



TREE & LOW IMPACT DEVELOPMENT
AD HOC COMMITTEE
REGULARLY SCHEDULED MEETING
WEDNESDAY, AUGUST 23, 2017
8:00-10:00 AM
COUNCIL CONFERENCE ROOM
280 MADISON AVE N
BAINBRIDGE ISLAND, WA 98110

AGENDA

**** Note different day & time**

- 8:00 AM** **Review and Approve Notes from August 2, 2017 Meeting**
- 8:05 AM** **Review and Approve Meeting Agenda**
- 8:10 AM** **Public comment on agenda-related items.**
- 8:15 AM** **Ongoing Business:**
Update on Phase 2 LID Work
Update on Critical Area Ordinance
Discuss Revisions to BIMC 16.18 *Land Clearing*
- 9:40 AM** **Public comment on agenda-related items.**
- 9:50 AM** **Discuss Agenda for Next Meeting**
- 9:55 AM** **For the Good of the Order**
- 10:00 AM** **Adjourn**

***** TIMES ARE ESTIMATES****

Public comment time at meeting may be limited to allow time for Commissioners to deliberate. To provide additional comment to the City outside of this meeting, e-mail us at pcd@bainbridgewa.gov or write us at Planning and Community Development, 280 Madison Avenue, Bainbridge Island, WA 98110

For special accommodations, please contact Jane Rasely, Planning & Community Development 206-780-3758 or at jrasely@bainbridgewa.gov

NEW BIMC Chapter 16.18:

Tree Management & Forest Stewardship, Clearing, and Conversion

16.18.010 Findings.

- A. Forested areas and trees on individual lots are integral parts of Bainbridge Island's character; they enhance the City's appearance and livability, as well as providing significant environmental benefits and natural resource values.
- B. Conserving and managing the Island's forested areas and native vegetation is a central goal of the Bainbridge Island *2016 Comprehensive Plan*: see Goals LU-6, 12 & 13; EN-3, 4, 5, 18 & 19; WR-3 & 4; and Policies LU 4.10 & EN 15.3.
- C. Trees are valued by homeowners and, when well cared for, enhance property values.
- D. Reckless and unnecessary removal of trees and understory vegetation, combined with extensive disturbance of soils, cause loss of habitat and wildlife, runoff and soil erosion, degradation of surface water and aquifer recharge, and adverse impacts on air quality, as well as loss of aesthetic appeal.
- E. The community forest resources of the Island are best understood as a mosaic, with some large and many small pieces, publicly owned and private, developed and undeveloped. When clearing for development further fragments the mosaic, both individual and community interests are affected.
- F. On Bainbridge Island and elsewhere, examples exist to demonstrate that (1) development for residential and other uses can be compatible with careful conservation of forest conditions and other natural features; and that (2) such development can be cost-effective, attractive, energy-efficient, and well adapted to our climate.

16.18.015 Purposes.

- A. To promote the public health, safety, and general welfare of Bainbridge Island citizens without preventing the reasonable use of private property.
- B. To preserve and enhance the City's physical and aesthetic character, to promote the healthy functioning of our Island's natural systems, and to provide economic benefits to the community, for the sake of present and future generations.
- C. To implement the purposes of the State Growth Management Act relating to conservation of natural resources, pursuant to RCW 36.70A.
- D. To implement goals and policies in the current *Comprehensive Plan* and the Community Forest Management Plan (2006), ~~and the Bainbridge Island Open Space Study (October 2008).~~
- E. To promote forest stewardship practices and carefully planned development that results in minimal disturbance to the prior conditions of a property and neighboring properties (e. g., existing residential and other uses, open fields, farms, trees and other vegetation, slopes, soils, streams and wetlands, trails, and wildlife corridors and habitat).

