

TOWN OF WOODWAY
JOINT COUNCIL & PLANNING COMMISSION SPECIAL MEETING AGENDA

23920 113th Place W. | Woodway, WA 98020

MONDAY, OCTOBER 28, 2019
6:30 P.M.

- 6:30 P.M. Call to Order, Flag Salute, Roll Call
- 6:35 P.M. I Introduction: Mayor Nichols
- 6:45 P.M. II Presentation of Tree Preservation and Management Plan Proposal
- 7:15 P.M. III Questions from Council and Planning Commissioners
- 7:40 P.M. IV Next Steps
- 7:45 P.M. Adjournment

** Audience comments only during the time specified. Council Deliberations will not be interrupted for audience comment. Citizens desiring comment time in excess of five minutes should contact the mayor to schedule presentation time. Council agendas are subject to change before or during the council meetings upon motion. Anyone with a disability requiring special accommodations should contact the Town Clerk's Office at Town Hall or call (206)542-4443 before 1:00 p.m. the Thursday preceding the Council Meeting. For TDD relay service, call (206)587-5500, or outside the Seattle area #1-800-833-6388.*

MEMO

TO: WOODWAY COUNCILMEMBERS AND PLANNING COMMISSIONERS
FROM: MAYOR CARLA NICHOLS
SUBJECT: PRESENTATION ON TREE MANAGEMENT/SLOPE STABILITY ISSUES
DATE: OCTOBER 25, 2019
CC: ERIC FAISON, TOWN ADMINISTRATOR
HEIDI K. S. NAPOLITINO, CLERK-TREASURER

Greetings Councilmembers & Planning Commissioners,

On Monday evening, we will be having a workshop to hear a presentation from two residents and their experts. They will talk about potential changes to our tree code that they've suggested could help us preserve our tree canopy while providing more flexibility to residents. Be prepared to learn a great deal of information.

Background: Several months ago, two residents, Dan Lyon and Robert Pantley, approached Town staff and me about strategies to address issues they've had with the Town's tree code. Both gentlemen have experienced significant land loss on their bluff due to trees collapsing and unstable soil conditions. They embarked on a project to identify ways to improve tree and land management practices.

They privately contracted with geotechnical experts, arborists, tree management professionals to seek advice. After many months of study and site visits to other communities that have tackled these issues, they developed a plan of action that they have shared with me, our Town staff, and our Town consulting engineer and planner. To date, there have been two lengthy study sessions between the residents, their project team, and our Town staff.

Tonight's Agenda: Mr. Lyon and Mr. Pantley will introduce their consultants and will present information that they suggest could be used to update our existing Tree Preservation Ordinance and our Critical Area Ordinance. To manage everyone's expectations on time and issues, please review the attached agenda.

I always look forward to our joint meetings as it is a great opportunity for thought provoking discussions. See you on Monday.

Chapter 16.12

TREE PRESERVATION AND FOREST MANAGEMENT

Sections:

- 16.12.010 Purpose and intent.
- 16.12.020 Definitions.
- 16.12.030 Applicability.
- 16.12.035 Exemptions.
- 16.12.040 Prohibited tree removal.
- 16.12.050 Permit required.
- 16.12.053 Provisions for emergency hazard tree removal.
- 16.12.056 Provisions for hazard tree removal.
- 16.12.060 Provisions for routine property maintenance.
- ~~16.12.063 Provisions for hedge tree removal.~~
- ~~16.12.066 Provisions for tree topping.~~
- 16.12.068 Provisions for forest management plan
- 16.12.070 Provisions for land development activities.
- 16.12.080 Replacement tree requirements.
- 16.12.090 Sureties.
- 16.12.100 Enforcement and penalties.
- 16.12.105 Resolution by agreement.
- 16.12.110 Appeals.

16.12.010 Purpose and intent.

As expressed throughout the Town of Woodway's Comprehensive Plan, the Town has an interest in preserving and enhancing the Town's natural wooded character – its "look and feel" - and promoting vegetative management practices that will maintain the Town's unique natural setting and its critical areas, while providing for open spaces and access to solar and solar arrays. The community's trees are generally distributed in three settings: 1) upland areas on flat or gently sloping ground; 2) wetlands, streams and their buffers; and 3) geologic hazard areas including the Town's marine bluffs. As appropriate, this chapter has different exemptions and tree removal and replacement requirements in each of these areas.

The Town also has an interest in public safety, removal of noxious and dangerous weeds, and property protection, including fire risk reduction. A diverse and dense forest community and other treed areas provides property owners with noise abatement, privacy, and aesthetically pleasing surroundings, while providing habitat for a wide array of wildlife.

The tree canopy increases rainfall interception and evapotranspiration, thereby lowering groundwater levels and increasing slope stability. This relationship is connected to 10 separate goals in the following five sections of the Comprehensive Plan: land use, conservation, land conservation, water resources, and geologically hazardous areas. This Tree and Forest Management chapter provides specific guidance to implement all of the WCP goals, including maintaining or increasing the function and stability of our forests and that of the steep slopes in Woodway.

A unique feature in the Town is its marine bluffs. Maintenance of a healthy forest and bluff stability are closely related. While vegetation is not the only factor in the stability of slopes, it is important, and is a factor over which the stewards of the land have some control. This chapter provides flexibility in managing trees on these bluffs to allow for use of techniques that reduce landslide risk by addressing the characteristics of the vegetation community, controlling ground and surface waters, and removing excess weight.

It is the purpose and intent of this chapter to:

- A. Implement the Town's comprehensive plan goals and the policies of the conservation element;
- B. Preserve, maintain and protect the visual appearance and natural wooded character of the Town;

- C. Preserve wildlife habitat, and to reduce the impacts of development on storm drainage and water resources;
- D. Preserve trees in buffer and setback areas and those trees which have been determined by the Director to constitute a unique historical, ecological or aesthetic value to the community or lot, tract or parcel of which they are located;
- E. Enhance tree protection efforts and promote site planning and horticultural practices consistent with reasonable use of property;
- F. Provide guidance to property owners conducting routine tree management activities;
- G. Provide tree management opportunities to maintain and improve bluff stabilization;
- H. Enhance the quality of the Town's natural environment during land development activities; and prohibit clear cutting of the Town's urban forest;
- I. Allow removal of hazardous trees that would harm the Town's residents or property;
- J. Allow removal of trees that interfere with solar access or fire risk reduction; and
- K. Preserve and enhance the Town's urban canopy. (Ord. 17-580 § 1 (Exh. A (part)), 2017: Ord. 05-452 § 1(part), 2005)

16.12.020 Definitions.

As used in this chapter:

- A. "Certified arborist" means an individual:
 - 1. With related training and three years of experience to demonstrate competency in arboriculture; and
 - 2. Who holds one of the following credentials:
 - a. American Society of Consulting Arborists (ASCA) Registered Consulting Arborist; or
 - b. International Society of Arboriculture (ISA) Certified Arborist with:
 - i. An associate degree; and/or
 - ii. A minimum of two years of college-level credit; and/or
 - iii. One hundred twenty continuing education units.
- B. "Coppicing" is a tree management technique that encourages growth or re-sprouting from the roots or stump, and requires repeatedly cutting stems to near ground level once they have reached the desired size.
- C. "Critical root zone" means the area around a tree requiring protection, as determined by an arborist; generally the area surrounding a tree trunk at a distance equal to one foot for every inch of tree diameter.
- D. "Developed lot, tract or parcel" means any share, portion or division of real property, whether developed or partially developed with a structure requiring a building permit.
- E. "Diameter" means a straight line passing through the center of a tree from side to side measured at four and one-half feet above grade (DBH) The methodology to compute the diameter shall be the circumference of the tree at that point divided by 3.1416.
- F. "Director" means the Public Works Director, or his or her designee.
- G. "Emergency hazard tree removal" means removal of a tree located on private property with a structural defect and/or disease that has an imminent likelihood of failure as defined in the ISA basic tree risk assessment and is in

proximity to a target with ISA basic tree risk assessment risk rating of high or extreme or as determined by the Director.

