

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

Project Proposal: This is a non-project action amending the Seattle Municipal Code (SMC) including repealing and replacing Chapter 25.11

Project Sponsor: City of Seattle Department of Construction and Inspections

Location of Proposal: The proposal is a non-project action, applicable to all zones in the City.

SUMMARY OF PROPOSED ACTION

This a non-project action that consists of the adoption of legislation to amend the Seattle Municipal Code including repealing and replacing Chapter 25.11, Tree Protection. The proposal aims to provide additional protection for existing trees, provide stronger replacement requirements for removed trees, establish a tree permit system, and provide targeted flexibility for the application of standards for certain types of development to minimize tree removal.

The proposal is intended create a stronger stewardship of existing trees, allow for canopy cover to keep pace with growth and greater density, and to allow for the preservation or planting of more trees to support a healthy urban forest in Seattle. In addition, the proposal is to correct errors as well as repeal and replace Chapter 25.11 which will assist staff with the implementation and enforcement of the code.

The following decision is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION Exempt DNS MDNS EIS

DNS with conditions

DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND

Trees have been regulated for several decades in Seattle, but not for all the land use zones. The proposal's effect would be citywide for all zones. The action is not site specific. It covers all parcels and rights-of-way in Seattle.

The 2016 Seattle Tree Canopy Assessment represents the most accurate accounting of Seattle's canopy to date and shows Seattle has a 28% canopy cover citywide. The majority of Seattle's

urban trees are found in two locations: residential areas (representing 67% of the land with 72% of Seattle’s tree canopy), and in the right-of-way, interspersed throughout the city (representing 27% of the land with 22% of the canopy). It is anticipated that the proposal will regulate more trees than the existing tree code. The existing tree code does not regulate all zones, does not require a permit for tree removal and/or replacement in a number of situations and allows for up to three trees to be removed annually without a permit in the single-family residential zones, which covers the majority of the City’s existing tree canopy cover.

Proposal Description

The proposal is a non-project legislative action consisting of amendments to the Environmental Protection and Historic Preservation Code (hereafter “Code”) to provide tree protection. There is no specific site or development proposal.

Generally, the proposed amendments would:

- define “significant tree”;
- require a permit for tree removal of significant trees;
- set fees for tree permits;
- clarify the definition of hazard trees;
- allow flexibility in development standards in order to preserve trees;
- establish requirements for the replacement of removed trees;
- allow for payment in lieu of when tree replacement is required;
- specify tree retention requirements; and
- update enforcement provisions for tree regulations;

The existing tree code regulates exceptional trees unless those trees prevent development potential or are deemed hazardous. The new tree code would regulate all trees greater than 6” diameter at standard height (DSH) which includes exceptional trees and would not allow for large trees to be deemed hazardous and removed as easily as it had been in the past. The new tree code would provide for greater protection measures as well as increased penalties for illegal tree removal.

In addition, the new tree code would establish a permit system for tree removal to give city staff the ability to document and track tree removal as well as a means to track progress toward meeting and maintaining the canopy cover goals established in the Urban Forest Stewardship Plan (UFSP) for all zones. Under the existing tree regulations, it is difficult to know how many trees are being removed every year because the existing tree code allows for up to three trees to be removed annually in the single-family zones.

The proposal includes a requirement to permit tree removal using a two-tiered approach: minor and major tree removal permits. The minor permit is intended for limited tree removal and the major permit is intended for large tree removal or the removal of several trees which will require the submittal of a detailed and complete application, more staff time to review, will have a higher fee, and will require an arborist. The intent of having a two-tiered approach is to increase

regulation of all trees greater than 6 inches diameter at standard height (DSH) as well as increase the area of applicability by providing tree protection in all zones citywide.

Public Comment

Proposed changes to the Seattle Municipal Code require City Council approval. Public comment will be taken on the proposal during Council meetings and a public hearing.

