

Sophia Cassam

From: Kathryn Tucker <kathryn@emergelawgroup.com>
Sent: Monday, May 31, 2021 2:37 PM
To: Sophia Cassam
Cc: Scott Tucker; Montana Tucker
Subject: Support for County tree protection code
Attachments: Tree Code Proposal_2021.pdf

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Dear San Juan Planning Commission and County Council and Sophia Cassam:

I have been an owner of 10 acres on Lopez for 30 years, at 3890 Lopez Sound Road. I fully support the proposed new section of county code to preserve trees and canopy cover in the islands.

I support this code which has three main mechanisms:

- 1) prevent removal of trees over a certain size, unless they are dangerous or meet other exemptions;
- 2) include trees in building permit applications, along with a tree protection plan for any retained trees; and
- 3) replace removed trees with new plantings to maintain a similar number of trees on individual properties.

I support the goal of preserving the ecological function, beauty and multitudinous benefits of preserving trees in our community.

Thanks for considering these comments.
Best,

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Proposed San Juan County Tree Code Docket Process 2021

February 26, 2021

Definitions

Best management practices (BMPs) - adherence to tree health care standards detailed in the current edition of the American National Standards Institute (ANSI) A300 and the current edition of the International Society of Arboriculture (ISA) BMPs including the special companion publication to the ANSI A300, Best Management Practices for Utility Pruning of Trees.

Canopy - the collective branches and foliage of a group of trees' crowns.

Canopy Cover - the area covered by the canopy of trees on the parcel.

Certified Arborist - a tree professional certified by the American Society of Consulting Arborists and/or the International Society of Arboriculture (ISA).

County – San Juan County, Washington.

Critical root zone - the International Society of Arboriculture (ISA) definition of CRZ as an area equal to one-foot radius from the base of the tree's trunk for each one inch of the tree's diameter at 4.5 feet above grade (referred to as diameter at breast height). Example: A 24-inch diameter tree would have a critical root zone radius (CRZ) of 24 feet. The total protection zone, including trunk, would be 50 feet in diameter.

Crown - that portion of the tree's stem that is occupied by branches with live foliage.

Development activity - a subdivision or short subdivision; construction or demolition of single-family, multifamily, or commercial buildings; any activity that requires federal, state, or local approval for the use or modification of land or its resource, that includes, but is not limited to, additions, enlargements, or alterations to existing structures, construction of retaining walls, decks, driveways, and garages, clearing and grading activity, and activity in the right-of-way that is not exempt from permit requirements.

Development impact area – the area on a site affected by proposed site improvements, including buildings, structures, parking and loading areas, landscaping, and paved or graveled areas. The development impact area also refers to areas devoted to storage of materials, vehicle or machine access, or construction activities such as grading, filling, trenching, changing soil composition, or other excavation necessary to install utilities or access.

dbh - an acronym for tree diameter at breast height which means the diameter of existing trees measured 4.5 feet above the ground line on the high side of the tree. For the purposes of code enforcement, if a tree has been removed and only the stump remains, the size of the tree shall be the diameter of the top of the stump.

Drip line - delineated by a vertical line extended from the outermost branch tips to the ground, or six-foot radius from the stem of the tree, whichever is greater.

Exceptional tree - a viable tree, which because of its unique combination of size and species, age, location, and health is worthy of long-term retention, as determined by the Planning Director. To be considered exceptional, a tree must meet the following criteria:

1. The tree must be included in 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 not be considered to pose an unreasonable risk of failure; and
3. If retained, the tree can be expected to remain viable with reasonable and prudent management and care.

Table 1

Tree Species	Scientific Name	DBH (inches)
Bigleaf maple	<i>Acer macrophyllum</i>	34
Douglas fir	<i>Pseudotsuga menziesii</i>	32
Garry oak	<i>Quercus garryana</i>	16
Grand fir	<i>Abies grandis</i>	32
Madrona	<i>Arbutus menziesii</i>	12
Red alder	<i>Alnus rubra</i>	34
Shorepine	<i>Pinus contorta</i>	28
Western hemlock	<i>Tsuga heterophylla</i>	28
Western red cedar	<i>Thuja plicata</i>	32

Grove – a group of eight or more trees that are at least 12 inches in diameter, or Pacific madrone trees that are at least 6 inches in diameter, and that form a continuous canopy. A grove is spatially separated from a forest stand and differentiated by its isolation of a group of fewer than 20 trees. Other trees and understory vegetation located within the grove are considered part of the grove and are counted as part of the canopy area.

