City of Kenmore

City of Kenmore - 18120 68th Avenue NE - Kenmore, WA 98028
Phone: 425-398-8900 - E-mail: cityhall@kenmorewa.gov

City Council Special and Regular Meeting

ON-SITE

MONDAY, APRIL 8, 2024 - 6:30 PM

In addition, we try to provide access to the meeting virtually:
ZOOM LINK: https://kenmorewa-gov.zoom.us/j/82345106160
ZOOM PASSWORD: april
Or One tap Mobile: US: +12532050468,,82345106160#
Or Telephone Dial US: +1 253 205 0468
Webinar ID: 823 4510 6160
ZOOM PASSWORD: april
SIGN UP FOR VIRTUAL PUBLIC COMMENT HERE: www.kenmorewa.gov/virtualpubliccomment
If you have technical difficulties accessing the meeting virtually, please contact the Deputy City Clerk at mkang@kenmorewa.gov.
Technical Difficulties - If the virtual component of the meeting disconnects, and we cannot resolve technical difficulties to reconnect the virtual component, the in-person meeting will continue at City Hall if there is a quorum of the body to conduct business.

Land Acknowledgement to Honor First Peoples

We acknowledge that the City of Kenmore is situated upon the ancestral lands of the Snohomish, Snoqualmie, Sauk-Suiattle, Duwamish, Stillaguamish, Tulalip, Suquamish, Muckleshoot, and other tribes who are part of the Coast Salish Peoples. We recognize and express our deepest respect for their enduring stewardship and profound relationship with this land, which they have cherished and protected since time immemorial. We honor the First Peoples, acknowledge their vibrant cultures, and commit ourselves to learning from their wisdom in our journey to promote justice, equity, and mutual understanding. We pledge to stand alongside these communities in acknowledging past injustices and working towards a future that respects and celebrates the diverse heritage of this land.

I. CALL SPECIAL MEETING TO ORDER - 6:30 PM

II. EXECUTIVE SESSION

A. Confidential Session of the Council - Pursuant to RCW 42.30.110(1)(i), the City Council will now enter an executive session to discuss potential litigation. This session is slated to last approximately 30 minutes, until 7:00 PM. No final action is expected.
EXECUTIVE SESSION HELD. NO FINAL ACTION.

III. ADJOURN SPECIAL MEETING

IV. CALL REGULAR MEETING TO ORDER - 7:00 PM

V. ROLL CALL

VI. LAND ACKNOWLEDGEMENT

VII. FLAG SALUTE

VIII. AGENDA APPROVAL

AGENDA APPROVED AS PRESENTED.

IX. WHERE'S THE FUN?

X. PUBLIC COMMENTS

Welcome to the Council's meeting. Please address your comments to the Mayor and Council. You'll have three minutes to speak. If there are more than 20 speakers, time will be reduced to two minutes per speaker. The Clerk will call your name when it's your turn. The Presiding Officer may choose to alternate between in-person and online comments. Please state your name and city of residence and keep within the allotted time. To make every person feel welcome and safe here; please refrain from booing, clapping, heckling, yelling, or other interruptions. The meeting is recorded for transparency. Thank you for being here, and for sharing your input respectfully.

VIRTUAL PUBLIC COMMENT PRE-REGISTRATION PROCESS: To provide public comments virtually, please fill out the Virtual Public Comment Request Form in advance of the meeting. The form opens Tuesdays at 12:00 Noon and closes Mondays at 12:00 Noon. You will be confirmed by the City Clerk. If you are having difficulty, please reach out to the City Clerk at awarhol@kenmorewa.gov.

XI. CONSENT AGENDA

APPROVED BY UNANIMOUS CONSENT.

A. Approve the City Council Mini Retreat Report from January 29, 2024.
City Council Mini Retreat Report from January 29, 2024

B. Approve the City Council Special and Regular Meeting Minutes from March 18, 2024.
City Council Special and Regular Meeting Minutes from March 18, 2024

C. Approve the City Council Regular Meeting from March 25, 2024.
City Council Regular Minutes from March 25, 2024

D. Approve Total Check #s 53972 through 54063 totaling $534,495.46 and Total Payroll/Taxes/Flexible Spending/Retirement & Health Savings Account Electronic Deposits Dated 3/8/2024 in the amount totaling $281,129.27, ACH Payment #s 1562 through 1564 totaling $17,565.43.
Voucher Certification and Approval 3/2/2024 - 3/15/2024

E. Accept the $185,120 of Transportation Improvement Board (TIB) funding for the NE 170th Interim Sidewalk Project and authorize the City Manager to execute the appropriate agreements with TIB.
Agenda Bill - TIB Grant Award

F. Receive and file the A Regional Coalition of Housing (ARCH) March 2024 Strategic Plan.
Agenda Bill - ARCH Strategic Plan
Attachment 1 - Letter from ARCH
Attachment 2 - ARCH Strategic Plan

G. Authorize the City Manager to execute Change Order #37 (contract No. 20-C2144) with Thomco Construction, Inc. in the amount of $1,680,105 to reconcile actual bid item quantity overruns / underruns on the project.
Agenda Bill - Change Order #37 for Contract No. 20-C2144
Attachment 1 - Change Order #37

XII. STUDY SESSION AGENDA

A. Middle Housing Concepts and Options, joined by Planning Commissioners, presented by Community Development Director Debbie Bent, Principal Planner Todd Hall, and Kimley-Horn Consultant Clay White, *for discussion*
STUDY SESSION HELD AND TOPIC DISCUSSED.
Agenda Bill - Middle Housing Study Session
Attachment 1 - Briefing Memo
Attachment 2 - Presentation (Updated 4/2/2024)

B. Proposed Ordinance No. 23-0597, Tier 2 Tree Regulations, presented by Development Services Director Samantha Loyuk and Assistant to the City Manager Garrett Oppenheim, *for discussion*
STUDY SESSION HELD AND TOPIC DISCUSSED.
Agenda Bill - Tier 2 Tree Regulations
Attachment 1 - Feedback from the Public (Excel)
Attachment 2 - Written Feedback from the Public on Proposed Regulations (Updated 4/3/2024)
Attachment 3 - Current Kenmore Municipal Code (KMC) Provisions
Attachment 4 - Code Amendments, as Proposed in November 2023
Attachment 5 - Code Amendments, as Proposed in November 2023 with Annotations where Public Recommends Revisions
Attachment 6 - City of Kirkland Updated Tree Code
Attachment 7 - Snohomish County Tree Code

XIII. BUSINESS AGENDA

A. Post Legislative Session Presentation, presented by Gordon Thomas Honeywell Government Relations State Lobbyist Shelly Helder, *for discussion*
DISCUSSED.
Presentation - City of Kenmore 2024 Legislative Session (Uploaded 4/2/2024)
Report - End of Session (Uploaded 4/2/2024)

XIV. STAFF REPORTS

XV. COUNCILMEMBER REPORTS & COMMENTS

XVI. ADJOURNMENT

UPCOMING MEETINGS

A. Monday, April 15, 2024 7:00 PM - City Council Regular Meeting
Monday, April 22, 2024 7:00 PM - City Council Regular Meeting
Friday, April 26, 2024 - Saturday, April 27, 2024 - City Council Retreat (Offsite)

NOTICE OF POTENTIAL QUORUMS

Click here for information about Potential Quorums of the City Council. Now found on the City website under City Council Meetings.

MICHAEL R. PENDLETON Ph.D.

34225 BRIDGEVIEW DR. N.E.
KINGSTON, WASHINGTON 98346
Cell (360) 509-1333
e-mail: mpendleton@telebyte.com

THE

KENMORE CITY COUNCIL

MINI-RETREAT

January 29th, 2024

Summary Report

Introduction

The Kenmore City Council held a "Mini" Retreat on January 29th, 2024 at the Kenmore City Hall. The purpose of this retreat was to discuss key projects and topics identified prior to the retreat. The following agenda guided the discussions during this council retreat:

1. Review of 2024 City Work Plans
2. City Council Team Building
3. City Council Norms and Working Agreements

The following report is a summary of the discussions and outcomes of the retreat (a complete recording of this retreat was made and is retained by City officials):

Review of 2024 City Department Work Plans

The retreat began with a presentation, overview and brief discussion of the 2024 City Department work plans in the following areas:

-City Manager's Office
-Community Development
-Development Services
-Engineering
-Environmental Services
-Finance and Administration
-Operations
-Police
-Planning Commission Docket

City Council Team Building

Beginning in 2024, three new Council Members joined the City Council. Accordingly, the next discussion module focused up topics designed to initiate the reformation of the City Council as a policy team.

Looking forward to into 2024. Each participant was given the opportunity to indicate what they were looking forward to addressing/accomplishing in 2024. City Council Members noted the following:

-A successful 2024 would include positive movement on the Lakepointe Project.

-Reengaging our community with more community engagement activities, working together in an effective manner.
-Continued enhancement and use of the Downtown area.
-Addressing the need for mixed use and more housing stock.
-Moving the Public Pool project forward.
-Address increased density, putting in more sidewalks, protecting the environment.
-Enhancement of pedestrian and bicycle infrastructure and safety.
-Address a Tier 2 tree ordinance.
-Continuing with the good day-to-day work we are doing.

The City Staff noted the following:
-A good sustainable budget.
-Upcoming events including Farmers Market and others.
-Hank Heron mascot costume.
-Public Works Operations Center Project

Polarity Thinking. During the June 2023 City Council retreat, the City Manager presented a team building concept for discussion known as "Polarity Thinking" developed by Barry Johnson. The essence of this model is the recognition and understanding of how two "good things" seemingly exist and compete with one another over time, forcing choices that are difficult and often at the heart of conflict. Participants discussed the nature and impacts of polarity thinking and the role of compromise to avoid false dichotomies and polarizing "good vs. evil" rhetoric at the June retreat. The participants were shown the YouTube clip of this presentation from the 2023 retreat.

City Council Norms and Working Agreements

As extension of the above Team Building discussion the participants next discussed the nature and purpose of Team Norms and Working Agreements. Norms were loosely defined as "a standard or pattern of behavior that is typical or expected". It was noted that other cities are identifying and writing down their City Council norms to assist in the onboarding of new members and to serve as an informal guide for creating productive working relationships and outcomes (See Appendix Two). It was also noted that approximately twenty years ago the City of Kenmore City Council along with other jurisdictions had

identified various working agreements as an aid to productive working relationships (see Appendix Three).

Participants further discussed the nature of council norms to include how norms/agreements differ from Council rules, formal codes of conduct and professional expectations. A range of various types of agreements were discussed such as the "no surprise" rule, the value of having freedom to speak ones mind, freedom to change ones position on issues given new developments/information, the importance of assuming "good intentions", the value of asking questions and gaining necessary information and the value of letting colleagues know where one stands on issues as they progress. It was noted that consistent working norms between the City Council and Staff are also important. Finally, it was noted that professional disagreement on issues is not just to be expected but is valuable in the creation of effective public policy. It was noted that "effective disagreement" is a characteristic of great policy teams. Based upon the discussion, the following are norms seemed to be potentially useful to the City Council:

1. Practice the "no surprise" rule with each other, staff and community partners.
2. Assume the best intentions in your colleagues and others.
3. Explain your position on issues as they progress toward final outcome.
4. Speak to the policy at hand and not about the people involved.
5. Practice effective disagreement where we value what others have to say, encourage one to speak their mind, and make it about the policy not the people.
6. Strive to encourage, invite and solicit all participants views on policy issues.
7. Notify colleagues and staff of media interest and/or work on city issues once you become aware.

After a long discussion the participants agreed to the following:

Agreement One: An ad hoc committee consisting of the Mayor Herbig, Council Member Culver and the City Manager will meet to discuss the possibility/process for establishing written Council Norms. Note: One Council Member does not support the codification of council norms.

