

Kirkland Tree Ordinance Amendments

Summary of Private Property Related Tree Regulations



Effective Date: May 13th, 2022

Link to revised KZC Chapter 95: [O-4786](#)

The amended Kirkland Zoning Code Chapter 95 – Tree Management and Required Landscaping is effective as of May 13th, 2022. This document provides a brief overview of key amendments related to tree removal on private properties, not associated with development activity, and is not intended to be a comprehensive outline of amendments. Prior to removing a tree in the City of Kirkland, please review the amended tree code in its entirety to ensure the applicable regulations are followed.

Tree and vegetation removal in urban areas has resulted in the loss of beneficial functions provided by trees to the public. The majority of tree canopy within the City of Kirkland is on private property. The purpose of this section is to establish a process and standards to slow the loss of tree canopy on private property resulting from tree removal, contributing towards the City’s policy goals for a healthy, sustainable urban forest with at least 40 percent tree canopy cover.

Contents

KZC 95.10 Definitions	2
KZC 95.23 Landmark Trees – Mitigation Requirements	3
KZC 95.25 Tree Removal, Not Associated with Development Activity	4

KZC 95.10 Definitions

Key Definitions

The following definitions are used throughout KZC 95.

Qualified Professional Arborist: An individual with relevant education and training in arboriculture or urban forestry, having two or more of the following credentials:

- International Society of Arboriculture (ISA) Certified Arborist;
- Tree Risk Assessor Qualification (TRAQ) as established by the ISA (or equivalent);
- American Society of Consulting Arborists (ASCA) registered Consulting Arborist;
- Society of American Foresters (SAF) Certified Forester for Forest Management Plans;
- Board Certified Master Arborist as established by the ISA.

A Qualified Professional Arborist must have the TRAQ or equivalent qualification for the submittal of Tree Risk Assessment reports related to hazard tree removal

Diameter at Breast Height (DBH): The diameter or thickness of a tree trunk measured at 4.5 feet above average grade. For trees with multiple trunks at 4.5 feet height, only trunks 3" DBH or greater shall be included. Where a tree splits into several trunks close to ground level, the DBH for the tree is the square root of the sum of the DBH for each individual stem squared (example with 3 trunks: $DBH = \text{square root} [(stem1)^2 + (stem2)^2 + (stem3)^2]$). If a tree has been removed and only the stump remains that is below 4.5 feet tall, the size of the tree shall be the diameter of the top of the stump.

Trees – A tree or a group of trees may fall under one of the following definitions for purposes of this chapter:

Landmark Tree: A regulated tree with a minimum 26-inch DBH.

Regulated Tree: A tree that is at least six inches DBH that is not listed on the Prohibited Plant List.

Hedge Trees: Five or more trees of the same species with overlapping or touching crowns that are in fair or poor condition; have been planted and maintained in a linear formation at maximum eight foot spacing, typically to function as a screen or barrier.

Public Tree: A tree located in parks, within maintained or unmaintained public rights-of-way, in a stormwater facility, or on other property owned by the City.

Street Tree: A Public Tree located within the public right-of-way; provided, that if the trunk of the tree straddles the boundary line of the public right-of-way and the abutting property, it shall be on the abutting property and subject to the provisions of this chapter.

Hazard Tree: A tree/tree part assessed by a Qualified Professional Arborist as having an **Extreme or High Overall Risk Rating** using the ISA Tree Risk Assessment Qualification (TRAQ) method in its most current form, as applied in KZC 95.25 that meets all the following criteria:

- 1) A tree with a combination of structural defects and/or disease which makes it subject to a high probability of failure;
- 2) Is in proximity to moderate to high frequency-occupied targets, persons or property that can be damaged by tree failure; and
- 3) The hazard condition of the tree **cannot be lessened with reasonable and proper arboricultural practices** nor can the target be removed.

Nuisance Tree: A tree that meets either of the following criteria:

- 1) Is causing obvious physical damage to private or public structures, including, but not limited to a: sidewalk, curb, road, driveway, parking lot, building foundation, or roof; or
- 2) Has sustained damage from past maintenance practices or from naturally occurring events such as wind, ice or snow-loading.