H. "Exceptional tree" means a viable tree that because of its unique ~~historical, ecological or aesthetic value, constitutes an important community resource~~ combination of size and species, age, location, and health is worthy of long-term retention, as determined by a certified arborist ~~the Director~~. ~~All trees with a diameter of thirty inches or greater are exceptional trees. To be considered exceptional, a tree must meet the following criteria:~~

Table 1
Exceptional Tree Species and Their Threshold Diameters

<u>Species</u>	<u>Threshold Diameter (DBH)</u>
<u>Native deciduous trees</u>	<u>42 inches</u>
<u>Native conifers</u>	<u>30 inches</u>

1. The tree must be a native species and have a diameter at breast height (DBH) that is equal to or greater than the threshold diameters listed in Table 1;
2. The tree shall exhibit healthful vigor for its age and species;
3. The tree shall not be considered a significant risk in regard to existing utilities, structures, or steep slopes as evaluated per the tree risk assessment conducted in accordance with the most recent version of the International Society of Arboriculture's *Best Management Practices: Tree Risk Assessment*;
4. The tree shall have no visual structural defects that cannot be mitigated by one or more measures outlined in the most recent version of the International Society of Arboriculture's *Best Management Practices*; and
5. If retained under current tree growth conditions, the tree can be expected to remain viable with reasonable and prudent management and care for at least ten years.

I. "Forest management plan" means a plan for maintenance, management, preservation and enhancement of trees on a lot or lots that includes a certified arborist's approach for maintenance and pruning, tree removal, tree coppicing, and vegetation planting for forest and landslide hazard area enhancement over the course of several years.

J. "Hazard tree" means a tree ~~with a structural defect and/or disease or tree part~~ which has a probable or imminent likelihood of failure as defined in the ISA basic tree risk assessment ~~and is in proximity to a target with ISA basic tree risk assessment risk rating of high or extreme or~~ due to a structural defect and/or disease or through site-specific circumstances and may result in personal injury, property damage, slope or bluff instability, or disruption or limitation of human activities, as determined by the Director.

K. "Hedge tree" means a tree, typically in a group or row of similar tree type, that ~~is regularly~~ has been maintained to a certain height ~~at least every three years~~ or width or must be maintained to ~~act as a screen or demarcation of a property line~~ certain height or width to prevent conflicts with overhead utilities or to create or maintain solar access to occupied structures or structures with solar panels.

L. "Highly flammable trees" means trees having several of the following characteristics:

1. Contain fine, dry, or dead material within the plant, such as twigs, needles, and leaves.
2. Leaves, twigs, and stems contain volatile waxes, terpenes, or oils.
3. Leaves are aromatic (strong odor when crushed).

Trees considered highly flammable include cedars, Douglas-fir, yews, eucalyptus, Leyland and Italian cypress, arborvitae, and junipers. Most deciduous trees and shrubs are considered fire-resistant if maintained.

M. "Land development activity" means any activity requiring permits or other approvals for the purposes of land clearing, grading/land modification, subdivisions or short subdivisions, an increase in lot coverage, or the construction or alteration of any building, utility or improvement.

N. "Pollarding" is a specialty pruning technique in which a tree with a large-maturing form is kept relatively short. Normally starting on a young tree, internodal cuts are made at a chosen height, resulting in the development of callus knobs at the cut height. Requires regular (usually every one to three years) removal of the sprouts arising from the callus knobs.

O. "Replacement tree" means:

1. Any tree that is planted that meets the criteria in:
 - a. Section 16.12.080; and
 - b. Section 16.12.060, 16.12.068, or 16.12.070, whichever is relevant; or
2. An existing tree that is designated by the Director as a substitute for a removed tree.

P. "Routine property maintenance" means any work on a developed lot, tract or parcel that results in the loss of a significant tree but is not associated with any other permit application.

~~M. "Target" means people, property, or activities that could be injured, damaged, or disrupted by a tree failure. Targets are assessed according to the ISA basic tree risk assessment criteria.~~

Q. "Significant tree" means an existing healthy tree that is not a hazard tree and that, when measured four and one-half feet above grade, has a minimum diameter of eight inches for conifer trees or twelve inches for deciduous trees.

R. "Topping" means removing no more than thirty percent of the total height of ~~the tree~~ a significant conifer tree. Removing height from a significant deciduous tree is not considered topping. Removal of suckers and broken, split, dead or diseased tops or branches is not considered tree removal or topping.

S. "Tree" means a ~~tree with a main~~ woody perennial usually having one vertical dominant trunk of eight inches or more in diameter and a mature height greater than 15 feet.

T. "Tree permit" means the permit granted by the Town to remove a tree(s).

U. "Tree removal" means the removal of a tree, through direct or indirect actions, including, but not limited to:

1. Clearing;
2. Cutting or pruning that causes irreversible damage to roots or trunks, including topping of non-hedge significant conifer trees;
3. Poisoning;
4. Destroying structural integrity; and/or
5. Filling, excavation, grading, or trenching in the critical root zone of a tree which has the potential to cause irreversible damage to the tree.

Pruning practices, including windowing, interlimbing, skirting-up, pollarding, and other techniques identified in and implemented consistent with the most recent version of the International Society of Arboriculture's *Best Management Practices*, are not considered tree removal provided no more than 25 percent of the live foliage is

removed during an annual growing season. Removal of suckers and broken, split, dead or diseased tops or branches is not considered tree removal.

V. "Undeveloped lot, tract or parcel" means any share, portion or division of real estate on which no structure requiring a building permit exists and which may be further developed or subdivided in accordance with the Town's zoning regulations. For the purposes of this chapter, lots, tracts or parcels that are in the process of being developed with an approved development permit are considered undeveloped.

W. "Viable tree" means a significant tree that a qualified professional has determined to be in good health, with a low risk of failure due to structural defects, is windfirm, and is a species that is suitable for its location.

X. "Year" means a twelve-month period beginning on the day a completed tree permit application is issued/received by the Town. (Ord. 17-580 § 1 (Exh. A (part)), 2017: Ord. 05-452 § 1(part), 2005)

16.12.030 Applicability.

A. The provisions of this chapter shall apply to the removal of significant tree(s) and hazard tree(s) from any private lot, parcel, or tract within the corporate limits of the Town of Woodway.