Appendix One
Retreat Participants

Mayor
Nigel Herbig

Deputy Mayor
Melanie O'Cain

Council Member
Jon Culver

Councilmember
Nathan Loutsis

Councilmember
Joe Marshall

Councilmember
Valerie Sasson

Councilmember
Debra Srebnik

City Manager
Rob Karlinsey

Selected Department Directors Participated During Specific Conversations

Facilitator
Michael Pendleton

Appendix Two

St. Louis Park City Council norms

DO:

- • Assume good intentions
- • Agree to disagree
- • Pay attention to each other; listen
- • Accept the vote once taken and support implementation. *(Suggested response: "I accept the body's decision, even though I didn't vote for it.")*
- • Make sure everyone has opportunity to speak
- • Be respectful, open and honest
- • Exercise humility
- • Seek opportunities to make/build connections with each other
- • Address problems with other council members in a timely and constructive manner
- • Accept the decisions of other council members
- • Focus discussions on policy
- • Check self in adherence to norms; practice self-regulation

DON'T:

- • Have side conversations
- • Personalize policy disagreements, or take offense to what someone says as their truth
- • Get stuck when you disagree with an outcome

Accountability to norms

- • Exercise caution calling each other out in public
- • Identify/own your feelings and needs when speaking up ○ Say "I'm not feeling heard" or "I'm feeling we are not able to agree to disagree"
- • Address issues/concerns one on one or with an intermediary

Guidance for council/staff interactions *(to be further developed at a future workshop)*

- • DO strive to request only information you need to make the decision at hand
- • **DON'T** re-litigate points with staff during implementation

Established January 27, 2022; updated May 9, 2022

Council protocols for key situations

Titles

- • During *council meetings*, council addresses each other using titles (for example, Mayor Spano)
- • During *study sessions*, council uses first names.
- • Staff uses council titles in public communications with council; council uses first names for staff.

Public discussions

- • Council wants more organic and free-flowing discussion; the mayor is responsible for facilitating this.
- • Mayor will generally speak last in council meetings but will participate more flexibly in study sessions.

Ward considerations

- • For issues specific to a ward, the impacted ward member speaks first and make(s) the motion unless they decline to do so.

Recusals

- • Council members should recuse themselves from an issue as soon as a conflict is reasonably apparent or identified, and no later than before a vote.
- • Once a council member has recused themselves from an issue, they should not work on the issue with staff or speak on it as a council member.
- • When a vote happens, they may elect to sit at or leave the dais and may choose to leave the room during the discussion.
- • They also may only speak to staff or other council about the topic on the same basis as any other member of the public.

Connections

- • Council will have recurring dinner connections on the first and third Mondays of each month. One will be before a council meeting/study session at city hall, one will be after the meeting offsite.

Spokesperson

- • In general, the mayor represents the council to the media on issues of “why” and staff work with media on the “how.”
- • Council may represent themselves on issues they feel strongly about, making it clear they don’t speak for the city council.
- • As a general rule, council should always notify staff of media requests and/or appearances to avoid surprises.

Emails

- • When a member of the public sends an email to multiple council or staff, the impacted ward member takes the lead (or mayor if not a ward issue).
- • Suggestion is for the ward member to “reply all” to say, “Thanks for your message, I’ll reach out separately to avoid any open meeting law conflicts.”
- • The group will give the mayor or ward member 24 hours to respond.
- • It’s okay for council members to reply directly to senders to acknowledge the message.

- • Staff is also available to assist with crafting responses

Appendix Three

Sample

City Council Working Protocols and Agreements

Courtesy Norms

1. **To be courteous and professional at all times**
2. **To avoid discourteous behavior such as sidebar discussions or rolling of eyes when colleagues are speaking etc.**
3. **To be recognized by the Mayor before speaking in study sessions, and full council meetings by the raising of hands.**
4. **To speak in turn after being recognized.**
5. **To praise each other in pubic and criticize in private.**
6. **To have the staff follow-up with citizens, when appropriate, on issues brought before the council.**
7. **To wait until citizens have returned to their seats in the audience before paraphrasing and responding to citizen presentations.**
8. **To enforce and adhere to the three minute citizen speaking rule.**
9. **To assist the mayor in responding to citizens and clarifying key points.**
10. **To, at all times, treat staff in a polite and professional manner.**

Respect our differences, honor disagreement and vote and move on

1. **Disagreement and differences is an honored and respected feature of government in "the city".**
2. **When requested, council members will be given time to explain their votes on issues, although council members are not required to make a public statement explaining their vote.**
3. **Do not seek out the media to vent feelings when on the losing end of a vote.**
4. **Do not criticize those who voted against your position on issues.**

5. **When there is media coverage of an issue do not automatically assume that those who are in the minority on the particular issue initiated the media contact.**
6. **On Key issues (selection of Mayor, bond issues, etc.) strive for a 7-0 vote for the good of the whole.**
7. **Once the policy or issue is passed/defeated by majority vote get on board and do not work against the decision.**
8. **Once a vote has been taken on an issue indicate you will support the policy/vote of the council.**
9. **After a vote is taken on an issue only state the councils position on the issue and direct the media or others to the City Manager for a copy of your statements given in formal council meetings.**
10. **When in strong disagreement with your colleagues simply tell them face-to-face of your views.**

Role of the Council: Policy vs. Administration.

1. **Council members will focus on policy matters and not administrative issues.**
2. **The City Manager is the primary point of contact between the City Council and the staff.**

No Surprise Rule

1. **Make every attempt to notify staff in advance of public meetings about key questions and discussion points that the council would like addressed during the policy discussion.**
2. **If necessary, elaborate in open session on key policy elements etc. to establish for the public, a formal record on policy issues under consideration.**

3. **Council members should call each other on key issues to advise of emerging issues and /or to gain information from each other on policy issues.**
4. **The council will use the council initiative process to introduce new ideas or issues (see discussion below).**
5. **Learn to count to seven. When seeking support from your elected colleagues, ask for their vote and approach all members of the elected body (not just what is needed for a majority).**

Role of the Mayor

1. **The Mayor will continue the monthly meetings held every third week of the month.**
2. **The primary role of the Mayor is to facilitate meetings and represent the city in a ceremonial capacity.**
3. **When the Mayor has a strong interest in a policy issue and/or agenda item the Deputy Mayor can be asked to lead the council meeting so the Mayor can participate fully in the agenda discussion.**
4. **The Mayor will use the "council reports" section of the agenda to inform the council of Mayors activities for the past week.**
5. **The Mayor will use the council initiative process to bring new issues to the council**
6. **A FYI announcement will be given in advance of those public presentations/ceremonies/events that the Mayor is invited to attend.**
7. **The Mayor will ask others on the council to accompany or attend meetings in place of the Mayor when he/she cannot attend.**

The council initiative process

1. **Topic or issue is first raised in a council study session**
2. **The topic/issue is first presented as a concept to include a statement of the problem (if known) and how the topic relates to existing city goals.**
3. **On emerging issues, members can call their colleagues and ask to have the item on the next available council agenda.**
4. **It takes four votes to move an item from study session to the full council agenda.**
5. **If an agenda item on the regular council meeting agenda has not been presented/discussed in a study session, two members can ask for the item to be moved to a study session for discussion. The item will be moved to study session if there are four votes to do so. The item is removed for one week.**

City of Kenmore
City Council Meeting
Special & Regular Meeting Minutes
Monday, March 18, 2024

These minutes are created to capture Council action. This is not a verbatim transcript.
Meeting video and audio is available on the City YouTube channel.

PRESENT:

Councilmembers: Mayor Nigel Herbig
Deputy Mayor Melanie O'Cain
Councilmember Joe Marshall
Councilmember Debra Srebnik
Councilmember Valerie Sasson
Councilmember Jon Culver
Councilmember Nathan Loutsis

Staff: Deputy City Manager Stephanie Lucash
City Attorney Dawn Reitan
Deputy City Clerk Michelle Kang
Co-Clerk Brian Randall
Finance and Administration Director Melinda Merrell
Public Records Officer Teresa McAllister
Public Works Operations Director Jennifer Gordon
Development Services Director Samantha Loyuk
Community Development Director Debbie Bent – Virtual
Principal Planner Todd Hall

Speaking Guests: Dwight Thompson, Planning Commission Chair
Tracy Banaszynski, Planning Commissioner
Saad Qadri, Planning Commissioner
David Dorrian, Planning Commissioner
Chris Olson, Planning Commissioner
Derek Wyckoff, Planning Commissioner

Public Comments Speaking Guests:
Nathan MacDonald, Kenmore Resident
Carl Michelman, Brier Resident / Kenmore Business Owner

CALL SPECIAL MEETING TO ORDER
Mayor Herbig called the special meeting to order at 6:00 PM.

EXECUTIVE SESSION
Confidential Session of the Council – Pursuant to RCW 42.30.110(1)(i), the City Council entered an executive session to discuss potential litigation. This executive session was slated to last approximately one hour, until 7:00 PM. No final action followed directly after the executive session.

ADJOURN SPECIAL MEETING
Mayor Herbig adjourned the special meeting at approximately 7:01 PM.

CALL REGULAR MEETING TO ORDER
Mayor Herbig called the regular meeting to order at 7:01 PM.

LAND ACKNOWLEDGEMENT
Mayor Herbig read the Land Acknowledgement Honoring First Peoples.

FLAG SALUTE
Mayor Herbig led the Council in the flag salute.

AGENDA APPROVAL

MOTION: Councilmember Marshall moved to approve the agenda as presented. Councilmember Loutsis seconded the motion.

AMENDMENT: Councilmember Srebnik moved to add a motion to approve the City's participation in the Johnson & Johnson opioid settlement with the State of Washington and authorize City Manager or designee to execute the necessary Settlement Participation form and take all steps necessary for the City to participate in the settlement. Deputy Mayor O'Cain seconded the motion.

MAIN MOTION: Councilmember Marshall moved to approve the agenda with the additional motion to the consent agenda. Councilmember Loutsis seconded the motion.
VOTE: Approved by UNANIMOUS CONSENT

WHERE'S THE FUN?
Deputy City Manager Stephanie Lucash highlighted the Love Where You Live Community Workshops, which concluded last week. The four community workshops took place to gather community input of what they wanted to see for the future of Kenmore's Downtown and Lakepointe.

PUBLIC COMMENTS

The City Council took comments from the public.
Timestamped link here:
https://youtu.be/GdeMPrgHUyw?si=c04qk99hUGMAwcA6&t=3902

CONSENT AGENDA

A. Approve the City Council Joint Special Meeting with Northshore School District Board Minutes from February 5, 2024.
City Council Joint Special Meeting with NSD Board Minutes from February 5, 2024

B. Approve the City Council Special and Regular Meeting Minutes from February 26, 2024.
City Council Special and Regular Meeting Minutes from February 26, 2024 (uploaded 3/15)

C. Approve the City Council Special Meeting Minutes from March 4, 2024.
City Council Special Meeting Minutes from March 4, 2024

D. Approve Total Check #s 53878 through 53971 totaling $515,974.72 and Total Payroll/Taxes/Flexible Spending/Retirement & Health Savings Account Electronic Deposits Dated 2/23/2024 in the amount totaling $239,567.68, ACH Payment #s 1545 through 1561 totaling $29,896.91, and Payroll Check #10253 in the amount of $1,249.82.
Voucher Certification and Approval 2/17/2024 - 3/1/2024

E. Adopt Ordinance No. 24-0603, updating the Non-Exclusive Franchise Agreement with Comcast Cable Communications Management, LLC.
Agenda Bill - Comcast Franchise
Attachment A - Proposed Ordinance No. 24-0603

F. Adopt Resolution No. 24-412, adopting the City of Kenmore 2022-2026 Comprehensive Emergency Management Plan (CEMP).
Agenda Bill - Comprehensive Emergency Management Plan (CEMP)
Attachment 1 - Resolution No. 24-412 Adoption of Comprehensive Emergency Management Plan (CEMP)
Attachment 2- City of Kenmore CEMP 2022-2026
Attachment 3 - CEMP Promulgation Letter
Attachment 4 - City of Kenmore CEMP Completed Review

G. Approve a contract contingency increase of $177,181 for an overall contract amount of $2,089,888 and authorize the City Manager to execute change orders to Contract No. 23-C2893 with RRJ Company, LLC for the 2023 Pavement Overlay and Sidewalk Repair Project.

