CITY OF KIRKLAND
Planning and Community Development Department
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MEMORANDUM

To: Houghton Community Council

From: Eric Shields, AICP Planning Director
Paul Stewart, AICP, Deputy Planning Director
Nancy Cox, AICP, Development Review Manager
Deborah Powers, Urban Forester
Jon Regala, Senior Planner

Date: March 22, 2010

Subject: FINAL ACTION ON TREE REGULATION AMENDMENTS. FILE ZON08-00016

RECOMMENDATION

The Community Council has three options for final action on the tree regulation amendments. They are:

1. Approve the enclosed Houghton Resolution No. 2010-3 that adopts Ordinance 4238 as approved by the City Council on March 2, 2010. Approval of the resolution would make the ordinance effective within the Houghton jurisdiction;
2. Disapprove the amendments by a majority of the Community Council approving a resolution to disapprove; or
3. Fail to disapprove the ordinance within 60 days after City Council approval. This would have the effect of approving the amendments.

CITY COUNCIL ACTION

On December 15, 2009, the City Council adopted three ordinances related to the Tree Regulation Amendment project:

O-4226: Amending KZC Chapter 95 – Tree and Landscaping regulations and related KZC sections & various KZC code sections referencing KZC Chapter 95

O-4227: Amending KMC 19.36 – Street Trees

O-4228: New fees for existing tree related permits

Of the three ordinances listed above, O-4226 was required to have final approval from the Houghton Community Council. However, at their February 4, 2010 meeting, the Houghton Community Council voted 5-2 to disapprove O-4226 due to language in the adopting ordinance and the proposed zoning code text which stated the City's intent to require a tree removal permit for the removal of up to two trees per year at no charge to an applicant once the city

has the capability to accept simple on-line electronic permit applications. Otherwise, the Houghton Community Council agreed with the ordinance as adopted by the City Council.

Subsequently, the City Council and the Houghton Community Council held a joint study session on February 16, 2010 to discuss improving communication between both Councils for quasi-judicial and legislative projects. The topic of the tree removal permit was also discussed. The Houghton Community Council expressed their concerns about requiring a tree removal permit. They stated that the current voluntary tree permit system is working well and the extra burden of a tree removal permit should not be placed on applicants.

However, given their concern, the Houghton Community Council was generally agreeable to requiring an online tree removal permit for the removal of up to two trees per year as long as it is very easy to use and does not require an application fee. Furthermore, the Houghton Community Council noted that the intent statement in the adopted ordinance and KZC text is not appropriate and can create confusion in its implementation and readability to an applicant. The City Council agreed.

Therefore, on March 2, 2010, the City Council readopted the tree regulations amendments under Ordinance 4238 with changes that address the Houghton Community Council's concern. The ordinance and revised zoning text no longer contains language in regards to future implementation of an online tree removal permit and replaces the previously adopted Ordinance 4226.

Staff will come back with a code amendment to require a tree removal permit at a time when the technology is in place to implement such a system with no application fee. The code amendment will go through the required code amendment process (Process IV) for review by the Planning Commission and Houghton Community Council, action by the City Council, and with final action by the Houghton Community Council. Staff will place this topic on the Planning Department's list of future code amendments and work program for consideration at the appropriate time. In the meantime, the current voluntary tree permit process will remain in place.

EXHIBITS

1. Ordinance 4238
2. Houghton Resolution 2010-3

ORDINANCE NO. 4238

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING AND LAND USE AMENDING CITY REGULATIONS RELATING TO TREES, REPEALING ORDINANCE 4226, AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00016.

WHEREAS, the City Council has received a recommendations from the Kirkland Planning Commission and the Houghton Community Council to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, all as set forth in that certain reports and recommendations of the Planning Commission and the Houghton Community Council dated December 1, 2009 and bearing Kirkland Department of Planning and Community Development File No. ZON08-00016; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission, following notice thereof as required by RCW 35A.63.070, on November 5, 2009, held a public hearing, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, prior to making said recommendation, the Houghton Community Council, following notice thereof as required by RCW 35A.63.070, on October 26, 2009, held a courtesy hearing, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, in regular public meeting on December 15, 2009, the City Council considered the environmental documents received from the responsible official, together with the reports and recommendations of the Planning Commission and Houghton Community Council and adopted Ordinance 4226; and

WHEREAS, as allowed by KMC 2.12.040, the Houghton Community Council thereafter disapproved Ordinance 4226 pursuant to Resolution 2010-2 at its public meeting of February 4, 2010; and

WHEREAS, at the Kirkland City Council's study session with the Houghton Community Council on February 16, 2010, both bodies considered alternative language to Ordinance 4226 that both thought might be acceptable and directed staff to provide such an alternative ordinance for consideration,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Ordinance 4226 is hereby repealed.

Section 2. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, be and they hereby are amended to read as follows:

As set forth in Attachments A and B attached to this ordinance and incorporated by reference.

Section 3. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 5. This ordinance shall be in full force and effect on April 1, 2010 after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 6. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this 2nd day of March, 2010.

SIGNED IN AUTHENTICATION thereof this 2nd day of March, 2010.

Mayor

Attest:

City Clerk

Approved as to Form:

City Attorney

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KIRKLAND ZONING CODE CHAPTER 95 – TREE MANAGEMENT AND REQUIRED LANDSCAPING

95.05 Purpose and Intent

1. Trees and other vegetation are important elements of the physical environment. They are integral to Kirkland's community character and protect public health, safety and general welfare. Protecting, enhancing, and maintaining healthy trees and vegetation are key community values. Comprehensive Plan Policy NE-3.1 describes working towards ~~A goal is to achieve~~ achieving a Citywide ~~an overall~~ tree canopy coverage of 40 percent ~~for the community~~. The many benefits of healthy trees and vegetation contribute to Kirkland's quality of life by:

    a. Minimizing the adverse impacts of land disturbing activities and impervious surfaces such as runoff, soil erosion, land instability, sedimentation and pollution of waterways, thus, reducing the public and private costs for storm water control/treatment and utility maintenance;

    b. Improving the air quality by absorbing air pollutants, mitigating the urban heat island effect, assimilating carbon dioxide and generating oxygen, and decreasing the impacts of climate change;

    c. Reducing the effects of excessive noise pollution;

    d. Providing cost-effective protection from severe weather conditions with cooling effects in the summer months and insulating effects in winter;

    e. Providing visual relief and screening buffers;

    f. Providing recreational benefits;

    g. Providing habitat, cover, food supply and corridors for a diversity of fish and wildlife; and

    h. Providing economic benefit by enhancing local property values and contributing to the region's natural beauty, aesthetic character, and livability of the community.

2. Tree and vegetation removal in urban areas has resulted in the loss to the public of these beneficial functions. The purpose of this chapter is to establish a process and standards to provide for the protection, preservation, replacement, proper maintenance, and use of significant trees, associated vegetation, and woodlands located in the City of Kirkland.

    The intent of this chapter is to:

    a. Maintain and enhance canopy coverage provided by trees for their functions as identified in KZC 95.05(1);

b. Preserve and enhance the City of Kirkland's environmental, economic, and community character with mature landscapes;

c. Promote site planning, building, and development practices that work to avoid removal or destruction of trees and vegetation, that avoid unnecessary disturbance to the City's natural vegetation, and that provide landscaping to buffer the effects of built and paved areas;

d. Mitigate the consequences of required tree removal in land development through on- and off-site tree replacement with the goals of halting net loss and enhancing Kirkland's tree canopy to achieve an overall healthy tree canopy cover of 40 percent City-wide over time;

e. Encourage tree retention efforts by providing flexibility with respect to certain other development requirements;

f. Implement the goals and objectives of the City's Comprehensive Plan;

g. Implement the goals and objectives of the State Environmental Policy Act (SEPA); and

h. Manage trees and other vegetation in a manner consistent with the City's Natural Resource Management Plan.

i. ~~Regulate, p~~Preserve and protect street trees, trees in public parks and trees on other city property.

95.10 Definitions

The following definitions shall apply throughout this chapter unless the context clearly indicates otherwise. Definitions that apply throughout this code are also located in Chapter 5 KZC.

1. Caliper – The American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above the ground for up to and including four-inch caliper size and 12 inches above the ground for larger sizes.

2. Critical Root Zone – The area surrounding a tree at a distance from the trunk, which is equal to one foot for every inch of ~~tree~~ trunk diameter measured at ~~breast height~~4.5 feet from grade or otherwise determined by a qualified professional (example: 1' radius per 1" DBH).

3. Crown – The area of a tree containing leaf- or needle-bearing branches.

4. Diameter at Breast Height (DBH) – The diameter or thickness of a tree trunk measured at 4.5 feet from the ground. DBH is also known as Diameter at Standard Height (DSH).

5. Dripline – The distance from the tree trunk, that is equal to the furthest extent of the tree's crown.

6. Grove – A group of three or more significant trees with overlapping or touching crowns.

7. Hazard Tree - A ~~hazard~~ tree that ~~must~~ meets all the following criteria:

a. ~~a~~A tree with a combination of structural defects and/or disease which makes it subject to a high probability of failure;

b. ~~and i~~Is in proximity to moderate~~-~~ to high frequency targets (~~of~~ persons or property that can be damaged by tree failure); and

c. ~~–~~The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices nor can the target be removed.

8. Impact – A condition or activity that affects a part of a tree including the trunk, branches, and critical root zone.

~~Landmark Tree – A tree or group of trees designated as such because of its exceptional value to the residents of the City.~~

9. Limit of Disturbance – The boundary between the ~~area of minimum protection~~protected area around a tree and the allowable site disturbance as determined by a qualified professional measured in feet from the trunk.

10. Nuisance Tree - A ~~nuisance~~ tree that ~~must~~ meets either of the following criteria:

~~1~~a. ~~Tree i~~Is causing obvious~~,~~ physical damage to private or public structures, including but not limited to: sidewalk, curb, road, driveway, parking lot, building foundation, or roof; or

~~2~~b. ~~Tree h~~Has ~~been~~ sustained damage~~d~~ ~~by~~ from past maintenance practices.~~, that cannot be corrected with proper arboricultural practices~~

~~; or 3.~~ The problems associated with the tree must be such that they cannot be corrected by ~~any other~~ reasonable practices~~.~~ ~~I~~including but not limited to ~~the following~~:

~~a) P~~pruning of the crown or roots of the tree, ~~and/or small modifications to the site including but not limited to a driveway, parking lot, patio or sidewalk to alleviate the problem.~~

~~b) Pruning,~~ bracing, and/or cabling to reconstruct a healthy crown.

11. Public Works Official – Designee of the Public Works Director

12. Qualified Professional – An individual with relevant education and training in arboriculture or urban forestry, having two or more of the following credentials:

- International Society of Arboriculture (ISA) Certified Arborist;

- Tree Risk Assessor Certification (TRACE) as established by the Pacific Northwest Chapter of ISA (or equivalent); ~~for tree risk assessments located within critical areas.~~
- American Society of Consulting Arborists (ASCA) registered Consulting Arborist;
- Society of American Foresters (SAF) Certified Forester for Forest Management Plans;

For tree retention associated with a development permit, a qualified professional must have, in addition to the above credentials, a minimum of 3 years experience working directly with the protection of trees during construction and~~,~~ have experience with the likelihood of tree survival after construction. A qualified professional must also ~~, and~~ be able to ~~A qualified professional must possess the ability to perform tree risk assessments and~~ prescribe appropriate measures ~~necessary~~ for the preservation of trees during land development.

13. Retention Value – The Planning Official's designation of a tree based on information provided by a qualified professional that is one of the following:

a. ~~Type 1~~High, a viable tree, located within required yards and/or required landscape areas. Tree retention efforts shall be directed to the following trees if they are determined to be healthy and windfirm by a qualified professional, and provided the trees can be safely retained when pursuing alternatives to development standards ~~in subsections (4)(a)(2) and (4)(a)(3) of this section~~pursuant to KZC 95.32:

~~1) Landmark trees;~~

~~2~~1) Specimen trees;

~~3~~2) Tree groves and associated vegetation that are to be set aside as preserved groves pursuant to KZC ~~95.50~~95.51(3);

~~4~~3) Trees on slopes of at least 10 percent; or

~~5~~4) Trees that are a part of a grove that extends into adjacent property, such as in a public park, open space, sensitive area buffer or otherwise preserved group of trees on adjacent private property. If significant trees must be removed in these situations, an adequate buffer of trees may be required to be retained or planted on the edge of the remaining grove to help stabilize.

b. ~~Type 2~~Moderate, a viable tree that is to be retained if feasible; or

c. ~~Type 3~~Low, a tree that is either (1) not viable or (2) is in an area where removal is unavoidable due to the anticipated development activity.

14. Significant Tree – A tree that is at least six inches in diameter at breast height (DBH) as measured at 4.5 from the ground.

15. Significantly Wooded Site – A subject property that has a number of significant trees with crowns that cover at least 40 percent of the property.

16. Site Disturbance – Any development, construction, or related operation that could alter the subject property, including, but not limited to, soil compaction, tree or tree stump removal, road, driveway or building construction, installation of utilities, or grading.

17. Specimen Tree – A viable tree that is considered in very good to excellent health and free of major defects, as determined by the City's Urban Forester.

18. Street Tree - A tree located within the ~~street~~ public right-of-way; provided, that if the trunk of the tree straddles the boundary line of the ~~street~~ public right-of-way and the abutting property, it shall be considered to be on the abutting property and subject to the provisions of ~~the Kirkland Zoning Code~~this chapter.

~~Target – Person or property that can be damaged by failure of a tree.~~

19. Tree Removal – The removal of a tree, through either direct or indirect actions, including but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.

20. Viable Tree – A significant tree that a qualified professional has determined to be in good health, with a low risk of failure due to structural defects, is ~~relatively~~ windfirm if isolated or remains as part of a grove, and is a species that is suitable for its location.

21. Wildlife Snag – The remaining trunk of a ~~dying, diseased, or dangerous~~ tree that is intentionally reduced in height and usually stripped of ~~all~~ its live branches.

22. Windfirm – A condition of a tree in which it ~~can~~ withstands average peak local wind speeds and gusts.~~moderate storm winds.~~

95.20 Exemptions

<insert> or if the removed tree was required by a development permit

The following activities are exempt from the provisions of this chapter:

~~2~~1. Emergency Tree Removal. Any tree ~~on private property~~ that poses an imminent threat to life or property may be removed ~~without first obtaining a tree removal permit~~. ~~The party removing the tree will contact t~~The City must be notified within seven days of the emergency tree removal ~~to~~ with~~provide~~ evidence of the threat for removing the tree ~~for approval of~~ to be considered exempt~~ion~~ from this chapter. If the Planning Official determines that the emergency tree removal was not warranted, ~~he or she~~the Planning Official may require that the party obtain a permit and/or require that replacement trees and vegetation be replanted as mitigation.

~~3~~2. Utility ~~Management~~Maintenance. Trees may be removed by the City or utility provider in situations involving ~~immediate danger to life or property, or~~ interruption of services provided by a utility~~.~~

~~4~~3. Commercial Nurseries or Tree Farms. A nursery or tree farm owner may remove trees that are being grown to be sold as Christmas or landscape trees.

only if pruning cannot solve utility service problems. Utility maintenance shall conform to a City approved Utility Vegetation Management Plan.

~~19.36.030 Alteration of street trees without prior approval is prohibited.~~

95.21 Tree Pruning

1. ~~Approval~~Tree Pruning of Street Trees. ~~Routine maintenance of street trees~~It is the responsibility of the abutting property owner to maintain street trees abutting their property, which may include pruning, watering, and mulching. In order to prune, trim, modify, or alter a street tree, the abutting property owner shall apply for ~~permissiona~~ permit by filing a written application with the City. Pruning shall conform to the most recent version of the American National Standards Institute (ANSI) A300 Part 1 – 2001 Pruning standards or as outlined in an approved Utility Vegetation Management Plan.~~An application to prune, trim, modify or alter a street tree shall be granted only if the proposed action will improve the health and appearance of the tree.~~ The City reserves the right to have City or utility crews perform routine pruning and maintenance of street trees.

