



Seattle Municipal Code (SMC) / Revised Code of Washington (RCW)	Civil Penalty
<b>SMC 15.43 – TREE AND VEGETATION MANAGEMENT IN PUBLIC PLACES</b>	
<p><a href="#">15.43.020 - Tree preservation and protection</a></p> <p>No person shall destroy, kill, injure, mutilate, or deface a street tree or vegetation in a public place by any means, including but not limited to the following:</p> <p>Causing or encouraging setting fire underneath, or within 5 feet of the dripline of a street tree or within 5 feet of other vegetation;</p> <p>Applying any toxic chemicals to a street tree or to the ground within the dripline of a street tree;</p> <p>Attaching any rope, wire, nails, advertisements, posters, or other objects to any street tree, except for:</p> <ol style="list-style-type: none"> <li>1. Supports for young or broken trees;</li> <li>2. Official City placards affixed in a manner that is not injurious to trees; or</li> <li>3. Decorative or seasonal lighting attached in a manner consistent with the Department of Transportation specifications and that does not permanently damage the street tree or impact mobility;</li> </ol> <p>Using climbing spurs on a street tree;</p> <p>Causing the topping or severe crown reduction of a street tree, except in the course of tree removal pursuant to a Street Use permit approved by the Director; and</p> <p>Placing, or storing materials, including but not limited to, stones, bricks, concrete, asphalt, fill soil, plastic sheeting, or construction materials, within the dripline of a street tree or other vegetation in the public place.</p> <p style="text-align: center;">***</p>	<p><a href="#">15.90.018 - Civil penalty</a></p> <p>A. In addition to any other sanction or remedial procedure that may be available, any person or entity violating or failing to comply with any of the provisions of Title 15 shall be subject to a cumulative penalty of up to \$500 per day for each violation from the date the violation occurs or begins until compliance is achieved. The City shall also be entitled to recovery of its enforcement costs, including, but not limited to staff time, administrative expenses and fees, and costs and attorneys' fees.</p> <p>B. In addition to the cumulative penalty for violations of Section 15.43.020, any person or entity that destroys, kills, injures, or mutilates a street tree, may be subject to a civil penalty in an amount equal to the appraised value of each affected tree in accordance with the most current edition of the Council of Tree and Landscape Appraisers 'Guide for Plant Appraisal'. If the violation is found to be willful or malicious, the amount of the penalty may be trebled. In addition, violators shall be responsible for restoring the public place to as good or better condition in conformance with a site plan approved by the Director,</p> <p>C. The penalty imposed by Section 15.90.018 shall be collected by civil action brought in the name of the City. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and the City Attorney shall, with the assistance of the Director, take appropriate action to collect the penalty. In any civil action for a penalty, the City has the burden of proving by a preponderance of the evidence that a violation exists or existed; the issuance of the notice of violation or of an order following a review by the Director is not itself evidence that a violation exists.</p> <p>D. Peak Period Penalty Enhancement. In addition to the cumulative \$500 penalty per day for each violation pursuant to subsection 15.90.018.A, each person or entity that violates any of the provisions enforced by Chapter 15.90 during a Peak Period shall be subject to an additional penalty of \$1,000 per day for each violation. The failure to take immediate action to correct the violation as directed by the Director shall constitute a separate violation</p> <p style="text-align: center;">***</p> <p><a href="#">15.90.020 - Alternative criminal penalty.</a></p> <p>Any person who violates or fails to comply with any of the provisions of Title 15 shall be guilty of a gross misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 need be proved. The Director may request the City Attorney to prosecute such violations criminally as an alternative to the notice of violation procedure outlined in this chapter. Each day any person shall continue to violate or fail to comply with the provisions of this title and each occurrence of a prohibited activity shall be deemed and considered a separate offense.</p> <p style="text-align: center;">***</p>
<b>SMC Chapter 18.30 - ENFORCEMENT AGAINST UNAUTHORIZED USE OF PARK PROPERTY</b>	

**18.30.010 - Definitions**

A. The following definitions apply within Chapter 18.30:

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7. "Use" means the exercise of dominion or control over, or occupation of, all or part of any park property. "Use" includes constructing, storing, erecting, placing upon, or maintaining or operating any inanimate object in, upon, over or under any park property, other than that associated with customary public use of park property, provided, that "customary public use" does not include any use prohibited by City ordinance or state or federal law. The term "use" includes but is not limited to any of the following in, upon, over or under park property:

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g. Disturbing or altering any park property by digging, cutting, excavating, filling, chipping, puncturing or breaking;

h. Planting, removing, injuring, destroying, cutting, topping or pruning any tree, shrub, plant or flower on park property, provided that "use" does not include routine maintenance specifically allowed under the terms of a volunteer program approved by the Department;

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**18.30.020 - Violation of chapter**

It is a violation of Title 18, subject to enforcement under Chapter 18.30, for any person to:

- A. Engage in any unauthorized use of park property or dumping on park property;
- B. Remove or deface any sign, notice, complaint or order required by or posted in accordance with Title 18;
- C. Misrepresent any material fact in any application, plans or other information submitted to obtain any permit or authorization to use or dump on park property;
- D. Fail to comply with the requirements of Title 18.

