

Chapter/Section XX
FOREST, VEGETATION, AND LANDSCAPE MANAGEMENT

Chapter/section XX, entitled “Forest, vegetation, and landscape management,” consolidates tree and landscape related regulations from Title 15 (Buildings and Construction), Title 16 (Environment), Title 17 (Subdivisions) and Title 18 (Zoning). This chapter will reference the Shoreline Master Program, the Heritage Tree program, the Wildlife Corridor Network Plan, and the Community Forest Best Management Practices Manual. This chapter/section will remain within Title 18 Zoning as developed by Clarion and Associates through the separate Land Use Code Update process. Some sections will be carried over from and/or replace existing code, while others will require some reorganization to work with the new consolidated code. Some new regulations will be developed based upon recommendations in the Community Forest Management Plan. This annotated outline is an overview of the consolidated ordinances. The new consolidated chapter has ten sections, as follows:

Sections:

- XX.XX.010 - Purpose and intent.**
- XX.XX.020 - Definitions.**
- XX.XX.030 - Applicability.**
- XX.XX.040 - Tree retention, protection and density standards.**
- XX.XX.050 - Landscape requirements.**
- XX.XX.060 - Vegetation and landscape management in opened and unopened public right-of-way, private right-of-way, and easements.**
- XX.XX.070 - Class IV – General forest practices.**
- XX.XX.080 - Alternative compliance.**
- XX.XX.090 - Tree Account.**
- XX.XX.100 - Enforcement and penalties.**

The following is the annotated outline with annotations for each section. The annotations are meant to describe the purpose of each section, provide the original locations where the code will be taken from, and provide a concise outline for subsections.

XX.XX.010 - Purpose and intent.

This section sets forth the goals to be achieved through this chapter/section. A revised draft purpose statement prepared by the city was used as a basis for the following:

- A. **General**
Forest areas are an integral part of the island's character and enhance the city's appearance and livability, as well as providing significant environmental benefits and natural resource values as identified in the comprehensive plan. The purpose of this chapter is to preserve the Island's natural amenities and resources with landscape greenbelts along scenic roads, improve the aesthetic quality of the built environment, promote retention and protection of existing vegetation, enhance the value of current and future development, and increase privacy for residential zones through:
- B. **Aesthetics**
To preserve and enhance the city's physical and aesthetic character by preventing indiscriminate removal or destruction of trees, vegetation, and ground cover on undeveloped and partially developed property.
- C. **Ecosystem Services**
To promote land development practices that result in minimal disturbance to the city's vegetation and native soil structure and through the presentation of important ecosystem services such as:
 - 1. Protect infiltration capacity;
 - 2. Prevent soil erosion;
 - 3. Minimize surface water and ground water runoff;
 - 4. Minimize the need for additional storm drainage facilities;
 - 5. Retain clusters of trees for the abatement of noise and for wind protection;
 - 6. Minimize the loss of wildlife and fish habitat;
 - 7. Improve air quality.
- D. **Site Design Standards:**
To promote building and site planning practices that are consistent with the city's natural topographical and vegetation features while at the same time balancing the needs of development.
 - 1. Promote vegetative management planning prior to removal of vegetation in order to reduce harmful effects to the island's natural landscape;
 - 2. Promote incorporation of existing vegetation, tree stands, and significant trees into future land development plans and site design;
 - 3. Provide visual relief of parking areas in the development of commercial, mixed-use, and multi-family projects;
 - 4. Provide vegetated screening between different intensities of residential uses and between residential and nonresidential areas;
 - 5. Incorporate native vegetation and drought resistant plant material into new landscape developments;
 - 6. Balance the realization of a reasonable enjoyment of property with certain tree and vegetation factors such as health (e.g., disease, danger of falling, invasiveness, etc.), proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover and protection of scenic views.

XX.XX.020 - Definitions.

