

## **ARTICLE I: TREE PRESERVATION**

### **§ 373-1 Short title.**

This chapter shall be known as the “Tree Preservation Ordinance of the City of Kingston,” and shall hereafter be referred to as the “chapter.”

### **§ 373-2 Legislative finding of fact.**

- A. It is hereby found and declared that the City of Kingston, New York, is especially situated in an area covered with a wide variety of trees and shrubs that are a particularly vital part of the heritage passed on to us by nature and our forefathers, considering the city's original Dutch name of "Wiltwyck," meaning wild woods.
- B. Trees provide a vital ecological resource for the well-being of the community and therefore require preservation efforts. Trees stabilize the soil on slopes, thereby preventing siltation, erosion, and flooding; they control water pollution; they purify the air and generate oxygen; they mitigate noise; their shade reduces energy consumption; they provide habitat and food for birds and animals; and their colorful seasonal characteristics enrich our total environment.
- C. Trees are economically beneficial in attracting new industry, residents, and visitors. Healthy trees of the right size and species enhance the value and marketability of property and promote neighborhood stability.

### **§ 373-3 Purpose.**

It is the purpose of this ordinance to promote and protect the health, safety, and general welfare of the City's inhabitants by providing for the preservation, regulation, planting, maintenance, and removal of trees within the City of Kingston.

The indiscriminate and uncontrolled damage or removal of trees deprives the community of the benefits trees provide and increases City and Public costs for cooling, stormwater drainage control, small particulate matter air filtering, and general quality of life. Trees are of substantial value to the community as a whole and their benefits reach far beyond the boundaries of the property on which they are situated. The interests of the public at large shall be valued in partnership with those of property owners. Tree protection efforts must be sufficiently targeted so that property owners may perform routine maintenance which does not compromise the health of the tree. Undesirable trees, particularly those that may be dangerous if allowed to stand, can be pruned or removed without the need for compliance with onerous regulations.

### **§ 373-4 Definitions**

For the purpose of this chapter, the following terms shall have the meanings given herein:

Applicant

Any individual, partnership, corporation, municipality or other entity, together with employees, officers, directors, agents, independent contractors or any lessee or contract-vendee of a parcel of property, which owns any real property or portion of real property within the jurisdiction of the city.

#### Certified Arborist

An individual who is trained in the art and science of arboriculture and the planting, caring for, and maintaining individual trees. This individual has received and maintains a certification through a certifying body such as the International Society of Arboriculture.

#### City-Approved Tree Species List

A list of all tree species that have approval by the City of Kingston for planting on public property and within the public right of way.

#### Critical Root Zone

The area on the ground corresponding to the Dripline of the tree. As the natural dripline can be irregular in shape, this area is defined in a circular shape, with the tree trunk as the center, and with a radius calculated as eighteen (1812) inches for every one (1) inch of tree trunk measured diameter at breast height. (Example: a 10" diameter breast height tree shall have a Critical Root Zone with a 1510ft radius.)

#### Construction Zone

Area in which active projects related to construction, demolition, addition, or renovation of structures are occurring and in which machinery capable of damaging trees or compacting soil may be operating.

#### Consulting Arborist

A certified, professional arborist who is employed as an unbiased, third-party to review work and agreements between the City of Kingston and other parties.

#### Diameter at Breast Height

The diameter (or caliper) of a tree measured at a point four and a half feet above the ground.

#### Dripline

The area defined by the outermost circumference of a tree canopy where water drips from and onto the ground.

#### Emergency Tree Work

The immediate removal of trees or tree limbs that pose an immediate threat to people, property, or disruption of utility and transportation services.

#### Forest Management Plan

A site-specific plan developed based on a landowner's management objectives and the professional expertise of a skilled forester to achieve long-term forest management goals.

#### Forest Stand Improvement

The manipulation of tree or woody species composition, in a determined subdivision of land (stand), for the purpose of stand structure, or stand density by cutting or killing selected trees or understory vegetation to achieve desired forest conditions or obtain ecosystem services.

#### Hazard Tree

A tree that is considered hazardous when it has been assessed by a Certified Arborist and found to be likely to fail and cause an unacceptable degree of injury, damage, or disruption.

#### Heritage Tree

A tree that has been identified as particularly valuable due to its large size, important native ecological value, or protected environmental status, and is otherwise considered to be a Protected Tree within City Code.

#### Native Plant

A plant that is considered indigenous and naturally occurring to the region where it is found and is adapted to the local climate and soil conditions. Any plant listed in the New York State Compilation of Codes: Title 6. Department of Environmental Conservation, Chapter II. Lands and Forests, Part 193. Trees and Plants.

#### Park

Includes any municipal park having an individual name.

#### Property Owner

Any individual, partnership, corporation, municipality, or other entity, together with employees, officers, directors, agents, independent contractors, or any lessee or contract-vendee of a parcel of property, which owns any real property or portion of real property within the jurisdiction of the city.

#### Protected Tree

Any single trunk tree or any multi-stem tree with at least one stem, having a Diameter at Breast Height (DBH) of six (6) inches or greater when located on private property, or a tree of any size when located either on Public Property, in the public right of way, or planted as a Replacement Tree.

#### Public Property

Land that is owned by the City of Kingston, which shall include parks, service locations, and the public right of way.

#### Tree

A living single, or multiple-stem plant with lignified tissues that maintains a year-round trunk and limbs.

#### Tree Maintenance/Removal Permit

A written authorization to plant, prune, remove, or otherwise perform maintenance or disturbance to a tree or trees pursuant to this ordinance.

#### Tree Protection Area

The area in which protective fencing must be installed to prevent any construction activity from damaging any part of the tree. This shall include, at a minimum, the area determined to be within the Critical Root Zone.

#### Tree Protection Plan

A plan that outlines specific measures to protect trees during construction or other site disturbance.

#### Tree Survey

A document that has identified and measured trees within a defined area and includes a detailed map with corresponding information about each tree in an attribute table.

#### Trenchless Technology Methods

Methodologies or technologies that allow for the displacement of soils and/or installation of underground infrastructure without excavation or other disturbances of the top thirty- six (36) inches of soil in which the majority of tree roots grow.

#### Topping

The reduction of a tree's height using cuts that shorten terminal leading limbs or branches back to a predetermined crown limit without facilitating the establishment of a new terminal lead, which will have apical dominance. Topping is not an acceptable pruning practice.

#### Undeveloped Forest

A wooded area which has not been cleared of trees or other woody material or otherwise managed for silvicultural or agricultural purposes.

#### Urban Forester

City staff member responsible for the management of trees that comprise the City of Kingston's Urban Forest.

#### Utility Service Provider

Entity or entities owning or servicing above or below-ground utilities.

#### Utility Service-Related Tree Work Permit

A written authorization to plant, prune, remove, or otherwise perform maintenance or disturbance to (a) tree(s) pursuant to this ordinance specifically when done to facilitate the installation, modification, maintenance, or removal of utilities above or below ground.

### **§ 373-5 Tree Commission**

- A. There is hereby created and established a Tree Commission consisting of five (5) voting members appointed by the City Administration who are actual City of Kingston residents and who have a demonstrable interest in trees, with at least one being either professionally trained or experienced in the field of municipal arboriculture and one being a member of the Memorial Tree Fund, Inc. All members of the Commission shall serve without pay.
- B. The Tree Commission shall be aided by the City Planning Department, the Urban Forester, if one is employed, and a Common Council member, who shall serve as a liaison. Such officials have no vote on matters before the Commission.
- C. Of the five members of the Commission first appointed pursuant to this chapter, two shall be designated to serve for terms of two years; two shall be designated to serve for terms of three years; and one shall be designated to serve for a term of four years. Thereafter, the term of office shall be three years.

