

July 26, 2018

MEMORANDUM

To: Planning, Land Use and Zoning Committee
From: Eric McConaghy, Legislative Analyst
Subject: Proposed tree regulation bill

On August 1, 2018, the Planning, Land Use, and Zoning Committee (Committee) will be briefed on draft updates proposed by Councilmember Johnson to tree regulations in the Seattle Municipal Code (SMC). These updates reflect the following priorities: (1) improving customer service for the public and applicants; (2) increasing tree canopy in Seattle, while addressing the inequitable distribution of trees throughout the city; (3) promoting stewardship of existing trees; and (4) using data to guide Seattle's management of the urban forest.

This memorandum (1) provides background on bill drafting; (2) summarizes the draft bill; and (3) outlines the next steps in the legislative process for the bill.

Background

Since mid-May, Central Staff has been drafting a tree protection bill, in consultation with the Seattle Department of Construction and Inspections (SDCI) and the Office of Sustainability and Environment (OSE). The proposed bill would address tree protection, whether associated with, or independent from, development.

The Seattle Urban Forestry Commission (UFC) has made comments and recommendations on new tree regulations in one letter to the Mayor and Councilmember Johnson (dated April 11, 2018); two letters to Committee members (dated May 9, 2018 and June 6, 2018); and on the enforcement of the existing tree replacement and site restoration code provisions in one letter to the Mayor, City Council, and the City Attorney (dated July 11, 2018). All of these letters can be accessed through the UFC's [webpage of issued documents](#).¹

Bill summary

The draft bill consolidates tree protection regulations in Seattle Municipal Code (SMC) Chapter 25.11. That chapter, which currently contains tree protection development standards, would be repealed and replaced by proposed regulations in the bill.

Generally, the proposal would:

- Define "significant tree";
- Require a permit for removal of significant trees;
- Set a fee for the tree permit;
- Clarify the definition of hazard trees;
- Allow flexibility in development standards to preserve trees;
- Establish requirements for the replacement of trees;

¹ <http://www.seattle.gov/urbanforestrycommission/ufcissueddocuments>. Last accessed July 29, 2018.

- Allow for in-lieu payment when tree replacement is required;
- Specify tree retention requirements; and
- Update enforcement provisions for tree regulations

Policy choices reflected in the bill are summarized in Table 1.

Table 1. Revised Tree Protection Regulation

Issue	Discussion
<i>Above what threshold should tree removal be regulated?</i>	<p>The proposal defines “significant tree” as a tree 6 or more inches in diameter at standard height (DSH¹) and requires a permit for tree removal of significant trees along with limits on removal and requirements for mitigation. Current code provisions use the 6-inch diameter as a threshold to regulate some aspects of tree removal. However, the current code does not always require a permit.</p> <p>This threshold choice intends to simplify the implementation of tree protection across a greater number of trees with more uniform application.</p>
<i>Should a permit for tree removal be required?</i>	<p>Following from above, the proposal does require a tree permit and establishes two tiers for the permit: minor and major. The minor permit is intended for limited tree removal and is meant to be relatively easy to apply for and administer at a low fee. The major permit is intended for large tree removal, or the removal of several trees. The major permit would be more complex in application and would require a commensurately higher staff review and fee.</p> <p>The choice of a tiered approach addresses the concern for preservation of large trees and groves of trees while aiming to increase permit applications for removal of trees, as opposed to removal without a permit.</p> <p>The data gathered through both the minor and major permit process would allow the City to measure and adjust regulations and/or implementation practice.</p>
<i>Should tree regulations prohibit the removal of trees defined as “exceptional”?</i>	<p>The proposal does not define “exceptional trees” or use that definition to prohibit their removal except as allowed as part of development, with required mitigation, or as hazardous trees.</p> <p>This is a break from the current requirements.</p>
<i>Should the tree regulations extend to all zones?</i>	<p>The intent of the proposal is to protect trees that would be exceptional according to the current code by extending protection to all trees at the 6-inch diameter threshold.</p> <p>Executive staff have identified exceptional tree provisions of the current code as administratively complex and burdensome for property owners, who must hire a certified arborist to help identify exceptional trees.</p>

¹ DSH means the diameter of a tree is measured at 4.5 feet above the ground.

Issue	Discussion
	<p>To achieve the policy goal of increased uniformity in tree regulation, the proposal requires a permit for removal of significant trees, as part of a development approval or independent of development, for all trees across all zones.</p> <p>Under the proposed code, a significant tree is significant everywhere in the City.</p>
<i>Should tree regulations differ by zone?</i>	<p>The proposed code would use the same 6-inch threshold for defining significant trees everywhere while establishing different standards for minimum tree retention that is sensitive to development expectations and availability of land for trees in different zones.</p> <p>The standards for tree retention would be specified by percent tree canopy cover by zone. These standards would be consistent with the canopy cover goals by management unit listed in the Urban Forest Stewardship Plan.</p>
<i>Should flexibility in development standards be allowed in exchange for tree retention onsite?</i>	<p>The current code does allow flexibility in development standards related to different zones in exchange for protecting and maintaining exceptional trees or trees two feet in diameter or larger.</p> <p>The proposal would similarly allow flexibility in development standards appropriate to particular zones and existing trees on development sites in exchange for protecting and maintaining significant trees.</p>
<i>Should tree removal be limited by the number of trees removed per year?</i>	<p>The existing tree code allows the removal up to three trees, six inches or greater in diameter at breast height (equivalent to DSH) in any one-year period on lots in Lowrise, Midrise, and Commercial zones or on lots 5,000 square feet or greater in a Single-family or Residential Small Lot zones, except when the tree removal is part of an approved development project (SMC 25.11.040.B).</p> <p>The proposed code does not set a limit for tree removal by the number trees per time period for any zone. Trees would be regulated by land use type and the canopy cover goals in the Urban Forest Stewardship Plan.</p>
<i>Given that mitigation would be required for tree removal, should the new code allow payment in-lieu of replacing trees?</i>	<p>The proposal does allow payment in-lieu in support of the policy goal of tree replacement for trees removed as permitted.</p> <p>Fees paid in-lieu of replacement would be managed in a fund for the purpose of tree replacement.</p>

Next steps

A public hearing on the proposed tree bill is tentatively scheduled for September 5, 2018 during the regular PLUZ meeting. The legislation is subject to review under the State Environmental Policy Act (SEPA). Staff has initiated SEPA review, which will continue concurrently with the legislative process.

cc: Kirstan Arestad, Central Staff Director