Agenda Bill - Contract No. 23-C2893, Contract Contingency Increase and Change Orders

H. Authorize the City Manager to execute Contract No. 24-C3019 with EarthCorps for Swamp Creek restoration work.
Agenda Bill - Contract No. 24-C3019
Attachment 1 - Contract No. 24-C3019 Swamp Creek Watershed Restoration Agreement

I. Authorize the City Manager to use $1,125.60 in City funds for the payment of permit fees related to the Camp United We Stand temporary homelessness encampment permit application.
Agenda Bill - Camp United We Stand Permit Fees
Attachment 1 - Fee Waiver Request Letter
Attachment 2 - Permit TMP23-0869 Receipt

J. Approve the City's participation in the Johnson & Johnson opioid settlement with the State of Washington and authorize City Manager or designee to execute the necessary Settlement Participation form and take all steps necessary for the City to participate in the settlement. *(Added during the Agenda Approval above)*

MOTION: Councilmember Loutsis moved to approve the amended consent agenda outlined above (addition of Item J). Councilmember Culver seconded the motion.
VOTE: Consent Agenda was approved by UNANIMOUS CONSENT

PRESENTATIONS

A. Accountant Brian Randall was recognized by Staff and City Council for his 18 years of service to Kenmore.

B. Public Records Requests Update, presented by Public Records Officer Teresa McAllister and Deputy City Clerk Michelle Kang
Presentation

Public Records Officer Teresa McAllister and Deputy City Clerk Michelle Kang presented on the 2023 Public Records Request Update. The presentation included a review of the Public Records Act, the process of a public records request, and data from 2023 about Kenmore's public records requests.

PUBLIC HEARING

Temporary Use Permit No. TMP24-0081, to allow interim temporary public works shop/yard, a construction and trade use, to continue through 2024, presented by Public Works Operations Director Jennifer Gordon and Development Director Samantha Loyuk, *for public hearing*

Agenda Bill - Temporary Use Permit
Exhibit A - Renewal Narrative
Exhibit B - Renewal Application
Exhibit C - Site Plan
Exhibit D - Site Photos

Development Director Samantha Loyuk and Public Works Operations Director Jennifer Gordon informed the Council about the temporary use permit no. TMP24-0081. The property located at 6532 NE Bothell Way is currently being used for the public works workshop. The initial plan was for the workshop to move, but now with this proposed temporary use permit, the workshop will remain in the location until the new location is ready, the beginning of 2025 at the earliest.

The Council had no questions or comments.

Mayor Herbig opened the Public Hearing at approximately 7:32 PM.
No individuals provided public testimony during the public hearing.
Timestamped link here:
https://youtu.be/GdeMPrgHUyw?si=rybAllOmnPR761AI&t=5559
Mayor Herbig closed the Public Hearing at approximately 7:33 PM.

BUSINESS AGENDA

A. Temporary Use Permit No. TMP24-0081, to allow interim temporary public works shop/yard, a construction and trade use, to continue through 2024, presented by Public Works Operations Director Jennifer Gordon and Development Director Samantha Loyuk, *for public hearing*
   Agenda Bill - Temporary Use Permit
   Exhibit A - Renewal Narrative
   Exhibit B - Renewal Application
   Exhibit C - Site Plan
   Exhibit D - Site Photos

Staff provided no additional information. The Council had no questions or comments.

MOTION: Councilmember Loutsis moved to approve Temporary Use Permit No. TMP24-0081. Mayor Herbig seconded the motion.
VOTE: 7 Yes–Loutsis, Culver, Srebnik, Marshall, Sasson, O'Cain, Herbig; 0 No; 0 Abstain.
MOTION PASSES

B. Planning Commission's Recommendations for Comprehensive Plan Amendments - Economic Development Element, presented by Community Development Director

Debbie Bent, Principal Planner Todd Hall, and Planning Commissioners, *for discussion*
Agenda Bill - Economic Development Element
Exhibit A - Draft Economic Development Element
Exhibit B - Summary of Proposed Amendments
Exhibit C - SEPA Determination
Presentation

Principal Planner Todd Hall presented on the Economic Development Element of the Comprehensive Plan Amendments that Planning Commission recently reviewed for Council. Planning Commissioners emphasized on different topics of the Economic Development Element such as interactions of systems such as environment, healthcare access, affordable housing, and sustainability as the drivers of future economic growth; clean light manufacturing; current and potential commercial use space, how the City can support existing and new businesses; and Kenmore's income strata.

Councilmembers provided questions and comments. Staff will return at a later Council meeting to discuss the Economic Development Element further.

STAFF REPORT
Deputy City Manager Stephanie Lucash read a statement written by City Manager Rob Karlinsey and Engineering Director John Vicente, providing an update on the 193rd Slip Lane Closure.

COUNCILMEMBER REPORTS & COMMENTS

EXECUTIVE SESSION
Confidential Session of the Council – Pursuant to RCW 42.30.110(1)(i), the City Council entered an executive session to discuss potential litigation. This executive session was slated to last approximately 20 minutes. No final action took place.

ADJOURNMENT
Mayor Herbig adjourned the meeting at approximately 9:10 PM.

_____
Nigel Herbig, Mayor

_____
Michelle Kang, Deputy City Clerk

City of Kenmore
City Council Meeting
Regular Meeting Minutes
Monday, March 25, 2024

These minutes are created to capture Council action. This is not a verbatim transcript.
Meeting video and audio is available on the City YouTube channel.

PRESENT:

Councilmembers: Mayor Nigel Herbig
Deputy Mayor Melanie O'Cain
Councilmember Joe Marshall
Councilmember Debra Srebnik
Councilmember Valerie Sasson – Virtual
Councilmember Jon Culver
Councilmember Nathan Loutsis

Staff: City Manager Rob Karlinsey – Virtual
Deputy City Manager Stephanie Lucash
City Attorney Dawn Reitan
City Clerk Anastasiya Warhol
Deputy City Clerk Michelle Kang
Housing and Human Services Manager Tambi Cork
Community Development Director Debbie Bent

Speaking Guests: Erika Del Villar, Outgoing DEIA Advisory Committee Member
Dr. Eric Murray, Cascadia College President
Dr. Megan Beers, HMA Senior Consultant

Public Comments Speaking Guests:
Edouard Lassalle, Kenmore Resident
Jennifer Anderson, Kenmore Resident
Kara Macias, Kenmore Resident
Geoff Chism, Kenmore Resident
Elizabeth Mooney, Kenmore Resident

DRAFT

CALL REGULAR MEETING TO ORDER
Mayor Herbig called the regular meeting to order at 7:00 PM.

LAND ACKNOWLEDGEMENT
Mayor Herbig read the Land Acknowledgement Honoring First Peoples.

FLAG SALUTE
Mayor Herbig led the Council in the flag salute.

AGENDA APPROVAL
The agenda was approved as presented.

PROCLAMATIONS

A. Mayor Herbig, on behalf of the City Council, proclaimed April 2024 as Sexual Assault Awareness Month.
   Proclamation - Sexual Assault Awareness Month, April 2024

B. Mayor Herbig, on behalf of the City Council, proclaimed April 2024 as Child Abuse Prevention Month.
   Proclamation - Child Abuse Prevention Month, April 2024

RECOGNITION
Deputy City Manager Stephanie Lucash recognized outgoing Diversity, Equity, Inclusion, and Accessibility (DEIA) Advisory Committee Member Erika Del Villar, with remarks from Chair Nancy Thai, for her contributions to the City.

WHERE'S THE FUN?
Deputy City Manager Stephanie Lucash highlighted three Kenmore staff who recently graduated from the Northwest Women's Leadership Academy (NWWLA). Housing and Human Services Manager Tambi Cork, Finance and Administrative Manager Carla Schnee, and Development Services Director Samantha Loyuk were part of Cohort 5. Applications for Cohort 6 open towards the end of April.

PUBLIC COMMENTS
The City Council took comments from the public.
Timestamped link here:
https://www.youtube.com/live/nPPySy_07dY?si=LDgwDtg18HKHhkOn&t=734

CONSENT AGENDA

A. Authorize the City Manager to execute Contract No. 23-C2991 with Confluence Environmental Company, in an amount not to exceed $265,000, for environmental mitigation monitoring and stewardship services.

Agenda Bill - Contract with Confluence Environmental Company
Attachment 1 - Contract No. 23-C2991 Scope of Work and Fees
Attachment 2 - RFP 23-C2991

B. Authorize the City Manager to execute Interlocal Agreement 24-C3024 with the Washington State Department of Commerce to accept grant funds totaling $110,000 to develop an Electric Vehicle Infrastructure Plan.
Agenda Bill - Interlocal Agreement 24-C3024
Attachment 1 - Interlocal Agreement 24-C3024

C. Authorize the City Manager to execute Interlocal Agreement 24-C3027 with the Washington State Department of Natural Resources to accept grant funds totaling $105,200 to develop an Urban Forestry Management Plan and street tree inventory.
Agenda Bill - Interlocal Agreement 24-C3027

MOTION: Councilmember Srebnik moved to approve the consent agenda outlined above. Councilmember Culver seconded the motion.
VOTE: Consent Agenda was approved by UNANIMOUS CONSENT

PRESENTATION

State of the College: The Cascadia Roadshow, presented by Cascadia College President Dr. Eric Murray
Presentation

Dr. Eric Murray presented to the Council an update on Cascadia College from 2023 and the first few months of 2024. He presented information on student success, diversity & inclusion, access, and growth.

STUDY SESSION

Human Services Needs Assessment Preliminary Report, presented by Housing and Human Services Manager Tambi Cork and HMA Senior Consultant Dr. Megan Beers, *for discussion*
Agenda Bill - Human Services
Attachment 1 - Presentation
Attachment 2 - Community Survey Results (corrected 3/25)

Tambi Cork, Housing and Human Services Manager, and Dr. Megan Beers, HMA Senior Consultant, delved into the initial themes derived from the survey results. They highlighted the urgent need for enhanced systems of support and better resource knowledge and navigation. There was a pronounced need for local services and spaces that are accessible to residents, addressing additional barriers such as affordability

impacts on both residents and the workforce, limited transportation options, and the prevalent challenges in the nonprofit human services sector.

Community voices from the survey highlighted the need for greater visibility and accessibility of services, especially for those without internet or facing language and cultural barriers. Public data highlighted housing cost burdens and workforce challenges, particularly in the human services sector, where employees earn significantly less than in other fields with comparable skills.

The initial themes discussed in the meeting covered the necessity for improved systems of support, addressing access barriers, prioritizing funding for key areas like housing, mental health, and establishing the City's role in enhancing human services through education and systemic inequity awareness. The upcoming steps include developing actionable recommendations, forming a Human Services Advisory Group, launching an education campaign, and enhancing ongoing relationships with community partners to address the identified needs effectively.

Councilmembers reiterated the need for mental health services specifically.

Ms. Cork mentioned the underutilization of current programs such as Puget Sound Energy's cost reduction and property tax exemptions available to Kenmore senior residents. Ms. Cork previewed next steps in the process, including utilizing a wide variety of outreach methods. She noted the City's intention to move towards more targeted strategic planning in late May.

STAFF REPORT

Affordable Housing Discussion Schedule, presented by Community Development Director Debbie Bent and Housing and Human Services Manager Tambi Cork

Presentation - Affordable Housing Discussion Schedule

Memo - Update on Permanent Supportive Housing and Other Affordable Housing Topics

Community Development Director Debbie Bent and Housing and Human Services Manager Tambi Cork presented to the Council the 2024 and 2025 Affordable Housing Workplan, including policy and regulations for both 2024 and 2025, and projects.

In the upcoming years, the City is focused on revising and enhancing its housing strategies to meet current needs and legal requirements. In 2025, there will be updates to the City's Affordable Housing Strategy, initially adopted in 2017. This includes developing regulations for various supportive housing types such as Permanent Supportive Housing, aligning with State Law (HB 1220). Additionally, in 2024, the focus

will be on the Middle Housing Policy and Regulations pursuant to State Law (HB 1110), which is included in the City's 2024 docket. This policy update will address accessory dwelling units (ADUs), cottage housing, and the construction of small houses on smaller lots. Alongside these policy updates, there is an ongoing project involving negotiations with Imagine Housing regarding their proposal for the city-owned property at 7010 NE 181st Street, known as The Approach.

Councilmembers offered comments related to the purpose and design of a potential affordable housing advisory committee. Staff agreed to take their comments and present a plan closer to the end of the year or the beginning of next year.

COUNCILMEMBER REPORTS & COMMENTS

ADJOURNMENT

Mayor Herbig adjourned the meeting at approximately 9:15 p.m.

