



## ORDINANCE NO. 28926

1 BY REQUEST OF MAYOR WOODARDS AND DEPUTY MAYOR WALKER

2 AN ORDINANCE relating to urban forestry; amending Title 9 of the Municipal  
3 Code, relating to Public Ways, by repealing Chapters 9.18, 9.19, and  
4 9.20 in their entirety and replacing Chapter 9.20 with an new chapter  
5 entitled "Urban Forestry", to establish permit requirements and related  
6 regulations for pruning, removal, and planting of street trees, establish  
7 policies and procedures for discretionary review of requests to prune  
8 trees on public property, establish a heritage tree program, and provide  
9 for enforcement and penalties for violations; amending Title 1 of the  
10 Municipal Code, relating to Administration and Personnel, by amending  
11 Chapter 1.23 of the Municipal Code, entitled "Hearing Examiner", to  
12 provide for administrative appeals; and establishing effective dates.

13 WHEREAS the City Council has adopted numerous policies supporting  
14 improved urban forestry outcomes through better tree protections, increased tree  
15 planting, fixing operational workflows, increasing local food access, and removing  
16 conflicting policies and provisions within the Tacoma Municipal Code ("TMC"), and

17 WHEREAS relevant policies adopted by the City Council include the Urban  
18 Forest Policy Element adopted in 2010 pursuant to Ordinance No. 27892, the  
19 Environmental Action Plan adopted in 2016 pursuant to Resolution No. 39427, the  
20 Urban Forest Management Plan adopted in 2019 pursuant to Resolution No. 40492,  
21 the Climate Emergency Resolution adopted in 2019 pursuant to Resolution  
22 No. 40509, and the Climate Action Plan adopted in 2021 pursuant to Resolution  
23 No. 40878, and

24 WHEREAS these adopted policies include the following pertinent objectives:

25 (1) One Tacoma Comprehensive Plan ("Comprehensive Plan"): establishment of  
26 Best Management Practices in the siting, design, planting, maintenance and



1 removal of trees and vegetation in public right-of-way; and retention of as many  
2 mature trees as practicable and appropriate during development of City-owned  
3 land and street right-of-way,

4 (2) Environmental Action Plan: improved tree regulations for the right-of-way  
5 and private property, and

6 (3) Urban Forest Management Plan: update the TMC to align with the  
7 Comprehensive Plan urban forest policy; improve regulations and procedures to  
8 encourage tree preservation and protection on private property and in the City right-  
9 of-way; adopt a heritage tree ordinance, and

10 WHEREAS in in furtherance of these policies, the Infrastructure, Planning,  
11 and Sustainability Committee has studied the following categories of updates to the  
12 TMC related to trees in the right-of-way issues:

13 (1) remove the prohibition on food producing trees in the right-of-way;

14 (2) clarify protections and update language to industry standards for right-of-  
15 way trees, to reduce illegal removal and damage leading to poor tree health and  
16 potential public hazard;

17 (3) update the antiquated penalties and fines structure to recover costs of  
18 enforcement and replacement of illegally damaged trees in the right-of-way; and

19 (4) establish a heritage tree program, and

20 WHEREAS the Infrastructure, Planning, and Sustainability Committee and  
21 the City Council have met seven times since December 3, 2019, to study and  
22 develop proposed amendments to the tree code, and

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WHEREAS in recognition that healthy trees are essential to the local ecosystems by, among other things, helping sustain wildlife, supplying oxygen and cleaning the air, supporting regulation of temperature, and storing atmospheric carbon, the Infrastructure, Planning, and Sustainability Committee has also considered the negative impacts of unauthorized and illegal disturbance of trees in the City of Tacoma, and

WHEREAS across the Puget Sound, urban tree canopy is declining at a rapid rate, with the City of Tacoma having the lowest assessed tree canopy in the region when compared to other Puget Sound cities, and

WHEREAS the unauthorized and illegal disturbance (e.g., pruning, topping) and removal of healthy trees on City-owned open space and public right-of-way has resulted in environmental and other harms through the reduction of tree canopy, destabilization and erosion of steep slopes, disturbance of habitat, critical areas and natural drainage systems, degradation of groundwater recharge and water quality, and reduction of capacity for temperature regulation, cleaning the air and supplying oxygen, and

WHEREAS such unauthorized and illegal activities have increased the potential for slope failure and landslides that endanger persons and property located above and below steep slopes, and

WHEREAS such unauthorized and illegal activities have caused economic harm to the City through the loss of valuable healthy trees, damage to public



1 property, and the expenditure of public funds to remediate and restore impacted  
2 property and vegetation, and

3 WHEREAS City-owned open space and public right-of-way have been  
4 the frequent subject of unauthorized disturbance and removal of healthy trees  
5 for the primary purpose of improving views over City-owned property and public  
6 right-of-way, and  
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8 WHEREAS such known unauthorized and illegal activities include the  
9 following:

10 (1) In 2009, the unauthorized and illegal removal of three trees located on  
11 steep slopes, wetlands, shoreline and urban forest habitat on property owned by  
12 the City of Tacoma and located near North Sunset Drive;

13 (2) In 2010, the unauthorized and illegal disturbance and removal of 190  
14 trees located on steep slopes, wetlands, shoreline and urban forest habitat on  
15 property owned by the City of Tacoma and located near North Sunset Drive;

16 (3) In 2016, the disturbance of seven large mature trees located on steep  
17 slopes on property owned by the City of Tacoma and located near Lighthouse  
18 Drive Northeast; and

19 (4) In 2022, the unauthorized and illegal removal of 22 large mature trees  
20 located on steep slopes on property owned by the City of Tacoma located near  
21 Cliffside Drive Northeast, and

22 WHEREAS the appraised value of the trees disturbed or removed in the  
23 above-described incidents exceeds \$543,000, not including the public funds that  
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1 will be expended to restore the damage to the City's property and to mitigate the  
2 impact to the ecosystem and critical areas, and

3 WHEREAS since January 2020, the City of Tacoma Planning and  
4 Development Services Department has investigated 30 reported violations involving  
5 unauthorized and illegal disturbance and removal of trees within critical areas and  
6 public right-of-way located throughout the City, including eight reports of violations  
7 impacting the Schuster Slope, nine reports of violations in the vicinity of Stadium  
8 Way, and three reports of violations at the McKinley Slope, and

9 WHEREAS there have been few, if any, reports or discovery of unauthorized  
10 and illegal disturbance or removal of trees within areas of City-owned open space  
11 that did not materially enhance private views from adjacent property, and

12 WHEREAS the City Council finds that:

13 (1) the primary benefit of such unauthorized and illegal disturbance and  
14 removal of trees on City-owned open space is the enhancement of private views  
15 from adjacent property;

16 (2) enhancement of such private views increases the value of such property  
17 with little, if any, benefit to the general public;

18 (3) in most instances the individuals responsible for the unauthorized and  
19 illegal disturbance and removal of trees on City open space and public right-of-way,  
20 have not taken responsibility for these actions and have not sought advance  
21 authorization from the City;

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(4) the existing enforcement and remedial provisions of Chapters 9.18, 9.19, and 9.20 are inadequate to deter such unauthorized and illegal acts and inadequate to remediate the harm caused; and

(5) additional public education about the negative impacts of disturbance and removal of trees and the municipal code amendments proposed in this ordinance allowing adjacent property owners desiring to enhance their scenic views on City-owned open space and public right-of-way, to request that the City prune trees, will help to reduce the occurrence of such unauthorized and illegal activities, but will be inadequate alone to address the problem, and

WHEREAS the City Council finds that based upon the foregoing, more robust and effective civil enforcement and remedial provisions, including monetary penalties based upon valuation of the disturbed or removed trees and a burden shifting rebuttable presumption, as set forth in the proposed ordinance, are reasonable and necessary to deter such unauthorized and illegal activities, and

WHEREAS the City Council further finds that the proposed ordinance would adopt protections to improve the health and longevity of our community's trees, which when coupled with the City's programs to increase tree canopy in historically underserved communities, would help to ensure the health benefits of trees are shared equitably across Tacoma, and

WHEREAS based upon the foregoing, it would be in the best interest of the public health, safety and welfare to enact the ordinance as set forth below;

Now, Therefore,



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BE IT ORDAINED BY THE VOTERS OF THE CITY OF TACOMA:

Section 1. That, except as provided in Section 2 of this Ordinance, Chapter 9.20 of the Tacoma Municipal Code (“TMC”) shall be and is hereby repealed in its entirety and replaced with a new Chapter 9.20 of the TMC to be known and designated as Chapter 9.20, “Urban Forestry”, consisting of six sections to read as set forth in Exhibit “A,” attached hereto and incorporated by this reference as though fully set forth herein, effective at 12:01 a.m. on the 1st day of January, 2024.

Section 2. That Sections 9.20.130 (References in TMC), 9.20.200 (General purpose and intent), 9.20.210 (Street tree permit – pruning), 9.20.220 (Street tree permit – removal), 9.20.230 (Street tree permit – planting), 9.20.240 (Exemptions and modifications from street tree permit requirements - pruning and removal), and 9.20.330 (Protection of street trees – development) of Chapter 9.20 of the TMC as set forth in Exhibit “A,” shall have an effective date of 12:01 a.m. on the 1st day of June, 2024, and shall have no force or effect until such effective date.

Section 3. Chapters 9.18 (Trees and Shrubs - Trimming and Removal) and 9.19 (Trees and Shrubs – Planting) of the TMC shall be and are hereby repealed in their entirety, effective at 12:01 a.m. on the 1st day of June, 2024.

Section 4. Chapter 1.23 of the TMC shall be amended at Subsection 1.23.050.B.3 to read as set forth in Exhibit “B,” attached hereto and incorporated by this reference as though fully set forth herein, effective at 12:01 a.m. on the 1st day of January, 2024.



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Section 5. That the City Attorney and City Clerk are hereby authorized to make any alterations, changes or additions to this Ordinance, including Exhibits “A” and “B” herein, which may be necessary to correct errors or omissions therein.

Section 6. That the proper officials of the City of Tacoma are authorized and directed to take whatever action as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties and responsibilities set forth herein.

Section 7. If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each and every section, subsection,





1 sentence, clause, or phrase not declared invalid or unconstitutional without regard  
2 to whether any portion of the ordinance would be subsequently declared invalid or  
3 unconstitutional.

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5 Passed \_\_\_\_\_

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8 Mayor

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10 Attest:  
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12 City Clerk

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14 Approved as to form:  
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16 Interim City Attorney

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EXHIBIT "A"

**CHAPTER 9.20  
URBAN FORESTRY**

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**SECTIONS:**

**I. ADMINISTRATION**

- 9.20.100 Administration – general authority.
- 9.20.110 Liability – duty.
- 9.20.120 Compliance with other laws; conflict of laws.
- 9.20.130 References in Tacoma Municipal Code.
- 9.20.140 Definitions.

