

**Chapter 16.32**  
**PROTECTION OF LANDMARK TREES<sup>1</sup>**

Sections:

**16.32.010 Definitions.**

**16.32.020 Landmark tree criteria.**

**16.32.030 Landmark tree retention.**

**16.32.040 Emergencies.**

**16.32.050 Appeals.**

**16.32.060 Violations and penalties.**

**16.32.010 Definitions.**

A. "City attorney" means the city attorney of the city of Bainbridge Island, or their designee.

B. "Diameter breast height" means the diameter of a tree measured at four and one-half feet above the ground on the uphill side of the tree.

C. "Landmark trees" means trees, located on Bainbridge Island, that are unique because of their age, size, species, historical significance, or aesthetic quality and meet the criteria established by this chapter.

D. "Planning director" means the director of the planning and community development department of the city of Bainbridge Island, or their designee.

E. "Replacement tree" means a tree that is of a species native and indigenous to the site where a landmark tree was removed and is a minimum size of six feet in height measured from top of the root flare, with a minimum trunk diameter of one inch measured at four inches above the top of the root flare for both evergreen and deciduous trees.

F. "Size" means the diameter breast height of a tree. (Ord. 2018-42 § 1, 2018: Ord. 2018-25 § 2, 2018)

**16.32.020 Landmark tree criteria.**

Landmark trees are trees that meet the following criteria for their species:

Species	Size (Greater than or equal to)
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<b>Species</b>	<b>Size (Greater than or equal to)</b>
Birch ( <i>Betula papyrifera</i> )	30"
Beech ( <i>Fagus grandifolia</i> )	36"
Catalpa ( <i>Catalpa speciosa</i> )	36"
American Elm ( <i>Ulmus americana</i> )	30"
Douglas Fir ( <i>Pseudotsuga menziesii</i> )	40"
Grand Fir ( <i>Abies grandis</i> )	40"
Horsechestnut ( <i>Aesculus hippocastanum</i> )	40"
Western Hemlock ( <i>Tsuga heterophylla</i> )	30"
Black Locust ( <i>Robinia pseudoacacia</i> )	30"
Lombardy Poplar ( <i>Populus nigra</i> )	38"
Pacific Madrone ( <i>Arbutus menziesii</i> )	24"
Bigleaf Maple ( <i>Acer macrophyllum</i> )	36"
Silver Maple ( <i>Acer saccharinum</i> )	36"
Monkey Puzzle Tree ( <i>Araucaria araucana</i> )	36"
Monterey Pine ( <i>Pinus radiata</i> )	30"
Oregon White Oak ( <i>Quercus garryana</i> )	30"
Pacific Yew ( <i>Taxus brevifolia</i> )	20"
Pin Oak ( <i>Quercus palustris</i> )	30"
Red Oak ( <i>Quercus rubra</i> )	38"
Ponderosa Pine ( <i>Pinus ponderosa</i> )	30"
Western White Pine ( <i>Pinus monticola</i> )	30"
Sitka Spruce ( <i>Picea sitchensis</i> )	36"

Species	Size (Greater than or equal to)
Sycamore (Platanus occidentalis)	36"
English Walnut (Juglans regia)	30"
Western Red Cedar (Thuja plicata)	30"
Coast Redwood (Sequoia sempervirens)	30"
Japanese Laceleaf Maple	12"

(Ord. 2018-42 § 1, 2018: Ord. 2018-25 § 2, 2018)

**16.32.030 Landmark tree retention.**

A. Except as otherwise allowed under this chapter, no person, corporation, or other legal entity shall remove a landmark tree without having obtained approval from the planning director.

B. Prior to the removal of a landmark tree, any person, corporation, or other legal entity seeking to remove a landmark tree must submit an application for removal of a landmark tree to the department of planning and community development.

C. Upon receipt of an application for removal of a landmark tree, the planning director will review the application materials and consider the request based upon the criteria outlined in this chapter and any other city regulations that apply to the tree requested for removal, such as, but not limited to, Chapter 16.12 BIMC, Shoreline Master Program, Chapter 16.20 BIMC, Critical Areas, and BIMC 18.15.010, Landscaping, screening, and tree retention, protection and replacement.

D. The planning director shall approve the removal, deny the removal, or request additional information. The planning director shall only approve the removal of a landmark tree if all other applicable city regulations are met and upon a finding that at least one of the following criteria is met:

1. The removal is necessary to enable construction on or reasonable use of the property, and no other alternative is feasible; or
2. The removal is necessary to maintain utilities or access, or to fulfill the terms of an easement or covenant recorded prior to the adoption of the ordinance codified in this chapter; or
3. The tree is diseased, dead, or otherwise determined to be a hazardous tree as determined by a qualified professional pursuant to BIMC 18.15.010.C.1.c.