Hazardous tree – a tree with a high or extreme risk rating as defined by the International Society of Arboriculture and assessed by a certified arborist.

Inner critical root zone - an area encircling the base of a tree equal to one-half the diameter of the critical root zone. Disturbance of this area beneath a tree would cause significant impact to the tree, potentially life threatening, and would require maximum post-care treatment to retain the tree.

Limits of disturbance - the boundary between the area of minimum protection around a tree and the allowable site disturbance as determined by a certified arborist.

Risk - in the context of trees is the cross-referencing of the likelihood of a tree failure occurring and the severity of the associated consequences to a target.

Significant tree - a tree eight inches or greater in diameter (dbh) or a required replacement tree of any size. Unless growing in an environmental critical area or critical area buffer, red alder, Scouler’s willow, and black cottonwood are only considered significant with a dbh larger than 12 inches. Dead trees shall not be considered significant trees. Invasive tree species should not be considered as significant.

Snag – a standing dead tree with value for wildlife habitat, nutrient cycling, and other ecological functions.

Target - people, property, or activities that could be injured, damaged, or disrupted by a tree.

Tree removal - the direct or indirect removal of a tree(s) through actions including, but not limited to: clearing, cutting, girdling, topping, or causing irreversible damage to roots or stems; destroying the structural integrity of trees through improper pruning; poisoning; filling, excavating, grading, or trenching within the dripline that results in the loss of more than 20 percent of the tree’s root system; or the removal of greater than 50 percent of the live crown of the significant tree through any of these processes.

Topping - the cutting back of limbs to stubs within the tree's crown or the cutting back of limbs or branches to lateral branches that are less than one-third of the diameter of the limb or branch that is cut.

Viable tree - a significant tree that a certified arborist has determined to be in good health with a low likelihood of failure, is a species that is suitable for its location, and is therefore worthy of long-term retention.

[EXAMPLES:

City of Kirkland – 95.10

City of Lake Forest Park – 16.14.030

City of Seattle – 25.11.020

Town of Hunts Point – 8.25.20]

18.60.270 Tree Retention and Protection

A. Purpose and Intent. San Juan County recognizes trees and other vegetation as essential elements of the physical and social environment. The overall objective of this tree code is to conserve trees and wooded areas in San Juan County in order to protect the established character of the community. The goals outlined in this section will be achieved in part through regulatory enforcement.

The purposes of these regulations are to:

1. Promote the health, safety, and general welfare of the people of San Juan County in a manner consistent with the purposes addressed in the county's comprehensive plan;
2. Preserve the county's physical and aesthetic character by preventing indiscriminate removal or destruction of trees on developed and undeveloped property;
3. Retain trees and ground cover to reduce air pollution, sequester carbon, provide wildlife habitat and other ecosystem services;
4. Promote and ensure careful construction methods, techniques, and procedures that will minimize impact to significant trees, on and off site, and to require site restoration, replanting and successful vegetation establishment following construction;
5. Preserve the following dominant characteristics historically present on county lands:
 - a. The presence of trees of substantial size (24-inch dbh or greater);
 - b. Forest and tree components of view corridors and shoreline character;
6. Retain the presence of natural areas with tree species native to forested lands of the county;
7. Minimize surface water runoff and diversion, to retain undisturbed native soil for absorbing and filtering runoff, to promote ground water recharge, to prevent soil erosion, siltation and water pollution in the marine waters of San Juan County;
8. Preserve the existing and unique advantages of the rural and village environment for quiet, secluded, and peaceful residential living;

9. Implement the goals and objectives of the Washington State Environmental Policy Act and the State Shoreline Management Act;

[EXAMPLES:

City of Kirkland – 95.10

City of Lake Forest Park – 16.14.010; 16.14.020

Town of Hunt’s Point – 8.25.040]