_____

Nigel Herbig, Mayor

_____

Anastasiya Warhol, City Clerk

DRAFT

Voucher Certification and Approval

City of Kenmore

DATE RANGE: 3/2/2024 through 3/15/2024

I, the undersigned, do hereby certify under penalty of perjury that the materials have been furnished, the services rendered or the labor performed as described herein, that any advance payment is due and payable pursuant to a contract or is available as an option for full or partial fulfillment of a contractual obligation, and that the claim is a just, due and unpaid obligation against the City of Kenmore and that I am authorized to authenticate and certify to said claim. The following checks and electronic payments are approved for payment:

Total ACH Payments #1562-1564:	**17,565.43**
Total Checks #53972 through 54063:	**534,495.46**
Total Payroll Electronic Deposits: Payroll/Taxes/FSA/HSA/Retirement, Dated 3/8/2024	**281,129.27**

Rob Karlinsey
Rob Karlinsey (Mar 19, 2024 17:14 PDT)

Mar 19, 2024

City Manager / Date

Melinda Merrell
Melinda Merrell (Mar 19, 2024 10:05 PDT)

Mar 19, 2024

Finance & Administration Director / Date

Vendor Name	Payment Number	Payment Date	Description	Amount
AMERICAN TRAFFIC SOLUTIONS INC	1562	03/14/2024	February Automated Photo Enforcement	15,000.00
ELECTRONIC BUSINESS MACHINES	1563	03/14/2024	Feb. 2nd Floor Copier B/W & Color Overage Chgs	194.62
KBA INC.	1564	03/14/2024	1/28-2/24 Tl' awh-ah-dees Park Project	2,370.81
AMERICAN GENERAL LIFE GPO/400S	53972	03/08/2024	Life Insurance	220.33
HESTON PHOTOGRAPHY	53973	03/08/2024	Council Portrait Photographs	420.04
AABCO BARRICADE COMPANY INC.	53974	03/15/2024	ADA Parking Signs/Caution Tape for Stock	352.37
ACF WEST INC	53975	03/15/2024	Materials for SR22569 Dredge Ditch/Drainage	550.50
AGORA REFRESHMENTS	53976	03/15/2024	Monthly City Hall & PW Office Filtered Water Systems	198.02
ALWAYS ACTIVE SERVICES LLC	53977	03/15/2024	23-C2902 Feb. Construction Services	54,159.36
AM TEST, INC	53978	03/15/2024	Tl' ah awh-ah-dees Water Sample Testing	30.00
AMERICALL	53979	03/15/2024	February After Hours Call-Out Services	164.66
BIZDIVERSITY	53980	03/15/2024	2/27 & 2/29 Love Where You Live Interpreter	500.00
CASCADIA LAW GROUP	53981	03/15/2024	February Cadman Legal Services	843.75
CITY OF BELLEVUE	53982	03/15/2024	Quarter 1 Subscription MyBuildingPermit.com	4,840.73
CITYWORKS/AZTECA SYSTEMS LLC	53983	03/15/2024	4/17/24-4/16/25 Annual Renewal	43,832.13
CONSOLIDATED PRESS	53984	03/15/2024	Winter Quarter Newsletter	5,808.24
D.P. NICOLI, INC.	53985	03/15/2024	Shoring Rental for Crushed Pipe Repair	469.37
DTG RECYCLE	53986	03/15/2024	Dumping of Trash from Wallace Swamp Crk.	267.23

Vendor Name	Payment Number	Payment Date	Description	Amount
EMC RESEARCH, INC.	53987	03/15/2024	Kenmore Priorities Survey #2	17,000.00
FERGUSON WATERWORKS #3156	53988	03/15/2024	Parts for Repairing Crushed Pipe	445.36
GAYLYNN BRIEN	53989	03/15/2024	Dec. 2023 Sales Tax Data Conversion Services	60.00
GORDON THOMAS HONEYWELL	53990	03/15/2024	February Governmental Affairs Svcs.	4,515.00
GRAINGER	53991	03/15/2024	City Hall Wall Bumpers	39.17
HDR ENGINEERING, INC	53992	03/15/2024	Feb. Juanita Dr. Ped/Bike Engineering Svcs.	6,771.32
HOLMBERG COMPANY	53993	03/15/2024	Plumbing Services at City Hall	1,100.04
HOME DEPOT CREDIT SERVICES	53994	03/15/2024	1/31-2/26 Supplies & Equipment Purchased	1,064.28
HONEY BUCKET	53995	03/15/2024	3/4-3/31 Public Works Yard Rental	167.75
HORIZON DISTRIBUTORS INC	53996	03/15/2024	Materials for Juanita Dr. ROW Landscape	786.31
HUNTINGTON TECHNOLOGY FINANCE	53997	03/15/2024	4/1/24-3/31/25 Council Chamber AV Lease	44,565.62
INSLEE, BEST, DOEZIE & RYDER, P.S.	53998	03/15/2024	January City Attorney Legal Services	45,145.26
JOHN BAYS	53999	03/15/2024	PRJ2013-057/ENG2014-0461 Dep. Refund	7,500.00
JONES BOYS MAINTENANCE CO. INC.	54000	03/15/2024	Senior Center Roof Cleaning	1,414.79
KENMORE MIDDLE SCHOOL	54001	03/15/2024	4th Qtr Human Svcs Funding - Kitchen Table	2,500.00
KENMORE SENIOR CENTER	54002	03/15/2024	4th Qtr 2023 Human Svcs Funding	7,812.50
KING COUNTY FINANCE	54003	03/15/2024	Small Cities Screening Reimbursement	80.00
KING COUNTY FINANCE	54004	03/15/2024	Hangar Bldg. Sewer Treatment Capacity Chg.	158.49
LIGHTHOUSE CONSULTING INC	54005	03/15/2024	Feb. IT and Software Services	13,881.23
MARY MILLER STEPHENS	54006	03/15/2024	Feb. Public Defense Svcs @ SCORE	1,250.00
METROPOLITAN TRANSPORTATION COMM/	54007	03/15/2024	Annual Pavement Mgmt. Software Subscription	2,000.00
MICHELLE KANG	54008	03/15/2024	Reimbursement for Snacks @ Mandatory Training	152.40
MINUTEMAN PRESS	54009	03/15/2024	Love Where You Live Postcard/Postage	5,304.40
NAC INC	54010	03/15/2024	12/25-1/24 Aquatic Center Feasability Study	13,515.00
NARWHAL MET, LLC	54011	03/15/2024	March Weather Monitoring Services	425.00
NORTHSHORE PARK & REC SERVICE AREA	54012	03/15/2024	Kenmore's 2023 Interlocal Contribution	2,720.00
NORTHSHORE PARK & REC SERVICE AREA	54013	03/15/2024	Kenmore's 2024 Interlocal Contribution	2,720.00
NORTHSHORE UTILITY DIST	54014	03/15/2024	Feb. Fleet Fuel & Maintenance	5,616.90
OFFICE DEPOT	54015	03/15/2024	Surface ARC Mouse	88.07
OFFICE OF MINORITY & WOMEN'S BUSINESS	54016	03/15/2024	7/1/23-6/30/25 2 Yr. Subdivision Fee	2,395.47
OLSON BROTHERS PRO VAC LLC	54017	03/15/2024	Vactor Truck Svcs/Catch Basin Cleaning/Labor	37,149.41
OLYMPIC ENVIRONMENTAL RESOURCES IN(	54018	03/15/2024	Spring Recycling Event Administration	4,698.79
OSBORN CONSULTING INC.	54019	03/15/2024	Jan. NE 190th Culvert Phase II	47,235.36
OSBORN CONSULTING INC.	54020	03/15/2024	Feb. Muck Creek Mitigation Svcs	491.72
OSBORN CONSULTING INC.	54021	03/15/2024	Jan. Muck Creek Mitigation Svcs	26,602.77

Vendor Name	Payment Number	Payment Date	Description	Amount
OSBORN CONSULTING INC.	54022	03/15/2024	Feb. 170th St. Culvert Repair Svcs	1,704.79
OSBORN CONSULTING INC.	54023	03/15/2024	Jan. 170th St. Culvert Repair Svcs	1,295.72
PACIFIC AIR CONTROL, INC.	54024	03/15/2024	City Hall HVAC Repair	3,348.14
PARAMETRIX INC	54025	03/15/2024	Dec. Transportation Element Update	2,601.92
PUGET SOUND ENERGY	54026	03/15/2024	1/12-2/12 Parks' Electricity Chgs	383.02
PUGET SOUND ENERGY	54027	03/15/2024	2/1-2/19 City Hall Electricity	3,405.42
RAJESH MASKARA	54028	03/15/2024	3/2 Katherine Hines Rental Deposit Refund	250.00
REGIONAL ANIMAL SERVICES OF KC	54029	03/15/2024	Feb. Pet Licenses and Renewals	170.00
REPUBLIC SERVICES #172	54030	03/15/2024	Feb. Rhododendron Park Solid Waste Chgs.	543.41
REPUBLIC SERVICES #172	54031	03/15/2024	Feb. City Hall and PW Shop Solid Waste Chgs.	1,161.72
RRJ COMPANY, LLC	54032	03/15/2024	22-C2862 1/19-2/29 Pavement Overlay	52,099.20
SEATTLE OUT & PROUD FOUNDATION	54033	03/15/2024	2024 Pride Parade Participation/Vehicle	2,250.00
SEATTLE TIMES	54034	03/15/2024	2/12 Public Hearing Notice	110.00
SHANNON TIPPLE-LEEN	54035	03/15/2024	Council Photo Framing Reimbursement	173.45
SHORELINE FIRE DEPT	54036	03/15/2024	Police Department Seminar	120.00
SKYCORP, LTD	54037	03/15/2024	void	-
STAPLES	54038	03/15/2024	City Hall & Hangar Maintenance Supplies	271.95
STAPLES	54039	03/15/2024	Disposable Gloves for Parks	349.19
STAPLES	54040	03/15/2024	Paper Towels for City Hall	44.80
STAPLES	54041	03/15/2024	City Hall & Hangar Maintenance Supplies	355.98
STAPLES	54042	03/15/2024	Disposable Gloves	207.91
STAPLES	54043	03/15/2024	Hangar Bldg. Toilet Seat Covers	42.44
STAPLES	54044	03/15/2024	City Hall & Hangar Maintenance Supplies	156.98
STATE AUDITOR'S OFFICE	54045	03/15/2024	February Audit Services	12,002.85
STEWART MACNICHOLS HARMELL, INC.	54046	03/15/2024	February 2024 Public Defense Services	5,000.00
STOWE DEVELOPMENT & STRATEGIES LLC	54047	03/15/2024	23-C2976 Feb. Consulting/Economic Development	675.00
STRATEGIES 360, INC.	54048	03/15/2024	23-C2896 Feb. Federal Lobbying Services	6,500.00
T MOBILE USA, INC.	54049	03/15/2024	Staff Cell Phones and Data Plans	1,619.70
TOTAL LANDSCAPE CORP	54050	03/15/2024	Parks Landscape Maintenance	2,257.05
TRUGREEN	54051	03/15/2024	Moorlands Field Maintenance	351.53
UPS STORE KENMORE	54052	03/15/2024	Feb. Supplies/Printing - Love Where You Live Proj.	505.37
URBAN LAND INSTITUTE	54053	03/15/2024	Mar. 6th-7th Advisory Panel Comp Plan Svcs.	10,000.00
UTILITIES UNDERGROUND LOCATION CTR	54054	03/15/2024	February Utility Locates	146.52
VERIZON WIRELESS	54055	03/15/2024	Staff Cell Phones & Data Plans	80.06
WA STATE DEPARTMENT OF AGRICULTURE	54056	03/15/2024	Pesticide Applicator License Training	75.00

