sanitary sewer, or storm sewer systems, or identified as locations for public buildings, shall be nominated.

96.540 Review and Designation.

A. The Tree Advisory Board shall review all requests for Heritage Tree or Heritage Grove designations and shall provide a recommendation to the City Council.

B. The Tree Advisory Board shall review applications for Heritage Tree or Heritage Grove designation based on all the following criteria being met:

1. Conformance with the definition of a Heritage Tree or Heritage Grove from Section 96.520;

2. Condition of the tree with respect to disease, or hazardous or unsafe conditions;

3. Voluntary agreement of the subject property owner to the tree's designation as a Heritage Tree or Heritage Grove;

C. In making a recommendation, the Tree Advisory Board may consult with other groups or experts, including, but not limited to, the Historic Buildings and Sites Commission, the Parks and Recreation Board, the Planning Commission, a consulting arborist, or a local extension agent.

D. The City Council shall designate, by resolution, Heritage Trees or Heritage Groves based upon recommendations from the Tree Advisory Board.

96.550 Heritage Tree Recognition.

A. A plaque furnished by the City stating that an approved tree has been designated as a Heritage Tree of the City of Monmouth shall be placed in a visible location near each Heritage Tree. A plaque, furnished by the City of Monmouth, shall be placed in a visible location for each designated Heritage Grove.

B. The Community Development Director is responsible for maintaining an inventory of Heritage Trees.

C. An annual listing/map of Heritage Trees shall be provided for Arbor Day activities.

96.560 Hazardous Trees

A. If, in the best judgment of the City, a Heritage Tree, whether standing on public or private property, has become a hazard an arborist's report shall be obtained. The arborist shall evaluate the condition of the tree and recommend a suitable course of action. With the City Manager's approval, the recommended course of action shall be carried out by the owner of the tree(s).

B. In cases where a Heritage Tree has been damaged by a natural disaster or other acts of nature, the City Manager may waive the provisions of this section to the extent that the City may alleviate immediate hazards.

96.570 Removal of Heritage Tree Designation

A. The City Council may remove a Heritage Tree or Heritage Grove designation upon the recommendation of the Tree Advisory Board. In making a recommendation, the Tree Advisory Board shall consider the following criteria:

1. If the tree or grove is of poor health, diseased or no longer alive.
2. If the tree or grove no longer meets the criteria for designation as stated in Section 96.520.

B. The City Council shall remove a Heritage Tree or Heritage Grove designation if the tree or grove is located on private property and the property owner no longer wants the designation.

96.580 Variances from Development Standards.

Minor variances to retain Heritage Trees may be allowed as follows:

A. The Community Development Director may grant a Minor Variance to front, side, and/or rear yard setback standards by up to 20 percent to retain one or more Heritage Trees, provided that no residential side yard shall be less than five feet. The variance shall be the minimum necessary to accomplish preservation of trees on site and shall not conflict with the Uniform Building Code or other adopted ordinances or conditions placed on the property.



B. The Community Development Director may grant a 10 percent Minor Variance to the lot size, lot width, and/or lot depth standards in approving a partition request, if necessary to retain one or more Heritage Trees.

C. For subdivision applications, the Planning Commission may grant a 10 percent Minor Variance to the lot size, lot width, and/or lot depth standards, if necessary to retain one or more Heritage Trees.

#### 96.590 Removal of a Heritage Tree.

No person may remove a Heritage Tree without approval by the City Council. The City Council may allow removal of a Heritage Tree, by resolution, upon the recommendation of the Tree Advisory Board. In making a recommendation, the Tree Advisory Board shall consider the following criteria:

A. Retention of the tree would make reasonable use of the property allowed under the current zoning impractical or impossible in that the development would require special design features that would increase the cost of development by five (5) percent or more or that the development would not be allowed to meet the maximum density allowed by the applicable zoning district and that variances to lot size, lot width, or lot depth provisions of the Zoning Ordinance will not alleviate this hardship.

B. The removal is necessary to accommodate a new improvement, structure or remodeled structure, and no alternative exists for relocation of the improvement on the site, or that variances to setback provisions of the Zoning Ordinance will not allow the tree to be saved or will cause other undesirable circumstances on the site or adjacent properties.

C. The tree is hazardous, diseased, or storm damaged and poses a threat to the health, safety, or welfare of the public.

D. The tree has lost its importance as a Heritage Tree due to damage from natural or accidental causes, or is no longer of historic or natural significance.

E. The tree needs to be removed to accomplish a public purpose and no practical alternative exists.

96.600 Pruning and Maintenance of Heritage Trees.

A. The limb structure, or crown, of a Heritage Tree may be pruned in any one year provided that at least 80 percent of the existing tree crown remains undisturbed. Any person who wishes to prune a Heritage Tree in excess of 20 percent of the existing crown shall comply with the following requirements:

1. The protected tree shall be pruned following acceptable arboricultural standards.

2. The tree shall be pruned in a manner that ensures safety to public and private property, including utilities, and shall be done by a qualified professional.

B. The City shall maintain all Heritage Trees located on City property or on public rights-of-way within the City. It shall be the duty of every owner of property upon which a Heritage Tree is standing to maintain that tree to the best of their ability. The City may give advice and assistance to property owners regarding proper maintenance of Heritage Trees.

CITY OF MONMOUTH  
151 WEST MAIN STREET  
MONMOUTH, OR 97361



PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND  
CONSERVATION AND  
DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540

DEPT OF  
NOV 05 2010  
LAND CONSERVATION  
AND DEVELOPMENT