- F. To implement a long-range policy of no net loss to the Island's forest canopy cover.
- G. To allow ~~clearing and~~ tree and vegetation removal to provide for solar access, agriculture and gardens.
- H. To promote infiltration of stormwater and aquifer recharge; to minimize erosion and prevent pollution; to prevent landslides; to protect the waters of Puget Sound and the quality and quantity of water in wells.
- I. To maintain in a healthy state significant trees, clusters of trees, and forested areas, allowing for thinning, limbing, removal of invasive and undesirable vegetation, selective harvest and replanting, developing and maintaining trails, and removal of diseased, dead, or dangerous trees.

16.18.020 Definitions

~~"Clearing" means the destruction or removal of vegetation by manual, mechanical, or chemical methods.~~

"Exceptional Tree" means any tree that is 48 inches in diameter or greater, measured four and one-half feet above existing grade. **NOTE: ALSO CONSIDER THE TERMS "LANDMARK" or "LEGACY" TREE**

"Land disturbing activity" means any activity that results in a change in the existing soil cover (both vegetative and nonvegetative) and/or the existing soil topography. Land disturbing activities include, but are not limited to, clearing, grading, filling and excavation. Compaction that is associated with stabilization of structures and road construction shall also be considered a land disturbing activity. Vegetation maintenance practices are not considered land disturbing activity. Stormwater facility maintenance is not considered land disturbing activity if conducted according to established standards and procedures.

"Low impact development (LID)" means a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration by emphasizing conservation, use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into a project design.

"Low impact development best management practices (LID BMPs)" means distributed stormwater management practices, integrated into a project design, that emphasize pre-disturbance hydrologic processes of infiltration, filtration, storage, evaporation and transpiration. LID BMPs include, but are not limited to: bioretention, rain gardens, permeable pavements, roof downspout controls, dispersion, soil quality and depth, minimal excavation foundations, vegetated roofs, and water re-use.

“Significant tree” means: (1) an evergreen tree 10 inches in diameter or greater, measured four and one-half feet above existing grade; or (2) a deciduous tree 12 inches in diameter or greater, measured four and one-half feet above existing grade; (3) in the Mixed Use Town Center and High School Road zoning districts, any tree eight inches in diameter or greater, measured four and one-half feet above existing grade; or (4) all trees located within a required critical area or critical area buffer as defined in Chapter 16.20 BIMC.

“Vegetation” means plant matter, including trees, shrubs and ground cover

16.18.030 Activities Requiring a Tree Removal Permit Applicability.

A. No person, corporation, or other legal entity shall engage in or cause ~~clearing tree removal~~ in the city without having obtained a ~~land-clearing tree removal~~ permit from the planning director or designee. No person, corporation, or other legal entity shall cut, trim, remove, clear or damage any vegetation or trees within the following areas without obtaining a ~~clearing tree removal~~ permit from the planning director or designee: any critical areas, shoreline areas or their buffers as defined in and regulated by Chapter [16.12](#) or [16.20](#) BIMC. This standard also applies to landscape buffers, open space areas, or trees retained through a land use permit under BIMC Titles [17](#) or [18](#), including adjacent properties. Replanting may be required to meet the requirements of BIMC 16.12, 16.20 & 18.15.010.

B. For properties located outside of the Mixed Use Town Center and High School Road zoning districts, a ~~clearing tree removal~~ permit is required for removing ~~seven or more more than six~~ significant trees, ~~but no more than 5,000 board feet of timber~~ (including live and dead standing timber) for personal use in any **36 12-month period**. For existing development subject to tree requirements or conditions applied through an approved land use or development permit such as a subdivision or conditional use permit, see exemption in BIMC [16.18.040](#).B. NOTE: A site assessment review (BIMC Chapter 15.19) will be required prior to permitting future development such as a single-family residence.

C. For properties located within the Mixed Use Town Center and High School Road zoning districts, a ~~clearing tree removal~~ permit is required for removing **any significant tree**, as defined by BIMC [16.18.020](#). For existing development subject to tree requirements or conditions applied through an approved land use or development permit, see exemption in BIMC [16.18.040](#).B. For other properties in these districts, ~~clearing tree removal~~ permits will only be approved if the applicant demonstrates that at least one of the following criteria is met, as determined by the director or their designee:

1. The tree is diseased, dead or otherwise determined to be a hazardous tree as determined by a ~~qualified professional~~ International Society of Arboriculture (ISA) tree Risk Assessment Qualification (TRAQ) certified arborist ~~pursuant to BIMC 18.15.010.C.1.e~~; or

2. The removal is necessary to enable construction or reasonable use of the property, and no other alternative is feasible; or
3. The removal is necessary to maintain utilities, access, or fulfill the terms of an easement or covenant recorded prior to the adoption of the ordinance codified in this chapter.