B. Unless identified in Section 16.12.035 as exempt, no person, corporation or other entity shall engage in significant tree removal without first obtaining a tree permit approved by the Town.

C. Tree permits shall apply to the land parcel and are not specific to the applicant/individual.

D. Trees located on property owned by the Town of Woodway are not subject to the regulations in this chapter and may only be removed as authorized by the Town of Woodway. (Ord. 17-580 § 1 (Exh. A (part)), 2017: Ord. 05-452 § 1(part), 2005)

16.12.035 Exemptions.

The removal of any of the following species/trees is exempt from tree permit and replacement requirements in this chapter, provided that best management practices are used as needed to stabilize exposed soils and the requirements of Section 16.12.080(I) are met:

A. English laurel (*Prunus laurocerasus*) and other laurel species;

B. English holly (*Ilex aquifolium*);

C. Nonnative cultivated fruit trees, including, but not limited to apple, pear, cherry and plum;

D. Cottonwood, including black cottonwood (*Populus balsamifera*), except when located in wetlands, streams or their buffers;

E. Alders (*Alnus sp.*) on bluffs;

F. Any non-significant tree or hazard tree that does not meet the size threshold for a significant tree;

G. Hedge trees except for those located in wetlands, streams or their buffers; and

H. Any species on the Washington State or Snohomish County Noxious Weed List. (Ord. 17-580 § 1 (Exh. A (part)), 2017: Ord. 09-510 § 1, 2009: Ord. 05-452 § 1(part), 2005)

16.12.040 Prohibited tree removal.

Tree/Significant tree removal is prohibited in each of the following circumstances: _

A. Without receiving an approved permit, unless such activity is exempt;

1. Residents are encouraged to notify the Director before removing exempt trees; prior notification can help avoid confusion about allowable removal.

B. On those specific portions of lots, tracts or parcels that contain ~~steep slopes~~geologic hazard areas, wetlands, stream corridors, and associated buffers ~~listed on, except if the Town's environmentally critical areas map.~~
significant tree is a hazard tree as defined in Section 16.12.030 or the removal is authorized under Chapter 16.10 or as part of a forest management plan as set forth in Section 16.12.068. (Ord. 17-580 § 1 (Exh. A (part)), 2017; Ord. 09-506 § 1 (Exh. A(part)), 2009; Ord. 05-452 § 1(part), 2005)

16.12.050 Permit required.

A. A permit is required for removal of a significant or hazard tree(s) alone or in conjunction with a use requiring an approved development application, ~~and if it meets the definition of tree removal in Section 16.12.020(U).~~

1. A Standard Tree Permit shall be valid for one year following the date of permit approval, after which it cannot be renewed, extended, or in any way applied in a cumulative manner to any future year.

2. A Forest Management Tree Permit, which allows implementation of a phased or checkerboard approach to management of larger wooded areas, shall be valid for five years following the date of permit approval. Provided the forest management plan is being properly implemented, as determined by the Director, the permit will be automatically extended for one year up to an additional five years. Each extension will occur upon submittal of the required annual report which demonstrates achievement of plan objectives for the natural environment and for private and public health and safety.

B. Every person, corporation or entity proposing to engage in activities regulated by this chapter shall first submit an application for a tree permit.

C. The Director shall create rules to establish the Town's Preferred Arborist list to encourage an efficient and cost-effective review and permit process for applicants and the Town. (Ord. 17-580 § 1 (Exh. A (part)), 2017; Ord. 06-472A, 2006; Ord. 06-472, 2006; Ord. 05-452 § 1(part), 2005)

16.12.053 Provisions for emergency hazard tree removal.

Emergency hazard tree removal may be done immediately but shall require a standard tree permit application to be filed with the Town within seventy days of the removal.

A. Standard Tree Permit Application. The applicant shall include on the permit application:

1. The location of the trees that were removed in relation to his or her property boundaries.
2. Proof of imminent likelihood of failure that may include:
 - a. Photographs of the tree and surrounding area prior to removal.
 - b. A report by a certified arborist attesting to the tree's imminent likelihood of failure.

B. Review Criteria.

1. The Director shall review the completed application and approve the permit, with or without conditions, if the application demonstrates compliance with the following criteria:

~~a. The proposal is consistent with the purposes of this chapter set forth in Section 16.12.010;~~

~~b. The proposal will not likely result in harm to flora or fauna species, including, but not limited to, eagles, other raptors, pileated woodpeckers and band-tailed pigeons; nor to those species listed as state-endangered, threatened, sensitive, and candidate species and priority habitats, as identified by the State of Washington Department of Fish and Wildlife;~~

a. The proposal meets the requirements for emergency hazard tree removal as defined in Section 16.12.020(G).

b. The proposal is consistent with the purposes of this chapter set forth in Section 16.12.010; and

- c. The proposed tree removal is not prohibited by Section 16.12.040(B).
 2. If the completed application does not substantially meet the criteria listed in this subsection, the Director shall ~~deny the permit~~apply conditions as needed to increase compliance with the criteria or ~~offer a resolution by agreement per~~may apply penalties consistent with Section 16.12.~~105~~100.
- C. Inspection. The Director may inspect the tree stump(s) after removal.
- D. Maximum Tree Removal.
1. Emergency hazard tree removal does not apply toward the maximum tree removal allowed per year in Table 1 of Section 16.12.060.
 2. Removal of exceptional trees is allowed under the emergency hazard tree removal provisions.
- E. Exemption from Tree Replacement. Emergency hazard tree removals are exempt from tree replacement requirements. (Ord. 17-580 § 1 (Exh. A (part)), 2017)

16.12.056 Provisions for hazard tree removal.

- A. Standard Tree Permit Application. The applicant shall include on the permit application:
1. The location of the trees to be removed in relation to his or her property boundaries.
 2. Proof of hazard that may include:
 - a. Photographs of the tree and surrounding area.
 - b. A report by a certified arborist that:
 - i. The tree meets the definition of a hazard tree per Section 16.12.020(J) and
 - ii. The hazard cannot be ~~lessened~~eliminated with reasonable and proper arboricultural practices.
- B. Review Criteria.
1. The Director shall review the completed application and approve the permit, with or without conditions, if the application demonstrates compliance with the following criteria:
 - a. The proposal is consistent with the purposes of this chapter set forth in Section 16.12.010;
 - ~~b. The proposal will not likely result in harm to flora or fauna species, including, but not limited to, eagles, other raptors, pileated woodpeckers and band-tailed pigeons; nor to those species listed as state-endangered, threatened, sensitive, and candidate species and priority habitats, as identified by the State of Washington Department of Fish and Wildlife;~~
 - b. The proposed tree removal is not prohibited by Section 16.12.040(B);
 - c. The tree to be removed meets the definition of a hazard tree per Section 16.12.020(J); and
 - d. The hazard cannot be lessened with reasonable and proper arboricultural practices.
 - ~~f. The target cannot be removed.~~
 2. If the completed application does not substantially meet the criteria listed in this subsection, the Director shall deny the permit or offer a resolution by agreement per Section 16.12.105.
- C. Inspection.
1. The Director may inspect the tree(s) identified for removal.