ANALYSIS - SEPA

This proposal is for the adoption of new legislation, which is defined as a non-project action. The disclosure of the potential impacts from this proposal was made in an environmental checklist submitted by the proponent, dated August 14, 2018. The information in the checklist, a copy of the proposed code changes, and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

This change to the Environmental Protection and Historic Preservation Code (Title 25) would adopt regulations for trees, including but not limited to mitigation for tree removal, penalty fines related to code enforcement and establishment of a new tree permit system. The proposed amendments are not anticipated to result in any direct adverse environmental impacts, but potential minor non-significant adverse impacts are identified and discussed below.

ELEMENTS OF THE ENVIRONMENT

Natural Environment

Earth, Air, Water, Plants and Animals, Energy, Natural Resources, Environmentally Sensitive Areas, Noise, Releases of Toxic or Hazardous Materials

The proposal as compared to the existing tree regulations, would require greater protection of all trees greater than 6 inches DBH, and would include specific requirements to mitigate adverse impacts when a significant tree(s) is removed. The proposed ordinance is unlikely to result in a significant long-term, cumulative adverse impact to these elements of the environment: earth, air, water, plants/animals, energy, natural resources, environmentally sensitive areas, noise, or releases of toxic/hazardous substances. The reasons for this conclusion are discussed below.

The purpose of the proposed ordinance is to regulate Seattle's tree canopy cover, strengthen tree protection and replacement requirements, require a tree permit, and provide targeted flexibility for certain types of tree removals. The adoption of new tree regulations would not result in increased water discharge, pollution, noise, or release of toxic/hazardous substances, but rather the enhanced protection of existing trees and the planting of new trees would likely work toward reversing negative environmental impacts, given research findings that demonstrate trees' beneficial effects to their environment. Increased tree canopy is an intended and probable long-term cumulative outcome of this proposal. It is anticipated that increased tree canopy cover over time would be beneficial to the overall air quality in Seattle. Data indicate that additional shading can result in cooler overall temperatures within the city and thus the proposal could aid in reducing or moderating buildings' energy use and consumption. An increase in the number of trees planted could also generate positive long-term cumulative effects in terms of better

stormwater runoff control through trees' retention of rainwater, delaying and reducing runoff volumes from properties, and improved protection against erosion and sedimentation impacts caused by stormwater runoff volumes and velocity. Also, it is anticipated that an increase in tree canopy cover over time would lead to long-term cumulative improvements in plant and animal habitat values within Seattle's urban environment, because it would provide better habitat features and qualities for wildlife, including birds and mammals, as well as potentially providing improved shading of riparian areas, which could aid in environmental qualities that support the spawning of anadromous fish.

When comparing the long-term cumulative probable positive values related to the proposal with the effects of the existing tree regulations that allow for less tree protection and little or no mitigation of substantive value to the natural environment, it is not likely that the proposal would lead to a significant adverse increase in tree removal or related natural environmental impacts. Rather, the proposal provides for more regulation, better implementation of the code and stronger enforcement related to tree protection. This appears likely to lead to positive overall impacts for trees in the natural environment rather than significant adverse impacts on trees.

Specifically, some of the positive outcomes to the Natural Environment are as follows:

- Probable increased canopy cover in all zones would lead to better plant and animal habitat functions and values both in public and private properties citywide;
- Properties located next to or adjacent to critical areas could benefit from increased canopy cover because the proposal could lead to more high quality, larger habitats created for plants and animals and less fragmentation of habitat corridors;
- Increased tree canopy cover in areas of the city that have less canopy cover would be more beneficial (i.e.- in relation to natural environment aesthetics, air quality) for single family residents who currently live in those neighborhoods;

Some of the potential adverse impact outcomes to the Natural Environment are as follows:

- It is likely that even with the adoption of new tree regulations, a certain number of illegal tree removals would continue to occur, often during weekends when city enforcement staff are not typically available to provide immediate response to complaints. However, enforcement measures, such as higher civil penalties are proposed in the new tree regulations to discourage illegal tree removal.
- The proposal would not prevent the possibility of large trees from being cut down. Some large trees would likely be cut down either before the proposal is in place or thereafter. However, the proposal would discourage large trees from being cut down without mitigation and would include consequences for illegal tree removal. (Increased enforcement of the new tree regulations could occur, but it would require additional funding for enforcement.)
- Large trees that are cut down permanently take away the ecological functions and values that the large tree had provided when it was a living tree. The proposal aims to require that when a large tree is cut down the resulting long-term outcome would be comparable (similar or nearly the same in overall value) to the functions and values that would be lost. This is necessarily a qualitative and subjective judgment that must acknowledge that

overall functions and values from planting several smaller trees may take several years to accomplish comparable value as the larger cut tree. And it should acknowledge that payments of fee-in-lieu could also result in delays in planting trees that could delay or negatively affect overall levels of function and value restoration that are accomplishable.

The proposed changes would result in no direct negative impacts and are unlikely to result in significant indirect or cumulative adverse impacts related to energy or natural resources. The new tree regulations would encourage energy conservation, as increased tree coverage typically lowers local temperatures and can reduce household energy usage. The intent of the regulations is to preserve healthy trees in Seattle and to boost responsible management of the City's urban forest. As trees are an important natural resource, this proposal would be likely to enhance, rather than deplete, the natural resources of Seattle as a long-term positive cumulative impact outcome. These and other probable positive effects that are likely to occur due to the proposal would contribute incrementally toward social, environmental and economic benefits that would likely enhance the quality of life for many neighborhoods, especially as Seattle continues to grow.

Built Environment

Land & Shoreline Use, Height/Bulk/Scale, Transportation, Public Services and Utilities

The proposed ordinance is unlikely to result in a significant adverse long-term cumulative impact to these elements of the built environment, as discussed below.

Land & Shoreline Use

The proposed regulatory changes as compared to the existing tree regulations would require greater protection of trees and include more specific requirements to mitigate adverse impacts to plants, animals, fish and marine life. Proposed regulations include specific standards for tree protection and removal, land disturbing activity as well as a requirement to achieve canopy cover goals when submitting for a permit with the city. A summary of proposed changes is found in Council Central Staff's Report.

In summary, the proposal states that an applicant can achieve the canopy coverage goal for the zone in which the property is located by doing one or more of the following options: (1) maintain existing canopy coverage on site so that it does not fall below the canopy coverage goal requirements (2) remove trees that would cause the canopy coverage to fall below and then either plant more trees to bring the property back into compliance with the canopy coverage goals or pay a fee-in-lieu of replanting trees that were removed, or (3) do a combination of any of the above which means the applicant has the option of replanting trees on site, off site and/or pay the fee-in-lieu for tree removal.

Development of specific projects on individual sites would be subject to applicable local, state, and federal regulatory requirements, including: building code; fire code; noise ordinance; surface water design standards; stormwater, and grading and drainage ordinance.

Height/Bulk/Scale

The existing tree regulations allow for tree preservation incentives on sites undergoing development limited to the following zones: Single-Family and Residential Small Lot, Lowrise, Midrise and Commercial. The proposed tree regulations would allow for the same incentives regarding tree preservation in all zones citywide. The proposal provides for increased flexibility for possible setback reductions to preserve significant tree(s) that are located within a building footprint. This would allow for a developer to shift the building envelope over to one side (or more depending on the location(s) of the significant tree(s) to preserve more trees on site both during and after construction. Specifically, the proposal states that if the Director determines that a significant tree(s) is located on the lot of a proposed development and the intent of the proposal is to preserve existing significant tree(s), then the proposal would allow for the Director to adjust the required development standards meaning that the front, rear, and side setbacks could be reduced to the minimum necessary to protect a significant tree and by no more than 95% of the setback's length for front setbacks, 75% of the setback's length for rear setbacks, and 50% of the setback's length for side setbacks.

