



The City of Kenmore

18120 68TH AVENUE NE PO Box 82607
KENMORE, WASHINGTON 98028

MEMO

TO: Planning Commission

FROM: Debbie Bent, Community Development Director DA
Ashley McCulley, Department of Community Development KM/LWA

DATE: August 25, 2015

SUBJECT: Continued Review and Public Hearing on Draft Tree Management and Protection Recommendations to Mitigate Adverse Windthrow Events

On September 1, 2015 a public hearing will be held, moving forward with the process of amending the Tree Protection and Management Ordinance. This memo provides additional information and responses to questions raised at the July 21 meeting, along with further staff recommendations on the proposed amendments.

Responses to July 21 questions and additional information

At the Planning Commission meeting on July 21, 2015 you raised the question of whether or not other cities on Lake Washington [and in the area] have adopted tree windthrow regulations. You also asked that we add amendments that require notification of windthrow potential to neighboring property owners. For the public hearing, staff is recommending some additional amendments to address concerns raised by Development Services staff.

- Other local jurisdictions address tree windthrow as follows:

1. Renton: requires the retention of shelter and interior trees, and clusters of trees to increase wind protection and reduce risk of harm from strong winds.

<http://rentonwa.gov/uploadedFiles/Business/EDNSP/planning/Tree%20Ordinance%20May%202007.pdf>

2. Kirkland: requires a permit and arborist report for any removal of significant trees. On single family lots, this includes shelter trees and the last (one or two) remaining trees. Their ordinance also require all trees to be windfirm upon completion of development.

<http://www.kirklandwa.gov/Assets/!AssetArchive/Tree+Removal+Guide.pdf>

<http://www.codepublishing.com/wa/kirkland/html/kirklandz95/KirklandZ95.html>

3. Bellevue: requires the preservation of interior trees and significant trees, which include but are not limited to: trees over 60 feet in height, trees that provide protection from winter winds, and trees that produce a continuous canopy.

https://www.bellevuewa.gov/pdf/Development%20Services/L-27_TreePreservation.pdf

4. Seattle: requires tree protection plan for [any] development whether it be developed or undeveloped land. Report shall include whether there a risk or danger of the tree(s) falling, and shall also include plans for supervising, and/or monitoring implementation of any required tree protection or replacement measures.

https://www.municode.com/library/wa/seattle/codes/municipal_code?nodeId=TIT25ENPRHIPR_CH25.11TRPR_25.11.020DE

5. Shoreline: requires submission of tree evaluation form, to be completed by an arborist, before permit for tree removal is granted. Form and evaluation include exposure to wind and windthrow analysis.

<http://www.cityofshoreline.com/home/showdocument?id=2460>

6. Lake Forest Park: requires a tree plan to be submitted with consultation from an arborist. Assessment and evaluation should include whether or not trees will remain windfirm upon completion of development, and whether or not off-site (or neighboring trees) will be negatively impacted by development or tree-removal.

<http://www.cityofflp.com/DocumentCenter/Home/View/368>

- Code language has been added to address neighbor notification:

Per your request, new amendments regarding notification procedures for neighboring property owners have been added. The new amendment(s) state that: "If a windthrow evaluation determines significant windthrow potential for trees that could impact neighboring properties or are on neighboring properties, neighboring property owners shall be alerted to this issue through a form letter (template provided by the department) that instructs the property owner to contact the applicant with any questions or concerns. The purpose of this notification is to provide an opportunity for the neighbor and applicant to discuss tree windthrow concerns and/or mitigating measures. An affidavit of notification shall be submitted to the department within 7 calendar days following the department's determination that a letter is required to allow continued processing of the application by the department. The City may not issue a decision on tree removal until 14 calendar days have passed from the date of the City's receipt of the affidavit of notification." These amendments can be found in "Attachment 1" under section 18.57.085.C.1.

- Additional Amendments to KMC Chapter 15.25 and 18.57 are recommended to address Development Services concerns:

Community Development staff met with Development Services staff regarding implementation of the proposed amended Tree Management and Protection Ordinance, and new regulations/permitting procedures for tree removal on single-family lots. Development Services staff recommended additional amendments to make implementation of the new regulations easier. The revised language: 1. Makes explicit that tree windthrow mitigation measures could include denial of a request to remove a tree; 2. Adds a definition of tree windthrow; and 3. Adds a new appeals process for denying removal of a tree on a single-family lot. Current code would require such an appeal to go to superior court.

