

CHAPTER 9.20

TREES AND SHRUBS – VIEWS

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9.20.010 Intent.

The City of Tacoma is located on a steep-cliffed peninsula with spectacular views from many vantage points. In the city's parks, open space areas, and along the streets are many trees which add to the natural beauty of the area. It is important that these views and trees be protected and preserved for their contribution to the quality of life in Tacoma. It is the intent of this chapter to provide regulations to preserve vegetation, including the native remnant forest both within and adjacent to the right-of-way, and views within the city. This can be partially accomplished by controlling how and when pruning or vegetation removal can occur on public property and, in specific instances, by allowing individuals to provide for the pruning or removal of vegetation on public property.

In determining whether or not vegetation should be pruned or removed for view purposes, the value of the view and the vegetation, including such factors as wildlife habitat protection, air pollution control, noise pollution reduction, soil and water quality protection, and climate control must be considered and all interests should be balanced in that none is considered more important than the others.

Additional intents of this chapter are protecting the public investment in real property and minimizing potential liability by properly managing vegetation on City-owned property.

(Ord. 24945 § 1; passed Jul. 16, 1991; Ord. 24710 § 1; passed Aug. 28, 1990)

9.20.020 Applicability.

This chapter shall apply to all City-owned property, both General Government and Department of Public Utilities, including, but not limited to: rights-of-way, open space, and property used for facilities, unless specifically stated otherwise. This chapter shall apply to requests to prune or remove vegetation which is impairing view. Requests concerning safety or non-view issues are covered by Chapter 9.18.

(Ord. 24945 § 2; passed Jul. 16, 1991; Ord. 24710 § 1; passed Aug. 28, 1990)

9.20.030 Definitions.

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

B. "Open space" means any space or area characterized by natural scenic beauty and/or existing openness, natural condition, or present state of use, such as a steep slope or gulch. If retained, these areas would enhance the present or potential value of surrounding urban development, or would maintain or enhance the conservation of natural and scenic resources. The term "natural" as it relates to vegetation is intended to mean native vegetation.

C. "Pruning" means the removal of plant parts, dead or alive, in a careful and systematic manner so as to not damage other parts of the plant. Pruning is most often performed for the purposes of improving the health, structure, aesthetics or safety of the vegetation, but may also be performed for other reasons. Pruning includes limbing up, thinning to create viewing windows through the vegetation, shaping, trimming, and removal of dead, decaying or diseased branches.

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F. "Topping" or "Tree Topping" is an unacceptable pruning practice, injuring trees through the reduction of a tree's size by pruning live branches and leaders to stubs, without regard to long-term tree health or structural integrity. Topping can lead to unacceptable risk, tree stress, and decay. It is also expensive and destroys the natural form of the tree.

(Ord. 24710 § 1; passed Aug. 28, 1990)

9.20.040 Approval to prune or remove.

It is unlawful for any person, firm, or corporation to, in any manner, remove, destroy, or prune any vegetation on City-owned property or the public right-of-way for the purpose of view preservation without having first obtained approval from the Director of Public Works or his or her designee, and the appropriate Department Director whose management authority the property is overseen by; provided, however, that such approval is not required for pruning vegetation which is less than 15 feet in height and located on developed or undeveloped right-of-way abutting the property of the individual performing or requesting the pruning; and provided, further, that in addition to approval from the Director of Public Works or his or her designee, and the appropriate Department Director whose management authority the property is overseen by, permission to prune or remove any vegetation on developed or undeveloped right-of-way must be obtained from the owner of the abutting property, if other than the individual requesting the work.

(Ord. 24710 § 1; passed Aug. 28, 1990)

9.20.050 Request.

A written request must be submitted by the individual who desires pruning or removal of vegetation from public property. The request must be submitted on a form designated by the Department of Public Works, and must include the following:

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

All requests shall include a deposit amount equal to the estimated cost of performing the investigation and issuance of determination by Public Works as required under Section 9.20.060 of this chapter. A base fee of \$250.00 shall be charged for each request. After completion of all work identified under Section 9.20.060 of this chapter, any unexpended balance of said deposit in excess of \$250.00 shall be refunded; or, if, for any reason, the charges exceed the amount of the deposit, the balance due shall be paid by the applicant to the City.

