

## CHAPTER 9.18

### TREES – PRUNING AND REMOVAL

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#### **9.18.010 Intent.**

It is the intent of this chapter to provide regulations to preserve vegetation to ensure that Tacoma's built and natural environments function in complementary ways and are resilient to climate change and natural hazards, so that all Tacomans have access to clean air and water, can experience nature in their daily lives, and benefit from development that is designed to lessen the impacts of natural hazards and environmental degradation, now and in the future. This can be partially accomplished by controlling how and when pruning or vegetation removal can occur within the right-of-way and, in specific instances, by allowing individuals to provide for the pruning or removal of vegetation when necessary.

#### **9.18.020 Applicability.**

This chapter shall apply to requests to prune or remove trees within the right-of-way limits of any improved or unimproved street or alley in the City of Tacoma. Requests concerning pruning or removing trees within the right-of-way limits for the purpose of view enhancement, or trees located on City-owned property, both General Government and Department of Public Utilities, are regulated under Chapter 9.20.

#### **9.18.030 Exemptions.**

A regulated tree must be protected and preserved unless otherwise approved through a Right-of-Way Tree Permit, issued by the Planning and Development Services Department.

A. Emergency (imminent hazard) exemption. Exemptions to the permitting requirement are made for emergency removals necessary to mitigate a threat to public health and safety of welfare.

Emergencies (imminent hazards): Those activities necessary to prevent an immediate threat to public health, safety, or welfare or pose an immediate risk of damage to private property and that require remedial or preventative action in a timeframe too short to allow for normal processing. Emergency actions that create an impact to a tree(s) in the right-of-way shall use best management practices to address the emergency and, in addition, the action must have the least possible impact. The person or agency undertaking such action shall notify the City within one (1) working day following the commencement of the emergency activity. The City shall determine if the action taken was within the scope of an emergency action and following that determination, may require the action to be processed in accordance with all provisions of this chapter including the application of appropriate permits within thirty (30) days of the impact. The emergency exemption may be rescinded at any time upon the determination by the City that the action was not, or is no longer necessary. After the emergency, the person or agency undertaking the action shall fully fund and conduct necessary mitigative actions including, but not limited to, restoration and rehabilitation or other appropriate mitigation for any impacts resulting from the emergency action in accordance with the requirements set forth in the Urban Forest Manual. All mitigation activities must take place within one (1) year following the emergency action, or within a timeframe approved by the City and reflected within an approved schedule.

B. Small trees exemption. Such permit approval is not required for pruning trees which are less than 15 feet in height and located on developed or undeveloped right-of-way abutting the property of the individual performing or requesting the pruning. 9.18.040

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### Definitions.

- A. A "Hazardous tree" is that which has been designated as a hazard by an International Society of Arboriculture (ISA) Certified Arborist, who has obtained an ISA Tree Risk Assessor Course and Exam certification or Tree Risk Assessment Qualification. Tree hazards include dead or dying trees, dead parts of live trees, or unstable live trees (due to structural defects or other factors) that are within striking distance of people or property (a target). Hazard trees are those which have the potential to cause property damage, personal injury or fatality in the event of a failure.
- B. "Pruning" means the removal of plant parts, dead or alive, in a careful and systematic manner so as to not damage other parts of the plant. Pruning is most often performed for the purposes of improving the health, structure, aesthetics or safety of the vegetation, but may also be performed for other reasons. Pruning includes limbing up, thinning to create viewing windows through the vegetation, shaping, trimming, and removal of dead, decaying or diseased branches.
- C. "Regulated tree" means all trees within the right-of-way. Regulated trees are subject to the standards for management contained in this title.
- D. "Right-of-way or rights-of-way" is the public streets, roadways, courts, alleys and any other public passages, whether developed or undeveloped, over which the City has a possessory interest or right of use either by easement, license, permit or other such authority, or by fee simple ownership. For purposes of this definition developed rights of way may contain items such as pavement, parking or loading areas, retaining walls or other structures, landscape or planting strips, sidewalks, curbs, vehicle, bicycle or pedestrian traffic lanes, traffic circles and other such development. This definition is intended to be construed so as to be consistent with other definitions of the term Right-of-Way or Rights-of-Way as may be found in Tacoma Municipal Code or Washington State statutory and case law.
- E. "Street Tree(s)" means a tree(s) whose trunk is wholly or partially located within the public right-of-way. Street trees may be owned by the City or by a private party.
- F. "Topping" or "Tree Topping" is an unacceptable pruning practice, injuring trees through the reduction of a tree's size by pruning live branches and leaders to stubs, without regard to long-term tree health or structural integrity. Topping can lead to unacceptable risk, tree stress, and decay. It is also expensive and destroys the natural form of the tree.
- G. "Urban Forest Manual" (UFM) or "City of Tacoma Urban Forest Manual" provides best management practices for plant selection, design, installation, care, and other specifications. Trees shall be selected, installed and maintained consistent with the technical guidance of the UFM.

