



CHAIR, NHAN NGUYEN; VICE-CHAIR, DENNIS MARTINEZ; COMMISSIONERS, MIGUEL MAESTAS, SHARON MANN, MIKE HANSEN, LOUISE STRANDER AND HEIDI WATTERS

**PLANNING COMMISSION
PUBLIC HEARING AGENDA
JANUARY 25, 2018 - 6:30 PM
TUKWILA CITY HALL COUNCIL CHAMBERS**

- I. CALL THE MEETING TO ORDER
- II. ATTENDANCE
- III. ADOPTION OF 12-14-17 MINUTES

- IV. CASE NUMBER: L17-0077
APPLICANT: City of Tukwila, Dept. of Community Development
REQUEST: Revise TMC 18.54, Tree Regulations, to address Comprehensive Plan urban forestry goals and polices and revise TMC 18.06, Definitions, to incorporate urban forestry terms and revise landscaping terminology.
LOCATION: City-wide

- V. DIRECTOR’S REPORT



INFORMATIONAL MEMORANDUM

TO: Tukwila Planning Commission

FROM: Carol Lumb, Senior Planner
Andrea Cummins, Urban Environmentalist

DATE: January 17, 2018

SUBJECT: January 25, 2018 Public Hearing on TMC 18.54, Tree Regulations and TMC 18.06, Definitions

The public hearing on revisions to the City's tree regulations and Zoning Code definitions, originally scheduled for January 11, 2018, was postponed to January 25th due to a lack of a quorum. We hope that those of you who were ill are feeling much better by now.

We received two comments from the public just prior to the January 11th meeting that are attached for your review:

Attachment I - verbal comments from Vern Meryhew, which were transcribed by staff for your consideration; and

Attachment J - emailed comments from Vanessa and Greg Zaputil.

Please note these two items have been labeled so as to follow the last labeled Attachment in your January 11th packet and have been added at the end of the January 11th materials that follow this memo.

If you have any questions, or would like to schedule time with staff to discuss the draft regulations, please let us know. You can contact me at 206-431-3661 or at Carol.Lumb@Tukwilawa.gov.

ATTACHMENTS

- I. January 9, 2018 comments from Vern Meryhew
- J. January 10, 2018 email from from Vanessa and Greg Zaputil with comments attached.



PLANNING COMMISSION WORKSESSION MINUTES

Date: December 14, 2017
Time: 6:30 PM
Location: Council Chambers

Present: Commissioners Sharon Mann, Mike Hansen, Louise Strander, and Dennis Martinez

Absent: Chair, Miguel Maestas; Vice-Chair Nhan Nguyen

Staff: Nora Gierloff, Deputy Director, Carol Lumb, Senior Planner; Andrea Cummins, Urban Environmentalist, and Wynetta Bivens, Planning Commission Secretary

Chair Pro Tem, Sharon Mann called the meeting to order.

This work session is a continuance from the 11/16/17 work session on the proposed revisions to TMC 18.54, Tree Regulations and revisions to definitions found in TMC 18.06 related to landscaping, urban forestry and trees.

Chair Pro Tem allowed comments from one citizen.

Vanessa Zaputil, a citizen, said that the third bullet in the staff memo is incorrect, that what is proposed is not the same as what is currently in TMC 18.54.050, Permit Exempt Activities verbiage. She also said adding the arborist fee report cost to the permit fees will be a financial burden to the small business owners and residents. She also expressed concern with a property owner not being able to remove a tree due to cost, which she said is a safety concern. She does not want the situation where people aren't taking out trees because financial cost and regulatory requirements are too burdensome.

Commissioner Mann requested staff address the citizen's concerns on the permit activities verbiage. Staff said the difference in the codes requirement is based on the tree size. There was further discussion.

Commissioner Martinez, expressed concern for long-term residents being on fixed incomes and having the financial burden to senior citizens.

Commissioner Mann requested to note this as a concern.

Carol Lumb, Senior Planner, and Andrea Cummins, Urban Environmentalist, Department of Community Development went over the proposed definitions and proposed tree regulations and answered questions.

ACTION ITEMS:

- Bring back to the Commission, definition of significant tree size compared to other jurisdictions

- Send information to the Commission on the comparison difference of other Cities for significant tree sizes as soon as possible.

Commissioner Hansen noted that the comparison of neighboring Cities is quite important in their discussion and, said he was disappointed that the Commission didn't have the information for this discussion.

- Bring back to the Commission, documentation on Tree maintenance in the public right-a-way (page 110)
- Provide a chart on significant trees 4" versus 6"
- Provide more information from the City Attorney on Injunctive relief

REVISIONS:

- Page 96, nuisance trees – add underground utilities.
- Page 97 – send significant tree size chart as soon as possible
- Page 103, D. change wording to match chart on page 104– no arborist report for trees greater than 18"
- Page 106 clean up verbiage, paragraph D, nuisance tree.
- Page 108, if tree is damaged by an act of nature, it is not required to be replaced (see page 110 18.54.110 C. for language)
- Page 110, D. top of page, need more information about liability
- Page 118, Injunctive Relief – “threatening to violate” – need information about this phrase.

DIRECTOR'S REPORT:

- Commissioner Nguyen will be the chair for 2018, and Commissioner Martinez, Vice-Chair.
- Heidi Watters the new Planning Commissioner will go to City Council for confirmation on January 2, 2018.
- Overview of the 2018 Planning Commission schedule. Staff asked how they could help the Commission the process to go smoothly next in 2018. PC Responses:
 - Provide packets with completed work on the project before coming to PC.
 - Have representatives from the Police or Fire department present when Variances, parking, or set-backs are being considered.
 - Commitment for enforcement regarding the decisions PC make.
 - Better outreach to citizens regarding projects in their neighborhood.
- Staff gave an overview of the upcoming schedule of items to come to PC.
- Staff thanked the Commission for all their work in 2017.

Adjourned: 9:15 PM

Submitted by: Wynetta Bivens
Planning Commission Secretary



INFORMATIONAL MEMORANDUM

TO: Tukwila Planning Commission

FROM: Carol Lumb, Senior Planner
Andrea Cummins, Urban Environmentalist

DATE: December 28, 2017

SUBJECT: January 11, 2018 Public Hearing on TMC 18.54, Tree Regulations and TMC 18.06, Definitions

On January 11, 2018, the Planning Commission will hold a public hearing on revisions to the City's tree regulations, found in TMC 18.54, and Zoning Code definitions found in TMC 18.06.

The following changes have been made to the draft regulations, based on Planning Commission direction to-date (these changes are also highlighted in yellow in the draft regulations):

1. **TMC 18.06 Definitions:**

- Nuisance Tree definition has been revised to add "underground utilities".

2. **TMC 18.54, Tree Regulations:**

- a. 18.54.020 D. "Exceptional Tree" deleted from requirement to provide an arborist's report.
- b. 18.54.040 A. spell out "CRZ": Critical Root Zone.
- c. 18.54.040 Table A – Arborist report not required for trees 18 inches or greater in diameter within a 36-month period.
- d. 18.54.060 D. The Planning Commission requested that the language of the first sentence be revised. Staff suggests the following:
If the number of trees to be removed exceeds the permitted amount in a 36-month period on a property zoned Low Density Residential and improved with a single-family dwelling, those trees shall be replaced based on the replacement requirements set forth in TMC 18.54.080 and Table B.
- e. 18.54.080 B. new last sentence exempts trees damaged or destroyed due to a natural disaster from replacement.

- f. 18.54.100 D. The Planning Commission expressed concerns about possible liability from trees planted in the right-of-way. Staff has requested guidance from the City Attorney and Public Works on this issue.
- g. 18.54.210 B. The Planning Commission requested clarification about requesting injunctive relief on the basis on someone threatening to violate the tree regulations. Staff has researched the question and has the following information:

Typically, a request for injunctive relief must be authorized by the City Council, which can be time consuming as an item must be scheduled on the Council's meeting calendar. The language in this subsection would permit the Director of the Department to initiate legal proceedings in the event of an emergency, which would save time. This language is in the current TMC 18.54 and is proposed to carry forward into the draft going to the City Council.

Attachment F is a memo from Assistant City Attorney Ann Marie Soto responding to questions about liability and Attachment G is information from Robin Tischmak, Acting Public Works Director, and City Engineer, regarding trees in the right-of-way and also requesting two changes to the draft tree regulations. DCD staff are in agreement with the requested changes from Public Works to the draft tree regulations.

RECOMMENDATION

Conduct the public hearing on the proposed revisions to TMC 18.06 and TMC 18.54, deliberate and make a recommendation to the City Council.

ATTACHMENTS

- A. Draft revisions to Definitions, TMC 18.06 in strikeout/underline format showing staff proposed changes, Advisory Committee and Planning Commission revisions.
- B. Draft revisions to TMC 18.54, Tree Regulations, with the staff proposed changes accepted, Advisory Committee and Planning Commission revisions shown in strikeout/underline.
- C. Comprehensive Plan Urban Forestry Goals and Policies.
- D. Current TMC 18.54.
- E. Staff Report on land use file L17-0077, Revisions to TMC 18.06 and TMC 18.54
- F. Memo from Ann Marie Soto, Assistant City Attorney
- G. Email from Robin Tischmak, Acting Public Works Director
- H. Significant Tree Comparison Chart.

**TMC 18.06: Revised or New Definitions
Tukwila Tree and Environment Advisory Committee and Planning
Commission Revisions**

Note: New text is shown as underlined text; text proposed for deletion is shown in ~~strikeout~~. This list of definitions includes existing definitions as well as proposed new definitions related to trees and landscaping.
#####

At-Risk Tree

“At-Risk Tree” means a tree that is exposed to potential damage but can be retained during construction by use of appropriate tree protection measures as prescribed by a Qualified Tree Professional or by TMC Chapter 18.54.

Commented [CL1]: This is a new definition from Lake Forest Park with revisions proposed by staff.

18.06.125 Caliper

“Caliper” means the ~~American Association of Nurserymen~~AmericanHort accepted standard for measurement of trunk size of nursery stock. Caliper of the trunk for new trees shall be taken ~~six~~6-inches above the ground for up to and including four-inch caliper size trees and 12 inches above ground for larger size trees.

Commented [CL2]: Current definition with revisions from Kirkland definition.

Commented [CL3]: “AmericanHort” is the professional association formerly known as the American Nursery and Landscape Association, which merged with the Association of Horticultural Professionals to become AmericanHort.

18.06.130 Canopy

“Canopy” means an area encircling the base of a tree, the minimum extent of which is delineated by a vertical line extending from the outer limit of a tree's branch tips down to the ground.

Commented [CL4]: This definition applies to nursery stock for new trees being planted and is distinguished from measuring diameter of existing trees. Existing trees are measured 4.5 feet from the ground, which is also referred to as “Diameter at Breast Height – DBH”.

18.06.135 Canopy Cover

“Canopy Cover” means the extent of the canopy for an individual tree, or the cumulative areal extent of the canopy of all trees on ~~a~~ the site. When a tree trunk straddles a property line, 50% of the canopy shall be counted towards each property. The canopy coverage of immature trees and newly planted trees is determined using the projected canopy areas in the City’s Recommended Tree List.

Commented [CL5]: Current definition with additions from Lake Forest Park.

18.06-140 Certified Arborist:

“Certified Arborist”- see “Qualified Tree Professional” means an arborist certified by the ~~International Society of Arboriculture or National Arborist Association.~~

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18.06.145 **Clearing**

"Clearing" means removal or causing to be removed, through either direct or indirect actions, any vegetation from a site. Actions considered to be clearing include, but are not limited to, causing irreversible damage to roots or trunks; poisoning; destroying the structural integrity; and/or any filling, excavation, grading, or trenching in the root area of a tree which has the potential to cause irreversible damage to the tree.

Commented [CL6]: No change proposed.

Critical Root Zone

"Critical Root Zone (CRZ)" means the area surrounding a tree at a distance from the trunk, which is equal to one foot for every inch of trunk diameter measured at four and one-half feet from grade (DBH) or otherwise determined by a qualified professional (example: a 24-inch diameter tree would have a CRZ of 24 feet. The total protection zone, including trunk, would be 48 feet in diameter).

Commented [CL7]: Lake Forest Park
We propose using this term rather than "Essential Root Zone"

Crown

"Crown" means the area of a tree containing leaf- or needle-bearing branches.

Commented [CL8]: ISA source of definition

Dead Tree

"Dead Tree" means a tree with no live crown and no functioning vascular tissue.

Commented [CL9]: Lake Forest Park.

18.06.199 **Defective Tree**

"Defective Tree" means a tree that meets all of the following criteria:

1. A tree with a combination of structural defects and/or disease that makes it subject to a high probability of failure; and
2. A tree in proximity to moderate to high frequency targets (persons or property that can be damaged by tree failure); and
3. The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices nor can the target be removed.

Commented [CL10]: This definition was added when the landscaping code was revised in March, 2017.

Diameter at Breast Height (DBH)

"Diameter at Breast Height (DBH)" means the diameter of existing Trees measured four and one-half feet above the ground.

Commented [CL11]: Lake Forest Park

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Dripline

“Dripline” means the distance from the tree trunk that is equal to the furthest extent of the tree’s crown or six-foot radius from the trunk of the tree, whichever is greater (this from Lake Forest Park).

Commented [CL12]: From Kirkland and Lake Forest Park

Essential Root Zone

“Essential root zone” means the area located on the ground between the tree trunk and 10 feet beyond the canopy.

Commented [CL13]: Proposed using the term “Critical Root Zone” rather than this term.

Exceptional Tree

“Exceptional Tree” means a tree that is at least 1824 inches in diameter (DBH). For trees with two stems, if the stems have a combined total diameter of at least 24 inches, the tree shall be considered an Exceptional Tree. For trees with three or more stems, if the three largest stems have a combined total diameter of at least 1824 inches, the tree shall be considered an Exceptional Tree.

Commented [CL14]: Size of Exceptional Tree revised by Committee.

18.06.380 Groundcover

“Groundcover” means trees, shrubs and any other plants or natural vegetation which covers or shades in whole or in part the earth’s surface

Hazardous Tree

See “Defective Tree”.

Commented [CL15]: This definition revised when landscaping code revisions were adopted in March, 2017.

Heritage Tree or Heritage Grove

“Heritage Tree” means a tree, or group of trees comprising a grove, specifically designated by the City because of historical significance, special character, and/or community benefit.

Commented [CL16]: Issaquah

Invasive Plant and Tree List

“Invasive Plant and Tree List” means the City list of plants and trees that are prohibited from being planted in landscaped areas subject to an approved landscape plan, and City properties and rights-of-way.

TMC 18.06: Revised or New Definitions Tukwila Tree and Environment Advisory Committee and Planning Commission Revisions

Invasive Tree

"Invasive Tree" means a non-native tree species, which is likely to spread and disrupt the balance of an eco-system.

Commented [AC17]: ISA source for definition.

Landscape Design Professional

"Landscape Design Professional" means a landscape architect person licensed by the State of Washington to engage in the practice of landscape architecture as defined by RCW 18.98.030 or an individual who has graduated from an other accredited landscape design program professional.

Commented [CL18]: This definition added to reflect new landscape code and text in TMC 18.52 that identifies those individuals who may prepare landscape plans for projects.

~~18.06.485 Landscape Architect~~

~~"Landscape architect" means a person licensed by the State of Washington to engage in the practice of landscape architecture as defined by RCW 18.96.030.~~

Commented [CL19]: Propose using "Landscape Design Professional"

18.06.490 Landscaping or Landscaped Areas

"Landscaping or Landscaped Areas" means natural vegetation such as trees, shrubs, groundcover, and other landscape materials arranged in a manner to produce an aesthetic effect appropriate for the use to which the land is put. In addition, landscaping or landscaped areas may also serve as bioswales to reduce storm water runoff, subject to the standards of this Chapter and TMC Chapter 14.30.