B. Permit Applicability.

1. Restrictions on tree removal. A permit is required to remove the following trees:
 - a. An exceptional tree,
 - b. More than 12 significant trees per acre in a calendar year,
 - c. A significant tree in a grove.
 - d. Trees that were included in a development plan as a replacement tree within the last 5 years.
2. Exemptions. The following activities are exempt from the provisions of this section:
 - a. Normal and routine pruning and maintenance within the arboriculture industry Best Management Practices that does not include topping;
 - b. Abatement of hazardous tree or tree parts as approved by the planning director and evidenced by a Hazard Tree Evaluation Form completed by a qualified professional;
 - c. Emergency activities necessary to remedy an immediate threat to public health, safety, or welfare;
 - d. Tree removal undertaken as part of tree and vegetation management and revegetation of public parkland and open spaces by responsible public agencies or departments;
 - e. Tree removals on private property under a tree and vegetation management plan that has been approved by a public agency or department for the purposes of enhancing ecological function, such as restoration to historic canopy cover;
 - f. Tree removal approved as part of a tree and vegetation plan in either forestry and harvest operations on Designated Forest Land, within a Critical Area (SJCC 18.35), or within the protected shoreline zone (SJCC 18.50);
 - g. The removal of trees or other vegetation included on the Washington State A, B, or C or San Juan County noxious weeds lists.

C. General Provisions

1. Relationship to other county codes and ordinances. In addition to the standards in this section, requirements described in other sections, such as critical areas (SJCC 18.35), Designated Forest Lands, or within the protected shoreline (SJCC 18.50) also apply to tree retention and vegetation management.

2. Pruning or cutting trees on public property by a private property owner is prohibited unless permission is explicitly granted in writing by the public authority.
3. Private utility companies may be issued a tree removal permit for public safety issues, mitigating risk from hazard trees, and construction. All utility work on trees covered by an issued permit shall be performed under the supervision of a qualified professional at the sole expense of the private utility company.

D. Tree Removal Unrelated to Development Activity

1. Significant Trees. This section applies to parcels zoned Rural Residential (RR), Rural General Use (RGU), Natural (N), and Conservancy (C). The removal of more than 12 trees per acre in a calendar year requires a tree removal permit. A significant tree removed under a permit must be replaced with a tree or trees whose canopy will be similar or greater than the removed tree(s) at the time of maturity. A planting plan for replacement trees shall follow the standards provided in 18.60.270(G).
 - a. Replacement trees are not required for the removal of dead or hazardous trees that are documented by a certified arborist.
 - b. Removal trees shall be converted to a snag for wildlife habitat when possible.
2. Exceptional Trees. Exceptional trees, defined in Table 1, cannot be removed nor topped unless they meet one or more of the following criteria:
 - a. They are dead or hazardous. Documentation must be provided by a qualified professional along with a county Hazard Tree Evaluation Form.
 - b. Their removal will enhance ecosystem function and/or promote slope stability.
3. Groves. No more than one third of significant trees in a grove can be removed. Removing a tree or trees from a grove will not be approved if doing so increases the failure chances of another tree in the grove, as documented by a certified arborist.

E. Tree Removal Associated with Development.

1. Retention Requirement. Development proposals for any clearing, grading, or new construction in parcels zoned Rural Residential (RR), Rural General Use (RGU), Natural (N), and Conservancy (C) shall retain trees as follows:
 - a. A minimum of 45 tree credits per acre shall be retained. Properties unable to retain this minimum tree credit may meet the requirement by planting new trees that meet the standards of 18.60.270(G). Tree credits are assigned to a viable retained tree based on its dbh as follows:

DBH (inches)	Credits
< 8	0
8 – 16	1
> 16 – 24	2
> 24 – 36	3
> 36	4

- b. In addition to the retention requirements, the development proposal shall be designed to minimize the removal of large trees and maximize on-site tree retention as follows:
 - i. Site improvements for a development activity shall be designed and located to minimize tree removal during and following construction.
 - ii. The following trees shall be prioritized for retention:
 - 1. Exceptional trees;
 - 2. Trees with a diameter of more than 24 inches dbh;
 - 3. Trees that are part of a grove;
 - 4. Native conifer tree species; and
 - 5. Landmark or historical trees as determined by the Planning Director.
 - c. Trees shall not be removed outside the development impact area.
 - d. Tree removal for the site landscaping purposes shall be limited to those trees that will pose a future safety hazard to existing or proposed site improvements.
 - e. Provide replacement trees pursuant to SJCC 18.60.270(G).
2. Retention of Exceptional Trees. Development proposals applicable to this section shall retain exceptional trees. Removal of exceptional trees shall be limited to the following circumstances:
- a. Its retention will likely result in an unavoidable hazardous situation;
 - b. Retention of an exceptional tree(s) will limit the allowable gross floor area available under Title 15 by more than 15 percent. Consider Exceptional Tree protection opportunities in the design and location of building footprints, parking areas and other structures.

F. Tree Removal Permit and Protection Plan.

- 1. Tree removal requests that are unrelated to a development activity that fit the criteria of SJCC 18.60.270(D), shall be submitted in a permit application that provides the following information:
 - a. A map showing the location of each removal tree and the total acreage of the site with a calculation of proposed tree removals per acre.
 - b. Individual tree evaluation, including dbh, dripline or critical root zone, viability, and structure.
 - c. For the removal of a hazardous tree, submit a San Juan County Hazard Tree Evaluation Form completed and signed by a certified arborist.
 - d. A tree planting and establishment plan that meets the standards of SJCC 18.60.270(G).
- 2. For tree removals associated with development, a tree removal permit, tree protection plan, and tree planting plan (18.60.270(G)) shall be submitted with a general building permit for any clearing, grading, or new construction in parcels zoned Rural Residential (RR), Rural General Use (RGU), Natural (N), and Conservancy (C).

- a. A site plan with the surveyed location of all significant and exceptional trees whose critical root zone is within five feet of the development area, as well as the existing and proposed developments, shall be submitted with the permit application.
 - b. The planning director shall require a tree protection report by a certified arborist that provides the following information on trees in the development impact area:
 - i. Details on each trees' species, condition, dbh, dripline, critical root zone, viability, and assessment of risk with a numbering system that corresponds to the site plan;
 - ii. Evaluation of the anticipated effects of proposed construction on the viability of the tree(s) and a recommendation for either removal or retention;
 - iii. A hazardous tree assessment, if applicable;
 - v. Plans for implementation of any necessary tree protection or replacement measures.
 - c. The number of tree credits per acre to be retained.
 - d. Disturbance is not allowed within the inner critical root zone of an exceptional tree planned for retention unless the planning official approves a tree protection plan prepared by a qualified professional that prevents significant loss of tree stability or health at closer limits of disturbance.
 - e. Significant trees on neighboring properties whose dripline overhangs the development area must be included in the site plan and tree protection plan if the tree is to be retained.
3. Tree protection measures implemented during development include but are not limited to:
- a. Erect and maintain a six-foot high chain link fence at the limit of disturbance around protected trees.
 - b. Install signs at 15 feet intervals along the entirety of the protective tree fence. Signs shall state at a minimum "Tree and Soil Protection Area, Entrance Prohibited" and provide the county phone number for code enforcement to report violations.
 - c. Prohibit excavation or compaction of soil or other potentially damaging activities within the protective fencing, unless approved by a qualified professional.
 - d. If equipment is authorized to operate within the protected zone, the soil and critical root zone of a tree must be covered with mulch to a depth of at least six (6) inches or with plywood, steel plates or similar material in order to protect roots and soil from damage caused by heavy equipment.
 - e. Minimize root damage by hand-cutting any roots over two inches in diameter that are exposed during construction.
 - f. Prune crowns of protected trees to prevent accidental damage to branches from machinery or building activity.
 - g. Maintenance of trees throughout construction period by watering and mulching.
 - h. Use alternatives to trenching if it increases the likelihood of survival and decreases the likelihood of failure of a retained tree.

[EXAMPLES

City of Kirkland - 95.34

City of Seattle – 25.11.050]

G. Tree Replacement

1. Trees that are cut pursuant to a tree permit shall be replaced as specified in subsections a and b of this section, or a fee in lieu shall be paid as specified in subsection c of this section.