2. The Director may consult with a certified arborist to peer review the applicant's submitted arborist report.

D. Reimbursement. The applicant must reimburse the Town for any related costs that the Town incurs in processing this permit, including, but not limited to, arborist consultation. ~~meet the criteria listed in this subsection. If the applicant's consultant was selected from the Director shall deny Town's Preferred Arborist list, the permit or offer a resolution by agreement per Section 16.12.105, cost of the Town's peer review, if any, will not be passed on to the applicant must reimburse the Town for any related costs that the Town incurs in processing this permit, including, but not limited to, arborist consultation.~~

E. Maximum Tree Removal.

1. Hazard tree removal does not apply toward the maximum tree removal allowed per year in Table 1 of Section 16.12.060.
2. Removal of exceptional trees is allowed under the hazard tree provisions.

F. Exemption from Tree Replacement. Hazard tree removals are exempt from tree replacement requirements. (Ord. 17-580 § 1 (Exh. A (part)), 2017)

16.12.060 Provisions for routine property maintenance.

A. Standard Tree Permit Application. The applicant shall include on the standard permit application:

1. The location of the tree(s) to be removed in relation to his or her property boundaries;
2. The size and species of the tree(s) to be removed;
3. The size, species, and location of replacement trees; and

4. The reason for removal.

B. Review Criteria.

1. The Director shall review the completed application and approve the permit, with or without conditions, if the application demonstrates compliance with the following criteria:

- a. The proposal is consistent with the purposes of this chapter set forth in Section 16.12.010;
- b. The proposal is consistent with the tree replacement requirements of this section and Section 16.12.080;
- c. The proposal will not likely result in harm to sensitive flora or fauna species, ~~including, but not limited to, eagles, other raptors, pileated woodpeckers and band-tailed pigeons; nor to those species~~ listed as state endangered, threatened, sensitive, and candidate species and priority habitats, as identified by the State of Washington Department of Fish and Wildlife, or listed as threatened or endangered under the federal Endangered Species Act;
- d. The proposed tree removal is not prohibited by Section 16.12.040(B).

2. If the completed application does not substantially meet the criteria listed in this subsection, the Director shall ~~deny the permit or~~ offer a resolution by agreement per Section 16.12.105 or direct the applicant to consider a Forest Management Tree Permit per Section 16.12.068, depending on the details included in the application. In the event those alternatives are not adequate to achieve substantial compliance, the Director shall condition the Standard Tree Permit to meet this section's objectives.

C. Inspection. The Director may inspect the tree(s) identified for removal.

D. Directional Felling. Directional felling of trees shall be used to avoid damage to trees designated for retention.

E. Maximum Tree Removal. Table 1 of this section lists the total number of significant trees that may be removed in any one year and the number of exceptional trees that may be removed in a five-year period.

Table 1
Maximum Number of Removed Trees per Zone District

A.	B.	C.	D.
Zone District	Maximum # of Trees That May Be Removed/Year	Maximum # of Trees That May Be Removed in Setback Areas/Year	Maximum # of Exceptional Trees That May Be Removed per 5 Years
UR	Two	One	<u>One</u>
R-14.5	Two	One	<u>One</u>
R-43	Four	Two	<u>Two</u>
R-87	Six	Three	<u>Two</u>
<u>2 acres and larger</u>	<u>An additional two trees for each additional acre</u>	<u>An additional tree for each additional acre</u>	<u>An additional tree each 5 years for each additional acre</u>

1. The number of trees in column B also includes trees in setback areas listed in column C.

~~2. Parcels in the UR, R-14.5, and R-43 zone districts that are at least one hundred percent greater in size than the minimum lot size of the zone district in which the parcel is located may increase the number of trees that can be removed and shall be replaced. The specific number of removed trees shall correspond to the quantities listed in Table 1 of this section for the zone district with the minimum lot area that most closely approximates the subject parcel's lot size. The calculation of parcel area shall not include land areas devoted to wetlands, steep slopes, stream corridors and associated buffers.~~

~~3. Removal of exceptional trees is not allowed under the routine property maintenance provisions.~~

~~2. Removal of any hedge tree does not apply toward the maximum tree removal allowed per year in Table 1 of this section.~~

~~3. Up to two additional significant trees per year may be removed upon determination that the trees interfere with an installed solar system with a capacity of at least 5kW. Significant trees removed for solar access must be replaced using the ratios specified in Table 2 of Section 16.12.060(F).~~

~~4. Removal of highly flammable trees within 30 feet of occupied structures, within 10 feet of roads, and within 5 feet of driveways does not apply toward the maximum tree removal allowed per year in Table 1 of this section. Removed highly flammable trees must be replaced using the ratios specified in Table 2 of Section 16.12.060(F).~~

~~5. If a tree proposed for removal is located on a property line, the owners of the subject properties shall submit with the tree permit application their agreement as to which property the tree and any required replacement is assigned.~~

~~6. For purposes of determining the maximum number of significant trees that may be removed, non-exempt alders are counted as one-half of a tree except in wetlands, streams or their buffers where each significant alder is counted as one tree.~~

F. Tree Replacement Requirements.

Table 2
Minimum Tree Replacement Ratio for Routine Property Maintenance

<u>Area or Type</u>	<u>Minimum Tree Replacement Ratio (Tree Replaced : Tree Removed)</u>
<u>Outside of wetlands, streams or their buffers and critical erosion hazard areas or landslide hazard areas</u>	<u>0.5:1 rounded up to the nearest whole number</u>
<u>Within critical erosion hazard areas or landslide hazard areas</u>	<u>0.5:1 rounded up to the nearest whole number (see F.5 below for alternative)</u>
<u>Within wetlands, streams or their buffers</u>	<u>1:1</u>
<u>Exceptional trees</u>	<u>3:1</u>

1. Replacement trees are subject to the criteria in Section 16.12.080.
2. Table 2 of this section lists the required tree replacement ratio for removals in certain areas or of a certain type.
- ~~2. The number of required replacement trees shall be equal to at least fifty percent of the number of trees removed per year. When fifty percent equals less than a whole number, the number of replacement trees shall be rounded up to the next whole number.~~
- ~~3. Replacement trees shall be at least three feet in height, as measured from the grade at installation.~~
- ~~4. If the removed tree is a species native to the Pacific Northwest, replacement trees must be of the same species as the trees removed. If the removed tree is not a native species, the replacement tree shall be a native species approved by the Director.~~
3. Trees removed from wetlands, streams or their buffers shall be replaced in the same critical area or buffer unless the Director approves placement in another wetland, stream or buffer location within the Town's boundaries that would derive greater ecological benefit.
4. Hedge trees are not subject to these tree replacement requirements except for those located in wetlands, streams or their buffers.
5. Significant trees within critical erosion or landslide hazard areas may be replaced at a 0.5:1 tree ratio as shown in Table 2, or may be replaced with shrubs at a 3:1 ratio if a report prepared by a geotechnical engineer or licensed engineering geologist concludes that shrubs would be equal or superior to trees for slope stability. Replacement shrubs shall be selected based on their suitability for the site's conditions and their ability to support water quality, soil stabilization, and slope stability functions. (Ord. 17-580 § 1 (Exh. A (part)), 2017; Ord. 09-506 § 1 (Exh. A(part)), 2009; Ord. 05-452 § 1(part), 2005)

