# CHAPTER 18.54

# TREE REGULATIONS

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## 18.54.010 Title

This Ordinance shall be known as the City of Tukwila "Tree Ordinance," and may be so cited.

*(Ord. 1758 §1 (part), 1995)*

## 18.54.020 Purpose

This purpose of this chapter is to:

1. Mitigate certain environmental consequences of land development, and to maintain and improve the quality of Tukwila's urban environment.

2. Promote building and site planning practices that are responsive to the community's natural environment, without preventing reasonable development of land.

3. Regulate clearing of trees and understory vegetation in the City of Tukwila, in order to:

a. Maintain and enhance the aesthetic, ecological and economic benefits provided by vegetation, such as:

(1) providing wildlife habitat;
(2) reducing runoff and soil erosion;
(3) reducing air pollution;
(4) masking noise;
(5) reducing wind speed and urban "wind tunnels";
(6) energy conservation, cooling of urban centers;
(7) increasing real property values;
(8) enhancing visual and aesthetic qualities of the urban environment.

b. Maintain the viability of existing stands of trees and understory vegetation.

c. Promote retention of native vegetation in sensitive areas and their buffers, shoreline areas, and wildlife habitat areas.

4. Provide a means to implement the requirements of the Sensitive Areas Overlay District chapter of this title, relative to vegetation removal in sensitive areas and sensitive area buffers.

*(Ord. 1758 §1 (part), 1995)*

## 18.54.030 Scope

This chapter sets forth rules and regulations to control clearing of trees and understory vegetation within the City of Tukwila.

*(Ord. 1758 §1 (part), 1995)*

## 18.54.050 Permit - Exempt Activities

The following activities are exempt from the application of this chapter and do not require a Tree Clearing Permit:

1. Clearing of any vegetation; UNLESS the site on which clearing is to occur is located in a sensitive area, sensitive area buffer, or shoreline zone.

2. On sites within a sensitive area, or sensitive area buffer, or shoreline zone:

a. Clearing of up to 4 significant trees on a site currently zoned and developed for single-family residential use within any 36-month period; UNLESS the significant trees to be removed are located within a wetland, watercourse and their associated buffers or within the shoreline zone.

b. Clearing of any vegetation located outside a sensitive area, sensitive area buffer or outside the shoreline zone.

c. Removal of hazardous trees.

d. Routine maintenance of vegetation necessary to maintain the health of cultivated plants, to contain noxious weeds, or to remedy a potential fire or health hazard or threat to public safety per TMC Commercial parking subject to TMC Chapter 18.56, "Off-Street Parking and Loading Regulations." 8.28, Nuisances.

e. Vegetation removal necessary to the operation of an established Christmas tree farm or commercial plant nursery.

f. Construction and maintenance of streets and utilities within City-approved rights-of-way and easements.

*(Ord. 1758 §1 (part), 1995)*

## 18.54.060 Permit - Mandatory Standards

All removal of significant trees and understory vegetation shall be undertaken in accordance with the mandatory standards specified in this chapter, except as provided in the Waiver to Permit Materials or Exceptions sections of this chapter.

*(Ord. 1758 §1 (part), 1995)*

### 18.54.070 Permit Required

No person shall conduct any clearing of vegetation without first obtaining a Tree Clearing Permit on a form approved by the Director; unless specifically exempted under this chapter.

*(Ord. 1758 §1 (part), 1995)*

### 18.54.080 Permit Application Materials

The following materials are required to obtain a Tree Clearing Permit:

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;

d. Limits of any sensitive area and sensitive area buffer, and mean high water mark of the river.

2. ***Landscape Plan*** for the proposal, showing:

a. Diameter, species name, spacing and location of replacement trees/vegetation to be used to replace vegetation cleared;

b. Diameter, species name and location of all significant trees and vegetation to be retained;

c. Proposed vegetation protection measures;

d. Any other measures proposed to restore the environmental and aesthetic benefits previously provided by on-site vegetation.