   ~~An application to prune, trim, modify or alter a street tree shall not be granted if the sole or primary purpose of the proposed action is view enhancement.except in the city's central business district (CBD) zones and in any other specific right-of-way that may be identified by the city. Except for routine maintenance, it is unlawful for any person to prune, trim, modify, alter or damage a street tree without the prior approval of the director of public works or his or her designee; provided, that the city and utility crews may perform routine pruning and maintenance of street trees; and provided further, that an abutting property owner may perform routine pruning and maintenance in accordance with any landscape maintenance agreement or contract with the city. (Ord. 3891 § 2, 2003: Ord. 3866 § 1 (part), 2002)~~

2. Tree Pruning on Private Property. ~~Topping or~~ A permit is not required to ~~pruning~~ prune trees on private property. Pruning which results in the removal of at least half of the live crown will be considered tree removal and subject to the provisions in KZC 95.23. ~~to the extent defined by tree removal in KZC~~ 95.10, .

   Tree topping is not allowed~~ within the City of Kirkland~~. If a ~~required~~ tree required by this Chapter is smaller than six inches in diameter and is topped, it must be replaced pursuant to the standards in KZC 95.55(8)(b). If a tree six inches or larger in diameter is topped, the owner must have a qualified professional develop and ~~carry out~~implement a five-year restoration pruning ~~schedule~~program.

95.23 Tree Removal – Not Associated with Development Activity

1. Introduction. Tree and vegetation removal in urban areas has resulted in the loss of beneficial functions provided by trees to the public. The majority of tree canopy within the City of Kirkland is on private property. The purpose of this section is to establish a process and standards to slow the loss of tree canopy on private property, contributing towards the City's canopy goals and a more sustainable urban forest.

2. Permit Required for Removal of Trees on Private Property or City Right-of-Way

~~Removal or alteration of trees in public parks and other city property prohibited.~~ It is unlawful for any person (other than City crews) to remove, prune, trim, modify, alter or damage a tree in a public park or on any other ~~city~~ City property~~; provided, that the city may perform routine pruning and maintenance~~. ~~of such trees and take any actions it deems necessary with respect to trees on city property.~~

No person, directly or indirectly, shall remove any significant tree on any property within the City, or any tree in the public right-of-way ~~except City right-of-way,~~ without first obtaining a tree removal permit as provided in this chapter, unless the activity is exempted in KZC 95.20 and KZC 95.23(5). ~~Trees in City right-of-way are regulated pursuant to Chapter 19.36 KMC.~~

3. Tree Removal Permit Application Form

The Department of Planning and Community Development and Public Works Department shall establish and maintain a tree removal permit ~~request~~ application form to allow property owners to request ~~Department~~ City review of ~~potentially exempt~~ tree removal for compliance with applicable City regulations. ~~Tree Plan Requirements. The plan can be developed by the applicant but may require assistance of a qualified professional.~~ The tree ~~plan~~ removal application form shall include at a minimum the following:

a. A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of structures, driveways, access ways and easements.

b. For required replacement trees, a planting plan showing location, size and species of the new trees in accordance to standards set forth in KZC 95.33(3)~~subsection (5)(c) of this section~~.

4. Tree Removal Permit Application Procedure and Appeals

a. Applicants ~~for a Level IV or V tree plan~~requesting to remove trees must submit a completed permit application on a form provided by the City. The City shall review the application ~~W~~within 21 calendar days~~, the Planning Official shall review the application~~ and either approve, approve with conditions or modifications, deny the application or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.

b. ~~With respect to Level IV and Level V Tree Plans, a~~An applicant may appeal an adverse determination to the Hearing Examiner. A written notice of appeal shall be filed with the ~~Planning Department~~City within 14 calendar days following the date of distribution of a ~~Planning Official's~~ City's decision. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least 17 calendar days prior to the hearing. The applicant shall have the burden of proving that the ~~Planning Official~~ City made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, ~~he or she~~the Hearing Examiner may affirm, reverse or modify the decision being appealed.

5. Tree Removal Allowances

a. Any private property owner of developed property may remove up to two significant trees from their property within a 12-month period without having to apply for a tree removal permit; ~~provided,~~provided that:

1) There is no ~~current~~ active application for development activity for the site;
2) The trees were not required to be retained or planted as a condition of previous development activity; and
3) All of the additional standards for tree removal and Tree Removal Permits as described in subsections (5)(b) through (5)(e) below are met.

The Department of Planning and Community Development shall establish and maintain a tree removal request form. The form may be used by property owners to request Department review of tree removal for compliance with applicable City regulations.

b. Tree Retention and Replacement Requirements

<insert> two trees

1) Tree Retention. For single-family homes, cottages, carriage units, two/three-unit homes, ~~one significant tree for every 2,500 square feet of land area~~ shall be required to remain on the subject property. ~~When this results in a fraction, the number of trees to remain shall be rounded down to the next whole number. In no case shall the remaining number of trees be less than two trees.~~

2) Tree Replacement.

a) For every significant tree that is removed and is not required to remain based on subsection (5)(b)(1) above, the City encourages the planting of a tree that is appropriate to the site.

<insert> both

b) If a tree removal request is for one or ~~both of the last two trees~~~~more~~ of the trees required to remain, a Tree Removal Permit and one-for-one replacement is required. The replacement tree shall be six feet tall for a conifer and two-inch caliper for deciduous or broad-leaf evergreen tree.

c) For all other uses not listed in subsection (5)(b)(1) above, a Tree Removal Permit is required and the required tree replacement will be based on the required landscaping standards in KZC 95.40 through 95.45.

c. Shoreline Jurisdiction.

Properties located with the City's shoreline jurisdiction are subject to additional tree removal and replacement standards if the tree(s) to be removed are located within the required shoreline setback. See KZC Chapter 83 for additional standards.

d. Removal of Hazard or Nuisance Trees

Any private property owner seeking to remove any number of significant trees which are a hazard or nuisance from developed or undeveloped property or the public right-of-way shall first obtain approval of a Tree Removal Permit and meet the requirements of this subsection. ~~there is no current application for development activity for the site significant trees which were required to be retained by a special regulation contained in Chapters 15 through 60 KZC;esignated on an approved Tree Retention Plan to be retained pursuant to KZC 95.30;~~

1) Tree Risk Assessment. ~~Additional Applicant Requirements.~~If the nuisance or hazard condition is not obvious ~~An~~ an ~~arborist~~ ~~report~~ tree risk assessment prepared by a qualified professional explaining how the tree(s) meet the definition of a nuisance or hazard tree is required. ~~fit the criteria in subsection (4)(b) or (4)(c) of this section if removal is based on nuisance or hazard and the nuisance or hazard condition is not obvious~~ Removal of nuisance or hazard trees does not count toward the tree removal limit if the nuisance or hazard is supported by a report prepared by a qualified professional and approved by the City.

2) Trees in Critical Areas or Critical Areas Buffers. For hazard or nuisance trees i~~I~~n (1) easements dedicated to ensure the protection of vegetation; ~~or in~~(2) critical areas, or (3) critical area buffers, a planting plan is required to mitigate the removal of the hazard or nuisance tree. ~~If a tree is considered a nuisance or hazard in a critical area or its buffer, t~~The priority action is to create a "snag" or wildlife tree with the subject tree. If creation of a snag is not feasible, then the felled tree shall be left in place unless the Planning Official permits its removal in writing.

The intent of preserving vegetation in and near streams and wetlands and in geologically hazardous areas is to support the functions of healthy sensitive areas and sensitive area buffers (see Chapter 90 KZC) and/or avoid disturbance of geologically hazardous areas (see Chapter 85 KZC).

The removal of any tree in a critical area or Native Growth Protective Easement will require the planting of a native tree of a minimum of six feet in height in close proximity to where the removed tree was located. Selection of native species and timing of installation shall be coordinated with the Planning Official. ~~. For nuisance or hazard trees in critical areas or their buffers, the planting plan must propose action to mitigate the hazard or nuisance in accordance to standards set forth in subsection (4) of this section. Trees in Critical Areas or Critical Area Buffers~~. ~~The property owner must submit a Level IV Tree Plan to City Planning and Community Development Department to trim or remove any tree from a critical area or critical area buffer.~~

3) Street Trees. Street trees may only be removed if determined to be a hazard or nuisance. If the removal request is for street trees, the Public Works Official may consider whether the tree(s) ~~is~~ are now, or may be in the future, part of the City's plans for the right-of-way. The City shall require a one-for-one tree

replacement in a suitable location. ~~4. Standards and criteria for approval to remove street tree. An abutting property owner may apply for permission to remove a street tree by filing a written application with the department of public works. An application to remove a street tree shall be reviewed by the director of public works, or his or her designee. The director shall consider the following factors in determining whether to grant or deny the application: (1) whether the tree is a hazard tree or nuisance tree; (2) the location of the tree in the right-of-way; (3) the size and type of tree and whether it constitutes a "significant tree" as defined in the Kirkland Zoning Code; (4) whether the tree is now, or may be in the future, part of the city's plans for the right-of-way; (5) whether the property owner is willing to mitigate the consequences of removal of the tree by planting a new tree or trees in a more suitable location; and (6) any other factor that the director deems relevant or appropriate. Any failure by the applicant or his or her agents to adhere to conditions imposed on tree removal by the city under this chapter shall constitute a violation of this chapter and is subject to enforcement under this chapter. (Ord. 3891 § 3, 2003)~~

~~b) Tree removal on undeveloped property shall be approved only for hazard or nuisance trees pursuant to the criteria in subsections (4)(c) and (4)(d) of this section. The tree removal exemptions in KZC~~ 95.20 ~~are not applicable to undeveloped property~~

e. Forest Management Plan

1) A Forest Management Plan ~~is~~must be submitted for developed, significantly wooded sites (over 40% canopy coverage) of at least 35,000 square feet in size in which tree removal is requested ~~that~~ and is not exempt under Section 95.20 of this Chapter. A Forest Management Plan must be developed by a qualified professional~~. The Tree Plan~~ and shall include the following:

a) A site plan depicting the location of all significant trees (a ~~tree~~ survey identifying tree locations is not required) with a numbering system of the trees (with corresponding tags on trees in the field). The site plan shall include size (DBH), species, and condition of each tree;

b) Identification of trees to be removed, including reasons for their removal and a description of low impact removal techniques pursuant to subsection (~~4~~2)~~(c)~~ of this section;

c) A reforestation plan that includes location, size, species, and timing of installation;

~~d) A narrative report of prescribed, long-term maintenance activity for the site as outlined in subsection (4)(e)(8) of this section.~~

2) The following Forest Management Plan ~~. For properties proposing tree removal requiring a forest management plan, the following~~ standards shall apply:

~~1~~a) Trees to remain should be dominant or co-dominant in the stand, healthy and wind-firm.

~~2~~b) No removal of trees from critical areas and their buffers, unless otherwise permitted by this chapter.

~~3~~c) No removal of ~~landmark or~~ specimen trees, unless otherwise permitted by this chapter.

~~4~~d) No removal of healthy trees that would cause trees on adjacent properties to become hazardous.

~~5~~e) The reforestation plan ensures perpetuity of the wooded areas. The size of planted trees for reforestation shall be a minimum of three feet tall.

~~6~~f) Logging operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time. To control erosion, native shrubs, ground cover and stumps shall be retained where feasible. Where not feasible, appropriate erosion control measures to be approved by the City shall be implemented.

~~7~~g) Removal of tree debris shall be done pursuant to Kirkland Fire Department standards.

~~8~~h) Recommended maintenance prescription for retained trees with a specific timeline for such management.

95.25 ~~Alternative Compliance~~Sustainable Site Development

All activities regulated by this chapter shall be performed in compliance with the applicable standards contained in this chapter, unless the applicant demonstrates that alternate measures or procedures will be equal or superior to the provisions of this chapter in accomplishing the purpose and intent of this chapter as described in KZC 95.05. ~~Requests to use alternative measures and procedures shall be reviewed by the Planning Official, who may approve, approve with conditions, or deny the request. Examples include but are not limited to retention of specimen or landmark trees or low impact development techniques, including such programs as Green Building Design or Leadership in Energy and Environmental Design that demonstrate a significant reduction to stormwater runoff from the site.~~

Applicants requesting alternative compliance shall submit a site assessment report prepared by a qualified professional detailing how the proposed alternative measures will be equal or superior to the benefits provided by the established trees to be removed. Qualifying projects shall implement sustainable site development strategies throughout the construction process as well as contain measurable performance standards for the techniques used. Examples of sustainable site development include building placement with minimal site impact, habitat protection, water conservation, heat island reduction, stormwater flow runoff control and water quality, and utilization of the site's natural services such as solar and wind. Requests to use

alternative measures and procedures shall be reviewed by the Planning Official, who may approve, approve with conditions, or deny the request.

95.30 Tree Retention~~, Protection and Density~~ Associated with Development Activity

1. Introduction.

The City's objective is to retain as many viable trees as possible on a developing site while still allowing the development proposal to move forward in a timely manner. To that end, the City requires approval of a tree retention plan ~~tree permit~~ in conjunction with all development permits resulting in site disturbance and ~~with any proposed~~for any tree removal on developed sites not exempted by KZC 95.20. This section includes provisions that allow development standards to be modified in order to retain viable significant trees.~~The intent of this section is to successfully retain desirable all viable trees on developing and re-developing sites and to maintain and enhance the tree canopy of Kirkland.~~

In order to make better decisions about tree retention, particularly during all stages of development, tree ~~removal~~ retention plans~~permits~~ will require specific information about the existing trees before removal is allowed. ~~Different levels of detail correspond to the scale of the project or activity.~~ Specific tree retention plan review standards ~~are~~ provided in this section ~~KZC 95.35(4) and include~~ establish tree retention priorities~~y~~, ~~and~~ incentives, and variations to development standards in order to facilitate preservation of ~~healthy,~~ viable~~,~~ ~~significant~~ trees.

A minimum tree density approach is being used to retain as many viable trees as possible with new development activity. The requirement to meet a minimum tree density applies to new single-family homes, cottages, carriage units, two/three-unit homes~~and duplex developments and major redevelopments~~, and new residential subdivisions and short subdivisions. If such a site falls below the minimum density with existing trees, supplemental planting is required. A tree density for existing trees to be retained is calculated to see if new trees are required in order to meet the minimum density for the entire site. Supplemental tree location priority is set as well as minimum size of supplemental trees to meet the required tree density.

The importance of effective protection of retained trees during construction is emphasized with specific protection standards in the last part of this section. These standards must be adhered to and included on demolition, grading and building plans as necessary.

2. Tree Retention Plan Required

~~a. Requirement Established.~~ An applicant for a ~~tree removal~~development permit must submit a tree retention plan that complies with this section. A qualified professional may be required to prepare certain components of a tree retention plan at the applicant's expense. If proposed development activities call for more than one tree retention plan ~~level~~~~requirement~~component, the more stringent tree retention plan ~~level requirement~~component ~~with the more stringent requirements~~ shall apply; provided, that the Planning Official may require a combination of tree plan components based on the nature of

the proposed development activities. If the proposed activity is not clearly identified in this chapter, the Planning Official shall determine the appropriate tree retention plan requirements.

~~b. Tree Plan and Retention Requirements.~~ The ~~following sets~~chart in subsection (5) sets forth the tree retention plan requirements ~~different tree plans required~~ for development activities ~~or~~ and associated tree removal~~ requests requiring a tree removal permit~~. Applicants for development are encouraged to confer with City staff as early in the design process as possible so that the applicable tree planting and retention concepts can be incorporated into the design of the subject property.~~ Each plan sets forth the required components and retention standards for each tree plan.~~ The Planning Official may waive a component ~~for a~~ of the tree retention plan, if ~~he or she~~the Planning Official determines that the information is not necessary.

3. Tree Retention Plan Review

Any proposed development of the subject property requiring approval through a building permit, land surface modification permit, and/or demolition permit; or Design Review, Process I, IIA, IIB, or III, described in Chapters 142, 145, 150, 152 and 155 KZC respectively, shall include a Tree Retention Plan to be considered as part of that process.