16.12.063 — Provisions for hedge tree removal:

A. ~~Permit Application.~~ The applicant shall include on the permit application:

- ~~1. The location of the tree(s) to be removed in relation to his or her property boundaries;~~
- ~~2. The size and species of the tree(s) to be removed;~~
- ~~3. The size, species, and location of replacement trees.~~

B. ~~Review Criteria.~~

~~1.—The Director shall review the completed application and approve the permit, with or without conditions, if the application demonstrates compliance with the following criteria:~~

- ~~a.—The proposal is consistent with the purposes of this chapter set forth in Section 16.12.010;~~
- ~~b.—The proposal is consistent with the tree replacement requirements of this section and Section 16.12.080;~~
- ~~c.—The proposal will not likely result in harm to flora or fauna species, including, but not limited to, eagles, other raptors, pileated woodpeckers and band-tailed pigeons; nor to those species listed as state-endangered, threatened, sensitive, and candidate species and priority habitats, as identified by the State of Washington Department of Fish and Wildlife;~~
- ~~d.—The proposed tree removal is not prohibited by Section 16.12.040(B).~~

~~2.—If the completed application does not meet the criteria listed in this subsection, the Director shall deny the permit or offer a resolution by agreement per Section 16.12.105.~~

~~C.—Inspection.—The Director may inspect the tree(s) identified for removal.~~

~~D.—Directional Felling.—Directional felling of trees shall be used to avoid damage to trees designated for retention.~~

~~E.—Maximum Tree Removal.—Removal of any hedge tree does not apply toward the maximum tree removal allowed per year in Table 1 of Section 16.12.060.~~

~~F.—Tree Replacement Requirements:~~

- ~~1.—Replacement hedge trees are subject to the criteria in Section 16.12.080.~~
- ~~2.—Removal of hedge trees requires a one-for-one replacement, unless otherwise approved by the Director.~~
- ~~3.—Replacement trees for hedge trees shall be at least six feet in height, as measured from the grade at installation.~~
- ~~4.—Replacement tree species need not be native.—(Ord. 17-580 § 1 (Exh. A (part)), 2017)~~

16.12.066—Provisions for tree topping:

~~A.—Permit Application.—A tree permit is required for all trees to be topped.—The applicant shall include on the permit application:~~

- ~~1.—The location of the tree(s) to be topped in relation to his or her property boundaries;~~
- ~~2.—The size and species of the tree(s) to be topped;~~
- ~~3.—The size, species, and location of replacement trees.~~

~~B.—Review Criteria:~~

~~1.—The Director shall review the completed application and approve the permit, with or without conditions, if the application demonstrates compliance with the following criteria:~~

- ~~a.—The proposal is consistent with the purposes of this chapter set forth in Section 16.12.010;~~
- ~~b.—The proposal is consistent with the tree replacement requirements of this section and Section 16.12.080;~~
- ~~c.—The proposal will not likely result in harm to flora or fauna species, including, but not limited to, eagles, other raptors, pileated woodpeckers and band-tailed pigeons; nor to those species listed as state-~~

~~endangered, threatened, sensitive, and candidate species and priority habitats, as identified by the State of Washington Department of Fish and Wildlife.~~

~~2. If the completed application does not meet the criteria listed in this subsection, the Director shall deny the permit or offer a resolution by agreement per Section 16.12.105.~~

~~C. Inspection. The Director shall inspect all trees that are to be topped before and after the topping.~~

~~D. Maximum Tree Topping.~~

~~1. Each topped tree counts towards the maximum tree removal allowed per year in Table 1 of Section 16.12.060.~~

~~2. Topping of exceptional trees is not allowed.~~

~~E. Tree Replacement Requirements. Topped trees require tree replacement according to the requirements in section 16.12.060(E). (Ord. 17-580 § 1 (Exh. A (part)), 2017)~~

16.12.068 Provisions for forest management plan.

A. If a property owner wishes to remove or replant significant trees outside the provisions of this chapter over multiple years to implement a phased or checkerboard approach to management and improvement of larger wooded areas, he or she may request a Forest Management Tree Permit.

B. Forest Management Tree Permit Application. The applicant's permit application shall include a forest management plan proposal that meets the definition in Section 16.12.020, demonstrates consistency with the review criteria listed in Section 16.12.068(C), and includes the following:

1. A detailed map and associated narratives outlining the boundaries of the forest management plan, existing conditions within each treatment area, including but not limited to staging areas and maintenance trails, and the purpose and objectives of each proposed treatment. Forest management plans may cross property boundaries and can establish discrete treatment areas for wetlands, wetland and stream buffers, and other environmentally critical areas.

2. A timeline for tree-related activity in each treatment area, including tree removal, tree pruning, coppicing, vegetation replacement, and maintenance.

3. The general size, species, condition, and location of the tree(s) to be removed. Any exceptional trees proposed for removal must be identified.

4. The size, species, and location of replacement vegetation.

5. Temporary erosion and sediment control details, if applicable. Tree removal operations shall be conducted so as to expose the smallest practical area of soil to erosion. To control erosion, existing vegetation not proposed for removal shall be retained where feasible.

6. Description of proposed control and removal of species on the Washington State or Snohomish County Noxious Weed List.

7. A description of other factors influencing forest management plan design, including proximity to railroads and other infrastructure, the need to reduce wildfire hazards and risk, or other special factors related to property and safety.

C. Additional Requirements in Critical Erosion or Landslide Hazard Areas. When integral to maintaining or increasing the stability of the critical erosion or landslide hazard areas in Woodway as documented in a report prepared by a geotechnical engineer or licensed engineering geologist, forest management plans may remove significant trees from critical areas. The report must demonstrate that the activities described in the forest management plan will not adversely affect slope stability or increase the landslide hazard or critical erosion hazard

risk in the long term. All activities within critical areas, in addition to the significant tree removal regulated in this Chapter, must also be compliant with and approved under Chapter 16.10 of this code.

1. Willow, bitter cherry and other similarly short-lived deciduous trees may be cut and removed from the site, or coppiced if the species is suitable for that treatment. The stumps and root systems shall be left undisturbed to protect the slope from erosion unless the slope is otherwise stabilized as directed by a licensed engineering geologist or geotechnical engineer. Deep-rooted bushes or groundcover shall be planted around the stump of the tree to establish erosion control functions that the tree once provided.

2. Trees which typically help to stabilize bluffs (such as big-leaf maple, vine maple, Pacific madrona, western red cedar and Douglas-fir) may be removed, pollarded or coppiced if necessary to reduce wind blow and the pressure on shallow soils on bluffs.