3. ***Professional review or recommendation*** - Submittal of, or agreement to submit, a review, evaluation, recommendation or plan related to vegetation clearing or replacement prepared by a professional consultant(s), such as a landscape architect, surveyor, or certified arborist. Services may include, but are not limited to:

a. Providing a written evaluation of the anticipated effects of proposed construction on the viability of trees on-site; and/or

b. Developing plans for, supervising, and/or monitoring implementation of any required tree protection or replacement measures; and/or

c. Post-construction site inspection and evaluation.

4. ***Sensitive area mitigation plan*** - Identify measures proposed for mitigation of vegetation clearing in a sensitive area and/or its buffer per the Sensitive Areas Overlay District chapter of this title.

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

6. ***Additional studies and conditions*** - The Director may require supplemental studies or other documentation, or specify conditions for work, at any stage of the application or project as he/she may deem necessary to ensure the proposal's compliance with the requirements of this chapter, the Shoreline Overlay District chapter or the Sensitive Areas Overlay District chapter of this title, or to protect public or private property. These conditions may include, but are not limited to, hours or seasons within which work may be conducted, or specific work methods.

*(Ord. 1758 §1 (part), 1995)*

### 18.54.090 Waiver to Permit Materials

The Director may waive the requirement for any or all plans or permit materials specified in this chapter 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 for permit materials shall not be construed as waiving any other requirements of this or related regulations.

*(Ord. 1758 §1 (part), 1995)*

### 18.54.100 Permit Application Fee

A. Fee required: A non-refundable permit application fee will be collected at the time of submittal of a Tree Clearing Permit application. The application fee will provide for the cost of plan review, administration and management of the permitting process, inspections, and processing of exceptions to standards and appeals pursuant to this chapter.

B. Fee: The City shall collect a fee for processing a Tree Clearing Permit per TMC Section 18.88.010, except as otherwise noted in this chapter.

C. Fee exception: No fee shall be required for vegetation clearing associated with land-altering activity approved under a Land-Altering Permit.

*(Ord. 2291, §1, 2010; Ord. 1758 §1 (part), 1995)*

### 18.54.110 Applicant Insurance Required

A. In addition to any permit materials or conditions specified pursuant to this chapter, if in the opinion of Director the nature of the work is such that it may create a hazard to human life or endanger adjoining property, then the Director may require the applicant to submit a certificate of insurance.

B. The certificate must show that the applicant is insured against claims of damages involving personal injuries and property in an amount prescribed by the Director in accordance with the nature of the risks involved and the following minimum amounts:

1. Bodily injury liability:
   $1 million per occurrence.
2. Property damage liability:
   $1 million per occurrence.

C. All insurance policies obtained in accordance with these provisions shall name the City of Tukwila as an "additional insured" and shall be written by a company licensed to do business in the State of Washington.

*(Ord. 1758 §1 (part), 1995)*

## 18.54.120 Applicant Security Required

To mitigate damages should they occur as a result of clearing which is not authorized by a Tree Clearing Permit, the Director may require from the applicant a bond, letter of credit, or other means of security acceptable to the City. The following provisions shall apply in instances where such securities are required:

1. The required security shall be submitted prior to the issuance of a Tree Clearing Permit.

2. The security shall be equal to City Staff's best estimate of possible costs directly associated with replacement of cleared vegetation which has not been authorized to be cleared under a Tree Clearing Permit (e.g. the replacement of vegetation approved for retention, or the installation of replacement plantings which the applicant has failed to install as required). In no case shall the security exceed an amount equal to 2.5 times the current cost of replacing the plants per the Tree Replacement requirements of this chapter.

3. The security 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.

4. Securities provided in accordance with this chapter may be redeemed in whole or in part by the City of Tukwila upon determination by the Director that the applicant has failed to fully comply, within the time specified, with approved plans and/or any remedial or enforcement actions mandated in accordance with this chapter.

*(Ord. 1758 §1 (part), 1995)*

## 18.54.130 Permit Approval Criteria

To the extent that vegetation retention and/or replacement is consistent with project feasibility or reasonable use of the property, vegetation clearing shall be planned and conducted to meet all of the criteria below. These criteria shall be the basis for approval, approval with conditions or denial of any tree clearing included in a Tree Clearing Permit application.