Commented [CL20]: Amended definition to reflect new landscaping code, which allows bioswales to substitute as landscaped areas if certain criteria are met.

Mulch

"Mulch" means wood chips, bark or other organic material that covers the ground for weed control and water retention purposes.

18.06.586 Native Vegetation

"Native vegetation" means vegetation with a genetic origin of Western Washington, Northern Oregon and Southern British Columbia, not including cultivars.

Nuisance Tree

"Nuisance Tree" means a tree that is causing obvious physical damage to structures, including, but not limited to sidewalks, curbs, the surfaces of streets, parking lots, or driveways, or building foundations. Nuisance Tree does not include trees that currently meet the definition of Hazardous or Defective Tree.

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18.06.645 Protected Tree/Protected Vegetation

“Protected tree/Protected Vegetation” means tree or area of understory vegetation identified on an approved landscape plan to be retained and protected during construction.

18.06.650 Protection Measure

“Protection Measure” means the practice or combination of practices (e.g. construction barriers, protective fencing, tree wells, etc.) used to control construction or development activity, where such activity may impact vegetation which is approved for retention in a Tree ~~Clearing~~ Permit.

18.06.651 Protective Fencing

“Protective Fencing” means a non-flexible, temporary fence or other structural barrier installed to prevent permitted clearing or construction activity from adversely affecting vegetation, which is ~~approved for retention required by in~~ a Tree ~~Clearing~~ Permit or approved landscaping plan.

Commented [CL21]: Current definition, with proposed revisions.

Pruning

“Pruning” means the cutting or limbing of tree or shrub branches. Pruning does not include the removal of any portion of the top of the tree, sometimes referred to as “topping”.

Commented [CL22]: New definition, primarily from Portland, with staff additions.

Qualified Tree Professional: an individual who is a certified professional with academic and field experience that makes them a recognized expert in urban forestry and tree protection. A Qualified Tree Professional shall be a member of the International Society of Arboriculture (ISA) and/or the Association of Consulting Arborists, and shall have specific experience with urban tree management in the state of Washington. Arborists preparing tree valuations shall have the necessary training and experience to use and apply the appraisal methodology prescribed in the most recent edition of the ISA Plant Appraisal Guide.

Commented [CL23]: Modified from Lake Forest Park

Risk:

“Risk” means, in the context of urban forestry and trees, the likelihood of tree failure causing damage to a Target such as property or persons.

Commented [CL24]: Modified from Lake Forest Park with City revisions.

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18.06.705 Screening:

"Screening" means a continuous fence and/or evergreen landscaped planting that effectively conceals the property it encloses.

18.06.775 Significant Tree:

"Significant Tree" means a single-trunked tree (Cottonwood excluded) which is four-4 inches or more in diameter as measured four and one-half 4.5 feet above the ground (DBH) grade or a multi-trunked tree with a diameter of two-inches or more on any trunk (such as willows or vine maple).

Commented [CL25]: Revised to reconcile this definition with the definition for a "Significant Tree" in the shoreline jurisdiction.

~~18.06.776 Significant Tree, Shoreline:~~

~~"Significant tree, shoreline" means a single-trunked tree that is 4 inches or more in diameter at a height of 4 feet above the ground or a multi-trunked tree with a diameter of 2 inches or more (such as willows or vine maple).~~

18.06.777 Significant Vegetation Removal

"Significant Vegetation Removal" means the removal or alteration of trees, shrubs, and/or ground cover by clearing, grading, cutting, burning, chemical means, or other activity that causes significant ecological impacts to functions provided by such vegetation. The removal of invasive or noxious weeds does not constitute significant vegetation removal. Tree pruning, not including tree topping, where it does not affect ecological functions, does not constitute significant vegetation removal.

Commented [CL26]: No changes proposed to this definition.

Site Disturbance:

"Site Disturbance" means any development, construction, or related operation that could alter the subject property, including, but not limited to, soil compaction including foot traffic, tree or stump removal, road, driveway or building construction, installation of utilities, or grading.

Commented [CL27]: New definition – Kirkland.

~~18.06.785 Solid Planting:~~

~~"Solid Planting" means a planting of evergreen trees and/or shrubs which will prevent a through and unobscured penetration of sight or light.~~

Commented [CL28]: In searching the code, I do not find the term "Solid Planting" used; TMC 18.52.020 D defines "Type III-Heavy Perimeter Screening", which is essentially a solid planting, so this definition is not needed.

TMC 18.06: Revised or New Definitions Tukwila Tree and Environment Advisory Committee and Planning Commission Revisions

Street Tree

“Street Tree” means a tree located within the public right-of-way, or easement for street use granted to the City, provided that, if the trunk of the tree straddles the boundary line of the public right-of-way and the abutting property, it shall be considered to be on the abutting property.

Commented [CL29]: This definition from Kirkland. Street tree is also defined in TMC 11.04.040 #83 as “any trees located on any street or public right-of-way”. It is not defined in the new TMC 18.52 ordinance.

Target or Risk Target:

“Target or Risk Target” means, as used in the context of urban forestry or trees, people, property, or activities that could be injured, damaged, or disrupted by a tree.

Commented [CL30]: Modified from Lake Forest Park.

Tree Risk Assessment

“Tree Risk Assessment” means the systematic process to identify, analyze and evaluate tree risk, prepared in accordance with the latest version of the ISA Best Management Practices Guide by a Qualified Tree Professional.

Tree Risk Assessor:

“Tree Risk Assessor” means a Qualified Tree Professional with a Tree Risk Assessment Qualification, who identifies subject tree(s) and site conditions, evaluates and classifies the likelihood of failure, estimates the consequences of tree(s) hitting a Target and determines options for treatment or mitigation.

Commented [CL31]: Modified from Lake Forest Park.

18.06.845 Tree

“Tree” means any self-supporting woody plant which at maturity is usually 20 feet or more in height and generally has one main trunk, with a potential diameter breast height of 2 inches or more characterized by one main trunk, or for certain species, multiple trunks, typically reaching 12-15 feet in height at maturity that is recognized as a Tree in the nursery and arboricultural industries.

Commented [CL32]: Current definition with revisions from Lake Forest Park.

18.06.850 Tree ~~Removal~~Clearing Permit:

“Tree ~~Removal~~Clearing Permit” means a permit issued by the Director authorizing tree ~~clearing removal~~ activities, or work that may impact the Critical Root Zone, pursuant to the general permit provisions of this Title.

Commented [CL33]: This phrase added by staff to reflect change in permit title by Advisory Committee and the various circumstances that may trigger a Tree Permit.

TMC 18.06: Revised or New Definitions Tukwila Tree and Environment Advisory Committee and Planning Commission Revisions

Tree Removal:

"Tree Removal" means the direct or indirect removal of a tree through actions including, but not limited to: clearing, cutting, girdling, topping, or causing irreversible damage to roots or stems, destroying the structural integrity of trees through improper pruning, poisoning, or filling, excavating, grading, or trenching within the dripline that results in the loss of more than 20 percent of the tree's root system; or the removal through any of these processes of greater than 50 percent of the live crown of the tree.

Commented [CL34]: New definition from Lake Forest Park.

Topping:

"Topping" means the inappropriate pruning practice sometimes referred to as pollarding used to reduce tree height by cutting to a predetermined crown limit without regard to tree health or structural integrity. Topping does not use acceptable pruning practices as described in the American National Standards Institute (ANSI) "A 300 Pruning Standards" and companion "Best Management Practices for Tree Pruning" published by the International Society of Arboriculture, such as crown reduction, utility pruning, or crown cleaning to remove a safety hazard, dead or diseased material.

Commented [CL35]: Revised from Portland

18.06.860 Understory Vegetation:

"Understory vegetation" means small trees, shrubs, and groundcover plants, growing beneath and shaded by the canopy of a significant tree, which affect and are affected by the soil and hydrology of the area surrounding the significant tree roots.

18.06.910 Vegetation:

"Vegetation" means living trees, shrubs or groundcover plants.

Viable tree:

"Viable Tree" means a Significant Tree that a Qualified Tree Professional has determined to be in good health with a low risk of failure, is relatively Windfirm if isolated or exposed, and is a species that is suitable for its location and is therefore worthy of long-term retention.

Commented [CL36]: Lake Forest Park

Windfirm:

"Windfirm" means a tree that is healthy and well-rooted and that a Qualified Tree Professional has evaluated and determined that can withstand normal winter storms or surrounding tree removal.

Commented [CL37]: Lake Forest Park

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CHAPTER 18.54

URBAN FORESTRY AND TREE REGULATIONS

Sections:

- 18.54.010 Purpose
- 18.54.020 Scope
- 18.54.030 Tree ~~Removal~~ Permit Required
- 18.54.040 Permit Submittal Requirements
- 18.54.050 Permit Approval Criteria, General
- 18.54.060 Tree Retention Standards
- 18.54.070 Tree Protection Standards
- 18.54.080 Tree Replacement Standards
- 18.54.090 Tree Relocation
- 18.54.100 Tree Replacement Fund
- 18.54.110 Performance Assurance
- 18.54.120 Liability
- 18.54.130 Permit Processing and Duration
- 18.54.140 Permit Exceptions
- 18.54.150 Permit Conformance
- 18.54.160 Soil Preparation, Plant Material and Maintenance
- 18.54.170 Heritage Trees and Heritage Groves
- 18.54.180 Approved and Prohibited Trees
- 18.54.190 Violations
- 18.54.200 Remedial Measures
- 18.54.210 Enforcement

18.54.010 Purpose

The purpose of this Chapter is to implement the Urban Forestry Comprehensive Plan goals; to maintain and increase tree canopy throughout the city; and to provide requirements for tree maintenance, tree retention and protection. Trees and their canopy act to improve air quality, promote the public health, reduce human-related stress, increase property values, reduce heat islands, and reduce storm water flows. The tree regulations also support the Low Impact Development goals of the Comprehensive Plan and the City's National Pollution Discharge Elimination System permit.

Commented [CL1]: New purpose text to reflect adopted Urban Forestry Comprehensive Plan goals and policies.

In particular, the purpose of this Chapter is to:

1. ~~Regulate the p~~rotection of existing trees prior to and during development;
2. Establish ~~protections - requirements~~ for the long-term maintenance of trees and vegetation;
3. Moderate the effects of wind and temperature;
4. Minimize the need for additional storm drainage facilities;
5. Stabilize and enrich the soil and minimize surface water and ground water run-off and diversion which may contribute to increased instability, sedimentation, or turbidity in streams, lakes, or other water bodies;

Commented [CL2]: Advisory Committee revisions to Purposes #1 and 2.

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6. Protect fish, wildlife and their habitats by promoting tree retention and improving water quality;
7. Ensure tree replacement after removal to provide erosion control and to achieve canopy coverage goals;
8. Recognize the importance of Heritage and Exceptional Trees to the history of the community; and
9. Establish procedures for penalties and violations of the tree code.

18.54.020 Scope

This chapter sets forth rules and regulations to control clearing of trees ~~and understory vegetation~~ within the City of Tukwila except for removal of trees governed by Chapter 18.44, Shoreline regulations, Chapter 18.45, Sensitive Areas, and Chapter 18.52, Landscaping.

Commented [CL3]: These regulations do not address understory vegetation – just trees. Understory vegetation is regulated in SAO and Shoreline regulations.

18.54.030 Tree Removal Permit Required (LFP)

A. Permit Required.

1. A Tree ~~Removal~~ Permit is required prior to work within the Critical Root Zone of any Significant, Exceptional or Heritage Tree or prior to the removal or destruction of any of these Trees within the City, unless the action is exempt from this Chapter.

~~1.2.~~ 2. A Tree ~~Removal~~ Permit is required when any person wishes to prune a Heritage Tree in excess of 20% of the existing crown.

3. A request for an exception to the requirements of the Chapter shall be processed under a Tree Exception Permit.

Commented [CL4]: Committee revision: Name permit "Tree Permit" then have different types:
1. Tree Removal
2. Tree Impact (for work in CRZ)
3. Heritage Tree Removal or Pruning over 20% of existing crown.
4. Exceptional Tree Removal
5. Tree Removal-Utilities

B. Tree Removal on undeveloped lots is prohibited.

C. Tree Removal Exemptions. The following activities are exempt from the requirements of this Chapter:

Commented [CL5]: Mix of Lake Forest Park and current exemptions in TMC 18.54

1. The removal of trees that are less than 4" in Diameter at Breast Height (DBH) on a property zoned Low Density Residential and improved with a single-family dwelling.

2. The removal of Dead Trees outside of the shoreline jurisdiction or a sensitive area or its buffer.

3. Routine maintenance of trees necessary to maintain the health of cultivated plants, or to contain noxious weeds or invasive species as defined by the City of Tukwila or King County. Routine maintenance includes the removal of up to 20% of the existing tree crown in a two year period.

Commented [CL6]: From TMC 18.54.050

4. Emergency actions necessary to remedy an immediate threat to people or property, or public health, safety or welfare by a high-risk or extreme-risk tree

Commented [CL7]: Added by Advisory Committee.

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may be undertaken in advance of receiving a permit. Any person, utility or public entity undertaking such an action shall submit a Tree ~~Removal~~ Permit application within one week of the emergency action and replace the tree(s) if required by this Chapter. ~~For major storm events, additional time to apply for the Tree Permit may be granted to the utility.~~ Additional time to apply for a Tree Permit may be granted at the discretion of the Director.

Commented [CL8]: Added at the request of Seattle City Light.

Commented [CL9]: Committee approved substitute language – avoids the need to define “major storm even”, and also there might be other entities besides utilities that would need to use this provision.

Commented [CL10]: Revised this subsection to require an arborist report, not just an arborist’s review.

D. Tree Removal Permits-Arborist Report. All Tree ~~Removal~~ Permits shall require an ISA Certified Arborist report, unless otherwise stated in this Chapter, ~~except for the removal of Significant Trees, other than Exceptional or Heritage Trees, including invasive species, on a lot zoned Low Density Residential and improved with a single-family dwelling. An arborist’s report is not required for the allowed removal of trees on a lot zoned Low Density Residential and improved with a single family dwelling other than for Exceptional or Heritage Trees. An arborist’s report is not required for the permitted removal of trees, other than Exceptional or Heritage Trees, on a lot zoned Low Density Residential and improved with a single-family dwelling.~~

Commented [CL11]: This revision makes the text consistent with a revision the Planning Commission made to Table A, under B. below.

18.54.040 PERMIT SUBMITTAL REQUIREMENTS

A. Permit Application. Prior to any tree removal, ~~or~~ site clearing, or work within the Critical Root Zone, a Tree ~~Removal~~ Permit application must be submitted to the Department of Community Development containing the following information:

1. Site Plan of the proposal showing:
 - a. Diameter, species name, location and canopy of existing Significant Trees in relation to proposed and existing structures, utility lines, and construction limit line;
 - b. Identification of all Significant Trees to be removed and/or relocated;
 - c. Existing and proposed topography of the site at 2-foot contour intervals; and
 - d. Limits of any sensitive area and sensitive area buffer and/or shoreline jurisdiction.
2. Landscape Plan for the proposal showing:
 - a. Diameter, species name, spacing and location of replacement trees to be planted;
 - b. Diameter, species name and location of all Significant Trees to be retained; and
 - c. Vegetation protection measures consistent with the criteria in TMC 18.54.060
3. Professional review or recommendation. Assessment prepared by an ISA Certified Arborist addressing the following:

Commented [CL12]: TMC 18.54.080 1.