**II. PERMIT REQUIREMENTS**

- 9.20.200 General purpose and intent.
- 9.20.210 Street tree permit – pruning.
- 9.20.220 Street tree permit – removal.
- 9.20.230 Street tree permit – planting.
- 9.20.240 Exemptions and modifications from street tree permit requirements – pruning and removal.
- 9.20.250 Tree pruning on public real property – scenic view enhancement.
- 9.20.260 Permit Display – violation.

**III. GENERALLY APPLICABLE REQUIREMENTS**

- 9.20.300 Removal of trees and tree parts.
- 9.20.310 Topping.
- 9.20.320 Types of trees prohibited.
- 9.20.330 Protection of street trees – development.
- 9.20.340 Right-of-way obstruction – trees.
- 9.20.350 No interference.
- 9.20.360 Damage to trees on public property.
- 9.20.370 Gleaning of fruit.
- 9.20.380 Appeal of denial of permit.

**IV. HERITAGE TREES**

- 9.20.400 Intent.
- 9.20.410 Applicability.
- 9.20.420 Qualifications.
- 9.20.430 Nomination.
- 9.20.440 Application.
- 9.20.450 Designation.
- 9.20.460 Maintenance, care and protection.

**V. ENFORCEMENT AND REMEDIES**

- 9.20.500 Enforcement – delegation.
- 9.20.510 Violations.
- 9.20.520 Monetary penalties.
- 9.20.530 Natural resource damage assessment.
- 9.20.540 Suspension or revocation of permit.



- 9.20.550 Presumption - removal and pruning on public property.
- 9.20.560 Written instruments.
- 1 9.20.570 Criminal violation.
- 2 9.20.580 Remedies not exclusive.

3 **VI. MISCELLANEOUS PROVISIONS**

- 9.20.600 Chapter cumulative.
- 4 9.20.610 Severability.

5 **I. ADMINISTRATION**

6 **9.20.100 Administration – general authority.**

7 The Director is authorized to administer, implement, and enforce the provisions of this chapter and  
 8 delegate authority to enforce the provisions of this chapter to such person(s) as the Director may  
 9 designate from time to time. The Director is authorized to promulgate, implement, amend, supplement  
 10 and enforce such policies, procedures, requirements, and manuals, and to issue such guidance, as are  
 11 reasonable and necessary to implement and ensure compliance with this chapter. Any such policy,  
 12 procedure, guidance, requirement, or manual promulgated by the Director, and any amendments or  
 13 supplements made thereto, shall be made available to the public.

14 Discretionary authority granted pursuant to the provisions of this chapter shall be exercised in a  
 15 reasonable manner and consistent with applicable law, the purpose, scope, and intent of this chapter, and  
 16 applicable policies and standards adopted by the City, including the City of Tacoma Comprehensive Plan,  
 17 the Urban Forest Manual, the Design Manual, the Urban Forest Management Plan, and the Climate  
 18 Action Plan.

19 **9.20.110 Liability – duty.**

20 While this chapter authorizes the City of Tacoma and its officials, officers, employees and agents to  
 21 administer this chapter, such authorization shall not be construed as placing responsibility for compliance,  
 22 or as creating any duty, on the part of the City or any City official, officer, employee or agent to any  
 23 particular case or to any particular person or class of persons. This chapter shall be enforced for the  
 24 health, safety and welfare of the general public, and not for the benefit of any particular person or class of  
 25 persons. Nothing contained in this chapter is intended, nor shall be construed, to create or form the basis  
 26 of any liability on the part of the City, its officials, officers, employees or agents, for any injury or  
damage resulting from any act or omission on the part of the City, its officials, officers, employees or  
agents.

**9.20.120 Compliance with other laws; conflict of laws.**

**A. Compliance with laws.**

In addition to the requirements of this chapter, the removal, pruning and planting of street trees, and the  
removal, pruning and planting of trees and other vegetation on public real property, must comply with all  
applicable federal, state and local laws, rules and regulations as now or may hereafter be amended or  
adopted including, without limitation, the Critical Areas Preservation code (Tacoma Municipal Code  
(TMC) 13.11), the Shoreline Master Program (TMC Title 19), the Land Use Permits and Procedures code  
(TMC Chapter 13.05), the Right-Of-Way Development Code (TMC 2.22), and the Rights-of-Way code  
(TMC 10.22). A permit authorized under this chapter may be incorporated into and as part of a permit  
issued pursuant to TMC 2.22, TMC 10.22, TMC 13.05 and TMC 13.11.

**B. Conflict of laws.**

A permit, or permit condition, issued under authority of this chapter that conflicts with an applicable  
provision of a federal, state or local law, rule or regulation shall have no force or effect to the extent of  
the conflict; provided that the permit, or permit condition may be more restrictive. For example, TMC  
13.11 may prohibit complete removal of trees within critical areas.



**9.20.130 References in Tacoma Municipal Code.**

1 Any reference in the Tacoma Municipal Code to TMC Chapter 9.18, 9.19, or 9.20, or any subsection  
2 thereof, shall as applicable, mean and refer to this chapter or the applicable subsection or subsections of  
3 this chapter.

**9.20.140 Definitions.**

4 For purposes of this chapter, the following terms, phrases, words, and their derivations shall have the  
5 meanings given herein unless a different meaning is otherwise plainly required. Words not defined herein  
6 shall have the meaning given in TMC 1.82. Words not defined herein or in TMC 1.82 shall have the  
7 meaning given in the Urban Forest Manual. Words not defined in this chapter, TMC 1.82, or the Urban  
8 Forest Manual shall have the meaning given in ANSI A300. Words not defined in this chapter, TMC  
9 1.82, the Urban Forest Manual, or ANSI A300 shall have their common and ordinary meaning. When not  
10 inconsistent with the context, words used in the present tense include the future, words in the plural  
11 include the singular, and words in the singular include the plural. The words “shall” and “will” are always  
12 mandatory and not merely directory and the word “may” is permissive. References to governmental  
13 entities (whether persons or entities) refer to those entities or their successors in authority.

14 “AASHTO Green Book” shall mean and refer to the most recent edition of the American Association of  
15 State Highway and Transportation Officials’ policy on geometric design of highways and streets more  
16 commonly referred to as the “green book”.

17 “Abutting” shall mean having boundary lines in common.

18 “Abutting owner” shall mean and refer to the owner of the property abutting that portion of the planting  
19 strip where fifty percent (50%) or more of the trunk of a street tree is located or proposed to be located.

20 “ANSI A300” shall mean and refer to the most current version of the tree, shrub and other woody plant  
21 maintenance and standard practices standard A300 as accredited by the American National Standards  
22 Institute (ANSI) or its successor organization.

23 “Applicant” shall mean and refer to the person applying for a permit or heritage tree designation or  
24 submitting a request to prune trees on public property.

25 “Arborist” or “Certified Arborist” shall mean and refer to an individual engaged in the profession of  
26 arboriculture who, through experience, education and related training, possesses the competence to  
27 provide for or supervise the management of trees and other woody plants, and shall have the credential of  
28 Certified Arborist as granted by the International Society of Arboriculture (ISA). Certified Arborists  
29 must maintain their certification and be in good standing with the International Society of Arboriculture.

30 “Authorized agent” shall as applicable mean and refer to a person retained and authorized by the City or  
31 an applicant to prune, remove or plant a street tree, or to prune, remove or plant a tree on City property.

32 “Best management practices” or “BMPs” shall mean and refer to the standard practices for tree pruning  
33 and removal approved or recommended under ANSI A300.

34 “City” is the City of Tacoma.

35 “City property” shall mean and refer to all real property and real property interests owned or controlled  
36 by the City, with the exception of public rights-of-way.

37 “Conflict tree” shall have the meaning as that term is given at TMC 9.20.220.

38 “DBH”, “DSH”, or “caliper inches” shall mean diameter at breast height, or diameter at standard height,  
39 which refers to the tree trunk diameter measured at four feet six inches (4’-6”) above the ground of a  
40 standing tree, measured in inches and tenths of an inch. If the tree is measured at less than four inches  
41 (4”) of DBH or DSH, as is typical for newly planted trees, caliper inches shall be used, and is measured at  
42 six inches (6”) above the soil level.

43 “Design manual” shall mean and refer to the manual applicable to construction of all street and right-of-  
44 way improvements as adopted by the City Director of Public Works, and effective on or about January 7,



2016, and any amendments, updates, or revisions made thereto, and on file with the Public Works Department.

1 “Development” means the construction, reconstruction, conversion, structural alteration, relocation, or  
2 enlargement of any building or structure; any use or change in use of any building or land; any extension  
3 of any use of land, or any land alteration.

4 “Director” shall mean and refer to the Director of the City of Tacoma Public Works Department, or  
5 successor department or division, and any designee of the Director with respect to the authority delegated  
6 to the designee by the Director.

7 “Drip line” shall mean and refer to the area on the ground below the tree in which the boundary is  
8 designated by the edge of the tree’s crown.

9 “Electric facilities” shall have the same meaning as that term is given pursuant to RCW 64.12.035, as  
10 now or hereafter amended.

11 “Electric utility” shall have the same meaning as that term is given pursuant to RCW 64.12.035, as now  
12 or hereafter amended.

13 “Emergency” shall mean and refer to an urgent, sudden, and serious event or an unforeseen change in  
14 circumstances or discovered condition that necessitates immediate action to remedy harm or avert  
15 imminent danger to life, health, or property.

16 “Emergency response costs” shall mean and refer to those costs incurred by the City in response to an  
17 emergency.

18 “Fruit Tree” shall mean and refer to a tree that is grown for its edible fruit, consumed by humans.  
19 Ornamental varieties of fruiting trees, such as ornamental pear or cherry trees, are exempt from the  
20 definition of a fruit tree.

21 “Hazardous tree” and “hazard tree” shall mean and refer to a tree(s) that is found to be likely to fail and  
22 has an extreme or high risk to cause property damage, personal injury or fatality in the event of a failure.  
23 Trees designated as hazards shall be designated as such by a Certified Arborist who has achieved a Tree  
24 Risk Assessment Qualification.

25 “Heritage tree(s)” shall mean and refer to a tree, or collection of trees, located in the City limits of  
26 Tacoma that, because of exemplary size, age, cultural/historical significance, ecological value, or rarity, is  
27 considered irreplaceable.

28 “Improved right-of-way” shall mean and refer to the public rights-of-way within the City that are paved,  
29 graded, or otherwise altered in any way for the purpose of vehicle, pedestrian, or bicycle travel.

30 “Invasive tree” is a species that was introduced by humans to locations outside of the tree’s native range  
31 that spread and persist over large areas. Invasive species negatively impact natural ecosystems by  
32 displacing native species, reducing biological diversity, and interfering with natural succession.

33 “Land alteration” shall mean and refer to activities pertaining to the clearing or moving of land and  
34 earthwork, including compaction, excavation, grading, filling, stockpiling, striping and/or scarification of  
35 a site.

