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June 13, 2019

VIA EMAIL

City of Tukwila Planning Commission  
City of Tukwila  
6300 Southcenter Blvd., #100  
Tukwila, WA 98188

Re: **Comments on Proposed Critical Areas Code Update L18-0056**

Dear Planning Commissioners:

This firm represents Segale Properties LLC (“**Segale**”). Segale previously submitted comment letters regarding the Critical Areas Code Update on April 10, 2019, April 12, 2019, and May 22, 2019. As detailed in these prior comment letters, Segale controls the large Tukwila South property (“**Tukwila South**”), development of which is governed by a long-term Development Agreement. Tukwila South is also subject to the City Council-approved Sensitive Area Master Plan (“**SAMP**”), which addresses and authorizes alterations and mitigation of sensitive areas throughout Tukwila South. After years of construction to install all necessary infrastructure and re-grade the property for development, the Tukwila South lands are finally ready to be marketed and are being actively reviewed for ground lease and/or sale for commercial and residential buildings and development. As a result, Segale is keenly interested in the Critical Areas Ordinance (“**CAO**”).

Our prior comment letters detail the various issues regarding the CAO as it relates to vesting, the practical realities and timing of development, and the current status of development activities in Tukwila South. On May 22, 2019, Segale submitted proposed language to include in the CAO as a new subsection in TMC 18.45.160, so as to address the fact that lands adjacent to critical area buffers in Tukwila South have already been cleared and graded in accordance with the SAMP such that any future expansion of these buffers to include those graded lands would be illogical. We understand the City and Department of Ecology expressed concern regarding the scope of our prior suggested language. To address this concern, we propose the modified language below be added as a new subsection to TMC 18.45.160:

The external boundaries of critical area buffers adjacent to lands that have been cleared and graded pursuant to an approved Critical Area Master Plan (CAMP) or Sensitive Area Master Plan (SAMP) are not subject to expansion due to the later adoption of increased buffer widths into this Critical Areas Ordinance, the Shoreline Overlay regulations, or other applicable regulations. This limitation on expansion of buffer width means that future applications for building permits on lands previously graded to CAMP- or SAMP-

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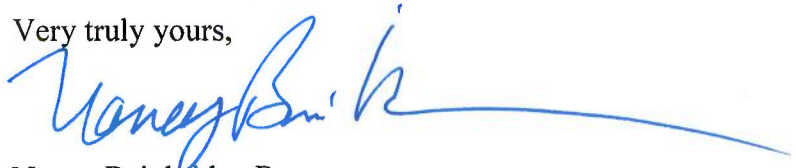
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City of Tukwila Planning Commission  
June 13, 2019  
Page 2

approved buffer boundaries, will remain subject to the CAMP- or SAMP-approved critical area buffer widths.

We recommend this clarifying language be included in the CAO to ensure protection of Tukwila landowners. We appreciate your attention to this matter and would be happy to answer any questions.

Very truly yours,



Nancy Bainbridge Rogers

NBR:jcs

cc: Ann Marie Soto  
Minnie Dhaliwhal  
Mark Segale  
Mike Pruett

# Attachment B

Tree Code 18.54	Landscaping 18.52	Critical Areas 18.45 Vegetation Protection and Management in Critical Areas and their buffers	Shoreline 18.44 Vegetation Protection and Landscaping
Add Applicability Section	Add Applicability Section	Add Applicability Section	Add Applicability Section
Tree Retention Standards -Tree removal exemptions for upto 4 trees 6-8 inches clarified; clarified that arborist report is not required for single family properties if removing trees that are not subject to replacement.	Significant Tree Retention -- explicitly state that 25% pruning and topping is considered removal and subject to replacement ratios	Tree Retention and Replacement reorganized into -1) Retention 2) Permit Requirements 3) Criteria for Critical Area Tree Removal 4)Tree replacement clarified	Tree Retention and Replacement reorganized into - 1) Retention 2) Permit Requirements 3) Criteria for Shoreline Tree Removal 4)Tree replacement clarified
Tree Protection Standards-keep as exists	Tree protection standards added	Tree Protection Standards added	Tree Protection Standards added
Tree Replacement Standards --Table A- removal of trees without replacement simplified to create three categories of tree sizes and language added to clarify how to apply the exemptions for combination of tree sizes. Replacement Table B changed from canopy type to diameter. Explicitly state that 25% pruning and topping is considered removal and subject to replacement ratios.	No replacement requirements for developed sites-only compliance with landscaping requirements. Replacement per Table C if removed with approval (violation)	Tree Replacement Requirements for developed site at 1:1; for undeveloped sites and non-hazardous tree removal subject to replacement ratio; explicitly state that 25% pruning and topping is considered removal and subject to replacement ratios.	Tree Replacement Requirments for developed site at 1:1; for undeveloped sites and non-hazardous tree removal subject to replacement ratio; explicitly state that 25% pruning and topping is considered removal and subject to replacement ratios.
Tree Fund-already referenced in code	Already referenced in code	Already referenced in code	Add reference to tree fund
Performance Assurance -- amend language to delete requirement for recording on the Title and add option of submitting photos as documentation that tree is in good health for single family properties.	Language exists in code	Language exists in code for restoration and mitigation projects. Maintenance and monitoring requirements of a tree permit added	Maintenance and Monitoring Section Added
Soil Preparation, Plant Material and Maintenance Standards	Keep as exists in code	Keep as exists in code	Keep as exists in code
Violations -- remove "3x the marketable value" to be consistent with other chapters	Violations-keep as exists	Add revegetation violations/penalties	Add vegetation and tree removal violation language, \$1000/tree
Remedial Measures-keep as exists	Remedial Measures-keep as exists	Add remedial measures	Keep as exists in code
Enforcement-keep as exists	Enforcement-keep as exists	Add enforcement	Keep as exists in code
n/a	Landscape Modification section reorganized to distinguish between modification of the existing landscaping and deviations from standards	n/a	n/a



## 18.44.080060 Vegetation Protection and Landscaping in Shoreline Jurisdiction

### A. Purpose, Objectives and Applicability.

1. The purpose of this section is to:
  - a. Regulate the protection of existing trees and native vegetation in the shoreline jurisdiction;
  - b. Establish requirements for removal of invasive plants at the time of development or re-development of sites;
  - c. Establish requirements for landscaping for new development or re-development;
  - d. Establish requirements for the long-term maintenance of native vegetation to prevent establishment of invasive species and promote shoreline ecosystem processes.
2. The City's goal is to:
  - a. Preserve as many existing trees as possible and increase the number of native trees, shrubs and other vegetation in the shoreline because of their importance to shoreline ecosystem functions as listed below:
    - (1) Overhead tree canopy to provide shade for water temperature control;
    - (2) Habitat for birds, insects and small mammals;
    - (3) Vegetation that overhangs the river to provide places for fish to shelter;
    - (4) Source of insects for fish;
    - (5) Filtering of pollutants and slowing of stormwater prior to its entering the river; and
    - (6) A long-term source of woody debris for the river.
  - b. In addition, trees and other native vegetation are important for aesthetics. It is the City's goal that unsightly invasive vegetation, such as blackberries, be removed from the shoreline and be replaced with native vegetation to promote greater enjoyment of and access to the river.
  - c. The City will provide information and technical assistance to property owners for improving vegetation in the shoreline jurisdiction and will work collaboratively with local citizen groups to assist property owners in the removal of invasive vegetation and planting of native vegetation, particularly for residential areas.

### B. Applicability

1. This chapter sets forth rules and regulations to control maintenance and clearing of trees within the City of Tukwila for properties located within the Shoreline jurisdiction. For properties located within a critical area or its associated buffer, the maintenance and removal of trees shall be governed by TMC Chapter 18.45. TMC 18.54 Urban Forestry and Tree chapter shall govern tree removal on any undeveloped land and any land zoned Low Density Residential (LDR) that is developed with a single family residence. TMC Chapter 18.52 "Landscape Requirements" shall govern the maintenance and removal of trees on developed properties that are zoned commercial, industrial, or multifamily, and on properties located in the LDR zone that are developed with a non-single family residential use. The most stringent regulations shall apply in case of a conflict.

32. With the exception of residential development/re-development of 4 or fewer residential units, all activities and developments within the shoreline environment must comply with the landscaping and maintenance requirements of this section, whether or not a shoreline substantial development permit is required. Single family residential projects are not exempt if implementing a shoreline stabilization project or overwater structure.

43. The tree protection and retention requirements and the vegetation management requirements apply to existing uses as well as new or re-development.

### C. Minor Activities Allowed without a Permit or Exemption.

a. The following activities are allowed without a permit or exemption:

(1) Maintenance of existing, lawfully established areas of crop vegetation, landscaping (including paths and trails) or gardens within a regulated critical area or its buffershoreline jurisdiction. Examples include, mowing lawns, weeding, harvesting and replanting of garden crops, pruning, and planting of non-invasive ornamental vegetation or indigenous native species to maintain the general condition and extent of such areas. Cutting down trees and shrubs within a bufferthe shoreline jurisdiction is not covered under this provision. Excavation, filling, and

construction of new landscaping features, such as concrete work, berms and walls, are not covered in this provision and are subject to review;

(2) Noxious weed control within ~~vegetative buffers~~ shoreline jurisdiction, if work is selective only for noxious species; is done by hand removal/spraying of individual plants; spraying is conducted by a licensed applicator (with the required aquatic endorsements from WADOE if work is in an aquatic site); and no area-wide vegetation removal or grubbing is conducted. Control methods not meeting these criteria may still be approved under other provisions of this chapter ~~apply for a restoration exemption, or other authorization as applicable.~~

#### **BD. Tree Protection, Retention and Replacement.**

##### **1. Retention.**

a. As many significant trees and as much native vegetation as possible are to be retained on a site proposed for development or re-development, taking into account the condition and age of the trees. As part of a land use application, including such as, but not limited to, subdivision or short plat, design review, or development permit review the Director of Community Development or the Board of Architectural Review may require alterations in the arrangement of buildings, parking or other elements of proposed development in order to retain significant non-invasive trees, particularly those that provide shading to the river. ~~Trees located on properties not undergoing development or re-development may not be removed except those that interfere with access and passage on public trails or that present an imminent hazard to existing structures or the public. If the hazard is not readily apparent, the City may require an evaluation by an International Society of Arborists (ISA)-certified arborist.~~

b. 9. ~~Topping of trees is prohibited unless absolutely necessary to protect overhead utility lines. Topping of trees and~~ will be regulated as removal and with tree replacement ~~will be required.~~

c. 10. ~~Trees may only be pruned to lower their height to prevent interference with an overhead utility line with prior approval by the Director. The pruning must be carried out under the direction of a Qualified Tree Professional or performed by the utility provider under the direction of a Qualified Tree Professional. The crown shall be maintained to at least 2/3 the height of the tree prior to pruning. Pruning more than 25% of the canopy in a 36 month period shall be regulated as removal with tree replacement required.~~

~~2. To protect the ecological functions that trees and native vegetation provide to the shoreline, removal of any significant tree or native vegetation in the Shoreline Jurisdiction requires a Shoreline Tree Removal and Vegetation Clearing Permit and is generally only allowed on sites undergoing development or re-development. Only trees that interfere with access and passage on public trails or trees that present an imminent hazard to existing structures or the public may be removed from sites without an issued building permit or Federal approval. Factors that will be considered in approving tree removal include, but are not limited to: tree condition and health, age, risks to structures, and potential for root or canopy interference with utilities.~~

23. Permit Requirements. Prior to any tree removal or site clearing, a Type 2 Shoreline Tree Removal and Vegetation Clearing Permit application must be submitted to the Department of Community Development (DCD) containing the following information:

- a. A vegetation survey on a site plan that shows the diameter, species and location of all significant trees and all existing native vegetation.
- b. A site plan that shows trees and native vegetation to be retained and trees to be removed and provides a table showing the number of significant trees to be removed and the number of replacement trees required.
- c. Tree protection zones and other measures to protect any trees or native vegetation that are to be retained for sites undergoing development or re-development.
- d. Location of the OHWM, river buffer, Shoreline Jurisdiction boundary and any sensitive-critical areas with their buffers.
- e. A landscape plan that shows diameter, species name, spacing and planting location for any required replacement trees and other proposed vegetation.
- f. An arborist evaluation justifying the removal of hazardous trees if required by DCD.
- g. An application fee per the current Land Use Permit Fee resolution.



**3. Criteria for Shoreline Tree Removal.**

A Type 2 Shoreline Tree Removal and Vegetation Clearing Permit shall only be approved if the proposal complies with the following criteria as applicable:

- a. The site is undergoing development or redevelopment; or
- b. Tree poses a risk to structures; or
- c. There is imminent potential for root or canopy interference with utilities; or
- d. Trees interfere with the access and passage on public trails; or
- e. Tree condition and health is poor, the City may require an evaluation by an International Society of Arborists (ISA) certified arborist; or
- f. Trees present an imminent hazard to the public. If the hazard is not readily apparent, the City may require an evaluation by an International Society of Arborists (ISA) certified arborist; and
- g. The proposal complies with tree retention, replacement, maintenance and monitoring requirements of this Chapter.

**4. Tree Replacement Requirements.**

a. Where permitted, significant trees that are removed, illegally topped, or pruned by more than 25 percent in 36 month period within from the shoreline jurisdiction shall be replaced pursuant to the tree replacement requirements shown below, up to a density of 100 trees per acre (including existing trees).

b. Significant trees that are part of an approved landscape plan on a developed portion of the site outside the shoreline buffer are subject to replacement per TMC 18.52. Dead or dying trees removed from developed portion of the site outside the shoreline buffer shall be replaced at 1:1 ratio in the next appropriate season for planting.

c. Dead or dying trees located within the buffer or undeveloped upland portion of the Shoreline Jurisdiction shall be left in place as wildlife snags, unless they present a hazard to structures, facilities or the public. If dead trees are removed they shall be subject to replacement listed in the Table below. Removal of non-hazardous trees as defined by TMC 18.06 in non-developed areas are subject to the tree replacement requirements listed in the table below.

d. The Director or Planning Commission may require additional trees or shrubs to be installed to mitigate any potential impact from the loss of this vegetation as a result of new development.

**Tree Replacement Requirements**

Diameter* of Tree Removed (*measured at height of 4.5 feet from the ground)	Number of Replacement Trees Required
4 - 6 inches (single trunk); 2 inches (any trunk of a multi-trunk tree)	3
Over 6 - 8 inches	4
Over 8 - 20 inches	6
Over 20 inches	8

e. 5. The property owner is required to ensure the viability and long-term health of trees planted for replacement through proper care and maintenance for the life of the project. Replaced trees that do not survive must be replanted in the next appropriate season for planting.

f. 6. If all required replacement trees cannot be reasonably accommodated on the site, off-site tree replacement within the shoreline jurisdiction may be allowed at a site approved by the City. Priority for off-site tree planting will be at locations within the Transition Zone. If no suitable off-site location is available, the applicant shall pay into a tree replacement fund per the adopted fee resolution. The fee shall be based on the value of the replacement trees and their delivery, labor for site preparation and plant installation, soil amendments, mulch, and staking supplies.

5. 7. Large Woody Debris (LWD). When a tree suitable for use as LWD is permitted to be removed from the shoreline buffer, the tree trunk and root ball (where possible) will be saved for use in a restoration project elsewhere in the shoreline jurisdiction. The applicant will be responsible for the cost of moving the removed tree(s) to a location designated by the City. If no restoration project or storage location is available at the time, the Director may waive this requirement. Trees removed in the shoreline jurisdiction outside the buffer shall be placed as LWD in the buffer (not on the bank), if feasible. Priority for LWD placement projects will be in the Transition Zone.

