

ENVIRONMENT COMMITTEE AGENDA

February 13, 2014 – North Conference Room

21630 11th Avenue South – Des Moines 98198

5:45P – 6:20P

1. Selection of Committee Chair
2. Approve minutes of 11.14.2013 meeting
3. Tree Trimming/Tree Clearing

(Discussion Item – 35 min)

Staff will provide an overview and interdiction to the issue of tree trimming/removal and outline several policy questions related to trees on private property, public property and in critical area

DRAFT MINUTES - ENVIRONMENTAL COUNCIL COMMITTEE MEETING 11.14.2013

The meeting was called to order @ 5:32 PM, Thursday, November 14, 2013, in the North Conference Room @ 21630 11th Avenue South, Des Moines with the following in attendance:

Council Members

Dave Kaplan, Chair
Melissa Musser
Jeremy Nutting

Guests

Austin Fisher, Parametrix
Brian Roswell, Citizen

City Staff

Tony Piasecki, City Manager
Dan Brewer, Planning, Building & PW Director
Loren Reinhold, SWM Utility Manager
Denise Lathrop, Community Dev Manager
Lorri Ericson, Asst City Manager
Peggy Volin, Admin Asst II

AGENDA:

1. Approve minutes of October 10, 2013
2. Comprehensive SWM Plan
3. Tree Trimming/Tree Clearing Discussion
4. Draft 2014 Work Program
5. NPDES Permit Monitoring & Assessment

MEETING:

1. Minutes of October 10, 2013, were unanimously approved.
2. Comprehensive SWM Plan: Loren Reinhold began by stating the original 1991 SWM Comp Plan was put together by Parametrix, then introduced Austin Fisher from Parametrix who briefly went through the 2014 Stormwater Comprehensive Plan – Scope of Work. The five areas outlined by the 2014 Plan include: 1) Understanding and categorizing the City's current storm water assets; 2) Regulatory compliance; 3) Evaluating existing problems and future needs to arrive at an effective CIP; 4) Public involvement; and 5) Fiscal analysis. The Committee emphasized the need for public meetings at several locations in the City.
3. Tree Trimming/Tree Clearing Discussion: Denise Lathrop provided a memo to the Committee that gave an overview of how the Community Development Division interprets the Des Moines Municipal Code requirements related to requests by citizens/others to prune, top or remove trees within the City of Des Moines. She outlined the regulatory framework for Federal, State and Local Government, pointed out areas of ambiguity, and also went over options for clarifying policy and regulations relating to trees.
4. Draft 2014 Work Program: Loren Reinhold led the discussion on the 2014 Environment Committee Draft Work Program. He pointed out a full 10-year Comp Plan will go to the

Council in the fall and will require a 60-day review period before it can be passed.

5. **NPDES Permit Monitoring and Assessment:** A draft letter was prepared for the Department of Ecology stating that Des Moines has chosen to opt into the Regional Stormwater Management Program under S8 of the 2013-2018 Municipal Permit. Option #1 of the permit means the City shall pay into the collective fund for both monitoring and assessment beginning annually August 15, 2014.

Meeting Adjourned @ 6:52 pm

Submitted by: Peggy Volin, Admin Asst II

City Council Environment Committee
February 13, 2014

Continued Discussion on Tree Trimming, Topping and Removal

Direction Requested:

- 1) Confirmation with the general description of categorical sites, and the policy direction with respect to tree trimming and removal within those categories.
- 2) Direction to proceed with preparation of draft ordinances that will reflect the policy direction, address areas of ambiguity, removes areas of contradiction, and to provide greater overall clarity on how the City regulates the cutting and maintenance of trees.