Vendor Name	Payment Number	Payment Date	Description	Amount
WA STATE DEPT OF LABOR & INDUSTRIES	54057	03/15/2024	City Hall & Boathouse Annual Elevator Cert.	284.30
WM CORPORATE SERVICES INC.	54058	03/15/2024	2/16-2/29 Street Sweeper Dump Fees	1,984.85
WONDERLAND CHILD & FAMILY SERVICES	54059	03/15/2024	4th Quarter Human Services Funding	500.00
XEROX CORPORATION	54060	03/15/2024	February 1st Floor Copier Lease	127.47
XEROX CORPORATION	54061	03/15/2024	Feb. 1st Floor Copier B/W & Color Base & Overage	475.47
ZIPLY FIBER	54062	03/15/2024	2/28-3/27 City Hall Phones	674.91
ZIPLY FIBER	54063	03/15/2024	2/19-3/18 PW Office Internet	160.20
MISSION SQUARE / 109964	DFT0001864	03/08/2024	City of Kenmore 401a	27,833.83
MISSION SQUARE / 109964	DFT0001865-66	03/08/2024	City of Kenmore 401a Loan	441.87
MISSION SQUARE 457 / 304745	DFT0001867-70	03/08/2024	Mission Square 457 Deferred Comp	6,736.40
DRS 457	DFT0001871-74	03/08/2024	DRS 457 Deferred Comp	916.50
AVIDIA HEALTH	DFT0001875	03/08/2024	Employee Health Savings Contribution	348.08
DEPARTMENT OF RETIREMENT SYSTEMS	DFT0001876-85	03/08/2024	Public Employees Retirement	38,415.24
NAVIA	DFT0001886	03/08/2024	Employee Flexible Spending Account	1,051.07
BANK OF AMERICA 941	DFT0001887	03/08/2024	Federal Taxes	30,465.11
PAYROLL	EFT	3/8/2024	Direct Deposit	174,921.17
				833,190.16

Vendor Purchasing Report

For Date Range 01/01/2024 - 03/15/2024

City of Kenmore

Name	Amount
58 STARS TRAVEL	1,765.40
AABCO BARRICADE COMPANY INC.	352.37
ACF WEST INC	1,538.65
AFLAC	418.08
AGORA REFRESHMENTS	518.31
ALPHAGRAPHICS	741.99
ALWAYS ACTIVE SERVICES LLC	54,159.36
ALYSSA MONTGOMERY	150.00
AM TEST, INC	270.00
AMBER CLIFTON	407.00
AMERICALL	504.73
AMERICAN GENERAL LIFE GPO/400S	660.99
AMERICAN SOCIETY OF COMPOSERS	500.00
AMERICAN TRAFFIC SOLUTIONS INC	30,000.00
ANNA ARNOTT	136.00
ASPECT CONSULTING LLC	1,882.50
ASSOCIATION OF WA CITIES	22,510.15
AURORA RENTS	823.39
AVIDIA HEALTH	1,740.40
AWC EMPLOYEE BENEFIT TRUST	207,723.78
BANK OF AMERICA 941	149,557.76
BCN TELECOM, INC.	1,735.56
BIZDIVERSITY	750.00
BOTHELL KENMORE CHAMBER OF COMMERCE	1,500.00
BRIGHT SPARK EARLY LEARNING SERVICES	300.00
CALPORTLAND COMPANY	829.50
CANON FINANCIAL SERVICES, INC.	532.16
CAPITAL ONE TRADE CREDIT/MCLENDON	314.82
CASCADE PEST CONTROL	334.70
CASCADIA COLLEGE	30,000.00
CASCADIA LAW GROUP	2,250.00
CEDAR GROVE COMPOSTING, INC.	64.74
CENTER FOR HUMAN SERVICES	17,813.42
CHICAGO TITLE	3.50
CITY OF BELLEVUE	4,840.73
CITY OF KENMORE	2,553.80
CITY OF KENT	575.00
CITY OF LAKE FOREST PARK	56,187.00
CITYWORKS/AZTECA SYSTEMS LLC	43,832.13
CODE PUBLISHING COMPANY	103.50
COMCAST	4,218.40
COMCAST BUSINESS	459.22
CONFLUENCE ENVIRONMENTAL COMPANY	5,213.75
CONSOLIDATED PRESS	5,808.24
D.P. NICOLI, INC.	469.37
DAILY JOURNAL OF COMMERCE	316.20
DEPARTMENT OF LABOR AND INDUSTRIES	11,627.00
DEPARTMENT OF RETIREMENT SYSTEMS	189,569.68
DRS 457	3,503.00
DTG RECYCLE	389.96
E SQUARED SYSTEMS, LLC	132.12
ELECTRONIC BUSINESS MACHINES	366.34
EMC RESEARCH, INC.	34,000.00

ESD - LTC	3,950.31
ESD - PFML	7,257.33
FAST WATER HEATER	187.10
FERGUSON WATERWORKS #3156	3,459.17
FIRESTONE INVESTMENT LLC	73,202.00
FLEMINGS HOLIDAY LIGHTING LLC	2,247.17
FLYWAY RETAIL + LIVING	1,500.00
FOURTEN CREATIVE	3,700.00
FUELCARE	4,663.29
GARY ULRICH	40.00
GAYLYNN BRIEN	120.00
GCP WW HOLDCO, LLC	697.08
GOOD, MICHAEL J.	300.00
GORDON THOMAS HONEYWELL	9,030.00
GRAINGER	39.17
H.D. FOWLER COMPANY	3,668.75
HDR ENGINEERING, INC	29,003.43
HEALTH MANAGEMENT ASSOCIATES INC	15,625.00
HESTON PHOTOGRAPHY	420.04
HOLMBERG COMPANY	1,100.04
HOME DEPOT CREDIT SERVICES	2,186.21
HONEY BUCKET	503.25
HORIZON DISTRIBUTORS INC	1,533.81
HP'S SMOKEHOUSE BBQ	330.00
HRA VEBA TRUST	24,941.03
HUNTINGTON TECHNOLOGY FINANCE	44,565.62
HYDROPOINT DATA SYSTEMS, INC.	3,922.93
ICICLE VILLAGE RESORT	8,138.12
INSIDESOURCE	2,470.64
INSLEE, BEST, DOEZIE & RYDER, P.S.	69,604.91
INTERNATIONAL INST OF MUNI CLERKS	250.00
iWORQ SYSTEMS	2,800.00
JIM DANDY SEWER & PLUMBING	462.42
JOHN BAYS	7,500.00
JOHN VICENTE	434.50
JONES BOYS MAINTENANCE CO. INC.	1,414.79
JORDAN STECKS	150.00
JURASSIC PARLIAMENT	1,899.64
KARI HATCHER	150.00
KBA INC.	8,781.86
KCDA PURCHASING COOP	6,834.60
KENMORE COMMUNITY CLUB	530.00
KENMORE ELEMENTARY PTA	1,250.00
KENMORE HERITAGE SOCIETY	5,000.00
KENMORE MIDDLE SCHOOL	2,500.00
KENMORE SENIOR CENTER	7,812.50
KING COUNTY BAR ASSOCIATION	200.00
KING COUNTY FINANCE	8,653.02
KING COUNTY RECORDER'S OFFICE	100.00
KING COUNTY REGIONAL HOMELESSNESS AUTHORITY	38,000.00
KING COUNTY TREASURY	73,463.57
KOMPAN, INC	4,238.63
KPFF CONSULTING ENGINEERS	41,507.27
LAKE CITY PARTNERS ENDING HOMELESSNESS	12,500.00
LANGTON SPIETH, LLC	4,000.00
LIGHTHOUSE CONSULTING INC	32,570.15
LINCOLN NATIONAL LIFE INSURANCE	4,660.43
MARY MILLER STEPHENS	2,500.00
MELANIE O'CAIN	453.50
MELINDA MERRELL	159.79
METROPOLITAN TRANSPORTATION COMM/	2,000.00

MICHELLE KANG	339.45
MINUTEMAN PRESS	10,556.37
MISSION SQUARE / 109964	140,662.88
MISSION SQUARE 457 / 304745	33,927.89
MOTT MACDONALD	12,558.25
MR. T'S TROPHIES & AWARDS LLC	28.52
NAC INC	38,515.00
NAMI EASTSIDE	937.50
NARWHAL MET, LLC	850.00
NATIONAL BARRICADE CO., LLC	992.26
NATIONAL LIFE INSURANCE CO.	246.34
NAVIA	16,255.35
NELSON ELECTRIC, INC.	2,408.22
NIGEL HERBIG	930.70
NIKHIL PATNE	250.00
NORTHSHORE PARK & REC SERVICE AREA	5,440.00
NORTHSHORE SCHOOL DISTRICT	17,963.00
NORTHSHORE SCHOOLS FOUNDATION	750.00
NORTHSHORE SENIOR CENTER	4,062.50
NORTHSHORE UTILITY DIST	28,806.36
NORTHSHORE YOUTH SOCCER ASSOC.	55.00
NORTHWEST ARBORICULTURE LLC	4,387.93
NORTHWEST TROPHY	1,249.63
OFFICE DEPOT	1,018.55
OFFICE OF MINORITY & WOMEN'S BUSINESS ENPS	2,395.47
OLBRECHTS & ASSOCIATES, PLLC	6,633.75
OLSON BROTHERS PRO VAC LLC	38,034.41
OLYMPIC ENVIRONMENTAL RESOURCES INC	4,698.79
OLYMPIC NURSERY INC	1,250.10
ONTRA MARKETING GROUP	75.00
O'REILLY/FIRST CALL	198.28
OSBORN CONSULTING INC.	119,312.21
OUTCOMES BY LEVY, LLC	800.00
PACE ENGINEERS, INC.	50,803.00
PACIFIC AIR CONTROL, INC.	6,200.50
PACIFIC TOPSOILS	1,959.56
PARAMETRIX INC	2,601.92
PAWS	458.00
PENDLETON CONSULTING LLC	2,424.12
PETROCARD, INC	3,942.42
PLYWOOD SUPPLY	22.60
POLCO	9,000.00
PSR MECHANICAL, LLC	644.09
PUGET SOUND CLEAN AIR AGENCY	23,536.00
PUGET SOUND ENERGY	90,106.67
PUGET SOUND PLANTS	2,265.90
QUADIENT LEASING USA, INC.	645.18
RAJESH MASKARA	250.00
REGIONAL ANIMAL SERVICES OF KC	260.00
REPUBLIC SERVICES #172	3,337.52
RRJ COMPANY, LLC	102,140.62
SARABJIT MANN	7,500.00
SCHEMATA WORKSHOP INC.	243.00
SCHINDLER ELEVATOR CORPORATION	1,089.78
SCORE	12,534.79
SEATTLE OUT & PROUD FOUNDATION	2,250.00
SEATTLE TIMES	761.50
SESAC	581.00
SHANNON & WILSON, INC.	712.50
SHANNON TIPPLE-LEEN	173.45
SHERWIN WILLIAMS CO.	303.76

SHORELINE FIRE DEPT	120.00
SISKUN POWER EQUIPMENT	1,631.99
SKYCORP, LTD	43,074.87
SLABJACK NW, LLC	5,031.57
SMS CLEANING, INC.	12,990.00
SNOHOMISH COUNTY	2,586.00
SOFTWAREONE, INC.	20,361.43
ST OF WA DEPT OF FISH & WILDLIFE	40.00
STAPLES	3,668.17
STATE AUDITOR'S OFFICE	36,918.22
STATE OF WA DEPT. OF LICENSING	1.64
STEPHANIE LUCASH	276.50
STEWART MACNICHOLS HARMELL, INC.	15,000.00
STOWE DEVELOPMENT & STRATEGIES LLC	1,725.00
STRATEGIES 360, INC.	6,500.00
SUMMIT LAW GROUP PLLC	1,500.00
SUNBELT RENTALS	548.10
T MOBILE USA, INC.	3,243.75
TASTAD CONSTRUCTION INC	110,135.21
THE LODGE AT ST. EDWARD PARK	261.51
TOASTMASTERS INTERNATIONAL	250.00
TOBIN BENNETT GOLD	711.40
TOTAL LANDSCAPE CORP	14,574.14
TRUE NORTH EQUIPMENT INC	168.96
TRUGREEN	351.53
TRUSTEES OF THE HAMLINE UNIVERSITY OF MN	1,704.47
U.S. BANK N.A. / CUSTODY	136.00
U.S. BANK PURCHASE CARDS	43,841.04
ULINE	3,063.84
UPS STORE KENMORE	505.37
URBAN LAND INSTITUTE	15,000.00
US POSTAL SERVICE	2,717.73
UTILITIES UNDERGROUND LOCATION CTR	306.24
VALLEY, CHRIS & BETH	2,464.75
VERIZON WIRELESS	160.12
WA CITIES INSURANCE AUTHORITY	795,456.00
WA FINANCE OFFICERS ASSOCIATION	225.00
WA RECREATION & PARK ASSOC.	605.00
WA STATE DEPARTMENT OF AGRICULTURE	75.00
WA STATE DEPT OF LABOR & INDUSTRIES	284.30
WA STATE DEPT OF TRANSPORTATION	1,228.42
WAGNER ARCHITECTS	11,940.00
WESTERN DISPLAY FIREWORKS, LTD.	7,500.00
WESTLAKE HARDWARE WA-153	732.84
WM CORPORATE SERVICES INC.	7,805.72
WONDERLAND CHILD & FAMILY SERVICES	500.00
XEROX CORPORATION	1,783.02
YOURMEMBERSHIP.COM, INC	249.00
ZIPLY FIBER	1,668.02

City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: Transportation Improvement Board Grant Acceptance	**For Council Meeting Agenda of:** April 8, 2024 **Departments:** Public Works Engineering **Prepared by:** John Vicente, Engineering Director
Proposed Council Action/Motion: Accept the $185,120 of Transportation Improvement Board funding for the NE 170th Interim Sidewalk Project and authorize the City Manager to execute the appropriate agreements with TIB.	**Initial & Date** **Approved by Department Head:** JV 3/25/2024 **Approved by City Attorney:** NA **Approved by Finance Director:** MM 3/25/2024 **Approved by City Manager:** RK 3/25/2024 **Exhibits/Attachments:** NA

Summary:

City staff are requesting city council accept the $185,120 in Transportation Improvement Board (TIB) funds and authorize the City Manager to execute the appropriate agreements with TIB for the NE 170th Interim Sidewalk project.