(Ord. 24945 § 3; passed Jul. 16, 1991; Ord. 24710 § 1; passed Aug. 28, 1990)

9.20.060 Investigation and issuance of determination.

A. Review by Director of Public Works or his/her designee. The request will be reviewed and approved or denied by the Director of Public Works or his or her designee, as well as the Department Director, or his/her designee whose management authority the property is overseen by. If the request involves vegetation which, through pruning or removal, may come into contact with utility lines, the request must be reviewed by the Light Division, Public Utilities, and such division may comment on the request and recommend conditions of any approval. Any request may be referred for review and recommendation to a committee which shall include members of the general public who reside within the City of Tacoma and one representative each from the Planning and Development Services Department, Public Works Department, Environmental Services Department, Public Utilities Department, and Metropolitan Park District. City staff members of the committee shall have knowledge, background, or training in arboriculture, forestry, horticulture, landscape architecture, or other closely related field. The Director of Public Works or his/her designee may utilize the services of a consulting arborist or forester as needed. The following will be considered by the Director of Public Works or his/her designee and the committee:

- 1. The purpose for which the property was acquired by the City.
- 2. Consistency with the comprehensive plan.
- 3. The view benefit.
- 4. The vegetation benefit.

5. The extent of the view and the view impairment.
6. The quality or type of view.
7. The value, type, and amount of the vegetation.
8. Overall quality and density of the vegetation.
9. The potential impacts on the future aesthetic quality of the area.
11. The aesthetic and health impacts of pruning or removal on the vegetation.
12. Potential environmental impacts on soils, slope stability, native wildlife habitat and other vegetation, urban runoff, and wind and sound barrier protection.
13. Potential for replacement with more suitable vegetation.
14. Special consideration for native vegetation in open-space areas.
15. Special consideration for unique varieties, vegetation of great age, rare vegetation, or vegetation of horticultural or historical significance.
16. Proximity to overhead power lines, both primary and secondary.
17. That, because topping of trees causes permanent damage by promoting unnatural, dense and weak branching structure, topping shall not be approved. Removal and replacement is preferable to topping.

The determination of the Director of Public Works or his/her designee shall be set forth in a written order containing findings of fact and conclusions which support such decision, and which demonstrate that the decision is consistent with the above-noted applicable factors and the intent of this chapter. The Director of Public Works or his/her designee shall issue his decision within 30 days of receipt of the request; provided, however, that, upon a finding of the existence of unusual circumstances, the Director of Public Works or his/her designee may extend said 30-day time period. The determination may contain conditions necessary to mitigate the impact of the approval. The determination shall also indicate the time period in which the approved work must be performed, which time period shall not exceed one year and may be further defined so as to minimize damage to vegetation, or for other purposes. The determination shall contain a note that the approval is for one time only and that any future requests concerning the same or other vegetation must be submitted to the Director of Public Works or his/her designee.

B. Notice. Notice of an application filed under provisions of this chapter shall be mailed by first class mail to owners of property (as indicated by the records of the Pierce County Assessor) within 400 feet from the property for which the application is filed, and to qualified neighborhood or community organizations, allowing for comments to be made to the Director of Public Works or his/her designee prior to making a decision. Notice of the determination regarding the vegetation shall be mailed to the applicant by certified mail and provided to the City official responsible for the property. Notice of the determination shall also be mailed by first-class mail to owners of property (as indicated by the records of the Pierce County Assessor) within 400 feet from the property for which the determination was requested, and to qualified neighborhood or community organizations.

In addition to mailing of the notice of an application, notice of application must be posted on each tree(s) for a 14 day period prior to the determination of the Director of Public Works. In the case where the tree(s) is not easily visible from the street, the posting of public notice shall be in a location adjacent to the street. The notice shall be large enough and oriented in such a way as to be legible by pedestrians and vehicles passing the tree(s), and shall include the following:

1. The proposed action (pruning or removal);
2. The date of application and date of anticipated determination;
3. The purpose being accomplished by the proposed action, "this trees(s) are proposed for pruning/removal for the purpose of view enhancement"; and,
4. Contact information for the = City of Tacoma Permit Center.