D. Vacancies occurring on the Commission other than by expiration of the term of office shall be filled by appointment of the City Administration. Any such appointment shall be for the unexpired portion of the term of the replaced member, and the appointment must be made in accordance with the criteria established above for original appointments.

E. Members of the Commission may be reappointed for succeeding terms.

F. Organization, Rules, and Operations of the Tree Commission shall include:

(1) The Tree Commission shall appoint its Chairperson and Vice-Chairperson by vote of an affirmative majority of the members.

a. Chairperson duties: To preside at all meetings and hearings and to fulfill the authorized duties of that office. In the absence of the Chairperson, the Vice-Chairperson is to serve as Acting Chairperson. All meetings of the Commission shall be held at the call of the Chairperson and at such time as the Commission may determine.

(2) The City of Kingston's Planning Department shall employ a staff member to serve as the Commission's agent and program administrator, a position that may be filled by the Urban Forester.

(3) A simple majority of three (3) Tree Commission Members shall constitute a quorum.

(4) All meetings of the Commission shall be open to the public.

(5) The cost of the Tree Commission's operations shall be funded by the City. The Commission shall submit its budget request for appropriations to the Planning Director, annually, to be submitted to the Mayor, as part of the annual budget review process.

(6) The Tree Commission shall maintain a record, which shall be open to the public view, of its resolutions, proceedings, and actions. The vote or failure to vote of each member shall be recorded. The concurring affirmative vote of a majority of the Tree Commission shall constitute approval of plans before it for review or for the adoption of any resolution, motion, or other action of the Tree Commission. The Tree Commission shall make such recommendations to the Council as it deems necessary to carry out the purposes of this chapter.

G. The powers and duties of the Tree Commission shall be:

(1) To review applications for the maintenance or removal of Protected Trees located upon adjacent rights-of-way or public property, and grant, grant with conditions, or deny a Tree Maintenance/Removal Permit;

(2) Advise City of Kingston on the maintenance and removal of trees on City-owned properties, including Parks;

- (3) To review and approve Tree Protection Plans for Protected Trees within construction sites located within adjacent rights-of-way or on public property in the City of Kingston;
- (4) To study problems and needs of the City in connection with its Tree Program and to make recommendations to the Mayor and/or his designee as to the type and kind of trees to be planted in the City;
- (5) To assist in the dissemination of news and information regarding the protection, maintenance, removal, and planting of trees in the city;
- (6) To make recommendations to the Common Council as to desirable legislation concerning the tree program and activities for the municipality, such as certification as "Tree City, USA" [Amended 12-16-1999 by L.L. No. 2-2000, approved 1-3-2000];
- (7) To provide for the holding of regular and special meetings and to adopt rules and regulations not inconsistent with this chapter for the conduct of the meeting and business of the Commission. The Commission shall file a copy of the rules and regulations, and any amendments thereto, with the City Clerk;
- (8) To provide the Mayor with a recommendation upon their receipt of an appeal; to meet within 10 business days of receipt of a request for an interpretation of this chapter, or as otherwise necessary; and to advise on appeals from the issuance, denial, or revocation of a tree permit. A special or emergency meeting may be convened by either the Chairperson or any five members on two days' notice.
- (9) To assist with funding applications and the development of associated programs that are consistent with this chapter.
- (10) To authorize the Urban Forester to grant, or grant with conditions, Tree Maintenance/Removal Permits when applications are submitted for the purpose of routine maintenance such as pruning limbs, management of pests, disease, or decay, and other non-critical tree work with the requirement that the Urban Forester report all granted permits for review by the Tree Commission.

### **§ 373-6 Municipal Authority and Responsibility**

Administration and enforcement of the Tree Ordinance is the responsibility of the Planning Department and the Urban Forester. All City Departments reserve the right to review and, where applicable, require additional documents or protection standards.

### **§ 373-6 General Provisions**

- A. Except as otherwise provided in this chapter or as authorized by the Planning Department and the Urban Forester, a tree shall be considered a Protected Tree if:
- (1) It is located upon adjacent rights-of-way or public property, no matter its trunk size, or;
  - (2) Its trunk has a diameter at Breast Height (DBH) of six (6) inches or greater and it is located on private property.
- B. Some trees have been identified as particularly valuable and are considered Heritage Trees. Except as otherwise provided in the chapter, all Heritage Trees shall be considered Protected Trees if:
- (1) It has a DBH of thirty (30) inches or greater;
  - (2) It is a native oak (*Quercus* spp) or hickory (*Carya* spp) tree that is ten (10) inches or greater in DBH; or
  - (3) Any tree three (3) inches or greater in DBH that is identified as a Protected Native Plant in the New York State Compilation of Codes.
- C. A Protected Tree shall be safeguarded from damage and unauthorized removal by means of the requirements stated herein. Both the Property Owner and the agent of the Property Owner violating this Article shall be jointly liable.
- D. Damage to a Protected Tree shall be defined as any action involving mechanical, chemical, or biological alteration of the tree, including its crown, trunk, and root system, which may cause the tree to prematurely decline over a span of one or more years, become structurally unstable, or become unable to sustain its own natural functions. This may include topping, flush cuts, or removal of more than thirty percent (30%) of the living tree canopy in a single growing season, or removal of stabilizing roots. Unauthorized removal shall be defined as any action without City approval that causes a Protected Tree to die within two years of the action being performed. This may include cutting or girdling the tree trunk, or applying herbicides to the tree's living tissues.

### **§ 373-7 Tree Maintenance/Removal Permit Review by Tree Commission**

In determining whether or not a Tree Maintenance/Removal Permit shall be granted or denied, and if conditions are to be included with the granted permit, the Tree Commission shall consider, in order, the following:

- A. If there is a need for the action to be taken promptly, in that the tree is a hazard, and:
- (1) Endangering the public or public property;
  - (2) Endangering the owner, occupant, or property of the owner/occupant; or

- (3) Endangering an adjoining property owner, occupant, or the property of an adjoining property owner.
- B. The condition and species of the tree with respect to overall health, damage, disease, or insect conflict, interference, and potential interference with utility services, and proximity to existing trees, existing structures, or proposed structures.
  - C. The environmental impact of the tree removal, including, but not limited to, the effect of the tree removal on erosion, soil moisture retention, steep slopes, flow of surface waters and drainage, CO<sub>2</sub> and breathable particulate removal, ecosystems supporting wildlife, or any other environmental factor, and the aesthetic composition of the land and surrounding area.
  - D. The impact on the flow of sidewalk traffic, including ADA compliance of sidewalk composition and grade, prioritizing any and all remediation actions, including, but not limited to, reconstruction of the sidewalk to accommodate tree growth while allowing the flow of pedestrian traffic, in order to preserve the tree and its benefits.
  - E. The necessity of the tree removal to achieve the applicant's goals, including, but not limited to, whether the location of the tree prevents the property owner from undertaking otherwise proposed construction or alteration (including, but not limited to, teardowns, renovations and/or expansions), and the possible or practicable alternatives to the tree removal, including relocation of improvements.
  - F. Whether the proposed tree removal will cause injury to, cut, damage, destroy, or remove more trees than is reasonably necessary to achieve the goals of the applicant, or is inconsistent with the stated purposes of this chapter and the standards and specifications in this section.
  - G. The necessity of the tree removal to achieve the applicant's goals for Forest Stand Improvement or other stewardship plans for ecosystem benefits, in which case the Tree Commission may ask for documentation of land management plans.
  - H. Any other considerations of land use, the general welfare, and the overall environment of the area.
  - I. The species of the tree and whether any tree in question is a tree worthy of preservation due to unusual characteristics such as age, history, size, rarity, financial value, or visual and cultural importance to the surrounding community.