Information/Background:

In February 2024, the City applied for funding with the Washington State Transportation Improvement Board's (TIB) Complete Streets Program to construct the NE 170th Interim Sidewalk project. The City was notified on March 25, 2024 that project funds in the amount of $185,120 were awarded to the project. The project is located on NE 170th St and will construct sidewalk on the north side of NE 170th street from 71st Ave NE to 72nd Ave NE as well as new bike lanes on both sides of NE 170th St from Juanita Dr to 72nd Ave NE.

The project advertisement for a contractor was issued the last week of March and staff anticipates that construction will begin in June.

Fiscal Consideration:

The TIB grant covers approximately 80% of the construction cost. The remainder of the project cost is funded with City funds.

City Council Priority or Budget Objective Being Addressed:

Council Priority 3: To focus and emphasize multimodal transportation safety in the City of Kenmore with a specific focus on pedestrian, bicycle and other means of travel.

City Council Agenda Bill
City of Kenmore, WA

Subject/Topic: March 2024 A Regional Coalition of Housing (ARCH) Strategic Plan Building More Affordable Housing Faster.	**For Council Meeting Agenda of:** 04/08/2024 **Department:** Community Development **Prepared by:** Debbie Bent, Community Development Director
Proposed Council Action/Motion: Receive and File the ARCH March 2024 Strategic Plan	**Initial & Date** **Approved by Department Head:** DB 03/26/2024 **Approved by City Attorney:** N/A **Approved by Finance Director:** N/A **Approved by City Manager:** RK 3/26/24 **Attachments/Exhibits:** 1. 3/25/24 letter to the City of Kenmore from ARCH Executive Board Chair and ARCH Strategic Planning Committee Chair. 2. ARCH Strategic Plan Building More Affordable Housing Faster Adopted March 2024.

Summary: The ARCH March 2024 Strategic Plan Building More Affordable Housing Faster was recently adopted by the ARCH Executive Board. The Strategic Plan creates a framework to guide the ARCH Board over the coming years including development of the ARCH budget and work program. The City Council approves the ARCH budget and work program each year.

Information/Background: The ARCH Executive Board recently adopted the Strategic Plan Building More Affordable Housing Faster (See Attachments #1 and #2). The Strategic Plan creates a framework to guide the ARCH Executive Board in decision making. The strategies described in the plan to build more affordable housing faster are organized around the following:

1. **Governance and Administration**: Pursuing organizational and government changes that streamline decision-making, empower the coalition to tackle major policy challenges, and increase education and engagement of elected officials from member jurisdictions.

2. **State and Regional Policy and Funding Engagement**: Focusing on targeted state and regional policy efforts that increase funding and reduce barriers that contribute to the cost of affordable housing development.

3. **Local Policy and Planning**: Maintaining support for individual planning efforts at the local level while increasing support for high impact special projects and strategies that result in creating more affordable housing faster.

4. **Program Implementation**: Housing investments and incentives, preservation, and stewardship: Continuing to provide an efficient, cost-effective vehicle for implementing local funding and incentive programs and stewarding the affordable housing assets created through those programs, while relying on partners to meet the broader set of needs of low- and moderate-income renters and homeowners.

The first year of the strategic plan is focused on preparing to launch specific strategies and for the ARCH Board to develop budget and work plan proposals for 2025-2026, with approval required by member councils. Action steps and success measures will also be developed.

Background:
On the 9/11/23 Kenmore Council meeting consent agenda there was information about the g ARCH planning process for developing the strategic plan Kenmore - Document Center (civicweb.net). A 1/19/24 e-mail to Councilmembers from the Community Development Director asked for high-level feedback on the "draft" strategic plan on whether the recommendations were going in the right direction or if there were any missing opportunities that deserved further consideration. No comments were received.

Fiscal Consideration: None.

City Council Priority or Budget Objective Being Addressed: Increase and preserve the options for affordable housing stock.

A Regional Coalition for Housing

Over 30 years of bringing cities together to house East King County

Together Center
16305 NE 87th St, Suite 119
Redmond, WA 98052
(425) 861-3677

March 25, 2024

Dear Community Stakeholders,

During 2023, the ARCH Executive Board initiated a strategic planning process that built on recent organizational assessments and examines broader organizational challenges and opportunities. The cornerstone of the new strategic plan is to "build more affordable housing faster." It has been our privilege to serve as the Chair of the Executive Board and Chair of the Strategic Planning Committee during this process.

We appreciate the many stakeholders who provided input during development of the plan, including elected officials, planning commissioners and staff from member jurisdictions; for-profit and nonprofit housing developers, operators and service providers; advocacy organizations and others. We also want to acknowledge the ARCH staff and the Planning Committee made up of Diane Carlson (City of Bellevue), Debbie Bent (City of Kenmore), Olga Perelman (Community Advisory Board), Marc Hoffman (City of Newcastle), Lindsay Masters (ARCH), Linda Hall (LPA Consulting) and David Ports (LPA Consulting). We truly are grateful for the thoughtfulness and dedication of the ARCH staff and Committee Members.

After two extended planning workshops and input into the final plan, the ARCH Executive Board adopted this Strategic Plan on March 14, 2024—this plan creates a framework that will help to align and guide the Board as it moves forward identified key strategies in the coming years. We believe it advances proactive but pragmatic strategies that will result in the ability for our communities to "build more affordable housing faster" while ARCH continues its commitment to stewardship and preservation of existing affordable housing. It provides a thoughtful approach to positioning ARCH to be more effective in meeting the growing needs.

The strategies are built on the foundation that ARCH is a "coalition of the willing." Current and future member jurisdictions' elected councils will continue to be critical partners and decision-makers to implement individual strategies, both in their role in approving ARCH's year-to-year budget and work plans and acting on specific policies and actions within their jurisdictions. Building more affordable housing faster will take commitment by ARCH's members, and a willingness to come together as a coalition in advancing shared strategies. We are excited to share this plan with you and look forward to carrying out the strategies in support of ARCH's mission of preserving and increasing housing for low- and moderate-income households in East King County.

Thank you,

Carol Helland
ARCH Executive Board Chair

Kurt Triplett
ARCH Strategic Planning Committee Chair

ARCH MEMBERS

BEAUX ARTS VILLAGE ♦ BELLEVUE ♦ BOTHELL ♦ CLYDE HILL ♦ HUNTS POINT ♦ ISSAQUAH ♦ KENMORE ♦ KIRKLAND ♦ MEDINA ♦ MERCER ISLAND ♦ NEWCASTLE ♦ REDMOND ♦ SAMMAMISH ♦ WOODINVILLE ♦ YARROW POINT ♦ KING COUNTY

A REGIONAL COALITION FOR HOUSING

STRATEGIC PLAN

BUILDING MORE AFFORDABLE HOUSING FASTER
- ADOPTED MARCH 2024 -

YWCA FAMILY VILLAGE, ISSAQUAH

MISSION:

To preserve and increase housing for low- and moderate-income households in East King County.

TOGETHER CENTER, REDMOND

MEMBER JURISDICTIONS

Beaux Arts Village
Bellevue
Bothell
Clyde Hill
Hunts Point
Issaquah
Kenmore
King County
Kirkland
Medina
Mercer Island
Newcastle
Redmond
Sammamish
Woodinville
Yarrow Point

VISION: East King County is a thriving, inclusive community where the housing needs of people of all income levels are met.

2024 STRATEGIC PLAN

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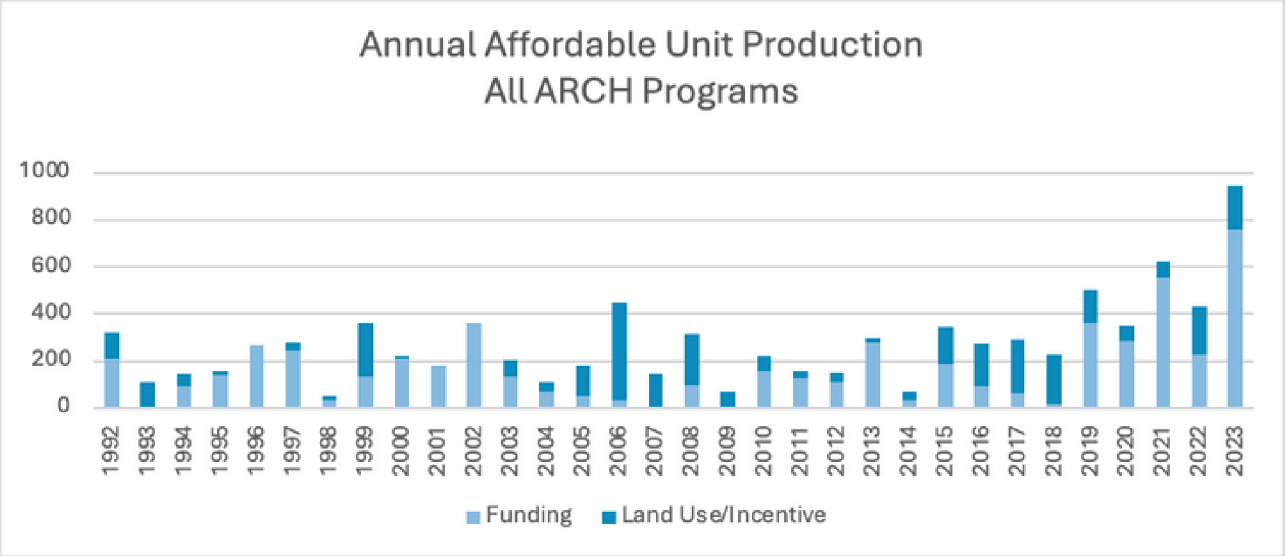
Acknowledgments

This Strategic Plan is the result of collaboration and leadership by the ARCH Planning Committee, ARCH Executive Board, ARCH staff and consultant partners from LPA.

BACKGROUND

A Regional Coalition for Housing (ARCH) was founded in 1992 as a joint undertaking of local jurisdictions to address the growing need for affordable housing in East King County. In the last three decades, ARCH has expanded its membership and established a successful model for bringing cities together along with private sector and nonprofit partners to take cooperative action on affordable housing policies, programs, development and investments, resulting in the creation or preservation of over 9,000 units of housing dedicated for low- and moderate-income households.



During this period, the dramatic growth in need for affordable housing has created greater pressure on ARCH's efforts and a widening gap in resources to effectively meet that need. Recent changes to the state's Growth Management Act have created responsibilities for local jurisdictions to plan for and accommodate housing affordable to all income levels, with future housing needs quantified by income level and allocated across all counties and local jurisdictions. Currently, ARCH member jurisdictions are responsible for planning for over 80,000 additional homes affordable to low-income households by 2044.

