

**PLANNING COMMISSION AGENDA ITEM
CITY OF SHORELINE, WASHINGTON**

AGENDA TITLE:	2021 Development Code Amendments – Part 2 – Tree Amendments		
DEPARTMENT:	Planning & Community Development		
PRESENTED BY:	Steven Szafran, AICP, Senior Planner		
<input type="checkbox"/> Public Hearing	<input checked="" type="checkbox"/> Study Session	<input type="checkbox"/> Recommendation Only	
<input type="checkbox"/> Discussion	<input type="checkbox"/> Update	<input type="checkbox"/> Other	

Introduction

The purpose of this study session is to:

- Review the proposed second batch (Batch #2) of Development Code Amendments related to the regulation of trees (Attachment A).
- Review changes to the amendments since the Commission’s last meeting.
- Respond to questions regarding the proposed development regulations.
- Prepare changes to the proposed amendments based on direction from the Planning Commission.
- Gather public comment.

Amendments to the Development Code (Shoreline Municipal Code Title 20) are processed as legislative decisions. Legislative decisions are non-project decisions made by the City Council under its authority to establish policies and regulations. The Planning Commission is the review authority for these legislative decisions and is responsible for holding a public hearing on proposed Development Code amendments and making a recommendation to the City Council on each amendment.

The proposed Development Code Amendments related to trees were presented to the Commission on October 7, 2021. Due to time constraints, the Commission did not begin its discussion on the amendments that night. To provide interested Commissioners with the opportunity to learn more about the proposed amendments and how they relate to the City’s tree regulations, staff invited the Planning Commissioners to meet in small groups.

It should also be noted that the applicants of the privately initiated amendments have requested to withdraw and amend some of the language in certain amendments. Staff will point out these withdrawals and amendments in the analysis section below.

Staff has evaluated the amendments submitted by the public and have included the applicant’s justification for the amendment, the proposed language as submitted by the

Approved By: **Project Manager** _____ **Planning Director** _____

applicant, staff's recommendation, and in some cases, staff's alternative amendment to the original proposal. Staff has consulted with the City's Arborist and permit reviewers to develop the recommendations and alternative language to the applicant's proposed amendments since the management, protection, replacement, and general health of the City's tree canopy is an important goal of the City Council, Planning Commission, City Staff, and those that live and work in the City.

Background

SMC 20.30.350 states, "An amendment to the Development Code is a mechanism by which the City may bring its land use and development regulations into conformity with the Comprehensive Plan or respond to changing conditions or needs of the City". Development Code amendments may also be necessary to reduce confusion and clarify existing language, respond to regional and local policy changes, update references to other codes, eliminate redundant and inconsistent language, and codify Administrative Orders previously approved by the Director. Regardless of their purpose, all amendments are to implement and be consistent with the Comprehensive Plan.

The decision criteria for a Development Code amendment in SMC 20.30.350(B) states the City Council may approve or approve with modifications a proposal for a change to the text of the land use code when all the following are satisfied:

1. The amendment is in accordance with the Comprehensive Plan; and
2. The amendment will not adversely affect the public health, safety, or general welfare; and
3. The amendment is not contrary to the best interest of the citizens and property owners of the City of Shoreline.

Batch #2 consists of three distinct groups of amendments that have been grouped by topic.

The Planning Commission held a meeting on July 15, 2021 to discuss the miscellaneous amendments in Batch #2

<https://www.shorelinewa.gov/home/showpublisheddocument/52148/6376134899551000>).

The Planning Commission held a meeting on August 5, 2021 to discuss the SEPA amendments in Batch #2

<https://www.shorelinewa.gov/home/showpublisheddocument/52443/637631694072030000>).

The Planning Commission held a meeting on October 7, 2021 to discuss the tree amendments in Batch #2

<https://www.shorelinewa.gov/home/showpublisheddocument/52805/637686046344470000>).

Tonight's discussion is a continuation on the amendments related to the City's tree regulations.

The 2021 Batch Part 2 – Tree Amendments consists of 11 privately-initiated amendments and 1 Director-initiated amendment.

All amendments will be brought back together to the Commission for a Public Hearing and to make a formal recommendation to the Council on Batch Part 2.

Attachment A includes the proposed 2021 Batch Part 2 Tree amendments as originally proposed. Each amendment includes a justification for the amendment, the entire amendment as proposed by the submitter in legislative format, staff's recommendation, and for some amendments, alternative staff proposed language. Because this meeting is a discussion of the amendments, staff has made a preliminary recommendation at this time (these recommendations may change before the public hearing).

Analysis

There have been some updates since Commission first heard these amendments on October 7. These updates include withdrawal of amendments, applicant requested changes to proposed language, and additional research from staff. These changes are described below. Staff has not amended Attachment A to reflect the applicant's requested changes shown below.

Amendment #2 – 20.20.048 Heritage Tree

The applicant has requested to withdraw this amendment.

Amendment #2 – 20.20.048 Insignificant Tree

The applicant has requested to withdraw this amendment.

Amendment #2 – 20.20.48 Significant Tree

Staff has conducted further research on the definition of significant tree from other jurisdictions around the region. **Attachment B** includes the definition of significant tree from ten (10) cities near the City of Shoreline. As you can see from the research, the definition of significant tree varies from 6" diameter at breast height (dbh) for all types of trees to 16". Also, some cities do not regulate certain species of trees even though they may be above the 6" threshold.

Amendment #4 – 20.50.280 Tree Policy

The applicant has requested to withdraw this amendment.

Amendment #6 – 20.50.300 General Requirements

The applicant has requested to amend the proposed language shown below in green text–

- A. Tree cutting or removal by any means is considered a type of clearing and is regulated subject to the limitations and provisions of this subchapter.
- B. All land clearing and site grading shall comply with all standards and requirements adopted by the City of Shoreline. Where a Development Code section or related manual or guide contains a provision that is more restrictive or specific than those detailed in this subchapter, the more restrictive provision shall apply.

C. Permit Required. No person shall conduct clearing or grading activities on a site without first obtaining the appropriate permit approved by the Director, unless specifically exempted by SMC 20.50.310.

D. When clearing or grading is planned in conjunction with development that is not exempt from the provisions of this subchapter, all of the required application materials for approval of tree removal, clearing and rough grading of the site shall accompany the development application to allow concurrent review.

E. A clearing and grading permit may be issued for developed land if the regulated activity is not associated with another development application on the site that requires a permit.

F. Replacement trees planted under the requirements of this subchapter on any parcel in the City of Shoreline shall be regulated as protected trees under SMC 20.50.330(D).

G. Any disturbance to vegetation within critical areas and their corresponding buffers is subject to the procedures and standards contained within the critical areas chapter of the Shoreline Development Code, Chapter 20.80 SMC, Critical Areas, in addition to the standards of this subchapter. The standards which result in the greatest protection of the critical areas shall apply.

H. Best Management Practices. All allowed activities shall be conducted using the best management practices resulting in no damage to the trees and vegetation at the development site. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The City shall require the use of best management practices to ensure that activity does not result in degradation to the trees and vegetation at the development site. Any damage to, or alteration of trees and vegetation to be retained at the development site shall be restored, rehabilitated, or replaced at the responsible party's expense.

I. Unauthorized development site violations: stop work order. When trees and vegetation on a development site have been altered in violation of this subchapter, all ongoing development work shall stop and the area in violation shall be restored. The City shall have the authority to issue a stop work order to cease all development, and order restoration measures at the owner's or other responsible party's expense to remediate the impacts of the violation of the provisions of this subchapter.

J. Requirement for Restoration Plan. All development shall remain stopped until a restoration plan for impacted trees and vegetation is prepared by the responsible party and an approved permit is issued by the City. Such a plan shall be prepared by a qualified professional arborist. The Director of Planning may, at the responsible party's expense, seek expert advice, including but not limited to third party review by a qualified professional under contract with or employed by the City, in determining if the plan meets the performance standards for restoration. Submittal, review, and approval of required restoration plans for remediation of violation(s) to trees and vegetation shall be completed through a site development permit application process.

K. Site Investigation. The Director of Planning is authorized to take such actions as are necessary to enforce this subchapter. The Director shall present proper credentials and obtain permission before entering onto private property.

L. Penalties. Any responsible party violating any of the provisions of this chapter may be subject to any applicable penalties per SMC 20.30.770 plus the following:

1. A square footage cost of \$3.00 per square foot of impacted trees and vegetation at the development site; and a square footage cost of \$15.00 per square foot of impacted vegetation and trees at the development site; and

2. A per tree penalty in the amount of \$3,000 per non-Significant tree; \$9,000 per Significant tree; \$15,000 per Landmark tree; and, \$20,000 per Heritage tree, for trees removed at the development site without appropriate permitting as required and/or in violation of the provisions of this subchapter.

M. Financial guarantee requirements. Bonds and other financial guarantees, and associated performance agreements or maintenance/defect/monitoring agreements, shall be required for projects with required mitigation or restoration of violation to trees and vegetation on a development site consistent with the following:

1. A performance agreement and bond, or other acceptable financial guarantee, are required from the applicant when mitigation required pursuant to a development proposal is not completed prior to final permit approval, such as final plat approval or final building inspection. The amount of the performance bond(s) shall equal 125 percent of the cost of the mitigation project (after City mobilization is calculated).
2. A maintenance/defect/monitoring agreement and bond, or other acceptable financial guarantee, are required to ensure the applicant's compliance with the conditions of the approved mitigation plan pursuant to a development proposal or restoration plan for remediation of a violation to trees and vegetation. The amount of the maintenance bond(s) shall equal 25 percent of the cost of the mitigation project (after City mobilization is calculated) in addition to the cost for monitoring for a minimum of five years. The monitoring portion of the financial guarantee may be reduced in proportion to work successfully completed over the period of the bond. The bonding period shall coincide with the monitoring period.