8. ~~Dead or dying trees located within the buffer or undeveloped upland portion of the Shoreline Jurisdiction shall be left in place as wildlife snags, unless they present a hazard to structures, facilities or the public.~~

### **EG. Tree Protection During Development and Redevelopment**

~~All trees not proposed for removal -as part of a project or -development shall -be protected -using -Best Management Practices and the standards below.~~

~~1. The Critical Root Zones (CRZ) for all trees designated for retention, on site or on adjacent property as applicable, shall be identified on all construction plans, including demolition, grading, civil and landscape site plans.~~

~~2. Any roots within the CRZ exposed during construction shall be covered immediately and kept moist with appropriate materials. The City may require a third-party Qualified Tree Professional to review longterm viability of the tree.~~

~~3. Physical barriers, such as 6-foot chain link fence or plywood or other approved equivalent, shall be placed around each individual tree or grouping at the CRZ.~~

~~4. Minimum distances from the trunk for the physical barriers shall be based on the approximate age of the tree (height and canopy) as follows:~~

~~a. Young trees (trees which have reached less than 20% of life expectancy): 0.75 per inch of trunk diameter.~~

~~b. Mature trees (trees which have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.~~

~~c. Over mature trees (trees which have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.~~

~~5. Alternative protection methods may be used that provide equal or greater tree protection if approved by the Director.~~

~~6. A weatherproof sign shall be installed on the fence or barrier that reads:~~

~~"TREE PROTECTION ZONE – THIS FENCE SHALL NOT BE REMOVED OR ENCROACHED UPON. No soil disturbance, parking, storage, dumping or burning of materials is allowed within the Critical Root Zone. The value of this tree is \$ [insert value of tree as determined by a Qualified Tree Professional here]. Damage to this tree due to construction activity that results in the death or necessary removal of the tree is subject to the Violations section of TMC Chapter 18.44."~~

~~7. All tree protection measures installed shall be inspected by the City and, if deemed necessary a Qualified Tree Professional, prior to beginning construction or earth moving.~~

~~8. Any branches or limbs that are outside of the CRZ and might be damaged by machinery shall be pruned prior to construction by a Qualified Tree Professional. No construction personnel shall prune affected limbs except under the direct supervision of a Qualified Tree Professional.~~

~~9. The CRZ shall be covered with 4 to 6 inches of wood chip mulch. Mulch shall not be placed directly against the trunk. A 6-inch area around the trunk shall be free of mulch. Additional measures, such as fertilization or supplemental water, shall be carried out prior to the start of construction if deemed necessary by the Qualified Tree Professional's report to prepare the trees for the stress of construction activities.~~

~~10. No storage of equipment or refuse, parking of vehicles, dumping of materials or chemicals, or placement of permanent heavy structures or items shall occur within the CRZ.~~

~~11. No grade changes or soil disturbance, including trenching, shall be allowed within the CRZ.~~

~~Grade changes within 10 feet of the CRZ shall be approved by the City prior to implementation.~~

~~12. The applicant is responsible for ensuring that the CRZ of trees on adjacent properties are not impacted by the proposed development.~~

~~13. A pre-construction inspection shall be conducted by the City to finalize tree protection actions.~~

~~14. Post-construction inspection of protected trees shall be conducted by the City and, if deemed necessary by the City, a Qualified Tree Professional. All corrective or reparative pruning will be conducted by a Qualified Tree Professional.~~

~~10. For new development or re-development where trees are proposed for retention, tree protection zones shall be indicated on site plans and shall be established in the field prior to commencement of any construction or site~~



~~clearing activity. A minimum 4 feet high construction barrier shall be installed around significant trees and stands of native trees or vegetation to be retained. Minimum distances from the trunk for the construction barriers shall be based on the approximate age of the tree (height and canopy) as follows:~~

- ~~a. Young trees (have reached less than 20% of life expectancy): 0.75 feet per inch of trunk diameter.~~
- ~~b. Mature trees (have reached 20–80% of life expectancy): 1 foot per inch of trunk diameter.~~
- ~~c. Over mature trees (have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.~~

**FD. Landscaping.** This section presents landscaping standards for the Shoreline Jurisdiction and is divided into a general section and separate sections for the River Buffer and for the remaining part of the Shoreline Jurisdiction for each environment designation.

1. **General Requirements.** For any new development or redevelopment in the Shoreline Jurisdiction, except single family residential development of 4 or fewer lots, invasive vegetation must be removed and native vegetation planted and maintained in the River Buffer, including the river bank.

a. The landscaping requirements of this subsection apply for any new development or redevelopment in the Shoreline Jurisdiction, except: single family residential development of 4 or fewer lots. The extent of landscaping required will depend on the size of the proposed project. New development or full redevelopment of a site will require landscaping of the entire site. For smaller projects, the Director will review the intent of this section and the scope of the project to determine a reasonable amount of landscaping to be carried out. ~~Trees and other vegetation shading the river shall be retained or replanted when riprap is placed per the approved tree permit, if required.~~

b. Invasive vegetation must be removed as part of site preparation and native vegetation planted, including the river-bank to OHWM.

c. On properties located behindlandward of publicly maintained levees, an applicant is not required to remove invasive vegetation or plant native vegetation within the buffer.

d. Removal of invasive species shall be done by hand or with hand-held power tools. Where not feasible and mechanized equipment is needed, the applicant must obtain a Shoreline Tree Removal and Vegetation Clearing Permit and show how the slope stability of the bank will be maintained. ~~and a~~ plan must be submitted indicating how the work will be done and what erosion control and tree protection features will be utilized. Federal and State permits may be required for vegetation removal with mechanized equipment.

e. Trees and other vegetation shading the river shall be retained or replanted when riprap is placed, as specified in the approved tree permit if a permit is required.

f. Removal of invasive vegetation may be phased over several years prior to planting, if such phasing is provided for by a plan approved by the Director to allow for alternative approaches, such as sheet mulching and goat grazing. The method selected shall not destabilize the bank or cause erosion.

g. A combination of native trees, shrubs and groundcovers (including grasses, sedges, rushes and vines) shall be planted. The plants listed in the Riparian Restoration and Management Table of the 2004 Washington Stream Habitat Restoration Guidelines (Washington Department of Fish and Wildlife, Washington Department of Ecology, and U.S. Fish and Wildlife Service, Olympia, Washington, as amended) shall provide the basis for plant selection. Site conditions, such as topography, exposure, and hydrology shall be taken into account for plant selection. Other species may be approved if there is adequate justification.

h. Non-native trees may be used as street trees or in approved developed landscape areas ~~in cases~~ where conditions are not appropriate for native trees (for example where there are space or height limitations or conflicts with utilities).

i. Plants shall meet the current American Standard for Nursery Stock (American Nursery and Landscape Association – ANLA).

j. Plant sizes in the non-buffer areas of all Shoreline Environments shall meet the following minimum size standards:

Deciduous trees	2-inch caliper
Conifers	6 – 8 foot height
Shrubs	24-inch height
Groundcover/grasses	4-inch or 1 gallon container

k. Smaller plant sizes (generally one gallon, bareroot, plugs, or stakes, depending on plant species) are preferred for buffer plantings. Willow stakes must be at least 1/2-inch in diameter.

l. Site preparation and planting of vegetation shall be in accordance with best management practices for ensuring the vegetation's long-term health and survival.

m. Plants may be selected and placed to allow for public and private view corridors and/or access to the water's edge.

n. Native vegetation in the shoreline installed in accordance with the preceding standards shall be maintained by the property owner to promote healthy growth and prevent establishment of invasive species. Invasive plants (such as blackberry, ivy, knotweed, bindweed) shall be removed on a regular basis, according to the approved maintenance plan.

o. Areas disturbed by removal of invasive plants shall be replanted with native vegetation where necessary to maintain the density shown in TMC Section 18.44.080060.B.4. and must be replanted in a timely manner, except where a long-term removal and re-vegetation plan, as approved by the City, is being implemented.

p. Landscape plans shall include a detail on invasive plant removal and soil preparation.

q.p. The following standards apply to utilities and loading docks located in the shoreline jurisdiction.

(1) Utilities such as pumps, pipes, etc. shall be suitably screened with native vegetation;

(2) Utility easements shall be landscaped with native groundcover, grasses or other low-growing plants as appropriate to the shoreline environment and site conditions;

(3) Allowed loading docks and service areas located waterward of the development shall have landscaping that provides extensive visual separation from the river.

**2. River Buffer Landscaping Requirements in all Shoreline Environments.** The River Buffer in all shoreline environments shall function, in part, as a vegetation management area to filter sediment, capture contaminants in surface water run-off, reduce the velocity of water run-off, and provide fish and wildlife habitat.

a. A planting plan prepared by ~~a licensed landscape architect or~~ an approved biologist shall be submitted to the City for approval that shows plant species, size, number and spacing. The requirement for a ~~landscape architect or~~ biologist may be waived by the Director for single family property owners (when planting is being required as mitigation for construction of overwater structures or shoreline stabilization), if the property owner accepts technical assistance from City staff.

b. Plants shall be installed from the OHWM to the upland edge of the River Buffer unless the Director determines that site conditions would make planting unsafe.

c. Plantings close to and on the bank shall include native willows, red osier dogwood and other native vegetation that will extend out over the water, to provide shade and habitat functions when mature. Species selected must be able to withstand seasonal water level fluctuations.

d. Minimum plant spacing in the buffer shall follow the River Buffer Vegetation Planting Densities Table shown in TMC Section 18.44.080060.C.2. Existing non-invasive plants may be included in the density calculations.

e. Irrigation for buffer plantings is required for at least two dry seasons or until plants are established. An irrigation plan is to be included as part of the planting plan.

f. In the event that a development project allows for setback and benching of the shoreline along an existing levee or revetment, the newly created mid-slope bench area shall be planted and maintained with a variety of native vegetation appropriate for site conditions.

g. The Department Director, in consultation with the City's environmentalist, may approve the use of shrub planting and installation of willow stakes to be counted toward the tree replacement standard in the buffer if proposed as a measure to control invasive plants and increase buffer function.

**River Buffer Vegetation Planting Densities Table**

Plant Material Type	Planting Density
Stakes/cuttings along river bank (willows, red osier dogwood)	1 - 2 feet on center or per bioengineering method
Shrubs	3 - 5 feet on center, depending on species

Trees	15 – 20 feet on center, depending on species
Groundcovers, grasses, sedges, rushes, other herbaceous plants	1 – 1.5 feet on center, depending on species
Native seed mixes	5 - 25 lbs per acre, depending on species

**3. Landscaping Requirements for the Urban Conservancy and High Intensity Environments — Outside of the River Buffer.** For the portions of property within the Shoreline Jurisdiction landward of the River Buffer the landscape requirements in the General section of this chapter and the requirements for the underlying zoning as established in TMC Chapter 18.52 shall apply except as indicated below.

a. Parking Lot Landscape Perimeters: One native tree for each 20 lineal feet of required perimeter landscaping, one shrub for each 4 lineal feet of required perimeter landscaping, and native groundcovers to cover 90% of the landscape area within 3 years, planted at a minimum spacing of 12 inches on-center.

b. Interior Parking Lot Landscaping: Every 300 square feet of paved surface requires 10 square feet of interior landscaping within landscape islands separated by no more than 150 feet between islands.

c. Landscaping shall be provided at yards not adjacent to the river, with the same width as required in the underlying zoning district. This standard may be reduced as follows:

(1) Where development provides a public access corridor between off-site public area(s) and public shoreline areas, side yard landscaping may be reduced by 25 percent to no less than 3 feet; or

(2) Where development provides additional public access area(s) (as allowed by the High Intensity and Urban Conservancy Environment Development Standards) equal in area to at least 2.5% of total building area, front yard landscaping may be reduced by 25 percent.

**GE. Vegetation Management in the Shoreline Jurisdiction.** The requirements of this section apply to all existing and new development within the shoreline jurisdiction.

1. Trees and shrubs may only be pruned for safety, to maintain views or access corridors and trails by pruning up or on the sides of trees, to maintain clearance for utility lines, and/or for improving shoreline ecological function. This type of pruning is exempt from any permit requirements. No more than 25% may be pruned from a tree within a 36 -month period without prior City review and is subject to replacement ratios of this chapter. Topping of trees is prohibited and shall be regulated as removal with tree replacement required except where absolutely necessary to avoid interference with existing utilities.

2. Plant debris from removal of invasive plants or pruning shall be removed from the site and disposed of properly.

3. Use of pesticides.

a. Pesticides (including herbicides, insecticides, and fungicides) shall not be used in the shoreline jurisdiction except where:

(1) Alternatives such as manual removal, biological control, and cultural control are not feasible given the size of the infestation, site characteristics, or the characteristics of the invasive plant species;

(2) The use of pesticides has been approved through a comprehensive vegetation or pest management and monitoring plan;

(3) The pesticide is applied in accordance with state regulations;

(4) The proposed herbicide is approved for aquatic use by the U.S. Environmental Protection Agency; and

(5) The use of pesticides in the shoreline jurisdiction is approved in writing by ~~the City and the applicant presents a copy of the Aquatic Pesticide Permit issued by~~ the Department of Ecology or Washington Department of Agriculture.

b. Self-contained rodent bait boxes designed to prevent access by other animals are allowed.

c. Sports fields, parks, golf courses and other outdoor recreational uses that involve maintenance of extensive areas of turf shall provide and implement an integrated turf management program or integrated pest management plan designed to ensure that water quality in the river is not adversely impacted.

4. Restoration Project Plantings: Restoration projects may overplant the site as a way to discourage the re-establishment of invasive species. Thinning of vegetation to improve plant survival and health without a separate shoreline vegetation removal permit may be permitted five to ten years after planting if this approach is approved as part of the restoration project's maintenance and monitoring plan.

- **HF. Maintenance and Monitoring.**

The property owner is required to ensure the viability and long-term health of vegetation planted for replacement or mitigation through proper care and maintenance for the life of the project subject to the permit requirements as follows:

1. Tree Replacement and Vegetation Clearing Permit Requirements
  - a. Schedule an inspection with the Urban Environmentalist to document planting of the correct number and type of plants.
  - b. Submit annual documentation of tree and vegetation health for three years.
2. Restoration and Mitigation Project Requirements
  - a. A five-year maintenance and monitoring plan must be approved by the City prior to permit issuance. The monitoring period will begin when the restoration is accepted by the City and as-built plans have been submitted.
  - b. Monitoring reports shall be submitted annually for City review up until the end of the monitoring period. Reports shall measure survival rates against project goals and present contingency plans to meet project goals.
  - c. Mitigation will be complete after project goals have been met and accepted by City environmentalist.
  - d. A performance bond or financial security equal to 150% of the cost of labor and materials required for implementation of the planting, maintenance and monitoring shall be submitted prior to City acceptance of project.

**18.44.150130 Enforcement and Penalties**

- A. Violations.** The following actions shall be considered violations of this chapter:
  1. To use, construct or demolish any structure, or to conduct clearing, earth-moving, construction or other development not authorized under a Substantial Development Permit, Conditional Use Permit or Variance Permit, where such permit is required by this chapter.
  2. Any work which is not conducted in accordance with the plans, conditions, or other requirements in a permit approved pursuant to this chapter, provided that the terms or conditions are stated in the permit or the approved plans.
  3. To remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter.
  4. To misrepresent any material fact in any application, plans or other information submitted to obtain any shoreline use or development authorization.
  5. To fail to comply with the requirements of this chapter.
- B. Enforcement.** It shall be the duty of the Director to enforce this chapter subject to the terms and conditions of TMC Chapter 8.45.
- C. Inspection Access.**
  1. For the purpose of inspection for compliance with the provisions of a permit or this chapter, authorized representatives of the Director may enter all sites for which a permit has been issued.
  2. Upon completion of all requirements of a permit, the applicant shall request a final inspection by contacting the planner of record. The permit process is complete upon final approval by the planner.
- D. Penalties.**

1. Any violation of any provision of the SMP, or failure to comply with any of the requirements of this chapter shall be subject to the penalties prescribed in Chapter 8.45 of the Tukwila Municipal Code (“Enforcement”) and shall be imposed pursuant to the procedures and conditions set forth in that chapter.

2. Penalties assessed for violations of the SMP shall be determined by TMC Chapter 8.45.~~120-400~~, Penalties.

3. It shall not be a defense to the prosecution for failure to obtain a permit required by this chapter, that a contractor, subcontractor, person with responsibility on the site, or person authorizing or directing the work, erroneously believed a permit had been issued to the property owner or any other person.

#### 4. Penalties for Tree Removal

a. Each unlawfully removed or damaged tree shall constitute a separate violation.

b. The amount of the penalty shall be \$1,000 per tree or up to the marketable value of each tree removed or damaged as determined by an ISA certified arborist. The Director may elect not to seek penalties or may reduce the penalties if he/she determines the circumstances do not warrant imposition of any or all of the civil penalties.

c. Any illegal removal of required trees shall be subject to obtaining a tree permit and replacement with trees that meet or exceed the functional value of the removed trees. In addition, any shrubs and groundcover removed without City approval shall be replaced.

d. To replace the tree canopy lost due to the tree removal, additional trees must be planted on-site. Payment may be made into the City’s Tree Fund if the number of replacement trees cannot be accommodated on-site. The number of replacement trees required will be based on the size of the tree(s) removed as stated in TMC 18.44.060 B 4.

**E. Remedial Measures Required.** In addition to penalties provided in TMC Chapter 8.45, the Director may require any person conducting work in violation of this chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

1. Remedial measures must conform to the policies and guidelines of this chapter and the Shoreline Management Act.

2. The cost of any remedial measures necessary to correct violation(s) of this chapter shall be borne by the property owner and/or applicant.

#### **F. Injunctive Relief.**

1. Whenever the City has reasonable cause to believe that any person is violating or threatening to violate this chapter or any rule or other provisions adopted or issued pursuant to this chapter, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such action shall be brought in King County Superior Court.

2. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil or criminal penalty prescribed for violations of the Master Program.

**G. Abatement.** Any use, structure, development or work that occurs in violation of this chapter, or in violation of any lawful order or requirement of the Director pursuant to this section, shall be deemed to be a public nuisance and may be abated in the manner provided by the Tukwila Municipal Code 8.45.~~105~~100. (Ord. 2346 §15, 2011)

#### **18.44.~~160~~150 Liability**

A. Liability for any adverse impacts or damages resulting from work performed in accordance with a permit issued on behalf of the City within the City limits shall be the sole responsibility of the owner of the site for which the permit was issued.

B. No provision of or term used in this chapter is intended to impose any duty upon the City or any of its officers or employees that would subject them to damages in a civil action.