Commented [CL13]: From TMC 18.54.080 2.

Commented [CL14]: Revised from TMC 18.54.080 3.

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- a. The anticipated effects of proposed construction or tree removal on the viability of Significant Trees to remain on-site;
- b. Recommendations on replacement trees, spacing and maintenance of proposed replacement trees once installed;
- c. Post-construction site inspection and evaluation; and
- d. Estimated cost of maintenance of replacement trees for the purposes of calculation of financial assurance, if required.

4. A photo of the tree(s) to be impacted or removed.

4.5. Time schedule. Proposed time schedule of vegetation removal, relocation and/or replacement, and other construction activities which may affect on-site vegetation, sensitive area, sensitive area buffer, and/or shoreline zone.

Commented [CL15]: New text.

~~B. Single Family Tree Removal. **No-Fee Permit Application – Removal of Up to Four Trees or Less.** The removal of 1-4 trees within any 36-month period on a property zoned Low Density Residential and improved with a single-family dwelling, is subject to a no-fee Tree Removal Permit. Items to be submitted with the permit application are:~~
The removal of 1-4 trees within any 36-month period on a property zoned Low Density Residential and improved with a single-family dwelling is permitted, subject to the requirements in Table A below and possible tree replacement. Information to be submitted as part of a Tree Inventory Survey shall include the following:

- 1. Site plan, with the tree(s) to be removed identified, the tree species, and diameter of tree and the location of any utility lines or other built infrastructure;
- 2. Number and size of trees to be removed.
- 3. The location of any affected utility lines within the overhead “fall zone” or other built infrastructure.
- 4. Photos of the tree(s) to be removed;
- 5. The method of removal and identification of contractor; and
- 6. Time schedule of tree removal.

Commented [CL16]: Permit application should also suggest that applicant call 811 for a utility locate to ensure no underground utilities will be impacted by tree removal.

Table A
Single Family Tree Removal Requirements

<u>Trees (DBH)</u>	<u># of Trees in 36 Month Period that can be Removed</u>	<u>Tree Permit?</u>	<u>Arborist Report?</u>
<u>4-8"</u>	<u>4</u>	<u>Tree Inventory Survey</u>	<u>No</u>
<u>>8-12"</u>	<u>2</u>	<u>Yes</u>	<u>No</u>
<u>>12-18"</u>	<u>2</u>	<u>Yes</u>	<u>No</u>
<u>>18-24"</u>	<u>1</u>	<u>Yes</u>	<u>Yes-No</u>
<u>>24"</u>	<u>1</u>	<u>Yes</u>	<u>Yes</u>

Commented [CL17]: The Committee wanted to tie the number of trees that can be removed from single family zoned properties improved with a dwelling to the size of the trees being removed. The larger the tree removed, the fewer that can be taken out in a 36 month period.

Commented [CL18]: Planning Commission revision to not require an arborist's report for Exceptional tree removal.

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See Table B for the number of replacement trees required, if any.

A. C. Permit Materials ~~Waiver~~

Commented [CL19]: From existing TMC 18.54.090

The Director may waive the requirement for any or all plans or permit items specified in this section upon finding that the information on the application is sufficient to demonstrate that the proposed work will meet the approval criteria detailed in this Chapter and other City ordinances. Such waiver of a requirement shall not be construed as waiving any other requirements of this Chapter or related regulations.

D. Permit Application ~~Fee~~

Commented [CL20]: Modified from existing TMC 18.54.100

Fee required: A Tree ~~Removal~~ Permit fee shall be paid at the time an application or request is filed with the department, pursuant to TMC Section 18.88.010, except as otherwise noted in this Chapter. All fees shall be paid according to the Land Use Fee Schedule in effect at the time of application. There is no permit fee for submittal of the Tree Inventory Survey.

18.54.050 Permit Approval Criteria, General.

Commented [CL21]: Revised and moved to Permit Approval Criteria section.

A. All Tree ~~Removal~~ Permit applications shall meet the criteria outlined below for approval.

Commented [CL22]: Replaced with proposed text below.

B.

~~C.~~**A.** Existing trees will be retained on-site to the maximum extent possible as required by TMC 18.54.060 and as recommended in the arborist report, if applicable.

~~D.~~**B.** Tree protection will be implemented as required in TMC 18.54.070.

~~E.~~**C.** Tree replacement will be implemented as required in TMC 18.54.080.

~~F.~~**D.** Tree replacement fFunds will be deposited into the City of Tukwila Tree Replacement Fund, as described in TMC 18.54.100, if required.

~~G.~~**E.** A performance assurance will be submitted as required in TMC 18.54.110.

18.54.060 Tree Retention Standards

Commented [CL23]: The topic of tree retention is currently found in TMC 18.54.130 1. and is proposed to be replaced with the text below.

A. As many Significant, Exceptional and Heritage Trees as possible are to be retained on a site proposed for development, or re-development, particularly to provide a buffer between development, taking into account the condition and age of the trees. As part of a land use application such as, but not limited to, subdivision or short plat review, design review or building permit review, the Director of Community Development or the Board of Architectural Review may require reasonable alterations to the arrangement of

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buildings, parking or other elements of proposed development in order to retain Significant, Exceptional or Heritage non-invasive Trees.

- B. Topping of trees is prohibited and considered removal,.
- C. Trees located on vacant properties shall not be removed except:
 - 1. Those that interfere with access and/or passage on public trails; or
 - 2. When trees, including alders and cottonwoods, have been determined to be one of the following by a Tree Risk Assessment prepared by a Tree Risk Assessor, and where the risk cannot be reduced to Low with mitigation, such as pruning:
 - a. Moderate risk with significant consequences;
 - b. Moderate risk with severe consequences;
 - c. High risk with a target or risk target; or,
 - d. Extreme risk.
 - 3. Factors that will be considered in approving such tree removal include, but are not limited to, tree condition and health, age, risks to life or structures and potential for root or canopy interference with utilities.
- D. Where permitted, removal of Exceptional or Significant trees on a property zoned Low Density Residential and improved with a single-family dwelling beyond the up to four trees permitted within a 36-month period that are removed shall be replaced pursuant to the tree replacement requirements outlined below. The Director or Planning Commission may require additional trees or shrubs to be installed to mitigate any potential impact from the loss of the vegetation as a result of the tree removal.
- ~~E. Retention and Replacement of Canopy Cover. On undeveloped sites or sites with dense stands of trees, where the cost of identification of individual tree species and sizes is inordinate relative to the project, the Director may allow the applicant to use the tree canopy cover approach outlined below to calculate retention and replacement of trees:

 - a. The site shall have a minimum canopy cover equal to 20% of the site area, or equal to the existing canopy cover whichever is less.
 - b. Canopy cover may consist of any combination of existing trees and replacement trees. Canopy cover of each new tree shall be calculated based on the canopy cover from the City's preferred tree list.~~
- ~~F.E.~~ Protection of trees shall be a major factor in the location, design, construction and maintenance of streets and utilities. Removal or significant damage that could lead to tree death of Significant, Exceptional or Heritage Trees shall be mitigated with on- or off-site tree replacement as required by this Chapter.
- ~~G.F.~~ A Qualified Tree Professional shall provide an assessment of any tree proposed for retention in a proposed development to ensure its survivability during construction.
- G. The Department shall conduct a tree canopy assessment every five years from the date of the adoption of this Chapter to ensure that the tree canopy goals of the Comprehensive Plan are being met.

Commented [AC24]: From 18.44.080 B.1.

Commented [AC25]: From Lake Forest Park

Commented [CL26]: The Planning Commission requested that the language in D. be revised to be clearer. Staff proposes the following:
 If the number of trees to be removed exceeds the permitted amount in a 36-month period on a property zoned Low Density Residential and improved with a single-family dwelling, those trees shall be replaced based on the replacement requirements set forth in TMC 18.54.080, and Table B.

Commented [CL27]: Should be trees not vegetation, as this Chapter does not address vegetation retention.

Commented [CL28]: Subsection E. is from existing code, TMC 18.54.140 B. It was deleted by the Committee as eliminating this option will provide site specific tree inventory information when development is proposed.

Commented [CL29]: Added by the Committee to make sure we are monitoring tree canopy percentages over time.

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18.54.070 Tree Protection Standards

All ~~trees~~vegetation not proposed for removal as part of a project or development shall be protected using Best Management Practices and the standards below.

- A. The Critical Root Zones (CRZ) for all trees designated for retention, on site or on adjacent property as applicable, shall be identified on all construction plans, including demolition, grading, civil and landscape site plans.
- B. Any roots within the CRZ exposed during construction shall be covered immediately and kept moist with appropriate materials. The City may require a third-party~~An~~ arborist ~~may be required~~ to review long-term viability of the tree.
- C. Physical barriers, such as 6 foot chain link fence or plywood or other approved equivalent, shall be placed around each individual tree or grouping at the CRZ.
- D. Minimum distances from the trunk for the ~~construction physical~~ barriers shall be based on the approximate age of the tree (height and canopy) as follows:
 - 1. Young trees (trees which have reached less than 20% of life expectancy): 0.75 per inch of trunk diameter.
 - 2. Mature trees (trees which have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.
 - 3. Over mature trees (trees which have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.
- E. Alternative protection methods may be used that provide equal or greater tree protection if approved the Director.
- F. A weatherproof sign shall be installed on the fence or barrier which reads: "TREE PROTECTION ZONE – THIS FENCE SHALL NOT BE REMOVED OR ENCROACHED UPON. No soil disturbance, parking, storage, dumping or burning of materials is allowed within the Critical Root Zone. The value of this tree is \$ *(insert value of tree as determined by a Qualified Tree Professional here)*. Damage to this tree due to construction activity that results in the death or necessary removal of the tree is subject to the Violation section of TMC 18.54.190."
- G. All tree protection measures ~~shall be~~ installed ~~and shall be~~ inspected by the City, and if deemed necessary, a Qualified Tree Professional, prior to beginning construction or earth ~~moving~~.
- H. Any branches or limbs that are outside of the CRZ and might be damaged by machinery, shall be pruned prior to construction by an ISA Certified Arborist. No construction personnel shall prune affected limbs except under the direct supervision of an ISA Certified Arborist.
- I. The CRZ shall be covered with 4 to 6 inches of wood chip mulch. Mulch shall not be placed directly against the trunk. A 6-inch area around the trunk shall be free of mulch. Additional measures, such as fertilization or supplemental water shall be carried out prior to the start of construction if deemed necessary by the arborist's report to prepare the trees for the stress of construction activities.

Commented [CL30]: Title of section revised from current code

Commented [CL31]: Note to reviewers: TMC 18.52.050, landscaping code, refers users of that Chapter to TMC 18.54 to find tree protection guidance. These requirements serve as the tree protection criteria to be followed.

Commented [CL32]: From ISA standards

Commented [CL33]: Modified from TMC 18.54.160 B.

Commented [CL34]: The Committee discussed when or if to allow construction personnel to prune affected tree limbs.

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- J. No storage of equipment or refuse; parking of vehicles; dumping of materials or chemicals; or placement of permanent heavy structures or items shall occur within the CRZ.
- K. No grade changes or soil disturbance, including trenching, shall be allowed within the CRZ. Grade changes within 10 feet of the CRZ shall be approved by the City prior to implementation.
- L. The applicant is responsible for ensuring that the CRZ of trees on adjacent properties are not impacted by the proposed development.
- M. A pre-construction inspection shall be conducted by the City is required to finalize tree protection actions.
- N. Post-construction inspection of protected trees shall be conducted by the City, and if deemed necessary by the City, a Qualified Tree Professional. All corrective or reparative pruning will be conducted by a Certified Arborist.

Commented [CL35]: Confirm with PW – is this a reasonable distance
Staff have confirmed with the Acting Public Works Director that this language is OK.

18.54.080 Tree Replacement Standards

When tree replacement is required, the site shall be planted with trees to meet the following minimum requirements:

Commented [CL36]: Existing code, TMC 18.54.130 3. with revisions as noted.

- A. Each existing Significant Tree removed, including removal of trees in easements and rights-of-way for the purposes of constructing public streets and utilities, shall be replaced with new tree(s), based on the size of the existing tree as shown below, up to a maximum density of 70 new trees per acre, generally 12-15 feet apart. If the number of required replacement trees exceeds site capacity, payment is required into the City's Tree Replacement Fund.
- B. Tree Replacement Ratios: Table BA below establishes tree replacement ratios when Significant, Exceptional or Heritage Trees are removed. For properties zoned Low Density Residential and improved with a single-family dwelling, when the number of trees permitted to be removed in a 36 month period, as shown in Table A, has been exceeded, the replacement ratios set forth in Table B apply. Trees damaged due to natural disasters, such as wind storms, hail, ice or snow storms, and earthquakes, are not required to be replaced.
- C. The property owner is required to ensure the viability and long-term health of trees planted for replacement through proper care and maintenance for the life of the site's improvement(s) project. Replaced trees that do not survive must be replanted in the next appropriate season for planting.
- ~~D.~~ If all required replacement trees cannot be accommodated reasonably on the site, the applicant shall pay into the Tree Replacement Fund. The fee shall be based on the value of the replacement trees and their delivery, labor for site preparation and plant installation, soil amendment, mulch, and maintenance costs for three years. In some

Commented [CL37]: This language added by the Planning Commission – similar to language in 18.54.110 C., below

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circumstances, off-site tree replacement may be allowed, subject to additional maintenance fees.

TABLE BA: Tree Replacement Requirements

Diameter* of Tree Removed (*measured at height of 4.5 feet from the ground)	Number of Replacement Trees Required
4-6 inches (single trunk)	<u>3</u>
2 inches (any trunk of a multi-trunk tree)	<u>3</u>
Over 6-8 inches	<u>4</u>
Over 8-20 inches	<u>6</u>
Over 20 inches	<u>8</u>

Commented [CL38]: We have increased the number of replacement trees over current tree code to provide an incentive to try to incorporate existing trees into development and also to replace existing tree canopy that will be lost. These are the same replacement ratios as required under the shoreline regulations.

Commented [CL39]: Committee direction is to look at other ways to establish the number of trees required for replacement – perhaps tie to the amount of canopy proposed replacement tree would provide.

Amount of Mature Tree Canopy Removed	Equivalent Stature Tree	Number of Replacement Trees
Up to 500 sq. ft.	Small Canopy Tree	<u>1</u>
501-1000 sq. ft.	Medium Canopy Tree	<u>2</u>
>1001 sq. ft.	Large Canopy Tree	<u>3</u>

Commented [CL40]: When removal of a tree is proposed, the number of trees required for replacement will be based on what the mature tree canopy of the removed tree would have been, not the current tree canopy provided.

E.D. Tree replacement shall also meet the standards in TMC 18.54.160.

18.54.090 Tree Relocation

Tree relocation shall be carried out according to Best Management Practices, and trees proposed for relocation shall have a reasonable chance of survival.

Commented [CL41]: Moved from TMC 18.54.130 5. to here.

18.54.100 Tree Replacement Fund

- A. When trees are topped or removed without a permit, or if the number of replacement trees required by Table BA cannot be accommodated on-site, the Director shall require payment into the Tree Replacement Fund. The fee will be based on the current cost of the following:
 - 1. The cost of purchasing and delivering a 2” caliper deciduous or 6’ evergreen tree;
 - 2. The cost of labor to install a tree;
 - 3. The cost of supplies needed for the installation of a tree, including but not limited to, soil amendments, mulch, stakes etc.; and
 - 4. The cost of maintenance of a new tree for at least three years, including but not limited to, watering, weeding, and pruning.
- B. The cost of a replacement tree shall be updated annually in the Land Use Fee Schedule.

