

# DRAFT TMC 18.54 TREE REGULATIONS

## Tukwila Tree and Environment Advisory Committee Revisions

### CHAPTER 18.54

#### URBAN FORESTRY AND TREE REGULATIONS

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##### 18.54.010 Purpose

The purpose of this Chapter is to implement the Urban Forestry Comprehensive Plan goals; to maintain and increase tree canopy throughout the city; and to provide requirements for tree maintenance, tree retention and protection. Trees and their canopy act to improve air quality, promote the public health, reduce human-related stress, increase property values, reduce heat islands, and reduce storm water flows. The tree regulations also support the Low Impact Development goals of the Comprehensive Plan and the City's National Pollution Discharge Elimination System permit.

**Commented [CL1]:** New purpose text to reflect adopted Urban Forestry Comprehensive Plan goals and policies.

In particular, the purpose of this Chapter is to:

1. ~~Regulate the p~~Protection of existing trees prior to and during development;
2. Establish protections ~~requirements~~ for the long-term maintenance of trees and vegetation;
3. Moderate the effects of wind and temperature;
4. Minimize the need for additional storm drainage facilities;
5. Stabilize and enrich the soil and minimize surface water and ground water run-off and diversion which may contribute to increased instability, sedimentation, or turbidity in streams, lakes, or other water bodies;

**Commented [CL2]:** Advisory Committee revisions to Purposes #1 and 2.

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6. Protect fish, wildlife and their habitats by promoting tree retention and improving water quality;
7. Ensure tree replacement after removal to provide erosion control and to achieve canopy coverage goals;
8. Recognize the importance of Heritage and Exceptional Trees to the history of the community; and
9. Establish procedures for penalties and violations of the tree code.

#### 18.54.020 Scope

This chapter sets forth rules and regulations to control clearing of trees ~~and understory vegetation~~ within the City of Tukwila except for removal of trees governed by Chapter 18.44, Shoreline regulations, Chapter 18.45, Sensitive Areas, and Chapter 18.52, Landscaping.

**Commented [CL3]:** These regulations do not address understory vegetation – just trees. Understory vegetation is regulated in SAO and Shoreline regulations.

#### 18.54.030 Tree ~~Removal~~ Permit Required (LFP)

##### A. Permit Required.

1. A Tree ~~Removal~~ Permit is required prior to work within the Critical Root Zone of any Significant, Exceptional or Heritage Tree or prior to the removal or destruction of any of these Trees within the City, unless the action is exempt from this Chapter.

~~1-2.~~ A Tree ~~Removal~~ Permit is required when any person wishes to prune a Heritage Tree in excess of 20% of the existing crown.

3. A request for an exception to the requirements of the Chapter shall be processed under a Tree Exception Permit.

**Commented [CL4]:** Committee revision: Name permit "Tree Permit" then have different types:

1. Tree Removal
2. Tree Impact (for work in CRZ)
3. Heritage Tree Removal or Pruning over 20% of existing crown.
4. Exceptional Tree Removal
5. Tree Removal-Utilities

##### B. Tree Removal on undeveloped lots is prohibited.

##### C. Tree Removal Exemptions. The following activities are exempt from the requirements of this Chapter:

1. The removal of trees that are less than 4" in Diameter at Breast Height (DBH) on a property zoned Low Density Residential and improved with a single-family dwelling.
2. The removal of Dead Trees outside of the shoreline jurisdiction or a sensitive area or its buffer.
3. Routine maintenance of trees necessary to maintain the health of cultivated plants, or to contain noxious weeds or invasive species as defined by the City of Tukwila or King County. Routine maintenance includes the removal of up to 20% of the existing tree crown in a two year period.
4. Emergency actions necessary to remedy an immediate threat to people or property, or public health, safety or welfare by a high-risk or extreme-risk tree may be undertaken in advance of receiving a permit. Any person, utility or

**Commented [CL5]:** Mix of Lake Forest Park and current exemptions in TMC 18.54

**Commented [CL6]:** From TMC 18.54.050

**Commented [CL7]:** Added by Advisory Committee.

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public entity undertaking such an action shall submit a Tree ~~Removal~~ Permit application within one week of the emergency action and replace the tree(s) if required by this Chapter. ~~For major storm events, additional time to apply for the Tree Permit may be granted to the utility.~~ Additional time to apply for a Tree Permit may be granted at the discretion of the ~~Director~~.

**Commented [CL8]:** Added at the request of Seattle City Light.

**Commented [CL9]:** Committee approved substitute language – avoids the need to define “major storm event”, and also there might be other entities besides utilities that would need to use this provision.

**Commented [CL10]:** Revised this subsection to require an arborist report, not just an arborist’s review.

**D. Tree Removal Permits- Arborist Report.** All Tree ~~Removal~~ Permits shall require an ISA Certified Arborist report, ~~unless otherwise stated in this Chapter, except for the removal of Significant Trees, other than Exceptional or Heritage Trees, including invasive species, on a lot zoned Low Density Residential and improved with a single-family dwelling. . An arborist’s report is not required for the allowed removal of trees on a lot zoned Low Density Residential and improved with a single-family dwelling other than for Exceptional or Heritage Trees. An arborist’s report is not required for the permitted removal of trees, other than Exceptional or Heritage Trees, on a lot zoned Low Density Residential and improved with a single-family dwelling.~~