(Ord. 2346 §16, 2011)





## 18.45.158 Vegetation Protection and Management

### A. Purpose, Objectives and Applicability.

1. The purpose of this section is to:

- a. Regulate the protection of existing trees and native vegetation in the critical areas and their buffers;
- b. Establish requirements for removal of invasive plants at the time of development or re-development of sites;
- c. Establish requirements for the long-term maintenance of native vegetation to prevent establishment of invasive species and promote ecosystem processes.

### B. Applicability

This chapter sets forth rules and regulations to control maintenance and clearing of trees within the City of Tukwila for properties located within a critical area or its associated buffer. For properties located within the Shoreline jurisdiction, the maintenance and removal of vegetation shall be governed by TMC Chapter 18.44, "Shoreline Overlay." TMC 18.54 Urban Forestry and Tree chapter shall govern tree removal on any undeveloped land and any land zoned Low Density Residential (LDR) that is developed with a single family residence. TMC Chapter 18.52 "Landscape Requirements" shall govern the maintenance and removal of landscaping on developed properties that are zoned commercial, industrial, or multifamily, and on properties located in the LDR zone that are developed with a non-single family residential use. The most stringent regulations shall apply in case of a conflict.

### BC. Vegetation Retention and Replacement.

#### 1. Retention

~~2. The tree protection and retention requirements and the vegetation management requirements apply to existing uses as well as new or re-development.~~

a.2. Native vegetation in critical areas and their buffers must be protected and maintained. No removal of native vegetation is allowed without prior approval by the City except in cases of emergency where an imminent hazard to public life, safety or property exists. Vegetation may be removed from the buffer as part of an enhancement plan approved by the Director. Enhancements will ensure that slope stability and wetland quality will be maintained or improved. Any temporary disturbance of the buffers shall be replanted with a diverse plant community of native northwest species.

b. Invasive vegetation (blackberry, ivy, laurel, etc.) may be removed from a critical area or its buffer except steep slopes without a permit if removal does not utilize heavy equipment or herbicide. Invasive vegetation removal on steep slopes requires prior City Aapproval

c. Hazardous or defective trees, as defined in TMC 18.06, may be removed from a critical area if threat posed by the tree is imminent. If the hazard is not obvious, an assessment by a certified professional, as defined in TMC 18.06, may be required by the Director. Dead and hazardous trees should remain standing or be cut and placed within the critical area to the extent practicable to maximize habitat. Tree replacement in accordance with this chapter is required for any hazardous tree removed from a critical area.

d. In the case of development or re-development, as many significant trees and as much native vegetation as possible are to be retained on a site, taking into account the condition and age of the trees. As part of a land use application, including, such as but not limited to, subdivision or short plat, design review or building permit project review, the Director of Community Development or the Board of Architectural Review may require alterations in the arrangement of buildings, parking or other elements of proposed development in order to retain significant vegetation.

~~To protect the ecological functions that trees, and native vegetation provide to critical areas, removal of any significant tree or native vegetation in a critical area or its buffer requires a Critical Area Tree Removal and Vegetation Clearing Permit and is generally only allowed on sites undergoing development or re-development. Only trees that interfere with access and passage on public trails or trees that present an imminent hazard to existing structures or the public may be removed from sites without an issued building permit, or Federal approval. Factors that will be considered in approving tree removal include but are not limited to: tree condition and health, age, risks to structures, and potential for root or canopy interference with utilities.~~

~~72. **Permit Requirements.** Prior to any hazardous tree removal or site clearing unless it is part of Special Permission approval for interrupted buffer, buffer averaging or other critical areas deviation, a Type 2 Critical Area Tree Removal and Vegetation Clearing Permit application must be submitted to the Department of Community Development (DCD) containing the following information:~~

- ~~a. A vegetation survey on a site plan that shows the diameter, species and location of all significant trees and all existing native vegetation.~~
- ~~b. A site plan that shows trees and native vegetation to be retained and trees to be removed and provides a table showing the number of significant trees to be removed and the number of replacement trees required.~~
- ~~c. Tree protection zones and other measures to protect any trees or native vegetation that are to be retained for sites undergoing development or re-development.~~
- ~~d. Location of the OHWM, stream buffer, wetland, wetland buffer, steep slope or any other critical areas with their buffers.~~
- ~~e. A landscape plan that shows diameter, species name, spacing and planting location for any required replacement trees and other proposed vegetation.~~
- ~~f. An arborist evaluation justifying the removal of hazardous trees if required by DCD.~~
- ~~g. An application fee per the current Land Use Permit Fee resolution.~~

### ~~3. **Criteria for Tree Removal in a Critical Area or its buffer**~~

~~A Type 2 Critical Area Tree Removal and Vegetation Clearing Permit shall only be approved if the proposal complies with the following criteria as applicable:~~

- ~~a. The site is undergoing development or redevelopment;~~
- ~~b. Tree poses a risk to structures;~~
- ~~c. There is imminent potential for root or canopy interference with utilities;~~
- ~~d. Trees interferes with the access and passage on public trails;~~
- ~~e. Tree condition and health is poor, the City may require an evaluation by an International Society of Arborists (ISA) certified arborist;~~
- ~~f. Trees present an imminent hazard to the public. If the hazard is not readily apparent, the City may require an evaluation by an International Society of Arborists (ISA) certified arborist; and~~
- ~~g. The proposal complies with tree retention, replacement, maintenance and monitoring requirements of this Chapter.~~

~~84. **Tree Replacement Requirements.** Where permitted, significant trees that are removed, illegally topped, or pruned by more than 25% within a from critical areas shall be replaced pursuant to the tree replacement requirements shown below, up to a density of 100 trees per acre (including existing trees). Significant trees that are part of an approved landscape plan on the developed portion of the site are subject to replacement per TMC 18.52. Dead or~~

dying trees removed that are part of an approved landscape plan on the developed portion of the site shall be replaced at 1:1 ratio in the next appropriate planting season. Dead or dying trees located within the critical area or its buffer shall be left in place as wildlife snags, unless they present a hazard to structures, facilities or the public. Removal of dead, dying or otherwise hazardous trees in non-developed areas are subject to the replacement requirements listed in the Table below. The Director may require additional trees or shrubs to be installed to mitigate any potential impact from the loss of this vegetation as a result of new development.

**Tree Replacement Requirements**

Diameter* of Tree Removed (*measured at height of 4.5 feet from the ground)	Number of Replacement Trees Required
4- 6 inches (single trunk); 2 inches (any trunk of a multi-trunk tree)	3
Over 6 - 8 inches	4
Over 8 - 20 inches	6
Over 20 inches	8

~~9. The property owner is required to ensure the viability and long term health of vegetation planted for replacement or mitigation through proper care and maintenance for the life of the project. Mitigation or restoration projects that fail to meet pre-determined performance standards must be replanted in the next appropriate season for planting or per requirements of approved Mitigation Plan.~~

10. If all required replacement trees cannot be reasonably accommodated on the site, the applicant shall pay into a tree replacement fund per the adopted. ~~The fee shall be determined on an annual basis as part of the Fee resolution.~~

~~11. Dead or dying trees located within a of a critical area or its buffer shall be left in place as wildlife snags, unless they present a hazard to structures, facilities or the public. Dead or dying trees within developed or landscaped areas shall be replaced 1:1 in the next appropriate season for planting.~~

12. Topping of trees is prohibited and will be regulated as removal subject to with tree replacement requirements listed above.

13. Pruning of trees shall not exceed 25% of canopy in a ~~three-year~~36 month period. Pruning in excess of 25% canopy shall be regulated as removal with tree replacement required ~~per Table listed above.~~ Trees may only be pruned to lower their height to prevent interference with an overhead utility line with prior approval by the Director as part of Type 2 Critical Area Tree Permit. The pruning must be carried out under the direction of a Qualified Tree Professional or performed by the utility provider under the direction of a Qualified Tree Professional. The crown shall be maintained to at least 2/3 the height of the tree prior to pruning.

**GD. Tree Protection**

All trees not proposed for removal as part of a project or development shall be protected using Best Management Practices and the standards below.

1. The Critical Root Zones (CRZ) for all trees designated for retention, on site or on adjacent property as applicable, shall be identified on all construction plans, including demolition, grading, civil and landscape site plans.
2. Any roots within the CRZ exposed during construction shall be covered immediately and kept moist with appropriate materials. The City may require a third-party Qualified Tree Professional to review long-term viability of the tree.
3. Physical barriers, such as 6-foot chain link fence or plywood or other approved equivalent, shall be placed around each individual tree or grouping at the CRZ.
4. Minimum distances from the trunk for the physical barriers shall be based on the approximate age of the tree (height and canopy) as follows:

- a. Young trees (trees which have reached less than 20% of life expectancy): 0.75 per inch of trunk diameter.
  - b. Mature trees (trees which have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.
  - c. Over mature trees (trees which have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.
5. Alternative protection methods may be used that provide equal or greater tree protection if approved by the Director.
6. A weatherproof sign shall be installed on the fence or barrier that reads:  
 "TREE PROTECTION ZONE – THIS FENCE SHALL NOT BE REMOVED OR ENCROACHED UPON. No soil disturbance, parking, storage, dumping or burning of materials is allowed within the Critical Root Zone. The value of this tree is \$ [insert value of tree as determined by a Qualified Tree Professional here]. Damage to this tree due to construction activity that results in the death or necessary removal of the tree is subject to the Violations section of TMC Chapter 18.45."
7. All tree protection measures installed shall be inspected by the City and, if deemed necessary a Qualified Tree Professional, prior to beginning construction or earth moving.
8. Any branches or limbs that are outside of the CRZ and might be damaged by machinery shall be pruned prior to construction by a Qualified Tree Professional. ~~No construction personnel shall prune affected limbs except under the direct supervision of a Qualified Tree Professional.~~
9. The CRZ shall be covered with 4 to 6 inches of wood chip mulch. Mulch shall not be placed directly against the trunk. A 6-inch area around the trunk shall be free of mulch. Additional measures, such as fertilization or supplemental water, shall be carried out prior to the start of construction if deemed necessary by the Qualified Tree Professional's report to prepare the trees for the stress of construction activities.
10. No storage of equipment or refuse, parking of vehicles, dumping of materials or chemicals, or placement of permanent heavy structures or items shall occur within the CRZ.
11. No grade changes or soil disturbance, including trenching, shall be allowed within the CRZ. Grade changes within 10 feet of the CRZ shall be approved by the City prior to implementation.
12. The applicant is responsible for ensuring that the CRZ of trees on adjacent properties are not impacted by the proposed development.
13. A pre-construction inspection shall be conducted by the City to finalize tree protection actions.
14. Post-construction inspection of protected trees shall be conducted by the City and, if deemed necessary by the City, a Qualified Tree Professional. All corrective or reparative pruning will be conducted by a Qualified Tree Professional.

## **DE. Plant Materials Standards**

For any new development, redevelopment or restoration in a Critical Area, invasive vegetation must be removed, and native vegetation planted and maintained in the Critical Area and its buffer.

- 1. A planting plan prepared by a qualified biologist shall be submitted to the City for approval that shows plant species, size, number, spacing, soil preparation irrigation, and invasive species removal. The requirement for a biologist may be waived by the Director for single family property owners when the mitigation area is less than 1500 sq. ft.
- 2. Invasive vegetation must be removed as part of site preparation and native vegetation planted in the Critical Area and its buffer where impacts occur.
- 3. Removal of invasive species shall be done by hand or with hand-held power tools. Where not feasible and mechanized equipment is needed, the applicant must obtain a Type 2 permit prior to work being conducted. Removal of invasive vegetation must be conducted so that the slope stability, if applicable, will be maintained. A plan must be submitted indicating how the work will be done and what erosion control and tree protection features will be utilized. Federal and State permits may be required for vegetation removal with mechanized equipment.
- 4. Removal of invasive vegetation may be phased over several years prior to planting, if such phasing is provided for by a plan approved by the Director to allow for alternative approaches, such as sheet mulching and goat grazing. The method selected shall not destabilize the bank or cause erosion.

5. A combination of native trees, shrubs and groundcovers (including but not limited to grasses, sedges, rushes and vines) shall be planted. Site conditions, such as topography, exposure, and hydrology shall be taken into account for plant selection. Other species may be approved if there is adequate justification.

6. Non-native trees may be used as street trees in cases where conditions are not appropriate for native trees (for example where there are space or height limitations or conflicts with utilities).

7. Plants shall meet the current American Standard for Nursery Stock (American Nursery and Landscape Association – ANLA).

8. Smaller plant sizes (generally one gallon, bareroot, plugs, or stakes, depending on plant species) are preferred for buffer plantings. Willow stakes must be at least 1/2-inch in diameter. For existing developed areas refer to landscaping chapter TMC 18.52 for plant sizes in required landscape areas.

9. Site preparation and planting of vegetation shall be in accordance with best management practices for ensuring the vegetation’s long-term health and survival. Irrigation is required for all plantings for the first three years as approved by the Director.

10. Plants may be selected and placed to allow for public and private view corridors with approval by Director.

11. Native vegetation in Critical Areas and their buffers installed in accordance with the preceding standards shall be maintained by the property owner to promote healthy growth and prevent establishment of invasive species. Invasive plants (such as blackberry, ivy, knotweed, bindweed) shall be removed on a regular basis, according to the approved maintenance plan.

12. Critical Areas including steep slopes disturbed by removal of invasive plants or development shall be replanted with native vegetation where necessary to maintain the density shown in Table below. and must be replanted in a timely manner, except where a long-term removal and re-vegetation plan, as approved by the City, is being implemented.

**Critical Area Buffer Vegetation Planting Densities Table**

Plant Material Type	Planting Density
Stakes/cuttings along streambank (willows, red osier dogwood)	1 - 2 feet on center or per bioengineering method
Shrubs	3 - 5 feet on center, depending on species
Trees	15 – 20 feet on center, depending on species
Groundcovers, sedges, rushes, other plants	grasses, herbaceous plants 1 – 1.5 feet on center, depending on species
Native seed mixes	5 - 25 lbs. per acre, depending on species

13. The Department Director, in consultation with the City’s environmentalist, may approve the use of shrub planting and installation of willow stakes to be counted toward the tree replacement standard in the buffer if proposed as a measure to control invasive plants and increase buffer function.

**EF. Vegetation Management in Critical Areas** The requirements of this section apply to all existing and new development within critical areas.

1. Trees and shrubs may only be pruned for safety, to maintain access corridors and trails by pruning up or on the sides of trees, to maintain clearance for utility lines, and/or for improving shoreline ecological function. No more than 25% may be pruned from a tree within a 36 month period without prior City review. This type of pruning is exempt from any permit requirements.

2. Plant debris from removal of invasive plants or pruning shall be removed from the site and disposed of properly unless on site storage is approved by the Director.

3. Use of pesticides.

a. Pesticides (including herbicides, insecticides, and fungicides) shall not be used in the critical area or its buffer except where:

(1) Alternatives such as manual removal, biological control, and cultural control are not feasible given the size of the infestation, site characteristics, or the characteristics of the invasive plant species;

(2) The use of pesticides has been approved by the City through a comprehensive vegetation or pest management and monitoring plan;

(3) The pesticide is applied in accordance with state regulations;

(4) The proposed herbicide is approved for aquatic use by the U.S. Environmental Protection Agency; and

(5) The use of pesticides in the shoreline jurisdiction is approved in writing by the City and the applicant presents a copy of the Aquatic Pesticide Permit issued by the Department of Ecology or Washington Department of Agriculture.

b. Self-contained rodent bait boxes designed to prevent access by other animals are allowed.

c. Sports fields, parks, golf courses and other outdoor recreational uses that involve maintenance of extensive areas of turf shall implement an integrated turf management program or integrated pest management plan designed to ensure that water quality in the Critical Area is not adversely impacted.

4. Restoration Project Plantings: Restoration projects may overplant the site as a way to discourage the re-establishment of invasive species. Thinning of vegetation without a separate Type 2 Special Permission or critical area tree permit may be permitted five to ten years after planting if this approach is approved as part of the restoration project's maintenance and monitoring plan and with approval by the City prior to thinning work.

#### **FG. Maintenance and Monitoring.**

The property owner is required to ensure the viability and long-term health of vegetation planted for replacement or mitigation through proper care and maintenance for the life of the project subject to permit requirements as follows: Mitigation or restoration projects that fail to meet pre-determined performance standards must be replanted in the next appropriate season for planting or per requirements of approved Mitigation Plan.

##### 1. Tree Replacement and Vegetation Clearing Permit Requirements

a. Schedule an inspection with the Urban Environmentalist to document planting of the correct number and type of plants.

b. Submit annual documentation of tree and vegetation health for three years.

##### 2. Restoration and Mitigation Project Requirements.

a. A five-year monitoring and maintenance plan must be approved by the City prior to permit issuance. The monitoring period will begin when the restoration is accepted by the City and as-built plans have been submitted.

b. Monitoring reports shall be submitted annually for City review up until the end of the monitoring period. Reports shall measure survival rates against project goals and present contingency plans to meet project goals.

c. Mitigation will be complete after project goals have been met and accepted by the City environmentalist.

d. A performance bond or financial security equal to 150% of the cost of labor and materials required for implementation of the planting, maintenance and monitoring shall be submitted prior to City acceptance of project.