### **§ 373-8 Dead and Hazardous Trees**

- A. **Dead Tree Notice and Removal:** In the event that the Urban Forester or other City Department is notified by a property owner of a Protected Tree which is now dead or in severe, unrecoverable decline, and appropriate proof related to the assessment of death and/or decline of the Protected Tree has been provided, the Urban Forester shall have the right to grant immediate approval for the removal of said tree and to waive all notifications, fees, and Tree Removal

Permits as required for Protected Tree removals. In the event that such approval is granted for a tree within the public right of way, the Urban Forester will provide a report to the Tree Commission detailing the tree condition and actions taken.

- B. Hazard Tree Notice and Removal: In the event that the Urban Forester or other City Department is made aware of a Protected Tree that has a high likelihood of failure of the whole tree or a tree part and appropriate proof related to the condition of the Protected Tree has been provided, and the Urban Forester makes a determination that a Protected Tree poses a hazard to public safety, property, or disruption of services which cannot be mitigated without the removal or pruning of the Protected Tree or Tree Part, the tree shall be determined to be a Hazard Tree and emergency approval shall be granted for the removal of said tree. For a Hazard Tree, all notifications, fees, and Tree Removal Permits as required for Protected Tree removals will be waived. In the event that such emergency approval is granted for a tree within the public right of way, the Urban Forester will provide a report to the Tree Commission detailing the hazard present from the tree and actions taken.

- (1) In the event of catastrophic weather where widespread tree damage has occurred for multiple properties, the Mayor may declare a suspension of the Hazard Tree Notice requirements, as set forth above, for a specified period of duration and within specific areas. The Urban Forester, Tree Commission Program Administrator, Department of Public Works, and the Planning Department shall have the authority to require appropriate remediation in accordance with this chapter.
- (2) A property owner shall coordinate with the Urban Forester to provide necessary information regarding the removal or pruning of a Protected Tree when such action is proven necessary for the immediate protection of public health, safety, or property. The following will apply:
  - a. If a Protected Tree is removed or pruned pursuant to this subsection, within ten (10) business days after such act, the person on whose property the tree is located must submit a Tree Removal/Pruning Permit application to the Urban Forester or Planning Department.
  - b. The Urban Forester may require photographs or documentation of tree condition if tree removal work was completed by a professional tree service, or other appropriate documentation explaining and confirming the nature of the immediate hazard. This information will be compiled in a report submitted by the Urban Forester to the City Tree Commission to address the emergency authorization related to a Protected Tree in the public right of way. In the event three or more Protected Trees have been removed, a tree report from a Certified Arborist may be required in addition to any other required documentation.
- (3) If a Hazard Tree is located on private property and is found to pose risk upon adjacent rights-of-way or public property, the private property owner shall be required to remove or prune the Hazard Tree on such private property to mitigate

the identified risk.

- a. The Tree Commission or designee may serve written notice to comply with the provisions of said subsection upon the owner of such property. The Aldermember in whose ward the Hazard Tree exists shall also receive a copy of the written notice to comply.
- b. Such notice shall be affixed or posted upon said property, and a copy of such notice shall be mailed by certified mail, return receipt requested, to such owner, at the last known address. Such notice shall require compliance with provisions of said subsection within 30 days after the time of posting of such notice as aforesaid.
- c. If the person upon whom such notice is served fails, neglects, or refuses to prune or remove the Hazard Tree to mitigate the identified risk within thirty (30) days after the date of mailing or posting of such notice as aforesaid, the Tree Commission shall cause such trees on such private property to be removed or removed via the Department of Public Works.
- d. The actual cost to the city of such pruning or removal plus a sum equal to 5% of such actual cost for inspection and other additional cost in connection therewith shall be certified by the Superintendent of Public Works and/or designee to the City Comptroller and the amount thereof shall become and be a lien upon the property on which such tree was located and become part of the next annual assessment roll at the time and in the manner prescribed by the Charter of the city and subject to all the provisions thereof.

#### **§ 373-9 Tree Pruning and Removal Permitting**

- A. **When Protected Tree Maintenance/Removal Permits Are Required**  
In cases where "Section 8. Dead and Hazardous Trees" does not apply, prior issuance of a Tree Maintenance/Removal Permit by the City of Kingston Tree Commission or Urban Forester shall be required for work related to:
  - (1) Any Protected Trees within the public right-of-way and on public property.
  - (2) A Protected Tree on private property that has a trunk diameter at breast height (DBH) measurement of six (6) inches or greater, wherein work involves:
    - a. Pruning of thirty (30) percent or more of the living crown within one growing season;
    - b. Topping of trees or otherwise removing a single, dominant trunk leader from growing naturally upward;

- c. Pruning of healthy, undamaged, non-hazardous limbs greater than eight (8) inch diameter;
- d. Excavation of roots within the Critical Root Zone; or
- e. Other actions which may cause premature decline of the tree within the following one or more years.

Both the property owner and the agent of the property owner violating the ordinance shall be jointly liable. Penalties for the removal of a tree without a permit and without an approved replacement tree(s) of an equal value shall be a fine reflecting the Tree Value as outlined in Section 13-A: Protected Tree Value Replacement Fees.

**B. Jointly Owned Trees**

A Jointly Owned Protected Tree shall be considered any tree that has any portion of its trunk, where that trunk emerges from the ground, located across the boundary line of two or more properties when such properties are not owned by a single party. In these cases, a Jointly Owned Tree Removal Form, signed by all parties, must be submitted to the Urban Forester along with the Protected Tree Removal Permit. Authorization shall not be issued without this document.

**C. Exemption for Routine Pruning and Maintenance of Protected Trees**

To prevent onerous permit application requirements, a Tree Maintenance/Removal Permit shall not be required of a property owner or the agent of a property owner for routine pruning and other beneficial maintenance of a Protected Tree on private property. This includes removal of dead or damaged limbs, pruning to correct for poor form, which may result in structural weakness, and pruning for building or structural clearance. This does not include topping, removing 30% or more of the crown in a single growing season, or other actions that may cause premature decline of the tree within the following one or more years. Proper tree maintenance practices can be found in the "ANZI A300 Tree Care Standards" to avoid inadvertently damaging, harming, or killing trees during routine maintenance. Tree maintenance is always recommended to be done by a Certified Arborist.

**D. Protected Tree Maintenance/Removal Permit Procedure**

(1) When a Tree Maintenance/Removal Permit is required, prior to receiving authorization, an applicant shall submit the following information on an application form to be provided by the City. Information to be collected shall include:

- a. The name, phone number, email address, mailing address, and property address of the property owner where the tree is located when on private property or abutting rights-of-way.
- b. The name, mailing address, phone number, and email address of the tree service solicited to perform the tree work.