Based on the Tree Retention Plan information submitted by the applicant and the Planning Official's evaluation of the trees relative to the proposed development on the subject property, the Planning Official shall designate each tree as having a high, moderate, or low Retention Value as defined in KZC 95.10 Definitions, for application towards the regulations in this Chapter.

4. Tree Retention Plan Components

~~Qualified Professional Reports. Reports prepared by a qualified professional~~ The tree retention plan shall contain the following information as specified in the chart in subsection 4(5) below, unless waived by the Planning Official:

a. A tree inventory containing the following:

1) A~~a~~ numbering system of all existing significant trees on the subject property (with corresponding tags on trees); the inventory must also ~~to~~ include significant trees on adjacent property with driplines extending over the subject property line;

2) Limits of disturbance (LOD) ~~Measured driplines~~of all existing significant trees (including approximate LOD of offsite trees with overhanging driplines);

3) ~~s~~Size (DBH);~~, species and~~

4) Proposed ~~T~~tree status (trees to be removed or retained)~~ based on criteria in subsection (2)(c) of this section for all significant trees~~;

5) Brief ~~G~~general health or condition rating of these trees (i.e.: poor, fair, good, excellent, etc.);

6) Tree type or species~~, approximate trunk location,~~ ; ~~and~~

~~7) measured dripline of significant trees that are on adjacent property with driplines extending over the subject property line.~~

b. A site plan depicting the following:

1) Location of all proposed improvements, including building footprint, access, ~~and~~ utilities, ~~with~~ applicable setbacks, buffers, and required landscaped areas clearly identified. If a short plat or subdivision is being proposed and the location of all proposed improvements cannot be established, a phased tree retention plan review is required as described in subsection (6)(a);

2) Accurate location of significant trees on the subject property (surveyed locations may be required). The ~~S~~site plan ~~to~~must also include ~~and~~ the approximate trunk location and ~~driplines~~ critical root zone of significant trees that are on adjacent property with driplines extending over the subject property line;

3) Trees labeled corresponding to the tree inventory numbering system;

~~4) Driplines measured relative to visible site features~~4)Location of tree protection measures;

5) Indicate ~~L~~limits of disturbance drawn to scale around all trees potentially impacted by site disturbances ~~as a result~~resulting from grading, demolition, or construction activities (including approximate LOD of offsite trees with overhanging driplines);

6) Proposed ~~T~~tree status (trees to be removed or retained) ~~(4)()~~noted by an 'X' or by ghosting out;

7) ~~Final plan showing r~~Retained trees ~~and p~~Proposed locations of any supplemental trees ~~-~~ and any required trees in order to meet tree density or minimum number of trees as outlined in ~~subsections (2)(b)(1)(d) and (2)(b)(1)(e) of this section~~KZC 95.33.

c. An arborist report containing the following:

1) A complete description of each tree's health, condition, and viability;~~.~~

2) A description of the method(s) used to determine the limits of disturbance (i.e.: critical root zone, root plate diameter, or a case-by-case basis description for individual trees);

3) Any special instructions specifically outlining any ~~for~~ work ~~within~~ proposed within the limits of the disturbance protection area (i.e.: ~~(~~hand-digging, tunneling, root pruning, any grade changes, clearing, monitoring, and aftercare)~~maximum grade change).~~;

4) ~~If a~~For trees ~~is~~ not viable for retention, a description of the reason(s) for removal ~~must be soundly~~ based on poor health, high risk of failure due to structure, defects, unavoidable isolation (windfirmness), or unsuitability of species, etc. and for which no reasonable alternative action is possible must be given (pruning, cabling, etc.);~~.~~

5) Describe ~~T~~the impact of necessary tree removal to the remaining trees, including those in a grove or on adjacent properties~~, must also be discussed.~~;

6) For development applications, a discussion of timing and installation of tree protection measures that must include fencing and be in accordance with the tree protection standards as outlined in ~~subsection (6)~~KZC 95.34 of this section~~.~~; and

7) The suggested location and species of supplemental trees to be used when required. The report shall include planting and maintenance specifications pursuant to KZC 95.~~45~~ 50 and 95.~~50~~51.

5. Tree Retention Plan. The applicant shall submit a Tree Retention Plan that includes the components identified in the following chart based on the proposed development activity.

TREE RETENTION PLAN (new chart)

Development Activity Required Components	Minor [(1)(3)] - Single-Family, or two attached, detached, or stacked dwelling units, and related demolition and land surface modification applications	Major [(2)(3)] Single-Family, or two attached, detached, or stacked dwelling units, and related demolition and land surface modification applications	Multi-Family, Commercial, any other use other than residential, and related demolition and land surface modification applications	Short Plat, Subdivisions, cottages, carriage units, two/three-unit homes, and related demolition and land surface modification applications (see KZC 95.30(6)(a) - Phased Review for additional standards)
TREE INVENTORY AS DESCRIBED IN KZC 95.30(4)(a) FOR:				
All significant trees on the subject property		**X**	**X**	**X**
Significant trees potentially impacted by proposed development activity	**X**			
SITE PLAN AS DESCRIBED IN KZC 95.30(4)(b) TO INCLUDE:				
Surveyed tree locations if required by the Planning Official		**X**	**X**	
Surveyed tree locations				**X**
A final landscape plan showing retained trees			**X**	
REQUIREMENTS IN KZC 95.30(4)(c) SHALL BE PREPARED BY A QUALIFIED PROFESSIONAL AND APPLY TO:				
Significant trees within required yards or within 10 feet of any side property line		**X**		
Significant trees potentially impacted by proposed development activity as determined by the Planning Official			**X**	
Proposed removal of			**X**	

trees with a High Retention Value in required landscaping areas				
All significant trees				X
TREE RETENTION STANDARDS				
Applicant is encouraged to retain viable trees	X(4)			
Retain and protect trees with a High Retention Value to the maximum extent possible		X(4)	X(4)	X(4)
Retain and protect trees with a Moderate Retention Value if feasible		X	X	X
Preservation and maintenance agreements pursuant to KZC 95.51. are required for all remaining trees on the subject property	X	X	X	X(5)
TREE DENSITY				
Tree density requirements shall apply as required in KZC 95.33		X		X
A minimum of two trees must be on the lot following the requirement set forth in KZC 95.33(4)	X			
LANDSCAPING				
Preserved trees in required landscaping areas shall apply toward required landscaping requirements			X	

(1) Applicable when new development, redevelopment, or development in which the total square footage of the proposed improvements is ~~more~~ less than 50 percent of the total square footage of the existing improvements on the subject property

(2) Applicable when new development, redevelopment, or development in which the total square footage of the proposed improvements is more than 50 percent of the total square footage of the existing improvements on the subject property

(3) For lots ~~from~~ created through a short subdivision, subdivision, or Planned Unit Development with an approved Tree Retention Plan ~~III~~, ~~the tree information shall be transferred over and~~ the applicant must comply with the ~~applicable~~ Tree Retention Plan approved with the short subdivision, subdivision, or Planned Unit Development ~~III requirements~~unless subsection (6)(a) Phased Review below applies.

(4) To retain trees with a High Retention Value~~Type 1 trees in required yards~~, the applicant shall pursue, where feasible, applicable variations in the development standards of this code as outlined in ~~subsections (4)(a)(2) and (4)(a)(3)~~KZC 95.32 of this ~~section~~chapter.

(5) Prior to short plat or subdivision recording

6. Additional Tree Retention Plan Standards for Short Plat and Subdivisions

a. Phased Review.

1) If during, the short plat or subdivision review process, the location of all proposed improvements, including the building footprint, utilities, and access was not able to be established, the applicant may submit a Tree Retention Plan that addresses trees only affected by the known improvements at the time of application. Tree removal shall be limited to those affected areas.

2) A new Tree Retention Plan shall be required at each subsequent phase of the project as more information about the location of the proposed improvements is known subject to all of the requirements in KZC 95.30.

b. Modifications to Tree Retention Plan for Short Plats and Subdivisions. A Tree Retention Plan modification request shall contain information as determined by the Planning Official based on the requirements in KZC 95.30(5) Tree Retention Plan. The fee for processing a modification request shall be established by City ordinance.

For Tree Retention Plans approved during the short plat or subdivision review process that established the location of all proposed improvements, including the building footprint, utilities, and access, a modification to the Tree Retention Plan may be approved as follows:

1) Modification - General. The Planning Official may approve minor modifications to the approved Tree Retention Plan in which the minimum tree density credits associated with trees identified for retention are not decreased.

2) Modification Prior to Tree Removal. The Planning Official may approve a modification request to decrease the minimum number of tree density credits associated with trees previously identified for retention if:

a) Trees inventoried in the original Tree Retention Plan have not yet been removed; and

b) The Planning Official shall not approve or deny a modification pursuant to this section without first providing notice of the modification request consistent with the noticing requirements for the short plat.

3) Modification after Tree Removal. A modification request is required to decrease the minimum number of tree density credits associated with trees previously identified for retention after which trees inventoried in the original Tree Retention Plan have already been removed. Such a request may be approved by the Hearing Examiner only if the following are met:

a) The need for the modification was not known and could not reasonably have been known before the tree retention plan was approved;

b) The modification is necessary because of special circumstances which are not the result of actions by the applicant regarding the size, shape, topography, or other physical limitations of the subject property relative to the location of proposed and/or existing improvements on or adjacent to the subject property;

c) There is no practicable or feasible alternative development proposal that results in fewer additional tree removals;

d) The Hearing Examiner shall not approve or deny a modification pursuant to this section without the Planning Official first providing notice of the modification request consistent with the noticing requirements for the short plat and providing opportunity for comments for consideration by the Hearing Examiner; and~~.~~

e) Said comment period shall not be less than ~~seven~~fourteen calendar days.

95.32 - Incentives and Variations to Development Standards

In order to retain trees, the applicant should pursue provisions in Kirkland's codes that allow development standards to be modified. Examples include but are not limited to number of parking stalls, right-of-way improvements, lot size reduction under Chapter 22.28 KMC, lot line placement when subdividing property under KMC Title 22, Planned Unit Developments, and required landscaping, including buffers for lands use and parking/driving areas.

Requirements of the Kirkland Zoning Code may be modified by the Planning Official as outlined below when such modifications would further the purpose and intent of this chapter as set forth in KZC 95.05 and would involve ~~Type 1~~ trees with a High Retention Value.

1. Common Recreational Open Space. Reductions or variations of the area, width, or composition of required common recreational open space, may be granted.

2. Parking Areas and Access. Variations in parking lot design and/or access driveway requirements may be granted when the Public Works and Planning Officials both determine the variations to be consistent with the intent of City policies and codes.

3. Required Yards. Initially, the applicant shall pursue options for placement of required yards as permitted by other sections of this code, such as selecting one front required yard in the RSX zone and adjusting side yards in any zone to meet the 15-foot total as needed for each structure on the site. The Planning Official may also reduce the front or side required yards provided that:

   a. No required side yard shall be less than five feet; and

   b. The required front yard shall not be reduced by more than five feet in residential zones. There shall not be an additional five feet of reduction beyond the allowance provided for covered entry porches.

4. Stormwater. Requirements pertaining to stormwater may be varied if approved by the Public Works Official under KMC 15.52.060.

5. Additional Variations. In addition to the variations described above, the Planning Official is authorized to require site plan alterations to retain ~~Type 1~~ trees with a High Retention Value. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways, easements or utilities. The Planning Official and the applicant shall work in good faith to find reasonable solutions.

95.33 - Tree Density Requirement

~~a. Minimum Tree Density Requirement Established.~~ The required minimum tree density is 30 tree credits per acre for single-family homes, cottages, carriage units, two/three-unit homes, short plats, and/or subdivisions and associated demolition and land surface modification. ~~development requiring a Tree Plan I – Major and Tree Plan III.~~ For individual lots in a short subdivision or subdivision with an approved Tree Retention Plan ~~III~~, the tree density shall be calculated ~~based on the entire~~for each lot within the short plat or subdivision. The tree density may consist of existing trees pursuant to the ~~priority established in subsection (4)(a)(1) of this section~~tree's retention value, or supplemental trees or a combination of existing and supplemental trees pursuant to subsection ~~(5)(c)~~(2) of this section. Existing trees transplanted to an area on the same site shall not count toward the required density unless approved by the Urban Forester based on transplant specifications provided by a qualified professional that will ensure a good probability for survival.

1. Tree Density Calculation. For the purpose of calculating required minimum tree density, ~~City~~public right-of-way, ~~and~~ areas to be dedicated as ~~City~~ public right-of-way, and vehicular access easements not included as lot area with the approved short plat shall be excluded from the area used for calculation of tree density.

   Tree density calculation for existing individual trees:

   a. Diameter breast height (DBH) of the tree shall be measured in inches.

   b. The tree credit value that corresponds with DBH shall be found in Table 95.~~35~~33.1.

Table 95.~~35~~33.1

Tree Density for Existing Significant Trees

(Credits per minimum diameter – DBH)

DBH	Tree Credits	DBH	Tree Credits	DBH	Tree Credits
3 – 5″	0.5				
6 – 10″	1	24″	8	38″	15
12″	2	26″	9	40″	16
14″	3	28″	10	42″	17

16″	4	30″	11	44″	18
18″	5	32″	12	46″	19
20″	6	34″	13	48″	20
22″	7	36″	14	50″	21

Example: a 7,200-square-foot lot would need five tree credits (7,200/43,560 = 0.165 X 30 = (4.9) or five). The density for the lot could be met with ~~a~~ one existing 16-inch tree and one existing six-inch tree ~~existing~~ on-site.

2. Supplemental Trees Planted to Meet Minimum Density Requirement. For sites and activities requiring a minimum tree density and where the existing trees to be retained do not meet the minimum tree density requirement, supplemental trees shall be planted to achieve the required minimum tree density.

3. Tree Location. In designing a development and in meeting the required minimum tree density the trees shall be planted in the following order of priority:

   a. On-Site. The preferred locations for new trees are:

      1) In preserved groves, critical areas or their buffers.

      2) Adjacent to stormwater facilities as approved by Public Works under KMC 15.52.060.

      3) Entrance landscaping, traffic islands and other common areas in residential subdivisions.

      4) Site perimeter ~~Site Perimeter~~ – The area of the subject property that is within 10 feet from the property line.

      5) On individual residential building lots.

   b. Off-Site. When room is unavailable for planting the required trees on-site, then they may be planted at another approved location in the City.

   c. City Forestry Account. When the Planning Official determines on-site and off-site locations are unavailable, then the applicant shall pay an amount of money approximating the current market value of the supplemental trees into the City forestry account.

4. Minimum Size and Tree Density Value for Supplemental Trees. The required minimum size of the supplemental tree worth one tree credit shall be six feet tall for a conifer and two-inch caliper for deciduous or broad-leaf evergreen tree. Additional credits may be awarded for larger supplemental trees. The installation and maintenance shall be pursuant to KZC ~~95.45~~ 95.50 and ~~95.50~~ 95.51 respectively.

95.34 - Tree Protection during Development Activity

Prior to development activity or initiating tree removal on the site, vegetated areas and individual trees to be preserved shall be protected from potentially damaging activities pursuant to the following standards:

1. Placing Materials near Trees. No person may conduct any activity within the protected area of any tree designated to remain, including, but not limited to, operating or parking equipment, placing solvents, storing building material or soil deposits, or dumping concrete washout or other chemicals. During construction, no person shall attach any object to any tree designated for protection.