36 “Mailing” or “service by mail” shall mean sending the document by regular, first-class mail, postage  
37 prepaid and properly addressed, to the last known address of the person subject to the document. The last  
38 known address shall be an address provided to the City by the person to whom the document is directed;  
39 if an address has not been provided to the City, the last known address shall be any of the following as  
40 they appear at the time the document is mailed: the address of the property where the violation is  
41 occurring, or the taxpayer address appearing for the property on the official property tax information  
42 website for Pierce County; the address used for the payment of utilities for the property at which the  
43 violations are occurring; or the address appearing on the project permit application. Where service of  
44 notice is by mail, service shall be deemed complete upon the third day following the day upon which the  
45 notice is placed in the mail, unless the third day falls on a Saturday, Sunday, or federal legal holiday, in



which event service shall be deemed complete on the first day other than a Saturday, Sunday, or legal holiday following the third day.

1 “Natural resource damage” and “damaged natural resources” shall mean and refer to any and all injury,  
2 damage or degradation of or to, trees, ground cover and other vegetation, animal habitat, wetlands,  
3 natural drainage courses, slope stability, soils condition, wind protection, ground water retention, and  
4 other natural resources located on public property.

5 “Nuisance tree” shall have the meaning as that term is given at TMC 9.20.220.

6 “Permit” and “street tree permit” shall, unless the context plainly means otherwise, mean and refer to a  
7 permit issued in accordance with the provisions of this chapter, and shall, for purposes of the design  
8 manual, mean and refer to a “Tree Work in the ROW Permit”.

9 “Prohibited tree” shall have the meaning as that term is given at TMC 9.20.220.

10 “Project permit” shall have the meaning as that term is given at RCW 36.70B.020.

11 “Permitted street tree” shall mean and refer to a tree that meets the requirements of TMC 9.20.230 (F).

12 “Person” shall mean and refer to any individual, partnership, co-partnership, firm, company, association,  
13 joint stock company, trust, estate, society, corporation, group, government, governmental agency or other  
14 legal entity, and their legal representatives, agents, or assigns. The definition includes all federal, state,  
15 and local government entities.

16 “Planting strip” shall mean and refer to that portion of an improved right-of-way between the street curb  
17 or edge of the traveled portion of roadway and the property line of the abutting property available and  
18 used for the purpose of planting and maintaining street trees and other vegetation.

19 “Private property” shall mean and refer to real property, other than public property and real property  
20 owned, managed or controlled by a governmental entity.

21 “Prune” or “pruning” shall mean and refer to the removal of plant parts, dead or alive. In no circumstance  
22 does tree topping qualify as appropriate tree pruning.

23 “Public property” shall mean and refer to public rights-of-way and public real property.

24 “Public real property” shall mean and refer to unimproved real property, and interests in real property  
25 (easements), within the City of Tacoma limits, owned or controlled by the City; this term shall exclude  
26 public rights-of-way, and real property, and interests in real property, managed and operated as public  
27 parks.

28 “Public right-of-way” or “public rights-of-way” shall mean and refer to the public streets, roadways,  
29 courts, alleys and any other public passages, whether developed or undeveloped, over which the City has  
30 a possessory interest or right of use either by easement, license, permit or other such authority, or by fee  
31 simple ownership. For purposes of this definition public rights-of-way may contain items such as  
32 pavement, parking or loading areas, retaining walls or other structures, landscape or planting strips,  
33 sidewalks, curbs, vehicle, bicycle or pedestrian traffic lanes, traffic circles and other such development.  
34 This definition is intended to be construed so as to be consistent with other definitions of the term right-  
35 of-way or rights-of-way as may be found in Tacoma Municipal Code or Washington State statutory and  
36 case law.

37 “Public Transportation Agency” shall mean and refer to the Pierce County Public Transportation Benefit  
38 Area Corporation d/b/a Pierce Transit and the Central Puget Sound Regional Transit Authority d/b/a  
39 Sound Transit.

40 “Remove” or “removal” shall mean the act of cutting down or removing any tree by digging up or cutting  
41 down.

42 “Responsible person” shall have the meaning as set forth in TMC 1.82, the Uniform Enforcement Code.



1 “Scenic view” and “scenic views” shall mean and refer to the view over public property of natural scenery such as mountains and mountain ranges, waterways and waterbodies, islands, hills, valleys, canyons, landscapes, urban forests, and other scenic vistas.

2 “Service provider” shall have the same meaning as that term is given pursuant to RCW 35.99.010, as now or hereafter amended.

3 “Significantly damaged tree” shall have the meaning as that term is given at TMC 9.20.220.

4 “Street tree(s)” shall mean and refer to a planted tree(s), or tree(s) that is intended to be planted, whose trunk is wholly or partially located within the public right-of-way. Street trees may be owned by the City or by an abutting property owner.

5 “TMC” shall mean and refer to the Tacoma Municipal Code.

6 “Topping” or “Tree Topping” shall mean and refer to 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.

7 “Traffic control device” means a sign, signal, marking or other device placed or erected for the purpose of regulating, warning, guiding or otherwise controlling traffic or regulating the parking of vehicles.

8 “Tree” shall, in addition to its common and ordinary meaning, mean any self-supporting woody plant which reaches a typical mature height of fifteen (15) feet or more at maturity, generally has a minimum mature canopy width of ten feet and greater, and is capable of being pruned to develop a branch-free trunk to at least eight feet in height at maturity.

9 “Unimproved right-of-way” shall mean and refer to public rights-of-way that are not paved, graded, or otherwise altered for the purpose of vehicle, pedestrian, or bicycle travel.

10 “Urban forest manual” (UFM) or “City of Tacoma urban forest manual” shall mean and refer to the manual adopted by the Director under authority of this chapter that provides best management practices for plant selection, design, installation, care, and other specifications for street trees.

11 “Utility” shall mean and refer to an electric utility, a service provider, and an operator of a natural gas, water, or sewer system located in the public right-of-way.

12 “Vegetation management plan” shall mean and refer to a plan for the pruning, removal, maintenance, or management of trees and other vegetation or the management or prevention of vegetative growth that has been adopted, authorized, or applied by the City, including any department or division of the City, to manage vegetation on public property.

13 **II. PERMIT REQUIREMENTS**

14 **9.20.200 General purpose and intent.**

15 It is the intent of this section of Chapter 9.20 to establish regulations and procedures to designate street trees as essential infrastructure and to preserve them in a healthy and safe manner, to ensure that the City’s built and natural environments function in complementary ways and are resilient to climate change and natural hazards, so that all persons who live, work or pass through the City have access to clean air and water, can experience nature in their daily lives, and benefit from public right-of-way amenities that are designed to lessen the impacts of natural hazards and environmental degradation, now and in the future. Trees are a living organism, and pruning and proactive management of street trees is essential to manage potentially hazardous conditions and improve public safety. A balance between preservation of trees and managing public safety can be partially accomplished by controlling how and when pruning or tree removal can occur and, in specific instances, by allowing individuals to provide for the pruning or removal of trees in accordance with the conditions of this Chapter.

16 Unless an exemption under this chapter applies, requests to prune street trees shall be governed by TMC 9.20.210; requests to remove street trees shall be governed by TMC 9.20.220; requests to plant street



1 trees shall be governed by TMC 9.20.230; and, requests to prune trees located on public real property for  
2 the purpose of scenic view enhancement shall be governed by TMC 9.20.250.

3 **9.20.210 Street tree permit – pruning.**

4 **A. Applicability - pruning.**

5 Unless an exemption under this chapter applies, TMC 9.20.210 shall govern requests to prune street trees.

6 **B. Prohibition – street tree permit required - pruning.**

7 1. Permit required. Unless an exemption under this chapter applies, it shall be unlawful for any  
8 person to, in any manner, prune any street tree without having first obtained a street tree permit  
9 from the Director as provided in this chapter; provided that, an authorized agent may prune a  
10 street tree in conformance with a valid street tree permit issued to the abutting owner, a utility, a  
11 public transportation agency or the City.

12 2. Compliance. Unless an exemption under this chapter applies, it shall be unlawful for any  
13 person, or authorized agent on behalf of a person, issued a street tree permit to, in any manner,  
14 prune any street tree except in conformance with the terms and conditions of such street tree  
15 permit and this chapter.

16 **C. Street tree permit application – pruning.**

17 The abutting owner, and any authorized agent of the abutting owner, the City and its authorized agents,  
18 and with respect to above-ground facilities, utilities and public transportation agencies, and their  
19 authorized agents, may apply for a street tree permit to prune a street tree if the pruning is intended to  
20 meet one or more pruning objectives set forth in ANSI A300, e.g., manage risk, manage health, develop  
21 structure, provide clearance, manage size or shape, improve aesthetics, and manage wildlife habitat. A  
22 permit may authorize pruning of one or more street trees. Before any street tree permit may be issued, the  
23 applicant shall file a complete application with the Director containing the information and declaration as  
24 set forth at TMC 9.20.210 (D) below, together with such other information as may be requested by the  
25 Director that is reasonably related to the application and approval requirements.

26 **D. Contents of application – pruning.**

Each application submitted pursuant to TMC 9.20.210 (C) for a street tree permit for pruning of a street  
tree shall include the following:

- 1 1. Name, address and telephone number of the applicant where applicant agrees to receive  
2 communications from the City;
- 3 2. If applicant is an authorized agent for the abutting owner, the name, address and telephone  
4 number of the abutting owner. If applicant is an authorized agent of a utility, a public  
5 transportation agency, or the City, the name, address and contact information for the electric  
6 utility, service provider, public transportation agency, or applicable department or division of the  
7 City;
- 8 3. Description of the public right-of-way within which each street tree that is the subject of the  
9 application is located;
- 10 4. Description of each street tree to be pruned with sufficient detail to accurately identify each  
11 street tree that is the subject of the application;
- 12 5. A photograph or digital image clearly delineating each street tree proposed to be pruned;
- 13 6. A street tree pruning plan that sets forth in detail the proposed plan and purpose for pruning each  
14 street tree that is the subject of the proposed permit, certified by applicant or a certified arborist  
15 on behalf of the applicant, that the plan meets ANSI A300 Standards, and demonstrating that  
16 implementing the pruning described in the proposed pruning plan will not result in a significant  
17 negative impact to each street tree’s continued health. Such street tree pruning plan shall also be





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certified by the applicant to meet requirements of all necessary traffic control measures of the City of Tacoma Traffic Control Handbook, as applicable;

- 7. If applicant is the abutting owner, or an authorized agent of the owner, a declaration of the applicant meeting the requirements of Ch. 5.50 RCW that the applicant is the owner of the abutting property, or that the authorized agent is authorized to file the application on behalf of the owner of the abutting property;
- 8. Name, address and telephone number of the person to perform the street tree pruning work;
- 9. Such other information as may be requested by the Director that is reasonably related to the application and approval requirements; and,
- 10. Payment of a permit application fee, when established pursuant to Chapter 2.09 of the Tacoma Municipal Code.