All tree and landscape related definitions will be consolidated into this section from existing chapters 15.18.020 (Land Clearing), 16.12.030 (Shorelines), 16.20.030 (Critical Areas), 16.22.020 (Vegetation Management), 17.04.040 (Subdivisions), and 18.85.010 (Landscape Requirements). Inconsistencies and redundancies will be removed to provide consistent and concise definitions applicable to the new consolidated chapter and consistent with the Best Management Practices Manual. This section of definitions will be incorporated into the new section 18.36 Definitions as developed by Clarion and Associates. The following is a list of existing tree related definitions that will be reviewed, revised and included in this section.

Agricultural land (16.22.020)	Silvicultural prescriptions (16.22.020)
Basal area of timber (16.22.020)	Significant tree (coordinate and combine from 18.85.010 and 17.04.040)
Bainbridge Island Municipal Code (BIMC) (18.85.010)	Slash (16.22.020)
Caliper (18.85.010)	Thinning (16.22.020)
Clearing (15.18.020)	Timber (16.22.020)
Codominant trees (16.22.020)	Timber cruise report (16.22.020)
Contiguous (16.22.020)	Topping (16.22.020)
Conversion option harvest plan (16.22.020)	Tree (16.22.020)
Diameter Breast Height (DBH) (coordinate and combine from 16.22.020 and 18.85.010)	Tree stand (coordinate and combine from 17.04.040 and 18.85.010)
Department (16.22.020)	Tree canopy (coordinate and combine from 17.04.040 and 18.85.010)
Department of Natural Resources (DNR) (16.22.020)	Undeveloped property (16.22.020)
Dominant trees (16.22.020)	Used right-of-way (Public Works) ¹
Drought resistant plants (18.85.010)	Unused right-of-way (Public Works) ¹
Established vegetation (17.04.040)	Vegetation (16.22.020)
Forest practice (16.12.030)	Vegetation management (Public Works) ¹
Harvest area (16.22.020)	
Harvesting (16.22.020)	
Haul route (16.22.020)	
Hazard tree (16.20.030)	
Landing (16.22.020)	
Landscape perimeter averaging (18.85.010)	
Leave trees (16.22.020)	
Limbing (16.22.020)	
Mature trees and shrubs (17.04.040)	
Mature vegetation on ridgelines (17.04.040)	
Merchantable volume of timber (16.22.020)	
Native forest (17.04.040)	
Native species (18.85.010)	
Native vegetation (17.04.040)	
Open right-of-way (Public Works) ¹	
Open Space Management Plan (16.22.020)	
Orchard (17.04.040)	
Owner (16.22.020)	
Pasture (16.22.020)	
Protection zone (18.85.010)	
Removal (16.22.020)	
Residual forest land (16.22.020)	
Routine landscape maintenance (16.22.020)	
Scenic corridor (16.22.020)	
Screen (18.85.010)	

¹ These definitions were received by the Public Works Department as necessary for the new section 18.85.060 of the new consolidated tree regulations.

The following new definitions will be added:

Tree professional: An individual with relevant education, field experience, and training in arboriculture or urban forestry. The individual shall be an arborist certified by the International Society of Arboriculture or a registered consulting arborist from the American Society of Consulting Arborists and for Forest Management Plans may be a certified forester by the Society of American Foresters. A tree professional must possess the ability to perform tree risk assessments, evaluate tree health, and possible appropriate measures necessary for the presentation of trees during land development. For Forest Management Plans, the tree professional must have the ability to assess wooded sites and prescribe measure for forest health and safety. Additionally, the tree professional shall have the necessary training and experience to use and apply the International Society of Arboriculture's Guide for Plant Appraisal and to successfully provide the necessary expertise relating to management of trees specified in this chapter.²

Grove: means a contiguous grouping of trees standing in close proximity, which form a continuous canopy and/or are mutually dependant.³

Buildable Area: means the area within the property line less the following areas:

- a. Areas within a project site which are required to be dedicated for public rights-of-way;
- b. Critical areas and their buffers to the extent they are required by the city of Bainbridge Island to remain undeveloped;
- c. Areas required for stormwater control facilities other than facilities which are completely underground, including, but not limited to, retention/detention ponds, biofiltration swales and setbacks from such ponds and swales;
- e. Regional utility corridors; or
- f. Other areas, required by the city of Bainbridge Island to remain undeveloped.