2. Protective Barrier. Before development, land clearing, filling or any land alteration, the applicant shall:

   a. Erect and maintain ~~a~~ readily visible temporary protective tree fencing along the limits of disturbance which completely surrounds the protected area of all retained trees or groups of trees. Fences shall be constructed of chain link and be at least ~~four~~ six feet high, unless other type of fencing is authorized by the Planning Official.

   b. Install highly visible signs spaced no further than 15 feet along the entirety of the protective tree fence. Said sign must be approved by the Planning Official and shall state at a minimum "Tree Protection Area, Entrance Prohibited" and provide the City phone number for code enforcement to report violations.

   c. Prohibit excavation or compaction of earth or other potentially damaging activities within the barriers; provided, that the Planning Official may allow such activities approved by a qualified professional and under the supervision of a qualified professional retained and paid for by the applicant.

   d. Maintain the protective barriers in place for the duration of the project until the Planning Official authorizes their removal.

   e. Ensure that any approved landscaping done in the protected zone subsequent to the removal of the barriers shall be accomplished with light machinery or hand labor.

   f. In addition to the above, the Planning Official may require the following:

      1) If equipment is authorized to operate within the critical root zone, cover the areas adjoining the critical root zone of a tree with mulch to a depth of at least six inches or with plywood or similar material in order to protect roots from damage caused by heavy equipment.

      2) Minimize root damage by excavating a two-foot-deep trench, at edge of critical root zone, to cleanly sever the roots of trees to be retained.

      3) Corrective pruning performed on protected trees in order to avoid damage from machinery or building activity.

4) Maintenance of trees throughout construction period by watering and fertilizing.

3. Grade.

a. The grade shall not be elevated or reduced within the critical root zone of trees to be preserved without the Planning Official's authorization based on recommendations from a qualified professional. The Planning Official may allow coverage of up to one half of the area of the tree's critical root zone with light soils (no clay) to the minimum depth necessary to carry out grading or landscaping plans, if it will not imperil the survival of the tree. Aeration devices may be required to ensure the tree's survival.

b. If the grade adjacent to a preserved tree is raised such that it could slough or erode into the tree's critical root zone, it shall be permanently stabilized to prevent suffocation of the roots.

c. The applicant shall not install an impervious surface within the critical root zone of any tree to be retained without the authorization of the Planning Official. The Planning Official may require specific construction methods and/or use of aeration devices to ensure the tree's survival and to minimize the potential for root-induced damage to the impervious surface.

d. To the greatest extent practical, utility trenches shall be located outside of the critical root zone of trees to be retained. The Planning Official may require that utilities be tunneled under the roots of trees to be retained if the Planning Official determines that trenching would significantly reduce the chances of the tree's survival.

e. Trees and other vegetation to be retained shall be protected from erosion and sedimentation. Clearing operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time. To control erosion, it is encouraged that shrubs, ground cover and stumps be maintained on the individual lots, where feasible.

4. Directional Felling. Directional felling of trees shall be used to avoid damage to trees designated for retention.

5. Additional Requirements. The Planning Official may require additional tree protection measures that are consistent with accepted urban forestry industry practices.

95.40 Required Landscaping

1. User Guide. Chapters 15 through 60 KZC containing the use zone charts assign a landscaping category to each use in each zone. This category is either "A," "B," "C," "D," or "E." If you do not know which landscaping category applies to the subject property, you should consult the appropriate use zone chart.

Requirements pertaining to each landscaping category are located throughout this chapter, except that Landscaping Category E is not subject to this section.

Landscape Categories A, B, C, D, and E may be subject to additional related requirements in the following other chapters:

a. Various use zone charts, in Chapters 15 through 60 KZC, establish additional or special buffering requirements for some uses in some zones.

b. Chapter 85 KZC, Geologically Hazardous Areas, addresses the retention of vegetation on steep slopes.

c. Chapter 90 KZC, Drainage Basins, addresses vegetation within sensitive areas and sensitive area buffers.

d. Chapter 110 KZC and Chapter 19.36 KMC address vegetation within rights-of-way, except for the I-405, SR-520, and Burlington Northern rights-of-way.

e. KZC 115.135, Sight Distance at Intersections, which may limit the placement of landscaping in some areas.

f. Chapter 22 KMC addresses trees in subdivisions.

2. Use of Significant Existing Vegetation.

a. General. The applicant shall apply subsection KZC ~~95.35(4)~~95.30(3)-Tree Retention Plan Review Procedure and KZC 95.32-Incentives and Variations to Development Standards to retain existing trees and vegetation in areas subject to the landscaping standards of this section. The Planning Official shall give substantial weight to the retained trees and vegetation when determining the applicant's compliance with this section.

b. Supplement. The City may require the applicant to plant trees, shrubs, and groundcover according to the requirements of this section to supplement the existing vegetation in order to provide a buffer at least as effective as the required buffer.

c. Protection Techniques. The applicant shall use the protection techniques described in KZC ~~95.35(6)~~95.34 to ensure the protection of significant existing vegetation.

3. Landscape Plan Required. In addition to the ~~tree plan~~Tree Retention Plan required pursuant to KZC ~~95.35(2)~~95.30, application materials shall clearly depict the quantity, location, species, and size of plant materials proposed to comply with the requirements of this section, and shall address the plant installation and maintenance requirements set forth in KZC ~~95.45~~ 95.50 and ~~95.50~~95.51. Plant materials shall be identified with both their scientific and common names. Any required irrigation system must also be shown.

95.41~~5.~~ Supplemental Plantings.

1. General. The applicant shall provide the supplemental landscaping specified in subsection ~~(5)(b)~~(2) of this section in any area of the subject property that:

a. Is not covered with a building, vehicle circulation area or other improvement; and

b. Is not a critical area, critical area buffer, or in an area to be planted with required landscaping; and

c. Is not committed to and being used for some specific purpose.

2. Standards. The applicant shall provide the following at a minimum:

a. Living plant material which will cover 80 percent of the area to be landscaped within two years. If the material to be used does not spread over time, the applicant shall re-plant the entire area involved immediately. Any area that will not be covered with living plant material must be covered with nonliving groundcover.

b. One tree for each 1,000 square feet of area to be landscaped. At the time of planting, deciduous trees must be at least two inches in caliper and coniferous trees must be at least five feet in height.

c. If a development requires approval through Process I, IIA, IIB or III as described in Chapters 145, 150, 152 and 155 KZC, respectively, the City may require additional vegetation to be planted along a building facade if:

1) The building facade is more than 25 feet high or more than 50 feet long; or

2) Additional landscaping is necessary to provide a visual break in the facade.

d. In RHBD varieties of rose shrubs or ground cover along with other plant materials shall be included in the on-site landscaping.

e. If development is subject to Design Review as described in Chapter 142, the City will review plant choice and specific plant location as part of the Design Review approval. The City may also require or permit modification to the required plant size as part of Design Review approval.

~~4.~~95.42 Minimum Land Use Buffer Requirements.

The applicant shall comply with the provisions specified in the following chart and with all other applicable provisions of this chapter. Land use buffer requirements may apply to the subject property, depending on what permitted use exists on the adjoining property or, if no permitted use exists, depending on the zone that the adjoining property is in.

LANDSCAPING CATEGORY ↓	ADJOINING PROPERTY ↓	***Public park or low density residential use or if no permitted use exists on the adjoining property then**	**Medium or high density residential use or if no permitted use exists on the adjoining property then a medium**	**Institutional or office use or if no permitted use exists on the adjoining property then an institutional or office zone.**	**A commercial use or an industrial use or if no permitted use exists on the adjoining property then a commercial**

		a low density zone.	density or high density zone.		or industrial zone.
A		Must comply with KZC ~~95.40(6)(a)~~ subsection (1) (Buffering Standard 1)	Must comply with KZC subsection (1) ~~95.40(6)(a)~~ (Buffering Standard 1)	Must comply with subsection (2) ~~KZC 95.40(6)(b)~~ (Buffering Standard 2)	
B		Must comply with KZC subsection (1) ~~95.40(6)(a)~~ (Buffering Standard 1)	Must comply with KZC subsection (1) ~~95.40(6)(a)~~ (Buffering Standard 1)		
C		Must comply with KZC subsection (1) ~~95.40(6)(a)~~ (Buffering Standard 1)	Must comply with KZC ~~95.40(6)(b)~~ subsection (2) (Buffering Standard 2)		
D		Must comply with KZC subsection (2) ~~95.40(6)(b)~~ (Buffering Standard 2)			
E					
Footnotes:		*If the adjoining property is zoned Central Business District, Juanita Business District, North Rose Hill Business District, Rose Hill Business District, Totem Center or is located in TL 5, this section, KZC ~~95.40(6)~~95.42 does not apply.			

~~1. Land Use Buffering Standards. The~~ This chart ~~in subsection (4) of this section~~ establishes which buffering standard applies in a particular case. The following subsections establish the specific requirement for each standard:

1. For standard 1, the applicant shall provide a 15-foot-wide landscaped strip with a six-foot-high solid screening fence or wall. Except for public utilities, the fence or wall must be placed on the outside edge of the land use buffer or on the property line when adjacent to private property. For public utilities, the fence or wall may be placed either on the outside or inside edge of the landscaping strip. A fence or wall is not required when the land use buffer is adjacent and parallel to a public right-of-way that is improved for vehicular use. See KZC 115.40 for additional fence standards. The land use buffer must be planted as follows:

a. Trees planted at the rate of one tree per 20 linear feet of land use buffer, with deciduous trees of two and one-half inch caliper, minimum, and/or coniferous trees eight feet in height, minimum. At least 70 percent of trees shall be evergreen. The trees shall be distributed evenly throughout the buffer, spaced no more than 20 feet apart on center.

b. Large shrubs or a mix of shrubs planted to attain coverage of at least 60 percent of the land use buffer area within two years, planted at the following sizes and spacing, depending on type:

1) Low shrub – (mature size under three feet tall), one- or two-gallon pot or balled and burlapped equivalent);

2) Medium shrub – (mature size from three to six feet tall), two- or three-gallon pot or balled and burlapped equivalent);

3) Large shrub – (mature size over six feet tall), five-gallon pot or balled and burlapped equivalent).

c. Living ground covers planted from either four-inch pot with 12-inch spacing or one-gallon pot with 18-inch spacing to cover within two years 60 percent of the land use buffer not needed for viability of the shrubs or trees.

2. For standard 2, the applicant shall provide a five-foot-wide landscaped strip with a six-foot-high solid screening fence or wall. Except for public utilities, the fence or wall must be placed on the outside edge of the land use buffer or on the property line when adjacent to private property. For public utilities, the fence or wall may be placed either on the outside or inside edge of the landscaping strip. A fence or wall is not required when the land use buffer is adjacent and parallel to a public right-of-way that is improved for vehicular use. See KZC 115.40 for additional fence standards. The landscaped strip must be planted as follows:

a. One row of trees planted no more than 10 feet apart on center along the entire length of the buffer, with deciduous trees of two inch caliper, minimum, and/or coniferous trees at least six feet in height, minimum. At least 50 percent of the required trees shall be evergreen.

b. Living ground covers planted from either four-inch pot with 12-inch spacing or one-gallon pot with 18-inch spacing to cover within two years 60 percent of the land use buffer not needed for viability of the trees.

3. Plant Standards. All plant materials used shall meet the most recent American Association of Nurserymen Standards for nursery stock: ANSI Z60.1.

4. Location of the Land Use Buffer. The applicant shall provide the required buffer along the entire common border between the subject property and the adjoining property.

5. Multiple Buffering Requirement. If the subject property borders more than one adjoining property along the same property line, the applicant shall provide a gradual transition between different land use buffers. This transition must occur totally within the area which has the less stringent buffering requirement. The specific design of the transition must be approved by the City.

6. Adjoining Property Containing Several Uses. If the adjoining property contains several permitted uses, the applicant may provide the least stringent land use buffer required for any of these uses.

7. Subject Property Containing Several Uses. If the subject property contains more than one use, the applicant shall comply with the land use buffering requirement that pertains to the use within the most stringent landscaping category that abuts the property to be buffered.

8. Subject Property Containing School. If the subject property is occupied by a school, land use buffers are not required along property lines adjacent to a street.

9. Encroachment into Land Use Buffer. Typical incidental extensions of structures such as chimneys, bay windows, greenhouse windows, cornices, eaves, awnings, and canopies may be permitted in land use buffers as set forth in KZC 115.115(3)(d); provided, that:

   a. Buffer planting standards are met; and

   b. Required plantings will be able to attain full size and form typical to their species.

95.43~~k.~~ Outdoor ~~use~~Use, ~~activity~~Activity, and ~~storage~~Storage

Outdoor use, activity, and storage (KZC 115.105(2)) must comply with required land use buffers for the primary use, except that the following outdoor uses and activities, when located in commercial or industrial zones, are exempt from KZC 115.105(2)(c)(1) and (2)(c)(2) as stated below:

1. That portion of an outdoor use, activity, or storage area which abuts another outdoor use, activity, or storage area which is located on property zoned for commercial or industrial use.

2. Outdoor use, activity, and storage areas which are located adjacent to a fence or structure which is a minimum of six feet above finished grade; and do not extend outward from the fence or structure more than five feet; provided, that the total horizontal dimensions of these areas shall not exceed 50 percent of the length of the facade or fence (see Plate 11).

3. If there is an improved path or sidewalk in front of the outdoor storage area, the outdoor use, activity or storage area may extend beyond five feet if a clearly defined walking path at least three feet in width is maintained and there is adequate pedestrian access to and from the primary use. The total horizontal dimension of these areas shall not exceed 50 percent of the length of the facade of the structure or fence (see Plate 11).

4. Outdoor dining areas.

5. That portion of an outdoor display of vehicles for sale or lease which is adjacent to a public right-of-way that is improved for vehicular use; provided, that it meets the buffering standards for driving and parking areas in ~~subsections (7)(b)(1)(a) and (7)(b)(1)(b) of this section~~KZC 95.45(1); and provided further, that the exemptions of ~~subsection (7)(b)(2) of this section~~KZC 95.45(2) do not apply unless it is fully enclosed within or under a building, or is on top of a building and is at least one story above finished grade.

6. Outdoor Christmas tree lots and fireworks stands if these uses will not exceed 30 days, and outdoor amusement rides, carnivals and circuses, and parking lot sales which are ancillary to the indoor sale of the same goods and services, if these uses will not exceed seven days.

~~7. Landscaping and Buffering Standards for Driving and Parking Areas.~~**95.44Internal Parking Lot Landscaping Requirements**

~~a. Landscaping — General.1)~~ The following internal parking lot landscape standards apply to each parking lot or portion thereof containing more than eight parking stalls.

1. The parking lot must contain 25 square feet of landscaped area per parking stall planted ~~pursuant to subsections (7)(a)(1)(b) and (c) of this section~~as follows;

   ~~2~~a. The applicant shall arrange the required landscaping ~~required in subsection (7)(a)(1)(a) of this section~~ throughout the parking lot to provide landscape islands or peninsulas to separate groups of parking spaces (generally every eight stalls) from one another and each row of spaces from any adjacent driveway that runs perpendicular to the row. This island or peninsula must be surrounded by a six-inch-high vertical curb, be of similar dimensions as the adjacent parking stalls. ~~and planted pursuant to the standards in subsection (7)(a)(1)(c) of this section:~~

   ~~3~~b. Landscaping shall be installed pursuant to the following standards:

      ~~a.~~1) At least one deciduous tree, two inches in caliper or a coniferous tree five feet in height.

      ~~b.~~2) Groundcover shall be selected and planted to achieve 60 percent coverage within two years.

   ~~4~~c. Exception. The requirements of this subsection do not apply to any area that is fully enclosed within or under a building.

~~5~~2. Rooftop Parking Landscaping. For a driving or parking area on the top level of a structure that is not within the CBD zone or within any zone that requires design regulation compliance, one planter that is 30 inches deep and five feet square must be provided for every eight stalls on the top level of the structure. Each planter must contain a small tree or large shrub suited to the size of the container and the specific site conditions, including desiccating winds, and is clustered with other planters near driving ramps or stairways to maximize visual effect.

~~6~~3. If development is subject to Design Review as described in Chapter 142 KZC, the City will review the parking area design, plant choice and specific plant location as part of the Design Review approval. The City may also require or permit modification to the required landscaping and design of the parking area as part of Design Review approval.

