

**CITY COUNCIL STUDY SESSION**

## Council Initiation of Tree Canopy Code Amendments

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*Development Services Department***DIRECTION NEEDED FROM COUNCIL****DIRECTION**

Staff is seeking direction to initiate work on Tree Canopy Code Amendments to support tree preservation, retention, replacement, and protection, and direct the Planning Commission to process the Land Use Code Amendment (LUCA).

**RECOMMENDATION**

Direct staff to initiate work on Tree Canopy Code Amendments to support tree preservation, retention, replacement, and protection, and direct the Planning Commission to process the LUCA.

**BACKGROUND & ANALYSIS****Legislative History**

Bellevue's Environmental Stewardship Plan, Action N.1.1, identifies the introduction of additional requirements for tree preservation to further support the achievement of the City's 40 percent tree canopy goal. This Action includes a comprehensive review and update of provisions in the Land Use Code (LUC) and Bellevue City Code (BCC) for tree preservation, retention, replacement, and protection during construction. Tonight, staff seek direction from Council to initiate work on Tree Canopy Code Amendments consistent with Action N.1.1.

Bellevue's tree canopy is a critical environmental asset and central to the vision of a "City in a Park". Tree retention requirements were first added to the LUC in the 1980s. Since then, the City's code provisions related to trees have been updated periodically, but never in a comprehensive fashion. Updates from the past 15 years are listed below.

- In 2006, separate tree retention standards were adopted for the R-1 land use district in the Bridle Trails Subarea. These standards require a permit to remove any significant tree in that area, and retention of all significant trees in the perimeter and some trees in the interior of a lot during development.
- In 2009, tree retention provisions Citywide were updated as part of the Neighborhood Livability Action Agenda. In response to neighborhood concerns about tree loss, the City increased the share of significant tree diameter inches required to be retained through development from 15 percent to 30 percent, and from 25 percent to 30 percent in Bridle Trails.
- In 2016, the City updated the Clearing and Grading Code to implement a permit requirement to remove more than five significant trees in any three-year period Citywide except for Bridle Trails. Bridle Trails still requires a permit to remove any significant tree.

- Earlier in 2022, the City adopted an interim Landmark Tree Ordinance requiring a permit to remove any Landmark Tree, defined as any tree at least 24 inches in diameter and at least 20 feet tall. This Ordinance will sunset when replaced with permanent code standards or at the end of 2023, whichever is first.

### **Proposed Scope of Code Amendments**

Bellevue's Environmental Stewardship Plan has established a 40 percent tree canopy goal, and the City completes a tree canopy assessment every five to ten years to track performance. The most recent assessment was completed this year using 2019 data and found that Bellevue had 39 percent tree canopy cover. This represents a 2 percent increase over 2011. While the overall trend is positive, four neighborhoods (West Bellevue, Wilburton, Newport, and BelRed) experienced net losses during this time. Net losses range from a 1 percent net decrease in total tree canopy coverage in BelRed and Newport to a 3 percent net decrease in West Bellevue and Wilburton.

The City's regulations related to trees on private property and/or during development are in the LUC, specifically LUC 20.20.900, the Clearing and Grading Code (Chapter 23.76 BCC), and the Transportation Code (Chapter 14.06 BCC). In administering the current code provisions related to trees, the City has identified several opportunities to improve the function and clarity of these codes, and to capture more useful data on tree removal and retention. At this time, the proposed scope of the legislative item includes review and potential amendments in the LUC and the Clearing and Grading Code, but does not include the Transportation Code. The proposed code amendments are summarized below.

1. *Tree Preservation: Review the definition of significant trees and assess whether/what limits should be placed on the number of significant trees that may be removed with a permit.*

Tree removal permit requirements are established in the BCC. A minor Clearing and Grading permit is required to remove:

- Any significant tree in the Bridle Trails R-1 land use district;
- More than five significant trees in any three-year period elsewhere in the City; and
- More than 25 percent of the live crown of any significant tree.

The LUC defines a significant tree as "a healthy evergreen or deciduous tree, eight inches in diameter or greater, measured four feet above existing grade." Stakeholders have noted that many of Bellevue's neighboring cities define significant trees at a six-inch minimum diameter. This means that a smaller share of Bellevue's trees are subject to regulation compared to nearby cities.

Under the interim Landmark Tree Ordinance, a permit is also required to remove any Landmark Tree. This interim requirement is not yet memorialized through permanent code provisions. If this requirement is to be retained, permanent code provisions must be adopted by the end of 2023 or the interim Ordinance must be extended. The current legislative process provides an opportunity to evaluate whether adjustments to the Landmark Tree definition and permit requirements are necessary before updating the permanent code.

The Critical Areas Ordinance has strong protections for significant trees located in critical areas. In critical areas, the ability to remove healthy significant trees is restricted, and mitigation is required when

trees are removed. There are additional protections for trees that provide habitat for a species of local importance. No changes are proposed to code provisions for trees in critical areas at this time.

Outside of critical areas and areas with defined landscaping requirements, there are no limits on the number of significant trees that may be removed with a permit.

