

September 14, 2018

MEMORANDUM

To: Planning, Land Use and Zoning Committee
From: Yolanda Ho and Eric McConaghy, Council Central Staff
Subject: Policy considerations regarding proposed tree regulation bill

On September 19, 2018 the Planning, Land Use, and Zoning Committee (Committee) will continue discussion of key issues regarding the proposed legislative update to the tree regulations of the Seattle Municipal Code ([SMC 25.11](#)), also known as the tree code.

On September 5, the Committee held a public hearing on the proposed legislation. In response to oral and public written comment and the recommendations of the Seattle Urban Forest Commission¹, the Committee is exploring policy options for revisions to the tree code.

This memorandum (1) briefly summarizes key provisions of the proposed update; (2) poses policy question for the consideration of the Committee; and (3) describes the next steps in the legislative process for the bill.

Bill summary

SMC Chapter 25.11 would be repealed and replaced by proposed regulations in the bill. The proposed bill would update Seattle's regulation of tree removal, whether associated with, or independent from, development.

Generally, the proposal would do the following:

- Defines "significant tree";²
- Requires a permit for removal of significant trees, either major or minor;
- Sets a tree permit fee;
- Clarifies the definition of hazard trees;
- Allows flexibility in development standards to preserve trees;
- Establishes requirements for the replacement of trees;
- Allows for in-lieu payment when tree replacement is required;
- Specifies tree retention requirements; and
- Updates enforcement provisions for tree regulations.

The new regulations are based upon requirements for tree canopy cover as a percentage of lot area, including any right-of-way abutting the lot. These requirements are derived from the Urban Forest Stewardship Plan's³ aspirational goals for tree canopy cover established per tree canopy management unit (TCMU), which are composed of one or more zoning types. These requirements are shown below.

¹ The UFC letters on the topic of modifications to Seattle's tree regulations can be found online: <https://www.seattle.gov/urbanforestrycommission/ufcissueddocuments>

² Any tree six inches or greater in diameter at standard height (DSH), meaning diameter of a tree at the standard height of 54 inches above ground. On uneven surfaces the DSH is measured from the high side of the level of the ground.

³ Adopted by Resolution 31477, in 2013. <http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=urban+forest&s3=&s2=&s4=&Sect4=AND&l=200&Sect2=THESON&Sect3=PLURON&Sect5=RESNY&Sect6=HITOFF&d=RESF&p=1&u=%2F~public%2Fresny.htm&r=1&f=G>. Last accessed September 14, 2018.

Table A for [Section 25.11.080](#): Canopy Coverage Requirements

Tree Canopy Management Unit	Minimum Tree Canopy Cover as Percentage of Lot Area
Single-family Residential: Residential Small Lot and Residential, Single Family zones	33%
Multi-family Residential: Multi-family and Residential-Commercial zones	20%
Commercial/Mixed Use: Commercial and Seattle Mixed zones	15%
Downtown: Downtown zones	12%
Industrial: Industrial zones	10%
Institutional: Major Institution Overlay Districts	20%

Issues for consideration

The Committee has indicated an ongoing interest in developing the tree regulation proposal. Answers to the threshold policy questions below are critical to redrafting of the legislation.

Canopy coverage goals and mitigation: Central to this proposal is the requirement of a permit for tree removal based on the measurement of tree canopy cover of a lot compared to a required standard. The Committee heard concerns regarding the proposed methodology for estimating the tree canopy coverage of a particular property and using that estimate to drive tree removal permitting and mitigation. In the current proposal, the unit of measure for the development standard is tree canopy cover.

Policy Questions:

- Should the unit of measure for tree removal permitting be tree canopy cover or tree size per species?
- Should the regulatory standard applied to tree removal permits be specified in detail in the tree code, or provided in a SDCI Director’s Rule according to guidelines established in the tree code?

Exceptional trees: The current proposal does not define exceptional trees nor prohibit their removal with exceptions, as does the existing SMC 25.11. However, the Committee heard from advocates that the definition and protection of exceptional trees, as currently provided in SMC, should be included in the new tree regulations. The Committee has committed to protecting exceptional trees and incorporating these protections with the new regulatory approach.