#### **18.45.xx Violations**

A. Failure to comply with any requirement of this chapter shall be deemed a violation subject to enforcement pursuant to this chapter and TMC Chapter 8.45.

B. Penalties.



1. In addition to any other penalties or other enforcement allowed by law, any person who fails to comply with the provisions of this chapter also shall be subject to a civil penalty assessed against the property owner as set forth herein. Each unlawfully removed or damaged tree shall constitute a separate violation.

2. Removal or damage of tree(s) without applying for and obtaining required City approval is subject to a fine of \$1,000 per tree, or up to the marketable value of each tree removed or damaged as determined by a Qualified Tree Professional, whichever is greater.

3. Any fines paid as a result of violations of this chapter shall be allocated as follows: 75% paid into the City's Tree Fund; 25% into the General Fund.

4. The Director may elect not to seek penalties or may reduce the penalties if he/she determines the circumstances do not warrant imposition of any or all of the civil penalties.

5. Penalties are in addition to the restoration of removed trees through the remedial measures listed in TMC Section 18.54.200.

6. It shall not be a defense to the prosecution for a failure to obtain a permit required by this chapter that a contractor, subcontractor, person with responsibility on the site or person authorizing or directing the work erroneously believes a permit was issued to the property owner or any other person.

*(Ord. 2570 §20, 2018; Ord. 1758 §1 (part), 1995)*

### **18.45.yy Remedial Measures**

In addition to the penalties assessed, the Director shall require any person conducting work in violation of this chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

1. Any illegal removal of required trees shall be subject to obtaining a Tree Permit and replacement with trees that meet or exceed the functional value of the removed trees.

2. To replace the tree canopy lost due to the tree removal, additional trees must be planted on-site. Payment shall be made into the City's Tree Fund if the number of replacement trees cannot be accommodated on-site. The number of replacement trees required will be based on the size of the tree(s) removed as stated in Table B.

3. The applicant shall satisfy the permit provisions as specified in this chapter.

4. Remedial measures must conform to the purposes and intent of this chapter. In addition, remedial measures must meet the standards specified in this chapter.

5. Remedial measures must be completed to the satisfaction of the Director within 6 months of the date a Notice of Violation and Order is issued pursuant to TMC Chapter 8.45, or within the time period otherwise specified by the Director.

6. The cost of any remedial measures necessary to correct violation(s) of this chapter shall be borne by the property owner and/or applicant. Upon the applicant's failure to implement required remedial measures, the Director may redeem all or any portion of any security submitted by the applicant to implement such remedial measures, pursuant to the provisions of this chapter.

*(Ord. 2570 §21, 2018; Ord. 1758 §1 (part), 1995)*

### **18.45.zz Enforcement**

A. **General.** In addition to the Notice of Violation and Order measures prescribed in TMC Chapter 8.45, the Director may take any or all of the enforcement actions prescribed in this chapter to ensure compliance with, and/or remedy a violation of this chapter; and/or when immediate danger exists to the public or adjacent property, as determined by the Director.

1. The Director may post the site with a "Stop Work" order directing that all vegetation clearing not authorized under a Tree Permit cease immediately. The issuance of a "Stop Work" order may include conditions or other requirements which must be fulfilled before clearing may resume.

2. The Director may, after written notice is given to the applicant, or after the site has been posted with a "Stop Work" order, suspend or revoke any Tree Permit issued by the City.

3. No person shall continue clearing in an area covered by a "Stop Work" order, or during the suspension or revocation of a Tree Permit, except work required to correct an imminent safety hazard as prescribed by the Director.

B. **Injunctive relief.** Whenever the Director has reasonable cause to believe that any person is violating or threatening to violate this chapter or any provision of an approved Tree Permit, the Director may institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such civil action may be

instituted either before or after, and in addition to, any other action, proceeding or penalty authorized by this chapter or TMC Chapter 8.45.

**C. Inspection access.**

1. The Director may inspect a property to ensure compliance with the provisions of a Tree Permit or this chapter, consistent with TMC Chapter 8.45.

2. The Director may require a final inspection as a condition of a Tree Permit issuance to ensure compliance with this chapter. The permit process is complete upon final approval by the Director.

## CHAPTER 18.52

### LANDSCAPE REQUIREMENTS

#### Sections:

- 18.52.010 Purpose
- 18.52.020 Landscaping Types
- 18.52.030 Perimeter and Parking Lot Landscaping Requirements by Zone District
- 18.52.040 Screening and Visibility
- 18.52.050 Significant Tree Retention
- 18.52.060 Plant Material Requirements and Tree Standards
- 18.52.070 Soil Preparation, Planting and Irrigation
- 18.52.080 Maintenance and Pruning
- 18.52.090 Landscape Plan Requirements
- 18.52.100 Request for Landscape Modifications
- 18.52.110 Violations

#### 18.52.010 Purpose

The purpose of this chapter is to establish minimum requirements for landscaping to:

- Implement the Urban Forestry Comprehensive Plan goals and policies by increasing tree canopy throughout the City to improve air quality; promote the health of residents, visitors and employees; and reduce heat islands and stormwater flows.

- Support the low impact development goals of the Comprehensive Plan and the City's National Pollution Discharge Elimination System permit.

- Promote safety.
- Provide screening between incompatible land uses.
- Mitigate the adverse effects of development on the environment.
- Improve the visual environment for both residents and nonresidents.
- Regulate the protection of existing landscaping.
- Establish requirements for the long-term maintenance of required landscaping.
- Establish procedures for modifying landscaping requirements and penalties for violations of the landscaping code.

*(Ord. 2523 §6, 2017; Ord. 1872 §14 (part), 1999)*

#### 18.52.010 Applicability

This chapter sets forth rules and regulations to control maintenance, clearing and planting of landscaping and vegetation within the City of Tukwila on any developed properties that are zoned commercial, industrial, or multifamily; and on properties that are zoned LDR and developed with a non-single family residential use. For properties located within the Shoreline jurisdiction, the maintenance and removal of vegetation shall be governed by TMC Chapter 18.44, "Shoreline Overlay." For properties located within a critical area or its associated buffer, the maintenance and removal of vegetation shall be governed by TMC Chapter 18.45 "Critical Areas". Clearing and removal of trees on undeveloped land and any land zoned LDR that is developed with a single family residence is regulated by the TMC 18.54 Urban Forestry and Tree Regulations. In case of conflict the most stringent regulations apply.

#### 18.52.020 Landscaping Types

##### A. General Standards for All Landscaping Types.

##### 1. Trees.

a. Trees shall be spaced based on the stature tree selected (small, medium or large stature of tree), excluding curb cuts and spaced regularly, except where there are conflicts with utilities.

b. Large and medium stature tree species are required, per the Tukwila Approved Tree List, except where there is insufficient planting area (due to proximity to a building, street light, above or below ground utility, etc.) or the planned tree location does not permit this size tree at maturity.

2. **Shrubs.** Shrubs shall be spaced based on the mature size of the plant material selected and shall achieve a continuous vertical layer within 3 years. The shrubs will provide 4 feet clearance when mature when adjacent to any fire hydrant or fire department connection.

3. **Groundcover.**

a. Sufficient live groundcovers of varying heights, colors and textures to cover, within 3 years, 100% of the yard area not needed for trees and shrubs.

b. If grass is being used as the groundcover, a 4-foot diameter ring of bark mulch is required around each tree.

~~4. Bioretention may be used as a Type I or II landscape perimeter, provided the intent of the screen is achieved. To support bioretention facility function and plant survival, flexibility in plant materials and placement shall be allowed, provided public safety is not compromised.~~

~~5. The amount of landscaping on commercially-zoned properties may be reduced by 15% if buildings are moved to the front of the site with no parking between the building and the front landscaping, to create a more pedestrian friendly site design.~~

**B. Type I – Light Perimeter Screening.**

1. The purpose of Type I landscaping is to enhance Tukwila's streetscapes, provide a light visual separation between uses and zoning districts, screen parking areas, and allow views to building entryways and signage.

2. Plant materials shall consist of the following:

- a. Trees: A mix of deciduous and evergreen trees.
- b. One shrub per 7 linear feet.
- c. Groundcover.

**C. Type II – Moderate Perimeter Screening.**

1. The purpose of Type II landscaping is to enhance Tukwila's streetscapes, provide a moderate visual separation between uses and zoning districts, screen blank building walls and parking areas, and allow views to building entryways and signage.

2. Plant materials shall consist of the following:

- a. Trees: A mix of deciduous and evergreen trees.
- b. One shrub per 4 linear feet, excluding curb cuts.
- c. Groundcover.

**D. Type III – Heavy Perimeter Screening.**

1. The purpose of Type III landscaping is to provide extensive visual separation along property lines between highly incompatible development, such as warehousing and residential uses.

2. Plant materials shall consist of the following:

- a. Trees consisting of at least 50% evergreen along the applicable property line (75% along property line adjacent to residential uses).
- b. Privacy screen utilizing evergreen shrubs, screening walls or fences (up to 7 feet tall).
- c. Groundcover.

**E. Parking Lot Landscaping.** This landscaping is required to mitigate adverse impacts created by parking lots such as noise, glare, stormwater run-off, and increased heat and to improve their physical appearance.

1. Trees shall be evenly distributed throughout the parking lot. Planting in continuous, landscaped planting strips between rows of parking is encouraged. Surface water management design may also be combined with landscaping in parking lots. In industrial districts (C/LI, LI, HI, MIC/L, MIC/H), clustering of interior parking lot landscaping may be permitted to accommodate site usage.

2. **Landscape islands.**

a. Landscape islands must be a minimum of 6 feet wide, exclusive of overhang, and a minimum of 100 square feet in area. All landscaped areas must be protected from damage by vehicles through the use of curbs, tire stops, or other protection techniques.

b. Landscape islands shall be placed at the ends of each row of parking to protect parked vehicles from turning movements of other vehicles.

c. The number and stature of trees shall be based on the area available in the landscape island. A minimum of one large stature evergreen or deciduous tree or two medium stature trees are required for every 100 square feet of landscaped island, with the remaining area to contain a combination of shrubs, living groundcover, and mulch.

d. For parking lots adjacent to public or private streets, ~~if landscape islands are designed into the parking lot layout to divide continuous rows of parking stalls,~~ the islands must be placed at minimum spacing of 1 for every 10 parking spaces. For parking areas located behind buildings or otherwise screened from public or private streets or public spaces, if landscape islands are used, islands shall be placed at a minimum of 1 for every 15 parking stalls.

3. Bioretention, which includes trees, shrubs and groundcover, may be used to meet interior parking lot landscaping requirements. The bioretention facility must be designed by a professional trained or certified in low impact development techniques as set forth in TMC Chapter 14.30. All bioretention facilities must be protected by curbing to prevent vehicle damage to the facility and for public safety.

4. **Vehicular Overhang.**

a. Vehicle overhang into any landscaping area shall not exceed two feet.

b. No plant material greater than 12 inches in height shall be located within two feet of the curb or other protective barrier in landscape areas adjacent to parking spaces and vehicle use areas.

c. Raised curbs or curb stops shall be used around the landscape islands or bioretention facilities to prevent plant material from being struck by automobiles. Where bioretention is used, curb cuts shall be placed to allow stormwater runoff from adjacent pavements to enter the bioretention system.

5. Pervious pavement shall be used, where feasible, including parking spaces and pedestrian paths.

6. Parking lot landscape design shall accommodate pedestrian circulation.

F. **Street Trees in the Public Frontage.**

1. **Street tree spacing.**

a. Street tree spacing in the public frontage shall be as specified in TMC Section 18.52.060.B.2. based on the stature size of the tree.

b. Spacing must also consider sight distance at intersections, driveway locations, and utility conflicts as specified in TMC Section 18.52.060.B.3.

c. Street trees in the public frontage shall be planted using the following general spacing standards:

(1) At least 3-1/2 feet back from the face of the curb.

(2) At least 5 feet from underground utility lines.

(3) At least 10 feet from utility poles.

(4) At least 7-1/2 feet from driveways.

(5) At least 3 feet from pad-mounted transformers (except 10 feet in front for access).

(6) At least 4 feet from fire hydrants and connections.

d. Planting and lighting plans shall be coordinated so that trees are not planted in locations where they will obstruct existing or planned street or site lighting, while maintaining appropriate spacing and allowing for their size and spread at maturity.

e. Planting plans shall consider the location of existing or planned signage to avoid future conflicts with mature trees and landscaping.

2. **Tree grates.**

a. Tree grates are not encouraged, but when used, shall be designed so that sections of grate can be removed incrementally as the tree matures and shall be designed to avoid accumulation of trash.

b. When used, tree grates and landscaped tree wells shall be a minimum 36 square feet in size (6' x 6'). Tree well size may be adjusted to comply with ADA standards on narrower sidewalks. See TMC Section 18.52.070.A.1., "Soil Preparation and Planting," for structural soil requirements. Root barriers may be installed at the curb face if structural soils are not used.

3. **Maintenance and Pruning.**

a. Street trees are subject to the planting, maintenance, and removal standards and Best Management Practices (BMPs) as adopted by the International Society of Arboriculture, as it now reads and as hereafter amended. Street trees planted prior to the adoption of the most current tree planting standards shall be exempt from these planting standards but are still subject to current removal and maintenance standards.

b. The following standards apply to street tree maintenance:

(1) Street trees shall be maintained consistent with International Society of Arboriculture BMPs.

(2) Street trees shall be maintained in a manner that does not impede public street or sidewalk traffic, consistent with the specifications in the Public Works Infrastructure Design Manual, including:

(a) 8 feet of clearance above public sidewalks.

(b) 13 feet of clearance above public local and neighborhood streets.

(c) 15 feet of clearance above public collector streets.

(d) 18 feet of clearance above public arterial streets.

(3) Street trees shall be maintained so as not to become a defective tree as per the definition in TMC Chapter 18.06.

4. Trees planted in a median shall be appropriate for the planting environment and meet the following requirements:

a. Trees shall be consistent with previously approved median tree plans, given space constraints for roots and branches at maturity.

b. Median plantings shall provide adequate species diversity Citywide and reasonable resistance to pests and diseases.

c. Columnar trees may be considered for median plantings to avoid conflicts with vehicles and utilities.

d. Structural soils shall be used to avoid the need for root barriers and to ensure the success of the median plantings.

e. Any median tree that is removed must be replaced within the same median unless spacing constraints exist. Replacement trees shall be of the same stature or greater at maturity as the removed tree, consistent with other space considerations.

*(Ord. 2523 §7, 2017; Ord. 2518 §11, 2016; Ord. 2251 §62, 2009; Ord. 1872 §14 (part), 1999)*

### 18.52.030 Perimeter and Parking Lot Landscaping Requirements by Zone District

In the various zone districts of the City, landscaping in the front, rear and side yards and parking lots shall be provided as established by the various zone district chapters of this title. These requirements are summarized in the following table (Table A), except for Tukwila Urban Center (TUC) requirements, which are listed in TMC Chapter 18.28.

ZONING DISTRICTS	FRONT YARD (SECOND FRONT) (linear feet)	LANDSCAPE TYPE FOR FRONTS	LANDSCAPE FOR SIDE YARD (linear feet)	LANDSCAPE FOR REAR YARD (linear feet)	LANDSCAPE TYPE FOR SIDE/REAR	LANDSCAPING FOR PARKING LOTS (square feet)
LDR (for uses other than residential)	15 <sup>2</sup>	Type I	10	10	Type I	20 per stall for non-residential uses; 15 per stall if parking is placed behind building
MDR	15 <sup>1, 2, 11</sup>	Type I	10	10	Type I	Same as LDR
HDR	15 <sup>1, 2, 11</sup>	Type I	10	10	Type I	Same as LDR
MUO	15 (12.5) <sup>2, 11</sup>	Type I <sup>7</sup>	6 <sup>4</sup>	6 <sup>4, 11</sup>	Type I <sup>7</sup>	20 per stall adjacent to street; 15 per stall if parking is placed behind building
O	15 (12.5) <sup>2</sup>	Type I <sup>7</sup>	6 <sup>4</sup>	6 <sup>4</sup>	Type I <sup>7</sup>	Same as MUO
RCC	20 (10) <sup>2, 3</sup>	Type I <sup>7</sup>	6 <sup>4</sup>	10 <sup>11</sup>	Type II	Same as MUO
NCC	10 <sup>4, 11</sup>	Type I <sup>7, 13</sup>	0 <sup>4</sup>	0 <sup>4, 11</sup>	Type II	Same as MUO
RC	10	Type I <sup>13</sup>	6 <sup>4</sup>	0 <sup>4</sup>	Type II <sup>8</sup>	Same as MUO
RCM	10	Type I	6 <sup>4</sup>	0 <sup>4</sup>	Type II <sup>8</sup>	Same as MUO



C/LI	15	Type I <sup>6</sup>	6 <sup>5, 12</sup>	0 <sup>5, 12</sup>	Type II <sup>8</sup>	15 per stall; 10 per stall for parking placed behind building
LI	15 <sup>2</sup>	Type II	0 <sup>4, 12</sup>	0 <sup>4, 12</sup>	Type III	15 per stall; 10 per stall for parking placed behind building
HI	15 <sup>2</sup>	Type II	0 <sup>4, 12</sup>	0 <sup>4, 12</sup>	Type III	15 per stall
MIC/L	10 <sup>5</sup>	Type II	0 <sup>5, 12</sup>	0 <sup>5, 12</sup>	Type III	10 per stall
MIC/H	10 <sup>5</sup>	Type II	0 <sup>5, 12</sup>	0 <sup>5, 12</sup>	Type III	10 per stall
TUC – See TMC Chapter 18.28						
TVS	15 <sup>2, 3</sup>	Type II	0 <sup>4</sup>	0 <sup>4</sup>	Type III	Same as C/LI
TSO	15 <sup>2, 9</sup>	Type I	0 <sup>10</sup>	0 <sup>10</sup>	Type III	Same as C/LI for non-residential uses. Same as LDR for residential uses.