Tree Protection Zone (TPZ): is the area to be fenced around the critical root zone. When this configuration is not practical, a tree professional, based on the location of a specific tree's structural roots and other site conditions, can establish a TPZ in the field. See the Community Forest Best Management Practices Manual for further detailed explanation.

² Definition based on those used by Kirkland, Olympia, Tumwater and Lacey.

³ Definition based on Kenmore MC

XX.XX.030 - Applicability.

The applicability section will consolidate the current applicability sections found in 15.18.030 (Land Clearing), 16.22.030 (Vegetation Management), and 18.85.030 (Landscape Requirements). This section will include a table matrix to organize the different applicability requirements based on land use districts that Clarion and Associates has developed.

Table 18.15.010-1: Landscape Requirements by Zone District					
Landscape Requirements		Tree retention, protection and density standards, Tree Plan A, B, and C (BIMC 18.15.010.D)	Landscape Requirements (BIMC 18.15.010.E)	Right-of-way Landscape Management (BIMC 18.15.010.F)	Forest Management Plan (Harvest Plan) (BIMC 18.15.010.G)
Land Use Districts					
Single-Family Residential Development for which Only a Building Permit is Required (Existing Non-Flex Lots)				X	X
Single-Family Residential Development Outside Winslow Mixed use, Neighborhood Service Center, and Business/Industrial Districts (R-.04 through R-6 Districts) Other than Existing Lots for which Only a Building Permit is Required (Flexible Lot Design Process)		A		X	X
R-8 and R-14 Multi-family Districts ⁴		A	X	X	X
Nonresidential Uses in Areas Outside Winslow Mixed Use, High School Road, Neighborhood Service Center, Business/Industrial , Water Dependent Industrial Districts		B	X	X	X
Winslow Mixed Use Town Center ⁵	Central Core Overlay	C	X	X	X
	Ericksen Ave. Overlay	C	X	X	X
	Madison Ave. Overlay	C	X	X	X
	Gateway Overlay	C	X	X	X
	Ferry Terminal Overlay	C	X	X	X
High School Road District		C	X	X	X
Neighborhood Service Center District		C	X	X	X
Business/Industrial District		C	X	X	X
Water Dependent Industrial District		C	X	X	X

⁴ For landscape requirements pertaining to short subdivisions, long subdivisions, large lot subdivisions and planned unit developments as part of the flexible lot design process, refer to BIMC 17.04, 17.12, 17.16 and 18.120.

⁵ Refer to Chapter 18.41 BIMC for additional landscape requirements specific to the Winslow town center districts.

XX.XX.040 - Tree retention, protection and density standards.

This section provides requirements for the retention and protection of trees. Existing sections requiring tree retention, 18.85.060 (Landscape Requirements) and 15.18.050 (Land Clearing) will be consolidated into this new section. This section will include the method of measuring tree retention and replacement requirements, minimum density requirements, and reference the BMP Manual for methods of tree protection before, during, and after construction.

A. Exemptions

Possible exemptions to this section used in similar codes include:

1. Developed Property
Any owner of developed property may remove up to (number varies 2⁶, 4⁷, 6⁸, etc.) significant trees from their property within a 6⁶, 12⁷, or 36⁸ month period; provided, that there is no current application for development activity for the site; and provided further, that the tree(s) are not:
 - a. In easements dedicated to ensure the protection of vegetation; or in critical areas, or critical area buffers;
 - b. Designated on an approved tree plan to be retained; or
 - c. The last 2⁶, 4⁷, 6⁸ significant trees on their property.
Trees that fit the criteria for hazard trees do not count toward the removal allowance.
2. Single-Family Residential Development for which only a Building Permit is required (Existing Non-Flex Lots)
3. Emergency tree removal (found in most all municipal codes)
Any hazard tree on private property that poses an immediate threat to life or property may be removed without first obtaining a permit. The party removing the hazard tree will contact the City of Bainbridge Island within seven days of removal to provide evidence of threat for approval of exemption. If the Planning Official determines that the emergency tree removal was not warranted, they may require that the party obtain a permit and/or require that replacement trees and vegetation be replanted as mitigation.
4. Utility management
See XX.XX.060 for the requirements and exemptions for utility management.
5. Agriculture
Lands from which the removal of trees is shown to be necessary for agricultural use
6. Commercial nurseries or tree farms⁹
Trees which are planted and growing on the premises of a licensed retailer or wholesaler for sale to the general public are exempt from this chapter. Other trees on such premises shall remain subject to this and other subsequent chapters.
7. Harvesting with a Forest Practices Permit
Removal of trees as allowed with a Forest Practices Permit issued by the Washington State Department of Natural Resources.

A. Tree survey requirements

⁶ Kirkland MC

⁷ Kenmore MC

⁸ Lacey MC

⁹ Found in Kirkland and Olympia MC

1. Common name, botanical name, and DBH of each tree.
2. The location and the measured tree protection zone of all trees proposed to remain and to be removed.
3. Any off-site tree with a tree protection zone which could be adversely affected by the proposed activity.
4. The location and dimensions of established and proposed perimeter landscaping, natural vegetation easements, and open space areas for public, private, or community use.
5. Buildable areas.
6. Critical areas and their buffers.
7. Stormwater tracts.
8. Limits of construction line.
9. North arrow, scale, and date of survey.

B. Tree plans required

1. Tree Plan A¹⁰
 - i. Single-Family Residential Development Outside Winslow Mixed use, NSC, and B/I Districts (R-.04 through R-6 Districts) other than existing lots for which only a Building Permit is required (Flexible Lot Design Process), R-8 and R-14 Multi-family Districts
 1. Accurate trunk location of significant trees and their tree protection zone measured relative to visible site features;
 2. Size (DBH) and type or species of these trees; and
 3. General health and photographs of these trees.
 4. Approximate trunk location and measured tree protection zones of significant trees that are on adjacent property with tree protection zones that extend over the subject property line.
 5. Surveyed tree locations are not required.
 6. If existing trees impacted by site disturbance are being retained, tree protection shall be shown on the tree plan and may require assistance of a tree professional.
 7. The applicant shall provide a final tree plan showing retained trees and any required trees in order to meet the minimum tree density.
2. Tree Plan B¹⁰
 - i. Nonresidential Uses in Areas Outside Winslow Mixed Use, HSR, NSC, B/I, WDI Districts
 1. A tree survey;
 2. A tree report by a tree professional stating the size (DBH), species, and assessment of health and determination of viable trees for retention;
 3. Demolition and grading plans shall depict tree protection measures, as recommended by a tree professional, if existing trees are to be retained and their tree protection zone is within the area of disturbance.
 4. The applicant shall provide a final tree plan showing retained trees and any required trees in order to meet the minimum tree density.
 5. Landscape plans shall show all retained and replacement trees.

¹⁰ Adapted and simplified from Kirkland MC

6. The applicant shall enter into all required tree preservation and maintenance agreements.
3. Tree Plan C¹¹
 - i. Winslow Mixed Use Town Center & Overlays, High School Road District, Neighborhood Service Center District, Business/Industrial District, Water Dependent Industrial District.
 1. Tree survey.
 2. A tree report prepared by a tree professional detailing:
 - a. Numbering system of existing trees (with corresponding tags on trees), measured tree protection zones, size (DBH), species and tree status (removed or retained). The inventory shall include approximate trunk location and measured dripline of significant trees that are on adjacent property with driplines extending over the subject property line.
 - b. An indication, for each tree, of whether it is proposed to be retained or removed, based on health, risk of failure, and suitability of species;
 - c. Limits of disturbance around viable trees;
 - d. Special instruction for work within their critical root zone; and
 - e. Location and type of protection measures for these trees.
 3. The applicant shall provide a final tree plan showing retained trees and any required trees in order to meet the minimum tree density.
 4. A tree plan utilizing the information from the tree survey, and tree report, showing:
 - a. The proposed development activity;
 - b. Location and limits of disturbance of viable trees to be retained according to the tree report;
 - c. Trees being removed for proposed development or trees being removed that are not viable;
 - d. Required minimum tree density; and
 - e. Tree protection measures.
 4. Forest Management Plan (Harvest Plan)¹¹