Introduction:

At the November 14th Environment Committee, Administration provided an overview of how the Community Development Division interprets the Des Moines Municipal Code requirements related to requests by citizens and others to prune, top, or remove trees within the City of Des Moines. Below is a summary of the direction the Committee provided as it relates to the following categories of sites:

- Trees on private developed sites – No permit is required, provided that the tree/s are not located within a designated critical area, shoreline environment, or required landscaping area.
- Trees on private undeveloped sites – Limited to removal of dead, diseased, or hazard trees, subject to approval of a land clearing, grading, and filling permit. Limited pruning is allowed using methods approved by a Qualified Professional and/or the International Society of Arboriculture (ISA) that do not destroy the integrity of the tree. The Committee's position was that indiscriminant removal of trees would increase runoff potential and create an implied view protection.
- Trees on city-owned property – Limited to removal of dead, diseased or hazard trees, subject to approval of a land clearing, grading, and filling permit. Limited pruning is allowed using methods approved by the International Society of Arboriculture (ISA) that do not destroy the integrity of the tree.
- City Trees on city right-of-way and utility corridors - Limited to removal of dead, diseased, or hazard trees, subject to approval of a right-of-way use permit. Limited pruning is allowed using methods approved by the International Society of Arboriculture (ISA) that do not destroy the integrity of the tree.
- Private (Native) Trees on city right-of-way and utility corridors - Subject to approval of a right-of-way use permit, provided that the tree/s are not located within a designated critical area, shoreline environment, or required landscaping area.
- Trees within environmentally critical areas, shoreline environments, and required landscaping (private/public properties) – Subject to approval of a land clearing, grading, and filling permit and threshold/disturbance limits per Environmentally Critical Areas Ordinance (Chapter 16.10 DMMC, formerly 18.86), Shoreline Master Program (Chapter 16.20 DMMC, formerly 18.90), and Landscaping and Screening (Chapter 18.195 DMMC, formerly 18.41).

Next Steps:

1. Administration recommends amendments to the Code (Titles 12, 14, 16, 17, and 18-DMMC) to reflect the policy direction above, address areas of ambiguity, removes areas of contradiction, and to provide greater

overall clarity on how the City regulates the cutting and maintenance of trees in the City, including but not limited to the following:

- Add specific terms and definitions related to tree cutting and pruning, and insure that these definitions are consistent throughout the Code. For example:
 - *"Certified Arborist"* means is an individual who has achieved a level of knowledge in the art and science of tree care through experience and by passing a comprehensive examination administered by the International Society of Arboriculture.
 - *"Pruning"* means the removal of branches (or occasionally roots) from a tree or other plant using practices approved by the International Society of Arboriculture, to achieve a specified objective. Specific types of pruning may be necessary to maintain a mature tree in a healthy and safe condition.
 - *"Topping"* means the removal of large amounts of leaves and branches from a tree's crown to reduce the tree's size. Topping involves indiscriminate (internodal) cuts without regard to tree health or structural integrity. Other names for topping include but are not limited to "heading," "tipping," "hat-racking," and "rounding over." Topping is not an acceptable pruning practice.
 - *"Vegetation"* means the general plant life and the ground cover provided by plants, including trees.
- Further clarify when a permit is not required per DMMC 14.20.180 (formerly 14.24.170) Exemptions and define the criteria (examples provided below):
 - Normal pruning and maintenance – e.g., does not require a permit provided the pruning is limited to not more than 25% of a tree's total leaf area and the pruning conforms to the International Society of Arboriculture standards.
 - Small Trees (e.g., six inches (6") or less diameter measured at 4 ½ feet above the ground.)
 - Residential lots (e.g., provide criteria that would trigger a permit such as location in a critical area)
 - Emergency
- Further clarify when a permit is required per Chapter 14.20 (formerly 14.24) DMMC and define criteria:
 - Construction work
 - Environmentally critical areas and shoreline environments
 - Commercial zone
- Establish a minor grading/tree review application and associated fee.
- Establish criteria for granting a tree permit (examples follow):
 - The tree is hazardous, diseased, or dead
 - The tree removal is to enable construction work
- Identify seasonal restrictions that may apply.
- Replacement ratios that may apply (currently defined/applicable per Title 17 Subdivision Code).
- Identify federal or state requirements that people should be aware of (i.e., Endangered Species Act, Bald Eagle Protection Act, Migratory Bird Treaty Act and DNR Forest Practices regulations) and provide links to Washington Department of Fish and Wildlife Priority Habitat and Species maps.
- Update DMMC 18.195.130 (formerly 18.41.110) relating to scenic views, which currently contradicts State Law.
- Specific Code sections to be addressed include (but may not limited) to following:
 - Various Section within Title 12 – Streets, Sidewalks, and Public Places
 - 14.20 (formerly 14.24) – Land Filling, Clearing, and Grading