#### 18.54.040 PERMIT SUBMITTAL REQUIREMENTS

**A. Permit Application.** Prior to any tree removal, ~~or~~ site clearing, or work within the CRZ, a Tree ~~Removal~~ Permit application must be submitted to the Department of Community Development containing the following information:

1. Site Plan of the proposal showing:
  - a. Diameter, species name, location and canopy of existing Significant Trees in relation to proposed and existing structures, utility lines, and construction limit line;
  - b. Identification of all Significant Trees to be removed and/or relocated;
  - c. Existing and proposed topography of the site at 2-foot contour intervals; and
  - d. Limits of any sensitive area and sensitive area buffer and/or shoreline jurisdiction.
2. Landscape Plan for the proposal showing:
  - a. Diameter, species name, spacing and location of replacement trees to be planted;
  - b. Diameter, species name and location of all Significant Trees to be retained; and
  - c. Vegetation protection measures consistent with the criteria in TMC 18.54.060
3. Professional review or recommendation. Assessment prepared by an ISA Certified Arborist addressing the following:
  - a. The anticipated effects of proposed construction or tree removal on the viability of Significant Trees to remain on-site;

**Commented [CL11]:** TMC 18.54.080 1.

**Commented [CL12]:** From TMC 18.54.080 2.

**Commented [CL13]:** Revised from TMC 18.54.080 3.

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- b. Recommendations on replacement trees, spacing and maintenance of proposed replacement trees once installed;
- c. Post-construction site inspection and evaluation; and
- d. Estimated cost of maintenance of replacement trees for the purposes of calculation of financial assurance, if required.

4. A photo of the tree(s) to be impacted or removed.

4.5. Time schedule. Proposed time schedule of vegetation removal, relocation and/or replacement, and other construction activities which may affect on-site vegetation, sensitive area, sensitive area buffer, and/or shoreline zone.

**Commented [CL14]:** New text.

B. ~~Single Family Tree Removal No Fee Permit Application – Removal of Up to Four Trees or Less. The removal of 1-4 trees within any 36-month period on a property zoned Low Density Residential and improved with a single-family dwelling, is subject to a no-fee Tree Removal Permit. Items to be submitted with the permit application are:~~  
The removal of 1-4 trees within any 36-month period on a property zoned Low Density Residential and improved with a single-family dwelling is permitted, subject to the requirements in Table A below and possible tree replacement. Information to be submitted as part of a Tree Inventory Survey shall include the following:

1. Site plan, with the tree(s) to be removed identified, the tree species, and diameter of tree and the location of any utility lines or other built infrastructure;
2. Number and size of trees to be removed.
3. The location of any affected utility lines within the overhead “fall zone” or other built infrastructure.
4. Photos of the tree(s) to be removed;
5. The method of removal and identification of contractor; and
6. Time schedule of tree removal.

**Commented [CL15]:** Permit application should also suggest that applicant call 811 for a utility locate to ensure no underground utilities will be impacted by tree removal.

**Table A**  
**Single Family Tree Removal Requirements**

<u>Trees (DBH)</u>	<u># of Trees in 36 Month Period that can be Removed</u>	<u>Tree Permit?</u>	<u>Arborist Report?</u>
<u>4-8”</u>	<u>4</u>	<u>Tree Inventory Survey</u>	<u>No</u>
<u>&gt;8-12”</u>	<u>2</u>	<u>Yes</u>	<u>No</u>
<u>&gt;12-18”</u>	<u>2</u>	<u>Yes</u>	<u>No</u>
<u>&gt;18-24”</u>	<u>1</u>	<u>Yes</u>	<u>Yes</u>
<u>&gt;24”</u>	<u>1</u>	<u>Yes</u>	<u>Yes</u>

**Commented [CL16]:** The Committee wanted to tie the number of trees that can be removed from single family zoned properties improved with a dwelling to the size of the trees being removed. The larger the tree removed, the fewer that can be taken out in a 36 month period.

See Table B for the number of replacement trees required, if any.

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#### **A. C. Permit Materials ~~Waiver~~**

The Director may waive the requirement for any or all plans or permit items specified in this section upon finding that the information on the application is sufficient to demonstrate that the proposed work will meet the approval criteria detailed in this Chapter and other City ordinances. Such waiver of a requirement shall not be construed as waiving any other requirements of this Chapter or related regulations.

**Commented [CL17]:** From existing TMC 18.54.090

#### **D. Permit Application ~~Fee~~**

Fee required: A Tree ~~Removal~~ Permit fee shall be paid at the time an application or request is filed with the department, pursuant to TMC Section 18.88.010, except as otherwise noted in this Chapter. All fees shall be paid according to the Land Use Fee Schedule in effect at the time of application. There is no permit fee for submittal of the Tree Inventory Survey.

**Commented [CL18]:** Modified from existing TMC 18.54.100

#### **18.54.050 Permit Approval Criteria, General.**

**Commented [CL19]:** Revised and moved to Permit Approval Criteria section.

**A. B.** All Tree ~~Removal~~ Permit applications shall meet the criteria outlined below for approval.

**Commented [CL20]:** Replaced with proposed text below.

- ~~C.~~**A.** Existing trees will be retained on-site to the maximum extent possible as required by TMC 18.54.060 and as recommended in the arborist report, if applicable.
- ~~D.~~**B.** Tree protection will be implemented as required in TMC 18.54.070.
- ~~E.~~**C.** Tree replacement will be implemented as required in TMC 18.54.080.
- ~~F.~~**D.** Tree replacement funds will be deposited into the City of Tukwila Tree Replacement Fund, as described in TMC 18.54.100, if required.
- ~~G.~~**E.** A performance assurance will be submitted as required in TMC 18.54.110.