Forest Management Plan for developed, significantly wooded sites of at least 35,000 square feet in size in which tree removal is requested that is not exempt under this Chapter. A Forest Management Plan must be developed by a tree professional. The plan shall include the following:

 1. A plan depicting the location of all significant trees (a tree survey is not required) with a numbering system of the trees (with corresponding tags on trees in the field). The plan shall include size (DBH), species, and condition of each tree;
 2. Identification of trees to be removed, including reasons for their removal and a description of low impact removal techniques;
 3. A reforestation plan that includes location, size, species, and timing of installation;
 4. A narrative report of prescribed, long-term maintenance activity for the site.

¹¹ Adapted and simplified from Kirkland MC

C. Tree density requirements

1. Minimum Tree Density Requirement Established. A minimum tree density is required on each site. The tree density may consist of existing trees, replacement trees, or a combination of existing and replacement trees. The site density of trees to be protected on each site shall be determined prior to approval of a tree plan or clearing permit by the director or his or her designee.
2. Tree Density Calculation. The minimum tree density required for each site is 30 tree units per acre of buildable area. To calculate the density of trees to be protected:
 - i. Obtain the DBH measurement in inches for each retained tree within the buildable area.
 - ii. Go to Table A and select the tree unit value that corresponds to the DBH for each protected tree.
 - iii. Add up the tree unit values for all retained trees and divide by the total acreage of the buildable area. This value must equal or exceed 30 tree units per acre of net buildable area. If the total is less than 30 tree units per acre, more trees must be retained or replacement trees will be required.
 - iv. If retained trees occur in groves or replacement trees are planted as groves, then applicant may reduce total tree units required by 20 percent.

Table A

DBH	Tree Units	DBH	Tree Units
1-5	1.0	30	8.2
6-10	1.2	31	8.6
11	1.4	32	9.0
12	1.8	33	9.5
13	2.0	34	10.0
14	2.3	35	10.5
15	2.6	36	11.0
16	2.9	37	11.5
17	3.2	38	12.0
18	3.5	39	12.5
19	3.8	40	13.0
20	4.2	41	13.5
21	4.6	42	14.0
22	5.0	43	14.5
23	5.4	44	15.0
24	5.8	45	15.5
25	6.2	46	16.0
26	6.6	47	17.0
27	7.0	48	18.0

28	7.4	49	19.0
29	7.8	50	20.0
For every one inch greater than 50 DBH, add an additional 2 tree units (i.e. 62 DBH = 44 tree units).			

D. Tree protection during development activity

Prior to initiating tree removal and any clearing and grading on the site, trees to be protected and preserved shall be protected from potentially damaging activities according to the City's Community Forestry Best Management Practices Manual or otherwise approved by the City. The director may require additional tree protection measures which are consistent with accepted urban forestry practices.

E. Tree replacement

1. Replacement Tree Requirement. If the numbers of existing trees are not enough to meet the minimum of 30 tree units per acre, a sufficient number of replacement trees shall be planted to meet the minimum requirement. To determine the total number of replacement trees required:
 - a. Obtain the caliper measurement for each replacement deciduous tree and height of each replacement evergreen tree. Replacement trees are measured differently than protected trees. Instead of measuring DBH as in protected trees, replacement trees are measured by caliper in inches for a deciduous tree and height in feet for evergreens according to industry standards (ANSI) used in the nursery industry.
 - b. Go to Table B and select the tree unit value that corresponds to the caliper or height for each replacement tree.
 - c. Add the replacement tree unit values together to determine how many of that size tree will be required to achieve the minimum site density. See sample below for an example.