**TABLE A – Perimeter and Parking Lot Landscaping Requirements by Zone District**

**Notes:**

1. Minimum required front yard landscaped areas in the MDR and HDR zones may have up to 20% of their required landscape area developed for pedestrian and transit facilities subject to the approval criteria in TMC Section 18.52.100.B.

2. In order to provide flexibility of the site design while still providing the full amount of landscaping required by code, the front yard landscape width may be divided into a perimeter strip and one or more other landscape areas between the building and the front property line if the perimeter strip is a minimum of 10 feet and the landscape materials are sufficient to provide landscaping along the perimeter and screening of the building mass.

3. Required landscaping may include a mix of plant materials, pedestrian amenities and features, outdoor café-type seating and similar features, subject to the approval criteria in TMC Section 18.52.100.B. Bioretention may also be used as required landscaping subject to the approval criteria in TMC Section 18.52.100.E. Required plant materials will be reduced in proportion to the amount of perimeter area devoted to pedestrian-oriented space.

4. Increased to 10 feet if any portion of the yard is within 50 feet of LDR, MDR or HDR.

5. Increased to 15 feet if any portion of the yard is within 50 feet of LDR, MDR or HDR.

6. Increased to Type II if the front yard contains truck loading bays, service areas or outdoor storage.

7. Increased to Type II if any portion of the yard is within 50 feet of LDR, MDR or HDR.

8. Increased to Type III if any portion of the yard is

within 50 feet of LDR, MDR or HDR.

9. Only required along public streets.

10. Increased to 10 feet for residential uses; or if adjacent to residential uses or non-TSO zoning.

11. In the MDR and HDR districts and other districts where multifamily development is permitted, a community garden may be substituted for some or all of the landscaping. In order to qualify, a partnership with a nonprofit (501(c)(3)) with community garden expertise is required to provide training, tools and assistance to apartment residents. Partnership with the nonprofit with gardening expertise is required throughout the life of the garden. If the community garden is abandoned, the required landscaping must be installed. If the garden is located in the front landscaping, a minimum of 5 feet of landscaping must be placed between the garden and the street.

12. To accommodate the types of uses found in the C/LI, LI, HI and MIC districts, landscaping may be clustered to permit truck movements or to accommodate other uses commonly found in these districts if the criteria in TMC Section 18.52.100.D are met.

13. For NCC and RC zoned parcels in the Tukwila International Boulevard District, the front landscaping may be reduced or eliminated if buildings are brought out to the street edge to form a continuous building wall, and if a primary entrance from the front sidewalk as well as from off-street parking areas is provided.

*(Ord. 2580 §6, 2018; Ord. 2523 §8, 2017;  
Ord. 2442 §1, 2014; Ord. 2251 §61, 2009;  
Ord. 2235 §13, 2009; Ord. 1872 §14 (part), 1999)*

**18.52.040 Screening and Visibility**

**A. Screening.**

1. Screening of outdoor storage, mechanical equipment and garbage storage areas and fences:

a. Outdoor storage shall be screened from abutting public and private streets and from adjacent properties. Such screens shall be a minimum of 8 feet high and not less than 60% of the height of the material stored. The screens shall be specified on the plot plan and approved by the Community Development Director. In the MDR and HDR zones, outdoor storage shall be fully screened from all public roadways and adjacent parcels with a high obscuring structure equal in height to the stored objects and with a solid screen of exterior landscaping.

b. Ground level mechanical equipment and garbage storage areas shall be screened with evergreen plant materials and/or fences or masonry walls.

c. Fences. All fences shall be placed on the interior side of any required perimeter landscaping.

2. A mix of evergreen trees and evergreen shrubs shall be used to screen blank walls.

3. Evergreen shrubs and evergreen trees shall be used for screening along rear property lines, around solid waste/recycling areas, utility cabinets and mechanical equipment, and to obscure grillwork and fencing associated with subsurface parking garages. Evergreen shrubs and trees shall be pruned so that 18 inches visibility at the base is maintained.

#### B. Visibility.

1. Design of new landscaping and maintenance of existing landscaping shall consider Crime Prevention Through Environmental Design (CPTED) principals and visibility for safety and views. Appropriate plant species shall be specified to avoid the need for excessive maintenance pruning.

2. Landscaping shall not obstruct views from or into building windows, the driveway, sidewalk or street. Landscape design shall allow for surveillance from streets and buildings and avoid creating areas that might harbor criminal activity.

3. Landscaping at crosswalks and other locations where vehicles and pedestrians intersect must not block pedestrians' and drivers' views.

4. In general, deciduous trees with open branching structures are recommended to ensure visibility to retail establishments. More substantial shade trees or evergreens are recommended in front of private residences.

(Ord. 2523 §9, 2017)

### 18.52.050 Significant Tree Retention

A. All significant trees located within any required landscape area that are not dead, dying, diseased, or a nuisance species, as identified in the Tukwila Approved Tree List, and that do not pose a safety hazard or conflict with overhead utility lines as determined by the City or an ISA certified arborist, shall be retained and protected during construction with temporary fencing or other enclosure, as appropriate to the site and following Best Management Practices for tree protection (see TMC Chapter 18.54).

B. Topping of trees is prohibited and is subject to replacement. Additionally, pruning of more than 25% of canopy in a 36 month period is prohibited and is subject to replacement per TMC 18.52.110 Table C.

BC. Retained significant trees may be counted towards required landscaping. Additionally, the required landscaping may be reduced in exchange for retaining significant trees subject to Director approval and per TMC 18.52.100.F. For each 2% of effective canopy cover provided by preserved trees incorporated into a development plan, a 2% reduction in the minimum landscape requirement may be granted. No more than 20% of the minimum landscape requirement may be reduced for any one development. Approval is required per TMC Section 18.52.100 F.

CD. The area designated for protection will vary based on the tree's diameter, species, age, and the characteristics of the planted area, and Best Management Practices for protection shall be utilized (see TMC Chapter 18.54). Property owners may be required to furnish a report by an ISA certified arborist to document a tree's condition if a tree is to be retained. The Director may require that an ISA certified arborist be retained to supervise tree protection during construction. Grade changes around existing trees within the critical root zone are not allowed.

(Ord. 2523 §10, 2017)

### 18.52.055 Tree Protection Standards

All trees not proposed for removal as part of a project or development shall be protected using Best Management Practices and the standards below.

1. The Critical Root Zones (CRZ) for all trees designated for retention, on site or on adjacent property as applicable, shall be identified on all construction plans, including demolition, grading, civil and landscape site plans.
2. Any roots within the CRZ exposed during construction shall be covered immediately and kept moist with appropriate materials. The City may require a third-party Qualified Tree Professional to review long-term viability of the tree.
3. Physical barriers, such as 6-foot chain link fence or plywood or other approved equivalent, shall be placed around each individual tree or grouping at the CRZ.
4. Minimum distances from the trunk for the physical barriers shall be based on the approximate age of the tree (height and canopy) as follows:
  - a. Young trees (trees which have reached less than 20% of life expectancy): 0.75 per inch of trunk diameter.
  - b. Mature trees (trees which have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.
  - c. Over mature trees (trees which have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.
5. Alternative protection methods may be used that provide equal or greater tree protection if approved by the Director.
6. A weatherproof sign shall be installed on the fence or barrier that reads:

"TREE PROTECTION ZONE – THIS FENCE SHALL NOT BE REMOVED OR ENCROACHED UPON. No soil disturbance, parking, storage, dumping or burning of materials is allowed within the Critical Root Zone. The value of this tree is \$ [insert value of tree as determined by a Qualified Tree Professional here]. Damage to this tree due to construction activity that results in the death or necessary removal of the tree is subject to the Violations section of TMC Chapter 18.54."
7. All tree protection measures installed shall be inspected by the City and, if deemed necessary a Qualified Tree Professional, prior to beginning construction or earth moving.
8. Any branches or limbs that are outside of the CRZ and might be damaged by machinery shall be pruned prior to construction by a Qualified Tree Professional. No construction personnel shall prune affected limbs except under the direct supervision of a Qualified Tree Professional.
9. The CRZ shall be covered with 4 to 6 inches of wood chip mulch. Mulch shall not be placed directly against the trunk. A 6-inch area around the trunk shall be free of mulch. Additional measures, such as fertilization or supplemental water, shall be carried out prior to the start of construction if deemed necessary by the Qualified Tree Professional's report to prepare the trees for the stress of construction activities.
10. No storage of equipment or refuse, parking of vehicles, dumping of materials or chemicals, or placement of permanent heavy structures or items shall occur within the CRZ.
11. No grade changes or soil disturbance, including trenching, shall be allowed within the CRZ. Grade changes within 10 feet of the CRZ shall be approved by the City prior to implementation.
12. The applicant is responsible for ensuring that the CRZ of trees on adjacent properties are not impacted by the proposed development.
13. A pre-construction inspection shall be conducted by the City to finalize tree protection actions.
14. Post-construction inspection of protected trees shall be conducted by the City and, if deemed necessary by the City, a Qualified Tree Professional. All corrective or reparative pruning will be conducted by a Qualified Tree Professional.

#### **18.52.060 Plant Material Requirements and Tree Standards**

##### **A. Plant Material Requirements.**

1. Plants shall meet the American Standard for Nursery Plant Stock (American Nursery and Landscape Association-ANLA) (ANSI Z60.1) as it now reads and as hereafter amended, and shall be healthy, vigorous and well-formed, with well-developed, fibrous root systems, free from dead branches or roots. Plants shall be free from damage caused by temperature extremes, pre-planting or on-site storage, lack of or excess moisture, insects, disease, and

mechanical injury. Plants in leaf shall be well foliated and of good color. Plants shall be habituated to outdoor environmental conditions (i.e. hardened-off).

2. Evergreen trees shall be a minimum of 6 feet in height at time of planting.
3. Deciduous trees shall have at least a 2-inch caliper at time of planting as measured 4.5 feet from the ground, determined according to the American Standard for Nursery Stock as it now reads and as hereafter amended.
4. Shrubs shall be at least 18 inches in height, and full and bushy at time of planting.
5. New plant materials shall include native species or non-native species with lower water requirements and that are adapted to the climatic conditions of the Puget Sound Region. There must be a diversity of tree and shrub genus and species in the site landscaping, taking into account species in existing development around the site.
  - a. If there are more than 8 required trees, no more than 40 percent may be of one species.
  - b. If there are more than 24 required trees, no more than 20 percent may be of one species.
  - c. If there are more than 25 required shrubs, no more than 50 percent may be of one species.
6. Any species that is listed on the State of Washington or King County noxious weed lists or otherwise known to be a nuisance or invasive shall not be planted.
7. Plant materials shall be selected that reinforce the landscape design concept, and are appropriate to their location in terms of hardiness, cultural requirements, tolerance to urban conditions, maintenance needs and growth characteristics.
8. The classification of plant material as trees, shrubs and evergreens shall be as listed in the Hortus Third, A Concise Dictionary of Plants Cultivated in the U.S. and Canada, as it now reads and as hereafter amended.
9. Plant material requirements for bioretention facilities shall be in accordance with the City's Bioretention Plant List, unless approved by staff.
10. Non-developed site areas, such as utility easements, shall be landscaped and/or treated with erosion control planting or surfacing such as evergreens, groundcover, shrubs, trees, sod or a combination of similar materials. In areas with overhead utility lines, no shrubs or trees shall be allowed that could mature over 20 feet in height. Trees should not be planted within 10 feet of underground utilities, such as power, water, sewer or storm drainage pipes.

#### **B. Tree Standards.**

1. Tree species shall be appropriate for the planting environment as determined by the Department Director in consultation with the City environmentalist and shall seek to achieve a balance of the following:
  - a. Consistency with Tukwila Approved Tree List or the City's Bioretention Plant List.
  - b. Compatibility with space constraints for roots and branches at maturity.
  - c. Adequate species diversity Citywide and reasonable resistance to pests and diseases.
2. Trees shall be provided adequate spacing from new and existing trees according to the following standards wherever possible:
  - a. Trees categorized as small stature on the tree list shall be spaced no greater than 20 feet on center and not closer than 15 feet on center from other newly planted or existing trees.
  - b. Trees categorized as medium stature on the tree list shall be spaced no greater than 30 feet on center and not closer than 20 feet on center from other newly planted or any existing trees.
  - c. Trees categorized as large stature on the tree list shall be spaced no greater than 40 feet on center and not closer than 30 feet on center from other newly planted or existing trees.
  - d. Any tree determined to have a mature spread of less than 20 feet (a columnar or fastigiate variety) is discouraged except under specific conditions and shall be considered a small stature tree and spaced accordingly.
3. Trees shall be placed according to the following standards:
  - a. Small stature trees shall be planted with the center of their trunks a minimum of 2 feet from any hard surface paving.
  - b. Medium stature trees shall be planted with the center of their trunks a minimum of 2.5 feet from any hard surface paving.
  - c. Large stature trees shall be planted with the center of their trunks a minimum of 3 feet from any hard surface paving.
  - d. Trees shall generally be planted a minimum of:
    - (1) 4 feet on center from any fire hydrant, above-ground utility or utility pole;
    - (2) 2 feet on center from any underground utility;

(3) 5 feet on center from a street light standard;  
(4) 20 feet from a street intersection; however, a greater or lesser corner setback may be required based on an analysis of traffic and pedestrian safety impacts.

(5) 5 to 10 feet from building foundations depending on species.

4. Where there are overhead utility lines, the tree species selected shall be of a type which, at full maturity, will not interfere with the lines or require pruning to maintain necessary clearances.

5. Root barriers may be installed according to the manufacturer's specifications when a tree is planted within 5 feet of any hard surface paving or utility feature and in areas where structural soil is not required, subject to approval by the Department Director in consultation with the City's environmentalist.

6. Low water usage species are encouraged in order to minimize future irrigation requirements, except where site conditions within the required landscape areas ensure adequate moisture for growth.

7. Shade trees should be planted to shade buildings' east- and west-facing windows to provide a balance between summer cooling and winter heating through solar gain.

(Ord. 2523 §11, 2017)

### 18.52.070 Soil Preparation, Planting and Irrigation

#### A. Soil Preparation and Planting.

1. For landscaping in sidewalks and parking lots, or in limited areas of soil volume, structural soils (Cornell University product or similar) must be used to a preferred depth of 36 inches to promote tree root growth and provide structural support to the paved area. Minimum soil volumes for tree roots shall be 750 cubic feet per tree (see specifications and sample plans for CU-Structural Soils). Trees and other landscape materials shall be planted according to specifications in "CU Structural Soils – A Comprehensive Guide," as it now reads and as hereafter amended, or using current Best Management Practices (BMPs) as approved by the Director. Suspended pavement systems (Silva Cells or similar) may also be used if approved by the Director.

2. For soil preparation in bioretention areas, existing soils must be protected from compaction. Bioretention soil media must be prepared in accordance with standard specifications of the Surface Water Design Manual, adopted in accordance with TMC Chapter 14.30, to promote a proper functioning bioretention system. These specifications shall be adhered to regardless of whether a stormwater permit is required from the City.

3. For all other plantings (such as large planting areas where soil volumes are adequate for healthy root growth with a minimum volume of 750 cubic feet per tree), soils must be prepared for planting in accordance with BMP T5.13, "Post Construction Soil Quality and Depth," from the Washington Department of Ecology Stormwater Management Manual for Western Washington (as it now reads and as hereafter amended), regardless of whether a stormwater permit is required by the City.

4. The applicant will be required to schedule an inspection by the City of the planting areas prior to planting to ensure soils are properly prepared. Soil must be amended, tilled and prepped to a depth of at least 12 inches.

5. Installation of landscape plants must comply with BMPs including:

a. Planting holes that are the same depth as the size of the root ball and two to three times wider than the root ball.

b. Root balls of potted and balled and burlapped (B&B) plants must be loosened and pruned as necessary to ensure there are no encircling roots prior to planting. All burlap and all straps or wire baskets must be removed from B&B plants prior to planting.

c. The top of the root flare, where the roots and the trunk begin, should be placed at grade. The root ball shall not extend above the soil surface and the flare shall not be covered by soil or mulch.

d. If using mulch around trees and shrubs, maintain at least a 6-inch mulch-free ring around the base of the tree trunks and woody stems of shrubs. If using mulch around groundcovers until they become established, mulch shall not be placed over the crowns of perennial plants.