D. Review Criteria.

1. The Director shall review the completed application and approve the permit, with or without conditions, if the application demonstrates compliance with or can be conditioned to satisfy the following criteria:

a. The proposal is consistent with the purposes of this chapter set forth in Section 16.12.010

b. Where unique property-specific circumstances render compliance with provisions of this chapter not practical or pose a risk to property, health, or safety.

c. Tree removal shall not exceed any required vegetation replacement on an annual basis unless otherwise authorized by the Town's certified arborist due to risks to viability of existing or replacement vegetation during the removal process.

d. The proposal is consistent with the minimum vegetation replacement requirements of Section 16.12.068(E) and Section 16.12.080.

e. The proposal will minimize, to the extent possible, harm to sensitive flora or fauna species listed as state endangered, threatened, sensitive, and candidate species and priority habitats, as identified by the State of Washington Department of Fish and Wildlife, or listed as threatened or endangered under the federal Endangered Species Act.

f. The proposed tree removal is not prohibited by Section 16.12.040(B).

g. Trees identified for protection are appropriately safeguarded.

h. Non-hazard exceptional trees may only be removed from critical erosion hazard and landslide hazard areas if recommended in a report prepared by a geotechnical engineer or engineering geologist.

i. Amendments to the approved forest management plan may only be made with approval of the Director.

j. A contract with a certified arborist to undertake annual site visits at the expense of the applicant and submit a summary of completed plan activities to the Director each year during the term of the permit.

2. If the completed application does not substantially meet the criteria listed in this subsection, the Director may impose conditions necessary to achieve substantial compliance.

E. Vegetation Replacement Requirements.

Table 1
Minimum Tree Replacement Ratio in Forest Management Plans

<u>Area or Type</u>	<u>Minimum Tree Replacement Ratio (Tree Replaced : Tree Removed)</u>
<u>Outside of wetlands, streams or their buffers and critical erosion hazard areas or landslide hazard areas</u>	<u>0.5:1 rounded up to the nearest whole number</u>
<u>Within critical erosion hazard areas or landslide hazard areas</u>	<u>0.5:1 rounded up to the nearest whole number (see D.7 below for alternative)</u>
<u>Within wetlands, streams or their buffers</u>	<u>1:1 (see D.3, D.5, and D.6 below for alternatives)</u>
<u>Exceptional trees</u>	<u>3:1</u>

1. Replacement vegetation is subject to the criteria in Section 16.12.080.
 2. Table 1 of this section lists the required tree replacement ratio for removals in certain areas or of a certain type.
 3. Trees removed from wetlands, streams or their buffers shall be replaced in the same critical area or buffer unless the Director approves placement in another wetland, stream or buffer location within the Town's boundaries that would derive greater ecological benefit.
 4. For purposes of determining the number of trees removed and the replacement trees that are required, non-exempt significant alders are counted as one-half of a tree except in wetlands, streams or their buffers where each significant alder is counted as one tree.
 5. Hedge trees are not subject to these tree replacement requirements except for those located in wetlands, streams or their buffers. Hedge trees within wetlands, streams or their buffers may be replaced at a 1:1 tree ratio as shown in Table 1, or may be replaced with native shrubs at a 3:1 ratio. Replacement shrubs shall be selected based on their suitability for the site's conditions and their ability to support water quality, soil stabilization, and habitat functions.
 6. Significant alder and cottonwood trees within wetlands, streams or their buffers may be replaced at a 1:1 tree ratio as shown in Table 1, or may be replaced with a mix of native trees and shrubs at a 3:1 ratio if these critical areas overlap critical erosion and landslide hazard areas and a report prepared by a geotechnical engineer or engineering geologist concludes shrubs are equal or superior to trees for achievement of long-term slope stabilization. Replacement shrubs and trees shall be selected based primarily on their suitability for the site's conditions and their ability to support long-term slope stability. Water quality, soil stabilization, and habitat functions are secondary considerations.
 7. Significant trees within critical erosion and landslide hazard areas may be replaced at a 0.5:1 tree ratio as shown in Table 1, or may be replaced with shrubs at a 3:1 ratio if a report prepared by a geotechnical engineer or engineering geologist concludes that trees would not be a superior solution for the slope stabilization objectives of the forest management plan. Replacement shrubs and trees shall be selected based on their suitability for the site's conditions and their ability to support slope stabilization, soil stabilization, and water quality functions, in that order of priority.
- E. Inspection. The Director may inspect the tree(s) identified for removal.
- F. Directional Felling. Directional felling of trees shall be used to avoid damage to trees designated for retention.

G. Reimbursement. The Town may bill for any reasonable related costs that the Town incurs in processing this permit, including, but not limited to, arborist consultation. If the applicant's consultant was selected from the Town's Preferred Arborist list, the cost of the Town's peer review, if any, will not be passed on to the applicant.

16.12.070 Provisions for land development activities.

A. Permit Application. Applicants proposing to remove trees in conjunction with a land development activity shall submit, concurrent with the development application, a tree removal plan or other map that includes the following information:

1. Graphic scale and north arrow;
2. Vicinity map and property address;
3. Location of all existing and proposed improvements;
4. Location and delineation of slopes greater than fifteen percent, wetlands and water courses, or other areas, with any associated buffer areas, as required by Chapter 16.10 of this code, and any open areas and associated buffers;
5. Public roads and rights-of-way;
6. Property line boundaries;
7. Location, size, species, and critical root zone of all trees within the area to be impacted, including an indication or schedule of which trees will be retained, removed and/or replaced;
8. Location and design of proposed protective barrier for all retained trees; and
9. Location, species and size of all replacement trees to be planted.

B. Review Criteria.

1. The Director shall review the application in conjunction with any other land development applications and may approve, condition, or deny the ~~permit~~portions of the Standard Tree Permit that do not comply prior to issuance of any other development permits issued by the Town.
2. The Director shall review the completed application and approve the permit, with or without conditions, if the application demonstrates compliance with the following criteria:
 - a. The proposal is consistent with the purposes of this chapter set forth in Section 16.12.010;
 - b. The proposal is consistent with the tree replacement requirements of this section and Section 16.12.080;
 - c. The proposal will ~~not likely result in~~minimize, to the extent possible, harm to sensitive flora or fauna species, ~~including, but not limited to, eagles, other raptors, pileated woodpeckers and band-tailed pigeons;~~ ~~nor to those species~~ listed as state endangered, threatened, sensitive, and candidate species and priority habitats, as identified by the State of Washington Department of Fish and Wildlife, or listed as threatened or endangered under the federal Endangered Species Act;
 - d. That the proposal will not likely result in negative impacts to soil or hydrology of the site and adjacent properties;
 - e. When there are feasible and prudent location alternatives on site for proposed building structures or other site improvements, viable wooded areas and trees are to be preserved. This may require site redesign, including, but not limited to: redesign of streets, sidewalks, stormwater facilities, utilities; changing the shape and size of the parking lot; reducing or limiting proposed site grading; and changing

the location of driveways, buildings or building lots; provided, however, that no yard setback variance shall be granted in order to comply with the provisions of this section;

f. The proposed tree removal is not prohibited by Section 16.12.040(B).

3. If the completed application does not substantially meet the criteria listed in this subsection, the Director shall ~~deny the permit~~ impose conditions necessary to achieve substantial compliance or offer a resolution by agreement per Section 16.12.105. In the event a resolution by agreement is not adequate or the applicant is unwilling to comply with conditions necessary to achieve substantial compliance, the Director shall deny the portions of the Standard Tree Permit that do not comply.

C. Inspection.

1. The Director may inspect the tree(s) identified for removal.
2. The Director may consult with a certified arborist to peer review the applicant's submitted arborist report.