Table B

Deciduous Tree Caliper Inches	Tree Units for Deciduous Trees	Coniferous Tree Height in Feet	Tree Units for Conifers	Tree Units For Native Conifers
1.5"	.4	4' – 6'	.5	.8
2"	.5	6' – 8'	.7	1.0
3"	.6	8' – 10'	1.0	1.5
4"	.7	11' – 12'	1.5	2.0
5"	.8			
6"	1.0			
7"	1.2			
8" +	1.5			

Sample Tree Density Calculation.

The required density factor is calculated below as follows for five (5) acres: 5 acre x 30 units = 150 tree units required.

Existing density (ED):

Size	Quantity	Total Units	Size	Quantity	Total units
24"	3	17.4	12"	5	9.0
18"	3	10.5	8"	6	7.2
10"	4	4.8	15"	8	20.8
30"	7	57.4	4"	10	10.0
				Total ED	137.1

Replacement density (RD):

Size	Units	Quantity	Total units
2" Deciduous	.5	12	6.0
4" Deciduous	.7	6	4.2
4' – 6' Native Conifer	.8	5	4.0
		Total RD	14.2

ED+RD =	Site Total Tree Density	>	or	=	Minimum Density Required
137.1+14.2=	151.3	>			150 Density Satisfied

The sum of the ED and RD must be greater than or equal to the Minimum Density Required.

F. Tree plan review procedure

1. Departmental Review. The director or his or her designee shall review the tree plan and clearing permit application to determine whether the applicant has provided all required information. Completed applications shall be referred to appropriate city departments and/or the city tree professional for review. Upon request of either the applicant or the city, the city may conduct field inspections or review meetings. City departments and/or the city tree protection professional involved in the review

and/or inspections shall submit their report(s) and recommendation(s) to the director.

2. Evaluation for Compliance. The director or his or her designee may require an evaluation by a tree professional, a qualified engineer, landscape architect, soils engineer, testing lab, or other specialist at any time during the tree plan review process or tree removal inspection as necessary to ensure compliance with the provisions of this chapter and/or the terms of the clearing permit.
3. Financial Guarantees. For all projects required to have a tree plan, financial guarantees shall be required consistent with the provisions of BIMC.

XX.XX.050 - Landscape requirements.¹²

The existing sections for landscape requirements, screening, and buffers within 18.85 will be carried over. Portions of these sections will be transferred to the BMP Manual where appropriate.

- A. Exemptions
Single-Family Residential Development for which Only a Building Permit is required (Existing Non-Flex Lots)
- B. Submittal requirements
The existing section 18.85.040 will be carried over.
- ~~C. Land use districts~~
This section was removed and replaced with the applicability table in 18.15.010.C
- ~~D. Significant tree and tree stand requirements.~~
This section was removed and replaced with the Tree retention, protection and density standards in 18.15.010.D.
- E. Perimeter landscape requirements
The existing section 18.85.070 will be carried over.
- F. Planting requirements
A majority of the existing section 18.85.090 will be carried over, while some sections will be moved into the Community Forestry Best Management Practices Manual.
- G. Irrigation
Most of the information pertaining to irrigation occurs in the Community Forestry Best Management Practices Manual, this code section will state that the BMP is to be followed.
- H. Maintenance of landscaping and significant trees
Most of the information pertaining to the maintenance of landscaping and significant trees occurs in the Community Forestry Best Management Practices Manual; this code section will state that the BMP is to be followed.

¹² The suggested landscape materials matrix in current code section 18.85.120 and the Landscaping Declaration and checklist in current code section 18.85.130 will be removed and placed in the Administrative Manual as developed by Clarion and Associates in the Land Use Code Update process.

XX.XX.060 - Vegetation and landscape management in opened and unopened public right-of-way, private right-of-way, and easements.