The applicant states that the remaining language is not new language to the code as it already exists in portions of SMC 20.80 Critical Areas. The applicant is copying language from the critical area portion of the code and applying it to all development sites where trees may be impacted from new development.

Staff generally agrees that language should be added to provide additional protection for regulated trees. Staff is concerned with the language highlighted in blue. Since this proposed language was originally written for the critical areas section of the code, the language includes not only trees but also vegetation. Protection of vegetation is important in the critical areas because vegetation stabilizes slopes and landslide hazard areas and also provides functions for stream and wetland buffers. Vegetation on sites without critical areas should not be regulated the same way. Property owners should have the flexibility to add, remove, or change any vegetation on their site without repercussions. In addition, requiring a maintenance agreement and a mitigation plan for tree replanting on a typically single-family home is extreme.

Amendment #8 – 20.50.350 Development Standards for Clearing Activities

The applicant has requested to amend their original proposal by keeping the language that increases significant tree retention from 20% to 25% but withdrawing the rest of the amendment that proposes incentives for greater tree retention. The amended language is shown below in green text.

- A. No trees or ground cover shall be removed from critical area or buffer unless the proposed activity is consistent with the critical area standards.
- B. Minimum Retention Requirements. All proposed development activities that are not exempt from the provisions of this subchapter shall meet the following:
 1. Using the Tree Retention Incentive Table, At least 25 20 percent of the Ssignificant trees on a given site shall be retained, excluding critical areas, and critical area buffers, or
 2. At least 30 percent of the significant trees on a given site (which may include critical areas and critical area buffers) shall be retained.

<u>Tree Retention Incentive Table</u>	
<u>Retain</u>	<u>Be Granted</u>
<u>25% Significant trees</u>	<u>Expedited permit without additional fees provided in Chapter SMC 3.01; and credit of 25% of City imposed application fees.</u>
<u>30% Significant trees</u>	<u>Expedited permit without additional fees provided in Chapter SMC 3.01; and credit of 30% of City imposed application fees.</u>
<u>35% Significant trees</u>	<u>Expedited permit without additional fees provided in Chapter SMC 3.01; and credit of 35% of City imposed application fees.</u>
<u>40% Significant trees</u>	<u>Expedited permit without additional fees provided in Chapter SMC 3.01; and credit of 40% of City imposed application fees.</u>
<u>45% Significant trees</u>	<u>Expedited permit without additional fees provided in Chapter SMC 3.01; and credit of 45% of City imposed application fees.</u>

3. If the tree retention is above the minimum recommended percentage as set forth above in (2), the Director may consider the following adjustments:

i. Reductions or variations of the area or width of required open space and/or landscaping;

ii. Reduction or partial refund of performance bond premium cost, provided all protection measures are followed and maintained throughout appropriate construction phases;

iii. Variations in parking lot design and/or access requirements;

iv. Variations in building setback requirements;

v. Reductions in the width of certain easements;

vi. Variations of grading and storm water requirements; and/or

vii. Other variations which are proposed and determined to be appropriate and acceptable by the Director, excluding increases or decreases in the amount of required parking.

3. Tree protection measures ensuring the preservation of all trees identified for retention on approved site plans shall be guaranteed during development through the posting of a performance bond equal to the value of the installation and maintenance of those protection measures.

4. The minimum amount of trees to be retained cannot be removed for a period of 36 months and shall be guaranteed through an approved maintenance agreement.

5. The Director may require the retention of additional trees to meet the stated purpose and intent of this title, as required by the critical areas regulations, Chapter 20.80 SMC, or Shoreline Master Program, SMC Title 20, Division II, or as site-specific conditions demand using SEPA substantive authority.

Staff agrees with the applicant's proposed amendments to Amendment #8 in conjunction with the approval of Amendment #9. As staff has stated in the past, most development projects retain over the 20% minimum significant tree retention. This is also true if the significant tree retention was increased to 25%. Staff is comfortable raising the minimum significant tree retention if the Director has the increased flexibility to waive or reduce minimum significant tree retention as proposed in Amendment #9. As previously explained, there are rare times where a homeowner needs to remove a tree that is causing unusual damage to structures or utilities and the tree must be removed.

Next Steps

The schedule for the 2021 Development Code (Part 2) amendments is as follows:

November 18	Planning Commission meeting: Discussion on the 2021 Batch Part 2 of Development Code Amendments – Tree Amendments.
January 2022	Planning Commission Meeting: Public Hearing on the 2021 Batch Part 2 Development Code Amendments.
February 2022	City Council Study Session and Adoption of 2021 Batch Part 2 of Development Code Amendments.

Attachments

Attachment A – Proposed 2021 Batch Part 2 of Development Code Amendments – Tree Amendments

Attachment B – Significant Tree Definitions

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

2021 DEVELOPMENT CODE AMENDMENT BATCH – Tree Amendments

TABLE OF CONTENTS

Number	Section	Topic	Submitted	Recommendation
20.20 – Definitions				
1	20.20.014	1. Critical Root Zone 2. Critical Root Zone, Inner	Johnstone	Approve
2	20.20.048	1. Tree Canopy 2. Tree, Hazardous 3. Tree, Heritage 4. Tree, Landmark 5. Tree, Nonsignificant 6. Tree, Significant	Turner	1. Approve (with staff amendments) 2. Approve (with staff amendments) 3. Deny 4. Approve (with staff amendments) 5. Deny 6. Deny
3	20.20.050	1. Urban Forest 2. Urban Tree Canopy	Johnstone	Approve
20.50 – General Development Standards				
4	20.50.280	Tree Purpose (New Section)	Kaye	Deny
5	20.50.290	Tree Policy	Kaye	Approve (with staff amendments)
6	20.50.300	General Requirements	Russell	Withdraw and bring back
7	20.50.310	Exemptions from Tree Permit	Tree Preservation Code Team	Deny
8	20.50.350	Tree Retention Incentives	Tree Preservation Code Team	Deny
9	Exception 20.50.310(B)(1)	Waiving Tree Retention Requirements	Staff	Approve
10	20.50.360	Tree Fee-In-Lieu	Tree Preservation Code Team	Deny
11	20.50.370	Tree Protection Measures	Hushagen	Approve (with staff amendments)
SMC Amendments				

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

12	13.30.040	Notice for Street Tree Removal	Tree Preservation Code Team	Deny

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

DEVELOPMENT CODE AMENDMENTS

20.20 Amendments

Amendment #1 (Johnstone)

20.20.014 – C definitions

Justification provided by Mr. Johnstone – These new definitions are submitted for consideration to support other amendments by the Tree Preservation Code Team (a private citizen group) are proposing to provide essential tree protection during grading, construction, and maintenance.

The Critical Root Zone (CRZ) is important to a tree because it is where the most critical tree roots are located beneath the ground. Tree roots may be crushed from heavy equipment during construction, they may be smothered, exposed, torn, or cut, or damaged by construction material. The tree trunk and canopy may also be damaged by equipment or construction material. It is necessary to protect the CRZ to prevent inadvertently damaging or killing trees that were to be protected. Because roots extend beyond this zone typically, this definition is already a compromise with development needs; the CRZ must be protected. Encroaching on the CRZ into the ICRZ could cause significant impact to the tree that would be potentially life-threatening and would require maximum post damage treatment to attempt to retain the tree.

Note: The dripline is not the CRZ; the dripline may define an area that is too small for protection of some trees with relatively smaller crowns and, sometimes, newer trees.

Critical Root Zone (CRZ) This means the International Society of Arboriculture (ISA) definition of CRZ as an area equal to one-foot radius from the base of the tree's trunk for each one inch of the tree's diameter at 4.5 feet above grade (referred to as diameter at breast height). Example: A 24-inch diameter tree would have a critical root zone radius (CRZ) of 24 feet. The total protection zone, including trunk, would be 50 feet in diameter. This area is also called the Tree Protection Zone (TPZ). The CRZ area is not synonymous with the dripline.

Critical Root Zone, Inner The ICRZ means an area encircling the base of a tree equal to one-half the diameter of the critical root zone. This area may also be referred to as the interior critical root zone. Disturbance of this area would cause significant impact to the tree, potentially life threatening, and would require maximum post-damage treatment to retain the tree.

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

Staff preliminary recommendation – Staff is recommending adding the two above definitions into the Development Code. Staff currently requires an applicant to provide the CRZ and ICRZ on development plans and staff also verifies this information on a site visit. City staff uses current ISA standards and requires the TPZ during construction which provides protection of the CRZ. The CRZ is established as the area from the trunk to the edge of dripline and no work can occur in this area without the City’s written approval and onsite monitoring by an arborist. Staff does not typically see an area on plans that indicate CRZ and ICRZ, most areas are designated as TPZ on plans. The City does not see this as being a change to current practices being applied by the City.