The problems associated with a nuisance tree must be such that they cannot be corrected by reasonable practices, including, but not limited to: pruning of the crown or roots of the tree, bracing, cabling to reconstruct a healthy crown.

Pruning: The practice of selectively removing branches (or roots) from a tree or other plant, using approved practices, to achieve a specified objective. Pruning that does not follow best management practices in the ANSI A300 Pruning Standards and **results in more than 25 percent removal** during a pruning event is not an acceptable practice.

Topping: Indiscriminate cuts made between branches that leave a stub, used to reduce the height or crown size of an established tree. **Topping is not an acceptable practice** pursuant to best management practices in the ANSI A300 Pruning Standards.

Tree Removal: The removal of a tree, through either direct or indirect actions, including but not limited to: (1) clearing, damaging, girdling, or poisoning, in each case, resulting in an unhealthy or dead tree; **(2) topping that results in the removal of more than 25 percent of the live crown** or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.

Significantly Wooded Site: For a Forest Stewardship Plan; a subject property that has numerous trees with crowns that, when outlined in aerial imagery, cover at least 40 percent of the total area of the property.

Wildlife Snag: The remaining trunk of a tree that is intentionally reduced in height and usually stripped of its branches with the intent of providing habitat.

KZC 95.23 Landmark Trees – Mitigation Requirements

Landmark Tree Mitigation

New Section 95.23 establishes a mitigation standard that applies to the removal of healthy Landmark Trees City-wide. This section does not specify the conditions under which a Landmark Tree can be removed – those regulations can be found in section 95.25(4).

Landmark Tree Definition: a viable regulated tree with a minimum 26-inch DBH located anywhere on a property.

Replacement Tree Mitigation Standard: 3:1 replacement with tree species selected from City-Approved Landmark Tree Mitigation List.

Fee-in-lieu: Should the Planning Official determine there is inadequate space to replant on the subject property, a fee-in-lieu of \$450 per replacement tree (\$1,050 total per Landmark Tree) shall be paid to the City's Forestry account to support replanting elsewhere in the City.

KZC 95.25 Tree Removal, Not Associated with Development Activity

Tree Removal Activity – Notification Required

Amendments to KZC 95 include **increased** tree removal allowances based on property size compared to the previous code, which allowed only 2 tree removals every 12-months regardless of property size. In order to qualify for these allowances, a minimum number of regulated trees must remain on the property following the proposed tree removal. The revised tree removal allowances and minimum remaining trees can be found in the table below.

The City now **requires the submittal of a Tree Removal Notification** through MyBuildingPermit.com for the removal of any trees, even if within the allowed tree removals. This notification process was previously optional.

For any tree removal that is beyond these allowances, or where special conditions apply to the lot, a **Tree Removal Permit** is required. See the next section for more information on when a permit is required.

Table 1. Regulated Tree Removal Allowances, No Permit Required

Property Size	Maximum Allowance for Tree Removals per 12 Months	Minimum Number of Regulated Trees to Remain on Subject Property
Up to 10,000 sq. ft.	2	2
10,001 to 20,000 sq. ft.	3	3
20,001 sq. ft. or greater	4	4

Tree Removal Activity – Permit Required

The following conditions require the submittal of a **Tree Removal Permit (with associated fee)**:

- a. The removal of **any Landmark Tree**. See [Page 5](#) below for regulations;
- b. Tree removal activity under any of the following conditions. The City shall only issue a permit if the trees **qualify as hazard or nuisance** trees. See [Page 6](#) below for more information on hazard/nuisance trees:
 - 1) Tree removal activity exceeds allowances pursuant to **Table 1** discussed above;
 - 2) The property owner is requesting to remove trees located within:
 - a. A public park or adjacent City Right-of-Way pursuant to KZC 95.20;
 - b. Wetlands, streams and associated buffers. See Chapter 90 KZC for additional permit requirements;
 - c. Landslide hazard areas. See Chapter 85 KZC for additional permit requirements;
 - d. Properties in the Holmes Point Overlay Zone. See Chapter 70 KZC for additional permit requirements; or
 - e. Shoreline setbacks. See Chapter 83 KZC for additional permit requirements.
 - 3) The trees were required to be retained, planted or preserved as a grove as a condition of previous development activity that occurred in the past 5 years;
 - 4) The trees were required to be retained or planted pursuant to KZC 95.40 through 95.50;
 - 5) Hedge Tree removals that exceed allowances pursuant to **Table 1** discussed above;
 - 6) The trees are protected under a voluntary Tree Preservation Covenant.