#### B. Irrigation.

1. The intent of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering and to ensure their long term viability.

2. All required plantings must be served by a permanent automatic irrigation system, unless approved by the Director.



a. Irrigation shall be designed to conserve water by using the best practical management techniques available, including BMPs, for daily timing of irrigation to optimize water infiltration and conservation. These techniques may include, but not be limited to: drip irrigation (where appropriate) to minimize evaporation loss, moisture sensors to prevent irrigation during rainy periods, automatic controllers to ensure proper duration of watering, sprinkler head selection and spacing designed to minimize overspray, and separate zones for turf and other landscaping and for full sun exposure and shady areas to meet watering needs of different sections of the landscape.

b. Exceptions to the irrigation requirement may be approved by the Director, such as xeriscaping (i.e., low water usage plantings), plantings approved for low impact development techniques, established indigenous plant material, or landscapes where natural appearance is acceptable or desirable to the City. However, those exceptions will require temporary irrigation until established.

3. All temporary irrigation must be removed at the end of the 3-year plant establishment period.

*(Ord. 2523 §12, 2017)*

#### **18.52.080 Maintenance and Pruning**

A. Any landscaping required by this chapter shall be retained and maintained by the property owner for the life of the development in conformance with the intent of the approved landscape plan and this chapter. Maintenance shall also include keeping all planting areas free of weeds and trash and replacing any unhealthy or dead plant materials.

B. Green roofs or rooftop gardens shall be maintained to industry standards and any dead or dying plant material replaced.

C. Pruning of trees and shrubs is only allowed for the health of the plant material, to maintain sight distances or sight lines, or if interfering with overhead utilities. All pruning must be done in accordance with American National Standards Institute (ANSI) A-300 specifications, as it now reads and as hereafter amended.

D. No tree planted by a property owner or the City to fulfill landscape requirements, or any existing tree, may be topped or removed without prior approval from the City. Any tree topped or removed without approval shall be subject to code enforcement action per TMC Chapter 8.45 in addition to the requirements of TMC Section 18.52.110, "Violations."

E. Private property owners shall collect and properly dispose of all landscaping debris. Private property landscaping debris shall not be placed or blown into the public right-of-way for City collection. Violations will be subject to code enforcement action per TMC Chapter 8.45.

F. As trees along the street frontages mature, they shall be limbed up, using proper ISA pruning techniques, to a minimum height of 8 to 18 feet depending on location of tree (over sidewalk, adjacent to road, etc.) to allow adequate visibility and clearance for vehicles. Trees may be pruned to improve views of signage and entryways by using such techniques as windowing, thinning, and limbing up; however, no more than 1/4 of the canopy may be removed within any 2-year period. All pruning shall be done in accordance with ANSI Standard A-300 specifications, as it now reads and as hereafter amended.

G. Trees may only be pruned to lower their height to prevent interference with an overhead utility line with prior approval by the Director. The pruning must be carried out under the direction of an ISA certified arborist. The crown shall be maintained to at least 2/3 the height of the tree prior to pruning. Otherwise, trees shall not be topped—~~Illegal topping is subject to replacement. Additionally, pruning of more than 25% of canopy in a 36 month period is prohibited and is subject to replacement per TMC 18.52.110 Table C.~~

*(Ord. 2523 §13, 2017)*

#### **18.52.090 Landscape Plan Requirements**

A. Landscape plan design shall take into consideration the mature size of proposed landscape materials to minimize the future need for pruning (i.e. placement such that mature trees and shrubs will not cause problems for foundations, obscure signage, grow too close to overhead or underground utility lines, obstruct views of traffic, etc.).

B. A Washington State licensed landscape architect or other accredited landscape design professional shall prepare the landscape plans in accordance with the standards herein. Detailed plans for landscaping and screening shall be submitted with plans for building and site improvements. The plans shall, at a minimum, include the type, quantity, spacing and location of plants and materials; typical planting details; soil amendment/installation; tree protection details as applicable; and the location of irrigation systems and significant trees within 20 feet of the property line on adjacent properties. Underground and at-ground utilities shall be shown on the plans so that planting conflicts



are avoided. A detailed list of items to be included on the landscape plan is available in the Landscape Plan handout, available on-line or at the offices of the Department of Community Development.

C. Installation of the landscaping and screening shall be completed and a Landscaping Declaration submitted by the owner or owner's agent prior to issuance of the Certificate of Occupancy. Any plant substitutions shall be noted on the Declaration. If necessary, due to weather conditions or construction scheduling, the installation may be postponed to the next planting season (October – April) if approved by the Director and stated on the building permit. A performance assurance device equal to 150% of the cost of the labor and materials must be provided to the City before the deferral is approved.

(Ord. 2523 §14, 2017; Ord. 2368 §53, 2012; Ord. 2251 §65, 2009;  
Ord. 1971 §19, 2001; Ord. 1872 §14 (part), 1999)

## 18.52.100 Request for Landscape Modifications

~~A. C.~~ Revisions to existing landscaping may be approved only if the following criteria are met:

~~1. The modification or revision does not reduce the landscaping to the point that activities on the site become a nuisance to neighbors; adjacent properties; and~~

~~2. The modification or revision does not diminish the quality of the site landscape as a whole; and either~~  
~~a2. Proposed vegetation removal, replacement, and any mitigation measures proposed are consistent with the purpose and intent given in of this chapter and brings landscaping into conformance with standards of TMC 18.52; and/or~~

~~3. b. Proposed revision. The granting of an exception or standard reduction will not be detrimental to the public health, safety or welfare or injurious to other property in the vicinity.~~

~~4.3. Any trees proposed to be removed shall be replaced with trees of similar or larger size at a minimum ratio of 1:1. In addition, if trees are removed due to conflicts with utilities, these trees shall be replaced based on the tree replacement table (Table C) in TMC Chapter 18.52.110.~~

~~AB.~~ The following ~~deviations~~ ~~modifications~~ to the requirements of this chapter may be considered either as a Type 2, Special Permission Director decision, or through design review if the project is subject to that process.

1. ~~Deviation from Modifications to~~ the requirements of Type I, II, or III landscaping, including but not limited to the use of the landscape area for pedestrian and transit facilities, landscape planters, rooftop gardens or green roofs, terraced planters or green walls, or revisions to existing landscaping. ~~5. The amount of landscaping on commercially-zoned properties may be reduced by 15% if buildings are moved to the front of the site with no parking between the building and the front landscaping, to create a more pedestrian-friendly site design.~~

2. Clustering and/or averaging of required landscaping. The landscape perimeter may be clustered if the total required square footage is achieved, unless the landscaping requirement has been increased due to proximity to LDR, MDR or HDR. In addition, up to 50% of the perimeter landscaping may be relocated to the interior parking to provide more flexibility for site organization.

3. Substitution of bioretention facility for required landscaping for Type I or II landscaping. Landscaping in a bioretention facility that includes trees, shrubs and groundcover may be counted up to 100% towards required landscaping depending on the location, type of bioretention facility proposed and proposed use.

4. Credit for retained significant trees towards landscaping requirement.

B. The following criteria apply to requests ~~for deviation from to modify any~~ required landscaping ~~standards. Modifications to landscaping requirements may be approved only if the following criteria are met:~~

1. The ~~deviation~~ ~~modification or revision~~ does not reduce the landscaping to the point that activities on the site become a nuisance to neighbors; and

2. The modification or revision does not diminish the quality of the site landscape as a whole; and

3. One or more of the following are met:

a. The modification or revision more effectively screens parking areas and blank building walls; or

b. The modification or revision enables significant trees or existing built features to be retained; or

c. The modification or revision is used to reduce the number of driveways and curb cuts and allow joint use of parking facilities between neighboring businesses; or

- d. The modification or revision is used to incorporate pedestrian or transit facilities; or
- e. The modification is for properties in the NCC or RC districts along Tukwila International Boulevard, where the buildings are brought out to the street edge and a primary entrance from the front sidewalk as well as from off-street parking areas is provided; or
- f. The modification is to incorporate alternative forms of landscaping such as landscape planters, rooftop gardens, green roof, terraced planters or green walls; or
- g. The modification is to incorporate a community garden, subject to the provisions of TMC Section 18.52.030, Note 11.

~~C. Revisions to existing landscaping may be approved only if the following criteria are met:~~

- ~~1. The modification or revision does not reduce the landscaping to the point that activities on the site become a nuisance to neighbors; and~~
- ~~2. The modification or revision does not diminish the quality of the site landscape as a whole; and either~~
  - ~~a. Proposed vegetation removal, replacement, and any mitigation measures proposed are consistent with the purpose and intent given in this chapter; or~~
  - ~~b. The granting of an exception or standard reduction will not be detrimental to the public health, safety or welfare or injurious to other property in the vicinity.~~
- ~~3. In addition, if trees are removed due to conflicts with utilities, these trees shall be replaced based on the tree replacement table (Table C) in TMC Chapter 18.52.110.~~

**DC.** Clustering or perimeter averaging of landscaping may be considered if:

- 1. It does not diminish the quality of the site landscape as a whole; and
- 2. It does not create a nuisance to adjacent properties; and
- 3. If adjacent to residential development, the impacts from clustering are minimized; and
- 4. One or more of the following criteria are met:
  - a. Clustering or perimeter averaging of plant material allows more effective use of the industrial property;

or

- b. Clustering or perimeter averaging of landscaping enables significant trees to be retained; or
- c. Clustering or perimeter averaging is used to reduce the number of driveways and curb cuts and/or allow joint use of parking facilities between neighboring businesses; or
- d. Clustering or perimeter averaging avoids future conflicts with signage.

**DE.** Landscaping in a bioretention facility, which includes trees, shrubs, and groundcovers as identified on the City's approved Bioretention Plant List and as regulated in TMC Chapter 14.30, may be counted up to 100% towards required Type I or Type II landscaping. Bioretention facilities shall not be counted towards required Type III landscaping. All of the following criteria must be met:

- 1. The bioretention facility has been designed by a professional trained or certified in low impact development techniques; and
- 2. The landscaping meets the screening requirements of the specified landscape type; and
- 3. Public safety concerns have been addressed; and
- 4. The number of trees required by the landscape type are provided.

**F. Credit for Retained significant trees.**

- 1. Credit for retained significant trees may be counted towards required landscaping if the following criteria are met:
  - a. Assessment of trees by an ISA certified arborist as to tree health, value of the trees and the likelihood of survivability during and after construction is provided; and
  - b. Retention of tree(s) supports the Tukwila Comprehensive Plan urban tree canopy goals and policies; and
  - c. A financial assurance is posted based on 150% of the value of the retained tree(s) to ensure tree replacement should the retained trees be damaged or die as a result of construction impacts. The financial assurance shall be retained for three years.
- 2. The value of the significant tree(s) to be retained, as determined by an ISA certified arborist, shall be posted on the tree prior to site preparation and retained throughout the construction of the project.

*(Ord. 2523 §15, 2017)*

**18.52.110 Violations**

- A. **Violations.** The following actions shall be considered a violation of this chapter:
  1. Any removal or damage of landscaping that is required by this chapter.
  2. Topping or excessive pruning of trees or shrubs, except as explicitly allowed by this chapter.
  3. Failure to replace dead landscaping materials.

B. **Penalties.** In addition to any other penalties or other enforcement actions, any person who fails to comply with the provisions of this chapter also shall be subject to a civil penalty assessed against the violator as set forth herein. Each unlawfully removed or damaged tree shall constitute a separate violation.

1. The amount of the penalty shall be assessed based on Table B below. The Director may elect not to seek penalties or may reduce the penalties if he/she determines the circumstances do not warrant imposition of any or all of the civil penalties.

2. Penalties are in addition to the restoration of removed plant materials through the remedial measures listed in TMC Section 18.52.110.C.

3. It shall not be a defense to the prosecution for a failure to obtain a permit required by this chapter that a contractor, subcontractor, person with responsibility on the site or person authorizing or directing the work erroneously believes a permit was issued to the property owner or any other person.

**TABLE B – Fines**

Type of Violation	Allowable Fines per Violation
Removal or damage of trees or specimen shrubs without applying for and obtaining required City approval	\$1,000 per tree, or up to the marketable value of each tree removed or damaged as determined by an ISA certified arborist.

C. **Remedial Measures.** In addition to the penalties provided in TMC Section 18.52.110.B, the Director shall require any person conducting work in violation of this chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

1. Any illegal removal of required trees shall be subject to obtaining a tree permit and replacement with trees that meet or exceed the functional value of the removed trees. In addition, any shrubs and groundcover removed without City approval shall be replaced.

2. To replace the tree canopy lost due to the tree removal, additional trees must be planted on-site. Payment may be made into the City’s Tree Fund if the number of replacement trees cannot be accommodated on-site. The number of replacement trees required will be based on the size of the tree(s) removed as stated in Table C.

**TABLE C – Tree Replacement Requirements**

Diameter* of Tree Removed (*measured at height of 4.5 feet from the ground)	Number of Replacement Trees Required
4-6 inches (single trunk) OR 2 inches (any trunk of a multi-trunk tree)	3
Over 6-8 inches	4
Over 8-20 inches	6
Over 20 inches	8

D. **Enforcement.** It shall be the duty of the Community Development Director to enforce this chapter pursuant to the terms and conditions of TMC Chapter 8.45 or as otherwise allowed by law.

E. **Inspection Access.**

1. For the purposes of inspection for compliance with the provisions of a permit or this chapter, authorized representatives of the Community Development Director may enter all sites for which a permit has been issued.

2. Upon completion of all requirements of a permit, the applicant shall request a final inspection by contacting the planner of record. The permit process is complete upon final approval by an authorized representative of the Community Development Director.

(Ord. 2523 §16, 2017)



## CHAPTER 18.54

### URBAN FORESTRY AND TREE REGULATIONS

#### Sections:

- 18.54.010 Purpose
- 18.54.020 Scope
- 18.54.030 Tree Permit Required
- 18.54.040 Permit Submittal Requirements
- 18.54.050 Permit Approval Criteria, General
- 18.54.060 Tree Retention Standards
- 18.54.070 Tree Protection Standards
- 18.54.080 Tree Replacement Standards
- 18.54.090 Tree Relocation
- 18.54.100 Tree Fund
- 18.54.110 Performance Assurance
- 18.54.120 Liability
- 18.54.130 Permit Processing and Duration
- 18.54.140 Permit Exceptions
- 18.54.150 Permit Conformance
- 18.54.160 Soil Preparation, Plant Material and Maintenance Standards
- 18.54.170 Heritage Trees and Heritage Groves
- 18.54.180 Approved and Prohibited Trees
- 18.54.190 Violations
- 18.54.200 Remedial Measures
- 18.54.210 Enforcement

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#### 18.54.010 Purpose

A. The purpose of this chapter is to implement the Urban Forestry Comprehensive Plan goals; to maintain and increase tree canopy throughout the City; and to provide requirements for tree maintenance, tree retention and protection. Trees and their canopy act to improve air quality, promote the public health, reduce human-related stress, increase property values, reduce heat islands, and reduce storm water flows. The tree regulations also support the Low Impact Development goals of the Comprehensive Plan and the City's National Pollution Discharge Elimination System permit.

B. In particular, the purpose of this chapter is to:

1. Protect existing trees prior to and during development;
2. Establish protections for the long-term maintenance of trees and vegetation;
3. Moderate the effects of wind and temperature;
4. Minimize the need for additional storm drainage facilities;
5. Stabilize and enrich the soil and minimize surface water and ground water run-off and diversion which may contribute to increased instability, sedimentation, or turbidity in streams, lakes, or other water bodies;
6. Protect fish, wildlife and their habitats by promoting tree retention and improving water quality;
7. Ensure tree replacement after removal to provide erosion control and to achieve canopy coverage goals;
8. Recognize the importance of Heritage and Exceptional Trees to the history of the community; and
9. Establish procedures for penalties and violations of the tree code.

*(Ord. 2570 §2, 2018; Ord. 1758 §1 (part), 1995)*

#### 18.54.020 Scope Applicability

This chapter sets forth rules and regulations to control maintenance and clearing of trees within the City of Tukwila on any undeveloped land and any land zoned Low Density Residential (LDR) that is developed with a single family residence; For properties located within the Shoreline jurisdiction, -maintenance and removal of vegetation shall be governed by TMC Chapter 18.44, "Shoreline Overlay." For properties located within a critical area or its associated buffer, the maintenance and removal of vegetation shall be governed by TMC Chapter 18.45 "Critical Areas". TMC Chapter 18.52 "Landscape Requirements" shall govern the maintenance and removal of landscaping on developed properties that are zoned commercial, industrial, or multifamily; and on properties located in the LDR zone that are developed with a non-single family residential use. The most stringent regulations shall apply in case of a conflict.

(Ord. 2570 §3, 2018; Ord. 1758 §1 (part), 1995)

#### 18.54.030 Tree Permit Required

##### A. Permit Required.

1. A Tree Permit is required prior to work within the Critical Root Zone of any Significant, Exceptional or Heritage Tree or prior to the removal or destruction of any these trees within the City, unless the action is exempt from this chapter.

2. A Tree Permit is required when any person wishes to prune a Heritage Tree in excess of 20% of the existing crown in a two-year period.