- 16.10 (formerly 18.86) – Environmentally Critical Areas
- 16.20 (formerly 18.90) – Shoreline Master Program
- 18.195 (formerly 18.41) – Landscaping and Screening
- Various sections within the Title 17 – Subdivision Code

2. Prepare a Public Assistance Memo (PAM) to clarify how the City interprets the code as it relates to the removal and maintenance of trees in the City.

- The PAM will clarify the intent of language in the Des Moines Municipal Code (DMMC) Titles 12, 14, 16, 17, and 18 DMMC related to the pruning or removal of trees on private developed sites, private undeveloped sites, public properties, City-owned property and right-of-way, and environmentally critical areas.
- The PAM is intended as a user-friendly hand-out that can be obtained at the front counter or on-line to help citizens, property owners, developers and others understand what is allowed, what is exempt and what is required. Samples of memos from other cities are attached.

801 - 228th Avenue SE • Sammamish, WA 98075 • Phone: 425-295-0500 • Fax: 425-295-0600 • web: www.ci.sammamish.wa.us

PERMIT NUMBER

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Tree Removal Permit

Are you applying because of a code violation you received?

Check # _____

Yes _____ No _____

PROPERTY

Job Site Address:	
City/State/Zip:	
Tax Parcel No:	
Water District:	Zoning:

PROPERTY OWNER

Owner Name:	Phone/Fax:
Mailing Address:	City/State/Zip:
Email:	Cell:

OWNER'S AUTHORIZED AGENT/CONTACT

Name:	Phone/Fax:
Mailing Address:	City/State/Zip:
Email:	Cell:

GENERAL CONTRACTOR

Company Name:	Phone/Fax:
Contact:	
Mailing Address:	City/State/Zip:
Email:	Cell:
State License No:	Expiration:

Job Description:

All Provisions of laws and ordinances governing this type of work will be complied with. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction of the performance of construction. Applications for which no permit is issued within 180 days following the date of application shall expire by limitation; plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official.

I hereby certify that I have read and examined this application and know the same to be true and correct.

Signature of Owner or Authorized Agent:

Date:

After the permit is issued and the work is complete please call the Permit Center 425-295-0500

Office use Only

SEPA Not required (no FPA required)	SEPA Required (No permit until SEPA is Complete)
SEPA Complete	Reviewed by: _____ Date: _____

Conditions of Approval:

Approved By: _____ Date: _____

COMMUNITY DEVELOPMENT TREE REMOVAL

A TREE REMOVAL PERMIT IS REQUIRED FROM THE CITY IN ORDER TO REMOVE DECIDUOUS OR CONIFEROUS TREES OVER A CERTAIN CIRCUMFERENCE.

The following are the thresholds for requiring a permit:

- Any deciduous tree over 12 inches in diameter measured at 54 inches up from the base.
- Any coniferous tree over 8 inches in diameter measured at 54 inches up from the base.

A complete application for tree removal will include the following:

- The completed clearing and grading application and appropriate filing fee. (For three or less trees, no fee is due. Four or more trees, flat fee of \$59.00 due at time of time of submittal)
- Two copies of a scaled site plan detailing the location, species and diameter of all proposed trees to be removed and a statement explaining the reason for removal.
- Clearing of trees and/or vegetation is **not allowed** in critical areas of critical areas buffers unless the tree(s) in question presents a clear hazard. The City may require an arborist report to accompany an application to support the cutting, trimming or removal of trees within critical areas or native growth protection areas.
- Additional hourly fees may apply if permit is related to code violation.

The signed completed application, documentation, and appropriate fees should be brought to City Hall for submittal to the Permit Center staff. Submittals can be received between 8:30pm and 4:00pm Monday through Friday.