Commented [CL42]: Committee also added “installing” but that is covered in #2 below.

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C. The money in this fund shall be used by the City or its contractor to purchase, plant and maintain trees on sites in the City.

D. Tree Replacement funds may be used by a single-family property owner to plant one or more street trees if approved by the Director and by the Public Works Department. The tree species must be approved by the City and be appropriate to the site conditions. The property owner is responsible for the site preparation and maintenance of the street tree, pursuant to TMC 18.54.160.

Commented [CL43]: Need to confirm with Public Works.

Commented [CL44R43]: Public Works OK with this language.

Commented [CL45]: Planning Commission expressed concerns about this section based on questions about liability for damage or injury from a street tree.

Commented [CL46]: Revised from TMC 18.54.120

18.54.110 Performance Assurance

To mitigate potential damages that may result from unauthorized tree removal or maintenance the Director may require the applicant to submit a bond, letter of credit, or other means of assurance acceptable to the City prior to issuance of a Tree ~~Removal~~ Permit, subject to the following provision:

A. Tree Protection Assurance. The applicant may be required to post a three year-performance bond or other acceptable security device to ensure the installation, maintenance and adequate performance of tree protection measures during the construction process. The amount of this bond shall equal 150 percent of the City's estimated cost of replacing each replacement tree. The estimated cost per tree shall be the tree fee established by the City. Prior to DCD final inspection, any protected tree found to be irreparably damaged, severely stressed or dying shall be replaced according to the standards identified in this Chapter. The City may release all or part of the bond prior to the conclusion of the bonding period if the applicant demonstrates that the requirements of this section have been satisfied and there is evidence that the protected trees will survive.

Commented [CL47]: Added by the Committee.

B. Tree Maintenance Assurance. Where replacement trees are required, the applicant may be required to post a one~~three~~-year replacement tree maintenance bond or other acceptable security device to ensure the survival of replacement trees. The amount of the maintenance bond shall equal 150 percent of the cost of plant material, periodic fertilizing and pruning, and labor until tree survival is ensured. In the event a required replacement tree becomes irreparably damaged, severely stressed or dies, the tree shall be replaced according to the standards in this Chapter. The City may release all or part of the bond prior to the conclusion of the bonding period if the applicant demonstrates that the requirements of this section have been satisfied and there is evidence that the protected trees will survive. The requirement for tree maintenance shall be recorded on the title of the property and if the property is sold prior to the expiration of the one-year replacement tree maintenance bond, the developer shall assign the bond to the purchaser.

Commented [CL48]: During the Advisory Committee's review, the question was raised on how to ensure the trees survive once the property is sold and the homeowner takes over maintenance. The last sentence of B. (highlighted) attempts to address this concern.

C. Replacement trees damaged due to natural disasters, such as wind storms, hail, ice or snow storms, and earthquakes, shall be exempt from further replacement.

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- D. The applicant shall provide an estimate of the costs associated with the required performance bond or other security as described above. In lieu of an applicant’s estimate, the performance assurance shall be equal to City staff’s best estimate of possible costs to meet the above requirements. In no case shall the performance assurance exceed an amount equal to two and one-half times the current cost of replacing the plants in accordance with the tree replacement provisions of this Chapter.
- E. The performance assurances shall not be fully released without final inspection and approval of completed work by the City, submittal of any post-construction evaluations or following any prescribed trial maintenance period required in the permit.
- F. Performance assurances provided in accordance with this Chapter may be ~~redeemed~~ enforced in whole or in part by the City upon determination by the Director that the applicant has failed to fully comply with approved plans and/or conditions.

18.54.120 Liability

- A. Liability for any adverse impacts or damages resulting from work performed in accordance with a Tree ~~Removal~~g Permit, be the sole responsibility of the owner of the site for which the permit was issued.
- B. Issuance of a Tree ~~Removal~~ Permit and/or compliance with permit provisions or conditions shall not relieve an applicant from any responsibility otherwise imposed by law for damage to persons or property in an amount greater than the insured amount required by this Chapter.
- C. Nothing contained in this Chapter shall be deemed to relieve any property owner from the duty to keep any tree or vegetation upon his or her property or under his or her control in such condition as to prevent it from constituting a hazard or a nuisance pursuant to TMC Chapter 8.28.
- D. The amount of any security shall not serve as a gauge or limit to the compensation collected from a property owner as a result of damages associated with any vegetation clearing.
- E. ~~The~~ applicant shall at all times protect improvements to adjacent ~~private~~ properties and public rights-of-way or easements from damage during clearing. The applicant shall restore to the standards in effect at the time of the issuance of the permit any public or private improvements damaged by the applicant’s operations.

Commented [CL49]: Existing language in TMC 18.54.190, moved to this section. Revisions as noted.

Commented [CL50]: Moved from Permit Conformance section 18.54.160 C.

18.54.130 Permit Processing and Duration

- A. All Tree ~~Removal~~ Permits shall be processed as Type 1 decisions. Exceptions to the requirements of this Chapter shall be processed as a Type 2 decision.

Commented [CL51]: Existing text – moved from 18.54.150.

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B. If the Tree ~~Removal~~ Permit or Tree Exception Permit application is not approved, the Director shall inform the applicant in writing of the reasons for disapproval.

C. Tree ~~Removal~~ Permits expire one year after the date the permit is issued.

18.54.140 Permit Exceptions

Commented [CL52]: Existing code, TMC 18.54.140, except as noted in ~~strikeout~~/underline.

A. Exception Procedures

An applicant seeking an exception from this Chapter shall submit a Tree Exception Permit application in addition to the Tree ~~Removal~~ Permit application. Such application shall fully state all substantiating facts and evidence pertinent to the exception request, and include supporting maps or plans. The exception shall not be granted unless and until sufficient reasons justifying the exception are provided by the applicant and verified by the City. Approval of the exception is subject to the exception criteria outlined below.

Commented [CL53]: Added by the Advisory Committee.

B. Exception Criteria

1. The Director may grant exceptions from the requirements of this Chapter when undue hardship may be created by strict compliance with the provisions of this Chapter. Any authorization for an exception may prescribe conditions deemed necessary or desirable for the public interest, or necessary to meet the intent of this Chapter.

2. An exception to this Chapter shall not be granted unless all of the following criteria are met:

a. Strict compliance with the provisions of this code may jeopardize project feasibility or reasonable use of property.

b. Proposed ~~tree~~vegetation removal, replacement, and any mitigative measures proposed, are consistent with the purpose and intent given in this Chapter.

c. The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.

3. In addition to the above criteria, the Director may also require review of an exception request by a third party Qualified Tree Professional at the expense of the applicant.

Commented [CL54]: Staff suggested addition.

18.54.150 Permit Conformance

All work must be performed in accordance with approved Permit plans specified in this Chapter or revised plans as may be determined by the Director. The applicant shall obtain permission in writing from the Director prior to modifying approved plans.

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18.54.160 Soil Preparation, Plant Material and Maintenance Standards

Commented [CL55]: New section

A. Soil Preparation

1. Soils must be prepared for planting by incorporating compost and/or topsoil to a depth of 12 inches throughout the planting area.
2. An inspection of the planting areas prior to planting may be required to ensure soils are properly prepared.
3. Installation of plants must comply with BMPs including, but not limited to:
 - a. Planting holes that are the same depth as the size of the root ball and two to three times wider than the root ball.
 - b. Root balls of potted and balled and burlapped (B&B) plants must be loosened and pruned as necessary to ensure there are no encircling roots prior to planting. All burlap and all straps or wire baskets must be removed from B&B plants prior to planting.
 - c. The top of the root flare, where the roots and the trunk begin, should be placed at grade. The root ball shall not extend above the soil surface and the flare shall not be covered by soil or mulch. For bare root plants, ensure soil beneath roots is stable enough to ensure correct height of the tree.
 - d. If using mulch around trees and shrubs, maintain at least a 46-inch mulch-free ring around the base of the tree trunks and woody stems of shrubs. If using mulch around groundcovers until they become established, mulch shall not be placed over the crowns of perennial plants.

Commented [CL56]: A.1. And 2. Modified from TMC 18.52, landscaping regulations.

Commented [CL57]: From TMC 18.52.070, landscaping regulations.

B. Plant Material Standards

Commented [CL58]: Text in this section adapted from TMC 18.52.060

1. Plant material shall be healthy, vigorous and well-formed, with well-developed, fibrous root systems, free from dead branches or roots. Plants shall be free from damage caused by temperature extremes, pre-planting or on-site storage, lack of or excess moisture, insects, disease, and mechanical injury. Plants in leaf shall be well foliated and of good color. Plants shall be habituated to outdoor environmental conditions (i.e. hardened-off). ~~There must be a diversity of tree and shrub genus and species in the site landscaping, taking into account species in existing development around the site.~~
2. Evergreen trees shall be a minimum of 6 feet in height at time of planting.

Commented [CL59]: Accidental carry-over from Landscaping Chapter.

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3. Deciduous trees shall have at least a 2-inch caliper at time of planting as measured 4.5 feet from the ground, determined according to the American Standard for Nursery Stock as it now reads and as hereafter amended.
4. Smaller plant stock may be substituted on a case by case basis with approval of the City's environmental specialist.
5. Tree spacing shall take into account the location of existing and new trees as well as site conditions.
6. Where there are overhead utility lines, the tree species selected shall be of a type which, at full maturity, will not interfere with the lines or require pruning to maintain necessary clearances.

Commented [CL60]: From TMC 18.52.060 B.4

C. Tree Maintenance and Pruning

1. Pruning of trees should be for the health of the plant material, to maintain sight distances or sight lines, or if interfering with overhead utilities. All pruning must be done in accordance with American National Standards Institute (ANSI) A-300 specifications, as it now reads and as hereafter amended. No more than 25% of the tree canopy shall be pruned in any two-year period except for fruit trees, that which are being pruned to increase harvest potential.
2. All protected and replacement trees and vegetation shown in approved Tree Removal Clearing Permit materials shall be maintained in a healthy condition by the property owner throughout the life of the project, unless otherwise approved by the Director in a subsequent Tree Clearing Removal Permit.
3. Trees may only be pruned to lower their height to prevent interference with an overhead utility line with prior approval by the Director. The pruning must be carried out under the direction of an ISA Certified Arborist Utilities Specialist or performed by the utility provider under the direction of an ISA Certified Arborist Utilities Specialist. The crown shall be maintained to at least 2/3 the height of the tree prior to pruning.

Commented [CL61]: Modified from 18.52.080 C.

Commented [CL62]: Added by Committee to allow more aggressive pruning of fruit trees, if needed.

Commented [CL63]: From TMC 18.54.160 D.

Commented [CL64]: Deleted at suggestion of Seattle City Light (SCL) as contractors carrying out pruning have an ISA Certified Arborist on-site however not always with the Utilities Specialist qualifications. The SCL supervisor is typically a Utilities Specialist – this person would have discussed the pruning project ahead of time with the pruning contractor.

18.54.170 Heritage Trees And Heritage Groves

Commented [CL65]: New section

- A. Heritage Trees or a Heritage Grove must be nominated for designation by, or approved for nomination by, the owner of the property on which the tree or grove is located.
- B. Designation Criteria: A tree or grove that meets the basic definition of Heritage Tree or Heritage Grove must also meet one or more of the following criteria:
 1. Has exceptional national, state or local historical significance including association with a historical figure, property, or significant historical event; or
 2. Has an exceptional size or exceptional form for its species; or

Commented [CL66]: Heritage Grove added to this section as criteria for designation were similar to those to designate a Heritage Tree.

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3. Has an exceptional age for its species; or
4. Is the sole representative of its species in the area; or
5. Has exceptional botanical or ecological value.

Once approved, the Heritage Tree or Heritage Grove shall be identified by signage that provides information as to the tree's or grove's significance.

~~C. A grove of trees may be considered for Heritage Grove status if, in addition to meeting one or more of the criteria in subsection B. above, the grove 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 trees located along ridge lines; or~~
- ~~3. The grove has a documented association with a historical figure, property, or significant historical event.~~

Commented [CL67]: The rest of this section is from the City of Vancouver, Washington's heritage tree regulations.

D.C. Heritage Tree Development Review

1. When development is proposed for property that contains a Heritage Tree, and the Director determines that the proposed development may affect a Heritage Tree, the property owner must have a tree preservation plan prepared by a qualified arborist Qualified Tree Professional as approved by the Director demonstrating how the Heritage Tree will be protected and preserved. A Heritage Tree shall be preserved using the tree protection and retention criteria of this Chapter.
2. A tree preservation plan shall be composed of the following:
 - a. A site plan indicating the location of Heritage Tree(s).
 - b. The methods to be used to preserve the Heritage Tree(s).
 - c. A mitigation plan indicating the replacement trees or additional new trees to be placed on the site. The mitigation plan should demonstrate, to the extent possible, that the character of the site will not substantially change as a result of development.
3. Site design adjustments may be approved in some cases for the subject property or an affected adjacent parcel, as follows:
 - a. Up to a 20% variance to front, side, and/or rear yard setback standards to retain a Heritage Tree(s) may be reviewed and granted as part of the underlying land use or construction permit. The adjustment shall be the minimum necessary to accomplish preservation of the Heritage Tree(s) on site and shall not conflict with other adopted ordinances or conditions placed on the property.
 - b. Up to a 10% variance to the lot size and/or the lot width requirements in approving any land division if necessary to retain Heritage Trees.

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4. Removal of a Heritage Tree. No person may cut or remove a Heritage Tree without approval of a Type 2 permit. The Tree ~~Removal~~ Permit may be approved if one or more of the criteria below is met:
 - a. Retention of the tree would make reasonable use of the property allowed under the current zoning impractical or impossible; or
 - 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 will not allow the tree to be saved or will cause other undesirable circumstances on the site or adjacent properties; or
 - c. The tree is hazardous, diseased or storm damaged and poses a threat to the health, safety or welfare of the public; or
 - 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; or
 - e. The tree needs to be removed to accomplish a public purpose and no practical alternative exists.
5. The limb structure or crown of a Heritage Tree may be pruned in any one-year period without obtaining a Type 2 permit provided that at least 80% of the existing tree crown remains undisturbed.
6. Any person who wishes to prune a Heritage Tree in excess of 20% of the existing crown shall apply for a Tree ~~Removal~~ permit and meet the following criteria.
 - a. The protected tree shall be pruned following acceptable arboricultural standards; and
 - b. The tree shall be pruned in a manner that ensures safety to public and private property and shall be carried out by an ISA certified arborist; and
 - c. Any other conditions necessary to ensure compliance with the goals and policies of the Comprehensive Plan.

TMC 18.54.180 Approved and Prohibited Trees

The City will maintain on file, and provide upon request, a list of approved trees for planting and trees that are prohibited from being planted in the City. These lists will be updated as new information becomes available.

TMC 18.54.190 Violations

- A. Failure to comply with any requirement of this Chapter shall be deemed a violation subject to enforcement pursuant to this Chapter and TMC 8.45.

Commented [CL68]: From landscaping Chapter, TMC 18.52.110.

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B. Penalties.