1. ***Tree Retention*** - Site improvements shall be designed and constructed to retain as many existing healthy trees as possible, and to meet the following criteria:

a. Priority shall be given to retention of existing stands of trees, trees at site perimeter, trees within the shoreline Low-Impact Environment, in Sensitive Areas or Sensitive Area Buffers, and healthy mature trees.

b. All understory vegetation within the essential root zone of protected trees shall be:

(1) retained; OR

(2) removed by methods which are non-damaging to the tree, and replaced with vegetation with horticultural requirements which are compatible with protected trees.

c. Vegetation removal shall be undertaken in such a manner as to preserve, to the degree possible, the aesthetic and ecological benefits provided by such vegetation.

2. ***Tree Protection Measures*** -

a. The proposal shall include tree protection measures which meet or exceed best management practices and current standards of professional arboriculture, and which are sufficient to ensure the viability of protected trees and other vegetation identified for retention pursuant to requirements of this chapter, and shall include measures sufficient to protect any Sensitive Area, its Buffer and vegetation within the shoreline Low-Impact Environment.

b. During clearing and/or construction activities, all protected vegetation shall be surrounded by protective fencing which prevents adverse impacts associated with clearing from intruding into areas of protected vegetation.

3. ***Tree Replacement*** - The site shall be planted with trees to meet the following minimum requirements:

a. Each existing significant tree removed shall be replaced with new tree(s), based on the size of the existing tree as shown below, up to a maximum density of 70 new trees per acre.

b. Tree Replacement Ratios

| Diameter of Existing Tree Removed | No. of Replacement Trees Required |
|---|---|
| 4 - 8 inches | 1 |
| 8 - 12 inches | 2 |
| 12 - 18 inches | 4 |
| 18 - 24 inches | 6 |
| >24 inches | 8 |

c. Prior to any vegetation removal, the applicant shall demonstrate through a Landscape Plan, Sensitive Area Mitigation Plan or other materials required per the requirements of this chapter that vegetation replacement will meet the following minimum standards:

(1) Minimum sizes shall be 2.5-inch caliper for deciduous trees, 6 to 8 feet in height for evergreen trees, 24 inches in height for shrubs, and 1 gallon for groundcover.

(2) Replacement plants shall meet current American Association of Nurserymen standards for nursery stock;

(3) Planting and maintenance of required replacement vegetation shall be in accordance with best management practices for landscaping which ensure the vegetation's long-term health and survival.

4. ***Surrounding Environment*** - The timing of, and methods to be used in any proposed vegetation removal shall be such that impacts to protected vegetation, wildlife, fisheries and the surrounding environment are minimized.

5. ***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. 1758 §1 (part), 1995)*

## 18.54.140 Permit Exceptions

A. ***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 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 vegetation 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 consider any of the following in reviewing an exception request:

a. The recommendation of a certified arborist supports the exception.

b. The size of the site or project cannot support the number of required replacement trees, and off-site tree planting is proposed which furthers the goals of this chapter and other City policies.

c. On-site planting of all required replacement trees is not feasible, and the project includes an equivalent contribution in funds and/or labor and materials for off-site tree planting as jointly agreed by the applicant and Director.

d. Smaller-sized replacement plants are more suited to the species, site conditions, and to the purposes of this chapter, and are planted in sufficient quantities to meet the intent of this chapter.

B. ***Retention and Replacement of Canopy Cover*** - or undeveloped sites or sites with dense stands of trees, where the cost of identification of individual tree species and sizes is inordinate relative to the project, the Director may allow the applicant to use the tree canopy cover approach outlined below to calculate retention and replacement of trees:

1. The site shall have a minimum canopy cover equal to 20% of the site area, or equal to the existing canopy cover whichever is less.

2. To meet the requirements for site canopy cover, canopy cover may consist of any combination of existing trees and replacement trees. Canopy cover of each new tree shall be calculated at 314 square feet.