E. Review of application – pruning.

- 1. Process for review. An application meeting the requirements of TMC 9.20.210 (D) for a street tree permit will be reviewed by the Director within a reasonable period-of-time for compliance with the requirements in subsection 2 below. The Director may utilize the services of a consulting arborist or forester as needed. The Director may consider any information provided in the application and any relevant information provided by City staff and the consulting arborist or forester.
- 2. Requirements for approval. The Director shall review the application and issue a permit if the applicant has demonstrated to the reasonable satisfaction of the Director that the following requirements are met:
  - a. The proposed pruning plan set forth in the application meets one or more of the pruning objectives set forth in ANSI A300;
  - b. The pruning plan sets forth in adequate detail the proposed plan for pruning each street tree that is the subject of the proposed permit together with any other relevant information;
  - c. The proposed pruning plan meets BMPs;
  - d. The proposed pruning plan is consistent with the purpose and intent of this chapter and standards adopted by the City; and,
  - e. That implementing the pruning described in the proposed pruning plan will not result in a significant negative impact to each street tree’s continued health.

F. Permit fee – expiration – multiple street trees - pruning.

The application for a Permit, if applicable, is subject to the fees established pursuant to Chapter 2.09 of the Tacoma Municipal Code. If applicable, the street tree permit fee shall be paid at the time of submittal of the application. The Permit may apply to one or more street trees and shall specify the date upon which the street tree permit shall expire; provided that, no permit to prune a street tree shall be effective for longer than 180 days unless an extension is granted by the Director.



9.20.220 Street tree permit – removal.

1 A. Applicability - removal.

2 Unless an exemption is demonstrated to apply, TMC 9.20.220 shall govern requests to remove street  
3 trees.

4 B. Prohibition – street tree permit required - removal.

5 1. Permit required. Unless an exemption under this chapter applies, it shall be unlawful for any  
6 person to, in any manner, remove any street tree without having first obtained a street tree permit  
7 from the Director as provided in this chapter; provided that, an authorized agent may remove a  
8 street tree in conformance with a street tree permit issued to the abutting owner, a utility, a  
9 public transportation agency, or the City.

10 2. Compliance. Unless an exemption under this chapter applies, it shall be unlawful for any person  
11 issued a street tree permit for tree removal, or an authorized agent of a person issued a street tree  
12 permit, to in any manner remove any street tree except in conformance with the terms and  
13 conditions of such street tree permit and this chapter.

14 C. Street tree permit application – removal.

15 The abutting owner and any authorized agent of the abutting owner, the City and any authorized agent of  
16 the City, a public transportation agency, and with respect to conflict trees, a utility and its authorized  
17 agent, and a property owner who is not an abutting owner and is required under a project permit to make  
18 off-site improvements, may apply for a street tree permit to remove a street tree if the proposed removal  
19 meets one or more of the requirements set forth below in subsection TMC 9.20.220 (E) below. A permit  
20 may authorize removal of one or more street trees. Before any street tree permit may be issued, the  
21 applicant shall submit a complete application to the Director containing the information and declaration  
22 set forth in TMC 9.20.220 (D) below, together with such other information as may be requested by the  
23 Director that is reasonably related to the application and approval requirements.

24 D. Contents of application –removal.

25 Each application submitted pursuant to TMC 9.20.220 (C) for a street tree permit for removal of a street  
26 tree shall include the following:

- 1 1. Name, address and telephone number of the applicant where applicant agrees to receive  
2 communications from the City;
- 3 2. If the applicant is the abutting owner or authorized agent, a declaration of the applicant  
4 meeting the requirements of Ch. 5.50 RCW that the applicant is the owner of the abutting  
5 property, or an authorized agent, and has authority to submit the application;
- 6 3. If applicant is an authorized agent for the abutting owner, the name, address and telephone  
7 number of the abutting owner. If applicant is an authorized agent of a utility, a public  
8 transportation agency, or the City, the name, address and contact information for the utility,  
9 public transportation agency, or applicable department or division of the City;
- 10 4. If applicant is not an abutting owner and is required under a project permit to make off-site  
11 improvements adjacent to property in which they do not own, a description of the attempt to  
12 communicate with the property owner as set forth in TMC 9.20.220 (H);
- 13 5. Description of the public right-of-way within which each street tree that is the subject of the  
14 application is located;
- 15 6. Description of each street tree to be removed with sufficient detail to accurately identify  
16 each street tree that is the subject of the application;



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- 7. A photograph or digital image clearly delineating each street tree proposed to be removed;
- 8. A detailed statement demonstrating that each street tree proposed to be removed meets one or more of the categories set forth in TMC 9.20.220 (E) below and why each street tree should be removed, together with any other relevant information;
- 9. A street tree removal plan that sets forth in detail the proposed plan for removing each street tree that is proposed to be removed, certified by the applicant or authorized agent to meet requirements of the Design Manual, and all necessary traffic control measures of the City of Tacoma Traffic Control Handbook, as applicable;
- 10. The application shall include an application complying with the street tree planting permit requirements of TMC 9.20.230 for planting of a street tree;
- 11. Name, address and telephone number of the person(s) to perform the street tree removal work;
- 12. Such other information as may be requested by the Director that is reasonably related to the application and approval requirements; and,
- 13. Payment of a permit application fee when established pursuant to TMC Chapter 2.09.

E. Categories of street trees subject to removal.

Unless an exemption applies as provided in this chapter, an application for a street tree permit for removal of one or more street trees must demonstrate that each street tree proposed to be removed meets one or more of the following categories:

- 1. Hazard trees. A tree shall be designated as a hazard tree 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.
- 2. Conflict trees. A conflict tree is a tree that by its presence in the public right-of-way directly conflicts or interferes with (a) construction or installation of a utility or public right-of-way improvement; (b) activities performed in the public right-of-way to repair or maintain a utility or public right-of-way improvement; (c) development of real property nearest to and directly abutting that portion of the public right-of-way upon which the street tree is located; or that, (d) damages existing improvements within the right-of-way or abutting property. A tree conflicts or interferes when it is demonstrated that there are no reasonable alternatives available to removal of the conflict tree.
- 3. Sidewalk damaged by trees. When it can be demonstrated that damage to a sidewalk has been created by the roots of an existing street tree in a manner that creates a public hazard. It must be demonstrated that there are no reasonable alternatives available to removal of the street tree.
- 4. Prohibited trees. A species of tree that is unlawful to plant in the public right-of-way pursuant to the adopted Prohibited Tree List of the Urban Forest Manual.
- 5. Nuisance trees. A tree that constitutes a public nuisance pursuant to Chapter 8.30 TMC.
- 6. Significantly damaged trees. A tree that has been previously topped or significantly damaged to an extent that, if left unmanaged through extensive pruning and maintenance, could become a future Hazard Tree.
- 7. Fruit trees. A fruit tree that the abutting owner desires to remove.

F. Review of application –removal.

An application meeting the requirements of TMC 9.20.220 (D) for a street tree permit for removal of a street tree will be reviewed by the Director within a reasonable period of time for compliance with the requirements in subsection G below. The Director may utilize the services of a consulting arborist or



forester as needed. The Director may consider any information provided in the application and any relevant information provided by City staff, including the Light Division, and the consulting arborist or forester.

G. Approval requirements - removal.

The Director shall review the application and issue a permit if the applicant has demonstrated to the reasonable satisfaction of the Director that the following requirements are met:

1. Each street tree proposed to be removed meets one or more of the following categories in accordance with TMC 9.20.220(E): hazard tree, conflict tree, tree damaging the sidewalk, prohibited tree, nuisance tree, significantly damaged tree, or fruit tree.
2. The street tree removal plan sets forth in detail the proposed plan for removing each street tree and meets the requirements of the Design Manual, and all necessary traffic control measures of the City of Tacoma Traffic Control Handbook, as applicable;
3. The proposed street tree removal is consistent with the purpose and intent of this chapter and standards adopted by the City; and,
4. Each street tree proposed to be removed will be replaced with a permitted tree in accordance with a permit issued pursuant to TMC 9.20.230, and applicable provisions of the landscaping standards of the zoning code TMC 13.06.

H. Posting of public notice – removal.

1. Posting required. Upon issuance of a permit under this section, unless an exemption for posting of public notice is approved by the Director, a notice of street tree removal shall be posted by the applicant, or authorized agent, in a conspicuous location on or next to each street tree proposed to be removed for a minimum of 14 consecutive days prior to the commencement of work. The size of the font on the notice shall be large enough and the notice oriented in such a way as to be legible by pedestrians passing the street trees proposed to be removed and shall include the following:
  - a. The proposed action (removal of street tree) and permit number;
  - b. The date of posting of the notice and the date the proposed action is anticipated to commence;
  - c. The purpose or objective to be accomplished by the proposed action, e.g. tree is hazard tree, conflict tree, etc.; and,
  - d. Contact information for both the applicant or authorized agent as well as the City of Tacoma Permit Center.
2. Written notice. If the permittee is a property owner who is not an abutting owner and is required under a project permit to make off-site improvements, the following additional notice requirements shall apply when a street tree is proposed to be removed as a required off-site improvement: permittee shall provide written notice by mail to the last known address of record of the owner of the abutting property for a street tree proposed to be removed indicating the intent to remove the street tree. Such notice shall include a brief statement of the need and nature of the work intended and the location of the street tree proposed to be removed, a good faith estimate of the time frame in which such work will occur, and how the Permittee can be contacted regarding the street tree removal work.
3. Compliance. Unless an exemption is approved by the Director, it shall be unlawful, and a violation of this chapter, for any person issued a permit, or an authorized agent, to remove a street tree less than 14 days prior to the date of posting of the notice required pursuant to TMC 9.20.220 (H)(1) and, when applicable, mailing of notice required pursuant to TMC 9.20.220(H)(2).

I. Permit and canopy loss fee – expiration – multiple street trees - removal.



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All applications for removal of conflict trees shall include payment of a permit fee and a canopy loss fee for each street tree requested to be removed. The permit fee shall be established pursuant to TMC 2.09 and are intended to recover administrative costs of processing the application. A street tree permit may apply to one or more street trees and shall specify the date upon which the street tree permit shall expire; provided that, no permit shall be effective for longer than 180 days unless an extension is granted by the Director.

Conflict tree - canopy loss fee. Removal of conflict trees shall include a tree valuation fee known as a canopy loss fee, which is determined to recoup a portion of the value the street tree had to the community, prior to its removal. The canopy loss fee shall be placed in an account established to support the urban forestry program in planting, maintenance, and replacement of trees on public property or the right-of-way. The canopy loss fee is determined by a cost per inch of DBH removed. The total DBH in inches of a removed tree is subtracted by the total caliper inches of replacement street trees in the associated tree planting permit, to calculate the total inches to be mitigated by a canopy loss fee. The total inches required to be mitigated is multiplied by the fee per caliper inch as established by TMC 2.09. The canopy loss fee formula shall be as follows: [DBH in inches of removed trees - caliper inches of planted trees] X [cost per caliper inch] = Total canopy loss fee. By way of example, if one twelve-inch (12”) DBH conflict tree will be removed, and three two-inch (2”) caliper trees will be planted back, the applicant would get six inches of credit towards the canopy loss fee (3x2”). The assessed canopy loss fee would be for the remaining six inches of canopy loss: 12” tree removed – 6” planting credit = 6” canopy loss, to be paid by the fee per caliper inch as established by TMC 2.09.