1. In addition to any other penalties or other enforcement allowed by law, any person who fails to comply with the provisions of this Chapter also shall be subject to a civil penalty assessed against the property owner as set forth herein. Each unlawfully removed or damaged tree shall constitute a separate violation.
2. Removal or damage of tree(s) without applying for and obtaining required City approval is subject to a fine of \$1,000 per tree, or up to ~~three~~ four times the marketable value of each tree removed or damaged as determined by an ISA certified arborist.
- ~~2-3.~~ 3. ~~Any fines paid as a result of violations of this Chapter shall be allocated as follows: 75% paid into the City's Tree Replacement Fund, 25% into with the remainder going to the General Fund.~~
- ~~3-4.~~ 4. The Director may elect not to seek penalties or may reduce the penalties if he/she determines the circumstances do not warrant imposition of any or all of the civil penalties.
- ~~4-5.~~ 5. Penalties are in addition to the restoration of removed ~~plant materials trees~~ through the remedial measures listed in TMC Section 18.54.200.
- ~~5-6.~~ 6. It shall not be a defense to the prosecution for a failure to obtain a permit required by this Chapter that a contractor, subcontractor, person with responsibility on the site or person authorizing or directing the work erroneously believes a permit was issued to the property owner or any other person.

Commented [CL69]: From landscaping Chapter

Commented [CL70]: RCW 64.12.030 allows treble damages, not four.

TMC 18.54.200 Remedial Measures.

In addition to the penalties assessed, the Director shall require any person conducting work in violation of this Chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

- A. Any illegal removal of required trees shall be subject to obtaining a Tree ~~Removal~~ Permit and replacement with trees that meet or exceed the functional value of the removed trees.
- B. To replace the tree canopy lost due to the tree removal, additional trees must be planted on-site. Payment shall be made into the City's Tree Fund if the number of replacement trees cannot be accommodated on-site. The number of replacement trees required will be based on the size of the tree(s) removed as stated in Table ~~A~~ B.
- C. The applicant shall satisfy the permit provisions as specified in this Chapter.
- D. Remedial measures must conform to the purposes and intent of this Chapter. In addition, remedial measures must meet the standards specified in this Chapter, ~~and applicable standards for mitigation outlined in the Sensitive Areas Overlay District Chapter of this Title.~~
- E. Remedial measures must be completed to the satisfaction of the Director within 6 months of the date a Notice and Order is issued pursuant to TMC Chapter 8.45, or within the time period otherwise specified by the Director.

Commented [CL71]: Remedial Measures from TMC 18.52.180, Enforcement and moved to be its own subsection. Items A and B are new; items C.– F. are existing text moved from TMC 18.54.180 D.

Commented [CL72]: Revisions to TMC 18.45, the sensitive area regulations, will occur in 2018 and remedial measures for sensitive areas will be addressed there.

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- F. The cost of any remedial measures necessary to correct violation(s) of this Chapter shall be borne by the property owner and/or applicant. Upon the applicant's failure to implement required remedial measures, the Director may redeem all or any portion of any security submitted by the applicant to implement such remedial measures, pursuant to the provisions of this Chapter.

18.54.210 Enforcement

Commented [CL73]: Existing text from TMC 18.54 that reflects revisions to the Enforcement section.

A. General. In addition to the Notice of Violation and Order measures prescribed in TMC Chapter 8.45, the Director may take any or all of the enforcement actions prescribed in this Chapter to ensure compliance with, and/or remedy a violation of this Chapter; and/or when immediate danger exists to the public or adjacent property, as determined by the Director.

1. The Director may post the site with a "Stop Work" order directing that all vegetation clearing not authorized under a Tree ~~Removal~~ Permit cease immediately. The issuance of a "Stop Work" order may include conditions or other requirements which must be fulfilled before clearing may resume.

2. The Director may, after written notice is given to the applicant, or after the site has been posted with a "Stop Work" order, suspend or revoke any Tree ~~Removal~~ Permit issued by the City.

3. No person shall continue clearing in an area covered by a "Stop Work" order, or during the suspension or revocation of a Tree ~~Removal~~ Permit, except work required to correct an imminent safety hazard as prescribed by the Director.

B. Injunctive relief. Whenever the Director has reasonable cause to believe that any person is violating or threatening to violate this Chapter or any provision of an approved Tree ~~Removal~~ Permit, the Director may institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such civil action may be instituted either before or after, and in addition to, any other action, proceeding or penalty authorized by this Chapter or TMC Chapter 8.45.

Commented [CL74]: Planning Commission requested additional information on the "threatening to violate" portion of this subsection. Staff research follows:

This sentence would permit the Director of the Department to take action to initiate legal proceedings – usually the normal course of action is to take the issue to the City Council to obtain their authorization to initiate legal proceedings. This can be more time consuming in the face of an emergency than the Director being authorized to take action. This language is in the current TMC 18.54 and is proposed to carry forward into the draft going to the City Council.

C. Inspection access.

1. The Director may inspect a property to ensure compliance with the provisions of a Tree ~~Removal~~ Permit or this Chapter, consistent with TMC 8.45.

2. The Director may require a final inspection as a condition of Tree ~~Removal~~ Permit issuance to ensure compliance with this Chapter. The permit process is complete upon final approval by the Director.

Urban Forestry

GOAL 4.12

Trees are recognized by Tukwila citizens, businesses, City staff and decision-makers for their benefits to the environment, urban infrastructure and their aesthetic value.

POLICIES

- 4.12.1 Develop a formal urban forest management plan to promote and guide preservation, restoration and maintenance of a sustainable urban forest, using the goals and policies of this chapter as a basis for guidance.
- 4.12.2 Ensure that the benefits of trees are factored into site design and permit decisions.
- 4.12.3 Ensure that regulations recognize that larger trees provide more benefits than small trees.
- 4.12.4 Seek to create and fund an urban forester/municipal arborist position within the City, or contract for such services, to provide expertise for urban forest management planning, oversight of tree planting and maintenance, and assistance to all City departments that have responsibilities for tree management.
- 4.12.5 Educate the public, elected officials and City staff about the importance of and benefits provided by trees in Tukwila.
- 4.12.6 Develop tree valuation methods to reflect the value trees provide, for use in assessing fines, determining damages or estimating loss of tree benefits.
- 4.12.7 Identify funding sources to support urban forestry planning and management, and establish an urban forestry budget and account.
- 4.12.8 Consider developing an “exceptional” or “heritage” tree program to foster tree appreciation in the community.
- 4.12.9 Encourage public involvement in urban forest stewardship through volunteer events, free training workshops, and other means.

GOAL 4.13

Overall City-wide tree canopy increased to a total of 29% by 2034.

*Canopy cover in individual zoning categories increased by 2034 as listed below:**

Light Industrial zones: 3% increase from 20%, to achieve 23% cover

Heavy Industrial zones: 1% increase from 9%, to achieve 10% cover

Tukwila Urban Center and Tukwila South: 5% increase from 13%, to achieve 18% cover

Office and Commercial: 3% increase from 29%, to achieve 32% cover

Parks: 5% increase from 38%, to achieve 43% cover

Public Rights-of-Way: Increase canopy coverage through street tree planting.

Specific canopy goal to be established based on future assessment.

No net loss of canopy cover in individual zoning categories, as listed below:

Low-Density Residential: Maintain current City-wide canopy coverage of 47%

Medium- and High-Density Residential: Maintain current City-wide coverage of 40%

POLICIES

4.13.1 Promote tree retention throughout the City by:

- implementing educational programs for property owners and managers regarding tree selection and care, applicable regulations, selecting a qualified arborist, and other issues;
- except for hazard trees or trees that interfere with underground or overhead utilities, prohibiting removal of any tree four inches or larger in diameter at breast height (dbh) on all undeveloped property without an approved development or other land use permit, to provide the opportunity to preserve healthy trees during development;
- promoting the mutual goals of tree protection and urban development through the implementation of incentive programs and flexible site development regulations, especially to retain tree groves; and
- requiring financial assurances for required tree replanting and maintenance.

4.13.2 Improve retention of trees on steep slopes.

** NOTE: Some public rights-of-way (such as WSDOT's) are not included in the total City-wide canopy calculation. Rights-of-way adjacent to public streets (i.e., where street trees would be planted) are included in each zoning category.*

- 4.13.3** Continue to protect trees in sensitive areas and the shoreline through relevant regulations.
- 4.13.4** Ensure that required replacement trees at maturity will have equivalent or larger canopies than the removed tree(s), except where existing or future infrastructure and/or public or private utilities impede the planting of large trees.
- 4.13.5** Develop mechanisms for protecting tree roots for public and private surface and underground infrastructure installation, including – in some cases – requiring the presence of a certified arborist when working in the critical root zone; replacement of trees where damage is unavoidable; and either requiring replanting or payment into a tree replacement fund as compensation, if planting on-site is not feasible. Establish reasonable procedures to ensure consideration of tree root protection during routine or emergency maintenance of existing utilities, and provide training to City and other public utility maintenance staff on root protection techniques.
- 4.13.6** Establish criteria for requiring professional assessment and corrective actions by property owners who damage code-required landscaping, street trees, or other required trees by topping, poor pruning practices or root disturbance.
- 4.13.7** Where trees are regulated and required replacement trees cannot be accommodated on a site, establish procedures for off-site planting of replacement trees or payment into a dedicated tree replacement fund.
- 4.13.8** Develop tree planting and urban forest rehabilitation programs for City parks and other publicly-owned lands. Collaborate with other agencies, such as Washington’s Department of Transportation, to promote planting in highway interchanges and other locations.
- 4.13.9** Collaborate with other government, non-profit organization, school and private sector entities, to promote urban forest management and restoration.
- 4.13.10** Provide flexibility in the landscape code to promote increased tree planting and/or planting of large canopy trees, and reward the preservation of existing healthy trees to assist in meeting the City’s canopy goals.
- 4.13.11** Evaluate current parking lot landscape requirements to identify opportunities to increase tree canopy.

GOAL 4.14

Tukwila's streetscapes and landscaped areas are sustainable and attractive, and its urban forest is healthy, diverse, and safe.

POLICIES

- 4.14.1** Develop tree/urban forest inventories and assess the health of trees and forests in Tukwila's public spaces.
- 4.14.2** Develop maintenance plans and programs for trees on City property or rights-of-way to ensure that maintenance pruning is properly carried out, that diseases and pest infestations are managed, that hazardous trees are identified and managed in a timely manner to reduce risks, and that invasive vegetation is properly managed.
- 4.14.3** Modify landscape code, and educate property owners, property managers, landscape maintenance companies and tree companies to promote best practices for soil preparation, planting techniques, pruning, trenching and general tree care.
- 4.14.4** Ensure that landscaping and replacement trees in new development or re-development are properly cared for and thrive in perpetuity, through such means as maintenance agreements, monitoring and enforcement.
- 4.14.5** Develop a mechanism to ensure that tree removal and maintenance companies have the necessary qualifications and liability insurance to work in Tukwila.
- 4.14.6** Modify landscape code to require diversity of tree species in landscape plantings and consideration of species already present in the vicinity.
- 4.14.7** Establish minimum standards and landscape specifications to ensure long-term tree health for street trees, required landscape trees and required replacement trees, including minimum soil volume, soil quality, plant quality, planting techniques, irrigation, mulching, tree pruning, and prohibition of topping.
- 4.14.8** Develop an approved/recommended tree list for street trees, landscape perimeter planting and parking lots that recognizes the importance of the concept of "right tree, right place", taking into account available planting space and infrastructure/utility conflicts, and that considers the importance of species diversity, climate conditions, canopy coverage goals, allergy issues, urban wildlife benefits, and tolerance of urban conditions.

- 4.14.9** Work with electric utility providers to limit trimming of trees and other vegetation to that which is necessary for the safety and maintenance of transmission lines, where feasible and according to American National Standards Institute (ANSI) professional arboricultural specifications and standards.
- 4.14.10** Perform vegetation management that is needed in utility rights-of-way that are located in sensitive areas or shoreline areas, in a manner that will maintain, restore or improve the shoreline or sensitive area ecological function.

Implementation Strategies – Urban Forestry

- Prepare and publish technical specifications for landscape professionals and landscape contractors reflecting best management practices/standards for achieving adequate soil conditions, plant quality specifications, proper planting techniques, proper mulch placement, tree care and pruning, and other relevant information.
- Prepare and make available technical guidance for homeowners on tree selection, planting, care, pruning, selecting a good arborist, and identifying and controlling invasive plants.
- Conduct volunteer activities in parks and other public areas to help carry out urban forest restoration plans, to remove invasive plants and plant native trees and other vegetation.
- Create “Adopt an Urban Forest,” “Ivy Removal Team,” or similar programs, to actively remove invasive plants and promote ongoing stewardship of urban forests in the City’s parks and other public areas.
- Add an urban forestry page to the City’s website that contains information about programs, regulations, technical guidance, finding a certified arborist, and other relevant issues.
- Expand the annual Arbor Day celebration to widen public participation;
- Evaluate other jurisdiction’s heritage tree programs, and reach out to business and resident community to determine interest in a heritage tree program in Tukwila.
- Develop mechanisms for monitoring tree canopy growth, removal and replacement – in addition to periodic tree canopy assessments – using GIS and remote sensing methods;
- Review and amend, as necessary, SAO and Shoreline regulations to ensure consideration of tree retention, particularly in steep slope areas.

- Incorporate requirements in geotechnical studies to ensure evaluation of the role trees play in slope stability.
- Develop incentives for increasing retention of trees on steep slopes.
- Provide ongoing training for City staff from all departments on tree selection, site preparation, proper planting techniques, protection of tree roots during construction activities, proper pruning, and general tree care.
- Prepare and publish technical specifications manuals for utility companies and City staff to identify techniques to protect tree roots during installation of public and private surface and underground infrastructure.
- Revise City regulations to allow assessment of fines or requirement of financial guarantees in the enforcement of corrective actions.
- Prepare an urban forest inventory for publically-owned trees in the City.
- Notify property owners about applicable tree regulations via inclusion of fliers in storm water utility bill, direct mailings, and media announcements.
- Improve the frequency of landscape and tree replacement inspections, and increase enforcement.
- Develop street tree plans for various parts of the City, taking into account the need for diversity for tree health and urban design issues.
- Modify landscape, tree and right-of-way vegetation regulations, including consideration of a point system for landscape requirements, clarification of responsibilities for trees on City ROW, identifying incentive programs, and allowing for fines based on the value of trees damaged or removed.
- Develop street tree regulations that prioritize shade over ornamental needs.

RELATED INFORMATION

[Natural Environment Background Report](#)

[Tukwila Sensitive Areas Map](#)

[Tukwila Shoreline Master Program](#)

[WRIA 9 Salmon Habitat Enhancement Plan](#)

[Abandoned Underground Coal Mine Hazards Assessment Report](#)

[Tukwila Urban Tree Canopy Assessment](#)

[Tukwila Municipal Code, Chapter 18.45](#)

**CHAPTER 18.54
TREE REGULATIONS**

Sections:

- 18.54.010 Title
- 18.54.020 Purpose
- 18.54.030 Scope
- 18.54.050 Permit - Exempt Activities
- 18.54.060 Permit - Mandatory Standards
- 18.54.070 Permit Required
- 18.54.080 Permit Application Materials
- 18.54.090 Waiver to Permit Materials
- 18.54.100 Permit application fee
- 18.54.110 Applicant Insurance Required
- 18.54.120 Applicant Security Required
- 18.54.130 Permit Approval Criteria
- 18.54.140 Permit Exceptions
- 18.54.150 Permit Processing and Duration
- 18.54.160 Permit Conformance
- 18.54.170 Violations
- 18.54.180 Enforcement
- 18.54.190 Liability
- 18.54.200 Conflicts with Existing Codes and Ordinances

18.54.010 Title

This Ordinance shall be known as the City of Tukwila "Tree Ordinance," and may be so cited.

