

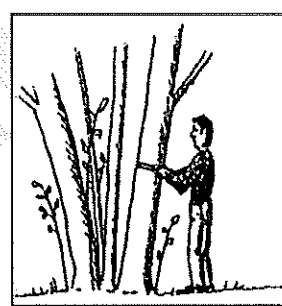
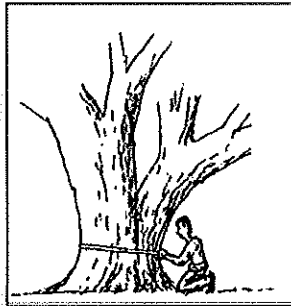
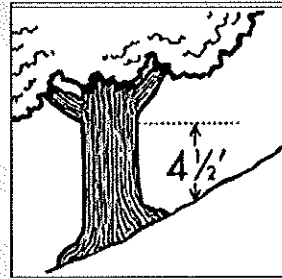
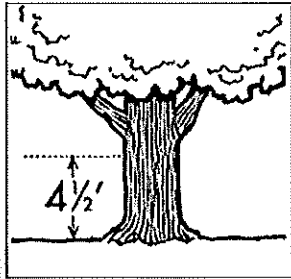
Section 53-995 TREE ORDINANCE

(a) Purpose.

The purpose of this ordinance is to conserve, protect and enhance existing trees and natural landscape that are healthy and contribute to a safe and livable community. It is recognized that the preservation of existing trees contributes to the overall quality of life and environment of the City. Trees play a vital role in water and air quality. They protect the health of aquifers and creek watersheds, function in storm water management as well as erosion and dust control, abatement of noise, provision of wildlife habitat and enhancement of property values.

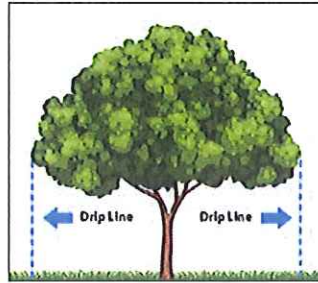
(b) Definitions: For the purposes of this code, the following definitions will be used:

- (1) Circumference –Is measured 4 ½ feet from the ground's level surface or directly below the first branches, whichever is lower.

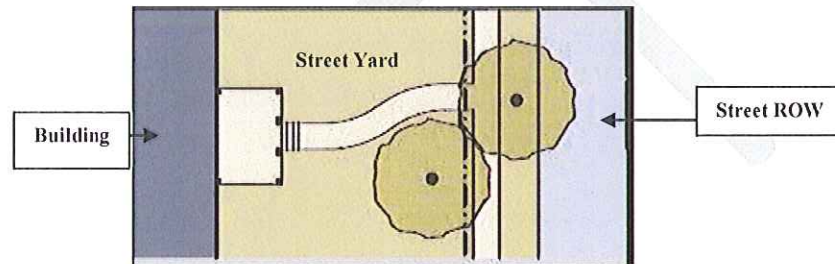


For multiple trunk trees, the circumference is deemed to equal the circumference of the largest trunk plus half the circumference of each additional trunk. For example, a tree that has three trunks with circumferences of 22", 18", and 12" you would have a circumference of 37 " (22" + (1/2 x 18") + (1/2 x 12")).

- (2) Drip Line- A vertical line extending from the outermost portion of the tree canopy to the ground.



- (3) Protected Tree- Trees with a circumference of twenty-eight (28) inch or greater
- (4) Public Tree- All trees partially or completely resting on public property.
- (5) Specimen Tree- Trees with a circumference of seventy-five (75) inch or greater
- (6) Street Yard- The area behind the street right-of-way (ROW), and, in front of any building on private property is known as the street yard.



(c) *Applicability.*

The provisions of this section are applicable to the following:

- All new residential and nonresidential development within the City limits and Extraterritorial Jurisdiction (ETJ)
- Redevelopment of any residential or nonresidential property within the city limits that results in an increase in building footprint or total destruction and reconstruction (not applicable to existing development wanting to remove a tree)

(d) *Requirements*

- (1) Indiscriminate clearing or stripping of natural vegetation on a lot is prohibited. Any part of a site not used for buildings, parking, driveways, walkways, utilities, on-site septic facilities (OSSF) and approved storage areas shall be retained in a natural state, or reclaimed to its natural state.
- (2) The following trees are exempt from mitigation requirements of this section:
 - Celtis Occidentalis (hackberry)
 - Juniperus Virginiana, Juniperis Ashei (Common Cedar)
 - Chinaberry
 - Mesquite
 - Ligustrum

(3) The removal of any tree with a circumference of twenty-eight (28) inches or larger must be specifically requested by the applicant and approved in writing by the Director of Planning prior to any action being taken to remove the tree or to damage or disturb the tree in any way. The location of all trees over twenty-eight (28) inches in circumference to be preserved or removed within the area proposed for development shall be designated at one of the following steps in the development process:

- On an application for a site plan for non-residential and multi-family developments;
- On a tree survey at the time of platting for development seeking to install infrastructure; or
- At the time of building permit for residential lots already platted and seeking to develop or redevelop

Removal of any such trees without City approval is expressly prohibited. Such trees shall be tagged and numbered, and numbers shall be graphically depicted on the applicable plan submitted. The tags and related numbers shall remain on the trees until the Certificate of Occupancy is issued.