This section provides requirements for the management of vegetation and landscape within the right-of-way by the city's Department of Public Works. This includes the methods for notification, investigation and allowable actions for the Department of Public Works. This section of code consolidates existing codes section 18.85.110.B.4, 16.22.040.F, and 16.22.040.H. The following annotated outline was created from a document prepared by the Public Works Department:

- A. Exemptions
Trees may be removed by the City or utility provider in situations involving immediate danger to life or property, or interruption of services provided by a utility.¹³
- B. Notification
Notification or identification of a potential hazard tree or encroachment of vegetation will be by citizen comment or observation of city staff in the performance of their regular duties.
- C. Investigation
Sets forth the means to which the Public Works Department, Operations and Maintenance Division (PW O&M) investigates a potential hazard tree or encroachment of vegetation.
- D. Allowable actions
This section lists the possible scenarios and actions that can be taken by the Public Works Department, Operations and Maintenance Division. These scenarios and actions include: hazard trees and encroaching vegetation on city property, opened right-of-way, unopened right-of-way, disturbed portions of right-of-way, and private property that may affect public areas.
- E. Record keeping
This section describes the process of required record keeping by the Public Works Department, Operations and Maintenance Division. Such records shall include date of notification, contact information, location of investigation, results of investigation, action taken, and that adjoining property owners were made aware of process and actions taken.
- F. Plan review
Sets forth the process and allows Public Works and the Planning & Community Development staff to formally review plans for hazard tree and encroachment of vegetation. This includes possible scenarios that create hazard trees and/or encourage encroachment of vegetation.
- G. Cost recovery
Costs associated with the removal or trimming of hazard trees and vegetation on private property or on unopened or unused right-of-way which are the responsibility of a property owner will be recovered from the property owner. If the property owner does not voluntarily reimburse the city for this work, a lien will be placed against the owner's property.

XX.XX.070 - Forest Management Plan (Harvest Plan)¹⁴

Sets forth the responsibilities of the city to govern Class IV permits as authorized under the Washington State Forest Practices Act, Chapter 76.09 RCW. All other permits for forest harvesting will be administered by the Department of Natural Resources. Class IV permits allow timber harvesting thinning or other activities established by the Washington State Department of Natural Resources Forest Practices Regulations, whereby a property owner is allowed to harvest a limited amount of timber from their property within the City of Bainbridge Island, while still maintaining their rights to convert their property to a use in consistent with growing timber. Existing code section governing this will be carried over to this section.

¹³ Based on Kirkland MC

¹⁴ Based on Lacey MC

XX.XX.080 - Alternative compliance.¹⁵

This section allows for greater creativity and flexibility with certain types of development while still maintaining the purpose and intent of this chapter. Applicants must demonstrate that alternative measures or procedures are equal to or superior to the provisions of this chapter. Requests to use alternative compliance shall be reviewed by a planning official who may approve, approve with conditions, or deny the request. The alternative compliance must equal or exceed minimum tree density requirement and/or entirely use plants typical of the Pacific Northwest. Alternative compliance will also allow a fee in lieu of tree replacement to be deposited into the Tree Account.

XX.XX.090 - Tree Account.¹⁶

This section establishes a tree account for the deposition of penalty proceeds and revenue received under this chapter for future use in acquiring, maintaining, and planting trees. The following source of funds may be placed in this account:

1. Sale of trees or wood from city property where proceeds from such sale have not been dedicated to another purpose.
2. Donations and grants for purposes of the fund.
3. Sale of seedlings by the city.
4. Civil penalties imposed regarding tree and/or vegetation removal or settlements in lieu of penalties.
5. Other monies allocated by the city council.
6. At the discretion of the director, costs incurred by the city to enforce this chapter may be dedicated from the civil penalties.

Funding could be used towards the supporting of a tree professional on city staff, identification and maintenance of historic trees, planting and maintaining street trees, acquiring and preserving wooded areas and urban forestry education. Reallocation of monies may be organized based on watershed divisions.