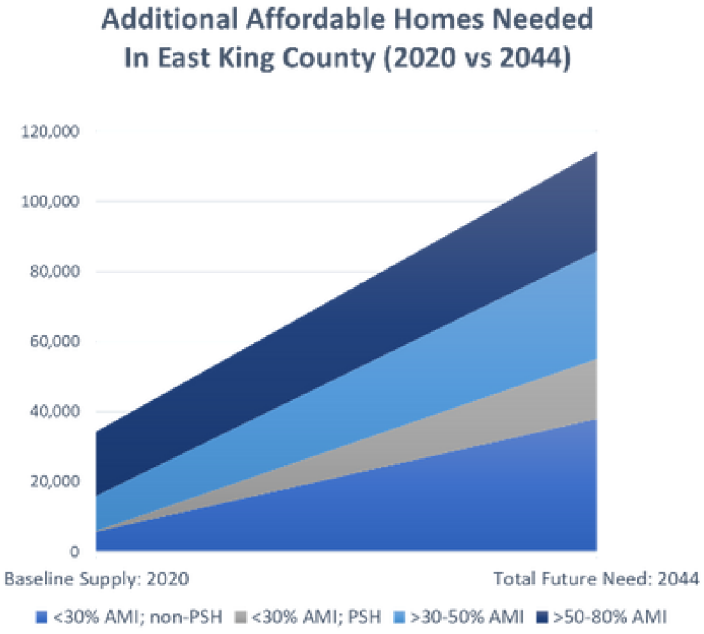


FIGURE 1. ARCH CITIES HOUSING NEED ALLOCATIONS BY INCOME BAND

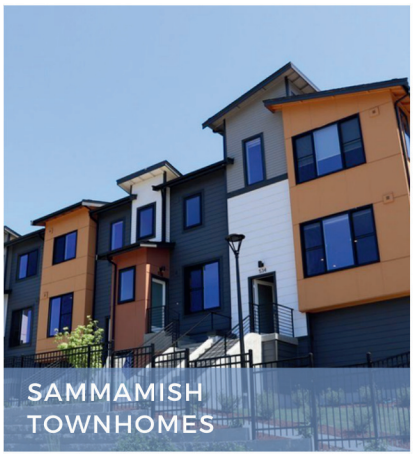
In 2023, the ARCH Executive Board initiated a strategic planning process that builds on recent organizational assessments and examines broader organizational challenges and opportunities. Many stakeholders were invited to provide input during development of the plan, including elected officials, planning commissioners and staff from member jurisdictions; for-profit and nonprofit housing developers, operators and service providers; advocacy organizations and others. The ARCH Executive Board held two extended planning workshops with a Planning Committee working before and after these workshops. The resulting Strategic Plan creates a framework to align and guide the Board in advancing several key strategies over the coming years. These strategies are organized as follows:

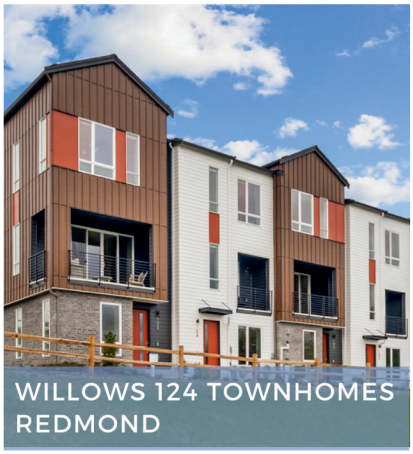
- **Governance and Administration**: Pursuing organizational and governance changes that streamline decision-making, empower the coalition to tackle major policy challenges, and increase and education and engagement of elected officials from member jurisdictions

- **State and Regional Policy and Funding Engagement:** Focusing on targeted state and regional policy efforts that increase funding and reduce barriers that contribute to the cost of affordable housing development

- **Local Policy and Planning:** Maintaining support for individual planning efforts at the local level while increasing support for high impact special projects and strategies that result in creating more affordable housing faster

- **Program Implementation: Housing Investments and Incentives, Preservation and Stewardship:** Continuing to provide an efficient, cost-effective vehicle for implementing local funding and incentive programs and stewarding the affordable housing assets created through those programs, while relying on partners to meet the broader set of needs of low- and moderate-income renters and homeowners


SAMMAMISH TOWNHOMES


WILLOWS 124 TOWNHOMES REDMOND

In addition to these strategies, the planning process has helped to refine and strengthen ARCH's identity and intended role, and establish key criteria for future decisions. These elements will assist the ARCH Executive Board as it continually evaluates and adjusts strategies over time.

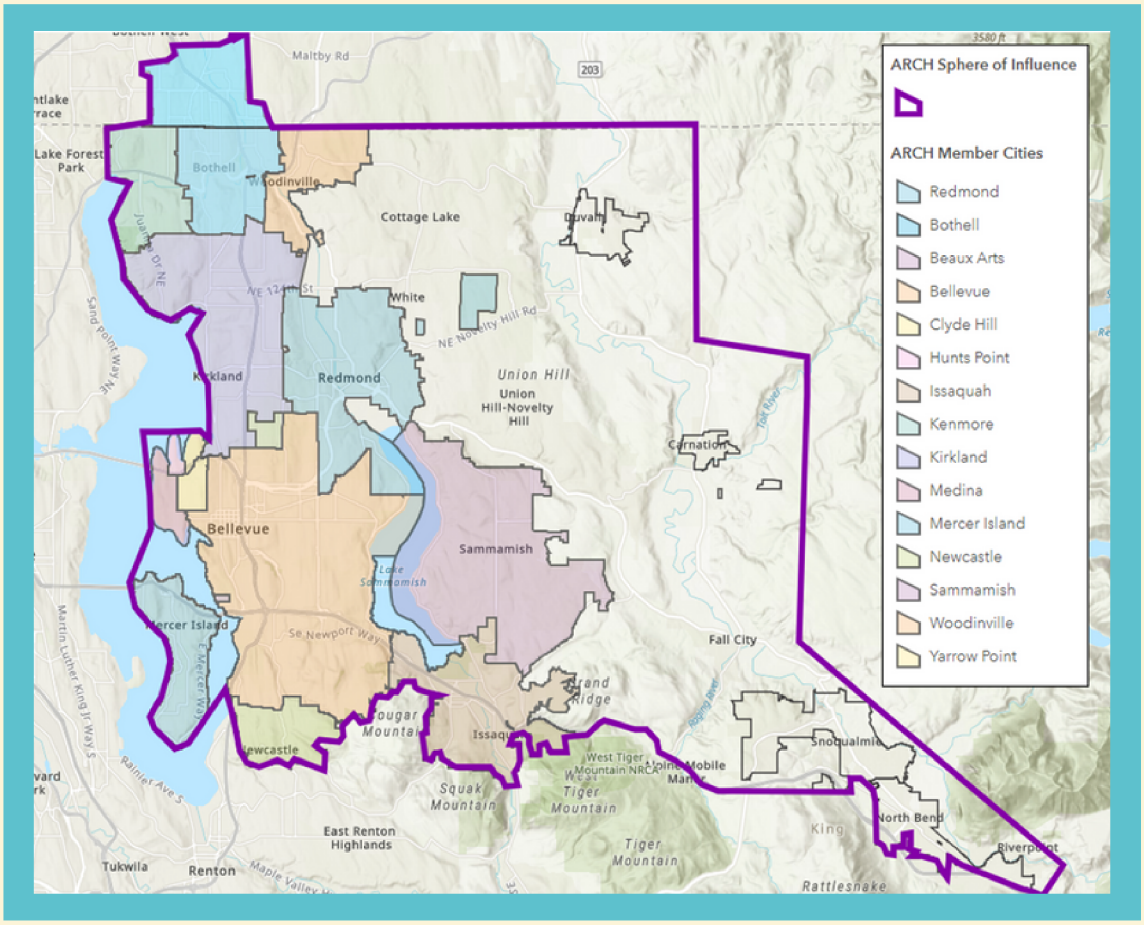
ARCH MISSION & IDENTITY

ARCH's Mission is to preserve and increase housing for low- and moderate-income households in East King County.

ARCH members work to achieve this mission by collaborating on shared goals, policies, and strategies, including:

- Coordinating public resources and attracting greater private investment into affordable housing;
- Sharing technical resources and staff between jurisdictions to create a sound base of housing policies and programs;
- Effectively stewarding affordable housing created through local policies and investment;
- Providing one clear point of contact for affordable housing development;
- Directly engaging the community with information and expertise; and
- Advancing policies that will help create more affordable housing faster.

Who We Serve: Our mission supports **people who need affordable housing** on behalf of the sixteen member jurisdictions that ARCH represents.



ARCH'S STRATEGIC ADVANTAGES

To assess where ARCH is uniquely positioned to carry out our mission, we examined the landscape of similar organizations and providers and asked for input from our partners and stakeholders. The following strategic advantages help define who ARCH is and where we can deliver superior programs and services to achieve our mission.

We are a unique coalition of East King County jurisdictions that can address issues, leverage opportunities, and allocate resources more effectively than any single jurisdiction.

We provide expertise on all facets of affordable housing – including complex data analysis, policy, planning, financing, development, and operations.

We have earned credibility and trust through our sustained and focused commitment to the preservation, development, and operations of affordable housing.

Decision Criteria:

We use the following questions to evaluate our strategies:

- Is our role clear?
- Does it align with our mission and interlocal agreement?
- Are we best positioned to lead, support, or amplify?
- Have we identified, and are we prepared to, address the potential political roadblocks?
- Do we have the capacity at this time to be effective?
- Is it supported by data and are the proposed outcomes measurable and sustainable?
- Will this reduce our ability to be effective with current strategies?
- Is it financially viable now and/ or in the future?
- Have we evaluated the return on investment?

STAKEHOLDER VIEWS

ARCH carries out its mission by collaborating with many diverse stakeholders, including key leaders and decision-makers within member jurisdictions; development partners that acquire, build and operate affordable housing; public and private funders that finance the construction and operations of affordable housing; and community leaders and organizations that create a supportive environment for affordable housing efforts. In developing this Strategic Plan, ARCH asked its stakeholders to share their views about ARCH's mission, strategic advantages, and where ARCH should invest more capacity and resources.

Views on the most important affordable housing strategies varied widely, even among similar stakeholders, but overall survey responses showed greater support for ARCH to invest in:

- Advocating for greater public and private investments in affordable housing through new funding sources or increases in existing sources;
- Supporting the preservation and operations of existing affordable housing;
- Identifying and advocating for the removal of barriers to affordable housing development and preservation at the local level; and
- Collecting and analyzing data to inform member jurisdictions and measure results.

Relatively few stakeholders expressed an interest in ARCH expanding services to additional local jurisdictions at this time, while views were mixed on whether ARCH should expand to provide more direct services for low- and moderate-income households, such as housing navigation, resource referrals or foreclosure prevention. Additional comments suggested ARCH should maintain a limited policy focus aimed at facilitating housing production.

In the last year, ARCH has also conducted significant outreach efforts to hear from people living in or seeking affordable housing in East King County. These perspectives will be important as ARCH considers not only how best to produce more affordable housing, but also how to create projects that will best serve its residents and remain sustainable community assets over the long-term.

Continued engagement with ARCH's diverse stakeholders and partners will be an important component of ARCH's ongoing implementation of the Strategic Plan, as described under Strategic Plan Implementation.

STRATEGIES TO BUILD MORE AFFORDABLE HOUSING FASTER

The following framework sets out a series of high-level strategies aimed at the challenge of **building more affordable housing faster.** The strategies were developed taking into account ARCH's mission and identity, the decision criteria listed above, input from stakeholders and an assessment of the key barriers to increasing our impact as a coalition.

These strategies are designed to be implemented through the ongoing work of the ARCH Executive Board and staff, member councils and other key partners. Specific action steps and success measures will be developed by the Board,in tandem with the development of ARCH's annual work program and budget.

GOVERNANCE AND ADMINISTRATION

ARCH has served as a successful national model for over 30 years, with a governance model designed to mirror the structure and decision-making within local jurisdictions. This model has yielded significant achievements through voluntary efforts as individual jurisdictions have been ready to make investments and adopt supportive policies.