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**18.30.050 - Civil Penalty, Abatement, and Additional Relief.**

A. If a responsible party does not abate an unauthorized use or dumping and restore the park property or apply for and obtain a permit to authorize the use by the date set for compliance by the Superintendent in a notice of violation, order of the Superintendent, or Stop Work Order, the Superintendent may:

- 1. Impose a civil penalty of \$500 for each day the unauthorized use continues beyond the compliance date, plus the pro-rata fee for a Revocable Use Permit for the use, as set forth in the Seattle Department of Parks and Recreation Fee Schedule established by Section 18.28.010, starting the date the violation began and continuing until a Revocable Use Permit is issued or the unpermitted use is abated;
- 2. Impose a civil penalty of \$500 for each day dumping occurs or remains unabated, starting the date the violation began or occurred and continuing until the date the dumping is abated.
- 3. Abate the unauthorized use or dumping and restore the affected park property, at the responsible party's expense;
- 4. Refer the matter to the City Attorney, who may bring an action for civil penalties, equitable relief, or any other appropriate civil or criminal remedy, including the recovery of its enforcement costs. Enforcement costs include, but are not limited to: administrative expenses and fees; the cost of any land surveys related to enforcement; the costs of any abatement and restoration of park property after abatement; recording fees; and litigation costs and statutory attorneys' fees; or
- 5. Use any combination of the above remedies.

B. A subaccount shall be established in the Parks Fund to receive revenue from penalties under this Section 18.30.050, which shall be allocated to fund the enforcement of this Chapter 18.30.

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**SMC Chapter 25.09 - REGULATIONS FOR ENVIRONMENTALLY CRITICAL AREAS**

**25.09.320 - Trees and vegetation**

A.1. Any action detrimental to habitat, vegetation or trees, including but not limited to clearing or removal, is prohibited, except as provided below, within the following areas: landslide-prone critical areas, (including steep slopes), steep slope buffers, riparian corridors, wetlands, and wetland buffers.

2. Tree-topping is prohibited.

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**25.09.460 - Civil penalty.**

A. Any person who violates or fails to comply with any provision of this chapter is subject to a civil penalty in an amount not to exceed Five Hundred Dollars (\$500) per day for each violation, and in the event of a continuing violation shall be subject to a cumulative civil penalty of \$500 per day for each violation from the time the violation occurs or begins until compliance is achieved. In cases where the Director has issued a notice of violation with a compliance date, the violation is deemed to begin, for purposes of determining the number of days of violation, on the date compliance is required by the notice of violation. For removing, clearing, or taking any action detrimental to a tree over six inches in caliper an additional civil penalty of Five Thousand Dollars (\$5,000) shall be assessed.

B. Violations causing significant damage may be assessed an additional penalty in an amount reasonably determined to be equivalent to the economic benefit that the violation derived from the violation, measured as the greater of, the resulting increase in market value of the property, the value received by the violator, or the savings of construction costs realized.

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**25.09.470 – Alternative criminal penalty.**

Any person who violates or fails to comply with this chapter shall be guilty of a gross misdemeanor subject to the provisions of Chapters 12A.02 and 12A.04, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 need be proved. The Director may request the City Attorney prosecute such violations criminally as an alternative to the civil