D. Exceptional Trees. A tree removal permit is required to perform any maintenance (e.g. trimming or limbing) or removal of an exceptional tree. Maintenance of an exceptional tree will only be approved if a ISA certified arborist affirms why the maintenance is necessary and that the maintenance can be accomplished without harming the long-term health of the tree. A permit to remove an exceptional tree will only be approved if the applicant demonstrates that the criteria listed above in Section 16.18.030.C is met, as determined by the director or their designee.

E. Forest Practices. To cut/remove more than 5,000 board feet of timber, a ~~vegetation management permit may be required pursuant to Chapter 16.22 BIMC, in addition to a Forest Practices permit from the Department of Natural Resources may also be required, in addition to a City tree removal permit. See tree removal permit process flow chart, Figure 16.18.~~

F. Site Assessment Review Required (BIMC Chapter 15.19):

In addition to a Tree Removal Permit, an applicant will also need to obtain a *Site Assessment Review* pursuant to BIMC Chapter 15.19 for the following activities:

1. Creating more than 7,000 square feet of land disturbing activities; or
2. Creating 800 sq. ft of new hard surfaces; or
3. Redeveloping 1300 sq. ft. or more of hard surfaces

G. In the event of a conflict between the requirements of this chapter and any other requirement of the Bainbridge Island Municipal Code, the more restrictive requirement shall apply. Additional permits may be required if the activities are regulated by other chapters such as, but not limited to, Chapter 15.20 BIMC, Surface and Storm Water Management, Chapter 16.12 BIMC, Shoreline Master Program, Chapter 16.20 BIMC, Critical Areas, and Chapter 18.15.010 Landscaping, screening, and tree retention, protection and replacement. Chapter 16.22 BIMC, Vegetation Management. Clearing of more than 7,000 square feet shall meet the stormwater management minimum standards outlined in Chapter 15.19 and 15.20 BIMC. ~~See tree removal permit process flow chart, Figure 16.18.~~

16.18.040 Clearing-Tree removal activities not requiring a permit.

A. ~~Clearing~~ Removal of up to six significant trees, as defined in BIMC 16.18.020, in any 36 12-month period. This exemption does not apply to: any critical areas, shoreline areas or their buffers as defined in and regulated by Chapter 16.12 or 16.20 BIMC, other protected

vegetated areas, or in the Mixed Use Town Center and High School Road zoning districts, pursuant to BIMC [16.18.030](#) ;

~~B. Clearing of up to 2,500 square feet of land in any 12-month period; any amount of clearing is subject to the stormwater pollution prevention standards of Chapter [15.20](#) BIMC. This exemption does not apply to: any critical areas, shoreline areas or their buffers as defined in and regulated by Chapters [16.12](#) or [16.20](#) BIMC, or other protected areas, pursuant to BIMC [16.18.030](#);~~

~~B. Clearing~~ Tree removal as part of a development where clearing limits and/or tree retention and landscape requirements have been set and erosion control plans approved as part of the approval for the development; provided, that land clearing in connection with such projects shall take place only after a land use or development permit has been issued by the city and shall be in accordance with such permit;

C –The installation and maintenance of fire hydrants, water meters, and pumping stations, and street furniture by the city or utility companies or their contractors;

D –Removal of trees and ground cover in emergency situations involving immediate danger to life or structure or substantial fire hazards. If one is required, a clearing permit shall be obtained as soon as possible after the emergency situation is stabilized;

E –Routine gardening and landscape maintenance of existing landscaped areas on developed lots, including pruning, weeding, planting, mowing, and other activities associated with maintaining an already established landscape;