3. A request for an exception to the requirements of the chapter shall be processed under a Tree Exception Permit.

~~B. Tree removal on undeveloped lots is prohibited.~~

~~B.~~ **Tree Removal Exemptions.** The following activities are exempt from the permit requirements of this chapter except as noted below:

~~1.~~ 4. The removal of trees that are less than 6 inches in Diameter at Breast Height (DBH) on a property zoned Low Density Residential and improved with a single-family dwelling.

~~2.~~ Removal of no more than four trees that are 6-8" DBH on a property zoned Low Density Residential and improved with a single-family dwelling in any 36 month period so long as the property owner submits a tree inventory survey, which includes the following:

a. Number of and size of trees to be removed.

b. The location of any affected utility lines within the overhead "fall zone" or other built infrastructure.

c. Photos of the tree(s) to be removed;

d. The method of removal and identification of contractor; and

e. Time schedule of tree removal.

~~23.~~ The removal of Dead Trees outside of the shoreline jurisdiction or a sensitive area or its buffer.

~~43.~~ Routine maintenance of trees necessary to maintain the health of cultivated plants, or to contain noxious weeds or invasive species as defined by the City of Tukwila or King County, and routine maintenance within rights-of-way related to Interference, Sight Distance, Emergencies or Topping, as codified in TMC Chapter 11.20. Routine maintenance includes the removal of up to ~~250%~~ of the existing tree crown in a 36 month two-year period.

~~45.~~ Emergency actions necessary to remedy an immediate threat to people or property, or public health, safety or welfare by a high-risk or extreme-risk tree may be undertaken in advance of receiving a permit. Any person, utility or public entity undertaking such an action shall submit a Tree Permit application within one week of the emergency action and replace tree(s) if required by this chapter. Additional time to apply for a Tree Permit may be granted at the discretion of the Director.

~~65.~~ The removal of trees in the right-of-way related to a capital project that has a landscaping component that includes trees, where there is adequate room in the right-of-way.

~~67.~~ Removal of trees as allowed with a Class I-IV forest practices permit issued by the Washington State Department of Natural Resources.

(Ord. 2570 §4, 2018; Ord. 1758 §1 (part), 1995)

#### 18.54.040 Permit Submittal Requirements

A. ~~Single-family Tree Removal—Up to Four Trees.~~ Except for Heritage Trees, the removal of ~~1-4 Significant Trees within any 36-month period on a property zoned Low Density Residential and improved with a single family~~



dwelling is permitted, subject to the requirements of Table A below and possible tree replacement. Information to be submitted as part of a Tree Inventory Survey shall include the following:

- ~~1. Number of and size of trees to be removed.~~
- ~~2. The location of any affected utility lines within the overhead "fall zone" or other built infrastructure.~~
- ~~3. Photos of the tree(s) to be removed;~~
- ~~4. The method of removal and identification of contractor; and~~
- ~~5. Time schedule of tree removal.~~

**Table A**  
**Single Family Tree Removal Requirements**

Trees (DBH)	# of Trees in 36-month period that can be removed	Tree Permit?	Qualified Tree Professional Report?
6-8"	4	Inventory Survey	No
>8-12"	2	Yes	No
>12-18"	2	Yes	No
>18"	1	Yes	No

**BA. Permit Application.** Prior to any tree removal, site clearing or work within the Critical Root Zone, a Tree Permit application must be submitted to the Department of Community Development containing the following information:

1. Site Plan of the proposal showing:
  - a. Diameter, species name, location and canopy of existing Significant Trees in relation to proposed and existing structures, utility lines, and construction limit line;
  - b. Identification of all Significant Trees to be removed and/or relocated;
  - c. Existing and proposed topography of the site at 2-foot contour intervals; and
  - d. Limits of any sensitive area and sensitive area buffer and/or shoreline jurisdiction.
2. Landscape Plan for the proposal showing:
  - a. Diameter, species name, spacing and location of replacement trees to be planted;
  - b. Diameter, species name and location of all Significant Trees to be retained; and
  - c. Vegetation protection measures consistent with the criteria in TMC Section 18.54.060.
3. Professional review or recommendation—~~for removal of Heritage Trees or as otherwise required. A Qualified Tree Professional report is not required for the permitted removal of trees, other than Heritage Trees, on a lot zoned Low Density Residential and improved with a single-family dwelling. All Tree Permits shall require a Qualified Tree Professional report unless otherwise stated in this chapter, or when the Director determines that tree clearing, site clearing or work within the Critical Root Zones may result in adverse impacts requiring remedial measures. A Qualified Tree Professional report is not required for the permitted removal of trees, other than Heritage Trees, on a lot zoned Low Density Residential and improved with a single-family dwelling. The Director may require a report from a Qualified Tree Professional if replacement trees are required— or when the Director determines that tree removal, site clearing, or work within the Critical Root Zone may result in adverse impacts requiring remedial measures.~~ Third party review of the report or recommendation may be required. The report or recommendation shall address the following:
  - a. The anticipated effects of proposed construction or tree removal on the viability of Significant Trees to remain on-site;
  - b. Recommendations on replacement trees, spacing and maintenance of proposed replacement trees once installed;
  - c. Post-construction site inspection and evaluation; and
  - d. Estimated cost of maintenance of replacement trees for the purposes of calculation of financial assurance, if required.
4. A photo of the tree(s) to be impacted or removed.

5. Time schedule. Proposed time schedule of vegetation removal, relocation and/or replacement, and other construction activities that may affect on-site vegetation, sensitive area, sensitive area buffer, and/or shoreline zone.

~~C. See Table B for the number of replacement trees required, if any.~~

~~BD. Permit Materials Waiver.~~ The Director may waive the requirement for any or all plans or permit items specified in this section upon finding that the information on the application is sufficient to demonstrate that the proposed work will meet the approval criteria detailed in this chapter and other City ordinances. Such waiver of a requirement shall not be construed as waiving any other requirements of this chapter or related regulations.

~~CE. Permit Application Fee.~~ A Tree Permit fee shall be paid at the time an application or request is filed with the department, pursuant to TMC Section 18.88.010, except as otherwise noted in this chapter. All fees shall be paid according to the Land Use Fee Schedule in effect at the time of application. There is no permit fee for submittal of the Tree Inventory Survey.

*(Ord. 2570 §5, 2018)*

#### **18.54.050 Permit Approval Criteria, General**

All Tree Permit applications shall meet the criteria outlined below for approval.

1. Existing trees will be retained on-site to the maximum extent possible as required by TMC Section 18.54.060 and as recommended in the Qualified Tree Professional report, if applicable.

2. Tree protection will be implemented as required in TMC Section 18.54.070.

3. Tree replacement will be implemented as required in TMC Section 18.54.080; unless no replacement is required per TMC 18.54.080 Table A.

4. Tree replacement funds will be deposited into the City of Tukwila Tree Fund, as described in TMC Section 18.54.100, if required.

5. A performance assurance will be submitted as required in TMC Section 18.54.110.

*(Ord. 2570 §6, 2018; Ord. 1758 §1 (part), 1995)*

#### **18.54.060 Tree Retention Standards**

A. As many Significant, Exceptional and Heritage Trees as possible are to be retained on a site proposed for development or re-development, particularly to provide a buffer between development, taking into account the condition and age of the trees. As part of a land use application such as, but not limited to, subdivision or short plat review, design review or building permit review, the Director of Community Development or the Board of Architectural Review may require reasonable alterations to the arrangement of buildings, parking or other elements of the proposed development in order to retain Significant, Exceptional or Heritage non-invasive Trees.

B. Topping and pruning of more than 25 percent of the canopy of trees is prohibited and considered removal and subject to replacement requirements of TMC 18.54.080.

C. Trees located on undeveloped ~~vacant~~ properties is prohibited except: ~~shall not be removed except:~~

1. Those that interfere with access and/or passage on public trails; or

2. When trees, including alders and cottonwoods, have been determined to be one of the following by a Tree Risk Assessment prepared by a Tree Risk Assessor, and where the risk cannot be reduced to Low with mitigation, such as pruning:

a. Moderate risk with significant consequences;

b. Moderate risk with severe consequences;

c. High risk with a Target or Risk Target; or

d. Extreme risk.

3. Factors that will be considered in approving such tree removal include, but are not limited to, tree condition and health, age, risks to life or structures, and potential for root or canopy interference with utilities.

~~D. If the number of trees to be removed exceeds the permitted amount in a 36-month period on a property zoned Low Density Residential and improved with a single family dwelling, those trees shall be replaced based on the replacement requirements set forth in TMC Section 18.54.080 and Table B. The Director or Planning Commission may require additional trees or shrubs to be installed to mitigate any potential impact from the tree removal.~~

E. Protection of trees shall be a major factor in the location, design, construction and maintenance of streets and utilities. Removal or significant damage that could lead to tree death of Significant, Exceptional or Heritage Trees shall be mitigated with on- or off-site tree replacement as required by this chapter.

F. A Qualified Tree Professional shall provide an assessment of any tree proposed for retention in a proposed development to ensure its survivability during construction.

G. The Department shall conduct a tree canopy assessment every five years from the date of the adoption of this chapter to ensure the tree canopy goals of the Comprehensive Plan are being met.

(Ord. 2570 §7, 2018; Ord. 1758 §1 (part), 1995)

#### **18.54.070 Tree Protection Standards**

All trees not proposed for removal as part of a project or development shall be protected using Best Management Practices and the standards below.

1. The Critical Root Zones (CRZ) for all trees designated for retention, on site or on adjacent property as applicable, shall be identified on all construction plans, including demolition, grading, civil and landscape site plans.

2. Any roots within the CRZ exposed during construction shall be covered immediately and kept moist with appropriate materials. The City may require a third-party Qualified Tree Professional to review long-term viability of the tree.

3. Physical barriers, such as 6-foot chain link fence or plywood or other approved equivalent, shall be placed around each individual tree or grouping at the CRZ.

4. Minimum distances from the trunk for the physical barriers shall be based on the approximate age of the tree (height and canopy) as follows:

a. Young trees (trees which have reached less than 20% of life expectancy): 0.75 per inch of trunk diameter.

b. Mature trees (trees which have reached 20-80% of life expectancy): 1 foot per inch of trunk diameter.

c. Over mature trees (trees which have reached greater than 80% of life expectancy): 1.5 feet per inch of trunk diameter.

5. Alternative protection methods may be used that provide equal or greater tree protection if approved by the Director.

6. A weatherproof sign shall be installed on the fence or barrier that reads:

“TREE PROTECTION ZONE – THIS FENCE SHALL NOT BE REMOVED OR ENCROACHED UPON. No soil disturbance, parking, storage, dumping or burning of materials is allowed within the Critical Root Zone. The value of this tree is \$ *[insert value of tree as determined by a Qualified Tree Professional here]*. Damage to this tree due to construction activity that results in the death or necessary removal of the tree is subject to the Violations section of TMC Chapter 18.54.”

7. All tree protection measures installed shall be inspected by the City and, if deemed necessary a Qualified Tree Professional, prior to beginning construction or earth moving.

8. Any branches or limbs that are outside of the CRZ and might be damaged by machinery shall be pruned prior to construction by a Qualified Tree Professional. No construction personnel shall prune affected limbs except under the direct supervision of a Qualified Tree Professional.

9. The CRZ shall be covered with 4 to 6 inches of wood chip mulch. Mulch shall not be placed directly against the trunk. A 6-inch area around the trunk shall be free of mulch. Additional measures, such as fertilization or supplemental water, shall be carried out prior to the start of construction if deemed necessary by the Qualified Tree Professional's report to prepare the trees for the stress of construction activities.

10. No storage of equipment or refuse, parking of vehicles, dumping of materials or chemicals, or placement of permanent heavy structures or items shall occur within the CRZ.

11. No grade changes or soil disturbance, including trenching, shall be allowed within the CRZ. Grade changes within 10 feet of the CRZ shall be approved by the City prior to implementation.

12. The applicant is responsible for ensuring that the CRZ of trees on adjacent properties are not impacted by the proposed development.

13. A pre-construction inspection shall be conducted by the City to finalize tree protection actions.

14. Post-construction inspection of protected trees shall be conducted by the City and, if deemed necessary by the City, a Qualified Tree Professional. All corrective or reparative pruning will be conducted by a Qualified Tree Professional.

(Ord. 2570 §8, 2018; Ord. 1758 §1 (part), 1995)

**18.54.080 Tree Replacement Standards**

~~When tree replacement is required, the site shall be planted with trees to meet the following minimum requirements:~~

A. Replacement exemption for Single-family Tree Removal. Except for Heritage Trees, the removal of Significant Trees depending on the size within any 36-month period on a property zoned Low Density Residential and improved with a single-family dwelling is permitted, subject to the requirements of Table A below.

**Table A**  
**Single Family Tree Removal without Replacement Limits**

<u>Trees (DBH)</u>	<u># of Trees in 36 month period that can be removed without replacement (1)</u>
<u>&gt;6-8"</u>	<u>4</u>
<u>&gt;8-18"</u>	<u>2</u>
<u>&gt;18"</u>	<u>1</u>

(1) A combination of trees of different sizes may be removed without replacement so long as the total number of trees removed does not exceed the number allowed for the largest tree removed.

B. Replacement Standards

1. Each existing Significant Tree removed, including removal of trees in easements and rights-of-way for the purposes of constructing public streets and utilities, shall be replaced with new tree(s), based on the size of the existing tree as shown below, up to a maximum density of ~~10070~~ new trees per acre, generally 12-15 feet apart. If the number of required replacement trees exceeds site capacity, payment is required into the City's Tree Fund.

2. Tree Replacement Ratios. Table B establishes tree replacement ratios when Significant, Exceptional or Heritage Trees are removed. For properties zoned Low Density Residential and improved with a single-family dwelling, when the number of trees permitted to be removed in a 36-month period, as shown in Table A, has been exceeded, the replacement ratios set forth in Table B apply. Trees damaged due to natural disasters, such as wind storms, hail, ice or snow storms, and earthquakes, are not required to be replaced. Trees determined to be Defective by the City or a Qualified Tree Professional, are not required to be replaced. Any tree removal on undeveloped properties is subject to replacement ratios in Table B. Illegal topping and pruning more than 25% in a 36 month period is subject to replacement ratios in Table B.

3. The property owner is required to ensure the viability and long-term health of trees planted for replacement through proper care and maintenance for the life of the site's improvement. Replaced trees that do not survive must be replanted in the next appropriate season for planting.

4. If all required replacement trees cannot be accommodated reasonably on the site, the applicant shall pay into the Tree Fund as adopted by Fee Resolution. ~~The fee shall be based on the value of the replacement trees and their delivery, labor for site preparation and plant installation, soil amendment, mulch, and maintenance costs for three years. In some circumstances, off-site tree replacement may be allowed, subject to additional maintenance fees.~~

**TABLE B Tree Replacement Requirements**

<u>Trees (DBH)</u>	<u>Amount of Mature Tree Canopy Removed</u>	<u>Equivalent Stature Tree</u>	<u>Replacement ratio for trees that are subject to replacement</u>	<u>Number of Replacement Trees</u>
<u>6-8"</u>	<u>Up to 500 sq. ft.</u>	<u>Small Canopy Tree</u>	<u>1:1</u>	<u>4</u>
<u>&gt;8-18"</u>	<u>501-1,000 sq. ft.</u>	<u>Medium Canopy Tree</u>	<u>1:2</u>	<u>2</u>
<u>&gt;18"</u>	<u>&gt;1,001 sq. ft.</u>	<u>Large Canopy Tree</u>	<u>1:3</u>	<u>3</u>

5. Tree replacement shall also meet the standards in TMC Section 18.54.160.

(Ord. 2570 §9, 2018; Ord. 1758 §1 (part), 1995)

**18.54.090 Tree Relocation**

Tree relocation shall be carried out according to Best Management Practices, and trees proposed for relocation shall have a reasonable chance of survival.

*(Ord. 2570 §10, 2018; Ord. 1758 §1 (part), 1995)*

**18.54.100 Tree Fund**

A. When trees are topped or removed without a permit, or if the number of replacement trees required by Table B cannot be accommodated on-site, the Director shall require payment into the Tree Fund. The fee will be based on the current cost of the following:

- 1. The cost of purchasing and delivering a 2-inch caliper deciduous or 6-foot evergreen tree;
- 2. The cost of labor to install a tree;
- 3. The cost of supplies needed for the installation of a tree, including but not limited to, soil amendments, mulch, stakes, -etc.; and
- 4. The cost of maintenance of a new tree for at least three years, including but not limited to, watering, weeding, and pruning.

B. The cost of a replacement tree shall be updated annually in the Land Use Fee Schedule.

C. The money in this fund shall be used by the City or its contractor to purchase, plant and maintain trees on sites in the City.

D. Tree funds may be used by a single-family property owner to plant one or more street trees if approved by the Director and by the Public Works Department. The tree species must be approved by the City and be appropriate to the site conditions. The property owner is responsible for the site preparation and maintenance of the street tree, pursuant to TMC Section 18.54.160.