C. ***Exception Procedures*** - An application for any exception from this chapter shall be submitted in writing by the property owner to the Director, and shall accompany the application for a Tree Clearing Permit. Such application shall fully state all substantiating facts and evidence pertinent to the exception request, and include supporting maps or plans. The Director shall not grant an exception unless and until sufficient reasons justifying the exception are provided by the applicant.

*(Ord. 1758 §1 (part), 1995)*

## 18.54.150 Permit Processing and Duration

A. If the proposed vegetation clearing and permit application meet the requirements of this chapter, the Director shall approve the application and issue the Tree Clearing Permit. All Tree Clearing Permits and exceptions shall be processed as Type 1 decisions.

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

C. From the date of issuance, permits shall be valid for a period of 180 days.

*(Ord. 1770 §32, 1996; Ord. 1758 §1 (part), 1995)*

## 18.54.160 Permit Conformance

A. ***Plan 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.

B. ***Tree Protection Measures*** - All tree and vegetation protection measures shown on approved permit drawings shall be installed prior to initiation of any clearing or land-altering activity.

C. ***Protection of Property*** - The applicant shall at all times protect improvements to adjacent private 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.

D. ***Maintenance Responsibility*** - All protected and replacement trees and vegetation shown in approved Tree Clearing Permit materials shall be maintained in healthy condition by the property owner throughout the life of the project, unless otherwise approved by the Director in a subsequent Tree Clearing Permit.

*(Ord. 1758 §1 (part), 1995)*

## 18.54.170 Violations

The following actions shall be considered violations of this chapter: clearing, planting, relocation, or maintenance of vegetation not authorized under or in accordance with an approved Tree Clearing Permit, where such permit is required, or not in accordance with the provisions of this chapter. Each tree which is cleared, not replaced or not maintained as required by this chapter shall constitute a separate violation.

*(Ord. 1758 §1 (part), 1995)*

## 18.54.180 Enforcement

A. ***General*** - In addition to the Notice and Order measures prescribed in TMC Chapter 8.45, Civil Violations, as now in effect or as amended hereafter, the Director may take any or all of the enforcement actions prescribed in this Ordinance to ensure compliance with, and/or remedy a violation of this Ordinance; 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 Clearing 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 Clearing 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 Clearing 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 Clearing 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 for the purpose of inspection for compliance with the provisions of a Tree Clearing Permit or this chapter, consistent with TMC 8.45.070, Authority to Inspect.

2. Where deemed necessary by the Director to ensure compliance with permit requirements, upon completion of all requirements of a Tree Clearing Permit, the applicant shall request a final inspection by contacting the Director. The permit process is complete upon final approval by the Director.

D. ***Remedial Measures Required*** - In addition to penalties provided for in this chapter, the Director may require any person conducting vegetation clearing in violation of this chapter to mitigate the impacts of clearing by carrying out remedial measures. The following provisions shall apply in instances where such remedial measures are required:

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

2. Remedial measures must conform to the purposes and intent of this chapter. In addition, remedial measures must meet the standards specified in this chapter, and applicable standards for mitigation outlined in the Sensitive Areas Overlay District chapter of this title.

3. Remedial measures must be completed to the satisfaction of the Director within 6 months of the date a Notice and Order is issued pursuant to TMC 8.45.040, or within the time period otherwise specified by the Director.

4. 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. 1758 §1 (part), 1995)*

## 18.54.190 Liability

A. Liability for any adverse impacts or damages resulting from work performed in accordance with a Tree Clearing 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. Issuance of a Tree Clearing 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 within the City limits from the duty to keep any tree or vegetation upon his property or under his control in such condition as to prevent it from constituting a hazard or a nuisance, per 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.

*(Ord. 1758 §1 (part), 1995)*

## 18.54.200 Conflicts with Existing Codes and Ordinances

A. Whenever conflicts exist between this chapter and federal, State or local laws, ordinances or regulations, the more restrictive provisions shall apply.

B. Neither this chapter nor any administrative decisions made under it exempts the permittee from procuring other required permits or complying with the requirements and conditions of such a permit.

*(Ord. 1758 §1 (part), 1995)*