C. Reconsideration. Any aggrieved person having standing under the ordinance governing such notices of determination and believing that the determination of the Director of Public Works or his/her designee is based on errors of procedure or fact may, within 15 days of the issuance of the notice, make a written request for review by the Director of Public Works or his/her designee. This request shall set forth the alleged errors, and the Director of Public Works or his/her designee may, after further review, take such further action as he or she deems proper, and may render a revised determination.

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D. Appeal. The applicant property owner, owners of property, or any qualified neighborhood/ community organization entitled to receive a notice of determination of the Director of Public Works or his/her designee may, within 15 days of the issuance of the notice, or within seven days of the date of issuance of the Director of Public Works or his/her designee's decision on a reconsideration, appeal the decision to the Hearing Examiner. Such appeal shall be in accordance with Chapter 1.23. A fee of \$125 shall accompany any appeal of determination of the Director of Public Works or his/her designee made to the Hearing Examiner.

E. Costs. The cost of any work approved shall be paid by the individual requesting the action. Also, the value of any vegetation completely removed shall be determined by the Director of Public Works or his/her designee and one-half of such value shall be paid to the City by the individual; provided, however, that an individual requesting that vegetation be removed from a developed or undeveloped right-of-way abutting such individual's own property shall not have to pay the value of the vegetation. The value of the vegetation shall be determined by using the Guide for Establishing Values of Trees and Other Plants, International Society of Arboriculture, for guidance.

Money paid to the City for the value of the vegetation shall be placed in a fund according to the ownership of the property. If the property is owned by the Public Utilities Department, then the money shall go to Public Utilities. Money paid for vegetation removed from any other property shall be placed in the Urban Forest Fund for planting and replacement of trees on City property.

F. Performance of Work. Any work approved must be performed by an established tree-service company with a City business license or, with specific approval from the Director of Public Works or his/her designee, by a private citizen. The work must be performed according to the International Society of Arboriculture's ANSI A300 Pruning Standards, most recent edition, and must be done in such a manner as to minimize the potential for erosion or underbrush damage. The company or individual performing the work must enter into an indemnification agreement, in a form approved by the City Attorney, with the City. At his/her discretion, the Director of Public Works or his/her designee may require liability insurance and/or a performance bond.

G. Removed Vegetation. Any remaining roots or stumps shall be cut out at least eight inches below the surface of the ground, unless the removal of such will have a negative impact on erosion, slope stability, or natural areas on which they are located. The City Engineer or his/her designee shall determine whether any removed vegetation must be taken off the site or may remain on-site.

H. Inspection of Site. Upon completion of the work, the site will be inspected by the Director of Public Works or his/her designee and any bond released upon his/her recommendation.

(Ord. 28109 Ex. N; passed Dec. 4, 2012; Ord. 27466 § 26; passed Jan. 17, 2006; Ord. 27079 § 5; passed Apr. 29, 2003; Ord. 26934 § 7; passed Mar. 5, 2002; Ord. 26386 § 25; passed Mar. 23, 1999; Ord. 24945 § 4; passed Jul. 16, 1991; Ord. 24710 § 1; passed Aug. 28, 1990)

9.20.070 Violation – Penalty.

The violation of any of the provisions of Chapter 9.20 TMC shall constitute a civil violation. Any person violating such provisions shall be penalized in a sum not exceeding the value of the vegetation pruned or removed plus \$1,000.00. Any money collected under this provision shall be placed in the Urban Forest Fund for planting and replacement of trees on City property, or as determined by the Department Director whose management authority the property is overseen by. Any person who has been issued a Notice of Violation or civil penalty of any of the provisions of Chapter 9.20 TMC shall be entitled to seek reconsideration of the violation or penalty, as set out in subsection 9.20.060.C TMC and shall also be entitled to appeal the violation or penalty, pursuant to subsection 9.20.060.D TMC.

(Ord. 27915 Ex. A; passed Aug. 24, 2010; Ord. 24710 § 1; passed Aug. 28, 1990)