(Ord. 1758 §1 (part), 1995)

18.54.020 Purpose

This purpose of this chapter is to:

1. Mitigate certain environmental consequences of land development, and to maintain and improve the quality of Tukwila's urban environment.
2. Promote building and site planning practices that are responsive to the community's natural environment, without preventing reasonable development of land.
3. Regulate clearing of trees and understory vegetation in the City of Tukwila, in order to:
 - a. Maintain and enhance the aesthetic, ecological and economic benefits provided by vegetation, such as:
 - (1) providing wildlife habitat;
 - (2) reducing runoff and soil erosion;
 - (3) reducing air pollution;
 - (4) masking noise;
 - (5) reducing wind speed and urban "wind tunnels";
 - (6) energy conservation, cooling of urban centers;
 - (7) increasing real property values;
 - (8) enhancing visual and aesthetic qualities of the urban environment.

b. Maintain the viability of existing stands of trees and understory vegetation.

c. Promote retention of native vegetation in sensitive areas and their buffers, shoreline areas, and wildlife habitat areas.

4. Provide a means to implement the requirements of the Sensitive Areas Overlay District chapter of this title, relative to vegetation removal in sensitive areas and sensitive area buffers.

(Ord. 1758 §1 (part), 1995)

18.54.030 Scope

This chapter sets forth rules and regulations to control clearing of trees and understory vegetation within the City of Tukwila.

(Ord. 1758 §1 (part), 1995)

18.54.050 Permit - Exempt Activities

The following activities are exempt from the application of this chapter and do not require a Tree Clearing Permit:

1. Clearing of any vegetation; UNLESS the site on which clearing is to occur is located in a sensitive area, sensitive area buffer, or shoreline zone.

2. On sites within a sensitive area, or sensitive area buffer, or shoreline zone:

a. Clearing of up to 4 significant trees on a site currently zoned and developed for single-family residential use within any 36-month period; UNLESS the significant trees to be removed are located within a wetland, watercourse and their associated buffers or within the shoreline zone.

b. Clearing of any vegetation located outside a sensitive area, sensitive area buffer or outside the shoreline zone.

c. Removal of hazardous trees.

d. Routine maintenance of vegetation necessary to maintain the health of cultivated plants, to contain noxious weeds, or to remedy a potential fire or health hazard or threat to public safety per TMC Commercial parking subject to TMC Chapter 18.56, "Off-Street Parking and Loading Regulations." 8.28, Nuisances.

e. Vegetation removal necessary to the operation of an established Christmas tree farm or commercial plant nursery.

f. Construction and maintenance of streets and utilities within City-approved rights-of-way and easements.

(Ord. 1758 §1 (part), 1995)

18.54.060 Permit - Mandatory Standards

All removal of significant trees and understory vegetation shall be undertaken in accordance with the mandatory standards specified in this chapter, except as provided in the Waiver to Permit Materials or Exceptions sections of this chapter.

(Ord. 1758 §1 (part), 1995)

18.54.070 Permit Required

No person shall conduct any clearing of vegetation without first obtaining a Tree Clearing Permit on a form approved by the Director; unless specifically exempted under this chapter.

(Ord. 1758 §1 (part), 1995)

18.54.080 Permit Application Materials

The following materials are required to obtain a Tree Clearing Permit:

1. **Site Plan** of the proposal, showing:
 - a. Diameter, species name, location and canopy of existing significant trees in relation to proposed and existing structures, utility lines, and construction limit line;
 - b. Identification of all significant trees to be removed and/or relocated;
 - c. Existing and proposed topography of the site at 2-foot contour intervals;
 - d. Limits of any sensitive area and sensitive area buffer, and mean high water mark of the river.
2. **Landscape Plan** for the proposal, showing:
 - a. Diameter, species name, spacing and location of replacement trees/vegetation to be used to replace vegetation cleared;
 - b. Diameter, species name and location of all significant trees and vegetation to be retained;
 - c. Proposed vegetation protection measures;
 - d. Any other measures proposed to restore the environmental and aesthetic benefits previously provided by on-site vegetation.
3. **Professional review or recommendation** - Submittal of, or agreement to submit, a review, evaluation, recommendation or plan related to vegetation clearing or replacement prepared by a professional consultant(s), such as a landscape architect, surveyor, or certified arborist. Services may include, but are not limited to:
 - a. Providing a written evaluation of the anticipated effects of proposed construction on the viability of trees on-site; and/or
 - b. Developing plans for, supervising, and/or monitoring implementation of any required tree protection or replacement measures; and/or
 - c. Post-construction site inspection and evaluation.
4. **Sensitive area mitigation plan** - Identify measures proposed for mitigation of vegetation clearing in a sensitive area and/or its buffer per the Sensitive Areas Overlay District chapter of this title.
5. **Time schedule** - Proposed time schedule of vegetation removal, relocation and/or replacement, and other construction activities which may affect on-site vegetation, sensitive area, sensitive area buffer, and/or shoreline zone..
6. **Additional studies and conditions** - The Director may require supplemental studies or other documentation, or specify conditions for work, at any stage of the application or project as he/she may deem necessary to ensure the proposal's

compliance with the requirements of this chapter, the Shoreline Overlay District chapter or the Sensitive Areas Overlay District chapter of this title, or to protect public or private property. These conditions may include, but are not limited to, hours or seasons within which work may be conducted, or specific work methods.

(Ord. 1758 §1 (part), 1995)

18.54.090 Waiver to Permit Materials

The Director may waive the requirement for any or all plans or permit materials specified in this chapter upon finding that the information on the application is sufficient to demonstrate that the proposed work will meet the approval criteria detailed in this chapter and other City ordinances. Such waiver of a requirement for permit materials shall not be construed as waiving any other requirements of this or related regulations.

(Ord. 1758 §1 (part), 1995)

18.54.100 Permit Application Fee

A. Fee required: A non-refundable permit application fee will be collected at the time of submittal of a Tree Clearing Permit application. The application fee will provide for the cost of plan review, administration and management of the permitting process, inspections, and processing of exceptions to standards and appeals pursuant to this chapter.

B. Fee: The City shall collect a fee for processing a Tree Clearing Permit per TMC Section 18.88.010, except as otherwise noted in this chapter.

C. Fee exception: No fee shall be required for vegetation clearing associated with land-altering activity approved under a Land-Altering Permit.

(Ord. 2291, §1, 2010; Ord. 1758 §1 (part), 1995)

18.54.110 Applicant Insurance Required

A. In addition to any permit materials or conditions specified pursuant to this chapter, if in the opinion of Director the nature of the work is such that it may create a hazard to human life or endanger adjoining property, then the Director may require the applicant to submit a certificate of insurance.

B. The certificate must show that the applicant is insured against claims of damages involving personal injuries and property in an amount prescribed by the Director in accordance with the nature of the risks involved and the following minimum amounts:

1. Bodily injury liability:
\$1 million per occurrence.
2. Property damage liability:
\$1 million per occurrence.

C. All insurance policies obtained in accordance with these provisions shall name the City of Tukwila as an "additional insured" and shall be written by a company licensed to do business in the State of Washington.

(Ord. 1758 §1 (part), 1995)

18.54.120 Applicant Security Required

To mitigate damages should they occur as a result of clearing which is not authorized by a Tree Clearing Permit, the Director may require from the applicant a bond, letter of credit, or other

means of security acceptable to the City. The following provisions shall apply in instances where such securities are required:

1. The required security shall be submitted prior to the issuance of a Tree Clearing Permit.

2. The security shall be equal to City Staff's best estimate of possible costs directly associated with replacement of cleared vegetation which has not been authorized to be cleared under a Tree Clearing Permit (e.g. the replacement of vegetation approved for retention, or the installation of replacement plantings which the applicant has failed to install as required). In no case shall the security exceed an amount equal to 2.5 times the current cost of replacing the plants per the Tree Replacement requirements of this chapter.

3. The security shall not be fully released without final inspection and approval of completed work by the City, submittal of any post-construction evaluations, or following any prescribed trial maintenance period required in the permit.

4. Securities provided in accordance with this chapter may be redeemed in whole or in part by the City of Tukwila upon determination by the Director that the applicant has failed to fully comply, within the time specified, with approved plans and/or any remedial or enforcement actions mandated in accordance with this chapter.

(Ord. 1758 §1 (part), 1995)

18.54.130 Permit Approval Criteria

To the extent that vegetation retention and/or replacement is consistent with project feasibility or reasonable use of the property, vegetation clearing shall be planned and conducted to meet all of the criteria below. These criteria shall be the basis for approval, approval with conditions or denial of any tree clearing included in a Tree Clearing Permit application.

1. **Tree Retention** - Site improvements shall be designed and constructed to retain as many existing healthy trees as possible, and to meet the following criteria:

a. Priority shall be given to retention of existing stands of trees, trees at site perimeter, trees within the shoreline Low-Impact Environment, in Sensitive Areas or Sensitive Area Buffers, and healthy mature trees.

b. All understory vegetation within the essential root zone of protected trees shall be:

(1) retained; OR

(2) removed by methods which are non-damaging to the tree, and replaced with vegetation with horticultural requirements which are compatible with protected trees.

c. Vegetation removal shall be undertaken in such a manner as to preserve, to the degree possible, the aesthetic and ecological benefits provided by such vegetation.

2. **Tree Protection Measures** -

a. The proposal shall include tree protection measures which meet or exceed best management practices and current standards of professional arboriculture, and which are sufficient to ensure the viability of protected trees and other vegetation identified for retention pursuant to requirements of this chapter, and shall include measures sufficient to protect any Sensitive Area, its Buffer and vegetation within the shoreline Low-Impact Environment.

b. During clearing and/or construction activities, all protected vegetation shall be surrounded by protective fencing which prevents adverse impacts associated with clearing from intruding into areas of protected vegetation.

3. **Tree Replacement** - The site shall be planted with trees to meet the following minimum requirements:

a. Each existing significant tree removed shall be replaced with new tree(s), based on the size of the existing tree as shown below, up to a maximum density of 70 new trees per acre.

b. Tree Replacement Ratios

Diameter of Existing Tree Removed	No. of Replacement Trees Required
4 - 8 inches	1
8 - 12 inches	2
12 - 18 inches	4
18 - 24 inches	6
>24 inches	8

c. Prior to any vegetation removal, the applicant shall demonstrate through a Landscape Plan, Sensitive Area Mitigation Plan or other materials required per the requirements of this chapter that vegetation replacement will meet the following minimum standards:

(1) Minimum sizes shall be 2.5-inch caliper for deciduous trees, 6 to 8 feet in height for evergreen trees, 24 inches in height for shrubs, and 1 gallon for groundcover.

(2) Replacement plants shall meet current American Association of Nurserymen standards for nursery stock;

(3) Planting and maintenance of required replacement vegetation shall be in accordance with best management practices for landscaping which ensure the vegetation's long-term health and survival.

4. **Surrounding Environment** - The timing of, and methods to be used in any proposed vegetation removal shall be such that impacts to protected vegetation, wildlife, fisheries and the surrounding environment are minimized.

5. **Tree Relocation** - Tree relocation shall be carried out according to best management practices, and trees proposed for relocation shall have a reasonable chance of survival.

(Ord. 1758 §1 (part), 1995)

18.54.140 Permit Exceptions**A. Exception Criteria**

1. The Director may grant exceptions from the requirements of this chapter when undue hardship may be created by strict compliance with the provisions of this chapter. Any authorization for exception may prescribe conditions deemed necessary or desirable for the public interest, or necessary to meet the intent of this chapter.

2. An exception to this chapter shall not be granted unless all of the following criteria are met:

a. Strict compliance with the provisions of this code may jeopardize project feasibility or reasonable use of property.

b. Proposed vegetation removal, replacement, and any mitigative measures proposed, are consistent with the purpose and intent given in this chapter.

c. The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.

3. In addition to the above criteria, the Director may also consider any of the following in reviewing an exception request:

a. The recommendation of a certified arborist supports the exception.

b. The size of the site or project cannot support the number of required replacement trees, and off-site tree planting is proposed which furthers the goals of this chapter and other City policies.

c. On-site planting of all required replacement trees is not feasible, and the project includes an equivalent contribution in funds and/or labor and materials for off-site tree planting as jointly agreed by the applicant and Director.

d. Smaller-sized replacement plants are more suited to the species, site conditions, and to the purposes of this chapter, and are planted in sufficient quantities to meet the intent of this chapter.

B. Retention and Replacement of Canopy Cover - or undeveloped sites or sites with dense stands of trees, where the cost of identification of individual tree species and sizes is inordinate relative to the project, the Director may allow the applicant to use the tree canopy cover approach outlined below to calculate retention and replacement of trees:

1. The site shall have a minimum canopy cover equal to 20% of the site area, or equal to the existing canopy cover whichever is less.

2. To meet the requirements for site canopy cover, canopy cover may consist of any combination of existing trees and replacement trees. Canopy cover of each new tree shall be calculated at 314 square feet.

C. Exception Procedures - An application for any exception from this chapter shall be submitted in writing by the property owner to the Director, and shall accompany the application for a Tree Clearing Permit. Such application shall fully state all substantiating facts and evidence pertinent to the exception request, and include supporting maps or plans. The Director shall not grant an exception unless and until sufficient reasons justifying the exception are provided by the applicant.

(Ord. 1758 §1 (part), 1995)

18.54.150 Permit Processing and Duration

A. If the proposed vegetation clearing and permit application meet the requirements of this chapter, the Director shall approve the application and issue the Tree Clearing Permit. All Tree Clearing Permits and exceptions shall be processed as Type 1 decisions.

B. If the Tree Clearing Permit application is not approved, the Director shall inform the applicant in writing of the reasons for disapproval.

C. From the date of issuance, permits shall be valid for a period of 180 days.

(Ord. 1770 §32, 1996; Ord. 1758 §1 (part), 1995)

18.54.160 Permit Conformance

A. Plan Conformance - All work must be performed in accordance with approved Permit plans specified in this chapter or revised plans as may be determined by the Director. The applicant shall obtain permission in writing from the Director prior to modifying approved plans.

B. Tree Protection Measures - All tree and vegetation protection measures shown on approved permit drawings shall be installed prior to initiation of any clearing or land-altering activity.

C. Protection of Property - The applicant shall at all times protect improvements to adjacent private properties and public rights-of-way or easements from damage during clearing. The applicant shall restore to the standards in effect at the time of the issuance of the permit any public or private improvements damaged by the applicant's operations.

D. Maintenance Responsibility - All protected and replacement trees and vegetation shown in approved Tree Clearing Permit materials shall be maintained in healthy condition by the property owner throughout the life of the project, unless otherwise approved by the Director in a subsequent Tree Clearing Permit.

(Ord. 1758 §1 (part), 1995)

18.54.170 Violations

The following actions shall be considered violations of this chapter: clearing, planting, relocation, or maintenance of vegetation not authorized under or in accordance with an approved Tree Clearing Permit, where such permit is required, or not in accordance with the provisions of this chapter. Each tree which is cleared, not replaced or not maintained as required by this chapter shall constitute a separate violation.

(Ord. 1758 §1 (part), 1995)

18.54.180 Enforcement

A. **General** - In addition to the Notice and Order measures prescribed in TMC Chapter 8.45, Civil Violations, as now in effect or as amended hereafter, the Director may take any or all of the enforcement actions prescribed in this Ordinance to ensure compliance with, and/or remedy a violation of this Ordinance; and/or when immediate danger exists to the public or adjacent property, as determined by the Director.