*2. Tree Retention: Clarify tree retention requirements and improve systems for tracking retained trees.*

Tree retention standards in LUC 20.20.900 establish the share of existing significant trees on a property that must be retained as part of a development proposal. These standards apply to any permit, approval, or review that includes any of the following circumstances:

- New or expanding single family homes;
- New subdivisions and short subdivisions;
- New planned unit developments;
- Change in the area devoted to parking and circulation; or
- Change in lot coverage (including redevelopment or expansion of multifamily or commercial structures)

In most cases, 30 percent of the total diameter inches of significant trees must be retained. This only applies to significant trees located outside of critical areas. There are separate, stricter standards regulating significant trees located in critical areas. Bridle Trails has an additional requirement to retain significant trees along a property's perimeter. Retention requirements do not apply Downtown.

The retention percentage is only applied to the significant trees which currently exist on the property, whether there are very few trees, or it is heavily wooded. Any recent tree removals cannot be incorporated in the tree retention calculation. The LUC also lacks clarity on how long trees must be retained after construction is completed. Since property owners may remove up to five significant trees in any three-year period without a permit, there is the potential for retained trees to be accidentally removed when property owners are unaware of which trees were previously designated for retention.

*3. Tree Replacement: Assess whether tree replacement requirements should be expanded.*

Tree replacement is required in limited cases, including when removing trees from critical areas or areas with specific landscaping standards and as part of an approved alternative tree retention plan. As previously noted, tree retention standards apply to the significant trees that exist when a development proposal is received, but there is never a requirement to plant additional trees to achieve a minimum standard when there are very few trees to retain.

*4. Tree Protection: Codify critical measures to protect retained trees from construction and pruning damage and assess current enforcement mechanisms.*

Retained trees can be seriously damaged during construction if adequate protection measures are not used. The LUC states that tree protection techniques shall be used during land alteration and construction, but none of the techniques are listed in the code. Bellevue's Best Management Practices (BMPs) for Clearing and Grading provide guidance for tree protection techniques. Codifying critical protection measures, such as protective fencing and the Critical Root Zone, may help improve tree

protection during construction.

Topping and incorrectly pruning trees can also cause critical damage. Currently, tree topping restrictions are limited to requiring a permit to remove more than 25 percent of the live crown of a significant tree.

Monetary penalties for illegal tree removal are established in Chapter 1.18 BCC, Civil Violations, although the City's practice is to first work with the property owner toward achieving voluntary compliance. In the case of illegal tree removal, replanting may be required instead of the maximum possible monetary penalty. The current legislative process provides an opportunity for the City to review existing enforcement provisions and assess if the correct mechanisms are in place to encourage compliance.

### **Proposed Timeline**

Due to the complexity of regulations related to trees and the importance of the subject matter to the community, staff are proposing an alternative approach to processing these code amendments to accommodate extended engagement. This approach will incorporate two major phases.

- Phase One: Following Council initiation, outreach will focus on listening to stakeholders and the public and generating feedback on identified priorities. At the end of phase one, the Planning Commission will review findings from engagement and early staff recommendations for the code. Staff will then check-in with Council on these same topics, providing an opportunity to affirm early recommendations and/or provide additional guidance.
- Phase Two: Following the Council check-in, staff will finish developing code recommendations, incorporating feedback from phase one. Phase two engagement will solicit feedback on proposed code amendments.

### **Public Engagement**

Staff has developed a public engagement plan with four modes of outreach to ensure the public, stakeholders, and interested parties have the opportunity to be informed and to provide comments. These modes will be employed across both phases of work, allowing members of the public to provide comment at key intervals and for staff to respond to feedback in developing recommendations.

- Process IV Requirements. Consistent with Chapter 20.35 LUC procedural requirements, public input will be solicited by a notice of application, notice of public hearing and the required public hearing.
- Public Information Sessions. Public information sessions will be held to provide information and solicit feedback from the general public.
- Direct Engagement and Feedback. Dialogue with environmental advocates, residents, developers, and neighbor and peer cities.
- Online Presence. Engaging Bellevue and City webpages to provide the public information about the project, who to direct questions to, and how to submit comments.

## **POLICY & FISCAL IMPACTS**

### **Policy Impact**

The Tree Canopy Code Amendments will advance:

- Environmental Stewardship Plan, Action N.1.1: *Introduce requirements for tree preservation to further support the achievement of the 40 percent tree canopy goal.*
- Comprehensive Plan Policy EN-71: *Preserve a proportion of the significant trees throughout the city in order to sustain fish and wildlife habitat.*
- Comprehensive Plan Policy PA-31: *Manage Bellevue's forest resources, including street trees, formal plantings, and self-sustaining natural stands, to ensure their long term vitality.*

### **Fiscal Impact**

There may be fiscal impact associated with implementing these amendments, depending on their approved scope. For instance, certain amendments could result in increased demands on staff review, including expanding permit requirements, implementing new tracking systems, and expanded enforcement activity. Certain amendments can also provide efficiencies in added clarity and improved functionality of the codes. Information about fiscal impact, if any, will be provided and updated as potential code amendments are developed.

## **OPTIONS**

1. Direct staff to initiate work on Tree Canopy Code Amendments to support tree preservation, retention, replacement, and protection, and direct the Planning Commission to process the LUCA.
2. Provide alternative direction to staff.

## **ATTACHMENTS & AVAILABLE DOCUMENTS**

N/A