The permit fee and canopy loss fee may include a senior or disabled person reduction established in the same manner as provided for permits set forth in TMC 2.09.030.B. Permit fees and canopy loss fees are not required for applications for a permit to remove qualifying hazard trees, trees damaging the sidewalk, prohibited trees, nuisance trees, fruit trees, significantly damaged trees in accordance with TMC 9.20.220(E).

**9.20.230 Street tree permit – Planting.**

**A. Intent.**

It is the intent of this section to regulate and allow the planting of street trees in a way that maximizes the benefits of street trees while minimizing potential future impacts to infrastructure and private property. Additionally, effective street tree planting regulations will help to achieve the greatest possible gain in environmental health city-wide, improve street tree species diversity and age diversity, and increase awareness and use of urban forest best practices, including proper street tree selection, planting practices and maintenance, invasive species avoidance, protection from adverse pests and diseases, and appropriate use of native and/or climate adapted species.

**B. Applicability.**

TMC 9.20.230 shall govern requests to plant street trees in the public right-of-way.

**C. Prohibition - permit required - planting.**

1. Permit required. Unless an exemption under this chapter applies, it shall be unlawful for any person to, in any manner, plant any street tree without having first obtained a street tree permit from the Director as provided in this chapter.

2. Compliance. Unless an exemption under this chapter applies, it shall be unlawful for any person issued a street tree permit for the purpose of planting a street tree, or an authorized agent on behalf of a person issued such a street tree permit, to in any manner plant any street tree except in conformance with the terms and conditions of such street tree permit and this chapter.

**D. Street tree permit application –planting.**

The abutting owner, and any authorized agent of the abutting owner, a utility, a public transportation agency, a property owner who is not an abutting owner and required under a project permit to make off-



1 site improvements, and the City, or their authorized agents, may apply for a street tree permit to plant a  
2 permitted street tree. A street tree permit may authorize planting of one or more permitted street trees.  
3 Before any street tree permit may be issued, the applicant shall submit an application containing the  
4 information and declaration set forth in TMC 9.20.230 (E) below, together with such other information as  
5 may be requested by the Director that is reasonably related to the application and approval requirements.

6 E. Contents of application – planting.

7 Each application submitted pursuant to TMC 9.20.230 (D) for a street tree permit for planting of a  
8 permitted street tree shall include the following:

- 9 1. Name, address and telephone number of the applicant where applicant agrees to receive  
10 communications from the City;
- 11 2. If applicant is an authorized agent for the abutting owner, the name, address and telephone  
12 number of the abutting owner. If applicant is an authorized agent of a utility, a public  
13 transportation agency, or the City, the name, address and contact information for the utility,  
14 public transportation agency, or applicable department or division of the City;
- 15 3. If applicant is not an abutting owner and is required under a project permit to make off-site  
16 improvements adjacent to property in which they do not own, a description of the attempt to  
17 communicate with the property owner as set forth in TMC 9.20.230 (I);
- 18 4. Aerial image (site plan) of the public right-of-way within which each street tree is proposed to be  
19 planted showing existing site features including the location(s) of adjacent buildings, streets,  
20 sidewalks and/or other paved surfaces, and dimensions of available planting space, such as the  
21 width of the tree pit or planting strip;
- 22 5. Tree planting plan describing the quantity of street trees proposed to be planted, planting  
23 location(s), species including the common and scientific name(s), and the method and manner of  
24 planting each proposed street tree;
- 25 6. If the applicant is an authorized agent of the abutting owner, an original declaration of the  
26 abutting owner meeting the requirements of Ch. 5.50 RCW, providing the name, address and  
27 telephone number of the authorized agent, declaring that the authorized agent is authorized by  
28 the abutting owner to plant permitted street trees within that portion of the public right-of-way  
29 abutting the declarant’s real property and that the declarant, and declarant’s successors and  
30 assigns in and to the abutting real property, shall own and be responsible for each such street  
31 tree, and that the declarant is the legal owner of the abutting property;
- 32 7. If the proposed street tree(s) species is not selected from the preapproved street tree lists  
33 established in the Urban Forest Manual, a detailed statement demonstrating why the selected  
34 street tree species meets the criteria set forth in TMC 9.20.230 (F) (2) below, including objective  
35 authoritative sources, or from the nursery providing the tree growth information, often called  
36 “cut sheets”, describing the proposed street tree’s mature height, crown spread and growth rate  
37 supporting the tree or alternatives as approved through the permit review process. Objective  
38 information must come from published sources;
- 39 8. Such other information as may be requested by the Director that is reasonably related to the  
40 application and approval requirements; and,
- 41 9. Payment of a permit application fee established pursuant to TMC Chapter 2.09.

42 F. Permitted street trees – type - planting.

- 43 1. Pre-approved tree species. Tree species approved for planting in the public right-of-way  
44 pursuant to the Urban Forest Manual, or a pre-approved tree list established by the Director, are  
45 pre-approved and permitted trees.
- 46 2. Approval of other tree species. Tree species that are not pre-approved and that are not prohibited  
47 pursuant to this chapter or the Urban Forest Manual, may be permitted trees if they are



demonstrated to the reasonable satisfaction of the Director to meet all of the following conditions:

- a. Climate adapted to the Pacific Northwest region. The use of natives and climate adapted species is encouraged, and all tree species should be adapted to live in the region and specific conditions of the planting location.
- b. Visibility and safety. Except in cases where required landscaping is intended to provide dense visual buffers or to enhance natural conditions, trees shall be selected to maximize visibility at eye level for safety. To meet this requirement, trees shall be selected to maximize views below 7 feet in height at maturity, such that the lower branches should be able to be pruned/removed to allow for views under the tree's crown.
- c. Species selection. Species shall be selected to avoid or minimize potential conflicts with infrastructure and utilities. Street tree species under power lines shall have a maximum mature height (at 25 years of age) not greater than 25 feet.

G. Distance requirements - planting.

The trunk of new street tree plantings from pavement, structures, utilities, and other infrastructure shall conform to the Design Manual. Distances may be reduced, with approval of the Director, upon a demonstration that the species selected will not cause infrastructure conflicts and conforms to the guidance in the Urban Forest Manual and Design Manual.

H. Requirements for approval – planting.

The Director shall review the application and issue a permit if the applicant has demonstrated to the reasonable satisfaction of the Director that the following requirements are met:

1. The species of each proposed tree is pre-approved, and if not pre-approved, meets the conditions set forth in TMC 9.20.230 (F) (2) (a-c) above;
2. The planting of each proposed tree meets the purpose and intent of this chapter and the requirements set forth in the Design Manual and the Urban Forest Manual; and,
3. If an existing street tree is proposed to be removed and replaced with a new street tree, that a street tree permit has been issued for removal of such existing street tree.

I. Notice Requirements.

1. If the permittee is a property owner who is not an abutting owner and is required under a project permit to make off-site improvements, the following additional notice requirements shall apply when a street tree is proposed to be planted as a required off-site improvement: permittee shall provide written notice by mail to the last known address of record of the owner of the abutting property for a street tree proposed to be planted indicating the intent to plant the street tree. Such notice shall include a brief statement of the need and nature of the work intended, the proposed location and species of the street tree to be planted, a good faith estimate of the time frame in which such work will occur, and how the permittee can be contacted regarding the street tree planting work.
2. Compliance. Unless an exemption is approved by the Director, it shall be unlawful, and a violation of this chapter, for any person required to provide notice pursuant to TMC 9.20.230 (I) (1) above, to plant a street tree less than 14 days prior to the date of mailing of notice required pursuant to TMC 9.20.230 (I) (1).

**9.20.240. Exemptions and modifications from street tree permit requirements – pruning and removal.**

A. Exemptions.



The following street tree pruning and street tree removal activities are exempt from the requirements of this chapter to obtain a street tree permit; provided that, pruning shall utilize BMPs to protect the health of the tree, and in no instances is tree topping permissible:

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1. Small trees. Pruning by an abutting owner, or authorized agent, of street trees which are less than 15 feet in height, provided that the pruning shall be performed in compliance with BMPs.
2. Fruit trees. Harvesting of fruit and pruning of fruit bearing street trees.
3. Protection of public travel. Pruning or removal of street trees by the City of Tacoma Department of Public Works, or its successor agency, or the Washington State Department of Transportation, or its successor agency, to abate a condition that poses a threat to public health, safety or welfare, to maintain visibility to traffic devices and signage, or to abate a public nuisance.
4. Public Works Department. Pruning of street trees by the City Public Works Department for the purpose of providing adequate clearances for construction equipment, to abate a hazard, or to perform general maintenance to support the continued growth, health, structure, and longevity of the tree. Planting of street trees by the City Public Works Department for the purpose of replacing trees that have died or have been removed and is done so in accordance with the requirements of this chapter.
5. Restoration of utility services and emergency communications. Pruning of street trees to the extent reasonably necessary to allow for restoration of an unplanned interruption of utility services or emergency communications.
6. Power Utility Service Providers. Pruning of street trees by a power utility service provider to the clearance standards under the National Electric Safety Code.

B. Modifications for Emergency.

Street tree pruning or removal activities necessary to manage an immediate threat to public health, safety, or welfare that require remedial or preventative action in a timeframe too short to allow for normal processing is allowed without first obtaining a street tree permit; provided that, the person performing the work to prune or remove the street tree(s) shall, as soon as practical but no later than 30 days following completion of the emergency pruning or street tree removal work, apply for a street tree permit, and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for the actions taken in response to the emergency. Prior to pruning or removal of street trees in response to an emergency, the person performing the work shall document, including photographs, the conditions of the street tree and note why the situation constitutes an emergency. Documentation shall be provided with the application of the street tree permit. Emergency actions shall use best management practices to address the emergency and, in addition, the action must have the least possible impact to the street tree. The Director may waive or modify permit application requirements of this chapter made impractical as a result of the emergency.

**9.20.250 Tree pruning on public real property – scenic view enhancement.**

A. Intent –view enhancement.

The City of Tacoma is located on a steep-cliffed peninsula with spectacular scenic views. There are many trees on public real property which add to the natural beauty of the area, and there are many scenic views throughout the City. The City recognizes that trees located on public real property as defined herein can restrict scenic views from public and private property and that scenic views can be enhanced through proper pruning managed by the City consistent with BMPs.

It is the purpose of TMC 9.20.250 to establish a process for any person to request the City to prune trees on public real property as defined herein to enhance scenic views and to ensure that pruning is compatible with the purpose, use, and function of the public real property and the trees and vegetation located thereon and that pruning is consistent with BMPs. This purpose can be accomplished by pruning trees on public real property in response to a request only when the Director is satisfied that the proposed pruning





1 can be done in a manner that will: (1) minimize potential liability and risk of harm to persons or property;  
2 (2) preserve and protect trees and vegetation on public real property, and in particular native remnant  
3 forests; (3) protect the investment in public real property; (4) not negatively impact wildlife habitat, soil  
4 conditions, and slope stability; and, (5) will have de-minimis impact on noise and air pollution reduction,  
5 water quality, stormwater management, and climate control functions of the trees and other vegetation  
6 proposed to be pruned.