Amendment #2 (Turner)

20.20.048 – T definitions

Justification (Provided by Applicant) – This new size criteria is in keeping with other cities in our region which have adopted these measurements for their Significant and/or Landmark trees because they are rapidly disappearing due to development. The cities of Redmond, Issaquah, Lake Forest Park and Lynnwood have defined six inches at diameter breast height (dbh) for their Significant trees. (It should be noted that at least two of these cities require a removal permit for these trees). Lake Forest Park and Maple Valley define Landmark trees at 24” dbh. These changes in size criteria reflect a growing acknowledgment of the vital work of trees (conifers, in particular) amidst regional concern about loss of suburban tall tree canopy.

There are urgent and compelling reasons to change the measurement criteria for Significant and Landmark trees. Most importantly, it brings more of Shoreline’s tall trees into protection. Per recommendations in the “Climate Impacts & Resiliency Study” commissioned by the City of Shoreline in June 2020, the retention of large, mature trees will increase climate resiliency. Mature trees do the work of supporting wildlife habitat, improving air and water quality, retaining carbon and mitigating stormwater runoff and urban heat island effects that are increasing in Shoreline.

The addition of Heritage Tree is needed to distinguish it from the other defined tree types. Heritage trees are exceptional examples of their species, some of which are threatened in our area. They are not only unique but are a vital part of the City’s urban tree canopy. The intent of this new definition addition is to begin the process of increasing public awareness of Heritage trees located in the City by providing the necessary protections to help preserve these trees for future generations.

Other regional cities have recognized the special importance of these exceptional trees and have adopted “Heritage” (or similar wording) tree definitions. This includes Portland, Seattle, City of Bainbridge Island and Lake Forest Park. In fact, the City spoke of the need for such a program in its “City of Shoreline Urban Forest Strategic Plan,” May 2014, stating “. . . Consider developing a Heritage Tree Program to raise awareness of the significant trees in the community.”

Tree ~~The total area of the tree or trees where the leaves and outermost branches extend,~~
Canopy also known as the “dripline.” The uppermost layer of the tree or group of trees,
 formed by the leaves and branches of dominant tree crowns.

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

Tree, Hazardous A tree that is either dead, permanently damaged and/or is continuing in declining health or is so affected by a significant structural defect or disease that falling or failure appears imminent, or a tree that impedes safe vision or traffic flow, or that otherwise currently poses a threat to life or property.

Tree, Heritage Any viable tree that is worthy of long-term protection due to a unique combination of size, aesthetic quality for its species, cultural/historic or ecological importance, age, location. To qualify, this tree must be nominated, and risk assessed with a final approval by the Urban Forestry Advisory Panel (UFAP) (to be established). It may not be removed unless recommended by a qualified arborist for reasons pertaining to hazard or death and approved by the UFAP. Heritage native tree species threshold, diameter at breast height (dbh), including but not limited to the following:

Bigleaf Maple, *Acer macrophyllum* 42"

Douglas Fir, *Pseudotsuga menziesii* 42"

Western Red Cedar, *Thuja plicata* 42"

Pacific Madrone, *Arbutus menziesii* 12"

Grand Fir, *Abies grandis* 30"

Western Hemlock, *Tsuga heterophylla* 30"

Western White Pine, *Pinus monticola* 36"

Sitka Spruce, *Picea sitchensis* 30"

Pacific Dogwood, *Cornus nuttallii* 12"

Pacific Yew, *Taxus brevifolia* 20"

Tree, Landmark Any ~~healthy~~ viable significant tree over ~~24~~ 30 inches in diameter at breast height (dbh). ~~A permit is required for removal. or any tree that is particularly impressive or unusual due to its size, shape, age, historical significant or any other trait that epitomizes the character of the species, or that is an regional erratic.~~

Tree, Nonsignificant Any tree under six inches diameter at breast height (dbh).

Tree, Significant Any viable tree ~~six~~ six inches or greater in diameter at breast height (dbh) if it is a conifer and ~~ten~~ ten inches or greater in diameter at breast height if it is a nonconifer excluding those trees that qualify for complete exemptions from

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

Chapter 20.50 SMC, Subchapter 5, Tree Conservation, Land Clearing, and Site Grading Standards, under SMC 20.50.310(A).

Staff Preliminary Recommendation – Staff generally agrees with the proposed revision to the definition but is concerned with removing the language that references the total area of trees. The City conducts a Tree Canopy Assessment (<https://www.shorelinewa.gov/home/showdocument?id=39386>) that measures the citywide tree canopy area and staff believes the definition of Tree Canopy should include the total area of trees to be consistent with report. Staff recommends the following amendment to the original amendment (blue highlight represents staff recommend changes to the original amendment):

Tree Canopy The total area of the tree or trees where the leaves and outermost branches extend, also known as the “dripline.” The uppermost layer of the tree or group of trees, are formed by the leaves and branches of dominant tree crowns.

Staff Preliminary Recommendation – Staff does not support the addition of a definition of Heritage Tree. Adding a definition for Heritage Tree has the potential to change land use policy throughout the City and will most likely necessitate additional study and future Development Code amendments. For example, if a Heritage Tree is located on a commercially zoned lot, will the tree need to be protected? Other questions include what are the replacement requirements for Heritage Trees and how will Heritage Trees be documented and tracked into the future?

Staff believes taking the first sentence of the proposed definition below and adding it to the existing definition of Landmark Tree is appropriate and will strengthen the existing language in that definition.

Tree, Heritage Any viable tree that is worthy of long-term protection due to a unique combination of size, aesthetic quality for its species, cultural/historic or ecological importance, age, location. To qualify, this tree must be nominated, and risk assessed with a final approval by the Urban Forestry Advisory Panel (UFAP) (to be established). It may not be removed unless recommended by a qualified arborist for reasons pertaining to hazard or death and approved by the UFAP. Heritage native tree species threshold, diameter at breast height (dbh), including but not limited to the following:

Bigleaf Maple, *Acer macrophyllum* 42”

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Att. A - 2021 Development Code Amendment Batch - Tree Amendments

Western White Pine, *Pinus monticola* 36"

Sitka Spruce, *Picea sitchensis* 30"

Pacific Dogwood, *Cornus nuttallii* 12"

Pacific Yew, *Taxus brevifolia* 20"

Staff Preliminary Recommendation – Staff does not support the proposed changes to the definition of Landmark Tree. Arborists are familiar with the term healthy when referring to trees and not viable. Also, the City does not define the term viable. Staff does not support lowering the diameter of a Landmark Tree from 30" to 24". Industry standards for a Landmark Tree is 30" and a query of jurisdictions in the region use 30" as the standard for a Landmark Tree.

Staff does recommend adding language proposed in Heritage Tree into this definition as follows:

Tree, Any healthy tree over 30 inches in diameter at breast height **that is worthy of long-term protection due to a unique combination of size, aesthetic quality for its species, cultural/historic or ecological importance, age, location**, or any tree that is particularly impressive or unusual due to its size, shape, age, historically significant or any other trait that epitomizes the character of the species, or that is an regional erratic.

Staff Preliminary Recommendation – Staff does not support adding the proposed definition of Nonsignificant Tree. Including the proposed definition increases the number of trees subject to permitting requirements. This means an increase in the number of permits for removal and an increase in the number of replacement trees provided. In addition, most all the jurisdictions researched define significant trees as 8" dbh for conifers and 12" dbh for non-conifers.

Tree, Nonsignificant Any tree under six inches diameter at breast height (dbh).

Staff Preliminary Recommendation – Staff does not support amending the definition of Significant Tree. Staff cites the same reasoning as above for the proposed amendment to reduce the diameter size for significant trees. The proposed definition increases the number of trees subject to permitting requirements. This means an increase in the number of permits for removal and an increase in the number of replacement trees provided. In addition, most all the jurisdictions researched define significant trees as 8" dbh for conifers and 12" dbh for non-conifers.

Tree, Any viable tree ~~six eight~~ inches or greater in diameter at breast height (dbh) if it is Significant a conifer and ~~ten~~ 42 inches or greater in diameter at breast height if it is a nonconifer excluding those trees that qualify for complete exemptions from

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

Chapter 20.50 SMC, Subchapter 5, Tree Conservation, Land Clearing, and Site Grading Standards, under SMC 20.50.310(A).

Amendment #3 (Johnstone)

20.20.050 – U definitions

Justification – With its commitment to environmental sustainability, the City of Shoreline began measuring and analyzing the city’s tree canopy in 2009 and created the Urban Forest Strategic Plan in 2014. This commitment needs to be strengthened, particularly regarding the trees. All the trees of the urban forest together make an essential contribution to environmental sustainability including clean air, stormwater management, comfortable temperatures, habitat biodiversity, social well-being and the trees’ intrinsic worth that cannot be figured into any cost-benefit analysis. Defining Urban Forest and present Urban Tree Canopy in the code will support other code to take care of the urban forest. Otherwise, the policies and codes address what will happen to trees only on a parcel-by-parcel basis or on a right-of-way or in a park. Citizens have commented repeatedly at City Council and Tree Board meetings that operating with only the current code is not sustainable, we need to protect the urban forest. These definitions will support code to further the commitment that Shoreline has made to the environment and specifically to the urban forest.

Urban Forest All trees within the city limits and the various ecosystem components that accompany these trees (soils, understory flora, diverse species, and habitats) under any public or private ownership and land use type, developed or undeveloped. This includes public parks, city streets, private yards and shared residential spaces, community spaces (such as libraries) and commercial and government property.

Urban Tree Canopy From an aerial view during summer, the percentage of ground that is obscured from view by trees.