F. Agricultural management of existing farmed areas;

G. Routine maintenance activities, including removal of diseased, dead or fallen trees, limbing of significant trees to improve tree health, removal of invasive vegetation, and thinning required to control vegetation on road and utility rights-of-way;

H. Forest practices regulated by the Department of Natural Resources under Chapter [76.09](#) RCW.

16.18.050 After-the-Fact-Clearing Tree Removal Permit.

In the event of unauthorized ~~clearing-tree removal~~, an after-the-fact ~~clearing-tree removal~~ permit may be issued if the applicant meets all of the conditions listed in this chapter and any other applicable regulations or remedies. The fee for an after-the-fact clearing permit shall be established by resolution of the city council.

If exceptional trees or significant trees are removed in the Mixed Use Town Center/High School Road zoning districts, and the criteria of BIMC [16.18.030](#).C cannot be met, then such

an after-the-fact must be denied, and replanting required at a 1:1 tree unit ratio, using the tree unit conversion method described in BIMC [18.15.010](#).G.5. The city shall also collect a fine equal to the value of the tree(s) determined by the current standards of the International Society of Arboriculture. See BIMC [16.18.080](#).

16.18.060 General requirements

C. The planning director shall grant a clearing tree removal permit application if the application meets the requirements of this chapter and all other relevant city codes, including but not limited to Chapters [15.20](#), [16.12](#), [16.20](#), and [18.15.010](#) ~~16.22~~ BIMC. If the clearing tree removal permit is denied, it may be appealed pursuant to BIMC [16.18.070](#).

D. Approved clearing tree removal plans shall not be amended without authorization of the planning director.

E. No work authorized by a clearing tree removal permit shall commence until a permit notice has been posted by the applicant on the subject property at a conspicuous location. The notice shall remain posted in said location until the authorized clearing has been completed.

F. Any clearing tree removal permit granted under this chapter shall expire one year from the date of issuance. Upon a showing of good cause, a clearing tree removal permit may be extended for six months by the planning director.

G. A clearing tree removal permit may be suspended or revoked by the planning director because of incorrect information supplied or any violation of the provisions of this chapter.

H. Failure to obtain forest practice application, where applicable, with the stated intent of land conversion as defined in RCW [76.09.020](#)(4) shall be grounds for denial of any and all applications for permits or approvals, including building permits and subdivision approvals, relating to nonforestry uses of the land for a period of six years, in accordance with RCW [76.09.060](#)(3)(b).

16.18.070 Performance assurance.

A. The planning director may require, as a condition to the granting of a permit, that the applicant furnish a performance assurance in a form approved by the planning director to the city to secure the applicant's obligation, after the approved clearing tree removal has been accomplished, to complete any required replanting and the erosion control on the property in accordance with the conditions of the permit. The surety device shall be in an amount equal to the estimated cost of replanting and erosion control and cleanup and with surety and conditions satisfactory to the planning director.

B. In order to stay enforcement, the director may choose to enter into a voluntary correction agreement (VCA). This is a civil contract entered into between the city and applicant. The VCA will outline several performance items that will be required within an agreed-upon time frame. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.060)

16.18.080 Appeals.

Appeals of the planning director's decision on a ~~clearing~~ tree removal permit application shall be in accordance with the administrative decision procedures established in Chapter [2.16](#) BIMC. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.070)

16.18.090 Violation – Enforcement and penalty.

A. In addition to any other sanction or remedy that may be available, a violation of or failure to comply with any provision of this chapter shall be a civil infraction and shall be subject to enforcement and civil penalties as provided in Chapter [1.26](#) BIMC.

B. A violation of or failure to comply with any provision of this chapter shall be a misdemeanor punishable, upon conviction, as provided in BIMC [1.24.010](#).A.

C. Any fines collected through enforcement of this chapter shall be directed to the city's tree fund, Chapter [3.39](#) BIMC. (Ord. 2015-03 § 2, 2015: Ord. 2003-16 § 1, 2003. Formerly 15.18.080)