

MATERIAL PREPARED FOR DISCUSSION BY THE URBAN FORESTRY COMMISSION.

THIS DELIBERATIVE DOCUMENT DOES NOT REFLECT THE OPINION OF THE URBAN FORESTRY COMMISSION AND MAY OR MAY NOT MOVE FORWARD TO VOTE.

DRAFT

Recommendations for Updating Seattle's Tree Ordinance

Draft for discussion purposes - April 11, 2018

The current Seattle Tree Ordinance SMC 25.11 was written in 2001 with a major update in 2009 and some additional amendments since then. It has some good provisions like **protecting tree groves and exceptional trees** but needs serious updating. Its main problem is that it does not require significant protection of trees during development and does not require replacement for trees removed during development and by private property owners. While green factor helps some, it does not significantly replace many of the services trees provide in our city – like helping to remove pollution from our growing city, reducing storm water runoff without creating new infrastructure or providing habitat for birds and other animals.

Other cities both in Washington State and nationally have come up with urban forest ordinances that address many of the problems that exist with Seattle's current ordinance.

Suggested changes to strengthen Seattle's current ordinance include:

Re-instate a policy of no net loss of tree canopy. Seattle's previous Comprehensive Plan had a policy of no net loss of tree canopy. This was removed in the 2035 Comprehensive Plan. This needs to be re-stated in an updated tree ordinance. We cannot reach our goal of increasing tree canopy if we do not replace what is being lost each year through development, by trees dying, by private property removals and a complaint-based tree code enforcement process after trees have been cut down that does not work. Some cities that have a no net loss policy includes Atlanta, GA; Annapolis, MD; Lake Forest Park; Issaquah; Redmond and Shoreline.

To achieve no net loss of tree canopy requires that tree canopy removed must be replaced on site, off site or pay a mitigation fee or fee in lieu to the city to replace the trees removed, The fee would be paid into the Tree Replacement and Maintenance Fund. This would apply to significant trees (over 6 inches DBH) and exceptional trees removed, including during development or as hazard trees. For a healthy urban forest Seattle needs both a diversity of tree species and sizes. Replacement trees should be based on the size of a tree removed (eg, small, medium and large) to ensure that over time an equivalent canopy volume is replaced.

The fee in lieu value shall be determined based on current arboriculture practices and shall be periodically updated to keep pace with costs of replacement and maintenance. Adjustments reducing fees for property owners may be determined for those that the cost is a hardship.

The Tree Replacement and Maintenance Fund shall also collect funds based on fines for violation of this ordinance. Fines need to be appropriately large to effectively deter illegal removal of trees. The Fund may also be used to assist individuals that need help to comply with the tree ordinance. Donations by non-profits, corporations and members of the public can be made to the fund to further city goals to maintain and increase the city's tree canopy.

To track and monitor tree loss and replacement Seattle needs to expand the current tree removal and replacement permit system run by the Seattle Department of Transportation. Such an expanded system should be comprehensive and require a tree permit to remove any significant or exceptional trees on both public and private property. Tree permit applications and approvals shall be posted on line and data kept and posted on all trees removed and replaced to track compliance. One city website portal should be used for all tree permits applications to make it easier for people to comply

As SDOT does, trees to be removed shall be marked with a yellow ribbon and a notice posted that is visible and can be read from the property line for 2 weeks prior to a non-hazard tree being removed.

To help monitor and replace trees lost during development require that an Urban Forest Canopy Impact Assessment be done by a certified arborist – basically a tree survey detailing the impact of the development on the urban forest canopy and trees on site prior to issuing a construction permit. It would be used to determine canopy loss and to quantify replacement trees needed to be replaced on site, off site or a fee-in-lieu replacement value. The Urban Forest Canopy Impact Assessment Report shall include a map of the property with all trees six inches DBH and larger noted and numbered, canopy area, and trees to be removed clearly labeled.

- Species: speaks to size of canopy and amount of storm water benefit.
- DBH: speaks to age of tree and canopy coverage.
- Tree Height: speaks to canopy volume and amount of environmental benefit.
- Canopy Width (area): speaks to canopy volume and amount of environmental benefit.
- Tree Condition: speaks to overall forest health and environmental impacts.
- Photographs of the trees on the parcel and adjacent properties.
- Canopy coverage as a percent of area pre- and post-project development.
- Canopy impact assessment must include a revegetation plan for the site where trees are removed and details on where off site trees will be planted and maintained or whether in lieu fees are proposed to pay the city to replant and maintain trees.

The Urban Forest Canopy Impact Assessment will include a landscape and tree replacement plan that details how and where the trees and canopy removed will be replaced

Expand SDOT's current tree service provider's registration to cover all tree work done in the city. All tree service providers must register with the city of Seattle to ensure that they comply with city ordinances and regulations to protect and grow the urban canopy.