(4) Trees over twenty-eight (28) inches in circumference but less than seventy-five (75) inches in circumference that are not located in one of the following areas shall be replaced on-site at a ratio of two-and-one-half trees per tree removed and shall be credited toward the number of trees required for site development:

- within a building footprint
- within 10 feet of a building footprint
- within the area over the septic system
- within areas necessary for reasonable site access
- within areas designated for the construction or installation of public facilities such as streets or utilities, that the property owner requests and receives approval to remove may be removed

Replacement trees shall have a minimum circumference of twelve (12) inches (4 inch caliper tree). If 2 inch caliper trees are utilized for mitigation then trees must be replaced at a ratio of five trees per tree removed.

(5) The removal of specimen trees, which for the purposes of these requirements are trees with seventy-five (75) inch circumference or greater, must be specifically requested by the applicant and approved in writing by the Director of Planning prior to any action being taken to remove the tree or to damage or disturb the tree in any way. Any specimen tree that is removed shall be replaced circumference-for-circumference (a ratio of one-to-one), even if the tree removed is within the building footprint area.

(6) Trees may be donated or a fee-in-lieu of planting the required trees may be paid to the City of Kyle if the following conditions exist:

- a. There is not adequate space on the site for all of the required trees to be planted on the site in which the tree(s) were removed.

b. Weather conditions are such that do not make it favorable for the required planted trees to survive and thrive.
Species, size, quantity, and delivery date of trees shall be approved by the Director of Parks and Recreation.

(e) Exemptions to Mitigation

- (1) Trees over twenty-eight (28) inches in circumference but less than seventy-five (75) inches in circumference that are located within a building footprint or within ten (10) feet of a building footprint, within the area over the septic system, or within areas necessary for reasonable site access (but not including parking areas), such as a driveway, shall not be required to be replaced.
- (2) Trees over twenty-eight (28) inches in circumference but less than seventy-five (75) inches in circumference that are located within areas designated for the construction or installation of public facilities such as streets or utilities, shall not be required to be replaced, but must still submit a formal request for removal with the submittal of public improvement construction plans.
- (3) Any specimen tree (75 inch circumference or greater) that is located within the building footprint, or areas necessary for site access (but not including parking areas), such as a driveway, shall not be required to be preserved. However, the tree that is removed shall be replaced circumference-for-circumference (a ratio of one-to-one).

(f) Tree Removal Permit

(1) The removal of an existing tree(s) from a development site must be in accordance with this and all other applicable ordinances of the City. Prior to the removal of any protected or specimen tree, as defined within this section, the property owner must first submit a letter detailing the following:

- Which tree(s) will be removed (as shown on a Site Plan)
- How the removal will be performed (and machinery and equipment needed), and the date and time when the anticipated removal will occur.
- If a specimen or protected tree proposed for removal is within or not within the following:
 - a building footprint or within ten (10) feet of a building footprint,
 - within the area over the septic system
 - within an area necessary for reasonable site access
 - within an area designated for the construction or installation of public facilities such as streets or utilities

(g) Onsite Tree Protection Requirements

(1) All protected trees within or next to an excavation site or construction site for any building, structure, or street work, shall be guarded with a good substantial fence, frame, or box not less than four (4) feet high and surrounding the trunk of the tree. In

addition, at least three (3) inches of mulch or compost shall be spread beneath the drip line of the tree.

(2) The barriers other than what is required per this ordinance shall be approved by the Building Official and shall be in place before any site clearance or other site-disturbing act commences.

(3) All building material, dirt, excavation or fill materials, chemicals, construction vehicles or equipment, debris, and other materials shall be kept outside the barrier.

(4) Barriers shall remain in place until the final building and landscape site inspections are satisfactorily completed for the issuance of the Certificate of Occupancy.

(h) *Incentives for Retaining Trees*

1. *Application.* The provisions of this Section apply to all new nonresidential and Multi-family Development within the City of Kyle limits

2. *Incentives to Retain Existing Trees.* As an incentive to retain existing trees in the street yard, existing trees shall receive credit against the landscaping requirements according to the following schedule:

- a. Greater than 38-inch circumference: credit for two required trees.
- b. Greater than 12-inch but less than 38-inch circumference: credit for one-and-one-half trees.
- c. Any existing tree in the street yard which is at least 18 inches in circumference and at least 15 feet tall shall be considered as two-and-one-half trees for the purposes of satisfying the requirements of landscaping code.
- d. Any existing specimen tree (75-inch circumference or greater) shall be considered as a circumference-for-circumference match for the purposes of satisfying the requirements of landscaping code. For example, a 75 inch circumference tree can be counted for up to 12 trees each that have a six-inch circumference.

(i) *Penalty.*

Any person who shall violate any provision of this ordinance or technical codes adopted herein, or shall fail to comply therewith, or with any of the requirements thereof shall be liable for a fine not to exceed the sum of two thousand dollars (\$2,000.00). Each tree removed and each day the violation exists shall constitute a separate offense.