- c. A description of the Protected Tree species or common name, and the Diameter at Breast Height (DBH).
  - d. If the tree's trunk resides on the Property Line and is therefore Jointly Owned.
- (2) If the tree is categorized as a Heritage Tree and is located on private property, the City of Kingston shall mail a written Notice to each owner of a property which abuts the property wherein the Heritage Tree is located. The written Notice shall be sent thirty (30) calendar days before scheduled permit review and inform the abutting property owner(s) of the permit review date as well as provide means of contacting the Tree Commission to leave comment.
- (3) The Urban Forester will review the Tree Maintenance/Removal Permit Application and may conduct a site inspection and/or meet with the applicant. Upon receipt of a properly filed application, review by the City Tree Commission will occur for any tree on public property, within the public right of way, or qualified as a Heritage Tree. Upon approval, a permit will be issued stipulating compliance with the City Tree Commission's standard conditions. Upon approval, the applicant shall be responsible for all required replacement trees or fines as specified within the Tree Preservation Ordinance.
- E. Permit Application Processing for Projects Under Review by the Planning Board  
The Planning Board may request the Urban Forester for an assessment of any required Tree Protection Plan, Tree Survey, Arborist Report, or other appropriate documentation accounting for the location and condition of Protected Trees included in development projects and plans under review. This assessment will assist the Planning Board in determining compliance of a project with the City of Kingston Form-Based Code.
- F. Protected Tree Removal Requirements on City-owned Property  
Authorization by the Tree Commission is required for the City of Kingston to remove Protected Trees within the public right of way or on City-owned property. When removal has been authorized, a sign on the subject tree shall be posted for a period of at least thirty (30) calendar days (except in cases of emergency) before removal. Information such as an arborist report and any test results leading to the City of Kingston's removal determination shall be made available to City residents upon request. Documentation of public Protected Trees that have been removed shall be forwarded to the City Tree Commission.

Pruning of trees within the public right of way and on City-owned property shall be performed as deemed necessary to manage tree health and public safety by a Forestry Technician employed by, or a tree service contracted by, the City of Kingston. Pruning practices performed by City of Kingston staff or hired contractors shall conform to "ANZI A300 Tree Care Standards."

### **§ 373-10 Replacement Tree Standards for Protected Trees**

- A. When a tree(s) is proposed for removal from the public right-of-way and Replacement Tree(s) are to be planted, on-site planting locations shall be prioritized. Replacement trees shall be planted in proximity to the street and/or sidewalk to provide shading and stormwater runoff mitigation of paved street surfaces. Replacement trees shall be approved species which will grow to a mature height and width that is at least 75% of the height of the tree(s) proposed to be removed. Variations in replacement tree specifications may be approved by the Tree Commission in instances where sizing requirements may not be accomplishable or may lead to other building/infrastructure conflicts. Replacement trees in the public right-of-way shall not, when at a size mid-maturity, interfere with above or below-ground utilities.
- B. When replacement tree(s) cannot be planted on site, other planting locations may be considered. See "Section 13. Establishment of Dedicated Account and Replacement Tree Planting Areas" of this chapter.
- C. Replacement trees to be planted on site shall be equal to at least 95% of the environmental value of the trees proposed to be removed. If the property is considered an Undeveloped Forest and the Tree Removal Permit is sought in connection with a building permit to build a residence or residences or a commercial facility, or in connection with any site plan approval, then the environmental value of the replacement trees planted on site shall be equal to at least 75% of the environmental value of the trees proposed to be removed. Variations in replacement tree environmental value specifications may be approved by the Tree Commission in instances where sizing requirements may not be accomplishable or may lead to other building/infrastructure conflicts.
- D. The environmental value of removed and replacement trees shall be determined by using the U.S. Forest Service's iTree Methodology, the Arbor Day Foundation's National Tree Benefit Calculator, or other methodology selected by the applicant and deemed acceptable by the Tree Commission. In calculating the percentages specified above, the applicant shall match the environmental values (gallons of stormwater absorption and pounds of CO2 removal) when replacement trees reach a trunk Diameter at Breast Height (DBH) of eighteen (18) inches.
- E. All new trees to be planted must be a species approved by the Tree Commission, which shall be referenced to an approved species planting list. The location of the replacement trees shall be satisfactory to the Tree Commission, which shall take into consideration the topography of the site and the potential for stormwater runoff onto other properties and public streets.
- F. Planting of a Replacement Tree is not required if and to the extent the Tree Commission determines that the removal of the Protected Tree in the public right-of-way is required as part of good forestry practice to improve the health of remaining trees. Planting of a Replacement Tree is not required to replace invasive species of trees that are removed, and in no event shall any invasive species of trees or plants be planted as replacements.
- G. If a tree approved for removal is designated by the New York State Department of Environmental Conservation as a protected Native Plant, the environmental value of such tree must be replaced by a Native Tree, and additionally, any Tree Maintenance/Removal permit must be subject to any and all approvals required by the New York State Department of Environmental Conservation.

- H. If an applicant has violated this chapter and is seeking a Tree Maintenance/Removal Permit retroactively, the replacement tree standard is 100% of the environmental value of the trees cut down, removed, topped, excessively pruned, injured, damaged, wounded, broken, killed or destroyed, or, depending on site characteristics, such other percentage deemed acceptable to the Tree Commission.

**§ 373-11 Protected Tree Fee and Value Determination**

To limit the number of unnecessary removals, and to replace lost canopy when non-exempt Protected Trees are to be removed, the following value replacement requirements will apply when healthy trees are being removed without planting of replacement trees.

A. Tree Removal Basic Fee Schedule

The Tree Removal Basic Fee Schedule shall serve as the initial fee amount payable to the City of Kingston for any Protected Tree removed without permit authorization. Additionally, when a permit for the removal of a Protected Tree has been authorized by the City of Kingston, the Tree Removal Basic Fee Schedule shall apply as an initial value determined for Protected Trees that are healthy, do not pose elevated risk on private or public property, have less than ten (10) percentage deadwood within the crown, have trunk decay no greater than ten (10) percentage depth, and otherwise do not apply within the exemption categories listed within the City of Kingston Tree Ordinance. A Protected Tree Value Replacement, as outlined in Section 11-B of this chapter, shall serve as the final valuation of any Protected Tree to be paid to the City of Kingston.

Protected Tree Removal Basic Fee Schedule	
Trunk DBH (Diameter at Breast Height)	Fee
<10"	\$1,250
10-20"	\$2,000
20-30"	\$3,000
>30"	\$4,000

B. Protected Tree Value Replacement

When a Protected Tree is proposed to be removed and not replaced, in the terms outlined within the Tree Removal Standards, the value of the removed tree shall be paid as the Basic Reproduction Cost to the City of Kingston. This value is calculated via the scoring system and Trunk Formula Technique as outlined in the Guide for Plant Appraisal (International Society of Arboriculture, 2000, 9th Edition). The Trunk Formula Technique extrapolates the costs to purchase the largest, commonly available nursery trees from which the sum of the combined nursery tree trunk DBH measurements equals the size of the appraised tree. This technique then deducts the appropriate condition percentages, reflecting species, location, and tree health, from the basal area to determine the tree's replacement value and the final number of replacement trees required.

Trunk Formula Technique:

Basic Reproduction Cost = CSA x UTC

CSA = Cross-sectional area of the subject tree, which is the radius of the trunk at breast height, squared, multiplied by Pi (3.14).

UTC = Unit tree cost, which is the cost of the largest nursery tree as determined by the Regional Plant Appraisal Committee (RPAC) or local wholesale cost.

Example 1: A Protected Tree that has a twenty (20) inch Diameter at Breast Height (DBH) trunk, and is observed to be in the highest quality condition rating possible by a tree appraisal professional and therefore has 100% of its possible value, shall be replaced by ten (10) trees with two (2) inch DBH trunks.