7 At the Director's discretion, the City may or may not issue an approval. It is not the purpose of TMC  
8 9.20.250 to create a vested right or property interest in a particular outcome or decision by the Director in  
9 response to a request filed under this section. The City retains sole discretion and authority over the  
10 decision to undertake or not undertake tree pruning on public real property in response to a request.

11 B. Applicability – scenic view enhancement.

12 TMC 9.20.250 applies to requests to prune trees located on public real property as defined herein to  
13 enhance scenic views. Requests to prune street trees shall be governed by the requirements of TMC  
14 9.20.210.

15 C. Request – scenic view enhancement.

16 Any person may submit a request to the Director for the City to prune one or more trees located on public  
17 real property as defined herein for purposes of scenic view enhancement. The request should be in writing  
18 and contain the information set forth below in TMC 9.20.250 (E), together with such other information as  
19 may be requested by the Director that is reasonably related to the request. Under no circumstances will  
20 tree topping be permitted. All pruning shall be consistent with industry BMPs.

21 D. Allocation of Costs.

22 It is the intent of TMC 9.20.250 to place the burden of the cost associated with the Director's review of a  
23 request and, if approved, the associated costs of the pruning work upon the person making the request.  
24 These costs include the City's administrative costs to review the request and to manage, administer and  
25 inspect the work, together with the costs of preparing a tree pruning plan, applying for and obtaining  
26 required permits, and planning for and performing the tree pruning work. Some, or all, of the work may  
27 be performed by consultants and contractors retained by the City for this purpose, the costs of which shall  
28 be borne by the person requesting the pruning through a work order and deposit process. The Director may  
29 require a work order and deposit from the applicant which the City may draw upon to pay for the foregoing  
30 costs as incurred by the City. If the balance of funds on deposit with the City falls below \$100.00, applicant  
31 shall, within ten (10) days of receipt of written request from the City, deposit such additional funds as the  
32 Director determines are reasonably necessary for the continuing reimbursement of the City's costs  
33 expended in response to the request. In the event that Applicant fails to timely deposit additional funds as  
34 requested by the Director, the Director may cease all work and close the applicant's request. Applicant shall  
35 be entitled to a refund of any unencumbered amounts remaining on deposit at the conclusion of the work  
36 or upon closure of the request. The submittal of a work order deposit does not entitle the applicant to a  
37 particular outcome and is intended solely to reimburse the City for its costs.

38 E. Contents of request – scenic view enhancement.

39 Each request submitted pursuant to TMC 9.20.250 (C) for scenic view enhancement should include the  
40 following:

- 41 1. Name, address and telephone number of the applicant where person submitting request agrees to  
42 receive communications from the City;
- 43 2. Description of the public real property within which the person submitting request has requested  
44 the pruning of one or more trees;
- 45 3. A description of each tree the person submitting request proposes to be pruned with sufficient  
46 detail to accurately identify each such tree;



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- 4. A photograph or digital image clearly delineating each tree proposed to be pruned;
- 5. A description of the scenic view that is proposed to be enhanced by the pruning;
- 6. A statement demonstrating why and how the pruning is necessary to enhance scenic views; and,
- 7. Such other information as may be requested by the Director.

F. Director’s Decision – view enhancement.

The Director retains sole discretion to grant or deny the applicant’s request. The Director, at a minimum shall consider the following:

- 1. Consistency and compatibility with, and will not be adverse to or unreasonably interfere with, the purpose, function and use of the public real property and the trees and vegetation located thereon;
- 2. Public health, safety and welfare;
- 3. Consistency with the City of Tacoma Comprehensive Plan;
- 4. Consistency with BMPs;
- 5. Consistency with a vegetation management plan, if any, applicable to the public real property where the pruning or removal is proposed; and,
- 6. Compliance with this chapter and applicable laws, rules and regulations, including by way of example and not limitation, the critical areas preservation code (TMC Ch. 13.11), the shoreline master program (TMC Title 19), the land use permits and procedures code (TMC Ch. 13.05), the right-of-way code (TMC Ch. 10.22), the Endangered Species Act, and the Bald Eagle Protection Act and the Migratory Bird Treaty Act.

G. Consultation – scenic view enhancement.

As part of the process for review of the request, the Director shall:

- 1. Consult with other departments. Shall consult with the director, or designee, of the department of the City responsible for management of the public real property that is the subject of the request and shall give deference to the recommendation of such directors, or designees, with respect to the applicant’s request.
- 2. Consult with arborist or forester. Shall consult with and utilize the services of the City Arborist or City Forester, or a consulting arborist or forester as needed.

H. Director’s Decision – scenic view enhancement.

The Director shall upon completion of review of the request, notify the applicant of the Director’s determination and, if the Director determines that the pruning work should be undertaken, the additional deposit required from the applicant to complete the pruning work.

**9.20.260 Permit display – violation.**

It shall be unlawful for any person issued a street tree permit, or any authorized agent, to fail to display at all times at the location where tree pruning, tree removal or tree planting activities are actively being conducted that require a permit under this chapter, a current and valid street tree permit, or complete copy or digital image thereof, authorizing the street tree pruning, removal or planting. It shall further be unlawful for any such persons, or authorized agent, to fail to make the street tree permit available for display to any City public official for inspection upon request.

**III. GENERALLY APPLICABLE REQUIREMENTS**

**9.20.300 Removal of trees and tree parts.**



1 Any remaining roots or stumps of street trees removed pursuant to a permit issued under this chapter shall  
2 be cut out at least eight inches below the surface of the ground, unless the removal of such will have a  
3 negative impact on erosion, slope stability, or natural areas on which they are located or the permit  
4 provides otherwise. All large woody material from removed or pruned street trees including the trunk,  
5 stump, branches, and large roots, shall be removed from improved right-of-way sites so as to not cause  
6 impairments to safe passage.

7 **9.20.310 Topping.**

8 Topping of trees on public property is unlawful.

9 **9.20.320 Types of trees prohibited.**

10 It shall be unlawful to plant in any part of the public right-of-way, including the planting strip, a tree  
11 species that is not a permitted street tree.

12 **9.20.330 Protection of street trees - development.**

13 **A. Protection of street trees.**

14 Any person engaged in development activities in the public right-of-way not governed by a permit issued  
15 pursuant to TMC 13.06 shall, prior to the commencement of such activities, comply with the Design  
16 Manual and the tree protection requirements of the UFM applicable to any development that may impact  
17 a street tree or street trees. This development may occur on site or in the right-of-way.

18 Any person conducting construction activities such as excavation, filling, tunneling, trenching,  
19 compacting, demolition, utility work or other land disturbing activity in the Critical Root Zone or Drip  
20 Line of any street tree, must submit a Tree Protection Plan to be approved by the City prior to  
21 commencement of work. Tree Protection Plans shall be in accordance with the UFM.

22 Non-compliance with the requirements of this section is unlawful and a violation of this chapter.

23 **B. Notice.**

24 A notice of tree protection shall be posted by the person engaged in development activities subject to the  
25 requirements of TMC 9.20.330 (A) above, in a conspicuous place on the tree protection fencing, or on the  
26 tree in such a manner as to not damage the tree, or adjacent to each street tree for a 14-day period prior to  
27 and throughout the performance of work that is subject to the requirements of TMC 9.20.330 (A). The  
28 notice shall be large enough and oriented in such a way as to be legible by pedestrians and vehicles  
29 passing each such street tree, and shall include the following:

- 30 1. The text “This tree is to be retained and protected from development impacts”;
- 31 2. The date(s) the proposed development activities will occur; and,
- 32 3. Contact information for the applicant, on-site construction contact, and/or project manager as  
33 well as the City of Tacoma Permit Center.

34 Non-compliance with the notice requirements of this section is unlawful.

35 **9.20.340 Right-of-way obstruction – trees.**

36 **A. Public Nuisance - vegetation on private property and within the public right-of-way.**

37 All vegetation, including trees, shrubs, grass, other plants, or any parts thereof, located on real property  
38 abutting the public right-of-way and located within the right-of-way that meet any one or more of the  
39 following conditions, shall constitute a public nuisance:

- 40 1. Vegetation overhanging any sidewalk at less than eight (8) feet above grade or street at less than  
41 fourteen (14) feet above grade, or that is otherwise situated, in such manner as to, limit, obstruct  
42 or impair the free and full use of the sidewalk or street;



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- 2. Vegetation that is situated in such a manner as to limit, obstruct, impair or obscure the clear view of a pedestrian or a driver of a motor vehicle in oncoming traffic while approaching an intersection, or any traffic control device while approaching such traffic control device;
- 3. Vegetation that is situated in such a manner as to interfere with, or create a hazardous condition with respect to, electric facilities, utility lines and infrastructure, underground utility lines, or fixtures situate in the public right-of-way; and,
- 4. Vegetation that is situated in such a manner as to create or contribute to a fire hazard or a threat of harm to public health, safety, or welfare.

B. Abatement of nuisance.

It shall be unlawful for any responsible person to cause, allow, suffer or permit such a public nuisance to exist, and any such nuisance shall be abated by the responsible person in a manner that conforms with this chapter, the City of Tacoma Right-of-Way Design Manual and Chapter 8.30 TMC (Public Nuisances).

**9.20.350 No Interference.**

It shall be unlawful for any person without lawful authority to interfere with or cause or permit any person to interfere with employees or agents of the City who are engaged in the planting, pruning, maintaining, treating or removing of any tree or other vegetation on public property. Violation of this section is unlawful.

**9.20.360 Damage to trees on public property.**

Except to the extent authorized or required under this chapter, it shall be unlawful for any person to:

- A. In any manner, prune, remove, or top any tree or other vegetation located on public property;
- B. Abuse, destroy, damage or mutilate any tree, or part of a tree, located on public property;
- C. Attach or place any rope or wire (other than one used to support the tree), sign, poster, handbill, or other thing to, or on any tree, or part of a tree, located on public property, cause or permit any wire charged with electricity, with the exception of decorative lights in a manner that does not impact the health of the tree, to come into contact with any tree located on public property;
- D. Allow any chemical, gaseous liquid, or solid substance which is harmful to trees located on public property to come into contact with the trees including their roots or leaves; or,
- E. Engage in any act which causes a tree on public property to die, including, but not limited to:
  - 1. damage inflicted on the root system by machinery, storage of materials, or soil compacting, or changing the ground level in the area of the tree root system;
  - 2. damage inflicted on the tree permitting infections or infestation;
  - 3. excessive pruning or topping; and,
  - 4. any other action which is deemed harmful to the tree.

**9.20.370 Gleaning of fruit.**

It is the responsibility of the abutting owner to glean fruit and nuts from street trees to prevent fallen fruit and nuts from interfering with safe passage upon the public right-of-way.