#### **18.54.060 Tree Retention Standards**

- A. As many Significant, Exceptional and Heritage Trees as possible are to be retained on a site proposed for development, or re-development, particularly to provide a buffer between development, taking into account the condition and age of the trees. As part of a land use application such as, but not limited to, subdivision or short plat review, design review or building permit review, the Director of Community Development or the Board of Architectural Review may require reasonable alterations to the arrangement of buildings, parking or other elements of proposed development in order to retain Significant, Exceptional or Heritage non-invasive Trees.
- B. Topping of trees is prohibited and considered removal.
- C. Trees located on vacant properties shall not be removed except:
  - 1. Those that interfere with access and/or passage on public trails; or

**Commented [CL21]:** The topic of tree retention is currently found in TMC 18.54.130 1. and is proposed to be replaced with the text below.

**Commented [AC22]:** From 18.44.080 B.1.

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2. When trees, including alders and cottonwoods, have been determined to be one of the following by a Tree Risk Assessment prepared by a Tree Risk Assessor, and where the risk cannot be reduced to Low with mitigation, such as pruning:
    - a. Moderate risk with significant consequences;
    - b. Moderate risk with severe consequences;
    - c. High risk with a target or risk target; or,
    - d. Extreme risk.
  3. Factors that will be considered in approving such tree removal include, but are not limited to, tree condition and health, age, risks to life or structures and potential for root or canopy interference with utilities.
- D. Where permitted, removal of Exceptional or Significant trees on a property zoned Low Density Residential and improved with a single-family dwelling beyond the up to four trees permitted within a 36-month period ~~that are removed~~ shall be replaced pursuant to the tree replacement requirements outlined below. The Director or Planning Commission may require additional trees or shrubs to be installed to mitigate any potential impact from ~~the loss of the vegetation as a result of~~ the tree removal.
- ~~E. Retention and Replacement of Canopy Cover. On undeveloped sites or sites with dense stands of trees, where the cost of identification of individual tree species and sizes is inordinate relative to the project, the Director may allow the applicant to use the tree canopy cover approach outlined below to calculate retention and replacement of trees:~~
- ~~a. The site shall have a minimum canopy cover equal to 20% of the site area, or equal to the existing canopy cover whichever is less.~~
  - ~~b. Canopy cover may consist of any combination of existing trees and replacement trees. Canopy cover of each new tree shall be calculated based on the canopy cover from the City's preferred tree list.~~
- ~~F.E.~~ Protection of trees shall be a major factor in the location, design, construction and maintenance of streets and utilities. Removal or significant damage that could lead to tree death of Significant, Exceptional or Heritage Trees shall be mitigated with on- or off-site tree replacement as required by this Chapter.
- ~~G.F.~~ A Qualified Tree Professional shall provide an assessment of any tree proposed for retention in a proposed development to ensure its survivability during construction.
- G. The Department shall conduct a tree canopy assessment every five years from the date of the adoption of this Chapter to ensure that the tree canopy goals of the Comprehensive Plan are being met.

**Commented [AC23]:** From Lake Forest Park

**Commented [CL24]:** Should be trees not vegetation, as this Chapter does not address vegetation retention.

**Commented [CL25]:** Subsection E. is from existing code, TMC 18.54.140 B. It was deleted by the Committee as eliminating this option will provide site specific tree inventory information when development is proposed.

**Commented [CL26]:** Added by the Committee to make sure we are monitoring tree canopy percentages over time.

#### 18.54.070 Tree Protection Standards

All trees/vegetation not proposed for removal as part of a project or development shall be protected using Best Management Practices and the standards below.

**Commented [CL27]:** Title of section revised from current code

**Commented [CL28]:** Note to reviewers: TMC 18.52.050, landscaping code, refers users of that Chapter to TMC 18.54 to find tree protection guidance. These requirements serve as the tree protection criteria to be followed.

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- A. The Critical Root Zones (CRZ) for all trees designated for retention, on site or on adjacent property as applicable, shall be identified on all construction plans, including demolition, grading, civil and landscape site plans.
- B. Any roots within the CRZ exposed during construction shall be covered immediately and kept moist with appropriate materials. The City may require a third-party~~An~~ arborist ~~may be required~~ to review long-term viability of the tree.
- C. Physical barriers, such as 6 foot chain link fence or plywood or other approved equivalent, shall be placed around each individual tree or grouping at the CRZ.
- D. Minimum distances from the trunk for the ~~construction physical~~ barriers shall be based on the approximate age of the tree (height and canopy) as follows:
  - 1. Young trees (trees which have reached less than 20% of life expectancy): 0.75 per inch of trunk diameter.
  - 2. Mature trees (trees which have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.
  - 3. Over mature trees (trees which have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.
- E. Alternative protection methods may be used that provide equal or greater tree protection if approved the Director.
- F. A weatherproof sign shall be installed on the fence or barrier which reads: "TREE PROTECTION ZONE – THIS FENCE SHALL NOT BE REMOVED OR ENCROACHED UPON. No soil disturbance, parking, storage, dumping or burning of materials is allowed within the Critical Root Zone. The value of this tree is \$ (*insert value of tree as determined by a Qualified Tree Professional here*). Damage to this tree due to construction activity that results in the death or necessary removal of the tree is subject to the Violation section of TMC 18.54.190."
- G. All tree protection measures ~~shall be installed~~ and shall be inspected by the City, and if deemed necessary a Qualified Tree Professional, prior to beginning construction or earth ~~moving~~.
- H. Any branches or limbs that are outside of the CRZ and might be damaged by machinery, shall be pruned prior to construction by an ISA Certified Arborist. No construction personnel shall prune affected limbs except under the direct supervision of an ISA Certified Arborist.
- I. The CRZ shall be covered with 4 to 6 inches of wood chip mulch. Mulch shall not be placed directly against the trunk. A 6-inch area around the trunk shall be free of mulch. Additional measures, such as fertilization or supplemental water shall be carried out prior to the start of construction if deemed necessary by the arborist's report to prepare the trees for the stress of construction activities.
- J. No storage of equipment or refuse; parking of vehicles; dumping of materials or chemicals; or placement of permanent heavy structures or items shall occur within the CRZ.
- K. No grade changes or soil disturbance, including trenching, shall be allowed within the CRZ. Grade changes within 10 ~~feet~~ of the CRZ shall be approved by the City prior to implementation.