XX.XX.100 - Enforcement and penalties.¹⁷

This section sets forth the enforcement and penalties for the ordinances in this chapter. The penalties establish consequences for violating any of the ordinances within this chapter. Current sections 15.18.080 (Land Clearing) and 16.22.097 (Vegetation Management) will be consolidated into one section. This section will be consolidated into 18.33 Enforcement and Penalties as developed by Clarion and Associates. Final direction for the penalty mechanism(s) will be provided by the city and may consist of one or more of the following:

A. Authority

This section will briefly state who has the authority to administer, enforce, and carry out the provisions of this section. City of Kirkland delegates authority to the "Planning Official."

B. Civil citation (fees/fines)

This section would establish that illegal tree removal result in a civil penalty (covered under BIMC Chapter 1.26) and describe the types of violations and related fees. These fees could then go into the Tree Account.

¹⁵ Alternative compliance section is derived from Kirkland, Tumwater and Bellevue's MC.

¹⁶ Based on Vancouver, Olympia, Tumwater and Kirkland MC.

¹⁷ Kirkland, WA municipal code contains sections on cease and desist, stop work order, civil citation, civil penalty, tree restoration, failure to restore or pay fines, appeal to hearing examiner, and hearing examiner decision.

Vancouver, WA municipal code contains sections on stop work orders, permit revocations, fines, civil penalties, and misdemeanors. Tumwater, WA municipal code contains sections on misdemeanors, fines, holding permits, civil penalties and civil infractions.

The following are example options for penalties:

1. Tie the fine to the total monetary value of the tree(s) as determined by the city's tree professional using the current tables and formulas produced by the Council of Tree and Landscape Appraisers.
 2. Provide for civil penalty the equivalent to 3 or 4 times the monetary value of the trees illegally removed.
 3. Take a two step approach for trees illegally removed: A mitigation fee is charged such as \$1,000 per diameter inch at breast height (DBH) of the tree removed (i.e. a 20 inch DBH tree would be \$20,000). And the offender must develop and submit a mitigation tree plan for approval. Such plan must strive to replace the equivalent tree unit value of each tree removed.
 4. *City of Olympia*: Provides for both civil and criminal penalties of a \$1,000 fine per day not to exceed \$5,000 and imprisonment of up to 90 days for violations of chapter.
 5. *City of Redmond*: Provides for a civil penalty of \$3,000 per tree illegally removed.
 6. *City of Kirkland*: Provides for civil penalties of \$1,000 per tree illegally removed or tree removal in violation of an approved tree plan, and \$100 per tree illegally removed prior to issuance of a permit.
 7. *City of Mercer Island*: Provides for a civil penalty equal to 3 times the value of a tree damages or cut tree or removed vegetation cover plus cost of reasonable remediation. The value of the tree and vegetation is determined by the methods and tables produced by the Council of Tree and Landscape Appraisers, most current edition.
- C. Noncompliance with tree plans.
Add a section requiring a performance security to provide a monetary incentive to comply with provisions of the code. In instances of noncompliance, the performance security is forfeit.
- D. Repeat Offenders.
Add a section regarding repeat offenders i.e. repeat offenders having failed or refused to comply with a final decision under the tree protection code section or to comply with any provisions of the landscape and vegetation management code could be punishable by a fine and six months in city jail after the third recorded offense. This may already be covered under Chapter 1.26 and should be reviewed by city attorney.
- E. Tree restoration (mitigation plan)
- a. Establish the requirements for a mitigation plan describing violator responsibilities and provide guidance for the city in reviewing these plans.
 - b. Establish the Mitigation Plan Standards such as how mitigation trees will be calculated (for every illegally removed tree, twice the required tree unit value shall be required as replacement for mitigation), minimum size requirements for mitigation plants and trees (12 ft for evergreen trees, 3" caliper for deciduous etc.), provide a sentence that allows payment into the tree account due to hardship, and require a maintenance plan and security to ensure survival of mitigation plants.