### 9.18.050 Permit for pruning or removal.

It is unlawful for any person, firm or corporation to, in any manner, remove, destroy, or cut any tree or shrub now or hereafter planted within the right-of-way limits of any improved or unimproved street or alley in the City of Tacoma without having first obtained a permit so to do from the Director of Public Works, or his or her designee, of the City of Tacoma.

Before any right-of-way tree planting permit shall be issued, the applicant or applicants therefor shall file a written application with the proper officers of the City of Tacoma, which shall be submitted on a form designated by the Department of Public Works, and contain the following information, together with such other information as may be requested by the City of Tacoma:

- A. Vegetation location;
- B. Photograph of vegetation;
- C. A statement of the problem;
- D. Proposed solution, including clearly denoting if the tree is proposed to be pruned or removed;
- E. If the vegetation is located on developed or undeveloped right-of-way, and if the individual requesting the work is not the owner, written permission from the owner of abutting property to prune or remove vegetation; and,
- F. Name of company or individual to perform work.

All requests for tree removal shall include a fee of \$250.00 charged for each tree requested to be removed. Trees which are determined to be a public hazard are exempted from permit fees, provided the applicant can demonstrate the tree(s) present either a hazard to the public or an unavoidable conflict with infrastructure that cannot be mitigated without removal of the tree(s).

(Ord. 10808; passed Feb. 10, 1932; Ord. 9071 § 1; passed Jan. 27, 1927)

**9.18.060 Investigation and issuance of permit.**

A. Review by Director of Public Works or his/her designee. The request will be reviewed and approved or denied by the Director of Public Works or his or her designee. If the request involves vegetation which, through pruning or removal, may come into contact with utility lines, the request must be reviewed by the Light Division, Public Utilities, and such division may comment on the request and recommend conditions of any approval. The Director of Public Works or his/her designee may utilize the services of a consulting arborist or forester as needed.

B. Conditions of Approval. Such permit shall be granted only after investigation by an inspector appointed by the Director of Public Works, or his or her designee, pursuant to this chapter should the applicant sufficiently demonstrate that the standards of this Chapter, City of Tacoma Right-of-Way Design Manual, and UFM can be met, in addition to any specially recommended by the City of Tacoma after studying the plans submitted in the application. A permit shall in no case be granted where the pruning of any such tree will cause a significant negative impact the tree's continued health unless such tree is dead, or a hazard to the public or to public utilities. Tree topping is prohibited. Any such permit for the removal or destruction of any such tree shall require that the same be cut out at least eight inches below the surface of the ground.

C. Notice. With the exception of cases of emergency as defined in 9.18.030, a notice of pruning/removal must be posted on each tree(s) for a 14 day period prior to the performance of work. The notice shall be large enough and oriented in such a way as to be legible by pedestrians and vehicles passing the tree(s), and shall include the following:

1. The proposed action (pruning or removal);
2. The date the proposed action will occur;
3. The purpose being accomplished by the proposed action, e.g. tree is considered hazardous, unavoidable construction impacts, tree pruning for roadway or sidewalk clearance, routine maintenance, etc.; and,
4. Contact information for the both the applicant as well as the City of Tacoma Permit Center.

(Ord. 9071 § 2; passed Jan. 27, 1927)

**9.18.070 Guarding against damage from construction work.**

Any person, firm or corporation engaged in the construction, alteration or repair of any building or portion thereof in the City of Tacoma shall, prior to the commencement of such construction, place proper guards around trees located within the right-of-way limits of streets and alleys where such construction, alteration or repair is being carried on, to effectually protect trees and shrubs from damage or injury. Tree protection shall be in accordance with the City of Tacoma Right-of-Way Design Manual and the UFM.