**Commented [CL29]:** From ISA standards

**Commented [CL30]:** Modified from TMC 18.54.160 B.

**Commented [CL31]:** The Committee discussed when or if to allow construction personnel to prune affected tree limbs.

**Commented [CL32]:** Confirm with PW – is this a reasonable distance

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- L. The applicant is responsible for ensuring that the CRZ of trees on adjacent properties are not impacted by the proposed development.
- M. A pre-construction inspection ~~shall be conducted by the City is required~~ to finalize tree protection actions.
- N. Post-construction inspection of protected trees shall be conducted by the City, and if deemed necessary by the City, a Qualified Tree Professional. All corrective or reparative pruning will be conducted by a Certified Arborist.

#### 18.54.080 Tree Replacement Standards

When tree replacement is required, the site shall be planted with trees to meet the following minimum ~~requirements~~:

- A. Each existing Significant Tree removed, including removal of trees in easements and rights-of-way for the purposes of constructing public streets and utilities, shall be replaced with new tree(s), based on the size of the existing tree as shown below, up to a maximum density of 70 new trees per acre, generally 12-15 feet apart. If the number of required replacement trees exceeds site capacity, payment is required into the City's tree replacement fund.
- B. Tree Replacement Ratios: Table ~~BA~~ below establishes tree replacement ratios when Significant, Exceptional or Heritage Trees are removed. ~~For properties~~ zoned Low Density Residential and improved with a single-family dwelling, when the number of trees permitted to be removed in a 36 month period, as shown in Table A, has been exceeded, the replacement ratios set forth in Table B apply.
- C. The property owner is required to ensure the viability and long-term health of trees planted for replacement through proper care and maintenance for the life of the ~~site's improvement(s) project~~. Replaced trees that do not survive must be replanted in the next appropriate season for planting.
- ~~D.~~ If all required replacement trees cannot be accommodated reasonably on the site, the applicant shall pay into the ~~T~~ree ~~R~~eplacement ~~F~~und. The fee shall be based on the value of the replacement trees and their delivery, labor for site preparation and plant installation, soil amendment, mulch, and maintenance costs for three years. In some circumstances, off-site tree replacement may be allowed, subject to additional maintenance fees.

**Commented [CL33]:** Existing code, TMC 18.54.130 3. with revisions as noted.



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**TABLE BA: Tree Replacement Requirements**

Diameter* of Tree Removed (*measured at height of 4.5 feet from the ground)	Number of Replacement Trees Required
4-6 inches (single trunk)	3
2 inches (any trunk of a multi-trunk tree)	3
Over 6-8 inches	4
Over 8-20 inches	6
Over 20 inches	8

**Commented [CL34]:** We have increased the number of replacement trees over current tree code to provide an incentive to try to incorporate existing trees into development and also to replace existing tree canopy that will be lost. These are the same replacement ratios as required under the shoreline regulations.

Amount of Mature Tree Canopy Removed	Equivalent Stature Tree	Number of Replacement Trees
Up to 500 sq. ft.	Small Canopy Tree	1
501-1000 sq. ft.	Medium Canopy Tree	2
>1001 sq. ft.	Large Canopy Tree	3

**Commented [CL35]:** Committee direction is to look at other ways to establish the number of trees required for replacement – perhaps tie to the amount of canopy proposed replacement tree would provide.

**Commented [CL36]:** When removal of a tree is proposed, the number of trees required for replacement will be based on what the mature tree canopy of the removed tree would have been, not the current tree canopy provided.

E.D. Tree replacement shall also meet the standards in TMC 18.54.160.

### 18.54.090 Tree Relocation

Tree relocation shall be carried out according to Best Management Practices, and trees proposed for relocation shall have a reasonable chance of survival.

### 18.54.100 Tree Replacement Fund

- A. When trees are topped or removed without a permit, or if the number of replacement trees required by Table BA cannot be accommodated on-site, the Director shall require payment into the Tree Replacement Fund. The fee will be based on the current cost of the following:
  1. The cost of purchasing and delivering a 2" caliper deciduous or 6' evergreen tree;
  2. The cost of labor to install a tree;
  3. The cost of supplies needed for the installation of a tree, including but not limited to, soil amendments, mulch, stakes etc.; and
  4. The cost of maintenance of a new tree for at least three years, including but not limited to, watering, weeding, and pruning.
- B. The cost of a replacement tree shall be updated annually in the Land Use Fee Schedule.
- C. The money in this fund shall be used by the City or its contractor to purchase, plant and maintain trees on sites in the City.