Staff Preliminary Recommendation – Staff supports adding the two proposed definitions for Urban Forest and Urban Tree Canopy. The proposed definitions are consistent with Council’s adopted 2014 Urban Forest Strategic Plan (<http://cosweb.ci.shoreline.wa.us/uploads/attachments/par/urban%20forestry/2014UFSP.pdf>) and the Citywide Tree Canopy Assessment.

20.50 Amendments

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

Amendment #4 (Kathy Kave)

20.50.280 – Tree purpose

Justification (From the Applicant) – The purpose of this amendment proposal is to broaden and strengthen language within Shoreline Municipal Code to better protect and preserve our community’s tall trees and urban forest canopy. Preserving Shoreline’s mature trees will help meet—and mitigate—challenges associated with a changing environment. We also propose a new section to Subchapter 5, SMC 20.50.280 Purpose, which describes the function and benefits of trees for the citizens of Shoreline.

The City recognizes the importance of trees and its urban forest canopy, as referenced in its many policies, procedures and publications, including its ordinances and codes, the 2014 Urban Forest Strategic Plan, the 2019 Sustainability Report, the 2020 Climate Impacts and Resiliency Study, The Comprehensive Plan, and in its alliance with state and county initiatives (1990 State of Washington Growth Management Plan, King County-Cities Climate Collaboration—K4C—and the King County 2020 Climate Action Plan).

New SMC 20.50.280 Purpose recognizes the benefits of trees, while amendments to SMC 20.50.290 Purpose Policy reflect the importance and necessity of maintaining, preserving, and protecting existing mature trees given our ever-warming climate. Climate change is real and is accelerating at a rapid pace (climate.nasa.gov). The City acknowledges as much in Element 6: Natural Environment of The Comprehensive Plan, Policy NE 39:

“Support and implement the Mayor’s Climate Protection Agreement, climate pledges and commitments undertaken by the City, and other multi-jurisdictional efforts to reduce greenhouse gases, address climate change (italics are the City’s), sea-level rise, ocean acidification, and other impacts of changing of global conditions.”

Additionally, in his letter “On the Mayor’s Mind: The Forest and the Trees,” Mayor Will Hall stated that “We love our trees in Shoreline. Trees provide all kinds of benefits for climate, air quality, and birds, and they make Shoreline a beautiful city. That’s why we have a goal to maintain and increase our tree canopy.” (His comments appeared in the October 29, 2020 Shoreline Area News.)

To support and strengthen City initiatives, goals and policies regarding trees and the environment, we propose the following new SMC 20.50.280 Purpose along with amendments to SMC 20.50.290 Purpose Policy.

Subchapter 5.

Tree Purpose, Tree Conservation, Land Clearing and Site Grading Standards

20.50.280 Purpose.

Protecting the natural environment, including the community’s existing mature trees, is a responsibility of City government. Shoreline’s trees provide a variety of benefits for residents that include the following:

A. Enriching and stabilizing the soil, and mitigating the effects of soil erosion, especially on bluffs and steep slopes that are common landscape features in Shoreline;

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

- B. Providing habitat for birds and other wildlife, and protecting biodiversity;
- C. Lowering ambient temperature through their tree canopy;
- D. Storing carbon dioxide and releasing oxygen, thus helping reduce air pollution;
- E. Mitigating noise and wind;
- F. Providing respite and a calming environment to human beings;
- G. Improving water quality;
- H. Mitigating stormwater runoff;
- I. Providing a valuable asset to the community;
- J. Enhancing the economic value of developments.

Staff Preliminary Recommendation – Staff recommends this amendment be denied as written. Staff believes this amendment is duplicative of SMC 20.50.290 which is currently the tree policy section of the Development Code. Staff recommends including some of the items in A through J above and adding them into SMC 20.50.290 to further clarify and strengthen the language in that section.

Amendment #5 (Kaye) **20.50.290 – Purpose**

Justification – Justification was provided in Amendment #4 above.

~~The purpose of this subchapter~~ The City's policy is to reduce the environmental impacts of site development while promoting the reasonable use of land in the City by addressing the following:

- A. Prevention of damage to property, harm to persons, and environmental impacts caused by excavations, fills, and the destabilization of soils;
- B. Protection of water quality from the adverse impacts associated with erosion and sedimentation;
- C. Promotion of building and site planning practices that are consistent with the City's natural topography and vegetative cover.
- D. Preservation and enhancement of trees and vegetation which contribute to the visual quality and economic value of development in the City and provide continuity and screening between developments. Preserving and protecting viable existing trees and the mature tree canopy shall be encouraged instead of removal and replacement;
- E. Protection of critical areas from the impacts of clearing and grading activities;

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

F. Conservation and restoration of trees and vegetative cover to reduce flooding, the impacts on existing drainageways, and the need for additional stormwater management facilities;

G. Protection of anadromous fish and other native animal and plant species through performance-based regulation of clearing and grading;

H. Retain tree clusters for the abatement of noise, wind protection, and mitigation of air pollution.

I. Rewarding significant tree protection efforts by property owners and developers by granting flexibility for certain other development requirements;

J. Providing measures to protect trees that may be impacted during construction;

K. Promotion of prompt development, effective erosion control, and restoration of property following site development; and

L. Replacement of trees removed during site development in order to achieve a goal of no net loss of tree cover throughout the City over time.

Staff Preliminary Recommendation – *Staff recommends partial approval of the proposed amendment as proposed. The staff proposed amendments (shown in blue) to the original amendment clarifies the purpose of the tree code and strengthens the language of trees and Shoreline’s commitment of protecting and maintaining trees. Staff has added suggested language shown in Amendment 4 above to strengthen this section. Staff does not support the proposed language shown in red. Staff provides a justification for each suggestion below -*

20.50.290 – ~~Policy~~ Purpose

Staff does not recommend changing the title of the section to Policy since the Development Code is not a policy document, it is a set of regulations.

~~The purpose of this subchapter~~ The City’s policy is to reduce environmental impacts including impacts on existing significant and landmark trees ~~of~~ during site development while promoting the reasonable use of land in the City by addressing the following:

Staff recommends keeping the original purpose statement since the Development Code is a set of regulations and not a policy document. Staff recommends adding language regarding significant and landmark trees.

A. Prevention of damage to property, harm to persons, and environmental impacts caused by excavations, fills, and the destabilization of soils;

B. Protection of water quality from the adverse impacts associated with erosion and sedimentation;

C. Promotion of building and site planning practices that are consistent with the City’s natural topography and vegetative cover.

D. Preservation and enhancement of trees and vegetation which contribute to the visual quality and economic value of development; provide habitat for birds and other wildlife; protect

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

biodiversity; lower ambient temperatures; and store carbon dioxide and releasing oxygen, thus helping reduce air pollution in the City and provide continuity and screening between developments. Preserving and protecting viable healthy significant existing trees and the urban mature tree canopy shall be encouraged instead of removal and replacement;

Staff recommends including the above language that was originally proposed in Amendment #4 to strengthen the preservation and enhancement of tree language.

- E. Protection of critical areas from the impacts of clearing and grading activities;
- F. Conservation and restoration of trees and vegetative cover to reduce flooding, the impacts on existing drainageways, and the need for additional stormwater management facilities;
- G. Protection of anadromous fish and other native animal and plant species through performance-based regulation of clearing and grading;
- H. Retain tree clusters for the abatement of noise, wind protection, and mitigation of air pollution.
- I. Rewarding significant tree protection efforts by property owners and developers by granting flexibility for certain other development requirements;

Staff recommends the language proposed by the applicant.

- J. Providing measures to protect trees that may be impacted during construction;
- K. Promotion of prompt development, effective erosion control, and restoration of property following site development; and
- L. Replacement of trees removed during site development in order to achieve a goal of no net loss of tree cover throughout the City over time.

Amendment #6 (Kathleen Russell) **20.50.300 – General Requirements**

Justification (Provided by the Applicant) – These proposed new code amendments are submitted for consideration to ensure that trees and vegetation on development sites will be legally protected from sustaining injury or destruction during clearing and grading activity. If there is a lack of appropriate protection, causing injury or destruction to trees and vegetation on development sites, these proposed amendments will guarantee remedy and confirm who is liable for the negligence and/or destruction.

There is substantial protection of trees and vegetation on critical areas as stated in Shoreline Municipal Code Critical Areas 20.80, but a startling lack of enforcement for the protection of trees and vegetation on noncritical development sites. It is stated in the Comprehensive Plan, Element 6, Natural Environment, “Native vegetation, which in residential areas that may be subdivided or otherwise more intensely developed is at the greatest risk of being lost.”

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

In principle, the omission of enforcement regarding injury or damage to trees and vegetation on non-critical site areas, is biased and exclusionary. Protective language should be added to Shoreline Municipal Code to protect all trees and vegetation, since trees and vegetation at development sites are “at the greatest risk of being lost”.

In brief, when the City approves construction on a development site, the City is then responsible for the safety and protection of trees and vegetation on the development site. Either the City or the owner or the contractor, as responsible party, must be held accountable. It follows that the responsibility for the viability of trees and vegetation established for retention at the development site be passed from the City to the owner or contractor, as responsible party, while the City maintains the enforcement of regulations.