Landmark Tree Removal Regulations

For any private property owner requesting the removal of a Landmark Tree (equal or greater than 26" DBH), a **Tree Removal Permit (with associated fee) must be submitted**, and the following regulations apply:

- **Limit one (1) Landmark Tree Removal** within a 12-month period
- The requested Landmark Tree removal **will count toward the total tree removal allowances** for the property
- The tree must be mitigated with **3 new trees** selected from the **Landmark Tree Mitigation List** and installed within 12-months of the permit approval
 - Documentation following planting must be submitted to the City via email
- Landmark Tree "banking": A property owner may remove up to **one (1) additional Landmark Tree** within the same 12-month period, provided that no more than two (2) total Landmark Trees are removed within any given 24-month period. Mitigation standards apply.

Example: A property owner would like to remove two Landmark Trees during one removal event. The applicant must submit a Tree Removal Permit requesting to bank the additional tree removal and provide a mitigation plan showing six replacement trees satisfying the requirements of KZC 95.23. The property owner will then be prohibited from removing Landmark Trees for an additional 12-month period, or a total of 24-months from the date the permit was issued.

Tree Removal on Private Property Prior to Development Permit Submittal

To prevent the removal of trees in anticipation of future development with the purpose of avoiding tree retention standards per KZC 95.30, the City will not accept any new development permit applications with a pending tree removal permit or tree removal notification. In addition, the City will not accept a development permit for detached dwelling units, cottages, carriage units, two/three-unit homes short plats or subdivisions for a property for a **period of 12-months following the most recent removal of a regulated tree or a period of 24-months following the most recent removal of a Landmark Tree.**

The Director of Planning and Building may grant an exception and accept a development permit application in unusual and extraordinary circumstances. The Director shall review the exception request and either approve or deny the request based on the following:

- a. A review of available public information; and
- b. A certified declaration from the owner stating that they were not aware the property would be developed at the time of tree removal and description of the unusual or extraordinary circumstances.

If the owner is deceased or incapable of signing the declaration, the Director may approve a declaration signed by the owner's representative. The party planning to develop the property cannot be the owner's representative.

Removal of Hazard or Nuisance Trees

For the removal of any tree that requires submittal of a **Tree Removal Permit**, the subject tree **must meet the City's hazard and/or nuisance tree criteria** (with the exception of allowed Landmark Tree removals) to be approved for removal. Trees that are approved for removal through a Hazard/Nuisance Tree Removal Permit will not count toward the removal allowances for the subject property. The following documentation must be provided to support that the tree meets these criteria:

- 1) **Tree Risk Assessment report** prepared by a Qualified Professional Arborist, including:
 - a. Explanation of how the tree or tree parts meet the definition of a hazard, and;
 - b. Overall tree risk rating with correlating mitigation measures as follows:
 1. If a potential target does not exist, applicants should consider routine pruning and maintenance;
 2. If a tree/tree part is found to have a Low or Moderate Overall Risk Rating, the Planning Official may approve mitigation measures in lieu of removal;
 3. If a tree/tree part is found to have a High or Extreme Overall Risk Rating and mitigation is infeasible, the Planning Official may approve the removal of the tree.
- 2) **Site plan**, map, or aerial photograph showing the location of tree/s requested for removal, including the locations of structures, access ways, and easements.
- 3) **Replanting Plan** showing the location, size, and species of each replacement tree required

Note: All Hazard/Nuisance tree permits are subject to peer review and site inspection by the City Arborist to ensure the information submitted is accurate and meets City standards.

The City may approve the removal of dead, dying, and/or diseased trees from private property as hazard trees without the submission of a Tree Removal Permit **if the applicant provides photographic evidence** demonstrating that at least one of the following applies:

- a. **Dead trees.** The tree is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, roots or branches exist to sustain life; and/or
- b. **Dying trees.** The tree is in an advanced stage of decline due to disease, insect infestation, or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent the spread of a disease/pest that would cause catastrophic decline in tree health and failure.