**Commented [CL37]:** Committee also added "installing" but that is covered in #2 below.

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D. Tree Replacement funds may be used by a single-family property owner to plant one or more street trees if approved by the Director and by the Public Works Department. The tree species must be approved by the City and be appropriate to the site conditions. The property owner is responsible for the site preparation and maintenance of the street tree, pursuant to TMC 18.54.160.

**Commented [CL38]:** Need to confirm with Public Works.

### 18.54.110 Performance Assurance

**Commented [CL39]:** Revised from TMC 18.54.120

To mitigate potential damages that may result from unauthorized tree removal or maintenance the Director may require the applicant to submit a bond, letter of credit, or other means of assurance acceptable to the City prior to issuance of a Tree ~~Removal~~ Permit, subject to the following provision:

A. Tree Protection Assurance. The applicant may be required to post a three year-performance bond or other acceptable security device to ensure the installation, maintenance and adequate performance of tree protection measures during the construction process. The amount of this bond shall equal 150 percent of the City's estimated cost of replacing each replacement tree. The estimated cost per tree shall be the tree fee established by the City. Prior to DCD final inspection, any protected tree found to be irreparably damaged, severely stressed or dying shall be replaced according to the standards identified in this Chapter. The City may release all or part of the bond prior to the conclusion of the bonding period if the applicant demonstrates that the requirements of this section have been satisfied and there is evidence that the protected trees will survive.

**Commented [CL40]:** Added by the Committee.

B. Tree Maintenance ~~Assurance~~. Where replacement trees are required, the applicant may be required to post a ~~one~~<sup>three</sup>-year replacement tree maintenance bond or other acceptable security device to ensure the survival of replacement trees. The amount of the maintenance bond shall equal 150 percent of the cost of plant material, periodic fertilizing and pruning, and labor until tree survival is ensured. In the event a required replacement tree becomes irreparably damaged, severely stressed or dies, the tree shall be replaced according to the standards in this Chapter. The City may release all or part of the bond prior to the conclusion of the bonding period if the applicant demonstrates that the requirements of this section have been satisfied and there is evidence that the protected trees will survive. The requirement for tree maintenance shall be recorded on the title of the property and if the property is sold prior to the expiration of the one-year replacement tree maintenance bond, the developer shall assign the bond to the purchaser.

**Commented [CL41]:** During the Advisory Committee's review, the question was raised on how to ensure the trees survive once the property is sold and the homeowner takes over maintenance. The last sentence of B. (highlighted) attempts to address this concern.

C. Replacement trees damaged due to natural disasters, such as wind storms, hail, ice or snow storms, and earthquakes, shall be exempt from further replacement.

D. The applicant shall provide an estimate of the costs associated with the required performance bond or other security as described above. In lieu of an applicant's estimate, the performance assurance shall be equal to City staff's best estimate of

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possible costs to meet the above requirements. In no case shall the performance assurance exceed an amount equal to two and one-half times the current cost of replacing the plants in accordance with the tree replacement provisions of this Chapter.

- E. The performance assurances shall not be fully released without final inspection and approval of completed work by the City, submittal of any post-construction evaluations or following any prescribed trial maintenance period required in the permit.
- F. Performance assurances provided in accordance with this Chapter may be ~~redeemed~~ enforced in whole or in part by the City upon determination by the Director that the applicant has failed to fully comply with approved plans and/or conditions.

#### 18.54.120 Liability

- A. Liability for any adverse impacts or damages resulting from work performed in accordance with a Tree ~~Removal~~<sup>g</sup> Permit, be the sole responsibility of the owner of the site for which the permit was issued.
- B. Issuance of a Tree ~~Removal~~ Permit and/or compliance with permit provisions or conditions shall not relieve an applicant from any responsibility otherwise imposed by law for damage to persons or property in an amount greater than the insured amount required by this Chapter.
- C. Nothing contained in this Chapter shall be deemed to relieve any property owner from the duty to keep any tree or vegetation upon his or her property or under his or her control in such condition as to prevent it from constituting a hazard or a nuisance pursuant to TMC Chapter 8.28.
- D. The amount of any security shall not serve as a gauge or limit to the compensation collected from a property owner as a result of damages associated with any vegetation clearing.
- E. ~~The~~ applicant shall at all times protect improvements to adjacent ~~private~~ properties and public rights-of-way or easements from damage during clearing. The applicant shall restore to the standards in effect at the time of the issuance of the permit any public or private improvements damaged by the applicant's operations.

**Commented [CL42]:** Existing language in TMC 18.54.190, moved to this section. Revisions as noted.

**Commented [CL43]:** Moved from Permit Conformance section 18.54.160 C.

#### 18.54.130 Permit Processing and Duration

- A. All Tree ~~Removal~~ Permits shall be processed as Type 1 decisions. Exceptions to the requirements of this Chapter shall be processed as a Type 2 decision.
- B. If the Tree ~~Removal~~ Permit or Tree Exception Permit application is not approved, the Director shall inform the applicant in writing of the reasons for disapproval.

**Commented [CL44]:** Existing text – moved from 18.54.150.

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- C. Tree ~~Removal~~ Permits expire one year after the date the permit is issued.