- A. Tree cutting or removal by any means is considered a type of clearing and is regulated subject to the limitations and provisions of this subchapter.
- B. All land clearing and site grading shall comply with all standards and requirements adopted by the City of Shoreline. Where a Development Code section or related manual or guide contains a provision that is more restrictive or specific than those detailed in this subchapter, the more restrictive provision shall apply.
- C. Permit Required. No person shall conduct clearing or grading activities on a site without first obtaining the appropriate permit approved by the Director, unless specifically exempted by SMC 20.50.310.
- D. When clearing or grading is planned in conjunction with development that is not exempt from the provisions of this subchapter, all of the required application materials for approval of tree removal, clearing and rough grading of the site shall accompany the development application to allow concurrent review.
- E. A clearing and grading permit may be issued for developed land if the regulated activity is not associated with another development application on the site that requires a permit.
- F. Replacement trees planted under the requirements of this subchapter on any parcel in the City of Shoreline shall be regulated as protected trees under SMC 20.50.330(D).
- G. Any disturbance to vegetation within critical areas and their corresponding buffers is subject to the procedures and standards contained within the critical areas chapter of the Shoreline Development Code, Chapter 20.80 SMC, Critical Areas, in addition to the standards of this subchapter. The standards which result in the greatest protection of the critical areas shall apply.
- H. Best Management Practices. All allowed activities shall be conducted using the best management practices resulting in no damage to the trees and vegetation at the development site. Best management practices shall be used for tree and vegetation protection, construction management, erosion and sedimentation control, water quality protection, and regulation of chemical applications. The City shall require the use of best management practices to ensure that activity does not result in degradation to the trees and vegetation at the development site. Any damage to, or alteration of trees and vegetation to be retained at the development site shall be restored, rehabilitated, or replaced at the responsible party’s expense.

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

I. Unauthorized development site violations: stop work order. When trees and vegetation on a development site have been altered in violation of this subchapter, all ongoing development work shall stop and the area in violation shall be restored. The City shall have the authority to issue a stop work order to cease all development, and order restoration measures at the owner's or other responsible party's expense to remediate the impacts of the violation of the provisions of this subchapter.

J. Requirement for Restoration Plan. All development shall remain stopped until a restoration plan for impacted trees and vegetation is prepared by the responsible party and an approved permit is issued by the City. Such a plan shall be prepared by a qualified professional arborist. The Director of Planning may, at the responsible party's expense, seek expert advice, including but not limited to third party review by a qualified professional under contract with or employed by the City, in determining if the plan meets the performance standards for restoration. Submittal, review, and approval of required restoration plans for remediation of violation(s) to trees and vegetation shall be completed through a site development permit application process.

K. Site Investigation. The Director of Planning is authorized to take such actions as are necessary to enforce this subchapter. The Director shall present proper credentials and obtain permission before entering onto private property.

L. Penalties. Any responsible party violating any of the provisions of this chapter may be subject to any applicable penalties per SMC 20.30.770 plus the following:

1. A square footage cost of \$3.00 per square foot of impacted trees and vegetation at the development site; and a square footage cost of \$15.00 per square foot of impacted vegetation and trees at the development site; and
2. A per tree penalty in the amount of \$3,000 per non-Significant tree; \$9,000 per Significant tree; \$15,000 per Landmark tree; and, \$20,000 per Heritage tree, for trees removed at the development site without appropriate permitting as required and/or in violation of the provisions of this subchapter.

M. Financial guarantee requirements. Bonds and other financial guarantees, and associated performance agreements or maintenance/defect/monitoring agreements, shall be required for projects with required mitigation or restoration of violation to trees and vegetation on a development site consistent with the following:

1. A performance agreement and bond, or other acceptable financial guarantee, are required from the applicant when mitigation required pursuant to a development proposal is not completed prior to final permit approval, such as final plat approval or final building inspection. The amount of the performance bond(s) shall equal 125 percent of the cost of the mitigation project (after City mobilization is calculated).
2. A maintenance/defect/monitoring agreement and bond, or other acceptable financial guarantee, are required to ensure the applicant's compliance with the conditions of the approved mitigation plan pursuant to a development proposal or restoration plan for remediation of a violation to trees and vegetation. The amount of the maintenance bond(s) shall equal 25 percent of the cost of the mitigation project (after City mobilization is calculated) in addition to the cost for monitoring for a minimum of five years. The monitoring portion of the financial guarantee may be reduced in proportion to

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

work successfully completed over the period of the bond. The bonding period shall coincide with the monitoring period.

Staff Preliminary Recommendation – Staff recommends this amendment be withdrawn from Batch #2 and brought back later. The proposed amendment will require input, review and analysis from multiple city departments including Administrative Services, the Community Response Team, and the City Attorney’s Office. This level of review will take more time than this current batch will allow, and staff believes this amendment should not be rushed since there are many details that need to be worked out before the City can put the proposed measures into action. Staff is recommending this amendment be withdrawn and brought back with a future batch of amendments.

Amendment #7 (Tree Preservation Code Team)

20.50.310 – Exemptions from permit

Justification (Provided by the Applicant) – This revision to the existing code is to preserve, protect and maintain Shoreline’s urban tree canopy on all private properties where the majority percentage of its urban tree canopy is found. Larger properties of over an acre have more trees than average-sized single-family lots. Some of these tracts of land have long, wide belts of contiguous tree canopy coverage which undoubtedly provide habitat for our urban wildlife and havens for biodiversity. These extensive tree canopies are effective wind blocks, have enormous storage capacity of stormwater runoff, stabilize slopes and soil, and according to the U.S. Dept. of Agriculture, one acre of forest absorbs six tons of carbon dioxide and produces four tons of oxygen per year.

Preservation of these tracts of treed land is part of the sustainability of the environment in general and specifically for Shoreline residents. Revising this section of the Shoreline Municipal Code will send this message that it values and protects our natural urban tree canopy.

Protection and preservation of these properties will help ensure that there is no net loss of our tree canopy. Despite plantings of new trees to counter the removal of mature trees, there remains the effectiveness of a new tree versus a mature tree. The City should not only be replacing removed or lost trees, but it should also be combining replacement with the preservation of its mature trees. The two goals combined will produce no net loss as well as guarantee that Shoreline’s beloved tall tree skyline and other natural blessings will continue for future generations.

B. Partial Exemptions. With the exception of the general requirements listed in SMC 20.50.300, the following are exempt from the provisions of this subchapter, provided the development activity does not occur in a critical area or critical area buffer. For those exemptions that refer to size or number, the thresholds are cumulative during a 36-month period for any given parcel:

1. The removal of three Ssignificant trees on lots up to 7,200 square feet and one additional Ssignificant tree for every additional 7,200 square feet of lot area up to one acre and as follows:

<u>Maximum Number of Trees Exempted</u>

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

<u>Less than 7,200 sq ft</u>	<u>3 trees</u>
<u>7,201 sq ft to 14,400 sq ft</u>	<u>4 trees</u>
<u>14,401 sq ft to 21,600 sq ft</u>	<u>5 trees</u>
<u>21,601 sq ft to 28,800 sq ft</u>	<u>6 trees</u>
<u>28,801 sq ft to 36,000 sq ft</u>	<u>7 trees</u>
<u>36,001 sq ft to 43,560 sq ft</u>	<u>8 trees</u>
<u>Maximum Number of Trees Exempted on One Acre to Twenty-Five Acres</u>	
<u>1 acre + 1 sq ft (43,561 sq ft) to 2 acres</u>	<u>9 trees</u>
<u>2 acres + 1 sq ft to 5 acres</u>	<u>10 trees</u>
<u>5 acres + 1 sq ft to 10 acres</u>	<u>20 trees</u>
<u>10 acres + 1 sq ft to 15 acres</u>	<u>30 trees</u>
<u>15 acres + 1 sq ft to 20 acres</u>	<u>40 trees</u>
<u>20 acres + 1 sq ft to 25 acres</u>	<u>50 trees</u>

Maximum removal of trees on all private properties more than 25 acres is 50 trees every 36 months.

2. The removal of any tree greater than 24 30 inches DBH or exceeding the numbers of trees specified in the table above, shall require a clearing and grading permit (SMC 20.50.320 through 20.50.370).
3. Landscape maintenance and alterations on any property that involve the clearing of less than 3,000 square feet, or less than 1,500 square feet if located in a special drainage area, provided the tree removal threshold listed above is not exceeded.

Staff Preliminary Recommendation – *Staff recommends that this proposed amendment be denied. The subject Development Code section was previously amended in January 2019 under Ordinance 850. The Planning Commission and Council agreed with staff that tree removal should be equitable among all properties in Shoreline. That amendment proposed to extend the same exemption ratio of tree to property area beyond the current 21,781 square foot (1/2 acre) cap to be equitable toward property owners that have larger parcels. The proposed amendment shown above artificially limits tree removal on properties larger than one acre where the current regulations allow one additional significant tree to be removed for every 7,200 square feet of lot area.*

The current regulations are equitable for all property owners whereas the proposed regulations are more restrictive for property owners with larger lots.

Amendment #8 (Tree Preservation Code Team)
20.50.350 – Development standards for clearing activities

Justification (Provided by the Applicant) – To meet the near future growth needs of the City, there must be a balance between development and the natural assets of the City through the thoughtful creation and implementation of balanced code regulations. Development is going to continue in Shoreline for decades. Therefore, it is imperative that a balance between the loss of existing citywide tree canopy and the proposed new developments in the City become a City

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

priority. By using a graduated higher tree retention rate as proposed and providing optional incentives and adjustments, all Shoreline property owners can work with the City to achieve a necessary balance.