*(Ord. 2570 §11, 2018; Ord. 1758 §1 (part), 1995)*

**18.54.110 Performance Assurance**

To mitigate potential damages that may result from unauthorized tree removal or maintenance, the Director may require the applicant to submit a bond, letter of credit, or other means of assurance acceptable to the City prior to issuance of a Tree Permit, subject to the following provision:

1. **Tree Protection Assurance.** The applicant may be required to post a three year performance bond or other acceptable security device to ensure the installation, maintenance and adequate performance of tree protection measures during the construction process. The amount of this bond shall equal 150 percent of the City’s estimated cost of replacing each replacement tree. The estimated cost per tree shall be the fair market value of the tree, fee established by the City. Prior to DCD final inspection, any protected tree found to be irreparably damaged, severely stressed or dying shall be replaced according to the standards identified in this chapter. The City may release all or part of the bond prior to the conclusion of the bonding period if the applicant demonstrates that the requirements of this section have been satisfied and there is evidence that the protected trees will survive. If trees designated for retention are damaged, they shall be subject to replacement.

2. **Tree Maintenance Assurance.** ~~Where replacement trees are required, the applicant may be required to post a one-year replacement tree maintenance bond or other acceptable security device to ensure the survival of replacement trees. The amount of the maintenance bond shall equal 150 percent of the cost of plant material, periodic fertilizing and pruning, and labor until tree survival is ensured. In the event a required replacement tree becomes irreparably damaged, severely stressed or dies, the tree shall be replaced according to the standards in this chapter. The City may release all or part of the bond prior to the conclusion of the bonding period if the applicant demonstrates that the requirements of this section have been satisfied and there is evidence that the protected trees will survive. The requirement for tree maintenance shall be recorded on the title of the property and if the property is sold prior to the expiration of the one-year replacement tree maintenance bond, the developer shall assign the bond to the purchaser. Submission of annual photos for three years documenting that the tree is in good health will satisfy this requirement for properties zoned Low Density Residential and improved with a single-family dwelling. Trees that do not survive the three year maintenance period shall be replanted and the three year maintenance period shall restart at the time of replanting.~~

~~3. Replacement trees damaged due to natural disasters, such as wind storms, hail, ice or snow storms, and earthquakes, shall be exempt from further replacement.~~

34. The applicant shall provide an estimate of the costs associated with the required performance bond or other security as described above. In lieu of an applicant's estimate, the performance assurance shall be equal to City staff's best estimate of possible costs to meet the above requirements. In no case shall the performance-assurance exceed an amount equal to two and one-half times the current cost of replacing the plants in accordance with the tree replacement provisions of this chapter.

45. The performance assurances shall not be fully released without final inspection and approval of completed work by the City, submittal of any post-construction evaluations or following any prescribed trial maintenance period required in the permit.

56. Performance assurances provided in accordance with this chapter may be enforced in whole or in part by the City upon determination by the Director that the applicant has failed to fully comply with approved plans and/or conditions.

(Ord. 2570 §12, 2018; Ord. 1758 §1 (part), 1995)

#### 18.54.120 Liability

A. Liability for any adverse impacts or damages resulting from work performed in accordance with a Tree Permit, will be the sole responsibility of the owner of the site for which the permit was issued.

B. Issuance of a Tree Permit and/or compliance with permit provisions or conditions shall not relieve an applicant from any responsibility otherwise imposed by law for damage to persons or property in an amount greater than the insured amount required by this chapter.

C. Nothing contained in this chapter shall be deemed to relieve any property owner from the duty to keep any tree or vegetation upon his or her property or under his or her control in such condition as to prevent it from constituting a hazard or a nuisance pursuant to TMC Chapter 8.28.

D. The amount of any security shall not serve as a gauge or limit to the compensation collected from a property owner as a result of damages associated with any vegetation clearing.

E. The applicant shall at all times protect improvements to adjacent properties and public rights-of-way or easements from damage during clearing. The applicant shall restore to the standards in effect at the time of the issuance of the permit any public or private improvements damaged by the applicant's operations.

(Ord. 2570 §13, 2018; Ord. 1758 §1 (part), 1995)

#### 18.54.130 Permit Processing and Duration

A. All Tree Permits shall be processed as Type 1 decisions. Exceptions to the requirements of this chapter shall be processed as a Type 2 decision.

B. If the Tree Permit or Tree Exception Permit application is not approved, the Director shall inform the applicant in writing of the reasons for disapproval.

C. Tree permits expire one year after the date the permit is issued.

(Ord. 2570 §14, 2018; Ord. 1770 §32, 1996;  
Ord. 1758 §1 (part), 1995)

#### 18.54.140 Permit Exceptions

A. **Exception Procedures.** An applicant seeking an exception from this chapter shall submit a Tree Exception Permit application in addition to the Tree Permit application. Such application shall fully state all substantiating facts and evidence pertinent to the exception request, and include supporting maps or plans. The exception shall not be granted unless and until sufficient reasons justifying the exception are provided by the applicant *and verified by the City*. Approval of the exception is subject to the exception criteria outlined below.

B. **Exception Criteria:**

1. The Director may grant exceptions from the requirements of this chapter when undue hardship may be created by strict compliance with the provisions of this chapter. Any authorization for an exception may prescribe conditions deemed necessary or desirable for the public interest, or necessary to meet the intent of this chapter.

2. An exception to this chapter shall not be granted unless all of the following criteria are met:

a. Strict compliance with the provisions of this code may jeopardize project feasibility or reasonable use of property.

b. Proposed tree removal, replacement, and any mitigative measures proposed, are consistent with the purpose and intent given in this chapter.



c. The granting of the exception or standard reduction will not be detrimental to the public welfare or injurious to other property in the vicinity.

3. In addition to the above criteria, the Director may also require review of an exception request by a third party Qualified Tree Professional at the expense of the applicant.

*(Ord. 2570 §15, 2018; Ord. 1758 §1 (part), 1995)*

#### **18.54.150 Permit Conformance**

All work must be performed in accordance with approved Permit plans specified in this chapter or revised plans as may be determined by the Director. The applicant shall obtain permission in writing from the Director prior to modifying approved plans.

*(Ord. 2570 §16, 2018; Ord. 1758 §1 (part), 1995)*

#### **18.54.160 Soil Preparation, Plant Material and Maintenance Standards**

##### **A. Soil Preparation.**

1. Soils must be prepared for planting by incorporating compost and/or topsoil to a depth of 12 inches throughout the planting area.

2. An inspection of the planting areas prior to planting may be required to ensure soils are properly prepared.

3. Installation of plants must comply with Best Management Practices including, but not limited to:

a. Planting holes that are the same depth as the size of the root ball and two to three times wider than the root ball.

b. Root balls of potted and balled and burlapped (B&B) plants must be loosened and pruned as necessary to ensure there are no encircling roots prior to planting. All burlap and all straps or wire baskets must be removed from B&B plants prior to planting.

c. The top of the root flare, where the roots and the trunk begin, should be placed at grade. The root ball shall not extend above the soil surface and the flare shall not be covered by soil or mulch. For bare root plants, ensure soil beneath roots is stable enough to ensure correct height of the tree.

d. If using mulch around trees and shrubs, maintain at least a 4-inch mulch-free ring around the base of the tree trunks and woody stems of shrubs. If using mulch around groundcovers until they become established, mulch shall not be placed over the crowns of perennial plants.

##### **B. Plant Material Standards.**

1. Plant material shall be healthy, vigorous and well-formed, with well-developed, fibrous root systems, free from dead branches or roots. Plants shall be free from damage caused by temperature extremes, pre-planting or on-site storage, lack of or excess moisture, insects, disease, and mechanical injury. Plants in leaf shall show a full crown and be of good color. Plants shall be habituated to outdoor environmental conditions (i.e. hardened-off).

2. Evergreen trees shall be a minimum of 6 feet in height at time of planting.

3. Deciduous trees shall have at least a 2-inch caliper at time of planting as measured 4.5 feet from the ground, determined according to the American Standard for Nursery Stock as it now reads and as hereafter amended.

4. Smaller plant stock may be substituted on a case-by-case basis with approval of the City's environmental specialist.

5. Tree spacing shall take into account the location of existing and new trees as well as site conditions.

6. Where there are overhead utility lines, the tree species selected shall be of a type which, at full maturity, will not interfere with the lines or require pruning to maintain necessary clearances.

##### **C. Tree Maintenance and Pruning.**

1. Pruning of trees should be (1) for the health of the plant material, (2) to maintain sight distances or sight lines, or (3) if interfering with overhead utilities. All pruning must be done in accordance with American National Standards Institute (ANSI) A300 specifications, as it now reads and as hereafter amended. No more than 25% of the tree canopy shall be pruned in any two-year period, except for fruit trees that are being pruned to increase harvest potential. Any tree pruned in excess of 25% of the canopy shall be subject to replacement ratios listed under TMC 18.54.080.

2. All protected and replacement trees and vegetation shown in approved Tree Permit shall be maintained in a healthy condition by the property owner throughout the life of the project, unless otherwise approved by the Director in a subsequent Tree Permit.

3. Trees may only be pruned to lower their height to prevent interference with an overhead utility line with prior approval by the Director. The pruning must be carried out under the direction of a Qualified Tree Professional or performed by the utility provider under the direction of a Qualified Tree Professional. The crown shall be maintained to at least 2/3 the height of the tree prior to pruning.

*(Ord. 2570 §17, 2018; Ord. 1758 §1 (part), 1995)*

#### **18.54.170 Heritage Trees and Heritage Groves**

A. Heritage Trees or a Heritage Grove must be nominated for designation by, or approved for nomination by, the owner of the property on which the tree or grove is located.

B. **Designation Criteria.** A tree or grove that meets the basic definition of Heritage Tree or Heritage Grove must also meet one or more of the following criteria:

1. Has exceptional national, state or local historical significance including association with a historical figure, property, or significant historical event; or
2. Has an exceptional size or exceptional form for its species; or
3. Has an exceptional age for its species; or
4. Is the sole representative of its species in the area; or
5. Has exceptional botanical or ecological value.

C. Once approved, the Heritage Tree or Heritage Grove shall be identified by signage that provides information as to the tree's or grove's significance.

#### **D. Heritage Tree or Heritage Grove Development Review.**

1. When development is proposed for property that contains a Heritage Tree or Grove, and the Director determines that the proposed development may affect a Heritage Tree, the property owner must have a tree preservation plan prepared by a Qualified Tree Professional as approved by the Director demonstrating how the Heritage Tree will be protected and preserved. A Heritage Tree shall be preserved using the tree protection and retention criteria of this chapter.

2. A tree preservation plan shall be composed of the following:

- a. A site plan indicating the location of Heritage Tree(s).
- b. The methods to be used to preserve the Heritage Tree(s).
- c. A mitigation plan indicating the replacement trees or additional new trees to be placed on the site. The mitigation plan should demonstrate, to the extent possible, that the character of the site will not substantially change as a result of development.

3. Site design adjustments may be approved in some cases for the subject property or an affected adjacent parcel, as follows:

a. Up to a 20% variance to front, side, and/or rear yard setback standards to retain a Heritage Tree(s) or Grove may be reviewed and granted as part of the underlying land use or construction permit. The adjustment shall be the minimum necessary to accomplish preservation of the Heritage Tree(s) or Grove on site and shall not conflict with other adopted ordinances or conditions placed on the property.

b. Up to a 10% variance to the lot size and/or the lot width requirements in approving any land division if necessary to retain Heritage Tree(s) or Grove.

4. Removal of a Heritage Tree. No person may cut or remove a Heritage Tree without approval of a Type 2 permit. The Tree Permit may be approved if one or more of the criteria below is met:

- a. Retention of the tree would make reasonable use of the property allowed under the current zoning impractical or impossible; or
- b. The removal is necessary to accommodate a new improvement, structure or remodeled structure, and no alternative exists for relocation of the improvement on the site, or that variances to setback provisions will not allow the tree to be saved or will cause other undesirable circumstances on the site or adjacent properties; or
- c. The tree is hazardous, diseased or storm damaged and poses a threat to the health, safety or welfare of the public; or
- d. The tree has lost its importance as a Heritage Tree due to damage from natural or accidental causes, or is no longer of historic or natural significance; or
- e. The tree needs to be removed to accomplish a public purpose and no practical alternative exists.

5. The limb structure or crown of a Heritage Tree may be pruned in any one-year period without obtaining a Type 2 permit provided that at least 80% of the existing tree crown remains undisturbed.

6. Any person who wishes to prune a Heritage Tree or Grove in excess of 20% of the existing crown shall apply for a Tree Permit and meet the following criteria.

- a. The protected tree shall be pruned following acceptable arboricultural standards; and
- b. The tree shall be pruned in a manner that ensures safety to public and private property and shall be carried out by a Qualified Tree Professional; and
- c. Any other conditions necessary to ensure compliance with the goals and policies of the Comprehensive Plan.

*(Ord. 2570 §18, 2018; Ord. 1758 §1 (part), 1995)*

#### **18.54.180 Approved and Prohibited Trees**

The City will maintain on file, and provide upon request, a list of approved trees for planting and trees that are prohibited from being planted in the City. These lists will be updated as new information becomes available.

*(Ord. 2570 §19, 2018; Ord. 1758 §1 (part), 1995)*

#### **18.54.190 Violations**

A. Failure to comply with any requirement of this chapter shall be deemed a violation subject to enforcement pursuant to this chapter and TMC Chapter 8.45.

##### **B. Penalties.**

1. In addition to any other penalties or other enforcement allowed by law, any person who fails to comply with the provisions of this chapter also shall be subject to a civil penalty assessed against the property owner as set forth herein. Each unlawfully removed or damaged tree shall constitute a separate violation.

2. Removal or damage of tree(s) without applying for and obtaining required City approval is subject to a fine of \$1,000 per tree, or up to **three times** the marketable value of each tree removed or damaged as determined by a Qualified Tree Professional, whichever is greater.

3. Any fines paid as a result of violations of this chapter shall be allocated as follows: 75% paid into the City's Tree Fund; 25% into the General Fund.

4. The Director may elect not to seek penalties or may reduce the penalties if he/she determines the circumstances do not warrant imposition of any or all of the civil penalties.

5. Penalties are in addition to the restoration of removed trees through the remedial measures listed in TMC Section 18.54.200.

6. It shall not be a defense to the prosecution for a failure to obtain a permit required by this chapter that a contractor, subcontractor, person with responsibility on the site or person authorizing or directing the work erroneously believes a permit was issued to the property owner or any other person.

*(Ord. 2570 §20, 2018; Ord. 1758 §1 (part), 1995)*

#### **18.54.200 Remedial Measures**

In addition to the penalties assessed, the Director shall require any person conducting work in violation of this chapter to mitigate the impacts of unauthorized work by carrying out remedial measures.

1. Any illegal removal of required trees shall be subject to obtaining a Tree Permit and replacement with trees that meet or exceed the functional value of the removed trees.

2. To replace the tree canopy lost due to the tree removal, additional trees must be planted on-site. Payment shall be made into the City's Tree Fund if the number of replacement trees cannot be accommodated on-site. The number of replacement trees required will be based on the size of the tree(s) removed as stated in Table B.

3. The applicant shall satisfy the permit provisions as specified in this chapter.

4. Remedial measures must conform to the purposes and intent of this chapter. In addition, remedial measures must meet the standards specified in this chapter.

5. Remedial measures must be completed to the satisfaction of the Director within 6 months of the date a Notice of Violation and Order is issued pursuant to TMC Chapter 8.45, or within the time period otherwise specified by the Director.

6. The cost of any remedial measures necessary to correct violation(s) of this chapter shall be borne by the property owner and/or applicant. Upon the applicant's failure to implement required remedial measures, the Director may redeem all or any portion of any security submitted by the applicant to implement such remedial measures, pursuant to the provisions of this chapter.

*(Ord. 2570 §21, 2018; Ord. 1758 §1 (part), 1995)*

#### **18.54.210 Enforcement**

A. **General.** In addition to the Notice of Violation and Order measures prescribed in TMC Chapter 8.45, the Director may take any or all of the enforcement actions prescribed in this chapter to ensure compliance with, and/or remedy a violation of this chapter; and/or when immediate danger exists to the public or adjacent property, as determined by the Director.

1. The Director may post the site with a "Stop Work" order directing that all vegetation clearing not authorized under a Tree Permit cease immediately. The issuance of a "Stop Work" order may include conditions or other requirements which must be fulfilled before clearing may resume.

2. The Director may, after written notice is given to the applicant, or after the site has been posted with a "Stop Work" order, suspend or revoke any Tree Permit issued by the City.

3. No person shall continue clearing in an area covered by a "Stop Work" order, or during the suspension or revocation of a Tree Permit, except work required to correct an imminent safety hazard as prescribed by the Director.

B. **Injunctive relief.** Whenever the Director has reasonable cause to believe that any person is violating or threatening to violate this chapter or any provision of an approved Tree Permit, the Director may institute a civil action in the name of the City for injunctive relief to restrain the violation or threatened violation. Such civil action may be instituted either before or after, and in addition to, any other action, proceeding or penalty authorized by this chapter or TMC Chapter 8.45.

C. **Inspection access.**

1. The Director may inspect a property to ensure compliance with the provisions of a Tree Permit or this chapter, consistent with TMC Chapter 8.45.

2. The Director may require a final inspection as a condition of a Tree Permit issuance to ensure compliance with this chapter. The permit process is complete upon final approval by the Director.

*(Ord. 2570 §22, 2018)*