95.45.~~b.~~ Perimeter Landscape **Buffering for Driving and Parking Areas.**

1. Perimeter Buffering – General. Except as specified in subsection ~~(7)(b)~~(2) of this section, the applicant shall buffer all parking areas and driveways from abutting rights-of-way and from adjacent property with a five-foot-wide strip along the perimeter of the parking areas and driveways planted as follows (see Figure 95.45.A):

   a. One row of trees, two inches in caliper and planted 30 feet on center along the entire length of the strip.

   b. Living groundcover planted to attain coverage of at least 60 percent of the strip area within two years.

2. Exception. The requirements of ~~subsection (7)(b)(1) of~~ this section do not apply to any parking area that:

   a. Is fully enclosed within or under a building; or

   b. Is on top of a building and is at least one story above finished grade; or

   c. Serves detached dwelling units exclusively; or

   d. Is within any zone that requires design regulation compliance. See below for Design District requirements.

3. Design Districts. If subject to design review, each side of a parking lot that abuts a street, through-block pathway or public park must be screened from that street, through-block pathway or public park by using one or a combination of the following methods (see Figures 95.45.A, B, and C):

   a. By providing a landscape strip at least five feet wide planted consistent with ~~subsection (7)(b)(1) of this section~~KZC 95.45(1), or in combination with the following. In the RHBD Regional Center (see KZC Figure 92.05.A) a 10-foot perimeter landscape strip along NE 85th Street is required planted consistent with subsection ~~(7)(b)~~(1) of this section.

   b. The hedge or wall must extend at least two feet, six inches, and not more than three feet above the ground directly below it.

   c. The wall may be constructed of masonry or concrete, if consistent with the provisions of KZC 92.35(1)(g), in building material, color and detail, or of wood if the design and materials match the building on the subject property.

   d. In JBD zones:

1) If the street is a pedestrian-oriented street, the wall may also include a continuous trellis or grillwork, at least five feet in height above the ground, placed on top of or in front of the wall and planted with climbing vines. The trellis or grillwork may be constructed of masonry, steel, cast iron and/or wood.

2) If the wall abuts a pedestrian-oriented street, the requirements of this subsection may be fulfilled by providing pedestrian weather protection along at least 80 percent of the frontage of the subject property.

e. If development is subject to Design Review as described in Chapter 142 KZC, the City will review plant choice and specific plant location as part of the Design Review approval. The City may also require or permit modification to the required plant size as part of Design Review approval.

4. Overlapping Requirements. If buffering is required ~~under subsection (6) of this section~~in KZC 95.42, Land Use Buffering Standards, and by this subsection, the applicant shall utilize the more stringent buffering requirement.

Perimeter Parking Lot Landscaping

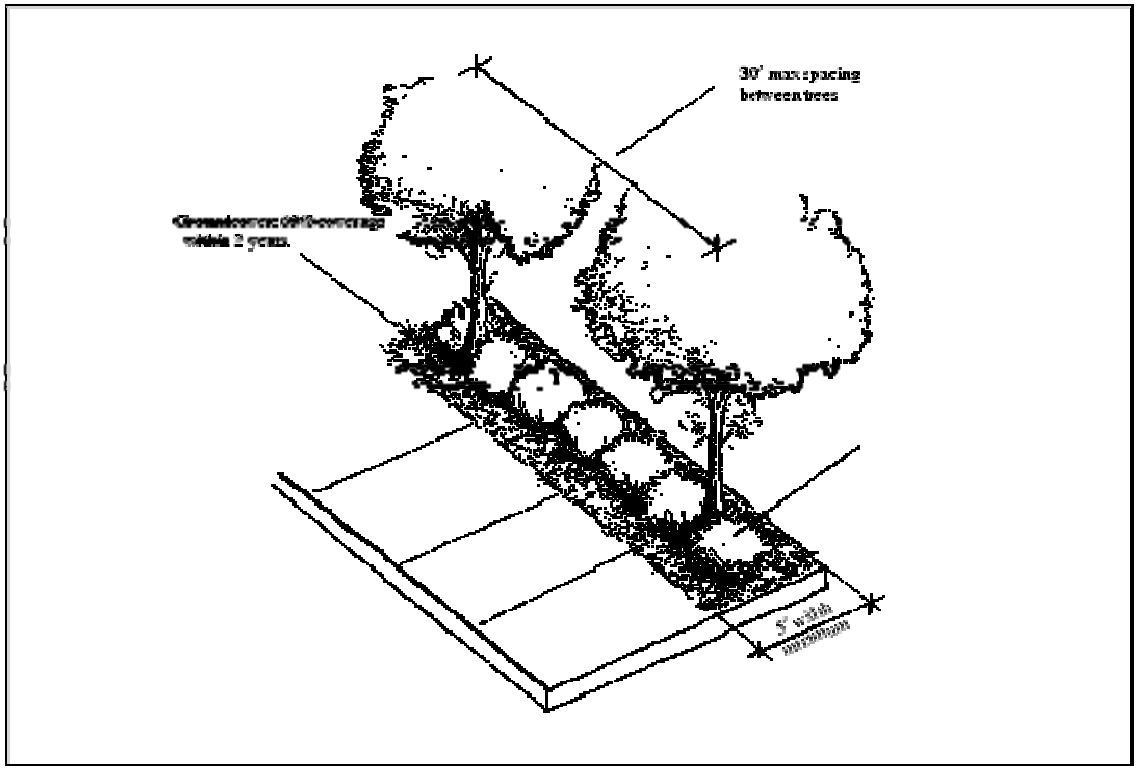

FIGURE 95.45.A

Perimeter Parking – Examples of Various Screen Wall Designs

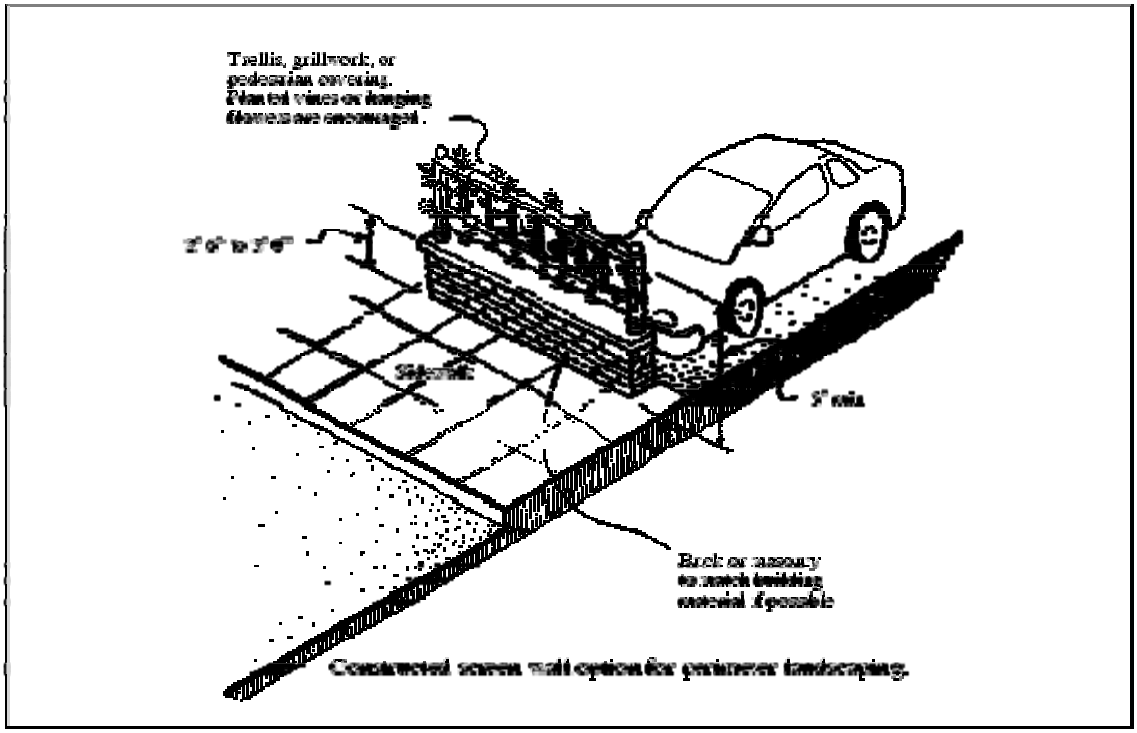

FIGURE 95.45.B

Perimeter Parking – Examples of Various Screen Wall Designs

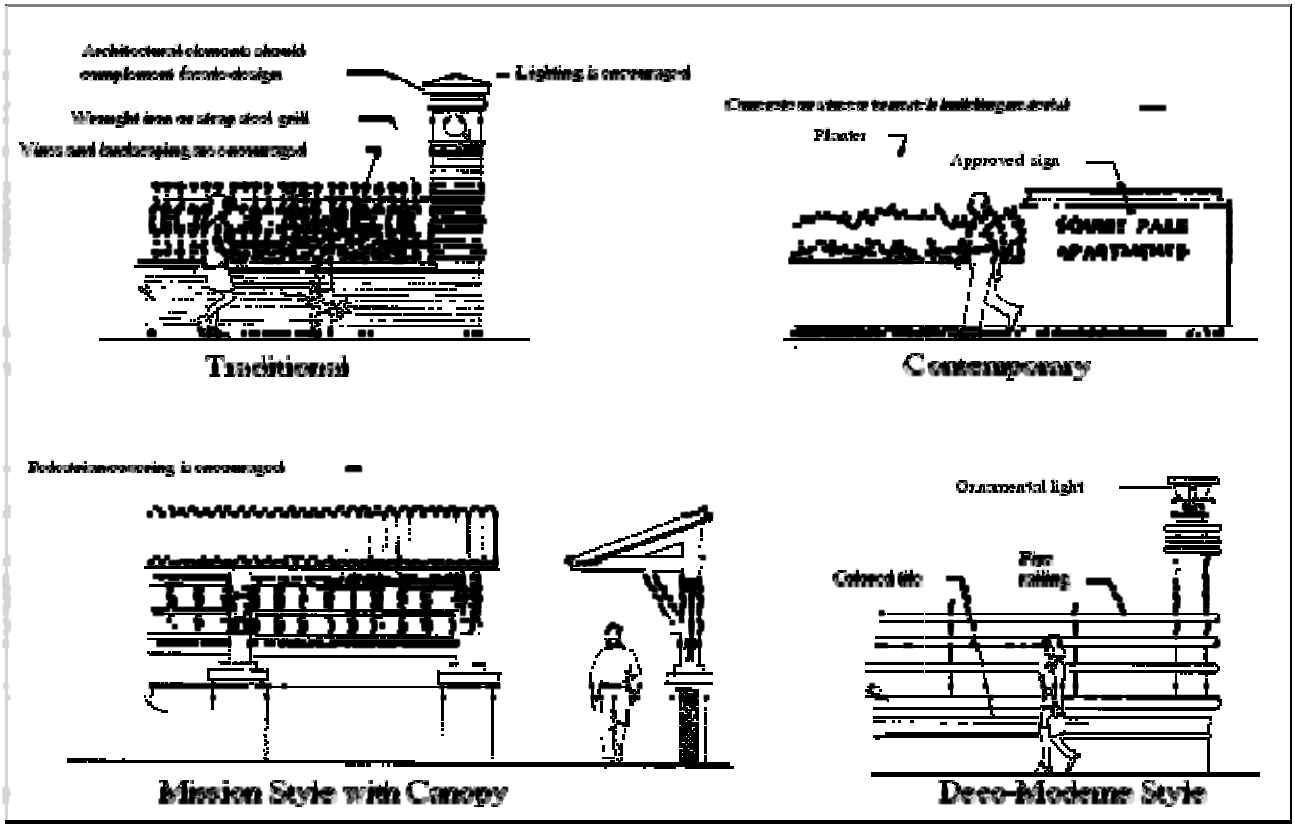

FIGURE 95.45.C

95.46~~c.~~ Modifications ~~of~~to Landscaping ~~and Buffering~~ Standards ~~for Driving and Parking Areas~~.

~~j.~~ 1. Modification to Land Use Buffer Requirements. The applicant may request a modification of the requirements of the buffering standards ~~of subsection (6) of this section~~in KZC 95.42. The Planning Official may approve a modification if:

a. The owner of the adjoining property agrees to this in writing; and

b. The existing topography or other characteristics of the subject property or the adjoining property, or the distance of development from the neighboring property decreases or eliminates the need for buffering; or

c. The modification will be more beneficial to the adjoining property than the required buffer by causing less impairment of view or sunlight; or

d. The Planning Official determines that it is reasonable to anticipate that the adjoining property will be redeveloped in the foreseeable future to a use that would require no, or a less intensive, buffer; or

e. The location of pre-existing improvements on the adjoining site eliminates the need or benefit of the required landscape buffer.

2.~~1)~~ ~~Authority to Grant and Duration.~~Modifications to General Landscaping Requirements

a. Authority to Grant and Duration. If the proposed development of the subject property requires approval through Design Review or Process I, IIA, IIB, or III, described in Chapters 142, 145, 150, 152, and 155 KZC, respectively, a request for a modification will be considered as part of that process under the provisions of this section. The City must find that the applicant meets the applicable criteria listed in subsections (2)(b) and (2)(c) ~~(7)(c)(2)~~ of this section. If granted under Design Review or Process I, IIA, IIB, or III, the modification is binding on the City for all development permits issued for that development under the building code within five years of the granting of the modification.

If ~~subsection (7)(1)(a) of this section~~the above does not apply, the Planning Official may grant a modification in writing under the provisions of this section.

b. Internal parking lot landscaping Modifications. For a modification to the internal parking lot landscaping requirements in KZC 95.44~~of subsection (7)(a) of this section~~, the landscape requirements may be modified if:

1) The modification will produce a landscaping design in the parking area comparable or superior to that which would result from adherence to the adopted standard; or

2) The modification will result in increased retention of significant existing vegetation; or

3) The purpose of the modification is to accommodate low impact development techniques as approved by the Planning Official.

c. Perimeter parking lot and driveway landscaping. For a modification to ~~subsection (7)(b) of this section~~the perimeter landscaping for parking lots and driveways, the buffering requirements for parking areas and driveways may be modified if:

1) The existing topography of or adjacent to the subject property decreases or eliminates the need for visual screening; or

2) The modification will be of more benefit to the adjoining property by causing less impairment of view or sunlight; or

3) The modification will provide a visual screen that is comparable or superior to the buffer required by ~~subsection (7)(b) of this section~~KZC 95.45; or

4) The modification eliminates the portion of the buffer that would divide a shared parking area serving two or more adjacent uses, but provides the buffer around the perimeter of the shared parking area.

95.47~~8~~ Nonconforming Landscaping and Buffers.

1. The landscaping requirements of ~~subsections (5) and (7)~~KZC 95.41 Supplemental Plantings, KZC 95.43 Outdoor Use and Storage, KZC 95.44 Internal Parking Lot Landscaping, and KZC 95.45 Perimeter Landscape Buffering for Driving and Parking Areas of this section must be brought into conformance as much as is feasible, based on available land area, in either of the following situations:

   a. An increase of at least 10 percent in gross floor area of any structure; or

   b. An alteration to any structure, the cost of which exceeds 50 percent of the replacement cost of the structure.

2. Land use buffers must be brought into conformance with ~~subsection (6) of this section~~KZC 95.42 in either of the following situations:

   a. An increase in gross floor area of any structure (the requirement to provide conforming buffers applies only where new gross floor area impacts adjoining property); or

   b. A change in use on the subject property and the new use requires larger buffers than the former use.

95.~~45~~ 50 Installation Standards for Required Plantings

All required trees and landscaping shall be installed according to sound horticultural practices in a manner designed to encourage quick establishment and healthy plant growth. All required landscaping shall be installed in the ground and not in above-ground containers, except for landscaping required on the top floor of a structure.

When an applicant proposes to locate a subterranean structure under required landscaping that appears to be at grade, the applicant will: (1) provide site-specific documentation prepared by a qualified expert to establish that the design will adequately support the long-term viability of the required landscaping; and (2) enter into an agreement with the City, in a form acceptable to the City Attorney, indemnifying the City from any damage resulting from development activity on the subject property which is related to the physical condition of the property. The applicant shall record this agreement with the King County Department of Elections and Records.