Example 2: A Protected Tree that has a twenty (20) inch DBH trunk, and is observed to be in only a Fair condition rating by a tree appraisal professional and therefore has 50% of its possible value, shall be replaced by five (5) trees with two (2) inch DBH trunks.

Example 3: A Protected Tree that has a twenty (20) inch DBH trunk, and is observed to be in only a Poor condition rating by a tree appraisal professional and therefore has 10% of its possible value, shall be replaced by one (1) tree with a two (2) inch DBH trunks.

**§ 373-12 Heritage Tree Value Replacement and Removal Procedures**

A. Heritage Tree Value Replacement

In addition to the Protected Tree Value Replacement Fee, the removal of a Heritage Tree, when determined to be healthy, is subject to the following replacement schedule:

Heritage Tree Removal Additional Fee Schedule		
Type of Tree	Trunk DBH (Diameter at Breast Height)	Additional Fee in Lieu of Replacement
Oak & Hickory	10" and greater	\$150/inch
Protected Native Tree	3" and greater	\$150/inch

B. Additional Procedures for Heritage Tree Removal

The removal of a healthy Heritage Tree on public or private property shall require review by the City Tree Commission, where approval may or may not be granted.

- (1) For Heritage Tree removals related to building demolition, new building construction, and building addition construction, the Planning Board may grant final authorization after in-meeting review. With removal authorization granted by the Planning Board, the property owner may remove the Heritage Tree upon fulfilling the permit requirements outlined in this chapter, including tree replacements or

fees as described in “Section 10 Protected Tree Replacement Standards and Section 11-B. Protected Tree Value Replacement Fees.”

- (2) The removal of healthy Heritage Trees for any purpose other than demolition, new home construction, addition construction, and detached garage construction shall be reviewed by the Tree Commission through its regular process.
- (3) When authorization to remove a Heritage Tree has not been granted, the Urban Forester shall determine if the tree can be properly protected during construction. If the tree will not survive construction, replacement requirements shall be enforced, and removal shall be permitted. The Urban Forester shall be required to submit a report to the Tree Commission which provides information on the determination of the tree’s unlikelihood of survival.
- (4) **Abutting Property Owner Notification for Heritage Tree Removal on Private Property**  
The City of Kingston shall mail a written Notice to each owner of a property which abuts the property on which the Heritage Tree is located. The written Notice shall be sent thirty (30) calendar days before scheduled permit review and inform the abutting property owner(s) of the permit review date as well as provide means of contacting the Tree Commission to leave comment.
- (5) **Notification Requirements for Heritage Tree Removal on City-Owned Property**  
The same notification requirements required for Protected Trees to be removed on City-Owned Property apply to Heritage Trees within the public right-of-way or on City-Owned Property. See subsection F of § 373-9 Tree Pruning and Removal Permitting.

### **§ 373-13 Establishment of Dedicated Account and Replacement Tree Planting Areas**

In the event replacement trees cannot, or will not, be planted on the property from which a Protected Tree was removed, dedicated areas within the City of Kingston shall be made available for replacement plantings. In addition, a dedicated account shall be maintained for the receipt of funds related to Basic Reproduction Costs or restitution fines.

#### **A. Replacement Tree Planting Areas**

The City of Kingston shall maintain areas for the receipt of trees planted as replacements for the removal of a Protected Tree(s). These areas shall include planting spaces within the public right-of-way of streets, as determined through the most recent City Tree Inventory, and within City Parks and other City-owned properties.

#### **B. Dedicated Account for funds related to Protected Trees**

The City of Kingston shall maintain a financial account for the receipt of funds paid either as Basic Reproduction Costs for the removal of Protected Trees or funds paid as a restitution fine for damage done to a Protected Tree. Funds from this account are to be used only as a resource for activities that benefit the City’s urban forest, including new tree planting, tree maintenance, and other restorative or preservation-focused tree work.

**§ 373-14 Appeal of Tree Removal Permit Denial and Protected Tree Value Replacement**

Any applicant aggrieved or affected by any order, requirement, decision, interpretation, or determination of the City of Kingston Tree Commission with respect to an application for a tree removal permit may, within ten (10) business days of such determination, appeal to the Zoning Board of Appeals, stating the reason for such appeal. The Zoning Board of Appeals shall conduct a hearing on the appeal within sixty (60) calendar days of receipt of such appeal. The Zoning Board of Appeals may, based upon the standards contained herein and the facts of the matter, deny, grant, or grant with conditions the permit being sought. The Zoning Board of Appeals may, upon good cause shown, modify or reduce the Tree Replacement requirements or the Basic Reproduction Cost in lieu of Tree Replacement in cases where imposing such requirements would be excessive or otherwise unjust.

Each application for appeal shall be accompanied by a fee in accordance with the Fee Schedule established by the Common Council, payable to the City Comptroller.

Any person or persons jointly or severally aggrieved by a decision of the Zoning Board of Appeals pursuant to this chapter may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days after the filing of a decision of the Zoning Board of Appeals in the office of the City Clerk.

**§ 373-15 Exemptions for Forest Management, Forest Stand Improvement, Invasive, and Undesirable Species**

In recognition of forest stands on both public and private property in the City of Kingston, and the threat to ecological health posed by invasive species, exemptions shall be maintained for specific tree species and forest contexts as outlined below. The tree species and forest management practices listed in this section shall be omitted from standard designation as Protected Trees or Heritage Trees and are subject to different types of regulation. These lists may be amended as necessary.

A. Invasive Species

The requirement for replacement trees or fees in lieu will be waived for trees on the Invasive Species list. However, authorization of a Tree Removal Permit by the City Tree Commission is still required prior to removal of a tree on public property or within the public right of way.

Invasive Species List	
Common Name	Latin Name
Callery Pear	<i>Pyrus calleryana</i>
Norway Maple	<i>Acer platanoides</i>
Common Buckthorn	<i>Rhamnus cathartica</i>
Glossy Buckthorn	<i>Rhamnus frangula</i>
Russian Olive	<i>Elaeagnus angustifolia</i>
Tree-of-Heaven	<i>Ailanthus altissima</i>

White Mulberry	Morus alba
Hybrid Poplar	Populus nigra X spp.

**B. Exempt Species List**

Vegetation that does not require a Tree Removal Permit. The Urban Forester may determine other vegetation to be exempt if it is considered a woody shrub or bush.

Exempt Species List	
Common Name	Latin Name
Arborvitae	Thuja spp.
Sumac	Rhus
Yew	Taxus spp.

**C. Undesirable Species List**

Undesirable trees may grow to thirty (30) inches or greater in Diameter at Breast Height (DBH) but shall not be considered a Heritage Tree. Healthy Trees removed from this list shall be subject to the Protected Tree requirements, including authorization of a Tree Removal Permit.

Undesirable Species List	
Common Name	Latin Name
Austrian pine	Pinus nigra
Blue Spruce	Picea pungens
Scots Pine	Pinus sylvestris
Siberian elm	Ulmus pumila
Willow	Salix spp.
Black locust	Robinia pseudoacacia

**D. Forest Management and Forest Stand Improvement**

Exemptions for the removal of trees which are otherwise classified as Protected Trees are applicable when a property owner provides the City Tree Commission with a Forest Management Plan for Forest Stand Improvement.

**§ 373-16 Tree Planting Standards**

Property owners who opt to replace a removed Protected Tree shall adhere to the following standards when selecting a replacement tree, choosing planting location, and tree planting methods:

**A. Approved Tree Species for Street and Open Locations**

The City of Kingston maintains a City-Approved Tree Species List, independent of this document, that is updated as information evolves regarding n species suitability. This list can be provided by the Urban Forester, City Tree Commission, or Planning Department. Tree species listed in the Invasive and Undesirable Species Lists found in “Section 15 Exceptions for Invasive, Exempt, and Undesirable Species” will not be approved as replacement trees within the public right-of-way

and should be avoided for the benefit of local ecosystems. For additional information regarding tree replacements and planting, please contact the Urban Forester.