A. No trees or ground cover shall be removed from critical area or buffer unless the proposed activity is consistent with the critical area standards.

B. Minimum Retention Requirements. All proposed development activities that are not exempt from the provisions of this subchapter shall meet the following:

1. Using the Tree Retention Incentive Table, At least 25 20 percent of the Ssignificant trees on a given site shall be retained, excluding critical areas, and critical area buffers, or
2. At least 30 percent of the significant trees on a given site (which may include critical areas and critical area buffers) shall be retained.

<u>Tree Retention Incentive Table</u>	
<u>Retain</u>	<u>Be Granted</u>
<u>25% Significant trees</u>	<u>Expedited permit without additional fees provided in Chapter SMC 3.01; and credit of 25% of City imposed application fees.</u>
<u>30% Significant trees</u>	<u>Expedited permit without additional fees provided in Chapter SMC 3.01; and credit of 30% of City imposed application fees.</u>
<u>35% Significant trees</u>	<u>Expedited permit without additional fees provided in Chapter SMC 3.01; and credit of 35% of City imposed application fees.</u>
<u>40% Significant trees</u>	<u>Expedited permit without additional fees provided in Chapter SMC 3.01; and credit of 40% of City imposed application fees.</u>
<u>45% Significant trees</u>	<u>Expedited permit without additional fees provided in Chapter SMC 3.01; and credit of 45% of City imposed application fees.</u>

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

3. If the tree retention is above the minimum recommended percentage as set forth above in (2), the Director may consider the following adjustments:

i. Reductions or variations of the area or width of required open space and/or landscaping;

ii. Reduction or partial refund of performance bond premium cost, provided all protection measures are followed and maintained throughout appropriate construction phases;

iii. Variations in parking lot design and/or access requirements;

iv. Variations in building setback requirements;

v. Reductions in the width of certain easements;

vi. Variations of grading and storm water requirements; and/or

vii. Other variations which are proposed and determined to be appropriate and acceptable by the Director, excluding increases or decreases in the amount of required parking.

4.3. Tree protection measures ensuring the preservation of all trees identified for retention on approved site plans shall be guaranteed during development through the posting of a performance bond equal to the value of the installation and maintenance of those protection measures.

5.4. The minimum amount of trees to be retained cannot be removed for a period of 36 months and shall be guaranteed through an approved maintenance agreement.

6.5. The Director may require the retention of additional trees to meet the stated purpose and intent of this title, as required by the critical areas regulations, Chapter 20.80 SMC, or Shoreline Master Program, SMC Title 20, Division II, or as site-specific conditions demand using SEPA substantive authority.

Staff Preliminary Recommendation – Staff recommends denial of this amendment. Staff is concerned about providing incentives that use expedited permitting and reduced fees. As proposed, all development that is not exempt from the provisions of SMC Title 20 Chapter 50 Subchapter 5 Tree Conservation, Land Clearing and Site Grading Standards would be required to retain 25% of the significant trees on site and therefore eligible for expedited permitting and a 25% reduction in fees. The City does not have the staffing resources (including full time employees and on call consultants) to support expedited review for all the permits that would potentially qualify for the proposed incentives. Expedited permitting is only available when staff has the capacity in their workload and most of the time, that time is not available. Staff has looked at several recent permits that included tree removal and most of those projects are retaining over the 25% retention proposed in the incentive table. What this means is the applicant will qualify for both proposed incentives of expedited permitting and reduced permit

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

fees when the applicant would have saved the trees anyways. This puts an additional strain on staff workload and budget when it's not necessary.

This amendment also requires input and analysis from multiple city departments including Public Works and Administrative Services. This is especially true when some of the proposed incentives will modify access and parking, easements, and stormwater requirements.

Staff is not opposed to providing incentives for increased significant tree retention, but staff will need to build this project into the department's workplan. If Commission and Council want these amendments studied in the future, Council could direct staff to develop a work plan for these amendments.

Amendment #9 (City Staff)

Exception 20.50.350(B)(1) – Significant Tree Retention

Justification – This is a staff proposed amendment to allow the Director to waive or reduce the minimum significant tree retention percentage to facilitate several other priorities such as preservation of a greater number of smaller trees, landmark trees, recommendations by a certified arborist, perimeter buffers, or other tree preservation goals.

Exception 20.50.350(B):

1. The Director may ~~allow a waive or reduction~~, in the minimum significant tree retention percentage to facilitate preservation of a greater number of smaller trees, a cluster or grove of trees, contiguous perimeter buffers, distinctive skyline features, or based on the City's concurrence with a written recommendation of an arborist certified by the International Society of Arboriculture or by the American Society of Consulting Arborists as a registered consulting arborist that retention of the minimum percentage of trees is not advisable on an individual site; or

2. In addition, the Director may allow a reduction in the minimum significant tree retention percentage if all of the following criteria are satisfied: The exception is necessary because:

- *There are special circumstances related to the size, shape, topography, location or surroundings of the subject property.*
- *Strict compliance with the provisions of this Code may jeopardize reasonable use of property.*
- *Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.*
- *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. If an exception is granted to this standard, the applicant shall still be required to meet the basic tree replacement standards identified in SMC 20.50.360 for all significant trees removed beyond the minimum allowed per parcel without replacement and up to the maximum that would ordinarily be allowed under SMC 20.50.350(B).

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

Staff Preliminary Recommendation – Staff recommends that this proposed amendment be approved to further greater tree preservation based on public input, public policy, and recommendations by a certified arborist.

Amendment #10 (Tree Preservation Code Team)

Exception 20.50.360 – Tree replacement and site restoration

Justification – The Tree Preservation Code Team recommends Exception SMC 20.50.360(C)(b) be revised and simplified to state that the property owner or developer can replace the trees on-site or pay the fee-in-lieu of tree replacement to the dedicated tree fund if trees cannot be replaced on-site. This revision guarantees that when there is a tree replacement decision to be made there is a fair basis for the property owner or the developer/owner.

The current code states that the Director may allow a “reduction in the minimum replacement trees required” which means tree replacement relies solely on the decision of the Director rather than a fair and equitable code regarding the replacement of trees. The public’s perception is that the Director has the discretionary option to waive the minimum number of trees to be replaced.

In addition, sub-items “i”, “ii”, “iii”, and “iv” of Exception 20.50.360(C)(b) are eliminated since these sub-items would be irrelevant and burdensome to the property owner or the developer/owner and are unnecessary to the proposed code amendment.

Furthermore, the current code, as revised on 12/7/20, does not guarantee replacement trees or fee-in-lieu to ensure “net zero loss” of Shoreline’s tree canopy, a stated goal by the City Council.

20.50.360 Tree replacement and site restoration.

A. Plans Required. Prior to any tree removal, the applicant shall demonstrate through a clearing and grading plan, tree retention and planting plan, landscape plan, critical area report, mitigation or restoration plans, or other plans acceptable to the Director that tree replacement will meet the minimum standards of this section. Plans shall be prepared by a qualified person or persons at the applicant’s expense. Third party review of plans, if required, shall be at the applicant’s expense.

B. The City may require the applicant to relocate or replace trees, shrubs, and ground covers, provide erosion control methods, hydroseed exposed slopes, or otherwise protect and restore the site as determined by the Director.

C. Replacement Required. Trees removed under the partial exemption in SMC 20.50.310(B)(1) may be removed per parcel with no replacement of trees required. Any significant tree proposed for removal beyond this limit should be replaced as follows:

1. One existing significant tree of eight inches in diameter at breast height for conifers or 12 inches in diameter at breast height for all others equals one new tree.
2. Each additional three inches in diameter at breast height equals one additional new tree, up to three trees per significant tree removed.
3. Minimum size requirements for replacement trees under this provision: Deciduous trees shall be at least 1.5 inches in caliper and evergreens six feet in height.

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

Exception 20.50.360(C):

a. No tree replacement is required when the tree is proposed for relocation to another suitable planting site; provided, that relocation complies with the standards of this section.

b. To the extent feasible, all replacement trees shall be replaced on-site. When an applicant demonstrates that the project site cannot feasibly accommodate all of the required replacement trees on-site, the Director may allow the payment of a fee in lieu of tree replacement at the rate set forth in SMC 3.01 Fee Schedule, ~~for replacement trees or a combination of reduction in the minimum number of replacement trees required and payment of the fee in lieu of replacement at the rate set forth in SMC 3.01 Fee Schedule if all of the following criteria are satisfied:~~

~~i. There are special circumstances related to the size, shape, topography, location or surroundings of the subject property~~

~~ii. Strict compliance with the provisions of this Code may jeopardize reasonable use of property.~~

~~iii. Proposed vegetation removal, replacement, and any mitigation measures are consistent with the purpose and intent of the regulations.~~

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

c. The Director may waive this provision for site restoration or enhancement projects conducted under an approved vegetation management plan.

d. Replacement of significant tree(s) approved for removal pursuant to Exception SMC 20.50.350(B)(5) is not required.

4. Replacement trees required for the Lynnwood Link Extension project shall be native conifer and deciduous trees proportional to the number and type of trees removed for construction, unless as part of the plan required in subsection A of this section the qualified professional demonstrates that a native conifer is not likely to survive in a specific location.