**9.20.380 Appeal of denial of Permit.**

Any applicant denied a street tree permit may, pursuant to TMC Chapter 1.23, file a written notice of appeal of the denial with the Office of the Hearing Examiner within 21 days of issuance of the denial.



**IV. HERITAGE TREES**

**9.20.400 Intent.**

It is the intent of this chapter to establish a Heritage Tree Program to provide protection, recognition, foster appreciation, and inspire awareness for the contribution that Tacoma’s mature trees make to the community. Heritage tree designation helps the City achieve a greater overall tree canopy to preserve the scenic beauty and natural environment of Tacoma, prevent erosion and sedimentation in waterways, encourage quality development, provide shade and wildlife habitat, counteract pollutants in the air, reduce heat island effects, and decrease wind velocities and noise. Designation of heritage trees connects the past to the present by preserving historic trees for the enjoyment of future generations.

**9.20.410 Applicability.**

This chapter shall apply to the nomination, designation and management of trees located within the corporate boundaries of the City that qualify for nomination for heritage tree designation.

**9.20.420 Qualifications.**

**A. Minimum qualifications.**

To qualify for nomination for heritage tree designation, the tree(s) must:

1. Healthy condition. Be in apparently healthy growing condition;
2. Minimum trunk diameter. Meet the minimum threshold trunk diameter;
3. Location. Be located within the corporate boundaries of the City; and,
4. Irreplaceable status. Be a tree, or collection of trees, that, because of exemplary size, age, cultural or historical significance, ecological value, or rarity, is considered irreplaceable.

**B. Minimum trunk diameter.**

To qualify as a heritage tree, the minimum trunk diameter (DBH) must be a minimum of the lesser of 30 inches or 65 percent of the largest documented diameter for a tree of that species in Washington as established in the most recent edition of the publication “Champion Trees of Washington State” by author Robert Van Pelt, published by University of Washington Press.

**9.20.430 Nomination.**

**A. Who may nominate a heritage tree.**

1. Property owner. Any owner of property upon which a tree or collection of trees subject to nomination is located may apply for nomination of such tree(s) for heritage tree designation.
2. Consent of property owner. Any resident of the City of Tacoma, any City official (elected or appointed), any City employee, any member of a City of Tacoma committee, board or commission, with the signed written consent of the owner of property upon which the nominated tree, or collection of trees, is located, may apply for nomination of such tree(s) for heritage tree designation.

**B. City Consent.**

A nomination for heritage tree designation for a tree, or collection of trees, located on public property must be consented to in writing by the Director of the Department responsible for the management of the public property upon which the Tree is located, or by the City Manager.

**C. Consent of other public entity.**



1 A nomination for heritage tree designation located on property owned or controlled by a public entity, other than the City, must be consented to in writing by a public official with authority to grant such consent on behalf of such public entity.

2 **9.20.440 Application.**

3 **A. Application.**

4 Any person seeking to nominate a tree, or collection of trees, for heritage tree designation shall file a written application with the City's Urban Forestry Program Section of the Environmental Services Department, utilizing the nomination forms approved by the Urban Forestry Program.

5 **B. Contents of application.**

6 At a minimum, the nomination application form shall contain the following:

- 7 1. A narrative statement demonstrating that the nominated tree, or collection of trees, because of exemplary size, age, cultural or historical significance, ecological value, or rarity, is considered irreplaceable;
- 8 2. A narrative statement describing the physical condition and health of the nominated tree, or collection of trees;
- 9 3. A narrative statement, including the species and size (diameter of the tree trunk in inches, tree crown spread in feet, and tree height in feet), demonstrating that the nominated tree, or each tree in a nominated collection of trees, meets the minimum threshold diameter;
- 10 4. Photos of the tree, or collection of trees, including at least one aerial photo demarcating the location with enough description so that the tree, or collection of trees, can be positively identified;
- 11 5. Documentation, records or other information demonstrating ownership of the property upon which the tree is located;
- 12 6. If the applicant is the owner of the property upon which the nominated tree, or collection of trees, is located, a signed written statement attesting to the applicant's ownership of the property; and,
- 13 7. If the applicant is not the owner of the property upon which the tree, or collection of trees, is located, a signed written statement of the owner of the property upon which the nominated tree, or collection of trees, is located consenting to the application for nomination for heritage tree designation and describing the tree, or collection of trees, that is subject to the nomination.

14 **9.20.450 Designation.**

15 **A. Review of application.**

16 All heritage tree nomination applications shall be reviewed by the City's Urban Forestry Program Section of the Environmental Services Department to determine if the nominated tree, or collection of trees, meets the minimum qualifications set forth at TMC 9.20.420 for heritage tree designation. All applications for trees located on public property must be reviewed and approved or denied by the City's Urban Forestry Program; provided that, if the nominated tree or collection of trees is located on public property, the nomination must also be approved by the Department Director or his/her/their designee who has management authority over the property, or by a public official with authority to grant such consent on behalf of such public entity, where the tree, or collection of trees, is located.

17 **B. Additional information; site inspection.**

18 The City's Urban Forestry Program Section of the Environmental Services Department may request the applicant to provide any additional information reasonably necessary to determine if a nominated tree, or collection of trees, meets the minimum qualifications for designation as a heritage tree, and may



condition approval upon receipt of such information and upon consent to a physical inspection of the nominated tree or collection of trees.

1 C. Approval.

2 If it is determined that the nominated tree, or collection of trees, meets the minimum qualifications and is  
3 approved for heritage tree designation, such heritage tree designation shall remain in place until removal  
4 as provided in TMC 9.20.460. Such approval shall be made in writing.

4 D. List and Plaques.

5 The City of Tacoma Urban Forestry Section of the Environmental Services Department shall maintain the  
6 list of designated heritage trees, which shall be made publicly available. In the case of public property,  
7 the Urban Forestry Section may place a plaque, or other such identification, on or near heritage trees.

7 **9.20.460 Maintenance, care and protection.**

8 A. Maintenance and protection.

9 The City is responsible for the maintenance of designated heritage trees located on public real property  
10 owned by the City. For all other designated heritage trees, the owner of the property, including the  
11 abutting property in the case of heritage street trees, upon which the tree is located shall be responsible  
12 for maintenance of the designated heritage tree. All heritage trees located within the public right-of-way  
13 shall be protected during development as provided in TMC 9.20.330.

12 B. Heritage tree retention - public property.

- 13 1. Removal. A designated heritage tree on public property shall be retained and protected, and shall  
14 not be removed unless the designated heritage tree constitutes a hazard tree or nuisance tree and,  
15 when applicable, a permit for removal is authorized pursuant to TMC 9.20.220.
- 14 2. Emergency. A designated heritage tree located on public property may also be removed pursuant  
15 to the emergency exemption provisions of TMC 9.20.240.

16 C. Heritage tree retention – private property.

17 Ownership and responsibility for a designated heritage tree, or collection of trees, located on private  
18 property or on property owned or controlled by a public entity other than the City, shall remain with the  
19 property owner and does not become the property or responsibility of the City. A heritage tree  
20 designation does not prohibit a property owner from developing the property or removing a designated  
21 heritage tree or trees subject to compliance with the City of Tacoma’s land use regulations applicable to  
22 the development of the owner’s property. The property owner is encouraged to notify the City of Tacoma  
23 Urban Forestry Section of the Environmental Services Department prior to or upon removal of a  
24 designated heritage tree, so that the heritage tree registry can be updated.

21 **V. ENFORCEMENT AND REMEDIES**

22 **9.20.500 Enforcement - delegation.**

23 A. Enforcement.

24 The provisions of this chapter and all terms and conditions of any permit, directive, corrective action  
25 notice, or compliance order issued under authority of this chapter, are subject to enforcement pursuant to  
26 and under authority of TMC Chapter 1.82, the Uniform Enforcement Code. The Director is authorized to  
exercise all powers and authority granted pursuant to TMC Chapter 1.82, including by way of example  
and not limitation, the power to issue compliance orders, corrective action notices, and notices of  
violation, assess monetary penalties, approve voluntary correction agreements, and develop, promulgate,  
revise, and implement policies and procedures governing enforcement actions under TMC Chapter 1.82;



provided that, the maximum monetary penalties set forth at TMC 1.82.050.F that may be assessed pursuant to a notice of civil violation are replaced and superseded with the provisions of TMC 9.20.520.

1 B. Delegation of authority.

2 The Director is empowered to delegate enforcement authority under this chapter and TMC 1.82 to such  
3 other departments, divisions, or persons as may be determined by the Director.

4 9.20.510 Violations.

5 Except as otherwise provided herein, any act or omission by a responsible person that is made unlawful  
6 under this chapter or that is in noncompliance with any duty, requirement, or obligation set forth in this  
7 chapter, or in a term or condition of any permit, directive, or compliance order issued under authority of  
8 this chapter, shall constitute a violation of this chapter and is subject to enforcement by the Director.

9 9.20.520 Monetary penalties.

10 A. Maximum monetary penalty.

11 The maximum monetary penalty that may be assessed pursuant to a notice of civil violation for each  
12 violation of this chapter shall not exceed \$10,000 per day or portion thereof, and each continuing day or  
13 portion thereof.

14 B. Minimum monetary penalty – removed tree.

15 The minimum monetary penalty assessed for each tree removed in violation of this chapter and for each  
16 tree that dies within a three year period as a result of the damage to the tree in violation of this chapter,  
17 shall be a sum of three times the fee for tree removal as set forth in TMC 9.20.220 (I) (1), or \$500  
18 dollars, whichever amount is greater. If the DBH cannot be measured, the monetary penalty may be  
19 assessed per inch based on the diameter of the remaining tree stump. If the stump has been removed, a  
20 monetary penalty in the amount of \$10,000 may be assessed, unless the violator can demonstrate through  
21 competent evidence the DBH of the illegally removed tree.

22 C. Monetary penalty - damaged tree.

23 Each tree that is topped or severely pruned in violation of this chapter will be considered a removed tree  
24 and shall be subject to the penalties defined in TMC 9.20.520 (B) herein.

25 D. Duty to abate, correct or remedy.

26 Payment of a monetary penalty pursuant to this chapter does not relieve the person(s) responsible for the  
27 violation(s) of the duty to abate, correct or remedy the violation or preclude the city from taking action to  
28 assess the costs for preparation of a natural damages assessment and the costs of abatement.

29 E. Urban forest penalty collection.

30 Any monetary penalty assessed and collected under this chapter shall be placed in an account established  
31 to support the urban forestry program in planting, maintenance, and replacement of trees on public  
32 property or the right-of-way, or as determined by the Department Director under whose authority the  
33 public property is managed.

34 F. Separate violations.

35 Each tree that is removed, pruned, topped or otherwise damaged in violation of this chapter shall  
36 constitute a separate violation.