**B. Native Species**

Planting species native to the region, especially regionally adapted local ecotypes, is recommended, as they play an important role in ecosystems by preserving and promoting biodiversity. In addition, many beneficial insects, birds, and animals depend on Native Trees for food and shelter. They are also typically better suited for the environment as they are already adapted to the region.

**C. Planting Site Requirements**

Trees planted in urban environments require extra consideration regarding their location. Replacement trees shall be planted in appropriate planting sites that provide the tree the resources required for health and structural stability into maturity, and shall not conflict with above or underground utilities, paved surfaces, or public safety.

Urban tree health and longevity are largely determined by the available soil volume. Therefore, an adequate volume of uncompacted loam soil in which water, air, and nutrients can percolate and roots can grow shall be provided when planting a replacement tree. As tree species vary in overall mature size, adequate soil volume will be determined by the predicted mature size of the planned Replacement Tree. The minimum required soil volume shall be 1,200 cubic feet for trees fifty-five (55) feet or greater at mature height, six hundred (600) cubic feet for trees at thirty to fifty (35-50) feet at mature height, and two hundred-forty (240) cubic feet for trees thirty-five (35) feet or less at mature height. Soil volume is measured to a depth of no greater than three (3) feet, and shall not include compacted soil areas under pavement or open areas separated from the planting location by compacted soil or materials that block root expansion. The incorporation of Structural Soils, Soil Cells, or other technologies designed to provide uncompacted soil volume beneath pavement may be considered to provide additional soil volume, once reviewed by the Urban Forester.

<b>Soil Volume Requirements for Tree Planting</b>		
<b>Size</b>	<b>Mature Height</b>	<b>Soil Volume Required</b>
Large	55 ft or greater	1,200 cu ft
Medium	35-50 ft	600 cu ft
Small	35 ft or less	240 cu ft

Trees shall not be planted within twenty-five (25) feet of the corner of an intersection without appropriate intersection infrastructure to provide pedestrian and cross-traffic visibility to vehicular traffic, within twenty (20) feet of utility poles, or within ten (10) feet of buried utilities, street signs, or driveway aprons. Spacing between trees in the public right-of-way shall be measured from the center of the newly planted tree's trunk to the center of the existing tree's or new tree's trunk. Large trees shall not be planted within forty (40) feet of other large or medium trees, medium trees shall not be planted within twenty-five (25) feet of other large or medium trees, and small trees shall not be planted within fifteen (15) feet of any other tree of any size. Alterations to tree spacing may be approved to accommodate existing elements in the right-of-way.

D. Planting Specifications and Requirements

Planting specifications for trees in the public right-of-way or other City-owned properties shall follow the Minimum Standards for Tree Planting Projects as outlined by the New York State Department of Environmental Conservation:

Planting specifications for trees in the public right-of-way or other City-owned properties shall follow the Minimum Standards for Tree Planting Projects as outlined by the New York State Department of Environmental Conservation:

- (1) Inspect nursery stock at the time of delivery for damage and poor quality.
- (2) Planting holes shall be dug a minimum of two times larger than the diameter of the root system.
- (3) Trees shall be planted so that the root flair is exposed and at or slightly above ground level.
- (4) Strings and twine shall be removed from trunk of tree. Burlap and wire baskets shall be removed after one-third of the planting hole has been backfilled and before the remaining backfilling is completed.
- (5) Backfill with existing soil when suitable. Avoid using excessive amounts of organic matter.
- (6) When light-sensitive species are exposed to direct sun, wrap the lower trunk with a tree wrap. Remove wrap after the first growing season.
- (7) Undyed hardwood or bark mulch shall be applied around the planted tree, two to four (2-4) inches deep, in a circle three (3) feet wide. The mulch edge shall be bermed to make a donut shape, and the mulch shall not touch the trunk above the root flair.
- (8) Only dead, damaged, or poorly located branches shall be pruned during planting using proper techniques.

**§ 373-17 Tree Protection Requirements During Construction**

All Protected Trees located on private property and upon adjacent rights-of-way or City-owned property where construction work is occurring and heavy machinery, which is capable of damaging trees or compacting soil, is being operated shall be protected from damage by means of the requirements stated herein. Damages to Protected Trees can be avoided by following the protection requirements below.

A. Restitution for Damages to Protected Trees During Construction

- (1) Damages to Protected Tree(s) during construction projects shall require restitution both in actions to repair any damage and in a fine which reflects the lost value of the tree(s) as an asset when the overall condition has been degraded due to damages. This fine may amount to 100% of the value of the Protected Tree if it is found to be unlikely to survive damage that occurred. When a tree is damaged to the point where removal is required, the Replacement Tree equaling the value of the lost tree may be planted in lieu of a fine. Tree value is calculated as a Basic Reproduction Cost outlined in Section 11. Protected Tree Replacement Value. Replacement Tree Planting Areas are defined in Section 13. Establishment of Dedicated Account and Replacement Tree Planting Areas.
- (2) For Protected Trees on City-owned property, in the public right-of-way, or in City Parks, when damage to Protected Tree(s) has occurred due to actions of a vendor hired by the City of Kingston, or contractor/subcontractor thereof, the vendor shall be liable for the costs of any required repair actions and the loss of value of the Protected Tree(s).
- (3) For Protected Trees on private property, the property owner or agent of the property owner shall be liable for the costs of any required repair actions and the loss of value of the Protected Tree(s).

#### B. Above-Ground and General Tree Protection Requirements

- (1) All Protected Trees shall be protected with temporary fencing placed along the Tree Protection Area (TPA) when within fifteen (15) feet of a Construction Zone. The TPA shall protect at a minimum the area designated as the Critical Root Zone (CRZ), which is calculated as twelve (12) inches of radius for every one (1) inch of tree trunk DBH.
- (2) Temporary fencing for the TPA may be made of wood, metal, or plastic with metal posts set no further than three (3) feet apart.
- (3) Heavy-duty signs reading "Tree Protection Area – Do Not Enter" in block letters two inches or larger shall be affixed to the temporary fencing every fifty (50) feet on center.
- (4) Construction materials shall not be stored within the fenced TPA and shall not be stored on the construction site to cause the natural drainage flow to be diverted toward the protected trees.
- (5) A Tree Survey and Tree Protection Plan shall be provided to the Planning Director and Urban Forester for review by the Planning Board prior to the demolition of a structure, new construction of a structure, or construction of an addition to a structure on any parcel of 5,000 square feet or greater. "ANSI A300 (Part 5) Management of Trees and Shrubs During Site Planning, Site Development, and Construction" is a recommended resource for developing a Tree Protection Plan.
- (6) On parcels less than 5,000 square feet in size, a Tree Survey or Tree Protection Plan shall not be required. An arborist report on the condition of any Protected Tree(s) may be requested by the Urban Forester for projects that do not require a Tree Survey or Tree

Protection Plan. The Urban Forester may perform the assessment of Protected Trees on projects that do not require a Tree Survey or Tree Protection Plan.

- (7) When a tree is located in such a place that the area falling within the Tree Protection Zone is in conflict with the flow of traffic of the street or sidewalk, or prevents machinery from entering the project site in such a way where no other entry is possible, the Urban Forester may approve a modified Tree Protection Zone that still provides physical protection for the Protected Tree trunk, branches, and root system.