Minimum Site Plan Requirements for a Tree Removal Application:

Required Information:

1. Applicant Name
2. Street Address
3. Tax Parcel Number
4. North Arrow
5. Approximate location and dimensions of property lines
6. Approximate location and dimensions of existing buildings, driveways and septic systems
7. Approximate location of trees to be removed (please include distance from at least two property lines -- see drawing)
8. Approximate location of any sensitive areas (e.g. wetlands, streams, steep slopes)
9. Tree diameter (inches) and species

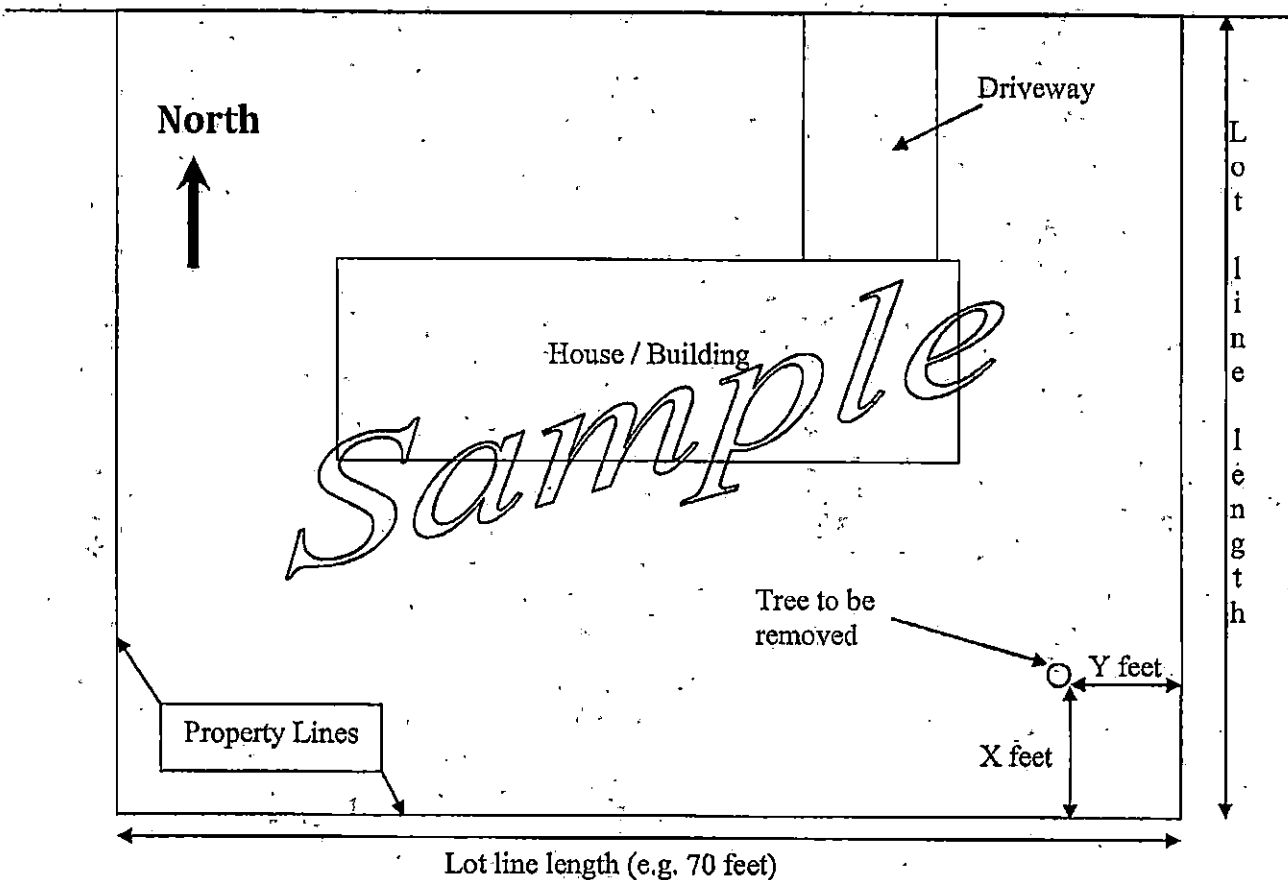
Preferred Information:

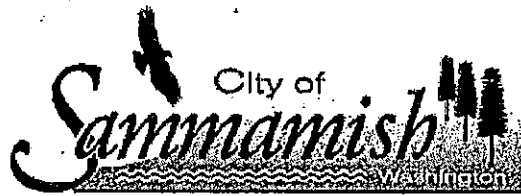
10. Scale of the drawing (e.g. 1 inch = 20 feet)
11. Lot square footage

Informational Only:

Applicant needs to provide site plan specific to parcel. This drawing will not be accepted.

Street Name / Address





Can hazard trees be removed from critical areas or critical area buffers?

Vegetation within critical areas and critical area buffers is generally protected; however, according to SMC 16.15.050(8)(b), a hazard tree can be removed immediately if it presents a clear emergency situation and the tree must be removed to prevent an imminent danger or hazard to persons or property. If this is clearly the case, then the tree should be snagged to a safe height and removed portions of the tree should be dropped into the critical area and/or surrounding protected buffer area where they can provide woody structures for wildlife habitat. Tree removal methodology should be designed to minimize intrusion into, and impacts to, the critical area and surrounding buffer areas. Any critical area or associated buffer areas that are disturbed by tree removal must be restored with any damaged vegetation replaced through replanting of similar native vegetation types and densities following tree removal. The removed tree must be replaced by replanting of two to four native trees (four trees if the tree to be removed is greater than 9 inches diameter at breast height (DBH), two if the tree to be removed is smaller than 9 inches DBH) to mitigate for the loss of the removed tree.

If it is not a clear emergency situation, a Clear and Grade permit should be submitted prior to removal of a potential hazard tree that is located in a critical area or critical area buffer. The Clear and Grade permit can be obtained at the City's front permit counter or via the following link: <http://www.ci.sammamish.wa.us/files/document/7444.pdf>

The Clear and Grade permit is free for removal of three or fewer trees. The City will only approve a permit for tree removal in a critical area or associated buffer if it can be shown that the subject tree poses an imminent risk of damage to persons and/or property. Hence, the application must include a letter from a certified arborist that describes their findings with regards to whether or not the tree poses a safety hazard and should be removed. The arborist's letter should also include native replacement tree suggestions and should describe recommended tree removal methodology and any needed restoration. As with emergency tree removal, the hazard tree should be snagged to a safe height and removed portions left where they can provide habitat. As well, tree removal must be conducted in a way that minimizes intrusion into, and impacts to, the critical area and surrounding buffer areas. Any critical area or associated buffer areas that are disturbed by tree removal must be restored with any damaged vegetation replaced through replanting of similar native vegetation types and densities following tree removal. The removed tree must be replaced by replanting of two to four native trees (see above) to mitigate for the loss of the removed tree.



CITY OF MERCER ISLAND

9611 SE 36th Street • Mercer Island, WA 98040-3732

PHONE (206) 275-7605 • FAX (206) 275-7726

www.mercergov.org

Highlights of Tree Regulations

1. Do I need a permit to cut a tree on my property?

Permit Not Required: A tree permit is not required in the following situations:

- **Normal pruning and maintenance** – does not require a permit provided the pruning is limited to not more than 25% of a tree's total leaf area and the pruning conforms to the limitations described within the Definitions section at the end of this document. Also, see the "Pruning Basics" brochure for more detailed information about pruning.
- **Small trees** – Cutting a small tree does not require a tree permit unless the tree is a designated Landmark tree or tree within a Landmark grove. A small tree is any conifer tree that is less than six feet (6') tall or any deciduous tree with a diameter of six inches (6") or less measured at a point 4-1/2 feet above the ground.
- **Residential lots** – a tree permit is not required to cut any tree on a private lot in a residential zone unless one of the following situations apply:
 - Cutting of the tree is incident to construction work
 - The tree is located in a critical area.
 - The tree is designated as a Landmark Tree or is located within a Landmark Grove.
 See the "Permit Required" section of this handout for further information regarding Critical tree areas, Landmark trees, and when tree cutting is considered incident to construction work.
- **Emergency** – A tree on private property may be cut without a tree permit in an emergency situation involving immediate danger to life or property. The city arborist must be notified within seven (7) days of the tree cutting and must be provided with information that verifies the emergency condition. A tree permit must be obtained within 20 days following the cutting of the tree when it is determined that a tree permit would have been required.