37 G. Choice of action.

38 The choice of enforcement action to be taken under this chapter and the severity of any monetary penalty  
39 to be imposed for each violation of this chapter should be guided by the factors set forth at TMC 1.82.020  
40 (E), and shall additionally be guided by consideration of the following:

- 41 1. the scope of each violation;





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- 2. the quality of trees and other vegetation damaged or removed;
- 3. the impact to the health of the trees and other vegetation that was damaged and the potential for long-term damage or death of the tree and other vegetation;
- 4. the extent to which the removal or damage benefitted scenic views;
- 5. the scope and extent of natural resource damage;
- 6. whether heritage trees were damaged or removed;
- 7. whether the trees and other vegetation damaged or removed were native or invasive species;
- 8. the health of the trees and other vegetation removed (it shall be presumed that any tree removed or damaged was in good health and condition, unless it can be proven otherwise);
- 9. the age, aesthetic value, and cultural or historic significance of the trees removed or damaged;
- 10. the scope and extent of any impact to a vegetation management plan in place for the public property where the violation occurred;
- 11. whether damaged natural resources can practicably be restored to an equivalent condition prior to the violation occurring;
- 12. The monetary value of the tree damaged or removed based upon the plant valuation methodology published in the most current edition of the International Society of Arboriculture, Guide for Plant Appraisal;
- 13. any other factors related to the harm caused; and,
- 14. any mitigating factors, including by way of example, good faith efforts to timely report and correct the violation, errors made in good faith with respect to the true property boundaries, good faith errors in implementing the tree removal or pruning plan, and the relative fault of agents acting on behalf of the responsible person.

**9.20.530 Natural resource damage assessment.**

**A. Responsibility for natural resource damages.**

A person found to be in violation of this chapter or a permit issued hereunder shall be responsible for the costs of abatement, remediation and mitigation of natural resource damages arising from activities conducted in violation of this chapter.

**B. Requirement for natural resource damage assessment.**

If the Director determines that activities in violation of this chapter have resulted in natural resource damages, the Director may require preparation of a natural resource damage assessment that includes a plan for abatement, remediation and mitigation. The Director may issue a compliance order requiring the natural resource damage assessment to be prepared by the person responsible for the violation(s) resulting in natural resource damages or assessing the costs of preparation of the natural resource damage assessment to the person responsible for the violation(s) resulting in natural resource damages. The natural resource damage assessment shall be prepared in accordance with this section and shall be subject to approval by the Director for completeness and compliance with this chapter. In the event that a violation of this chapter also constitutes a violation of Chapter 13.11 TMC (Critical Areas Preservation), the Director may require the person responsible for the violation to prepare the natural resource damage assessment in compliance with Chapter 13.11 TMC.

**C. Preparation of natural resource damage assessment.**

A natural resource damage assessment that may be required under this chapter, shall be prepared by persons qualified by training and experience to determine the extent to which activities upon public property have caused unauthorized natural resource damages in violation of this chapter. Qualified



persons may include certified arborists, wetland scientists, soils scientists, hydrogeologists and other professionals.

1 The natural resource damages assessment shall include a comprehensive abatement, remediation and  
2 mitigation plan with a proposed schedule, and an estimate of the costs of abatement, remediation, and  
3 mitigation of the damaged natural resources, to the greatest extent practicable, to restore their condition  
4 and function as existed prior to the violation, together with a determination of the monetary value of the  
5 trees damaged or removed. The assessment shall include, by way of example and not limitation, a cost  
6 estimate and comprehensive plan for the repair or replacement of any trees removed or damaged, an  
7 assessment of the biological and habitat values to be replaced, an analysis of the impact to slope stability  
8 and soil erosion and plan for restoration, a cost estimate and plan for the installation and maintenance of  
9 interim and emergency erosion control measures until such time as the restored groundcover and  
10 vegetation reach sufficient maturation to function in compliance with the performance standards adopted  
11 by the City, and the estimated costs for obtaining permits necessary to implement the plan of abatement,  
12 remediation and mitigation.

13 Studies by the qualified persons may be required to determine the conditions which were likely to exist  
14 on the public property prior to the unlawful activities that resulted in the natural resource damage.

15 The natural resource damage assessment shall include analysis of the best-case growing capability of the  
16 site, taking into consideration the soil conditions, the health of surrounding tree stands and the type of  
17 species believed to have been removed or damaged, or whatever resources are available to determine  
18 natural resource damage.

19 D. Valuation of damaged or removed trees.

20 The Director may order that the natural damage assessment include an assessment of the monetary value  
21 of the trees removed or damaged in violation of this chapter. The monetary value of the trees shall be  
22 determined based upon the plant valuation methodology published in the most current edition of the  
23 International Society of Arboriculture, Guide for Plant Appraisal. This valuation will be a factor  
24 considered by the Director in assessing monetary penalties and may be included on a one-for-one basis. It  
25 shall be presumed that any tree that was removed or damaged was in good health and condition prior to  
26 removal or damage.

E. Costs of abatement.

Upon completion of the natural resource damage assessment and approval by the Director, the Director  
may issue a compliance order to the person responsible for the violation(s) resulting in natural resource  
damages, assessing the costs of the natural resource damage assessment and the City's emergency  
response costs, if not already paid at the expense of the responsible person, together with the estimated  
cost of abatement. If more than one person is responsible for the natural resource damages and emergency  
response costs, each person shall be jointly and severally liable for the costs of preparation of the natural  
resources damage assessment and the costs of abatement.

F. Implementation of plan of abatement, remediation and mitigation.

The City shall be responsible for implementing the comprehensive plan of abatement, remediation and  
mitigation. If the costs of implementing the plan of abatement, remediation and mitigation exceed the  
cost estimate prepared as part of the natural resource damage assessment, the Director may issue a  
compliance order requiring the person(s) responsible for the violation(s) to pay the additional costs. If  
more than one person is responsible for natural resource damages, each person shall be jointly and  
severally liable for the costs of abatement, remediation and mitigation.

**9.20.540 Suspension or revocation of permit.**

The Director may suspend work or revoke a permit, as appropriate, if the Director has reasonable cause to  
believe:

A. Inaccurate information was used to obtain a permit;



1 B. The permittee is not complying with any terms of the permit or approved plans;

2 C. The work being performed may create an imminent danger to property or public safety;

3 D. The work is adversely affecting or may adversely affect adjacent public property, utility infrastructure,  
4 a drainage way, watercourse, critical area, wetland or stormwater facility;

5 E. The work is otherwise adversely affecting public health, safety, or welfare;

6 F. That due to adverse weather, the work poses a danger to public property or to neighboring properties;

7 G. That any work is being performed prior to issuance of required permits or in violation of applicable  
8 laws or regulations; or,

9 H. A required project surety (e.g., bond, cash deposit, letter of credit) has been expended to the point that  
10 the surety no longer provides assurance of the completion of the project in compliance with the terms of  
11 the permit.

12 **9.20.550 Presumption –removal and pruning on public property.**

13 There is a rebuttable presumption that the owners, occupants and persons in control of real property  
14 abutting any portion of public property upon which a tree(s) or other vegetation has been pruned,  
15 removed, topped or otherwise damaged in violation of this chapter, are the persons whose acts or  
16 omissions caused or aided in causing the violation, when the pruning, removal, topping or damage of  
17 such tree(s) or other vegetation has enhanced the scenic view from such abutting property. This  
18 presumption may be rebutted by clear evidence that:

19 A. Such person’s acts or omissions did not cause, and did not aid in causing, the violation;

20 B. Such person made reasonable efforts to prevent such violation from occurring;

21 C. Such person had no knowledge of the acts or omissions causing or aiding in the violation;

22 D. The violation did not enhance the scenic view from such abutting property;

23 E. The violation resulted only in incidental enhancement of the scenic view from such abutting property  
24 when compared to the enhancement of the scenic views from other abutting private properties; or,

25 F. The location where the violation occurred is so distant in proximity to such abutting property that it  
26 would afford no more than an incidental enhancement of the scenic view from such abutting property.

The presumption set forth in this section shall not presumptively establish the intent required for a  
criminal violation of this chapter.

**9.20.560 Written instruments.**

Any person who shall knowingly and falsely make, complete, or alter a written instrument required to be  
submitted to the Director pursuant to this chapter or pursuant to a term or condition of any permit,  
directive, or compliance order issued under authority of this chapter, shall be guilty of a gross  
misdemeanor and upon conviction shall be subject to a fine of not more than \$5,000 or by imprisonment  
in jail for up to three hundred sixty-five (365) days, or both, for each separate violation. Proof of intent to  
defraud or injure is not required.

**9.20.570 Criminal violation.**

Any person who willfully violates TMC 9.20.210 (B) (1), 9.20.220 (B) (1), 9.20.230 (C) (1) or 9.20.360  
shall be guilty of a gross misdemeanor and upon conviction shall be subject to a fine of not more than  
\$5,000 or by imprisonment in jail for up to three hundred sixty-five (365) days, or both, for each such  
violation.

**9.20.580 Remedies not exclusive.**



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The enforcement actions and authority authorized in this chapter are not exclusive and are supplemental to the enforcement actions and authority that may be available at law or in equity, including without limitation, TMC 8.30 (Public Nuisances), and TMC 13.11 (Critical Areas Preservation).

**VI. MISCELLANEOUS PROVISIONS**

**9.20.600 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.

**9.20.610 Severability.**

If any portion of this chapter, as now or hereafter amended, or its application to any person or circumstances, is held invalid, unenforceable or unconstitutional, such adjudication shall not affect the validity of this chapter, as now or hereafter amended, or any section, provision or part hereof or thereof not adjudicated to be invalid, unenforceable or unconstitutional, and its application to other persons or circumstances shall not be affected.

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EXHIBIT "B"

**CHAPTER 1.23  
HEARING EXAMINER**

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**1.23.050 Areas of jurisdiction.**

A. The Examiner shall receive and examine relevant information, conduct public hearings, maintain a record thereof, and enter findings of fact, conclusions of law, and recommendations to the City Council or other order, as appropriate, in the following matters:

1. Applications for rezoning of property (Chapter 13.05; Section 13.06.03027F);
2. Formation of Local Improvement Districts (Chapter 10.04);
3. Approval of Local Improvement District assessments (Chapter 10.04);
4. Dangerous sidewalks proceedings (Chapter 10.18);
5. Petitions for street and alley vacations (Chapter 9.22);
6. Appeals of administrative determinations to the City Council if delegated under TMC 1.06.820; and
7. Appeals arising under the City's Code of Ethics as set forth in TMC 1.46.025.F, and 1.46.040.F and G. Hearing Examiner recommendations under this subsection shall be to the person(s) or body responsible for acting on the Hearing Examiner's order or recommendation.

B. In regard to the matters set forth below, the Examiner shall conduct adjudicative proceedings, maintain a record thereof, and enter findings of fact, conclusions of law, and a final decision or other order, as appropriate:

1. Applications for preliminary plat approval for subdivisions exceeding nine lots (Chapter 13.04);
2. Appeals from decisions of the Director of Planning and Development Services (Chapters 13.05 and 13.06);
3. Appeals from decisions ~~of the City Engineer regarding removal of or pruning trees on City-owned property~~ denying a street tree permit pursuant to (Chapter 9.20); TMC;
4. Appeals from the decisions or order of the Health Officer regarding violations of the Infectious Waste Management Code (Section 5.04.170);

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