	<p>penalty provision outlined in this chapter. Each day that a person continues to violate or fail to comply with the provisions of this chapter and each occurrence of a prohibited activity constitutes a separate offense.</p> <p style="text-align: center;">***</p>
<b>Chapter 25.11 - TREE PROTECTION</b>	
<p><a href="#">25.11.040 - Restrictions on tree removal.</a></p> <p>A. Tree removal or topping is prohibited in the following cases, except as provided in Section 25.11.030, or where the tree removal is required for the construction of a new structure, retaining wall, rockery or other similar improvement that is approved as part of an issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080:</p> <ol style="list-style-type: none"> <li>1. All trees 6 inches or greater in diameter, measured 4.5 feet above the ground, on undeveloped lots;</li> <li>2. Exceptional trees on undeveloped lots; and</li> <li>3. Exceptional trees on lots in Lowrise, Midrise and Commercial zones or on lots 5,000 square feet or greater in a Single-family or Residential Small Lot zone.</li> </ol> <p>B. Limits on Tree Removal. In addition to the prohibitions in subsection 25.11.040.A, no more than three trees 6 inches or greater in diameter, measured 4.5 feet above the ground, may be removed in any one year period on lots in Lowrise, Midrise and Commercial zones or on lots 5,000 square feet or greater in a Single-family or Residential Small Lot zone, except when the tree removal is required for the construction of a new structure, retaining wall, rockery or other similar improvement that is approved as part of an issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080.</p> <p>C. Tree removal in Environmentally Critical Areas shall comply with the provisions of Section 25.09.320.</p> <p style="text-align: center;">***</p>	<p><a href="#">25.11.100 - Enforcement and penalties.</a></p> <p>A. Authority. The Director shall have authority to enforce the provisions of this chapter, to issue permits, impose conditions, and establish administrative procedures and guidelines, conduct inspections, and prepare the forms necessary to carry out the purposes of this chapter.</p> <p>B. It shall be a violation of this chapter for any person, firm or corporation to remove, clear or take any action detrimental to trees contrary to or in violation of any provision of this chapter. It shall be a violation of this chapter for any person, firm or corporation to knowingly aid and abet, counsel, encourage, hire, commend, induce or otherwise procure another to violate or fail to comply with this chapter.</p> <p style="text-align: center;">***</p> <p>I. Civil Penalties.</p> <ol style="list-style-type: none"> <li>1. Any person, firm or corporation who is responsible for the removal, topping, or other action detrimental to a tree in violation of this chapter or any notice, decision or order issued by the Director pursuant to this chapter shall be subject to a civil penalty in the amount equal to the appraised value of the tree(s) affected in accordance with the Guide for Plant Appraisal, 9th Edition, or successor. If the violation is found to have been willful or malicious, the amount of the penalty may be trebled as punitive damages.</li> <li>2. Any person who fails to comply with Section 25.11.100 D shall be subject to a civil penalty in an amount not to exceed Five Hundred Dollars (\$500) a day.</li> <li>3. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and shall assist the City Attorney in collecting the penalty.</li> </ol> <p>J. Restoration. In addition to any other remedies available, violators of this chapter shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the Director, which provides for repair of any environmental and property damage, and restoration of the site; and which results in a site condition that, to the greatest extent practicable, equals the site condition that would have existed in the absence of the violation(s).</p> <p>K. Criminal Penalty.</p> <ol style="list-style-type: none"> <li>1. Anyone violating or failing to comply with any order issued by the Director pursuant to this chapter shall, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars (\$1,000) or by imprisonment for not more than ninety (90) days, or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.</li> <li>2. Anyone violating or failing to comply with any of the provisions of this chapter and who within the past five (5) years has had a judgment against them pursuant to subsection B shall upon conviction thereof, be fined in a sum not to exceed Five Thousand Dollars (\$5,000) or by imprisonment for not more than three hundred sixty-four (364) days, or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.</li> </ol> <p style="text-align: center;">***</p>
<b>Other State-law Bases For Legal Action</b>	
<p><b>Felony Criminal (Malicious Mischief – 3 year Statute of Limitations)</b></p>	<p><a href="#">RCW 9A.48.070- Malicious mischief in the first degree.</a></p> <p>(1) A person is guilty of malicious mischief in the first degree if he or she knowingly and maliciously:</p> <ol style="list-style-type: none"> <li>(a) Causes physical damage to the property of another in an amount exceeding five thousand dollars;</li> <li>(b) Causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication; or</li> <li>(c) Causes an impairment of the safety, efficiency, or operation of an aircraft by physically damaging or tampering with the aircraft or aircraft equipment, fuel, lubricant, or parts.</li> </ol> <p>(2) Malicious mischief in the first degree is a class B felony.</p>

	<p><a href="#">RCW 9A.04.080 – Limitations of actions</a></p> <p>(1) Prosecutions for criminal offenses shall not be commenced after the periods prescribed in this section. ***</p> <p>(h) No other felony may be prosecuted more than three years after its commission; except that in a prosecution under RCW 9A.44.115, if the person who was viewed, photographed, or filmed did not realize at the time that he or she was being viewed, photographed, or filmed, the prosecution must be commenced within two years of the time the person who was viewed or in the photograph or film first learns that he or she was viewed, photographed, or filmed.</p> <p>(i) No gross misdemeanor may be prosecuted more than two years after its commission.</p> <p>(j) No misdemeanor may be prosecuted more than one year after its commission. ***</p>
<p><b>Tort Civil (Timber Trespass – Treble Damages)</b></p>	<p><a href="#">64.12.030 - Injury to or removing trees, etc.—Damages.</a></p> <p>Whenever any person shall cut down, girdle, or otherwise injure, or carry off any tree, including a Christmas tree as defined in *RCW 76.48.020, timber, or shrub on the land of another person, or on the street or highway in front of any person's house, city or town lot, or cultivated grounds, or on the commons or public grounds of any city or town, or on the street or highway in front thereof, without lawful authority, in an action by the person, city, or town against the person committing the trespasses or any of them, any judgment for the plaintiff shall be for treble the amount of damages claimed or assessed.</p>