Permit Required: A tree permit is required in the following situations:

- **Construction work** – A tree permit is required to cut any large tree as a result of construction work. Tree cutting is considered incident to construction work if the tree is cut within a two-year period before or after the creation of more than 500 square feet of impervious surface (structures, concrete patios, etc.). A large tree is any conifer tree that is six feet (6') tall or greater, or any deciduous tree with a diameter of more than six inches (6") measured at a point 4-1/2 feet above the ground.
- **Critical tree area** – A tree permit is required to cut any large tree located in a critical tree area. A critical tree area is any of the following areas:
 - A geologic hazard area – an area susceptible to erosion, sliding, earthquake, or other geological events based on a combination of slope, soil/geologic material, hydrology, vegetation, or alterations. See the City geologic hazard maps for known and suspected areas.
 - A protected slope area – any area within a forty foot (40') radius of the base of the subject tree if there is any point within that area that is at least twelve feet (12') higher or lower than the base of the tree.
 - A watercourse corridor. See the City watercourse maps.
 - A wetland or any area within 25 feet of the wetlands edge.
 - Any area on a recorded plat that restricts the removal of trees or vegetation (such as a native growth protective easement).

This handout is for informational purposes only and is not intended to be a substitute for the regulations contained in the Mercer Island City Code (MICC 19.10 – Trees).

- **Commercial zone** – A tree permit is required to cut any large tree located within a commercial zone. A tree permit covering regulated improvements that have previously received Design Commission approval must first be reviewed and approved by the City's Design Commission.
- **Landmark tree/grove** – A tree permit is required to cut a landmark tree or a tree located in a landmark grove, whether that tree is large or small. A landmark designation can only be affixed with approval of the property owner. The City maintains a register of landmark trees and landmark groves.

2. What are the criteria for granting a tree permit?

When a permit is required, a tree permit will be issued if one of the following criteria is satisfied:

- The tree is hazardous, diseased, or dead.
- The tree removal is to enable construction work and reasonable best efforts have been made to avoid the removal.
- The tree cutting is to satisfy a covenant recorded on or before July 31, 2001.
- It is desirable for the enhancement of ecosystem and slope stability (based upon professional reports).
- In Commercial zones, Design Commission approval is required.

3. Are there any seasonal restrictions regulating when I can cut trees?

Tree cutting is prohibited within geologic hazard areas or protected slope areas between October 1 and April 1 unless an administrative waiver has been granted or the cutting is necessary due to an emergency situation involving immediate danger to life or property. A waiver may be granted if the applicant demonstrates to the city arborist that the proposed tree cutting will not adversely impact the environmentally sensitive area. The city arborist may require geotechnical evaluation of the slope, erosion control, and restoration measures, an indemnification agreement, etc.

4. Do I need to replace the trees that I am cutting down?

Tree replacement: Any trees that are cut pursuant to a tree permit shall be replaced on the subject property as specified in this section:

- **Species** – the property owner may select the species of replacement trees (unless the city arborist determines that the species selected is unlikely to survive, represents a danger or a nuisance, would threaten overhead or underground utilities, or would fail to provide adequate protection to any critical tree area).
- **Size** – All replacement trees shall be at least six feet (6') tall (unless a smaller size tree or shrub is approved by the city arborist).
- **Number of Replacement Trees** – the city arborist may require up to 4 replacement trees for each tree cut (depending upon geologic and slope stability concerns, tree size and species, lot size and area available for planting, etc).
- **Maintenance** – the applicant must maintain replacement trees in a healthy condition for a period of two years after planting. The applicant shall be obligated to replant any replacement tree that dies, becomes diseased, or is removed during this two-year time period.