#### C. Below-Ground Tree Protection Requirements

- (1) Protected Trees shall also have their roots protected and kept in undisturbed, uncompacted soil within the Critical Root Zone (CRZ). No excavation or trenching shall be permitted in the CRZ for any construction project, including the installation of underground utilities, without authorization by the Planning Department or Urban Forester. Tunneling or other Trenchless Technology Methods may be permitted at thirty-six (36) inches or greater below soil height, but not within two (2) feet of the trunk to avoid damage to a potential tap root with authorization of the Urban Forester. In the case of trees with a four (4) inch Diameter at Breast Height (DBH) or less, special consideration may be authorized by the Tree Commission and Urban Forester to modify the tree planting location within the CRZ.
- (2) Any underground utility installation or modification that impacts Protected Trees due to underground conflicts between existing underground utilities and tree roots is specifically subject to the review and approval of the Urban Forester before the project begins.
- (3) Soil disturbance or excavation in proximity to, but outside of, the Tree Protection Area (TPA) will be conducted in such a way that excavated soil or other underground materials will not be placed within the TPA. Tree roots two (2) inches or larger found in proximity to, but outside of, the TPA, which have been cut, torn, unearthed, lifted, or otherwise damaged, shall have a final, accurate cut with a sharp tool that has been cleaned and/or sanitized prior to cutting. Tree roots will then be buried below the original grade to provide for proper root healing and to avoid the spread of potential tree root pests and pathogens. Wound dressing is not necessary or recommended.

#### D. Tree Protection Plan

The Tree Protection Plan shall be reviewed by the Urban Forester and include an accurate depiction of:

- (1) A Tree Survey indicating the species and location of all existing trees within fifteen (15) feet of the outlined area of disturbance within the property, with a six (6) inch DBH or greater, and existing trees of any size located on the adjacent rights-of-way within fifteen (15) feet of the outlined area of disturbance. The survey shall also include an

opinion from a Certified Arborist on the condition and form of each tree.

- (2) Identification and listing of any tree designated as a protected Native Plant within fifteen (15) feet of the outlined area of disturbance, as listed in the New York State Compilation of Codes: Title 6. Department of Environmental Conservation, Chapter II. Lands and Forests, Part 193. Trees and Plants.
  - (3) The location and type of Tree Protection Zone fencing to be placed on the property and adjacent rights-of-way.
  - (4) The location of Critical Root Zone areas and the types and locations of protection elements to be provided to minimize damage to tree roots adjacent to the Critical Root Zone, such as wood chips and other non-compacting temporary surfaces meant for machinery operation.
  - (5) A description of other required tree preservation procedures, such as root pruning, root air excavation, crown pruning, and the like.
  - (6) The location, shape, and spatial arrangement of all temporary and permanent driveways, parking areas, temporary material storage sites, and access ways.
  - (7) The location of proposed and existing utility services, including water, sewer, electric, gas, and telecommunications, that may impact existing Protected Trees.
- E. It shall be the responsibility of the property owner and the agent of the property owner to treat, remediate, or remove and then replace the lost asset value of any tree that exhibits signs of deterioration within one year from the time of any authorized installation of underground utilities within the Critical Root Zone that may be attributed to damage incurred during underground utility installation.
- F. If a Grading and Drainage Plan is required by some other provision of the code, the Tree Protection Plan shall either be incorporated into the required Grading and Drainage Plan or the Tree Protection Plan shall depict the limits of land disturbing activities and the existing and proposed grading of the development, showing spot elevations and/or contour lines at one-foot intervals.
- G. The Planning Director may require the applicant to provide any additional information the Director deems necessary to determine whether the Tree Protection Plan complies with the requirements and the stated policy and purpose of the City of Kingston's Form-Based Zoning Code.

### **§ 373-18 Requirements of Utility Service Providers**

- A. Requirements for Tree Work During Planned Utility Work  
Utility Service Providers or Contractors thereof intending to prune, cut, modify, or remove Protected Trees shall submit a Utility Service-Related Tree Work Permit application to the Urban

Forester providing details and agreements to all conditions listed within this section, with the exception of prior vegetation management permissions granted in previous contracts with, or laws of, the City of Kingston, Ulster County, or New York State.

It shall be a requirement to retain the services of a suitably insured and certified Consulting Arborist (CA). The CA shall act as the liaison between the City of Kingston and the Utility Service Provider. The CA shall work with the Utility Service Provider to ensure that any utility work that occurs within the Critical Root Zone (CRZ) or the Dripline of Protected Trees is performed according to the standards of the City of Kingston Tree Ordinance.

The CA shall be involved in projects that impact Protected Trees during the planning/design and construction phases. This work shall include the following steps:

- (1) The Utility Service Provider or its Contractor identifies all proposed work within the Critical Root Zone or under the Dripline of a Protected Tree(s) and retains a CA. The Utility Provider or its Contractor must give the CA as much notice as reasonably possible.
- (2) The CA shall provide the Department of Public Works and the Urban Forester with a survey of all the trees impacted by the planned construction work. This survey provides the basic information needed for a Tree Pruning/Removal Permit and shall include the following:
  - a. Species, Diameter at Breast Height (DBH), a 5-point condition rating (1. specimen, 2. above average, 3. average, 4. below average, 5. very poor/dead), and the Tax Parcel Number of each Protected Tree involved.
  - b. Pruning or other tree work methods for work within the CRZ and under the tree dripline. Topping shall not be permitted; all methods shall comply with best practices for tree maintenance as defined in the "ANZI A300 Tree Care Standards."
  - c. If the Utility Service Provider is requesting authorization for the removal of a Protected Tree due to an unavoidable conflict with a planned construction project.
  - d. Type, size, and location of each utility.
  - e. Distance of each service line from the tree, measured as the pipe/line center to the tree center on a horizontal plane.
  - f. Duration of entire construction project (days), including predicted time between utility work and final pavement restoration.
  - g. Digital photographs shall be taken as part of the survey phase as needed to document trees prior to construction.

## B. Requirements For Authorization of Protected Tree Removal During Planned Utility Work

A Utility Service Provider seeking authorization from the City of Kingston for the removal of a Protected Tree(s) shall take the following steps:

- (1) Submit a Utility Service-Related Tree Work Permit application to the Urban Forester, which shall include reasoning for removal and supporting documentation.
- (2) For a Protected Tree(s) rated as condition 1-3 (specimen, above average, average) in a provided survey, and not identified as a hazard, and which Protected Tree(s) is being requested to be removed, the Utility Service Provider or the CA shall provide determination of the Protected Tree as a candidate for relocation, and expected expenses and feasibility of relocation for any Protected Tree(s). "Suitable" shall be understood as the Protected Tree(s) having a high likelihood of successful transplant and normal development.
- (3) If the tree cannot be transplanted, the Urban Forester will assess the condition according to the Protected Tree Value Replacement Fees outlined in Section 11 Protected Tree Value Determination. The Urban Forester will deduct the appropriate condition percentage from the basal area to determine the replacement value of the tree and the required fee or number of required replacement trees.
- (4) The Utility Service-Related Tree Work Permit Authorization will detail the conditions for restitution by the permittee to the City of Kingston.
- (5) After the tree survey is accepted by the Department of Public Works and the Urban Forester, the agency will review the survey and visit the site as required. Any changes will be discussed with the CA and incorporated into a revised survey and permit application. This application evaluation process should take no longer than five (5) working days to complete. Although the permit application to allow utility work adjacent to the trees can be made at any point prior to the start of construction, the Department of Public Works and Urban Forester will only issue the permit within seven (7) business days prior to the start of construction.
- (6) The CA shall notify the Department of Public Works and the Urban Forester twenty-four (24) hours before the start of tree work, and shall be present each work day to monitor tree impacts, and shall notify the Urban Forester immediately if tree conflicts arise during the course of work.
- (7) The CA shall submit a weekly progress report to the Urban Forester for projects that are not completed within five (5) business days.
- (8) The CA shall notify the Department of Public Works and the Urban Forester when work is complete, and if there is subsequent remedial work to be performed, such as pruning of damaged limbs. This work will need to be completed by a suitably insured and

certified tree company at the utility company's expense and monitored by the CA.