Tree Replacement Requirements

The revised tree code now requires the replacement of all trees removed through an approved **Tree Removal Permit**. The minimum size of acceptable replacement trees is **6-feet tall** for conifer trees or **2-inches caliper** for deciduous or broad-leaf evergreen trees. When a property owner is removing one of the last trees required to remain on their property, replacement standards are subject to **Table 2** below. For all other trees, replacement standards are subject to **Table 3** below.

Table 2 Tree Replacement Standards for Property Owner Removal of the Last Remaining Trees

Diameter of Removed Tree	Number of Replacement Trees Required
6 to 15 inches DBH	1
16 to 26 inches DBH	2
26 inches DBH or greater	3 (see KZC 95.23)

Table 3 Tree Replacement Standards

Location of Tree Removal	Tree Replacement Standards
Public trees in parks or City Right-of-Way per KZC 95.21(2)	Minimum 1:1 tree replacement
Significantly wooded properties 25,000 sq. ft. or greater	Determined in approved Forest Stewardship Plan
Hedge Trees on Private Property	1:1 tree replacement (see note)
Holmes Point Overlay Zone - species selection and timing of installation shall be approved by the Planning Official	1:1 tree replacement with native trees. See KZC Chapter 70
Shoreline setbacks	See KZC Chapter 83 for tree replacement standards
Streams, wetlands and associated buffers – the Planning Official shall determine the required number of replacement trees	1:1 to 3:1 tree replacement with native trees. See KZC Chapter 90
Required landscaping pursuant to KZC 95.40 through 95.50	Replant to the required landscaping standards of KZC 95.40 through 95.50

Forest Stewardship Plan

The revised tree code now allows for smaller-sized properties to utilize the Forest Stewardship Plan process to manage their property. Significantly wooded properties at least **25,000 square feet or larger** are now eligible to submit a **Forest Stewardship Plan** to manage trees and vegetation. This plan allows property owners to develop a holistic plan that supports sustainable, stewardship-focused forest management. Property owners must submit a completed permit application for City review for compliance with applicable City regulations, including:

- a. A Forest Stewardship Plan developed by a Qualified Professional Arborist including the following:
 - 1) A **site plan** depicting the location of all existing regulated trees with a numbering system of the trees (with corresponding tags on trees in the field). A survey identifying tree locations is not required. The site plan or additional documentation shall include:
 - a) The DBH, species, and condition of each regulated tree; and
 - b) Identification of trees proposed to be removed, the reasons for their removal and a description of low impact removal techniques pursuant to subsection (b)(4) of this section.
 - 2) A **reforestation plan** that addresses the installation and establishment of trees and vegetation, including tree location, size, species; and
 - 3) A **prescribed maintenance plan** that ensures perpetuity of the wooded areas, with the sequence of tree removals and reforestation activities specified over a minimum five (5) year timeline.
- b. The following Forest Stewardship Plan standards shall apply:
 - 1) Trees to remain should be dominant or co-dominant in the stand, **healthy and windfirm**;
 - 2) Unless otherwise permitted by this chapter, there shall be no removal of:
 - a) **Landmark Trees or preserved groves**;
 - b) Trees located in **critical areas** and associated buffers;
 - c) Trees located in **high landslide susceptibility areas**; and
 - d) Trees that would cause trees on **adjacent properties to become hazardous**.
 - 3) The size of planted trees for reforestation shall be a minimum of **6-foot tall** for a conifer and **2-inch caliper** for deciduous or broad-leaf evergreen tree, unless approved otherwise by the City;
 - 4) Logging operations shall be conducted to expose the smallest practical area of soil to erosion for the least possible time. To control erosion, native shrubs, ground cover, and stumps shall be retained where feasible. Where not feasible, appropriate erosion control measures to be approved by the City shall be implemented;
 - 5) Removal of debris shall be done pursuant to Kirkland Fire Department standards; and
 - 6) The Planning Official may require a performance security pursuant to KZC 175 in order to ensure that the reforestation requirements of the approved Forest Stewardship Plan are met.