In the current tree code, “‘exceptional tree’ means a tree or group of trees that because of its unique historical, ecological, or aesthetic value constitutes an important community resource, and is deemed as such by the Director according to standards promulgated by the Seattle Department of Construction and Inspections” ([SMC 25.11.020](#)). Director’s Rule 2008-16⁴ provides standards for whether a tree should be

⁴ Director’s Rule 2008-16 is available online at: <http://www.seattle.gov/dpd/codes/dr/DR2008-16x.pdf>. Last accessed on September 14, 2018.

considered for exceptional status as well as the standards and procedures for this determination. The rule is:

“An exceptional tree is a tree that:

1. Is designated as a heritage tree by the City of Seattle; or
2. Is rare or exceptional by virtue of its size, species, condition, cultural/historic importance, age, and/or contribution as part of grove of trees as determined by the method (provided in the rule.)”

Heritage trees are identified via the Heritage Tree Program⁵, a cooperative program between the City of Seattle and PlantAmnesty. The program was initiated by PlantAmnesty in 1996, and the City became a co-sponsor a few years later. Heritage trees may be on either City or private property. Each candidate tree is assessed by a certified arborist and evaluated by a review committee. Trees can be nominated as an individual or a collection, but must have the owner's approval and meet criteria for health in addition to being selected according to one of several defined categories.

Policy Questions:

- Should the tree code proposal maintain or modify the existing definition of exceptional trees?
- How should the proposal prohibit the removal of exceptional trees along with protecting significant trees? For example, should exceptional trees be special instances of significant trees, with stronger protections, or should they be provided a different status in the code?

Minor versus major permit threshold: The proposed regulations, as currently drafted, would require a permit for tree removal in two types, major or minor, generally depending upon the initial and resulting amount of tree canopy cover on the lot and if the tree removal is associated with development activity. As proposed, major permits would generally involve a greater degree of review, commensurately higher fees, and more stringent replacement requirements than minor permits.

If Council decides on a different system for measuring tree canopy and/or seeks greater protections for exceptional trees, as discussed above, then the thresholds for the two types of tree permits should be considered.

The existing tree code allows “no more than three trees 6 inches or greater in diameter, measured 4.5 feet above the ground, may be removed 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 zone, except when the tree removal is required” as part of construction or improvement, but does not require a permit for tree removal. The proposal does not include limits on number of trees that may be removed.

⁵ Heritage tree website: <https://www.seattle.gov/transportation/projects-and-programs/programs/trees-and-landscaping-program/heritage-tree-program>. Last accessed on September 14, 2018.

Policy Questions:

- Should a major permit be required for the removal of any exceptional tree?
- Should the removal of a significant tree considered hazardous be handled with a minor or a major permit?
- Should there be limits on the number of permitted, significant tree removals allowed per property per year (or some other defined time period)?

Permit and mitigation costs: The proposed regulations will require property owners to obtain a permit for the removal of significant trees and potentially engage the services of a certified arborist. One of the priorities of this proposed legislation is to gather data to better understand the condition of Seattle's urban forest.

The proposed code would allow applicants, depending on their site conditions, zoning and amount of tree removal, to make a payment to the SDCI Tree Replacement Fund, in-lieu of planting trees, to satisfy mitigation requirements. Similar to the mitigation requirements, the current proposal relies upon tree canopy targets per TCMU to determine the in-lieu fee. If Council would like to simplify the system, this fee will need to be adjusted as well.

Policy Questions:

- Should the Committee consider directing SDCI to minimize minor tree removal permit fees and expedite processing of these permits to encourage compliance and improve data collection?
- According to what standards should the value of trees proposed for removal be determined, for both the purposes of required mitigation and for enforcement?
- What factors matter when setting the value of trees, for example: carbon sequestration, shade, stormwater, market costs, maintenance costs, and the age of the tree?

Next steps

Central Staff will continue to develop the proposal, with advice from SDCI and other executive departments, in anticipation of consideration by the Committee in late 2018.

cc: Kirstan Arestad, Central Staff Director
Ketil Freeman, Supervising Analyst