D. Reimbursement. The applicant must reimburse the Town for any related costs that the Town incurs in processing this permit, including, but not limited to, arborist consultation. If the applicant's consultant was selected from the Town's Preferred Arborist list, the cost of the Town's peer review, if any, will not be passed on to the applicant.

E. Tree Assessment and Standards.

1. Trees to be preserved must be healthy, wind-firm, and appropriate to the site at their mature size, as identified by an arborist.
2. Trees growing in a grove or part of a stand must be considered part of a group when determining retention potential.
3. Declaration of hazard tree(s) must meet the criteria outlined in Section 16.12.056.
4. The arborist must determine the critical root zone to establish the limits of disturbance around the trees to be retained on site and include proper tree protection standards that shall be incorporated into grading, demolition and other appropriate site plans.
5. The arborist must include discussion of any off-site trees or adjacent trees which could be adversely affected by the proposed activity and the proposed mitigation for such impact.
6. The Director may require additional information to support findings and conclusions, and that can include soil or diagnostic testing, photographs of claimed disease/defect, or another professional opinion paid for by the applicant.

F. Tree Protection During Construction. Prior to initiating tree removal on the site, vegetated areas and individual trees to be preserved shall be protected from potentially damaging activities pursuant to the following standards:

1. **Placing Materials Near Trees.** No person may conduct any activity within the protected area of any tree designated to remain, including, but not limited to, parking equipment, placing solvents, storing building material and soil deposits, dumping concrete washout and locating burn holes.
2. **Objects on Trees.** During construction, no person shall attach any object to any tree designated for protection.
3. **Protective Barrier.** Before development, land clearing, filling or any land alteration for which a tree removal permit is required, the applicant:

- a. Shall erect and maintain readily visible temporary protective tree fencing constructed of chain link and to a height of at least four feet. This protective tree fence shall be placed along the outer edge and completely surrounding the protected area of all retained trees or groups of trees, as determined by an arborist. Other types of fencing may be authorized by the Director;
 - b. Shall install highly visible signs spaced no further than fifteen feet along the entirety of the protective tree fence. The sign must be approved by the Town and shall state at a minimum "TREE PROTECTION AREA, ENTRANCE RESTRICTED" and shall reference the appropriate code and provide the current Public Works Department phone number to report violations;
 - c. Shall prohibit excavation or compaction of earth or other potentially damaging activities within the barriers;
 - d. Shall maintain the protective barriers in place until the Director authorizes their removal or a final certificate of occupancy is issued, whichever occurs first;
 - e. Shall ensure that any landscaping done in the protected zone subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.
4. Additional Protection. In addition to the above, the Director may require the following:
- a. Cover with mulch to a depth of at least six inches or with plywood or similar material the areas adjoining the critical root zone of a tree in order to protect roots from damage caused by heavy equipment;
 - b. Minimize root damage by excavating a two-foot-deep trench, at edge of critical root zone, to cleanly sever the roots of trees to be retained;
 - c. Have corrective pruning performed on protected trees in order to avoid damage from machinery or building activity;
 - d. Maintain trees throughout construction period by watering and fertilizing.
- G. Grade.
1. The grade shall not be elevated or reduced within the critical root zone of trees to be preserved without the Director's authorization. The Director may allow coverage of up to one-half of the area of the tree's critical root zone with light soils (no clay) to the minimum depth necessary to carry out grading or landscaping plans, if it will not imperil the survival of the tree. Aeration devices may be required to ensure the tree's survival.
 2. If the grade adjacent to a preserved tree is raised such that it could slough or erode into the tree's critical root zone, it shall be permanently stabilized to prevent suffocation of the roots.
 3. The applicant shall not install an impervious surface within the critical root zone of any tree to be retained without the authorization of the Director. The Director may require specific construction methods and/or use of aeration devices to ensure the tree's survival and to minimize the potential for root-induced damage to the impervious surface.
 4. To the greatest extent practical, utility trenches shall be located outside of the critical root zone of trees to be retained. The Director may require that utilities be tunneled under the roots of trees to be retained if the Director determines that trenching would significantly reduce the chances of the tree's survival.
 5. Trees and other vegetation to be retained shall be protected from erosion and sedimentation. Clearing operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time. To control erosion, shrubs, ground cover and stumps shall be maintained on the individual lots, where feasible. Where not feasible, appropriate erosion control practices shall be implemented pursuant to current adopted Storm Water Management Manual.

H. Directional Felling. Directional felling of trees shall be used to avoid damage to trees designated for retention.

I. Additional Requirements. The Director may require additional tree protection measures.

J. Maximum Tree Removal.

1. Trees removed from the proposed building footprint, access, and utility easements do not apply toward the maximum tree removal allowed as listed below.

2. Developed Lots. For redevelopment projects on previously developed lots, tracts, or parcels, trees to be removed outside the areas listed in subsection (J)(1) of this section apply toward the maximum tree removal allowed in Table 1 of Section 16.12.060.

3. Undeveloped Lots. Tree removal for development projects on undeveloped lots, tracts or parcels shall not exceed five percent of the trees located outside of the areas listed in subsection (J)(1) of this section.

4. Removal of exceptional trees is not allowed under the land development provisions.

K. Tree Replacement Requirements.

1. Developed Lots. ~~Trees~~Significant trees removed from previously developed lots shall be replaced according to the requirements in Section 16.12.060(E).

2. Undeveloped Lots.

Table 1
Minimum Tree Replacement Ratio for Land Development

<u>Area or Type</u>	<u>Minimum Tree Replacement Ratio (Tree Replaced : Tree Removed)</u>
<u>Within the building footprint and extending 25 feet in all directions, access and utility corridors or easements, and driveways or parking areas</u>	<u>No replacement required</u>
<u>Within other improved areas outside of wetlands, streams or their buffers and critical erosion hazard areas or landslide hazard areas</u>	<u>0.5:1 rounded up to the nearest whole number</u>
<u>Within critical erosion hazard areas or landslide hazard areas</u>	<u>0.5:1 rounded up to the nearest whole number (see 2.e below for alternative)</u>
<u>Within wetlands, streams or their buffers</u>	<u>1:1</u>
<u>Exceptional trees</u>	<u>3:1</u>

a. Replacement trees are subject to the criteria in Section 16.12.080.

b. ~~Removal of trees from an undeveloped lot requires a one for one replacement.~~Table 1 of this section lists the required tree replacement ratio for removals in certain areas or of a certain type.