5. Tree replacement where tree removal is necessary on adjoining properties to meet requirements in SMC 20.50.350(D) or as a part of the development shall be at the same ratios in subsections (C)(1), (2), and (3) of this section with a minimum tree size of eight feet in height. Any tree for which replacement is required in connection with the construction of a light rail system/facility, regardless of its location, may be replaced on the project site.

6. Tree replacement related to development of a light rail transit system/facility must comply with this subsection C.

D. The Director may require that a portion of the replacement trees be native species in order to restore or enhance the site to predevelopment character.

E. The condition of replacement trees shall meet or exceed current American Nursery and Landscape Association or equivalent organization's standards for nursery stock.

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

F. Replacement of removed trees with appropriate native trees at a ratio consistent with subsection C of this section, or as determined by the Director based on recommendations in a critical area report, will be required in critical areas.

G. The Director may consider smaller-sized replacement plants if the applicant can demonstrate that smaller plants are more suited to the species, site conditions, and to the purposes of this subchapter, and are planted in sufficient quantities to meet the intent of this subchapter.

H. All required replacement trees and relocated trees shown on an approved permit 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 permit.

I. Where development activity has occurred that does not comply with the requirements of this subchapter, the requirements of any other section of the Shoreline Development Code, or approved permit conditions, the Director may require the site to be restored to as near pre-project original condition as possible. Such restoration shall be determined by the Director and may include, but shall not be limited to, the following:

1. Filling, stabilizing and landscaping with vegetation similar to that which was removed, cut or filled;
2. Planting and maintenance of trees of a size and number that will reasonably assure survival and that replace functions and values of removed trees; and
3. Reseeding and landscaping with vegetation similar to that which was removed, in areas without significant trees where bare ground exists.

J. Significant trees which would otherwise be retained, but which were unlawfully removed, or damaged, or destroyed through some fault of the applicant or their representatives shall be replaced in a manner determined by the Director.

K. Nonsignificant trees which are required to be retained as a condition of permit approval, but are unlawfully removed, damaged, or destroyed through some fault of the applicant, representatives of the applicant, or the property owner(s), shall be replaced at a ratio of three to one. Minimum size requirements for replacement trees are deciduous trees at least 1.5 inches in caliper and evergreen trees at least six feet in height.

Staff Preliminary Recommendation – *Staff recommends that this amendment be denied. As stated by the applicant, Council recently amended this section to allow the Director the flexibility to reduce the number of replacement trees if the applicant pays the fee-in-lieu for the trees unable to be replanted on site. The reasons for the inability to replant trees vary across the city but usually is based on the arborists recommendation that the replacement trees will not survive based on building and site conditions. In these circumstances, the Director should have the flexibility to reduce the number of replacement trees and charge the applicant a fee-in-lieu for those trees so the city can replant or maintain trees at alternative locations adding and maintaining to the City's urban tree canopy.*

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

Amendment #11 (Hushagen)

20.50.370 Tree protection standards.

Justification – Since trees serve many purposes and provide benefits to our community, saving and protecting them is part of good urban forestry management. As a retired tree care company owner and current consulting arborist, I have witnessed preventable incidents of lack of, mistreatment and misunderstanding about protecting trees. When the City approves the retention of certain trees on private land in a tree protection plan, it is essentially a contract between the property owner/developer and the City that should be observed as well as executed in a good workmanlike manner. Providing step-by-step measures as my proposed revisions do in the mitigation section gives all the parties clear and timely instructions in the event of an injury to a living tree. I believe my proposed revisions, additions, and expansion of SMC 20.50.370 Tree Protection Standards will clarify for the property owner/developer on a construction site the best management practices that need to be implemented to improve and safeguard the survival of the designated trees to be retained during such construction period.

The following protection measures ~~measures~~ guidelines shall be imposed for all trees to be retained on site or on adjoining property, to the extent off-site trees are subject to the tree protection provisions of this chapter, during the construction process:

- A. All required tree protection measures shall be shown on the tree protection and replacement plan, clearing and grading plan, or other plan submitted to meet the requirements of this subchapter. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.
- B. Tree dripline areas or critical root zones (tree protection zone) as defined by the International Society of Arboriculture shall be protected. No development, fill, excavation, construction materials, equipment staging, or traffic shall be allowed in the dripline areas of trees that are to be retained.
- C. Prior to any land disturbance, temporary construction fences must be placed around the ~~dripline of trees~~ tree protection zone to be preserved. If a cluster of trees is proposed for retention, the barrier shall be placed around the edge formed by the drip lines of the trees to be retained. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.
- D. Tree protection barriers shall be a minimum of ~~four~~ six feet high, constructed of chain link, ~~or polyethylene laminar safety fencing~~ or similar material, subject to approval by the Director. “Tree Protection Area” signs shall be posted visibly on all sides of the fenced areas. On large or multiple-project sites, the Director may also require that signs requesting subcontractor cooperation and compliance with tree protection standards be posted at site entrances.
- E. If any construction work needs to be performed inside either the tree drip line, critical root zone, and/or the inner critical root zone, the project arborist will be on site to supervise the work. When excavation must occur within or near the Critical Root Zone, any found roots of 3” or greater in diameter will be cleanly cut to the edge of the trench to avoid ripping of the root.
- F. ~~E.~~ Where tree protection zones are remote from areas of land disturbance, and where approved by the Director, alternative forms of tree protection may be used in lieu of tree

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

protection barriers; provided, that protected trees are completely surrounded with continuous rope or flagging and are accompanied by "Tree Leave Area – Keep Out" signs.

G. F. Rock walls shall be constructed around the tree, equal to the dripline, when existing grade levels are lowered or raised by the proposed grading.

H. G. Retain small trees, bushes, and understory plants within the tree protection zone, unless the plant is identified as a regulated noxious weed, a non-regulated noxious weed, or a weed of concern by the King County Noxious Weed Control Board.

I. H. ~~Preventative Measures~~ Mitigation. In addition to the above minimum tree protection measures, the applicant ~~should~~ shall support tree protection efforts by employing, as appropriate, the following preventative measures, consistent with best management practices for maintaining the health of the tree:

- ~~1. Pruning of visible deadwood on trees to be protected or relocated;~~
- ~~2. Application of fertilizer to enhance the vigor of stressed trees;~~
- ~~3. Use of soil amendments and soil aeration in tree protection and planting areas;~~
1. 4. Mulching with a layer of 4" to 5" of wood chips in the ever tree critical root zones of retained trees drip-line areas; and
2. 5. Ensuring 1" of irrigation or rainfall per week proper watering during and immediately after construction and from early May through September until reliable rainfall occurs in the fall throughout the first growing season after construction.

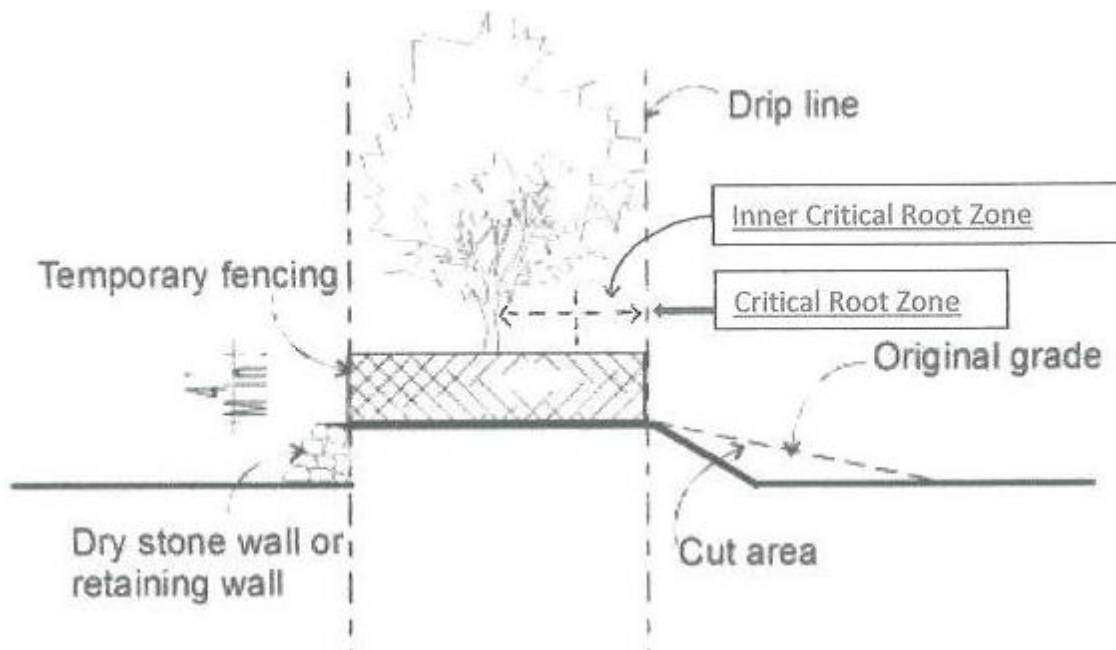


Figure 20.50.370: Illustration of standard techniques used to protect trees during construction.

Exception 20.50.370:

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

The Director may waive certain protection requirements, allow alternative methods, or require additional protection measures based on concurrence with the recommendation of a certified arborist deemed acceptable to the City.

Staff Preliminary Recommendation – Staff mostly recommends approval of the proposed amendment except the language highlighted in red below. Red text indicates language not recommended by staff and blue highlights indicate staff proposed additions to the amendment. Staff does not recommend changing the tree protection fence from 4-feet to 6-feet. The City’s arborist believes a 6-foot chain link fence may be too tall since some Tree Protection Zones are on steep-slopes or other soil conditions that would make installing and maintaining a 6-foot chain link fence unreasonable.