1. The Director may post the site with a "Stop Work" order directing that all vegetation clearing not authorized under a Tree Clearing Permit cease immediately. The issuance of a "Stop Work" order may include conditions or other requirements which must be fulfilled before clearing may resume.

2. The Director may, after written notice is given to the applicant, OR after the site has been posted with a "Stop Work" order, suspend or revoke any Tree Clearing Permit issued by the City.

3. No person shall continue clearing in an area covered by a Stop Work order, or during the suspension or revocation of a Tree Clearing Permit, except work required to correct an imminent safety hazard as prescribed by the Director.

B. **Injunctive relief** - Whenever the Director has reasonable cause to believe that any person is violating or threatening to violate this chapter or any provision of an approved Tree Clearing Permit, the Director may institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such civil action may be instituted either before or after, and in addition to, any other action, proceeding or penalty authorized by this chapter or TMC Chapter 8.45.

C. **Inspection access** -

1. The Director may inspect a property for the purpose of inspection for compliance with the provisions of a Tree Clearing Permit or this chapter, consistent with TMC 8.45.070, Authority to Inspect.

2. Where deemed necessary by the Director to ensure compliance with permit requirements, upon completion of all requirements of a Tree Clearing Permit, the applicant shall request a final inspection by contacting the Director. The permit process is complete upon final approval by the Director.

D. **Remedial Measures Required** - In addition to penalties provided for in this chapter, the Director may require any person conducting vegetation clearing in violation of this chapter to mitigate the impacts of clearing by carrying out remedial measures. The following provisions shall apply in instances where such remedial measures are required:

1. The applicant shall satisfy the permit provisions as specified in this chapter.

2. Remedial measures must conform to the purposes and intent of this chapter. In addition, remedial measures must meet the standards specified in this chapter, and applicable standards for mitigation outlined in the Sensitive Areas Overlay District chapter of this title.

3. Remedial measures must be completed to the satisfaction of the Director within 6 months of the date a Notice

and Order is issued pursuant to TMC 8.45.040, or within the time period otherwise specified by the Director.

4. The cost of any remedial measures necessary to correct violation(s) of this chapter shall be borne by the property owner and/or applicant. Upon the applicant's failure to implement required remedial measures, the Director may redeem all or any portion of any security submitted by the applicant to implement such remedial measures, pursuant to the provisions of this chapter.

(Ord. 1758 §1 (part), 1995)

18.54.190 Liability

A. Liability for any adverse impacts or damages resulting from work performed in accordance with a Tree Clearing Permit issued on behalf of the City within the City limits, shall be the sole responsibility of the owner of the site for which the permit was issued.

B. Issuance of a Tree Clearing Permit and/or compliance with permit provisions or conditions shall not relieve an applicant from any responsibility otherwise imposed by law for damage to persons or property in an amount greater than the insured amount required by this chapter.

C. Nothing contained in this chapter shall be deemed to relieve any property owner within the City limits from the duty to keep any tree or vegetation upon his property or under his control in such condition as to prevent it from constituting a hazard or a nuisance, per TMC Chapter 8.28.

D. The amount of any security shall not serve as a gauge or limit to the compensation collected from a property owner as a result of damages associated with any vegetation clearing.

(Ord. 1758 §1 (part), 1995)

18.54.200 Conflicts with Existing Codes and Ordinances

A. Whenever conflicts exist between this chapter and federal, State or local laws, ordinances or regulations, the more restrictive provisions shall apply.

B. Neither this chapter nor any administrative decisions made under it exempts the permittee from procuring other required permits or complying with the requirements and conditions of such a permit.

(Ord. 1758 §1 (part), 1995)



STAFF REPORT TO THE PLANNING COMMISSION

Prepared December 28, 2017

FILE NUMBERS: L17-0077: Revisions to TMC 18.54, Tree Code and revisions to TMC18.06, Definitions
E17-0015: SEPA Checklist

REQUEST: Public Hearing regarding revisions to TMC 18.06, Definitions to add urban forestry and landscaping terminology to the City’s Zoning Code and the revision of TMC 18.54, Tree Regulations and. Based on direction from the Planning Commission staff will revise the regulations, which will then be forwarded to the City Council for review.

PUBLIC HEARING: January 11, 2018

LOCATION: City wide

STAFF: Carol Lumb, Senior Planner
Andrea Cummins, Environmental Specialist

ATTACHMENTS:

- A. Draft TMC 18.06: Revisions to Zoning Code Definitions
- B. Draft TMC 18.54: Clean Version with Advisory Committee and Planning Commission revisions
- C. Comprehensive Plan Urban Forestry Goals and Policies
- D. Current TMC 18.54

INTRODUCTION

The current tree regulations were adopted 22 years ago in 1995, with minor revisions to the chapter in recent years. The landscaping regulations were adopted at the same time as the 1995 Comprehensive Plan was adopted. The update of the tree regulations is the final phase of a three-phase process:

Phase 1: Establishment of the Tukwila Tree and Environment Advisory Committee: a team of Tukwila residents, business and professional experts, and Planning Commission and City Council representatives were appointed to guide development of Comprehensive Plan goals and policies on the natural environment and urban forestry. The Committee met from September, 2012 to May, 2013 and provided recommendations to the Planning Commission on the goals and policies.

Attachment E

Phase 2: Update of the Natural Environment Element of the Comprehensive Plan incorporating the policy direction from the Advisory Committee: Planning Commission and City Council review and adoption of the revised Natural Environment Element, June to December, 2013.

Phase 3: Revise landscape and tree regulations in the Zoning Code to implement the new Comprehensive Plan goals and policies on urban forestry. The Tukwila Tree and Environment Advisory Committee met in September and October, 2016 to review and revise draft landscaping regulations to forward to the Planning Commission. The Planning Commission then sent revised landscaping regulations to the City Council, which approved these regulations in March, 2017. The Advisory Committee met again in late September, 2017 through November 1, 2017 to review revisions to TMC 18.54, Tree Regulations, and TMC 18.06, Zoning Code Definitions and forwarded a recommendation on these two regulations to the Planning Commission for its review.

A SEPA checklist was prepared for the update of the regulations; public notice was published in the Seattle Times November 16, 2017. No comments were received on the checklist. A Determination of Non-Significance was issued on December 27, 2017.

BACKGROUND

The Tukwila Planning Commission advises the Mayor and City Council on matters relating to land use, comprehensive planning and zoning (TMC2.36.030.) Additionally, all code cities are required to adopt development regulations that are consistent with and implement the City’s Comprehensive Plan. (RCW 35A.63.105)

The Tukwila Comprehensive Plan has the following policies regarding urban forestry. Any proposed regulation must implement and be consistent with these policies.

Goal 4.12

Trees are recognized by Tukwila citizens, business, City staff and decision-makers for their benefits to the environment, urban infrastructure and their aesthetic value.

4.12.2: Ensure that the benefits of trees are factored into site design and permit decisions.

4.12.3: Ensure that regulations recognize that larger trees provide more benefits than small trees.

4.12.8: Consider developing and “exceptional” or “heritage” tree program to foster tree appreciation in the community.

Goal 4.13

Overall city-wide tree canopy increased to a total of 29% by 2034. Canopy cover in individual zoning categories increased by 2034 as listed below:

Light Industrial zones: 3% increase from 20% to achieve 23% cover

Heavy Industrial zones: 1% increase from 9% to achieve 10% cover

Tukwila Urban Center and Tukwila South: 5% increase from 13% to achieve 18% cover
Office and Commercial: 3% increase from 29 % to achieve 32% cover
Parks: 5% increase from 38% to achieve 43% cover
Public Rights-of-Way: increase canopy coverage through street tree planting. Specific canopy goal to be established based on future assessment.

4.13.1 Promote tree retention throughout the City by:

- a. implementing educational programs for property owners and managers regarding tree selection and care, applicable regulations, selecting a qualified arborist, and other issues;
- b. except for hazard trees or trees that interfere with underground or overhead utilities, prohibiting removal of any tree four inches or larger in diameter at breast height (dbh) on all undeveloped property without an approved development or other land use permit, to provide the opportunity to preserve healthy trees during development;
- c. promoting the mutual goals of tree protection and urban development through the implementation of incentive programs and flexible site development regulations, especially to retain tree groves; and
- d. requiring financial assurances for required tree replanting and maintenance.

4.13.4 Ensure that required replacement trees at maturity will have equivalent or larger canopies than the removed tree(s), except where existing or future infrastructure and/or public or private utilities impede the planting of large trees.

4.13.6 Establish criteria for requiring professional assessment and corrective actions by property owners who damage code-required landscaping, street trees, or other required trees by topping, poor pruning practices, or root disturbance.

4.13.7 Where trees are regulated and required replacement trees cannot be accommodated on a site, establish procedures for off-site planting of replacement trees or payment into a dedicated tree replacement fund.

Goal 4.14

Tukwila's streetscapes and landscaped areas are sustainable and attractive, and its urban forest is healthy, diverse, and safe.

4.14.1 Develop tree/urban forest inventories and assess the health of trees and forests in Tukwila's public spaces.

4.17.9 Work with electric utility providers to limit trimming of trees and other vegetation to that which is necessary for the safety and maintenance of transmission lines, where feasible and according to American National Standards Institute (ANSI) professional arboricultural specifications and standards.

DISCUSSION OF PROPOSED CHANGES

The Tukwila Tree and Environment Advisory Committee draft tree regulations (Attachments A and B) and draft revisions to the Zoning Code's Definitions, TMC 18.06 (Attachment C) contains proposed changes to the City's the Zoning Code. Below is a summary of each subsection of the draft Tree Regulations and Definitions.

The proposed draft tree regulations and changes to definitions have been annotated to provide sources of the material and to note when the Advisory Committee or Planning Commission made changes to the initial staff draft.

A. Proposed Revisions to TMC 18.06, Definitions

A number of new definitions are proposed to be added to the Zoning Code to incorporate terminology that is related to urban forestry and the management of the City's tree canopy resources. Many of the proposed revisions are annotated to provide sources for the proposed changes. Proposed new definitions include: at-risk tree, critical root zone, diameter at breast height (DBH), dripline, exceptional tree, heritage tree or heritage grove, invasive plant and tree list, invasive tree, nuisance tree, pruning, qualified tree professional, risk, site disturbance, street tree, target or risk target, tree risk assessment, tree risk assessor, tree removal, topping, viable tree and windfirm.

B. Proposed TMC 18.54, Urban Forestry and Tree Regulations:

TMC 18.54.010. Purpose: The purpose section of the chapter has been expanded to add references to the new Comprehensive Plan goals and policies related to urban forestry, and low impact development and to recognize the benefits that trees provide to the built environment.

TMC 18.54.020: Scope: This subsection is a carry-over from the current regulations.

TMC 18.42.030. Tree Permit Required: Revisions to this subsection anticipate a variety of Tree Permits, depending on whether: tree removal is the objective; or work will occur in the critical root zone; a Heritage Tree is proposed for removal or more than 20% of existing crown is proposed for pruning; or removal is related to utility work. The subsection also identifies activities that are exempt from the need for a Tree Permit and when an arborist's report must be submitted as part of the Tree Permit.

TMC 18.54.040. Permit Submittal Requirements: Most of this subsection is from existing Tree Code. Single family tree removal is proposed to be regulated differently with a Tree Inventory Survey rather than a Tree Permit required.

TMC 18.54.050. Permit Approval Criteria, General: This subsection has been revised to provide general guidance on the criteria for permit approval. The criteria are then spelled out in more detail in proposed TMC 18.54.060, 18.54.070, 18.54.080 and 18.54.110.

TMC 18.54.060. Tree Retention Standards: This subsection is an expansion on the current requirements found in TMC 18.54.130 1. The proposed revisions to this section would allow DCD to require reasonable alterations to the arrangement of buildings, parking or other elements of proposed development in order to retain Significant, Exceptional or Heritage non-invasive Trees. The City currently has the ability to require this for projects within the shoreline jurisdiction. Topping of trees is prohibited and considered removal. Protection of trees is to be a major factor in the location, design, construction and maintenance of streets and utilities – removal or significant damage is to be mitigated.

TMC 18.54.070. Tree Protection Standards: This subsection is an expansion on the current tree protection measures found in TMC 18.54.130 2.a. Many of the standards found in this subsection are drawn from International Society of Arboriculture guidance on tree protection.

TMC 18.54.080. Tree Replacement Standards: This subsection is an expansion on the current tree protection measures found in TMC 18.54.130 2.b. The method of determining the number of replacement trees has been revised to tie replacement to tree canopy lost rather than on the diameter of the tree at breast height.

TMC 18.54.090. Tree Relocation: The language in this subsection is relocated from current code found in TMC 18.54.130 5.

TMC 18.54.100. Tree Replacement Fund: A new subsection has been added to codify the City's Tree Replacement Fund, which applicants may pay into if the number of replacement trees required cannot be accommodated on-site. This subsection provides criteria for determining how the cost of a replacement tree is determined, and what the funds may be used for. At the request of single family property owners, the funds may also be used to plant a street tree in the single-family district on properties improved with a single family dwelling.

TMC 18.54.110. Performance Assurance: This subsection is an expansion of existing code on financial security required of applicants. The distinction has been made between assurance required to ensure tree protection during construction and financial assurance required to ensure required replacement trees are maintained during the period in which they are becoming established on site.

TMC 18.54.120. Liability: The language in this subsection is currently located in TMC 18.54.190 – only minor revisions have been made to recognize the proposed name of the tree permit and to correct referenced to the code enforcement section of the City's municipal code.

TMC 18.54.130. Permit Processing and Duration: The language in this subsection is currently located in TMC 18.54.150 – only minor revisions have been made to recognize the proposed name of the tree permit. The duration of the tree permit has also been extended from the current 180 days to one year for date of issuance.

TMC 18.54.140. Permit Exceptions: The language in this subsection is currently located in TMC 18.54.140 – only minor revisions have been made to the text.

TMC 18.54.150. Permit Conformance: The text in this subsection is currently found in TMC 18.54.160 A. The remaining items found in TMC 18.54.160, such as tree protection and maintenance responsibility have been relocated to other subsections of the draft code.

TMC 18.54.160. Soil Preparation, Plant Material and Maintenance: This is a new subsection, intended to provide guidance for applicants who must plant replacement trees on how to prepare the site, the selection of plant material and guidance on tree maintenance and pruning. The standards in this subsection are drawn from the recently adopted Landscaping Regulations.

TMC 18.54.170. Heritage Trees and Heritage Groves: This is a new subsection, which would permit the designation of a tree or groves of trees that have exceptional national, state or local historical significance to the City. If a nominated tree is on private property, the property owner must consent to the nomination and designation. The subsection also provides guidance on pruning of Heritage Trees.

TMC 18.54.180. Approved and Prohibited Trees: This is a new subsection establishing authority for the City develop a list of trees that may be planted and a list of trees that are prohibited from planting for required replacement trees.

TMC 18.54.190. Violations: This is a new subsection establishing regulations in the event of violations of the Tree Code. The regulations in this subsection have been adapted from those found in the Landscaping Chapter, TMC 18.52.110.

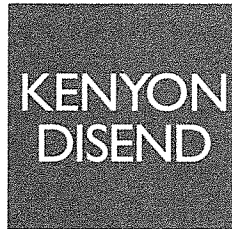
TMC 18.54.200. Remedial Measures: Portions of this subsection have been moved from the existing TMC 18.54.180 Enforcement (items C-F); items A. and B. are new. Among the requirements, the subsection directs that tree canopy lost due to tree removal shall be replaced – either on site or by payment into the Tree Replacement Fund.