- a. Removed trees shall be replaced at the following ratio of the diameter of the removed tree to the number of replacement trees:

DBH (inches)	Replacement trees
Less than 12	1
12 – 24	2
24 – 36	3
Greater than 36	5

- b. Replacement trees.

- i. Location. Preference for planting replacement trees on-site. The location of all tree plantings shall be included on the site plan submitted with the permit. Planting locations shall be selected to allow sufficient space for the tree to reach maturity without conflict, such as growing into overhead utility lines or large branches encroaching on neighboring properties.
- ii. Species. Native tree species removed shall be replaced by a minimum of 50 percent of the same species. Non-native tree species shall be replaced by a minimum of 50 percent native species appropriate for the site conditions. All replacement tree plantings must be a species on the San Juan County Approved Tree Species List. Invasive species defined by the San Juan Islands Conservation District or similar authority on plant material in the county shall not be planted. The planning director will not approve shrubs or dwarf tree cultivars for replacement trees.
- iii. Size. Conifer species shall be a minimum of 6 feet tall and broadleaf species a minimum caliper of 1.5 inches at the time of planting. All replacement trees shall meet the minimum standards for size and quality according to the current edition of the ANSI Z60.1 standard for nursery stock.
- iv. Adjustments. The planning director may reduce the number of replacement trees when other measures designed to mitigate the tree loss and associated canopy cover are considered to be effective and consistent with the purposes of this chapter.

- c. Fee in lieu. If a certified arborist determines there is insufficient area to replant on the site or within the adjacent public right-of-way, the planning director may authorize payment of a fee-in-lieu provided:

- i. There is insufficient area on the lot or adjacent right-of-way for proposed on-site tree replacement to meet the tree replacement requirements of this chapter; or
- ii. Tree replacement or management provided within public right-of-way or a public park in the vicinity will be of greater benefit to the community.

- iii. Fees provided in lieu of on-site tree replacement shall be determined based upon:
 - a. The expected tree replacement cost including labor, materials, and maintenance for each replacement tree; and
 - b. The most current Council of Tree and Landscaper Appraisers Guide for Plant Appraisal.
- d. Maintenance. All applicants or their successors in interest are required to maintain replacement trees until they are independently viable. Replacement trees that die prior to meeting the definition of a significant tree must be replaced by a tree that meets the criteria of this section.

H. Enforcement

1. Violations of this chapter may be addressed by the county administrator pursuant to the provisions set forth below.
 - a. Liability for violations of this chapter shall be the joint and several responsibility of the landowner and any person performing activity.
 - b. Removal of existing trees in violation of this chapter will require an appraisal of the tree value by a qualified arborist using the trunk formula method in the current edition of the Council of Tree and Landscape Appraisers' Guide for Plant Appraisal. The cost of the appraisal shall be paid by the person(s) who removed existing trees in violation of this chapter and are jointly and severally liable.
 - c. Tree replacement is required in accordance with SJCC 18.60.270(G) at the cost of the property owner and/or applicant.
 - d. In addition to tree replacement, the administrator shall require that the persons found in violation of this chapter or the conditions of a permit pay the appraised value of the trees, as established in subsection (1)(b) of this section, into the county tree account. A person may appeal the amount imposed under this section in accord with SJCC.
 - e. Stop Work Order. If a violation of this chapter or an approved tree permit occurs on property on which work is taking place pursuant to a San Juan County development or building permit, the building official may suspend some or all of the work as appropriate through issuance of a stop work order. The building official shall remove the stop work order when the county determines that the violation has been corrected or when the county has reached an agreement with the violator regarding rectification of the violation.
2. In order to assure compliance with the standards and requirements of this chapter, private foresters, arborists, loggers, and contractors involved in development activity within the land use zoning applicable to this chapter shall be required to sign and submit to the county, on a form approved by the county, a statement acknowledging the county's tree protection requirements.
3. Private contractors involved in land clearing operations who do not provide the above statement shall be prohibited from performing tree removal and land clearing services in San Juan County, and they shall be in violation of this chapter and may be prosecuted under this chapter, the county's civil penalties ordinance, or as otherwise provided by law.