Tree service providers shall include all those who cut down, prune or plant trees in the city.

SDCI and other city departments will work with SDOT to establish and maintain one list of approved Tree Service Providers for the City.

Other updates needed:

Expand purpose and intent of ordinance to include “The Tree Protection code is one of the implementation measures of the Seattle Comprehensive Plan and the Seattle Urban Forest Stewardship Plan. Together with education, incentives and other initiatives, these regulations protect the health, safety, and general welfare of the citizens of Seattle and are consistent with other plans and policies of the City. In so doing, the appearance of the City is enhanced, and important ecological, cultural, and economic resources are protected for the benefit of the City’s residents and visitors.”

A 5-year Tree Maintenance Bond shall be posted to ensure trees planted or retained on a development project survive as well as for trees planted off site. Any fee in lieu system for trees removed shall be according to standard arboriculture guidelines and shall include costs for environmental services lost, for re-planting and survival for 5 years. Any trees dying during the 5-year period must be replaced. Replacement trees will be considered significant trees by the city to ensure they are not removed without replacement.

The tree ordinance should consider ways to consolidate tree oversight and maintenance into one city department that does not have a conflict of interests in terms of their mission statement. The Seattle City Auditor in 2009 recommended that the 8 city departments currently overseeing trees should be consolidated and recommended that the Office of Sustainability and Environment was a logical choice.

Add more definitions including:

“**DBH**” means diameter of a tree at breast height - 54 inches above ground

“**Canopy area**” means the area below the tree dripline as viewed from above

“**Canopy volume**” means the 3-dimensional volume of tree foliage branches

“**Fee-in-lieu**” – a fee paid into the Tree Replacement and Canopy Maintenance Fund to replace tree canopy lost on site and not replaced on site or off site either during development or on private property

“**Off site replacement**” - The planting of replacement trees pursuant to a permit on a lot different from the lot the tree was removed from, given that all other permit requirements and conditions are met or the payment of a mitigation fee to the city Tree Replacement and Maintenance Fund in an amount equal to replacement cost, as defined by the current edition of the Council of Tree and Landscape Appraisers Guide for Plant Appraisal plus maintenance costs, for trees not planted on site.

“**Seattle Comprehensive Plan**” – 20-year plan adopted by the Seattle City Council and Mayor to guide future growth in Seattle

“**Seattle Urban Forestry Stewardship Plan**” – Plan adopted every 5 years to guide protection and enhancement of Seattle’s urban forest

“**Significant tree**” – any tree on a property that is over six inches or more in diameter at DBH.

“**Tree**” - woody vegetation which is 6 inches or greater diameter at breast height (DBH), measured 54” above the ground mid-slope. Multi-stem trees like vine maple use the following formula to determine their DBH = square root of the sum of each stem DBH squared. A Tree does not include any species which appears on the King County Noxious Weeds or Weeds of Concern list. A Tree may be alive or dead.

“Tree permit” – permit required for all significant and exceptional trees removed on private property, including during development, and trees removed on public property

“Tree protection area” – area denoted on site plan for protection of significant and exceptional trees during development

“Tree Replacement and Maintenance Fund” means a fund established to facilitate mitigation and tree replacement when trees cannot be replaced on the site from which they were removed.

“Tree Service Providers” – Tree Service contractors who meet the requirements of the city to register to do tree care work

“Urban Forest Canopy Impact Assessment” – detailed report on impact of development on urban forest canopy and trees used to determine canopy loss or gain during development and to quantify replacement values.

Update needed:

: It is the purpose and intent of this chapter to:

- A. To achieve no net loss of tree canopy area and volume and maximize potential for increasing tree canopy area and volume
- B. To implement a tree permit system for removal of public and private trees, including during development, to maximize tree retention, track the gain or loss of trees over time and require tree replacement to achieve no net loss of canopy
- C. To require replacement of significant and exceptional trees removed, by either replacing them on or off site or paying a fee in lieu into a Tree Replacement and Maintenance Fund
- D. To minimize tree loss, encourage tree planting and protection, maintain a diversity of tree species and ages for urban forest resiliency and prevent unlawful removal of trees
- E. To maximize the benefits of trees and the urban forest in responding to the impacts of climate change
- F. To protect native trees, wildlife habitat and corridors to maximize the benefits of nature within our urban environment
- G. Implement the goals and policies of Seattle's Comprehensive Plan especially those in the Environment Element dealing with protection of the urban forest and carry out the goals of the most recent Seattle Urban Forestry Stewardship Plan,
- H. To preserve and enhance the City's physical, environmental and aesthetic character by preventing untimely, unnecessary and indiscriminate removal or destruction of trees;
- I. To protect trees on undeveloped sites that are not undergoing development by not allowing tree removal except in hazardous situations, to prevent premature loss of trees so their maximum retention may be considered during the development review and approval process;
- J. To reward tree protection efforts by granting flexibility for certain development standards, and to promote site planning and horticultural practices that are consistent with the reasonable use of property;
- K. To especially protect exceptional trees and tree groves that because of their unique historical, ecological, or aesthetic value constitute an important community resource; to require flexibility in design to protect exceptional and significant trees;