~~1. Street Trees. Street trees are not subject to the regulations of this chapter and are not counted toward any landscaping required by this chapter. Street trees are regulated by Chapter 110 KZC and Chapter 19.36 KMC.~~

~~2~~1. Compliance. It is the applicant's responsibility to show that the proposed landscaping complies with the regulations of this chapter.

~~3~~2. Timing. All landscaping shall be installed prior to the issuance of a certificate of occupancy, except that the installation of any required tree or landscaping may be deferred during the summer months to the next planting season, but never for more than six months. Deferred

installation shall be secured with a performance bond pursuant to Chapter 175 KZC prior to the issuance of a certificate of occupancy.

~~4~~3. Grading. Berms shall not exceed a slope of two horizontal feet to one vertical foot (2:1).

~~5.~~4 Soil Specifications. Soils in planting areas shall have adequate porosity to allow root growth. Soils which have been compacted to a density greater than one and three-tenths grams per cubic centimeters shall be loosened to increase aeration to a minimum depth of 24 inches or to the depth of the largest plant root ball, whichever is greater. Imported topsoils shall be tilled into existing soils to prevent a distinct soil interface from forming. After soil preparation is completed, motorized vehicles shall be kept off to prevent excessive compaction and underground pipe damage. The organic content of soils in any landscape area shall be as necessary to provide adequate nutrient and moisture-retention levels for the establishment of plantings. See subsection (~~8~~9) of this section for mulch requirements.

~~6~~5. Plant Selection.

a. Plant selection shall be consistent with the Kirkland Plant List, which is produced by the City's Natural Resource Management Team and available in the Department of Planning and Community Development.

b. Plants shall be selected and sited to produce a hardy and drought-resistant landscape area. Selection shall consider soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, and compatibility with existing native vegetation preserved on the site. Preservation of existing vegetation is strongly encouraged.

c. Prohibited Materials. Plants listed as prohibited in the Kirkland Plant List are prohibited in required landscape areas. Additionally, there are other plants that may not be used if identified in the Kirkland Plant List as potentially damaging to sidewalks, roads, underground utilities, drainage improvements, foundations, or when not provided with enough growing space.

d. All plants shall conform to American Association of Nurserymen (AAN) grades and standards as published in the "American Standard for Nursery Stock" manual.

e. Plants shall meet the minimum size standards established in other sections of the KZC.

f. Multiple-stemmed trees may be permitted as an option to single-stemmed trees for required landscaping provided that such multiple-stemmed trees are at least 10 feet in height and that they are approved by the Planning Official prior to installation.

~~7~~6. Fertilization. All fertilizer applications to turf or trees and shrubs shall follow Washington State University, National Arborist Association or other accepted agronomic or horticultural standards.

~~8~~7. Irrigation. The intent of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. All required plantings must provide an irrigation system, using either Option 1, 2, or 3 or a combination

of those options. For each option irrigation shall be designed to conserve water by using the best practical management techniques available. These techniques may include, but not be limited to: drip irrigation to minimize evaporation loss, moisture sensors to prevent irrigation during rainy periods, automatic controllers to insure proper duration of watering, sprinkler head selection and spacing designed to minimize overspray, and separate zones for turf and shrubs and for full sun exposure and shady areas to meet watering needs of different sections of the landscape.

Exceptions, as approved by the Planning Official, to the irrigation requirement may be approved xeriscape (i.e., low water usage plantings), plantings approved for low impact development techniques, established indigenous plant material, or landscapes where natural appearance is acceptable or desirable to the City. However, those exceptions will require temporary irrigation (Option 2 and/or 3) until established.

a. Option 1. A permanent built-in irrigation system with an automatic controller designed and certified by a licensed landscape architect as part of the landscape plan.

b. Option 2. An irrigation system designed and certified by a licensed landscape architect as part of the landscape plan, which provides sufficient water to ensure that the plants will become established. The system does not have to be permanent if the plants chosen can survive adequately on their own, once established.

c. Option 3. Irrigation by hand. If the applicant chooses this option, an inspection will be required one year after final inspection to ensure that the landscaping has become established.

~~9~~8. Drainage. All landscapes shall have adequate drainage, either through natural percolation or through an installed drainage system. A percolation rate of one-half inch of water per hour is acceptable.

~~10~~9. Mulch.

a. Required plantings, except turf or areas of established ground cover, shall be covered with two inches or more of organic mulch to minimize evaporation and runoff. Mulch shall consist of materials such as yard waste, sawdust, and/or manure that are fully composted.

b. All mulches used in planter beds shall be kept at least six inches away from the trunks of shrubs and trees.

~~11~~10. Protection. All required landscaped areas, particularly trees and shrubs, must be protected from potential damage by adjacent uses and development, including parking and storage areas. Protective devices such as bollards, wheel stops, trunk guards, root guards, etc., may be required in some situations.

~~12~~11. Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Plants intended to mitigate for the loss of natural resource values are subject to the following requirements in addition to the other landscaping requirements ~~of~~ found in KZC ~~95.45~~95.40 through KZC 95.45. Where these requirements conflict with other requirements of this

chapter, these requirements take precedence. Refer to Chapters 85 and 90 KZC for additional requirements for these areas.

a. Plant Source. Plant materials must be native and selected from the Kirkland Plant List. Seed source must be as local as possible, and plants must be nursery propagated unless transplanted from on-site areas approved for disturbance. These requirements must be included in the Mitigation Plan specifications.

b. Installation. Plant materials must be supported only when necessary due to extreme winds at the planting site. Where support is necessary, stakes, guy wires, or other measures must be removed as soon as the plant can support itself, usually after the first growing season. All fertilizer applications to turf or trees and shrubs shall follow Washington State University, National Arborist Association or other accepted agronomic or horticultural standards.

c. Fertilizer Applications. Fertilizers shall be applied in such a manner as to prevent its entry into waterways and wetlands and minimize its entry into storm drains. No applications shall be made within 50 feet of a waterway or wetland, or a required buffer as established by the City codes (such as Chapter 90 KZC) or Kirkland Shoreline Master Program (SMP, KMC Title 24), whichever is greater, unless specifically authorized in an approved mitigation plan or otherwise authorized in writing by the Planning Official.

95.~~50~~ 51 Tree and Landscape Maintenance Requirements

The following maintenance requirements apply to all trees, including street trees, and other vegetation required to be planted or preserved by the City:

1. Responsibility for Regular Maintenance. Required trees and vegetation, fences, walls, and other landscape elements shall be considered as elements of the project in the same manner as parking, building materials, and other site details. The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of required landscaping elements. Plants that die must be replaced in kind. It is also the responsibility of the property owner to maintain street trees abutting their property pursuant to KZC 95.21.

2. Maintenance Duration. Maintenance shall be ensured in the following manner except as set forth in subsections (3) and (4) of this section:

a. All required landscaping shall be maintained throughout the life of the development. Prior to issuance of a certificate of occupancy, the proponent shall provide a final as-built landscape plan and an agreement to maintain and replace all landscaping that is required by the City.

b. Any existing tree or other existing vegetation designated for preservation ~~on a Tree Plan I – Major, a Tree Plan II, or a Tree Plan III~~in a Tree Retention Plan shall be maintained for a period of five years following issuance of the certificate of occupancy for the individual lot or development. After five years, all trees on the property are subject to KZC ~~95.20~~ 95.23 unless:

1) The tree and associated vegetation are in a grove that is protected pursuant to subsection (3) of this section; or

2) The tree or vegetation is considered to be a public benefit related to approval of a planned unit development; or

3) The tree or vegetation was retained to partially or fully meet requirements of KZC 95.40 through KZC 95.45, Required Landscaping.

3. Maintenance of Preserved Grove. Any applicant who has a grove of trees identified for preservation on an approved ~~tree plan~~Tree Retention Plan pursuant to KZC ~~95.35(4)(a)(1)(b)~~95.30(2) shall provide prior to occupancy the legal instrument acceptable to the City to ensure preservation of the grove and associated vegetation in perpetuity, except that the agreement may be extinguished if the Planning Official determines that preservation is no longer appropriate.

4. Maintenance of Critical Area and Critical Area Buffers. In critical areas and their buffers, native vegetation is not to be removed without City approval pursuant to KZC ~~95.35(4)(c)~~95.23(5)(d). However, it is the responsibility of the property owner to maintain critical areas and their buffers by removing non-native, invasive, and noxious plants in a manner that will not harm critical areas or their buffers. See also subsection (6) of this section and Chapters 85 and 90 KZC for additional requirements for trees and other vegetation within critical areas and critical area buffers.

5. Non-Native Invasive and Noxious Plants. It is the responsibility of the property owner to remove non-native invasive plants and noxious plants from the vicinity of any tree or other vegetation that the City has required to be planted or protected. Removal must be performed in a manner that will not harm the tree or other vegetation that the City has required to be planted or protected.

6. Pesticides, Herbicides, and Fertilizer. The use of plant material requiring excessive pesticide or herbicide applications to be kept healthy and attractive is discouraged. Pesticide, herbicide, and fertilizer applications shall be made in a manner that will prevent their unintended entry into waterways, wetlands, and storm drains. No application shall be made within 50 feet of a waterway or wetland or a required buffer as established by City codes, whichever is greater, unless done so by a state certified applicator with approval of the Planning Official, and is specifically authorized in an approved mitigation plan or otherwise authorized in writing by the Planning Official.

7. Landscape Plans and Utility Plans. Landscape plans and utility plans shall be coordinated. In general, the placement of trees and large shrubs should adjust to the location of required utility routes both above and below ground. Location of plants shall be based on the plant's mature size both above and below ground. See the Kirkland Plant List for additional standards.

95.52 Prohibited Vegetation

Plants listed as prohibited in the Kirkland Plant List shall not be planted in the City.

For landscaping not required under this chapter, this prohibition shall become effective on February 14, 2008. The City may require removal of prohibited vegetation if installed after this date. Residents and property-owners are encouraged to remove pre-existing prohibited vegetation whenever practicable.

95.55 Enforcement and Penalties

1. Intent. These enforcement and penalty provisions have several purposes. First, they are intended to discourage damage or removal of significant trees above and beyond what is permitted under this chapter. Second, these enforcement and penalty provisions are intended to provide complete and effective restoration of areas in which violations of this chapter occur. Finally, these regulations are intended to provide a clear and efficient process for addressing violations of this chapter.

   The City may utilize one or more of several remedies when responding to violations of this chapter. In almost all cases where a violation has occurred, the City will issue a civil citation that describes the nature of the violation, the actions necessary to remedy the violation, and the amount of any civil penalty, among other things. If the acts that constitute a violation appear to be ongoing, the City may also issue a notice of cease and desist. Failure to adhere to a notice to cease and desist will result in imposition of additional civil penalties. If there is a pending development or building permit, the City may also issue a stop work order or withhold issuance of permit approval or a certificate of occupancy. Finally, additional fines may be imposed if a violator does not follow through in a timely manner with restoration work or other compliance issues.

2. General Requirements. Enforcement shall be conducted in accordance with procedures set forth in Chapter 170 KZC. Special enforcement provisions related to tree conservation are set forth below. To the extent there is a conflict between the provisions of this section and Chapter 170 KZC, this section shall control.

   For code enforcement provisions regarding street trees and trees located on City property see Kirkland Municipal Code Chapter 19.36.

3. Authority. It shall be the duty of the Planning Official to administer the provisions of this chapter. The Planning Official shall have authority to enforce and carry out the provisions of this chapter.

4. Cease and Desist. The Planning Official may issue a notice to cease and desist using the procedure set forth in KZC 170.30 if the Planning Official finds that a violation of this code has occurred. Continued illegal tree activity following issuance of a cease and desist from the City for the tree activity shall result in fines of $1,000 per day of continued activity.

5. Stop Work Order. If a violation of this chapter or an approved T~~t~~ree Retention ~~p~~Plan occurs on property on which work is taking place pursuant to a City of Kirkland development or building permit, the Building Official may suspend some or all of the work as appropriate through issuance of a stop work order. The Building Official shall remove the stop work order when the City determines that the violation has been corrected or when the City has reached an agreement with the violator regarding rectification of the violation. Any stop

work order issued under this section may be appealed using the procedures set forth in Chapter 21.06 KMC.

6. Civil Citation. The City's Code Enforcement Officer shall notify a person who violates this chapter by issuance of a civil citation. The civil citation shall be in writing, and issued by certified mail with return receipt requested, or by personal service. The civil citation shall contain the following:

   a. The name and address of the property owner or other person to whom the civil citation is directed;

   b. The street address or description sufficient for identification of the land upon which the violation has occurred or is occurring;

   c. A description of the violation and a reference to the provisions of this chapter that have been violated;

   d. A statement of the restoration action required to be taken to correct the violation as determined by the Planning Official;

   e. A statement of the civil penalty incurred for each violation;

   f. A statement that the person to whom the civil citation is issued must correct the violation through restoration described in subsection (8) of this section and may pay the civil penalty or may appeal the civil citation as provided in this section.

Note: Section 95.55 continues on page 636.23.

7. Civil Penalty.

   a. A person who fails to comply with the requirements of this chapter or the terms of a permit issued hereunder, who undertakes an activity regulated by this chapter without obtaining a permit, or fails to comply with a cease and desist or stop work order issued under this chapter shall also be subject to a civil penalty as set forth in Table 95.55.1. Each unlawfully removed or damaged tree shall constitute a separate violation.

   b. Any person who aids or abets in the violation shall be considered to have committed a violation for purposes of the civil penalty.

   c. The amount of the penalty shall be assessed in accordance with Table 95.55.1. The Planning Official may elect not to seek penalties if ~~he or she~~the Planning Official determines that the circumstances do not warrant imposition of civil penalties in addition to restoration.

Table 95.55.1 – Penalties

Types of Violations	Allowable Fines per Violation
1. Removal of tree(s) approved to be removed, but prior to final tree plan approval or issuance of a City tree removal permit	$100.00 per tree

2. Removal or damage of tree(s) that are or would be shown to be retained on an approved tree plan or any other violation of approved tree protection plan	$1,000 per tree
3. Removal of tree(s) without applying for or obtaining a required City permit	$1,000 per tree

8. Tree Restoration.

a. Violators of this chapter or of a permit issued thereunder shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the Planning Official, which provides for repair of any environmental and property damage, and restoration of the site; and which results in a site condition that, to the greatest extent practical, equals the site condition that would have existed in the absence of the violation(s). In cases where the violator intentionally or knowingly violated this chapter or has committed previous violations of this chapter, restoration costs may be based on the City-appraised tree value of the subject trees in which the violation occurred, utilizing the industry standard trunk formula method in the current edition of Guide for Plant Appraisal. If diameter of removed tree is unknown, determination of the diameter size shall be made by the Planning Official by comparing size of stump and species to similar trees in similar growing conditions. The amount of costs above the approved restoration plan will be paid into the City forestry account.

b. Restoration Plan Standards. The restoration plan shall be in accordance to the following standards:

1) The number of trees required to be planted is equal to the number of tree credits of illegally removed trees according to Table 95.~~35~~33.1.

2) The minimum size for a tree planted for restoration is 12-foot-tall conifer and three-inch caliper deciduous or broadleaf evergreen tree. The City may approve smaller restoration tree sizes at a higher restoration ratio, provided the site has capacity for the additional trees and the results of restoration at a higher restoration ratio is as good or better than at the normal ratio. The smallest allowable alternatives to the normal restoration requirements shall be two eight-foot conifers for one 12-foot conifer or two two-inch caliper deciduous for one three-inch caliper deciduous tree.

3) In the event the violators cannot restore the unlawfully removed or damaged trees, the violators shall make payment to the City forestry account. Unless otherwise determined to base the restoration costs on appraised value, the amount paid will be the City's unit cost for a restoration tree multiplied by the number of outstanding tree credits. The City's unit cost is based on the current market cost of purchase, installation and three-year maintenance for a minimum-sized tree for restoration.

4) The restoration plan shall include a maintenance plan and an agreement or security to ensure survival and maintenance of restoration trees for a three-year period unless the violation was on a site with an approved tree plan in which case, the maintenance period is five years.