TMC 18.54.210. Enforcement: The text in this subsection is currently found in TMC 18.54.180 with minor revisions to recognize the change in the name of the tree permit.

REQUESTED ACTION

Hold the public hearing on the proposed changes, deliberate and make a recommendation to the City Council on revisions to TMC 18.06 and TMC 18.54.

Michael R. Kenyon
Rachel B. Turpin
Ann Marie J. Soto
Kim Adams Pratt
David A. Linehan
Charlotte A. Archer
Alexandra L. Kenyon
Eileen M. Keiffer
Hillary E. Graber
Kendra R. Comeau



Doug F. Mosich
Of Counsel
Shelley M. Kerslake
1967 - 2014

TO: Planning Commission Members
Carol Lumb, Senior Planner

FROM: Ann Marie Soto, Assistant City Attorney *AS*

DATE: January 2, 2018

RE: Tree Liability

This memorandum addresses general liability issues related to trees abutting the right-of-way in light of the City's pending review of tree code amendments.

A. Private Property.

The general rule is that a property owner is liable for damage caused by trees, and their roots, which extend onto the private property of another. Property owners have a duty to protect abutting private properties from encroachments and damage caused by such encroachments. *See Forbus v. Knight*, 24 Wn.2d 297, 313 (1945). To that end, an abutting owner will likely be found liable for tree root damage to a sidewalk resulting from trees *on their property*, but adjacent to the right-of-way line. *See Rosengren v. City of Seattle*, 149 Wn. App. 565, 575 (2009) ("an abutting land owner has a duty to exercise reasonable care that the trunks, branches, or roots of trees planted by them adjacent to a public sidewalk do not pose an unreasonable risk of harm to a pedestrian using the sidewalk").

B. Street Trees.

As a preliminary matter, cities generally have only an easement interest in right-of-way and do not *own* streets and sidewalks. The mere fact that a tree is in the improved portion of a right-of-way does not make it a tree for which a city is responsible. Thus, traditionally, abutting property owners may plant, maintain, and remove trees in the planter strip, and a municipality cannot remove such trees unless they are a hazard or a nuisance. *See Shaw v. City of Yakima*, 183 Wn.2d 200 (1935).

However, municipalities, such as Tukwila, often require regular maintenance of trees and permits for tree removal, and sometimes require planting and maintenance of trees in connection with development. Where the tree is planted and maintained by the city (or planted at the behest

Attachment F

of the city in connection with development), then the city *may* be potentially liable depending on the specific facts. On the other hand, a city would not likely be liable for damage caused by roots from a tree in the right-of-way if the city did not plant and does not maintain the tree.

Likewise, municipalities have a duty to provide reasonably safe roads for the public to drive upon. Owen v. Burlington N. Santa Fe R.R., 153 Wn.2d 780, 788 (2005). Whether a municipality breaches this duty depends on the answers to factual questions: Was the road reasonably safe for ordinary travel, and did the municipality fulfill its duty by making reasonable efforts to correct any hazardous conditions? Thus, the Courts have held that a municipality has a duty to take reasonable steps to remove or correct for hazardous conditions that make a roadway unsafe for ordinary travel, including conditions which are not present *in*, but are adjacent to, the roadway, and this duty explicitly includes removing or correcting hazardous conditions created by roadside vegetation. Wutrich v. King County, 185 Wn.2d 19, 27 (2016).

In summary, with respect to liability for street trees, the following questions will likely come into play: (1) who planted the tree, (2) who is responsible for maintaining it, and, specifically for road hazards, (3) was the road reasonably safe for ordinary travel, and (4) did the municipality fulfill its duty by making reasonable efforts to correct any hazardous conditions?

Please feel free to contact us if you have questions or need further information.

Carol Lumb

From: Robin Tischmak
Sent: Thursday, December 28, 2017 4:18 PM
To: Carol Lumb
Subject: Tree Regulation Comments
Attachments: Draft Tree Regulations - PW Comments.docx

Carol-

Attached are comments and concerns that PW is requesting for consideration and inclusion in the final regulations. Let me know if you have any questions.

Robin Tischmak

City Engineer
6300 Southcenter Boulevard, Suite 100
Tukwila, WA 98188
206-431-2455

The City of opportunity, the community of choice.

Robin's Comments Regarding Proposed Landscaping Regulations

- General discussion of Public Works approach to maintenance of landscaping/trees in the public rights-of-way.

New capital improvement projects (both public and private) continue to install new landscaping and street trees within the public rights-of-way for various beneficial reasons. Staffing that maintains said vegetation has not increased along with this increased workload. Therefore, PW staff generally maintains newly installed landscaping during the establishment period. These areas often include irrigation systems to avoid plant mortality during the dry, hot summer months. Landscaping installed by private development is generally maintained by the private entity for a prescribed establishment period. After landscaping and street trees are established, staff relies on some level of support from abutting property owners as maintenance of all vegetation in the public rights-of-way by City staff is not possible. The expected level of support is generally as outlined in the TMC. There are varying levels of support from private property owners, but City staff generally takes responsibility for issues that appear to extend beyond the normal capacity of property owners. While this may seem ambiguous, the City accepts maintenance help from proactive property owners, but generally accepts responsibility for maintenance issues in the right-of-way if public infrastructure is at risk or if an issue is left unattended. Rarely, if ever, has the City enforced a maintenance provision of the TMC on a property owner for vegetation issues within the right-of-way.

- Public Works has had the opportunity to review the Draft Tree Regulations and request the following revisions to reduce or eliminate conflicts with TMC Chapter 11.20

18.54.030 Tree Permit Required

Revise C.3. to include: "routine maintenance within rights-of-way related to Interference, Sight Distance, Emergencies or Topping as codified in Chapter 11.20 of the TMC."

Add an exemption for the removal of trees in the right-of-way related to a capital project that has a landscaping component that includes trees, where there is adequate room in the right-of-way.

SIGNIFICANT TREE SIZE COMPARISON

JURISDICTION	SIZE OF SIGNIFICANT TREE (in inches)	# TREES PERMITTED TO BE REMOVED (outside of environmentally sensitive areas)	PERMIT REQUIRED? (outside environmentally sensitive areas)
Bothell	8	10% of significant trees to be retained – applies to all new development.	Land Clearing permit during development process.
Burien	6	Must keep 30% of trees on SF site at time of development	No
Des Moines	6	Up to 2,000 sq. ft. may be cleared w/out a permit if area is outside a sensitive area.	No, if < 2,000 sq. ft. is being cleared & other exemption criteria are met.
Kent	6	Retention of trees is regulated at the platting stage with required tree density required per acre and subsequent retention. No restrictions on number of trees that can be removed on a single family lot that was not developed under the current regulations.	No
Kirkland	6	2 in 12 month period provided: <ol style="list-style-type: none"> a. There is no active application to develop the site; b. The trees were not required to be retained as part of a previous development of the site; c. Two trees remain on the site. In some cases, tree replacement is required.	Yes, type of permit depends of number of trees removed
Lake Forest Park	6	2 in 36-month period	
Renton	6	Sliding scale depending on size of lot: <ul style="list-style-type: none"> • Up to 10,000 sq. ft: 2/12 months-max of 4/60 months; • 10,001-20,000 sq. ft. 3/12 months-max of 6/60 month; • Lots > 20,000 sq. ft.: 6/12 months-max of 12/60 month 	Yes
SeaTac	8-evergreen 12-deciduous	Tree retention applies only to platting proposals	No
Seattle	6	3 in 12-month period	Yes
Tukwila	4	4 in 36 month period	No if 4 trees or less are removed in 36 month period.

Attachment H

January 9, 2018

Telephone Comments received from Very Meryhew, former Planning Commission member. Mr. Meryhew reviewed the draft definitions and the draft tree regulations and had three comments, all related to the draft definitions:

TMC 18.06

1. Dripline: note that the comment in parentheses at the end of the definition should be shown as a comment in the margin.
2. Qualified Tree Professional: suggested revising the first sentence to read (revision is underlined and highlighted in yellow): “an individual who is a certified professional with academic and/or field experience that makes them a recognized expert in urban forestry and tree protection.”

Vern commented that the person is required also to be a member of a professional organization, which will involve showing a certain skill set and probably taking courses in order to obtain the accreditation, and he was worried if the person has to have both academic and field experience, we could be eliminating some individuals from being a Qualified Tree Professional who have the required skills needed.

3. Significant Tree: recommends increasing the size of Significant Tree to 6” in diameter.

Carol Lumb

From: G Zap <zzzapspeed@hotmail.com>
Sent: Wednesday, January 10, 2018 8:17 PM
To: Carol Lumb
Subject: Re: Public Hearing on Revisions to Tree Regulations
Attachments: Tukwila Tree Code Proposal 1-10-18 Zaputil Letter.docx

Please find attached our comments to be added to the record for the 1/11/18 Tukwila Planning Commission Meeting.

Sincerely,
Greg & Vanessa Zaputil

From: Carol Lumb <Carol.Lumb@TukwilaWA.gov>
Sent: Friday, January 5, 2018 9:56 AM
To: Andy Padvorac; bmarie2@earthlink.net; Dana Ramsey; Daryl Tapio; David Bayard; David Mutchler; Eli Brocker; Glen Allen; Greg Allwine, AIA; Heather McLeland-Wiser; Heidi Narte; Hung van Pham; jeff.beckwith@pse.com; John Rucker; Kathy Graff; Kelli Turner (greenrose10@msn.com); Kerrt Kriner; 'Liliana Cardenas'; meayotte@comcast.net; Nathan Elliott; Paula Williams; pslinder@comcast.net; Rev. Allen Mosley; Roger; Sunny Mulholland; Thelma Gustafson; Vanessa Zaputil; Vicki Lockwood; Wayne Werle
Subject: Public Hearing on Revisions to Tree Regulations

Dear Interested Party,

Materials for the Tukwila Planning Commission's public hearing on proposed revisions to the City's tree regulations and Zoning Code definitions have been posted on the City's web site here: <http://records.tukwilawa.gov/WebLink/1/fol/300177/Row1.aspx>.

The public hearing will begin at 6:30 p.m. in the Tukwila City Council chambers, 6200 Southcenter Blvd., Tukwila, WA 98188. If you want to comment, but cannot attend the hearing, you may send comments to me at the address below by 5:00 p.m., January 11, 2018.

Please let me know if you have any questions.

Sincerely,

Carol Lumb

*Carol Lumb, AICP, Senior Planner
Department of Community Development
City of Tukwila
6300 Southcenter Blvd., Suite 100
Tukwila, WA 98188
206-431-3661*

Attachment J

Greg & Vanessa Zaputil
15171 52nd Ave. S. #5
Tukwila, 98188
(206) 242-9945

01/10/18

City of Tukwila
Planning Commission
6300 Southcenter Blvd.
Tukwila, WA 98188

After reviewing the 12/14/ 17 Planning Commission Work Session recording, staff did not accurately represent current TMC code with respect to tree removal permit exemptions. TMC 18.54.050 is very clearly written.

This is a Major Change to TMC 18.54. Currently, under this chapter, Tukwila **only** requires permits for tree removal in sensitive areas. Non-sensitive areas are exempt. Under the new proposal **all** trees in Tukwila will be regulated.

Current Code and Tree Removal Permit (highlighted for emphasis):

18.54.050 Permit - Exempt Activities

The following activities are exempt from the application of this chapter and do not require a Tree Clearing Permit:

1. Clearing of any vegetation; UNLESS the site on which clearing is to occur is located in a sensitive area, sensitive area buffer, or shoreline zone.

2. On sites within a sensitive area, or sensitive area buffer, or shoreline zone:

a. Clearing of up to 4 significant trees on a site currently zoned and developed for single-family residential use within any 36-month period; UNLESS the significant trees to be removed are located within a wetland, watercourse and their associated buffers or within the shoreline zone.

b. Clearing of any vegetation located outside a sensitive area, sensitive area buffer or outside the shoreline zone.

c. Removal of hazardous trees.

d. Routine maintenance of vegetation necessary to maintain the health of cultivated plants, to contain noxious weeds, or to remedy a potential fire or health hazard or threat to public safety per TMC Commercial parking subject to TMC Chapter 18.56, "Off-Street Parking and Loading Regulations." 8.28, Nuisances.

e. Vegetation removal necessary to the operation of an established Christmas tree farm or commercial plant nursery.

f. Construction and maintenance of streets and utilities within City-approved rights-of-way and easements.

(Ord. 1758 §1 (part), 1995)



CITY OF TUKWILA
Department of Community Development
6300 Southcenter Boulevard, Tukwila, WA 98188
Telephone: (206) 431-3670 FAX: (206) 431-3665

TREE REMOVAL AND LANDSCAPE MODIFICATION PERMIT

INFORMATION

Tukwila's Tree Regulations (TMC 18.54) regulate the clearing of trees and understory vegetation in environmentally sensitive areas (wetlands, watercourses, and steep slopes, including their buffers). The City's Sensitive Areas Regulations also regulate vegetation removal within sensitive areas and their buffers. Generally, when significant (4 inches or more in diameter) trees are removed from sensitive areas, tree replacement is required. This permit should be used for tree removal in sensitive areas, when it does not involve significant vegetation clearing, i.e., when one or two trees are being removed. Trees must be replaced according to the replacement ratios established in the Tree Regulations (and presented below). Trees to be removed must be identified as to species and diameter at 4 feet above the ground (dba). A plan must be submitted detailing the number of replacement trees required, the proposed species and the proposed locations. Removal of trees that are hazardous do not require a tree removal permit, but the property owner must be able to document that the tree is hazardous¹ (if the hazard is not obvious, a risk assessment by a certified tree risk assessor² may be required, and if in a wetland or water course or their buffer, replanting is required. Replacement trees in wetlands, watercourses and their buffers must be species native to the Puget Sound region and appropriate for the site (taking into account shade, moisture, and space requirements).

New Impacts of concern:

1. Single family home property owners will now be required to buy a permit for all trees larger than 8" in both sensitive areas and non-sensitive areas. – Typically trees being removed fall into this size category.
2. All non single family home property owners will have to buy permits and arborist reports for all tree removal greater than 4" – in both sensitive areas and non-sensitive areas. This has a regressive impact on small businesses.

Further Concerns/Questions (Under proposal)

1. 18.54.040 (B) (5)— identify contractor – what if property owner wants to remove themselves? (Example removing a 4" tree- rights and liability should be that of the property owner.)
2. 18.54.040 (B) Table A- removal of a tree greater than 8" for a single family home requires a Permit, but does not require an arborist report. However, Tree Removal Permit application itself is burdensome and will most likely require a landscape architect, (Site Plan required, Landscape Plan required, and specifies a professional (arborist) recommendation/ report) – 18.54.040 (A) 1,2&3
3. No provision or accommodation based on lot size. Small, zero lot line, single family home property can remove up to 4 trees, and the same for a large 1 acre single family home property- Not equitable.
4. 18.54.160 (C) (1) Tree Maintenance and Pruning "...all pruning must be done in accordance with ...ANSI 300- A specification, as it now reads and as it is hereafter amended..."- Likelihood of compliance for homeowners and small businesses/ small landscapers will be very low.
5. Can a tree removal permit application be denied for a healthy tree that an owner simply wants removed? Not a required landscape plan tree, but for example, a property owner wanting to change personal or business preferences for landscape, or wants a less nuisance tree- pitch over driveways, allergic to pollen, etc.

We respectfully request that the above concerns be mitigated and any new regulations be implemented for new development and all existing developed properties grandfathered, with an educational focus.

Greg & Vanessa Zaputil
Party of Record