Final Recommended Amendments for the Public Hearing

Attachment 1 contains the amendments to Title 15 and Title 18 as recommended by staff. Title 15 amendments address tree removal on single-family lots. Title 18 amendments address tree windthrow analyses and standards.

Attachments:

1. Proposed Amendments for Public Hearing

Proposed amendments are highlighted in yellow

15.25.070 Permit Required – Exception

B. Clearing and Tree Removal

1. Clearing and removal of trees for the construction of a structure authorized by a valid building permit.
2. Removal of significant trees on lots that contain existing single-family detached dwellings, and that:
 - a. are not within critical areas, shorelines or associated buffers, native growth protection areas, or wildlife protection zones; and
 - b. would not increase the likelihood of tree windthrow (see KMC 18.57.085.A); and
 - c. or that have not been previously designated for protection (e.g., as part of a plat); and
 - d. are based on the following table:

Lots up to 10,000 sq.ft.:	2 trees per year
Lots 10,001 sq.ft. to 20,000 sq.ft.	4 trees per year
Lots 20,001 sq.ft. to 30,000 sq.ft.	6 trees per year
Lots 30,000 sq.ft. and greater:	8 trees per year

15.25.195 Appeals.

An appeal of a decision to deny removal of a significant tree(s) based on a windthrow analysis, on a lot that contains an existing single-family detached dwelling, shall be made to the hearing examiner in accordance with the requirements and processes of Chapter 19.30 KMC.

18.20.2207 Qualified tree protection professional.

“Qualified tree protection professional” means a licensed professional with academic and/or field experience that makes her or him a recognized expert in *tree* preservation and

management. The tree protection professional **may shall** be an arborist certified by the International Society of Arboriculture or be an arborist registered with the American Society of Consulting Arborists, and shall have specific experience with *tree* management in the State of Washington. A qualified tree protection professional must possess the ability to evaluate the health and hazard potential of existing *trees*, and the ability to prescribe appropriate measures necessary for the preservation of *trees* during *development*.

18.20.3090 Tree windthrow.

"Tree windthrow" means the process of uprooting, breaking, and overthrowing of a tree by force of wind during a storm event.

18.57.050 Tree protection plan required.

A. Requirement Established. Except for the exemptions enumerated in this chapter, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall remove, transplant, or destroy, or cause to be removed, transplanted, or destroyed, on any land in the *City*, any *tree* as defined in this chapter, without first obtaining the *city manager's* approval of a tree protection plan and receiving a clearing permit from the *City*. For *sites* proposed for land *development*, including the division of a parcel of land into two or more parcels, having *trees* below the minimum tree density, even though no *trees* are proposed to be removed, a tree protection plan is required to bring the *site* up to the minimum tree density standard herein established.

B. Submittal of Tree Protection Plan. Where the *site* proposed for *development* requires site or plat or short plat review, the tree protection plan shall be submitted concurrent with a site plan or plat or short plat application.

C. Tree Protection Plan Requirements. Attached to the *applicant* information and site plan information required for the clearing permit applications, the *applicant* shall include the following tree protection plan information:

1. *Tree Survey*. For all *development proposals*, a *tree* survey, drawn to scale by a land surveyor licensed in Washington State, identifying the exact location and conditions of existing *trees* as defined in this title and containing the following information:

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- a. Common and botanical name of each *tree*.
 - b. *Trees* proposed to remain and to be removed.
 - c. *Groves* with indication of predominant species, number of *trees* and size of d.b.h.
 - d. Any off-site *tree* with a root protection zone which could be adversely affected by the proposed activity.
 - e. The location and dimensions of established and proposed perimeter *landscaping*, natural *vegetation* easements, and open space areas for public, *private*, or community use.
 - f. *Net buildable areas*.
 - g. *Critical areas* and their *buffers*.
 - h. Stormwater tracts.
 - i. Limits of construction line.
 - j. North arrow, scale, and date of survey.
2. An assessment of tree windthrow potential as described in Section 18.57.085, along with any proposed mitigation measures to prevent windthrow. These measures shall be incorporated into the proposed tree protection plan described in subsection 5 of this section.
23. A statement describing how *trees* intended to remain will be identified, marked, and protected before the start of and during *development* as further described in KMC 18.57.090.
34. A statement that describes replacement tree quality as conforming to the American Standards for Nursery Stock (ANSI).
45. Proposed Tree Protection Plan. The permit *applicant* shall have a *qualified tree protection professional* prepare recommendations for the a tree protection plan. The tree protection plan shall be drawn to scale using the *tree* survey as a base and containing the following information:

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- a. The exact location and conditions of protected *trees*.
- b. The exact location, common name, botanical name, and *caliper* of each *tree* species to be planted.
- c. The *site* minimum tree density calculation indicating the total number, size, and species of existing *trees* to be preserved and the replacement *trees* to be planted as described in KMC 18.57.060.
- d. The *site* replacement tree calculation as described in KMC 18.57.060 with an explanation including the number, *caliper*, and species.
- e. The location, materials, dimensions, and layout of the protective barriers.

56. Submit a landscape bond quantity form.

67. Additional Information. Any additional or more detailed information required by the *city manager* to ensure compliance with the provisions of this chapter (i.e., aerial photograph). The *city manager* may waive the requirements for the scaled drawing and other submission data if he finds that the information presented is sufficient to determine the project's compliance with the provisions of this chapter.

18.57.080 Tree protection plan review standards.

The following standards shall govern the approval of a tree protection plan and the granting or denial of an application for clearing permit:

A. Design. *Development* shall be designed, located, and conducted so as to minimize the loss of healthy *groves* and protected *trees* as identified by a *qualified tree protection professional*, degradation of wildlife habitat as identified through environmental review, and the potential for *erosion* and slope failure.

B. *Tree Protection Priority*. In designing a development project and in meeting the required minimum tree density, the *applicant* shall protect *trees* within the *net buildable area* as described in KMC 18.57.060(B)(1), in the following order of priority. *Trees* to be preserved and protected must be healthy and vigorous, *wind-firm*, and not in conflict with utilities.

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1. Groves.
2. Individual *trees* which provide wildlife habitat as identified through environmental review.
3. Individual *trees* and *groves* which occur within required *setbacks*.
4. Trees that protect against windthrow, including ~~t~~Trees sheltering interior trees or trees on adjacent property from strong winds that could otherwise cause them to blow down.
5. *Trees* which provide a buffer and separate incompatible *uses* or reduce sound and wind levels.

18.57.085 Tree windthrow evaluation and prevention.

- A. Increased tree windthrow potential as a result of impacts to trees on a site shall be evaluated based on the following risk factors:
 1. Root disruption that will extend within an area 1 to 2.5 times the radius of the canopy;
 2. Tree species;
 3. Whether the tree is deciduous or evergreen;
 4. Height of the tree relative to the neighboring trees;
 5. Whether the tree is part of a grove.
- B. The windthrow evaluation shall be conducted as part of the preparation of the tree protection plan (see KMC 18.57.050) based on the aforementioned risk factors. The assessment shall be conducted by a *qualified tree protection professional*. This assessment also shall evaluate increased windthrow potential for trees on neighboring lots that are within 50 feet of the closest trees being removed on the site, including trees that share a root system with tree(s) on the site.
- C. Tree protection plan.
 1. If a windthrow evaluation determines significant windthrow potential for trees that could impact neighboring properties or are on neighboring properties, neighboring property owners shall be alerted to this issue through a form letter (template provided by the department) that instructs the property owner to contact the applicant with any questions or concerns. The purpose of this notification is to provide an opportunity for the neighbor and applicant to discuss tree windthrow concerns and/or mitigating measures. An affidavit of notification shall be submitted to the department within 7 calendar days following the department's determination that a letter is required to allow continued processing of the application by the department. The City may not issue a decision on tree removal until 14 calendar days have passed from the date of the

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City's receipt of the affidavit of notification.

2. When significant windthrow potential is identified for trees that could impact neighboring properties or are on neighboring properties, the applicant shall identify measures to minimize windthrow as part of the tree protection plan. Measures could include but are not limited to demonstrating that the CRZ fencing is adequate to prevent root disruption or that the CRZ is expanded to provide root protection; saving groves when applicable; taking steps to preserve existing grades around trees; and/or tunneling rather than trenching for utilities. The City may deny a request to remove a tree(s) if mitigation measures are inadequate to minimize windthrow.

3. If potential windthrow damage is for the site itself, the applicant shall identify measures to reduce impacts to future structures on the site.