9. Failure to Restore or Pay Fines.

a. Prohibition of Further Approvals. The City shall not approve any application for a subdivision or any other development permit or approval, or issue a certificate of occupancy for property on which a violation of this chapter has occurred until the violation is cured by restoration or other means accepted by the Planning Official and by payment of any penalty imposed for the violation.

b. Fines. A property owner or occupant who fails to restore or otherwise cure property on which a violation of this chapter has occurred shall be assessed a fine of $100.00 per day for each day that restoration is incomplete. Prior to assessing fines under this subsection, the City shall issue a written notice to the property owner or that restoration has not been completed. The notice shall include the following information: (1) a description of the nature of the violation; (2) a description of what actions are required to bring the property into compliance; and (3) a date by which compliance shall be required (the "compliance date"). The compliance date shall be no less than 30 days from the date the notice is served on the property owner or occupant. If the property owner or occupant does not, in the determination of the City, bring the property into compliance by the compliance date, then the City may issue an order imposing $100.00 per day fines at any time after the compliance date. The fines shall continue to accrue until the violation has been certified to be corrected by the Planning Department. The property owner or occupant may appeal the order imposing fines to the hearing examiner using the procedures set forth in subsection 10 of this section.

10. Appeal to Hearing Examiner.

a. A person to whom a civil citation or order imposing fines is directed may appeal the civil citation, including the determination that a violation exists or the amount of any monetary penalty imposed, to the Hearing Examiner.

b. A person may appeal the civil citation or order imposing fines by filing a written notice of appeal with the Department of Planning and Community Development within 14 calendar days of the date of service of the civil citation or order imposing fines.

c. Fines that accrue on a daily basis shall not be imposed while an appeal is pending unless the Hearing Examiner determines that the appeal is frivolous or imposed solely for the purpose of delay.

d. If both a civil citation and an order to cease and desist have been issued in the same case, and both the civil citation and the order to cease and desist have been appealed, the appeals shall be consolidated for hearing.

e. The office of the Hearing Examiner shall give notice of the hearing to the appellants at least 17 calendar days prior to the hearing.

f. The Hearing Examiner shall conduct a hearing on the appeal pursuant to the rules of procedure provided for in the Administrative Procedures Act (Chapter 34.05 RCW) and in accordance with any rules for hearings promulgated by the Hearing Examiner. The City

and the appellant may participate as parties in the hearing and each may call witnesses. The City shall have the burden of proof by a preponderance of the evidence that a violation has occurred.

11. Hearing Examiner Decision.

a. The Hearing Examiner shall determine whether the City has proven by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend, or modify the amount of any monetary penalty imposed by the civil citation, with or without written conditions.

b. In the event that the Hearing Examiner determines that a violation has occurred, the Hearing Examiner shall also consider the following in making his or her decision: (1) whether the appeal is frivolous or intended to delay compliance; (2) whether the appellant exercised reasonable and timely effort to comply with applicable development regulations; and (3) any other relevant factors.

c. The Hearing Examiner shall mail a copy of his or her decision to the appellant, by certified mail, postage prepaid, return receipt requested.

d. The decision of the Hearing Examiner may be reviewed in King County Superior Court using the standards set forth in RCW 36.70C.130. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision by the Hearing Examiner (see Chapter 36.70C RCW for more information).

95.~~30~~ 57 City Forestry Account

1. Funding Sources. All civil penalties received under this chapter and all money received pursuant to KZC 95.33(3)(c) shall be used for the purposes set forth in this section. In addition, the following sources may be used for the purposes set forth in this section:

a. Agreed upon restoration payments imposed under KZC 95.55 or settlements in lieu of penalties;

b. Sale of trees or wood from City property where the proceeds from such sale have not been dedicated to another purpose;

c. Donations and grants for tree purposes;

d. Sale of seedlings by the City; and

e. Other monies allocated by the City Council.

2. Funding Purposes. The City shall use money received pursuant to this section for the following purposes:

a. Acquiring, maintaining, and preserving wooded areas within the City;

b. Planting and maintaining trees within the City;

~~c. Identification and maintenance of landmark trees;~~

~~d~~c. Establishment of a holding public tree nursery;

~~e~~d. Urban forestry education;

e. Implementation of a tree canopy monitoring program; or

f. Other purposes relating to trees as determined by the City Council.

REVISIONS TO KIRKLAND ZONING CODE

NEW CODE REFERENCES TO REVISED KZC CHAPTER 95

KZC 90.05 User Guide

These regulations apply to activities, work, and conditions in or near any stream, wetland, frequently flooded area, or lake in the City. These regulations add to and in some cases supersede other City regulations. Anyone interested in conducting any development activity on or near a wetland, stream, lake, or frequently flooded area; wishing to participate in the City's decision on a proposed development on or near any of these areas; or wishing to have a determination made as to the presence of one of these areas on his or her property, should read these regulations. See also KZC 95.23.5.d.3~~95.35(4)(d)~~, ~~Tree Plan Review Standards~~ – Trees in Critical Areas or Critical Area Buffers; and KZC ~~95.45(12)~~95.50.11, Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers.

90.45 Wetland Buffers and Setbacks

1. No land surface modification shall occur and no improvement may be located in a wetland or its buffer, except as provided in this section. See also KZC ~~95.35(4)(d)~~95.23(5)(d)(2), ~~Tree Plan Review Standards~~ – Trees in Critical Areas or Critical Area Buffers; and KZC ~~95.45(12)~~95.50(11), Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Required, or standard, buffers for wetlands are as follows:

90.65 Wetland Restoration

Planning Official approval is required prior to wetland restoration. The Planning Official may permit or require the applicant or property owner to restore and maintain a wetland and/or its buffer by removing material detrimental to the area, such as debris, sediment, or vegetation. The Planning Official may also permit or require the applicant to restore a wetland or its buffer through the addition of native plants and other habitat features. See also KZC 95.23(5)(d)(2)~~95.35(4)(d)~~, ~~Tree Plan Review Standards~~ – Trees in Critical Areas or Critical Area Buffers; and KZC 95.50(11)~~95.45(12)~~, Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Restoration may be required whenever a condition detrimental to water quality or habitat exists. When wetland restoration is required by the City, the requirements of KZC 90.55(4), Compensatory Mitigation, shall apply.

90.90 Stream Buffers and Setbacks

1. Stream Buffers – No land surface modification shall occur and no improvement may be located in a stream or its buffer, except as provided in this section. See also KZC 95.23(5)(d)(2)~~95.35(4)(d)~~, ~~Tree Plan Review Standards~~ – Trees in Critical Areas or Critical Area Buffers; and KZC 95.50(11)~~95.45(12)~~, Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Required, or standard, buffers for streams are as follows:

90.120 Stream Rehabilitation

Planning Official approval is required prior to stream rehabilitation. The Planning Official may permit or require the applicant or property owner to restore and maintain a stream and/or its buffer by removing material detrimental to the stream and its surrounding area such as debris, sediment, or vegetation. The Planning Official may also permit or require the applicant to restore a stream or its buffer through the addition of native plants and other habitat features. See also KZC 95.23(5)(d)(2)~~95.35(4)(d)~~, ~~Tree Plan Review Standards –~~Trees in Critical Areas or Critical Area Buffers; and KZC 95.50(11)~~95.45(12)~~, Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Restoration may be required at any time that a condition detrimental to water quality or habitat exists. When stream rehabilitation is required by the City, the mitigation plan and monitoring requirements of KZC 90.55(4), shall apply.

KZC 92.10.3. Building Placement In RHBD and TLN

a. Building Location Featuring Pedestrian-Oriented Facades in RHBD and TLN Zones – Buildings may be located adjacent to the sidewalk of any street (except west of 124th Avenue NE), if they contain a pedestrian-oriented facade along that street frontage pursuant to the standards in subsection (2) of this section. As part of the Design Review process, required yards, setbacks or other development standards may be modified along the street frontage. Buildings not featuring a pedestrian-oriented facade along a street must provide a building setback of at least 10 feet from any public street (except areas used for pedestrian or vehicular access) landscaped with a combination of trees, shrubs, and groundcover per the requirements of supplemental landscape standards of KZC ~~95.40(5)(b)~~95.41.2.

KZC 92.103.f. RHBD East End – Rear Yard Building Placement – Pursuant to KZC 95.40 through KZC 95.45, in most cases, commercial uses shall install a required landscaped buffer adjacent to single-family properties. By requesting a modification to these provisions, the property owners may negotiate an agreement to reduce the landscape buffer/setback in a way that can benefit both parties.

Where buildings are sited towards the rear of the property, the applicant must utilize one of the following standards to minimize impacts to adjacent residential areas (see Figure 92.10.C and options below):

1) Meet the required landscape buffer pursuant to KZC ~~95.40~~95.42.

KZC 92.35 Building Material, Color and Detail

e. Trellises or arbors having an area of at least 100 square feet and planted consistent with the requirements of KZC ~~95.40(5)~~95.41 to achieve at least 30 percent coverage of the trellis or arbor with plant material within three years.

KZC 78.35.2.e. Required Landscaping. The requirements of Chapter 95 KZC apply. An SCTF shall satisfy the requirements of Landscape Category A pursuant to KZC ~~95.40(4)~~95.42, except that if an SCTF is proposed adjoining a commercial or industrial use or zone, the SCTF must comply with KZC ~~95.40(5)~~95.41 Supplemental Plantings and ~~(6)(b)~~95.42.2 (Buffering

Standard 2). The landscape buffers shall be placed between the property line and the solid screening fence.

KZC 113.25

Tree Retention	The Tree Retention Plan Standards contained in KZC 95.3595.30 ~~for Tree Plan III~~ shall apply to development approved under this chapter.

KZC 162.35.6 <u>Nonconforming Landscaping, Buffers and Paving</u>

a. See KZC 95.4095.47 for nonconforming landscaping and buffering requirements.

KZC 115.105.2.d. <u>Exceptions to Outdoor Use, Activity or Storage</u> – The following outdoor uses and activities, when located in commercial and industrial zones, are exempt from the requirements of this section as stated below:

1) Exceptions to subsections (2)(c)(1) through (5) of this section; provided, that a temporary certificate of occupancy from the Building Department is obtained:

a) Outdoor Christmas tree lots and fireworks stands if these uses will not exceed 30 days.

b) Outdoor amusement rides, carnivals and circuses, and parking lot sales which are ancillary to the indoor sale of the same goods and services if these uses will not exceed seven days.

2) See KZC 95.4095.43 for exceptions to subsections (2)(c)(1) and (2)(c)(2) of this section.

CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 (425) 828-1257

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT MEMORANDUM

To: Interpretation File 91-3

From: Joseph W. Tovar

Date: July 24, 1991

Subject: KZC 95.40 – BONDS – ESTABLISHMENT OF TWO-YEAR MAINTENANCE AGREEMENT FOR ON-SITE LANDSCAPING

95.50

KZC ~~95.40~~ gives the City the authority to require a bond pursuant to Chapter 175 KZC to ensure compliance with any aspect of the landscaping chapter. The City has been requiring two year landscape maintenance securities to cover required landscaping for all new development. Planners have found that few landscape maintenance securities are called in, and that the paperwork to establish them is substantial. In an effort to streamline permit processing, provide more timely service, and still comply with the code and ensure maintenance of landscaping, a new way of achieving compliance has been developed.

When a project nears occupancy, the applicant and property owner will be required to sign a "Two-Year Landscape Maintenance Agreement – On-Site Landscaping" which will be recorded with King County. An as-built landscape plan will still be required and a site visit will still be performed by the planner prior to releasing the certificate of occupancy. At the end of two years, the planner will again visit the site to determine whether the landscaping has been adequately maintained. If not, and if the planner has difficulty obtaining voluntary compliance, then the case will be subject to civil penalties as authorized by Chapter 170 KZC.

95.50

Therefore, it is my interpretation that applicants can achieve compliance with KZC ~~95.40~~ by submitting a properly signed and notarized "Two-Year Landscape Maintenance Agreement – On-Site Landscaping" prior to occupancy rather than bonds.

Section 52.12	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Vehicle Service Station. See Special Regulation 1.	D.R., Chapter 142 KZC.	22,500 sq. ft.	0′ See Special Regulation 2.	0′	0′	80%	30′ above average building elevation.	A	E	See KZC 105.25.	1. May not be more than two vehicle service stations at any intersection. 2. Gas pump islands must be setback at least 20 feet from all property lines. Canopies and covers over gas pump islands may not be closer than 10 feet to any property line. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.
.020	Automotive Service Center See Special Regulation 1.		None	0′	0′	0′					1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 3.	1. This use specifically excludes new or used vehicle sales or rentals. 2. No openings (i.e., doors, windows which open, etc.) shall be permitted in any facade of the building adjoining a residential use. Windows are permitted if they are triple-paned and unable to be opened. 3. Ten (10) percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 4. Storage of used parts and tires must be conducted entirely within an enclosed structure. See also the section in Chapter 115 entitled "Outdoor Use, Activity and Storage" for additional regulations. 95.45 5. Prior to occupancy of the structure, documentation must be provided and stamped by a licensed professional verifying that the expected noise to be emanating from the site adjoining to any residential use complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.
.030	Retail Establishment providing boat sales, service, or repair. See Special Regulation 1.										See KZC 105.25.	1. Boat rental and used boat sales are allowed as part of this use. 2. Storage of parts must be conducted entirely within an enclosed structure. 3. Outdoor boat parking and storage areas must be buffered as required for a parking area per design regulations, ~~KZC 95.40(7).~~ See also KZC 115.105, Outdoor Activity and Storage, for further regulations.
.040	Restaurant or Tavern								D		1 per each 100 sq. ft. of gross floor area.	1. For restaurants with drive-in or drive through facilities: a. These facilities are permitted only if they do not compromise the pedestrian orientation of the development. The location and specific design of the facilities require Planning Official approval. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served. c. One outdoor waste receptacle shall be provided for every eight parking stalls. d. Landscape Category B shall apply.

EXHIBIT 1
O-4238
ATTACHMENT B

Zone JBD-2

USE ZONE CHART

Section 52.17	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Vehicle Service Station See Spec. Reg. 1.	D.R., Chapter 142 KZC.	22,500 sq. ft.	0′	0′	0′	80%	26′ above average building elevation.	A	E	See KZC 105.25.	1. May not be more than two vehicle service stations at any intersection. 2. Gas pump islands must be setback at least 20 feet from all property lines. Canopies and covers over gas pump islands may not be closer than 10 feet to any property line. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.
				See Spec. Reg. 2.								
.020	Automotive Service Center See Spec. Reg. 1.		None	0′	0′	0′					1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 3.	1. This use specifically excludes new or used automobile sales or rentals. 2. No openings (i.e., doors, windows which open, etc.) shall be permitted in any facade of the building adjoining a residential use. Windows are permitted if they are triple-paned and unable to be opened. 3. Ten percent of the required parking spaces on site must have a minimum dimension of 10-feet wide by 30-feet long for motor home/travel trailer use. 4. Storage of used parts and tires must be conducted entirely within an enclosed structure. See also the section in Chapter 115 entitled "Outdoor Use, Activity and Storage" for additional regulations. 95.45 5. Prior to occupancy of the structure, documentation must be provided and stamped by a licensed professional verifying that the expected noise to be emanating from the site adjoining to any residential use complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.
.030	Retail Establishment providing boat sales, service, or repair. See Spec. Reg. 1.										See KZC 105.25.	1. Boat rental and used boat sales are allowed as part of this use. 2. Storage of parts must be conducted entirely within an enclosed structure. 3. Outdoor boat parking and storage areas must be buffered as required for a parking area per design regulations, KZC ~~95.40(7).~~ See also KZC 115.105, Outdoor Activity and Storage, for further regulations.
.040	Restaurant or Tavern								D		1 per each 100 sq. ft. of gross floor area.	1. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served. c. Landscape Category B shall apply.
.060	A Retail Establishment providing entertainment, recreational, or cultural activities										See KZC 105.25.	