Because the proposal is applicable to all zones, there would be increased flexibility to reduce the required setbacks in order to preserve significant tree(s). A setback reduction could result in some situations where a building(s) is located closer to a property line than the development standards allow for in a number of zones. However, a setback reduction could only be approved by the Director and this option would be exclusively available to a developer only when all other options to preserve and protect significant tree(s) have been considered, including the submittal of a development application that shows that the proposed development is building out to the maximum allowable development capacity that the zoning allows for. The proposed height incentive is the same as the existing regulations which states that the Director may permit the ridge of a pitched roof with a minimum slope of 6:12 to extend up to a height of 50 feet if the increase is needed to accommodate, on an additional story, the amount of floor area lost by avoiding development within the tree protection area and the amount of floor area on the additional story is limited to the amount of floor area lost by avoiding development within the tree protection area. Typically, additional building height tends to create some increased potential for shading on neighboring properties. The allowance for additional building height does create some potential for shading on neighboring properties that would be more noticeable during certain times of the year. A taller building could affect some neighboring properties in a less than desirable manner because the additional height might cause shading in areas that some neighbors would not prefer, such as areas on neighboring properties with gardens, outdoor patios, or solar panels currently in place. However, the existing tree regulations and the proposal contain the same identical height incentives and allowances. Therefore, the proposal would result in no additional adverse impact potential because the nature of the code flexibility and the number of properties that might be impacted by the proposal would remain unchanged.

Transportation

A similar analysis as above also applies to the proposal's parking incentive. No additional potential for adverse impacts are anticipated with the proposal because the proposed parking incentive would be limited to the same allowances as in the existing regulations.

Public Services/Utilities

No direct or cumulative adverse impacts on public services and utilities are identified because there are no particular substantive implications for how tree protection could adversely affect the operations of public services (police, fire, parks, schools) and utilities (water and sewer systems).

Seattle City Light, Seattle Public Utilities, Seattle Parks Department, and Seattle Fire Department staff were consulted as to the nature of this proposal, but they did not identify any substantive potential for significant adverse impacts of the proposal on their departments' operations or their physical infrastructure systems.

Consistency and relationship to plans and policies

The proposed amendments are meant to increase tree canopy in Seattle over time. The proposal includes standards for tree retention that are specified by percentage of tree canopy cover by zone. These standards are consistent with the tree canopy cover goals by management unit that are listed in the Urban Forest Stewardship Plan. This indicates a consistency of the proposal with relevant policy goals of the City's planning efforts for trees in the urban environment. Implementation of the proposal would allow for tree protection with regulatory protections and related practices that are evaluated by City analysts as likely effective and as likely consistent with the goals of the Urban Forest Stewardship Plan. The proposal includes tree regulations that would take into consideration existing zoning and development capacities but also are supportive of preserving and protecting trees. The proposal would not likely generate probable significant adverse land and shoreline use impacts because it would not change the existing zoning nor cause increases in land use incompatibilities. This means that the proposal is aiming to regulate more trees than what the existing regulations does while still being in compliance with the development standards and development capacities for all zones citywide.

Conclusion

As noted previously, some building sizes of future development might be affected by the proposal and there could be some situations where a developer would propose a building to be shifted to a different portion of the site in order to preserve significant tree(s) which could create some net difference in effects on neighboring properties such as additional shading on sites where the building is shifted closer to a property line to preserve a significant tree(s). However, this capability is already present in today's codes, and so this would not represent a new adverse environmental impact outcome. Also, the potential for adverse or significant adverse outcomes would be reduced because the majority of existing significant trees in low-density zones are located in the rear yards of homes in single-family zones in established built-out neighborhoods. The proposal would not change the zoning.

As suggested by the discussion above regarding potential built-environment impacts, no significant adverse impacts are likely to occur as a result of the proposal. The proposal would regulate trees in a manner that would be likely to help maintain the City's urban forest by preserving trees and potentially allowing for tree canopy cover to increase over time. The SEPA Checklist does not identify any particular potential for long-term cumulative adverse impacts. This means there is little potential for these regulatory changes, in combination with other pending or recent land use legislation, to generate unforeseen kinds of significant adverse land

use compatibility impacts. Therefore, the potential for identifiable significant adverse built-environment impacts as a result of the proposal is concluded to be minimal.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist, the proposed Code amendments, and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).

Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

Signature: On file
Chanda S. Emery AICP, Senior Planner
Department of Construction and Inspections

Date: 8/23/18