In deciding whether the removal of a landmark tree is necessary under subsection D.1 or 2 of this section, the planning director shall consider all land use regulations applied to the subject property, such as: Chapter 15.19 BIMC, Site Assessment Review, Chapter 16.12 BIMC, Shoreline Master Program, Chapter 16.20 BIMC, Critical Areas, or any other tree retention regulations applied through a land use permit.

E. If the planning director grants an application for removal of a landmark tree upon a finding that the removal is necessary to enable construction on or reasonable use of the property, and no other alternative is feasible, then the property owner that submitted the application shall be required to provide mitigation through the planting of replacement trees on the property from which the landmark tree was removed in accordance with the following:

1. The quantity of replacement trees is calculated by multiplying the diameter breast height of the subject landmark tree by 50 percent to establish the number of replacement inches; and
2. The total number of replacement trees is determined by the total caliper inches of Replacement Trees equaling or exceeding the required tree replacement inches established in subsection E.1 of this section.

F. In lieu of planting the replacement trees prescribed in subsection E of this section, an applicant may satisfy the tree replacement requirements by:

1. Planting at least three replacement trees on the property from which the landmark tree was removed; and
2. Contributing to the Bainbridge Island tree fund at a rate of \$500.00 per each replacement inch not accounted for in the planting of replacement trees; and
3. The sum of the tree replacement inches accounted for by contributing to the Bainbridge Island tree fund and the total caliper inches of the replacement trees planted shall not be less than the total replacement inches calculated in subsection E of this section. (Ord. 2018-42 § 1, 2018: Ord. 2018-32 § 2, 2018: Ord. 2018-25 § 2, 2018)

#### **16.32.040 Emergencies.**

A. In emergency situations involving immediate danger to life or real property, removal of a landmark tree is permitted without first obtaining approval from the planning director; provided, that the following conditions are satisfied:

1. The person, corporation, or other legal entity that removed the landmark tree submits an application for removal of a landmark tree under this chapter within 14 days after the emergency situation is stabilized; and

2. The person, corporation, or other legal entity that removed the landmark tree provides, within 14 days after the emergency situation is stabilized, the city with documentation establishing the existence of the emergency situation, with such documentation including at least four high resolution photographs evidencing the existence of the emergency situation; and

3. The planning director subsequently approves the removal pursuant to this chapter.

B. If the conditions of subsection A of this section are not satisfied, the person, corporation, or other legal entity that removed the landmark tree without first obtaining approval from the planning director will be in violation of this chapter. (Ord. 2018-42 § 1, 2018: Ord. 2018-32 § 3, 2018: Ord. 2018-25 § 2, 2018)

**16.32.050 Appeals.**

A. The planning director's decision on an application for removal of a landmark tree may be appealed to the hearing examiner as described in BIMC 2.16.020.R.1.

B. All appeals must be filed within 14 days following the issuance of the planning director's decision on the application. (Ord. 2018-42 § 1, 2018: Ord. 2018-32 § 4, 2018: Ord. 2018-25 § 2, 2018)

**16.32.060 Violations and penalties.**

A. This chapter shall be enforced, and penalties for violations of this chapter will be imposed, pursuant to Chapter 1.26 BIMC, except that no notice of infraction may be issued under Chapter 1.26 BIMC for a violation of this chapter. In addition to notices of violation issued under BIMC 1.26.050 or 1.26.060, BIMC 1.26.070 will also govern the review and appeal of any notice of violation issued under Chapter 1.26 BIMC for a violation of this chapter.

B. In addition to the civil penalties imposed under BIMC 1.26.090, an additional civil penalty will be imposed on any person, corporation, or other legal entity that removes a landmark tree without prior approval of the planning director. This additional civil penalty will be in the amount of \$25,000 for each landmark tree removed. The city attorney will take appropriate action to collect this additional civil penalty.

C. In the event of a conflict between the requirements of this chapter and any other requirement of the Bainbridge Island Municipal Code, this chapter will govern and control. (Ord. 2018-42 § 1, 2018: Ord. 2018-32 § 5, 2018: Ord. 2018-25 § 2, 2018)

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<sup>1</sup>Code reviser's note: Ord. 2018-25, Section 7 states "This interim official control shall take effect immediately, and shall remain effective for six (6) months, unless terminated earlier by the City Council. Provided, that the Council may, at its sole discretion, renew the interim official control for one or more six month periods in accordance with state law."