EXHIBIT 1
O-4238
ATTACHMENT B

Zone JBD-4

USE ZONE CHART

Section 52.27	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Retail Establishment providing boat sales, service, or repair. See Spec. Reg. 1.	D.R., Chapter 142 KZC.	None	0′	0′	0′	80%	26′ above average building elevation.	A	E	See KZC 105.25.	1. Boat rental and used boat sales are allowed as part of this use. 2. Storage of parts must be conducted entirely within an enclosed structure. 3. Outdoor boat parking and storage areas must be buffered as required for a parking area per design regulations, KZC ~~95.40(7).~~ 95.45 See also KZC 115.105, Outdoor Activity and Storage, for further regulations.
.020	Restaurant or Tavern								C		1 per each 100 sq. ft. of gross floor area.	1. Drive-in or drive-through facilities are prohibited.
.040	A Retail Establishment providing entertainment, recreational, or cultural activities										See KZC 105.25.	

EXHIBIT 1
O-4238
ATTACHMENT B

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.150	Recycling Center	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20′	0′	0′	80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation with a maximum of two stories, exclusive of parking levels.	A	C	See KZC 105.25.	1. May deal in metal cans, glass, and paper. Other materials may be recycled if the Planning Director determines that the impacts are no greater than those associated with recycling metal cans, glass, or paper. The individual will have the burden of proof in demonstrating similar impacts.
.160	Public Utility								C See Spec. Reg. 1.	B		1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.170	Government Facility Community Facility											
.180	Hazardous Waste Treatment and Storage Facilities	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	30′	0′	0′	90%	35′ above average building elevation with a maximum of two stories, exclusive of parking levels. See Spec. Reg. 2.	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. Must comply with the state siting criteria adopted in accordance with RCW 70.105.210. 2. Structure height may be increased above 35 feet in height through a Process IIA, Chapter 150 KZC, if: a. It will not block local or territorial views designated in the Comprehensive Plan; and b. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and c. The need for an increase in height is directly related to the hazardous waste treatment and/or storage activity; and d. The required yard of any portion of the structure may be increased up to a maximum [illegible] portion of the structure exce[illegible] ing elevation. The need for additional setback yards will be determined as part of the review of any request to increase structure height.
.190	Vehicle or Boat Repair, Services, Storage, or Washing			20′			80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation with a maximum of two stories, exclusive of parking levels.		E	See KZC 105.25.	1. Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~KZC 95.40(6) and (7)~~ 95.40 through 95.45, landscaping regulations. 2. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.

EXHIBIT 1
O-4238
ATTACHMENT B

Zone RH 1A

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Section 53.06	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	S (See also General Regulations)
.010	Vehicle Service Station	D.R., Chapter 142 KZC.	22,500 sq. ft.	20′ See Spec. Reg. 1.	15′ on each side.	15′	80%	67′ above average building	A	E	See KZC 105.25.	1. Gas pump islands must be set back at least 20 feet from all property lines. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. 2. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.020	Automotive Service Center See Spec. Reg. 1.		None	10′	0′	0′					1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 1.	1. Ten (10) percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 2. Parts and tires must be stored entirely within an enclosed structure. 3. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.030	Restaurant or Tavern								B		1 per each 100 sq. ft. of gross floor area.	1. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
.040	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services										1 per each 300 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 2. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if: a. The seating and associated circulation area does not exceed more than area of the use; and City that the floor plan is designed to preclude the seating area from being expanded. 3. For a retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, and similar vehicles, the following shall apply: a. For the number of required parking stalls see KZC 105.25. b. Parts must be stored entirely within an enclosed structure. c. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.

95.40 through 95.45

95.40 through 95.45

95.40 through 95.45

EXHIBIT 1
O-4238
ATTACHMENT B

Zone RH 1B

USE ZONE CHART

Section 53.12	USE / REGULATIONS	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Vehicle Service Station See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	22,500 sq. ft.	20'	15'	15'	80%	20' above average building elevation.	A	E See Spec. Reg. 6.	See KZC 105.25.	95.40 through 95.45 [illegible] h of NE 90th Street as an accessory use [illegible] RH 1A and limited to sale of fuel. Vehicle service, repair, or the sale or installation of lubricants, tires, batteries or other similar accessories is prohibited. 2. Hours of operation and truck deliveries are limited to 8:00 a.m. to 9:00 p.m. 3. Gas pump islands must be located at least 20 feet from all property lines. 4. See ~~KZC 95.40(6) and (7)~~, required landscaping, for additional regulations. 5. The following improvements must be installed: a. Half street improvements including vertical curb, five-foot-wide sidewalk and 4.5-foot-wide landscape strip planted with street trees adjacent to the curb in the following locations: i. Along the south side of NE 90th Street between 120th Avenue NE and the existing sidewalk west of 122nd Avenue NE. ii. Along the south side of NE 90th Street between 122nd Avenue and 123rd Lane NE. iii. Along the east side of 120th Avenue NE between NE 90th Street and the existing sidewalk to the south. b. Crosswalk markings at the intersection of NE 90th Street and 122nd Avenue NE. Minor deviations may be approved by the Public Works Director. If improvements will result in impacts to adjacent wetlands, they must comply with Chapter 90 KZC, Drainage Basins, requirements. c. Basic water quality treatment for the surface water discharge from all the parking lots that serve the commercial use located in RH 1A. The treatment shall meet the specifications of the 1998 King County Surface Water Design Manual, or equivalent approved by the Public Works Department. d. A pedestrian pathway shall be developed and maintained between NE 90th Street and Slater Avenue NE. 6. Internally illuminated signs are prohibited on the north and east sides of gas pump islands or canopies.
.020	Accessory parking for retail uses located in the RH 1A zone		None	10' Otherwise 20' adjoining a residential zone	10' on each side	10'		35' above average building elevation.	B	D	N/A	1. No retail floor area shall be permitted for this use.

EXHIBIT 1 O-4238 ATTACHMENT B

Zone RH 2A, 2B, 2C

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Section 53.24	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Vehicle Service Station See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	22,500 sq. ft.	20′ See Spec. Reg. 2.	0′ See Spec. Reg. 2.	0′ See Spec. Reg. 2.	80%	35′ above average building elevation.	A	E	See KZC 105.25.	1. This use is permitted only in RH 2A. 2. Gas pump islands must be set back a minimum of 20 feet from all property lines. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. 3. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.020	Automotive Service Center See Spec. Reg. 1.		None	10′ adjacent to NE 85th St., otherwise 20′.	0′	0′	In RH 2A and RH 2B: 80% In RH 2C: 70%	In RH 2B: 55′ above average building elevation. In RH 2A: 67′ above average building elevation.			1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 2.	1. This use is permitted only in RH 2A. 2. Ten percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 3. Parts and tires must be stored entirely within an enclosed structure. 4. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.030	Restaurant or Tavern										1 per each 100 sq. ft. of gross floor area.	1. This use is permitted in RH 2B only if developed in conjunction with the RH 2A zone. 2. This use is not permitted in RH 2C. 3. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
.040	A Retail Establishment providing entertainment, recreational or cultural activities										See KZC 105.25.	1. This use is permitted in RH 2B only if developed in conjunction with the RH 2A zone. 2. This use is not permitted in RH 2C.

95.40 through 95.45

95.40 through 95.45

EXHIBIT 1
O-4238
ATTACHMENT B

Zone
RH 2A, 2B, 2C

USE ZONE CHART

Section 53.24	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.050	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods, or providing services including banking and related financial services	D.R., Chapter 142 KZC.	None	10′ adjacent to NE 85th St., otherwise 20′.	0′	0′	In RH 2A and RH 2B: 80% In RH 2C: 70%	In RH 2C: 35′ above average building elevation. In RH 2B: 55′ above average building elevation. In RH 2A: 67′ above average building elevation.	A	E	1 per each 300 sq. ft. of gross floor area. See Spec. Reg. 2.	1. This use is permitted in RH 2B only if developed in conjunction with the RH 2A zone. No retail uses are permitted in RH 2C unless the use is a retail establishment providing the sale, lease, service or repair of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, and similar vehicles also located in the RH 2A zone. 95.40 through 95.45 2. For a retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, and similar vehicles, the following shall apply: a. For the number of required parking stalls see KZC 105.25. b. Parts must be stored entirely within an enclosed structure. c. See KZC ~~95.40(6) and(7)~~, required landscaping, for further regulations. d. The landscape buffer requirements of Chapter 95 KZC shall apply adjacent to 118th Avenue NE. 3. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent on this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 4. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if: a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded.

EXHIBIT 1
O-4238
ATTACHMENT B

Section 53.34 — Zone RH 3 — USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Section 53.34	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (General Regulations)
.020	Vehicle Service Station	D.R., Chapter 142 KZC.	Less than 6 acres.	20′	0′	0′	80%	35′ above average building elevation.	A	E	See KZC 105.25.	1. Gas pump islands must be set back at least 20 feet from all property lines. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. 2. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.030	Automotive Service Center See Spec. Reg. 1.			10′	0′	0′					1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 1.	1. Ten percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 2. Parts and tires must be stored entirely within an enclosed structure. 3. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.040	Restaurant or Tavern										1 per each 100 sq. ft. of gross floor area.	1. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
.050	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services.								B		1 per each 300 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 2. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if: a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded. REGULATIONS CONTINUED ON NEXT PAGE

95.40 through 95.45

95.40 through 95.45

EXHIBIT 1
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ATTACHMENT B

Section 53.34	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.050	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services. (continued)											95.40 through 95.45 NUED FROM PREVIOUS PAGE 3. For a retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, and similar vehicles, the following shall apply: a. For the number of required parking stalls see KZC 105.25. b. Parts must be stored entirely within an enclosed structure. c. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.060	Hotel or Motel	D.R., Chapter 142 KZC.	Less than 6 acres.	10′	0′	0′	80%	35′ above average building elevation.	B	E	1 per each room. See also Spec. Reg. 2.	1. May include ancillary meeting and convention facilities. 2. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirement for these ancillary uses shall be determined on a case-by-case basis.
.070	A Retail Establishment providing entertainment, recreational or cultural activities										See KZC 105.25.	

EXHIBIT 1
O-4238
ATTACHMENT B

Zone RH 5A, 5B

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Section 53.54	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Vehicle Service Station See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	22,500 sq. ft.	20′ See Spec. Reg. 4.	15′ See Spec. Reg. 4.	15′ See Spec. Reg. 4.	80%	If adjoining an RS or RSX zone, then 30′ above average building elevation. Otherwise, 35′ above average building elevation.	A	E	See KZC 105.25.	95.40 through 95.45 he subject property abuts NE 85th Street. he RH 5B zone. 3. May not be more than two vehicle service stations at any intersection. 4. Gas pump islands must be set back at least 20 feet from all property lines. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. 5. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.020	Automotive Service Center See Spec. Reg. 1.		None	10′ adjacent to NE 85th St., otherwise 20′.	0′	15′					sq. ft. of gross floor area. See Spec. Reg. 4.	95.40 through 95.45 1. This use is not permitted in the RH 5B zone. 2. This use specifically excludes a retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, and similar vehicles. 3. No openings (i.e., doors, windows which open, etc.) shall be permitted in any facade of a building adjoining any residential zone. Windows are permitted if they are triple-paned and unable to be opened. 4. Ten percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 5. Parts and tires must be stored entirely within an enclosed structure. 6. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.030	A Retail Establishment providing entertainment, recreational or cultural activities										See KZC 105.25.	
.040	Restaurant or Tavern See Spec. Regs. 1 and 2.										1 per each 100 sq. ft. of gross floor area.	1. Taverns and restaurants with drive-in or drive-through facilities are not permitted uses in an RH 5B zone. 2. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.

EXHIBIT 1
O-4238
ATTACHMENT B

Zone RH 5A, 5B

USE ZONE CHART

Section 53.54	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.050	Any Retail Establishment other than those specifically listed in this zone, selling goods or providing services, including banking and related financial services	D.R., Chapter 142 KZC.	None	10′ adjacent to NE 85th St., otherwise 20′.	0′	15′	80%	If adjoining an RS or RSX zone, then 30′ above average building elevation. Otherwise, 35′ above average building elevation.	A	E	1 per each 300 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 2. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if: a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded. 3. 95.40 through 95.45 ng the sale, service or rental of motor , or recreation trailers, the following shall apply: a. This use is not permitted in the RH 5B zone; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. b. For the number of required parking stalls see KZC 105.25. c. Parts must be stored entirely within an enclosed structure. d. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.060	Office Use								B	D	If a medical, dental or veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.

EXHIBIT 1
O-4238
ATTACHMENT B

Section 55.61	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.140	Mini-Day-Care See Spec. Reg. 1.	None	None	20'	0'	0'	80%	35' above average building elevation.	D	B	See KZC 105.25.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. The use is integrated into the design of the building. 2. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 3. To reduce impacts on nearby residential uses, hours of operation of the use may be limited and parking and passenger loading areas relocated. 4. Structured play areas must be set back from all property lines by five feet. 5. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 6. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 7. May include accessory living facilities for staff persons. 8. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.150	Recycling Center								A	C		1. May deal in metal cans, glass, and paper. Other materials may be recycled if the Planning Director determines that the impacts are no greater than those associated with recycling metal cans, glass, or paper. The individual will have the burden of proof in demonstrating similar impacts.
.160	Public Utility								C See Spec. Reg. 1.	B		1. Landscape Category 95.40 through 95.45 ng on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.170	Government Facility Community Facility											
.180	Vehicle or Boat Repair, Services, Storage, or Washing								A	E		1. Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC ~~95.40(6) and (7)~~, landscaping regulations. 2. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
.190	Public Park	Development standards will be determined on case-by-case basis. See Chapter 49 KZC for required review process.										

EXHIBIT 1
O-4238
ATTACHMENT B

PUBLICATION SUMMARY
OF ORDINANCE NO. 4238

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING AND LAND USE AMENDING CITY REGULATIONS RELATING TO TREES, REPEALING ORDINANCE 4226, AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00016.

SECTION 1. Repeals Ordinance 4226.

SECTION 2. Provides that Kirkland Zoning Code Chapter 95 relating to tree management and required landscaping is amended in various respects, and that the amendments are attached to the Ordinance as Attachments A and B.

SECTION 3. Provides a severability clause for the Ordinance.

SECTION 4. Provides that the Ordinance may be subject to the disapproval jurisdiction of the Houghton Community Council.

SECTION 5. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as April 1, 2010.

SECTION 6. Provides that the City Clerk shall send a certified copy of the Ordinance to the King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 2nd day of March, 2010.

I certify that the foregoing is a summary of Ordinance 4238 approved by the Kirkland City Council for summary publication.

Kathy Anderson
City Clerk

RESOLUTION 2010-3

A RESOLUTION OF THE HOUGHTON COMMUNITY COUNCIL APPROVING ORDINANCE NO. 4238 ADOPTED BY THE KIRKLAND CITY COUNCIL ON MARCH 2, 2010, ADOPTING ZONING CODE AMENDMENTS RELATED TO TREE AND LANDSCAPING AMENDMENTS (FILE NO. ZON08-00016).

WHEREAS, the Houghton Community Council has received from the Kirkland City Council Ordinance No. 4238, adopting amendments to the Kirkland Zoning Code; and

WHEREAS, the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council and shall become effective within the Houghton Community Municipal Corporation only upon approval by the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance; and

WHEREAS, on October 26, 2009 the Houghton Community Council held a public courtesy hearing on the proposed amendments and, following the close of the public courtesy hearing, recommended that the City Council approve the amendments with certain changes; and

WHEREAS, the subject of this ordinance was reviewed and discussed by the Houghton Community Council at three study sessions between June 2009 and September 2009; and

WHEREAS, the Houghton Community Council elects to exercise its jurisdiction with respect to Ordinance 4238 by approving the ordinance;

NOW, THEREFORE, be it resolved that Ordinance 4238 is hereby approved and shall be effective within the Houghton Community Municipal Corporation.

PASSED by majority vote of the Houghton Community Council in regular, open meeting this _____ day of _____, 2010.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 2010.

_____
Chair, Houghton Community Council

_____
City Clerk