A. Notice. A notice of tree protection must be posted on each tree(s) for a 14 day period before prior to the performance of work. The notice shall be large enough and oriented in such a way as to be legible by pedestrians and vehicles passing the tree(s), and shall include the following:

1. The text "This tree is to be retained and protected from construction impacts";
2. The date the proposed construction will occur; and,
3. Contact information for the applicant as well as the City of Tacoma Permit Center.(Ord. 9071 § 3; passed Jan. 27, 1927)

**9.18.040 Violation – Penalties.**

A. Enforcement Process. If, as the result of a violation of any provision of this Chapter, the injury, mutilation, or death of a tree located within the public right-of-way is caused, any person violating such provisions shall be penalized in a sum not exceeding the value of the vegetation pruned or removed plus \$1,000.00. The restitution value of trees shall be determined in accordance with the methods prescribed in the most recent edition of The Guide for Plant Appraisal published by the International Society of Arboriculture and shall be paid to the Urban Forest Fund. In the case where the injury, mutilation, or death of the tree(s) cannot be corrected by mitigative pruning, replacement trees shall also be planted by the responsible person(s) in addition to the penalized amount.

B. Violation Review Criteria. Each violation requires a review of all relevant facts in order to determine the appropriate enforcement response. When enforcing the provisions of this Chapter, the Director of Public Works and/or his/her designee should, as practical, seek to resolve violations without resorting to formal enforcement measures. When formal enforcement measures are necessary, the Director of Public Works and/or his/her designee should seek to resolve violations administratively prior to imposing civil penalties or seeking other remedies. The Director of Public Works and/or his/her designee should generally seek to gain compliance via civil penalties prior to pursuing abatement or criminal penalties.

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A variety of factors may be considered when determining the appropriate enforcement response, including but not limited to:

1. Severity, duration, and impact of the violation(s), including whether the violation has a probability of placing a person or persons in danger of death or bodily harm, causing significant environmental harm, or causing significant physical damage to the property of another;
2. Compliance history, including any identical or similar violations or notice of violation at the same site or on a different site but caused by the same party;
3. Economic benefit gained by the violation(s);
4. Intent or negligence demonstrated by the person(s) responsible for the violation(s);
5. Responsiveness in correcting the violation(s); and,
6. Other circumstances, including any mitigating factors.

C. Voluntary Compliance. The Director and/or his/her authorized representative may pursue a reasonable attempt to secure voluntary compliance by contacting the owner or other person responsible for any violation of this title, explaining the violation and requesting compliance. This contact may be in person or in writing or both.

(Ord. 9071 § 4; passed Jan. 27, 1927)

### **9.18.050 Removal of trees and shrubs obstructing sidewalk or street.**

All trees, plants, shrubs, or vegetation, or any parts thereof which overhang any sidewalk or street in such manner as to obstruct or impair the free and full use of the sidewalk or street, including interruption or interference with the clear vision of pedestrians or persons operating vehicles, interference with poles, wires, pipes, fixtures, or any part of any public utility situate in said street, or which are a fire hazard or a menace to public health, safety, or welfare, are considered a public nuisance and, and any such nuisance shall be pruned, removed or destroyed by the owner of the property upon which they are situate to achieve compliance with the City of Tacoma Right-of-Way Design Manual and Tacoma Municipal Code Title 8.30 Public Nuisances.

(Ord. 24040 § 1; passed Mar. 29, 1988; Ord. 13621 § 1; passed Jun. 1, 1949)

### **9.18.100 Enforcement.**

A. Nuisance enforcement. Enforcement of those public nuisances as defined in Section 9.18.050 of this Chapter, and Chapter 8.30 Public Nuisances, shall be enforced in accordance with the procedure defined in 8.30.080 through 8.30.160.

B. Illegal pruning and removal enforcement. The violation of any of the provisions of Chapter 9.18 TMC shall constitute a civil violation. Any person violating such provisions shall be penalized according to the review and penalties defined in 9.18.040. Any money collected under this provision shall be placed in an urban forest fund for planting and replacement of trees in the City of Tacoma.

### **9.18.120 Chapter cumulative.**

The provisions of this chapter shall not be exclusive and are supplemental and additional to other ordinances covering the same or similar subject matter.

(Ord. 13621 § 8; passed Jun. 1, 1949)