~~e. Replacement trees shall be at least three feet in height, as measured from the grade at installation.~~

~~d. If the removed tree is a species native to the Pacific Northwest, replacement trees must be of the same species as the trees removed. If the removed tree is not a native species, the replacement tree shall be a native species approved by the Director.~~

c. Trees removed from wetlands, streams or their buffers shall be replaced in the same critical area or buffer unless the Director approves placement in another wetland, stream or buffer location within the Town's boundaries that would derive greater ecological benefit.

d. For purposes of determining the number of trees removed and the replacement trees that are required, non-exempt significant alders are counted as one-half of a tree except in wetlands, streams or their buffers where each significant alder is counted as one tree.

e. Significant trees within critical erosion or landslide hazard areas may be replaced at a 0.5:1 tree ratio as shown in Table 1, or may be replaced with shrubs at a 3:1 ratio if a report prepared by a geotechnical engineer or engineering geologist concludes that trees would not be a superior solution for achievement of long-term slope stabilization. Replacement trees and shrubs shall be selected based on their suitability for the site's conditions and their ability to support slope stabilization, soil stabilization, and water quality, in that order of priority. 3. Exemptions from Replacement. The following activities conducted under an approved land development permit on undeveloped lots are exempt from tree replacement:

a. Removal of hazard trees;

b. The removal of trees within the planned building footprint. (Ord. 17-580 § 1 (Exh. A (part)), 2017; Ord. 09-506 § 1 (Exh. A(part)), 2009; Ord. 05-452 § 1(part), 2005)

16.12.080 Replacement ~~tree~~vegetation requirements.

Tree removal activities that require ~~tree~~vegetation replacement shall be subject to the following:

A. Trees removed from the setback areas of lots, tracts or parcels shall be replaced with the required vegetation in the setback areas, unless otherwise approved by the Director.

B. All replacement ~~tree~~vegetation shall be installed within six months of initial tree removal.

C. Replacement ~~tree~~vegetation shall remain in a healthy condition for a minimum of five years after installation. Any replacement ~~tree~~vegetation that is unhealthy within five years of planting must be replaced with ~~a new replacement tree~~vegetation, with the same requirement for continued health and replacement.

D. The Director shall have the right to inspect the health and condition of replacement ~~tree~~vegetation at any time within five years of installation.

E. Replacement ~~tree~~vegetation shall not be installed in easements for public facilities or utilities unless approved by the Director.

F. Replacement trees shall be at least three feet in height, as measured from the grade at installation. Replacement shrubs shall be at least one foot in height, as measured from the grade at installation.

G. Replacement vegetation shall be species native to the Pacific Northwest in wetlands and wetland and stream buffers. Except in existing landscaped areas, all other replacement vegetation shall be a species native or adapted to the Pacific Northwest unless approved by the Director, and are not required to be the same species as the removed tree. Native trees or native adaptive trees and or plantings are preferred, but not required, in landscape areas.

H. Replacement tree species and location shall consider the needs of the subject and adjacent properties for solar access and fire risk reduction. When not in conflict with these objectives, at least 60 percent of the required replacement trees for removed conifers should be conifers.

I. All vegetation removal in critical erosion or landslide hazard areas, including but not limited to invasive species, noxious weeds, and exempt trees, must maintain or improve slope and soil stability as determined by a geotechnical engineer or engineering geologist by providing replacement plantings, slope protection matting, and/or other appropriate measures. (Ord. 17-580 § 1 (Exh. A (part)), 2017; Ord. 05-452 § 1(part), 2005)

16.12.090 Sureties.

~~The~~When the expected cost of compliance with the conditions of the permit approval exceeds five thousand dollars, the Director may require a surety to be posted to secure the applicant's compliance with the conditions of the permit approval. The surety shall be equal to one hundred twenty-five percent of the estimated cost of tree replacement ~~of~~on the property not to exceed twenty five thousand dollars, as determined by the Director. (Ord. 17-580 § 1 (Exh. A (part)), 2017; Ord. 05-452 § 1(part), 2005)

16.12.100 Enforcement and penalties.

A. Failure to submit an application for a tree permit shall be a violation under Chapters 1.12 and 1.14 of this code and may be subject to the penalties contained therein.

B. Removal of a tree inconsistent with this chapter shall be a violation and shall require the property owner to replace the removed tree(s) at a ratio of three replacement trees to each one removed tree, and result in a penalty, assessed against the property owner, in the amount of up to one thousand dollars assessed for each tree and up to five thousand dollars for each exceptional conifer tree that is significantly damaged, destroyed or removed. Each tree removed shall constitute a separate violation. ~~An amount equal to the appraised value of the removed tree(s), as determined by the Director utilizing the industry standard trunk formula method in the current edition of the Guide for Plant Appraisal, may be added to the penalty for each violation. If the diameter of the removed tree is unknown, the diameter size used shall be the diameter of the remaining stump at the cut.~~

C. Stop work orders may be issued by the Director whenever there is a violation. The posting of the stop work order on the site shall be deemed adequate notice of the order. A failure to comply with a stop work order shall constitute a separate violation of Chapter 1.14 of this code. (Ord. 17-580 § 1 (Exh. A (part)), 2017; Ord. 09-502 § 1, 2009; Ord. 05-452 § 1(part), 2005)

16.12.105 Resolution by agreement.

A. If a property owner wishes to remove or replant trees outside the provisions of this chapter, he or she may request an alternate removal and replacement agreement. The Public Works Director, in the Director's sole discretion, may enter into an alternate removal and replacement agreement, subject to the following criteria:

1. Where circumstances exist rendering compliance with the provisions of this chapter impractical;
2. Where such compliance would create unnecessary hardships to the owner of land or buildings; or
3. When the Director finds that an alternative tree replacement plan would be consistent with the general purpose and intent of the tree preservation code.

B. The agreement may include, but is not limited to, the following:

1. The number of trees allowed to be removed or topped in one year under the provisions of Sections 16.12.060 and 16.12.070(J)(2) may be increased when the additional removal would enhance the overall health and safety of the trees that remain.
 - a. The agreement shall prohibit future tree removal for the number of years that would have elapsed had the trees been removed pursuant to the code.
 - i. Example: In the R-87 zone district, six trees per year may be removed under the routine property maintenance provisions. If a removal and replacement agreement allowed twelve trees to be removed in one year, no further tree removal would be allowed for two years following the issuance of the permit.
 - b. Two-years' total tree removal is allowed by agreement without a report from a certified arborist.
 - c. Removal of more than two-years' total trees requires a report from a certified arborist that addresses the viability and survivability of the trees that will remain.
2. Replacement tree species may be substituted when a different tree species would be better suited for the location.

3. Alternate replacement tree locations may be approved.
4. One exceptional tree may be removed every five years.

C. By entering into the removal and replacement agreement, the property owner waives the right to a hearing before the Examiner under this chapter or any other appeal regarding the agreement. (Ord. 17-580 § 1 (Exh. A (part)), 2017)

16.12.110 Appeals.

A. Appeals of administrative decisions made under this chapter are to the Hearing Examiner in accordance with Chapter 2.56 of this code. Prior to processing the appeal, an appeal fee shall be submitted to the Town as follows:

1. If any party wishes to have the Hearing Examiner conduct an appeal hearing, then the appeal fee is three hundred dollars and one-half of the actual costs of the Hearing Examiner, regardless of the decision.
2. The appellant shall pay a deposit of the appellant's share of the estimated cost of the Hearing Examiner's service. Any amount not needed to pay the actual costs of the Hearing Examiner shall be refunded at the conclusion of the appeal process.

B. Timely filing of an appeal shall stay the effect of order, permit, decision determination or other action related to the removal of any tree being appealed until the appeal is disposed of by the Hearing Examiner or withdrawn.

C. The Hearing Examiner shall give substantial weight to the Director's decision and the burden of showing that the Director's decision was clearly erroneous shall be upon the appellant. (Ord. 17-580 § 1 (Exh. A (part)), 2017: Ord. 05-452 § 1(part), 2005)