Also, Deadwooding is an acceptable practice for the care of any tree. If there is an otherwise healthy tree that will be remaining onsite, it should be allowed to be deadwooded to ensure the safety of the workers as well as the health of the tree.

The following protection measures guidelines shall be imposed for all trees to be retained on site or on adjoining property, to the extent off-site trees are subject to the tree protection provisions of this chapter, during the construction process:

- A. All required tree protection measures shall be shown on the tree protection and replacement plan, clearing and grading plan, or other plan submitted to meet the requirements of this subchapter. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.
- B. Tree dripline areas or Critical root zones (tree protection zone) as defined by the International Society of Arboriculture shall be protected. No development, fill, excavation, construction materials, equipment staging, or traffic shall be allowed in the Critical Root Zone dripline areas of trees that are to be retained.
- C. Prior to any land disturbance, temporary construction fences must be placed around the dripline of trees tree protection zone to be preserved. If a cluster of trees is proposed for retention, the barrier shall be placed around the edge formed by the drip lines of the trees to be retained. Tree protection shall remain in place for the duration of the permit unless earlier removal is addressed through construction sequencing on approved plans.
- D. Tree protection barriers shall be a minimum of four six feet high, constructed of chain link, or polyethylene laminar safety fencing or similar material, subject to approval by the Director. “Tree Protection Area” signs shall be posted visibly on all sides of the fenced areas. On large or multiple-project sites, the Director may also require that signs requesting subcontractor cooperation and compliance with tree protection standards be posted at site entrances.
- E. If any construction work needs to be performed inside either the tree drip line, critical root zone, and/or the inner critical root zone, the project arborist will be on site to supervise the work. When excavation must occur within or near the Critical Root Zone, any found roots of 3” or greater in diameter will be cleanly cut to the edge of the trench to avoid ripping of the root.
- F. ~~E.~~ Where tree protection zones are remote from areas of land disturbance, and where approved by the Director, alternative forms of tree protection may be used in lieu of tree

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

protection barriers; provided, that protected trees are completely surrounded with continuous rope or flagging and are accompanied by “Tree Leave Area – Keep Out” signs.

G. F. Rock walls shall be constructed around the tree, equal to the dripline, when existing grade levels are lowered or raised by the proposed grading.

H. G. Retain small trees, bushes, and understory plants within the tree protection zone, unless the plant is identified as a regulated noxious weed, a non-regulated noxious weed, or a weed of concern by the King County Noxious Weed Control Board.

I. H. ~~Preventative Measures~~ Mitigation. In addition to the above minimum tree protection measures, the applicant ~~should~~ shall support tree protection efforts by employing, as appropriate, the following preventative measures, consistent with best management practices for maintaining the health of the tree:

- ~~1. Pruning of visible deadwood on trees to be protected or relocated;~~
- ~~2. Application of fertilizer to enhance the vigor of stressed trees;~~
- ~~3. Use of soil amendments and soil aeration in tree protection and planting areas;~~
1. 4. Mulching with a layer of 4” to 5” of wood chips in the ever tree critical root zones of retained trees drip-line areas; and
2. 5. Ensuring 1” of irrigation or rainfall per week proper watering during and immediately after construction and from early May through September until reliable rainfall occurs in the fall throughout the first growing season after construction.

Title 12

Amendment #12 (Tree Preservation Code Team)

12.30.040(C) – Right-of-way street trees

Justification – Currently a notice is placed on public trees 2 (two) weeks prior to removal which is not adequate advance notice to the greater public. By lengthening the public notice period and posting clearly, there will be more transparency in the City’s plans and the opportunity for public comments. This new proposed code will foster more public participation in city government. These public trees on public rights-of-way belong to the citizens of Shoreline, who have the right to be informed well in advance of the removal of public trees.

A. A right-of-way use permit shall be required and issued by the director of the parks, recreation and cultural services department (hereafter “director”) for planting street trees in rights-of-way adjacent to the applicant’s property according to the variety and spacing approved in the Engineering Development Guide if such activity does not physically disturb the existing or planned public use of the right-of-way. Planted street trees shall be maintained by the applicant in accordance with the issued right-of-way use permit.

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

B. A right-of-way use permit shall be required and shall only be issued by the director for the nonexempt pruning or removal of trees in rights-of-way adjacent to the applicant's property in compliance with the following:

1. Limits on removal under critical area regulations.
2. No permit shall be issued for removal of trees on rights-of-way that have not been opened with public improvements, including, but not limited to, streets, sidewalks, pathways, and underground or overhead utilities.
3. No trees listed in the Engineering Development Guide as approved street tree varieties shall be removed regardless of size unless the tree is removed by the city as hazardous or causing damage to public or private infrastructure.
4. All existing trees six inches in diameter at breast height or greater allowed to be removed under clearing and grading regulations shall be replaced with an approved variety of street tree in the area of removal according to the replacement formula in SMC 20.50.360(C)(1) through (3). Replacement trees shall be maintained by the applicant in accordance with the issued right-of-way use permit. If the director determines there is no suitable space for replanting street trees in the vicinity of removal, the applicant shall replant at public sites approved by the director or pay a fee in lieu of replacement according to the current city fee schedule to be used exclusively for planting public trees in rights-of-way, parks or other public places.
5. All removed trees or pruned material shall be removed from the right-of-way and the right-of-way shall be restored in accordance with the issued right-of-way use permit.

C. Public Notice

1. Notice of all proposed removal of public tree(s) on public rights-of-way shall be given 90 (ninety) days in advance of public tree(s) removal. This notice shall be given by the legal entity removing the public tree(s), including but not limited to, the City of Shoreline, State of Washington, Shoreline School District, Shoreline Community College, and any entity granted permission to remove public tree(s).

2. This notice, along with the arborist report and documentation, shall be:

i) posted to the City's project description on the City's website;

ii) listed in the monthly *Currents* publication;

iii) emailed to every resident who requests advance notification of public tree removal;

iv) posted on the public tree(s) designated for removal 30 (thirty) days in advance of tree(s) removal date on 11" x 14" laminated paper with the words "NOTICE OF TREE REMOVAL" in bold 48-point font. Signage will include (a) posting date, (b) date of tree removal, and (c) City project contact or entity project contact, phone number, email, together with the website where the public may download the arborist report and documentation. Notices shall be tied to the tree(s) with twine or wire.

Att. A - 2021 Development Code Amendment Batch - Tree Amendments

3. If public objections and/or questions are posed regarding the proposed public tree(s) removal, the issue shall be brought to the Director of Planning for response to the public. The Director may postpone the public tree(s) removal to answer the questions raised; or may hire an arborist to review the public tree(s) on site and prepare a report; or may direct the tree(s) be removed.

Staff Preliminary Recommendation – *The authority for 12.30 Public Tree Management is the responsibility of the Parks, Recreation and Cultural Services (PRCS) Department and specifically the PRCS Director and their staff. The PRCS Department and the City's Arborist have reviewed the proposed amendment and have recommended denial of the proposed changes. Staff does not support the changes for the following reasons:*

1. The proposed amendments put a very high burden on the City (and other entities) to provide public notification specific to trees. Most of the City's capital projects have a separate public outreach process to share project information, answer questions and get feedback from the public. The City provides information on the website, but it does not always have a specific tree removal report and the City does not typically post the arborist or other technical reports. The City must strike a balance on what information is posted on the website with the time and effort to update and maintain the website and the documents on it.

2. Coordination and timing of a tree removal notice. Staff is concerned that coordinating a tree removal notice with a Currents publication, a posted notice 30-days before removal, and email notification to property owners will take longer than expected. Staff does not maintain an email registry of property owners, so email notification is not possible. Also, the PRCS Department has experience with notices on trees being taken down and vandalized.

3. The proposed language states that the Director of Planning shall respond to questions/concerns about tree removal in the ROW. This responsibility falls on the PRCS Director since trees in the ROW and Parks are approved and maintained by the PRCS Department.

Att. B - Significant Tree Definitions

Definition of Significant and Landmark Tree

Edmonds – 6” dba for all trees.

Lake Forest Park – 6” dba for all types of trees. Landmark tree is at least 24” dba.

Lynnwood – 6” dba for most types of trees (not Black locust, Cottonwood, Native alder, Native willow, Lombardy poplar). Heritage tree of any size that because of its age, size, unique type, or historical association is of special importance to the city.

Duvall – 16” dba for any tree. "Landmark tree" means any healthy tree with a thirty-inch caliper or more measured at four and one-half feet above the ground, or any tree that is particularly impressive

Redmond – 6” dba for all trees. Landmark Tree - Any healthy tree over thirty inches in diameter or any tree that is particularly impressive or unusual due to its size, shape, age, historical significance, or any other trait that epitomizes the character of the species.

Kirkland – 6” dba for all trees.

Bellevue – 8” dba for all trees.

Kenmore – 8” dba for evergreen, 12” dba for deciduous.

Bothell – 8” dba for all trees except alders and cottonwoods.

Mountlake Terrace – Any tree other than black locust, cottonwood, native alder, native willow, or Lombardy poplar, having a trunk diameter of six inches or greater as measured four feet off the ground, or any coniferous tree at least 10 feet in height.