**18.54.140 Permit Exceptions**

**A. Exception Procedures**

An applicant seeking an exception from this Chapter shall submit a Tree Exception Permit application in addition to the Tree ~~Removal~~ Permit application. Such application shall fully state all substantiating facts and evidence pertinent to the exception request, and include supporting maps or plans. The exception shall not be granted unless and until sufficient reasons justifying the exception are provided by the applicant and verified by the City. Approval of the exception is subject to the exception criteria outlined below.

**Commented [CL45]:** Existing code, TMC 18.54.140, except as noted in strikeout/underline.

**Commented [CL46]:** Added by the Advisory Committee.

**B. Exception Criteria**

1. The Director may grant exceptions from the requirements of this Chapter when undue hardship may be created by strict compliance with the provisions of this Chapter. Any authorization for an exception may prescribe conditions deemed necessary or desirable for the public interest, or necessary to meet the intent of this Chapter.

2. An exception to this Chapter shall not be granted unless all of the following criteria are met:

a. Strict compliance with the provisions of this code may jeopardize project feasibility or reasonable use of property.

b. Proposed ~~tree~~vegetation removal, replacement, and any mitigative measures proposed, are consistent with the purpose and intent given in this Chapter.

c. 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. In addition to the above criteria, the Director may also require review of an exception request by a third party Qualified Tree Professional at the expense of the applicant.

**Commented [CL47]:** Staff suggested addition.

**18.54.150 Permit Conformance**

All work must be performed in accordance with approved Permit plans specified in this Chapter or revised plans as may be determined by the Director. The applicant shall obtain permission in writing from the Director prior to modifying approved plans.

## DRAFT TMC 18.54 TREE REGULATIONS

### Tukwila Tree and Environment Advisory Committee Revisions

#### 18.54.160 Soil Preparation, Plant Material and Maintenance Standards

**Commented [CL48]:** New section

##### A. Soil Preparation

1. Soils must be prepared for planting by incorporating compost and/or topsoil to a depth of 12 inches throughout the planting area.
2. An inspection of the planting areas prior to planting may be required to ensure soils are properly prepared.
3. Installation of plants must comply with BMPs including, but not limited to:
  - a. Planting holes that are the same depth as the size of the root ball and two to three times wider than the root ball.
  - b. Root balls of potted and balled and burlapped (B&B) plants must be loosened and pruned as necessary to ensure there are no encircling roots prior to planting. All burlap and all straps or wire baskets must be removed from B&B plants prior to planting.
  - c. The top of the root flare, where the roots and the trunk begin, should be placed at grade. The root ball shall not extend above the soil surface and the flare shall not be covered by soil or mulch. For bare root plants, ensure soil beneath roots is stable enough to ensure correct height of the tree.
  - d. If using mulch around trees and shrubs, maintain at least a 46-inch mulch-free ring around the base of the tree trunks and woody stems of shrubs. If using mulch around groundcovers until they become established, mulch shall not be placed over the crowns of perennial plants.

**Commented [CL49]:** A.1. And 2. Modified from TMC 18.52, landscaping regulations.

**Commented [CL50]:** From TMC 18.52.070, landscaping regulations.

##### B. Plant Material Standards

**Commented [CL51]:** Text in this section adapted from TMC 18.52.060

1. Plant material shall be healthy, vigorous and well-formed, with well-developed, fibrous root systems, free from dead branches or roots. Plants shall be free from damage caused by temperature extremes, pre-planting or on-site storage, lack of or excess moisture, insects, disease, and mechanical injury. Plants in leaf shall be well foliated and of good color. Plants shall be habituated to outdoor environmental conditions (i.e. hardened-off). ~~There must be a diversity of tree and shrub genus and species in the site landscaping, taking into account species in existing development around the site.~~
2. Evergreen trees shall be a minimum of 6 feet in height at time of planting.
3. Deciduous trees shall have at least a 2-inch caliper at time of planting as measured 4.5 feet from the ground, determined according to the American Standard for Nursery Stock as it now reads and as hereafter amended.

**Commented [CL52]:** Accidental carry-over from Landscaping Chapter.

## DRAFT TMC 18.54 TREE REGULATIONS

### Tukwila Tree and Environment Advisory Committee Revisions

4. Smaller plant stock may be substituted on a case by case basis with approval of the City's environmental specialist.
5. Tree spacing shall take into account the location of existing and new trees as well as site conditions.
6. Where there are overhead utility lines, the tree species selected shall be of a type which, at full maturity, will not interfere with the lines or require pruning to maintain necessary clearances.

**Commented [CL53]:** From TMC 18.52.060 B.4

#### C. Tree Maintenance and Pruning

1. Pruning of trees should be for the health of the plant material, to maintain sight distances or sight lines, or if interfering with overhead utilities. All pruning must be done in accordance with American National Standards Institute (ANSI) A-300 specifications, as it now reads and as hereafter amended. No more than 25% of the tree canopy shall be pruned in any two-year period except for fruit trees, that which are being pruned to increase harvest potential.
2. All protected and replacement trees and vegetation shown in approved Tree Removal Clearing Permit materials shall be maintained in a healthy condition by the property owner throughout the life of the project, unless otherwise approved by the Director in a subsequent Tree Clearing Removal Permit.
3. Trees may only be pruned to lower their height to prevent interference with an overhead utility line with prior approval by the Director. The pruning must be carried out under the direction of an ISA Certified Arborist Utilities Specialist or performed by the utility provider under the direction of an ISA Certified Arborist Utilities Specialist. The crown shall be maintained to at least 2/3 the height of the tree prior to pruning.