- L. To provide the option of modifying development standards to protect significant trees and tree canopy on site over two (2) feet in diameter in the same manner that modification of development standards is required for exceptional trees;
- M. To encourage retention of trees over six (6) inches in diameter through the design review and other processes ~~for larger projects~~, through education concerning the value of retaining trees, and by not permitting their removal on undeveloped land prior to development permit review.

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Suggestions for a City of Seattle tree code update. Initial comments by Tom Early 4.3.2018.

Policy guidance:

1. Allow for flexible management of trees by property owners. [*i.e. provide lenient allowances for tree removal in this initial tree code update but broaden the permit system to include all tree activity with exceptions. This is to get the initial tree activity permit process approved and integrated into the typical property owner process. This will provide data on tree removals in the City which can be used in conjunction with continued canopy cover assessments to monitor and adjust the tree removal allowance criteria depending on what the data indicates. The continued monitoring of tree canopy and permits will allow the City to adjust removal criteria and replanting requirements based on the most recent data. Providing owners with an initial flexibility for tree removals will also work to promote the benefits of trees without owners regretting or resenting a tree.*]
2. Acknowledge that trees and vegetation are important elements in the city because they:
 - a. provide psychological and physical relief from the urban environment,
 - b. habitat for flora and fauna,
 - c. attenuate storm water, and
 - d. improve air quality.
3. Encourage best practices to manage trees appropriately to minimize hazards and nuisances.
4. Promote good tree selection and management while discouraging inappropriate tree selection and inappropriate pruning.

5. Inspire a reverence for trees, particularly mature trees, through the promotion of urban forestry programs within the City.

6. Clarify that public land management policy does not entitle private land owners to a view across public lands. Some private landowners have maintained view pruning regimes which have topped (arbitrarily pruned trees to reduce their height without regard for the trees structure or architecture) trees on public lands. These agreements should be terminated with an appropriate removal and replanting plan which is executed in the next eight years. [*This is in order to remove the trees with defects and replace the trees that are healthy and in good condition rather than simply allowing the existing trees to remain with their defects which increase the risk if they are near a target – house, powerline, improved ROW.*] No view entitlement pertains to commercial property owners and street trees too. [*This is to strengthen SDOT in resisting inappropriate view pruning for businesses.*]

Specific suggestions for the tree code update:

1. Institute a permit approval system for all tree activity.

2. Institute a minimum requirement for tree(s) on single family lots [*i.e. each parcel shall maintain at least one tree per lot. Remember that this is the low bar for acceptability to the City not the ideal; City code is for broad acceptability and limiting the insupportable.*]

3. Clarify that a hazard tree report is to be the most up-to-date version used by the ISA tree risk assessment protocols.

4. Clarify definitions for what the code is regulating and clear exemptions for what it is not:
 - a. Tree Activity is the pruning and removal of trees. Tree Activity includes tree protection if construction is within twenty linear feet of a tree.

 - b. A Tree is woody vegetation which is 6 inches or greater diameter at breast height (DBH), measured 54” above the ground mid-slope. Multi-stem trees like vine maple use the following formula to determine their DBH = square root of the sum of each stem DBH squared. A Tree does not include any species which appears on the King County Noxious Weeds or Weeds of Concern list. A Tree may be alive or dead.

 - c. Hedges are linear plantings which are pruned to control their size in width, depth and height and which are typically used to provide privacy between adjacent properties.

 - d. Exemptions:
 - i. All pruning which has an ANSI A300 standard work order specification performed by a certified arborist led tree crew [*because the ISA arborist has a*

code of ethics which provides accountability to acceptable work or the certification may be revoked.] Here are two bullets from the code of ethics which are pertinent:

1. Comply with all applicable laws, regulations, policies and ethical standards governing professional practice of arboriculture.
 2. Comply with all accepted professional standards related to arboriculture practice, including national practice standards and policies.
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- ii. Woody vegetation removal and pruning with a DBH less than six inches.

 - iii. Hedges are trees or vegetation with a DBH of less than 6 inches that have been topped (arbitrarily reduced in height), clipped or sheared.

 - iv. A tree that is a high or imminent risk as assessed per the ISA Tree Risk Assessment protocols by a qualified professional.
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- e. Tree activity performed or contracted by the City.