5. Are there any federal or state requirements that I should be aware of?

Bald Eagle and other federal/state requirements: Tree cutting must comply with all applicable federal and state laws, rules and regulations including the Endangered Species Act, the Bald Eagle Protection Act and the Migratory Bird Treaty Act. See the City Bald Eagle Nest location map for affected properties, and the Bald Eagle Management brochure for further information.

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6. Can a tree on public property be pruned to enhance my view?

Prune-for view: Private individuals cannot cut or prune a public tree. However, a private property owner can apply for a permit to have a public tree pruned. The application must demonstrate compliance with all of the following criteria:

- The owner establishes that the tree is located on a City street (and not private property or City park);
- The owner submits a valid petition executed by at least sixty percent (60%) of the property owners located within a 300 foot radius of the subject tree in favor of the proposed pruning;
- The city arborist determines that the proposed pruning can be performed without adversely affecting any critical tree areas;
- The owner pays a fee to cover all costs associated with reviewing the pruning request; and
- The pruning is performed by the City but at the sole cost and expense of the private property owner.

7. What are the requirements for private utilities cutting or pruning trees?

A tree permit is required for a private utility company to cut any tree. A tree permit will be issued to private utility companies to cut or prune trees located on public or private property if necessary for public safety, removal of hazardous trees, removal of diseased or dead trees, as part of any private utility tree maintenance program approved by the City, or for construction work. Regardless of whether or not a permit is required, all cutting or pruning of trees by private utility companies shall be performed under the supervision of a certified arborist and at the sole cost and expense of the utility company.

If a permit is granted to a private utility company and a property owner is unwilling to allow any replacement trees on the owner's property, the private utility company shall pay to the City the amount necessary to purchase and plant replacement trees on public property necessary to mitigate the impact of the removed trees based upon arborist industry standards.

Should you have further questions or wish to obtain a tree permit, please contact the city arborist:
<http://www.mercergov.org/trees> (206) 275-7713 kathy.parker@mercergov.org

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Definitions

Definitions used within the tree ordinance.

Diameter – Circumference of tree divided by pi (3.14) and measured at a point 4-1/2 feet above ground.

Hazardous Tree – Any tree that receives an 11 or 12 rating under the International Society of Arboriculture rating method set forth in Hazard Tree Analysis for Urban Areas and may also mean any tree that receives a 9 or 10 rating at the discretion of the city arborist.

Large Tree – Any conifer tree that is six feet (6') tall or more or any deciduous tree with a diameter of more than six inches (6").

Protected Slope Area – Any area within a 40 foot radius of the base of the subject tree if there is any point within that area that is at least 12 feet higher or lower than the base of the tree.

Prune or Pruning – The pruning of a tree through crown thinning, crown cleaning, windowing, or crown raising but not including crown topping of trees or any other practice or act which is likely to result in the death of or significant damage to the tree. Where the listed types of pruning practices are further defined as:

- Crown cleaning – The removal of dead, dying, diseased, crowded, weakly attached, low-vigor branches, and watersprouts from a tree's crown.
- Crown topping – The removal of the upper portion of the crown of a tree by cutting back young shoots to a bud or older branches or trunk to a stub or lateral branch not sufficiently large enough to assume the terminal role.
- Crown raising – The removal of the lower branches of a tree in order to provide a height of up to 8' for pedestrian clearance, up to 14' for equestrian clearance and up to 16' for vehicular clearance or such other increased height as deemed appropriate for clearance by the city arborist.
- Crown thinning – The selective removal of branches not to exceed more than 25 percent of the leaf surface to increase light penetration and air movement, and to reduce weight.
- Windowing – The selective removal of branches not to exceed more than 25 percent of the leaf surface while retaining the symmetry and natural form of the tree in order to increase views and light penetration.

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2/13/2014 Environment Committee Meeting

Public Sign in Please:

Name:

Address:

Phone Number:

Mitch Treese P.O. Box 1947

206-200-5663