**Commented [CL54]:** Modified from 18.52.080 C.

**Commented [CL55]:** Added by Committee to allow more aggressive pruning of fruit trees, if needed.

**Commented [CL56]:** From TMC 18.54.160 D.

**Commented [CL57]:** Deleted at suggestion of Seattle City Light (SCL) as contractors carrying out pruning have an ISA Certified Arborist on-site however not always with the Utilities Specialist qualifications. The SCL supervisor is typically a Utilities Specialist – this person would have discussed the pruning project ahead of time with the pruning contractor.

#### 18.54.170 Heritage Trees And Heritage Groves

**Commented [CL58]:** New section

**Commented [CL59]:** Heritage Grove added to this section as criteria for designation were similar to those to designate a Heritage Tree.

- A. Heritage Trees or a Heritage Grove must be nominated for designation by, or approved for nomination by, the owner of the property on which the tree or grove is located.
- B. Designation Criteria: A tree or grove that meets the basic definition of Heritage Tree or Heritage Grove must also meet one or more of the following criteria:
  1. Has exceptional national, state or local historical significance including association with a historical figure, property, or significant historical event; or
  2. Has an exceptional size or exceptional form for its species; or
  3. Has an exceptional age for its species; or
  4. Is the sole representative of its species in the area; or
  5. Has exceptional botanical or ecological value.

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### Tukwila Tree and Environment Advisory Committee Revisions

Once approved, the Heritage Tree or Heritage Grove shall be identified by signage that provides information as to the tree's or grove's significance.

~~C. A grove of trees may be considered for Heritage Grove status if, in addition to meeting one or more of the criteria in subsection B. above, the grove meets one or more of the following criteria:~~

- ~~1. The grove is relatively mature and is of a rare or unusual nature containing trees that are distinctive either due to size, shape, species or age; or~~
- ~~2. The grove is distinctive due to a functional or aesthetic relationship to a natural resource, such as trees located along stream banks, or trees located along ridge lines; or~~
- ~~3. The grove has a documented association with a historical figure, property, or significant historical event.~~

**Commented [CL60]:** The rest of this section is from the City of Vancouver, Washington's heritage tree regulations.

#### ~~D.C.~~ Heritage Tree Development Review

1. When development is proposed for property that contains a Heritage Tree, and the Director determines that the proposed development may affect a Heritage Tree, the property owner must have a tree preservation plan prepared by a qualified arborist Qualified Tree Professional as approved by the Director demonstrating how the Heritage Tree will be protected and preserved. A Heritage Tree shall be preserved using the tree protection and retention criteria of this Chapter.
2. A tree preservation plan shall be composed of the following:
  - a. A site plan indicating the location of Heritage Tree(s).
  - b. The methods to be used to preserve the Heritage Tree(s).
  - c. A mitigation plan indicating the replacement trees or additional new trees to be placed on the site. The mitigation plan should demonstrate, to the extent possible, that the character of the site will not substantially change as a result of development.
3. Site design adjustments may be approved in some cases for the subject property or an affected adjacent parcel, as follows:
  - a. Up to a 20% variance to front, side, and/or rear yard setback standards to retain a Heritage Tree(s) may be reviewed and granted as part of the underlying land use or construction permit. The adjustment shall be the minimum necessary to accomplish preservation of the Heritage Tree(s) on site and shall not conflict with other adopted ordinances or conditions placed on the property.
  - b. Up to a 10% variance to the lot size and/or the lot width requirements in approving any land division if necessary to retain Heritage Trees.
4. Removal of a Heritage Tree. No person may cut or remove a Heritage Tree without approval of a Type 2 permit. The Tree ~~Removal~~ Permit may be approved if one or more of the criteria below is met:
  - a. Retention of the tree would make reasonable use of the property allowed under the current zoning impractical or impossible; or

## **DRAFT TMC 18.54 TREE REGULATIONS**

### **Tukwila Tree and Environment Advisory Committee Revisions**

- b. The removal is necessary to accommodate a new improvement, structure or remodeled structure, and no alternative exists for relocation of the improvement on the site, or that variances to setback provisions will not allow the tree to be saved or will cause other undesirable circumstances on the site or adjacent properties; or
  - c. The tree is hazardous, diseased or storm damaged and poses a threat to the health, safety or welfare of the public; or
  - d. The tree has lost its importance as a Heritage Tree due to damage from natural or accidental causes, or is no longer of historic or natural significance; or
  - e. The tree needs to be removed to accomplish a public purpose and no practical alternative exists.
5. The limb structure or crown of a Heritage Tree may be pruned in any one-year period without obtaining a Type 2 permit provided that at least 80% of the existing tree crown remains undisturbed.
6. Any person who wishes to prune a Heritage Tree in excess of 20% of the existing crown shall apply for a Tree ~~Removal~~ permit and meet the following criteria.
- a. The protected tree shall be pruned following acceptable arboricultural standards; and
  - b. The tree shall be pruned in a manner that ensures safety to public and private property and shall be carried out by an ISA certified arborist; and
  - c. Any other conditions necessary to ensure compliance with the goals and policies of the Comprehensive Plan.

#### **TMC 18.54.180 Approved and Prohibited Trees**

The City will maintain on file, and provide upon request, a list of approved trees for planting and trees that are prohibited from being planted in the City. These lists will be updated as new information becomes available.