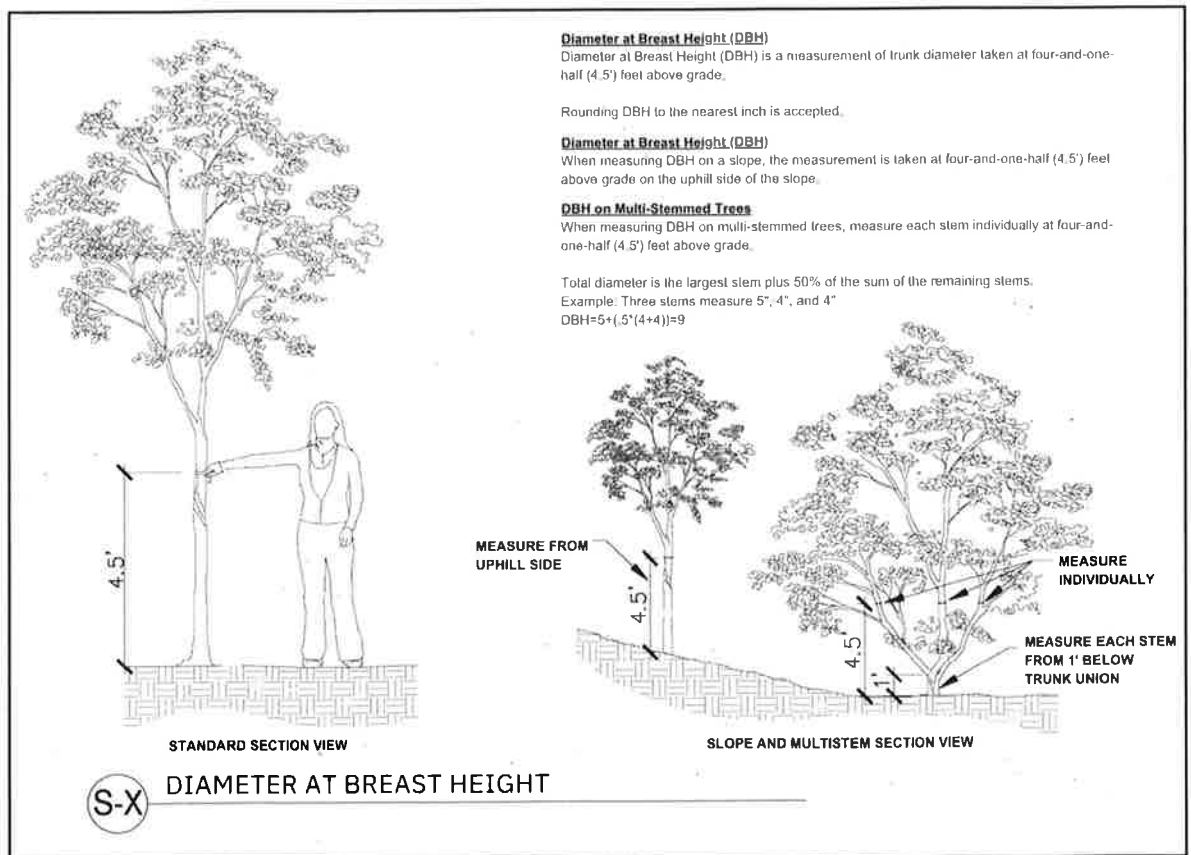
- (9) The CA shall notify the Department of Public Works and the Urban Forester of the completion of the project. Upon project completion, the Urban Forester shall conduct a final inspection to review compliance and completion of all conditional standards from the initial project authorization.

C. Exemption for Emergency Utility Actions

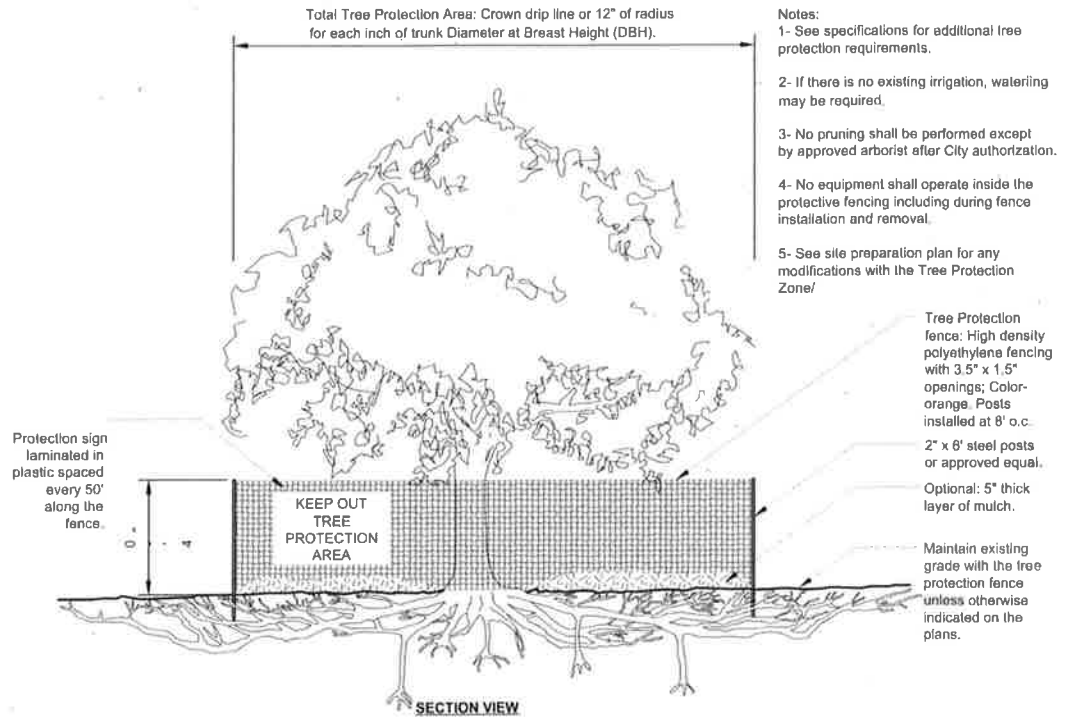
In emergency situations where pruning or removal of the tree, or excavation within the Critical Root Zone, is immediately required to restore or repair utilities, the Utility Service Provider, or the Contractor of the Utility Service Provider responding to the emergency, is authorized to perform work as needed to mitigate the emergency and restore utility functions. Photographs of the tree conflict involved in the utility emergency, along with an incident report, may be requested by the Department of Public Works or the Urban Forester.

§ 373-19 Appendices

A. Diameter at Breast Height (DBH) Diagram



## B. Tree Protection Zone Diagram



**S-X** TREE PROTECTION ZONE

C. Tree Maintenance/Removal Permit Guide