#### **TMC 18.54.190 Violations**

- A. Failure to comply with any requirement of this Chapter shall be deemed a violation subject to enforcement pursuant to this Chapter and TMC 8.45.
- B. **Penalties.**
1. In addition to any other penalties or other enforcement allowed by law, any person who fails to comply with the provisions of this Chapter also shall be subject to a civil penalty assessed against the property owner as set forth herein. Each unlawfully removed or damaged tree shall constitute a separate violation.

**Commented [CL61]:** From landscaping Chapter, TMC 18.52.110.

**Commented [CL62]:** From landscaping Chapter



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### Tukwila Tree and Environment Advisory Committee Revisions

2. Removal or damage of tree(s) without applying for and obtaining required City approval is subject to a fine of \$1,000 per tree, or up to ~~three~~ four times the marketable value of each tree removed or damaged as determined by an ISA certified arborist.
- ~~2.3.~~ Any fines paid as a result of violations of this Chapter shall be allocated as follows: 75% paid into the City's Tree Replacement Fund, 25% into with the remainder going to the General Fund.
- ~~3.4.~~ The Director may elect not to seek penalties or may reduce the penalties if he/she determines the circumstances do not warrant imposition of any or all of the civil penalties.
- ~~4.5.~~ Penalties are in addition to the restoration of removed ~~plant materials~~ trees through the remedial measures listed in TMC Section 18.54.200.
- ~~5.6.~~ It shall not be a defense to the prosecution for a failure to obtain a permit required by this Chapter that a contractor, subcontractor, person with responsibility on the site or person authorizing or directing the work erroneously believes a permit was issued to the property owner or any other person.

**Commented [CL63]:** RCW 64.12.030 allows treble damages, not four.

**Commented [CL64]:** Find RCW citation that allows up to 4 times the value to be charged.

#### TMC 18.54.200 Remedial Measures.

In addition to the penalties assessed, the Director shall require any person conducting work in violation of this Chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

- A. Any illegal removal of required trees shall be subject to obtaining a Tree ~~Removal~~ Permit and replacement with trees that meet or exceed the functional value of the removed trees.
- B. To replace the tree canopy lost due to the tree removal, additional trees must be planted on-site. Payment shall be made into the City's Tree Fund if the number of replacement trees cannot be accommodated on-site. The number of replacement trees required will be based on the size of the tree(s) removed as stated in Table ~~A-B~~.
- C. The applicant shall satisfy the permit provisions as specified in this Chapter.
- D. Remedial measures must conform to the purposes and intent of this Chapter. In addition, remedial measures must meet the standards specified in this Chapter, ~~and applicable standards for mitigation outlined in the Sensitive Areas Overlay District Chapter of this Title.~~
- E. Remedial measures must be completed to the satisfaction of the Director within 6 months of the date a Notice and Order is issued pursuant to TMC Chapter 8.45, or within the time period otherwise specified by the Director.
- F. The cost of any remedial measures necessary to correct violation(s) of this Chapter shall be borne by the property owner and/or applicant. Upon the applicant's failure to implement required remedial measures, the Director may redeem all or any portion of any security submitted by the applicant to implement such remedial measures, pursuant to the provisions of this Chapter.

**Commented [CL65]:** Remedial Measures from TMC 18.52.180, Enforcement and moved to be its own subsection. Items A and B are new; items C.- F. are existing text moved from TMC 18.54.180 D.

**Commented [CL66]:** Revisions to TMC 18.45, the sensitive area regulations, will occur in 2018 and remedial measures for sensitive areas will be addressed there.

## DRAFT TMC 18.54 TREE REGULATIONS Tukwila Tree and Environment Advisory Committee Revisions

### 18.54.210 Enforcement

**Commented [CL67]:** Existing text from TMC 18.54 that reflects revisions to the Enforcement section.

A. General. In addition to the Notice of Violation and Order measures prescribed in TMC Chapter 8.45, the Director may take any or all of the enforcement actions prescribed in this Chapter to ensure compliance with, and/or remedy a violation of this Chapter; and/or when immediate danger exists to the public or adjacent property, as determined by the Director.

1. The Director may post the site with a "Stop Work" order directing that all vegetation clearing not authorized under a Tree ~~Removal~~ Permit cease immediately. The issuance of a "Stop Work" order may include conditions or other requirements which must be fulfilled before clearing may resume.

2. The Director may, after written notice is given to the applicant, or after the site has been posted with a "Stop Work" order, suspend or revoke any Tree ~~Removal~~ Permit issued by the City.

3. No person shall continue clearing in an area covered by a "Stop Work" order, or during the suspension or revocation of a Tree ~~Removal~~ Permit, except work required to correct an imminent safety hazard as prescribed by the Director.

B. Injunctive relief. Whenever the Director has reasonable cause to believe that any person is violating or threatening to violate this Chapter or any provision of an approved Tree ~~Removal~~ Permit, the Director may institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such civil action may be instituted either before or after, and in addition to, any other action, proceeding or penalty authorized by this Chapter or TMC Chapter 8.45.

C. Inspection access.

1. The Director may inspect a property to ensure compliance with the provisions of a Tree ~~Removal~~ Permit or this Chapter, consistent with TMC 8.45.

2. The Director may require a final inspection as a condition of Tree ~~Removal~~ Permit issuance to ensure compliance with this Chapter. The permit process is complete upon final approval by the Director.