To keep pace with the current and increasing affordable housing need, **ARCH will pursue organizational and governance changes that streamline decision-making, empower the coalition to tackle major policy challenges, and increase education and engagement with elected officials from member jurisdictions on affordable housing.**

Strategies:

- **Elected Official Education and Engagement**
  Engage with elected officials from member jurisdictions to build deeper understanding and support for affordable housing, key policy and funding tools, and ARCH's role in meeting the needs of low-income households.

- **Governance Change Analysis**
  Evaluate and pursue long-term changes to ARCH's legal and governance structure that better advance its mission - including exploring the role of elected officials.

- **Streamline Decision-Making and Approval Processes**
  Implement streamlined approvals consistent with ARCH's current Interlocal Agreement (e.g., Board approval of biennial budget and work plan, placement of council approvals on consent, etc.).

- **Organizational Values / DEI**
  Establish values that incorporate how ARCH furthers diversity, equity, inclusion and belonging in the work it does.

BOARDWALK APARTMENTS KIRKLAND

STATE AND REGIONAL POLICY AND FUNDING ENGAGEMENT

In recent years, state legislation has been the impetus for major policy shifts on affordable housing. New legislation has resulted in local governments having greater responsibility to plan for and accommodate housing affordable at all income levels, while specific state mandates are increasingly driving local policy and planning decisions. At the same time, significant funding and policy barriers continue to create challenges for communities to be successful in the creation of more affordable housing.

To respond to these challenges and build on a long and successful track record of pooling and leveraging local investments into affordable housing, **ARCH will focus on targeted state and regional policy efforts that increase funding and reduce barriers that contribute to the cost of affordable housing development.**

Strategies:

- **Targeted State and Regional Legislation and Funding**
  Support cooperative efforts across the coalition on select, targeted state and regional legislation and funding focused on creating more housing faster.

- **Policy and Data Resource**
  Serve as a policy resource, connecting members with data and other key information that elevates the need for funding and reducing policy barriers that slow down or increase the cost of development.

- **Coordination of Legislative Advocacy**
  Support coordination of legislative advocacy in areas supported by members and pursue opportunities to advocate as a coalition.

VELOCITY APARTMENTS, KIRKLAND

LOCAL POLICY AND PLANNING

ARCH's involvement in local planning has enabled cities to advance common affordable housing policies, strategies and code provisions over time while recognizing that individual cities may be ready to move policies forward at different times. This approach has resulted in ten ARCH member jurisdictions adopting local affordable housing incentives, with ongoing support available to evaluate and update policies over time. ARCH has also played an instrumental role in advancing special projects that require unique financing, land use or partnership strategies to leverage significant development opportunities, including projects on underutilized public, nonprofit or faith community property.

ARCH will continue to serve as a resource for individual members in planning for affordable housing and **dedicate new capacity to supporting important local policy priorities that are applicable to a majority of its membership, and high impact special projects that result in creating more affordable housing faster.**

Strategies:

- **Support Member Requests and Convene on Key Issues.**
  Evaluate member requests using ARCH's strategy screen and determine which to support; add capacity if priority needs continue to grow.

- **Advice on Surplus Land and Other Local Strategies.**
  Provide specialized expertise in affordable housing development and financing to inform evaluation of surplus land, feasibility studies, RFP development, zoning/incentive strategies, and other local strategies to advance affordable housing.

JOHN GABRIEL HOUSE, REDMOND

PROGRAM IMPLEMENTATION: HOUSING INVESTMENTS AND INCENTIVES, PRESERVATION AND STEWARDSHIP

ARCH's coordinated approach to local housing investment and program implementation has led to the successful expansion of affordable housing incentives across ARCH members and created an efficient model for shared administration, with common code provisions and templates for affordable housing agreements, a streamlined process to access capital funding, and a centralized system for monitoring and stewardship. These accomplishments are core to ARCH's work, with many benefits including: staffing efficiencies for members; maximizing leverage of local resources; consistency and predictability for developers and property managers; flexibility to accommodate diverse housing across jurisdictions; and a shared pool of institutional knowledge on policy and implementation.

To build on this foundation, ARCH will continue to be an efficient, cost-effective vehicle for members to implement local funding and developer incentive programs and steward the affordable housing assets created through those programs. With limited resources available, ARCH will focus on partnerships to streamline its work and support the broader range of needs of low-income renters and homeowners.

Strategies:

- **Capital Investments, Developer Incentives**
  Continue to serve as the central point of contact for capital funding applications and affordable housing incentives, and provide technical assistance for affordable housing developers in East King County.

  Encourage collective increases in local contributions to affordable housing through ongoing guidance on parity goals.

- **Preservation and Stewardship**
  Maintain and improve essential monitoring and stewardship functions unlikely to be taken on by others and partner to accomplish other functions wherever possible.

  Continue to develop and modernize data systems to streamline operations.

- **Affirmative marketing**
  Foster inclusive communities through promoting affirmative marketing and community partnerships, including developing a toolkit / best practices for a range of projects and programs.

STRATEGIC PLAN IMPLEMENTATION

The first year of the proposed Strategic Plan is focused on investigating and preparing to launch specific strategies. This will include further work by the ARCH Executive Board to develop specific budget and work plan proposals for 2025-26, with ultimate approval required by member councils, as well as action steps and success measures for each strategy. Additional staffing or consultant capacity is expected to support areas where ARCH plans to invest more energy—particularly government affairs and education, as well as specialized expertise to advance local affordable housing strategies and projects. These efforts are intended to help us tackle major state and regional policy issues that will create the tools and conditions for our collective success, as well as provide targeted local support that results in building more affordable housing faster.

AVENTINE APARTMENTS
BELLEVUE

Monitoring Progress and Adjusting

Strategic thinking and planning are ongoing. The Board will continue to review this Plan and make adjustments each year to respond to new conditions and opportunities. Here is how ARCH will maintain ongoing strategic thinking.

6 Areas of Attention	With the Staff Team	With the Executive Board	With Stakeholders
1. Review success of our strategies so far	*Ongoing*	*Quarterly*	*Annually*
2. Determine adjustments, what needs to be revised or reinvented	*Ongoing*	*Quarterly*	*Annually*
3. Invite, determine and address new big questions as they emerge	*Quarterly*	*Quarterly*	
4. Remain current on trends facing our community	*Annually*	*Annually*	
5. Decide what and how we should communicate progress	*Annually*	*Annually*	
6. Refresh the plan	*Biannually*	*Biannually*	*Biannually*

While we know this work will entail significant challenges, we believe that **through the collaborative efforts of ARCH's member jurisdictions, East King County can be a thriving, inclusive community where the housing needs of people of all income levels are met.**

City Council Agenda Bill
City of Kenmore, WA

Subject/Topic:

Juanita Drive NE Pedestrian and Bicycle Safety Improvements Project

Proposed Council Action/Motion:

Authorize the City Manager to execute Change Order #37 (Contract 20-C2144) with Thomco Construction Inc. in the amount of $1,680,105 to reconcile actual bid item quantity overruns / underruns on the project.

For Council Meeting Agenda of: 04/08/2024

Department: Public Works Engineering

Prepared by: Kent Vaughan, PE, Senior Civil Engineer

	Initial & Date
Approved by Department Head:	JFV
Approved by City Attorney:	N/A
Approved by Finance Director:	MM
Approved by City Manager:	RK

Attachments/Exhibits:

Change Order #37

Summary:
Construction is now complete and physical completion will be issued in April 2024.

Change order #37 is a final accounting measure to reconcile the bid item quantity overruns / underruns experienced on the project. This change order will adjust the total contract amount to match the amount earned by the contractor to date.

Information/Background:

A general representation of bid item overruns is presented below:

Bid Item Category	Overrun Amount	Reason for Overrun
Asphalt Overlay Related Bid Items	396k	Paving limits had to be extended into side streets due to existing pavement condition and additional pre-level grinding / paving was needed to complete the overlay, resulting in $283k in additional compensation. To protect the Agency and contractor from fluctuating oil prices, an Asphalt Cost Price Adjustment bid item is included in the contract. Oil prices increased from the bid award date in Q1 2020 to the actual paving date in Q4 2022, resulting in 113k in additional compensation to the contractor.

Force Account Bid Items (Minor Change and Property Restoration)	$274k	Extra work that was not anticipated and was not covered elsewhere in the contract was tracked / accounted and paid under the Minor Change bid item. The Property Restoration bid item was used to complete frontage restoration along 70+ properties including repair of landscaping, driveways, private irrigation, and fencing, etc.
Retaining Wall Related Bid Items	284k	Once vegetation was removed, existing embankments were higher than the original survey data indicated, resulting in additional wall and backfill quantities.
Drainage Related Bid Items	379k	The structural excavation quantities for pipes and catch basins were underestimated in the original bid schedule due to a spreadsheet cell calculation error.
Removals (Asphalt, Concrete, Pipes, Drainage Structures, Trees, etc.)	169k	Removals to build the project were more than anticipated.
Traffic Control Related Bid Items	85k	Additional uniformed police officers were needed to control signalized intersections during construction.
Water and Sanitary Sewer Bid Items	67k	Northshore Utility District (NUD) costs reimbursed to city under Interlocal Agreement.

Fiscal Consideration:

Staff requested and City Council approved an increase to the Juanita Drive project budget on December 3, 2023, as part of the mid-biennium budget amendment process to account for these costs. No additional appropriation of funds is being requested.

City Council Priority or Budget Objective Being Addressed:

Priority #3. Enhance multimodal transportation, including pedestrian and bicycle safety.

Change Order No. CO : 037

CO Title:	**Contract Quantity Adjustment**	**Date:**	3/20/2024
Project:	Juanita Dr NE Pedestrian and Bicycle Improvements (NE 143rd St to NE 170th St)	**Project No.:**	CIP T-41 (20-C2144)
Contractor:	Thomco Construction, Inc.	**Fed Aid #**	N/A
Owner:	City of Kenmore		

Change Order Description:

This Change Order adjusts the contract bid item quantities to actual completed amounts.

Upon receipt of an approved copy of this Change Order, the Contractor is directed to make changes in the Contract Documents and execute the Work detailed in these documents. All work shall be performed under the same terms and conditions as in the original Contract, unless otherwise described in this Change Order. The payment and/or additional time specified and agreed to in this Change Order constitutes the full adjustment for and settlement of all costs and time related to the performance of this Change Order Work.

Original Contract Amount:	$	10,994,869.07
Current Contract Amount:	$	12,113,533.16
Amount of this Change:	**$**	**1,680,105.17**
Revised Contract Amount:	$	13,793,638.33

Original Contract Duration:	350
Current Contract Duration:	511
Days Added/Subtracted by this Change:	**0**
Revised Contract Duration:	511

APPROVED BY: (Not Valid Until Signed by Owner):

Approval Recommended - Resident Engineer (RE):

Scott Robeson, RE, *KBA* — DATE

Approval Recommended - Project Manager:

Kent Vaughan, PE, *City of Kenmore* — DATE

Approved by Owner

John Vicente, PE, *City of Kenmore* — DATE

Contractor

Ed Thomas, Superintendent, *Thomco Construction* — DATE

THE CONTRACT IS MODIFIED AS FOLLOWS:

WORK INCLUDED:

MEASUREMENT AND PAYMENT:

REQUIRED SUBMITTALS:

No submittal required, provided all materials have previously been approved.

BASIS OF PAYMENT:

Item No.	Description	Taxable	Contract Quantity	REVISED Contract Quantity	Unit	Unit Price	Change Order ($) Adjustment
Schedule Bid Item Increase or Decrease:							
	See attached Quantity Adjustment Sheet						
						Schedule Bid Item Subtotal:	$ -

Item No.	Description	Taxable	Contract Quantity	NEW Contract Quantity	Unit	Unit Price	Change Order ($) Adjustment
New Schedule Bid Item:							
						New Schedule Subtotal:	$ -
						Subtotal of Change	**$ -**
						10.1% Tax	**$ -**
						Change Order Total:	**$ -**

Attachments:

Copies: Contractor *(PDF)*
Owner *(PDF)*
File

Juanita Dr NE Pedestrian and Bicycle Improvements (NE 143rd St to NE 170th St)

Change Order 037 - Contract Quantity Adjustment

SCHEDULE A		CURRENT CONTRACT AMONUNT				TOTAL PAID TODATE			CHANGE ORDER 037 AMOUNT		REVISED CONTRACT TOTALS		
Bid Item No.	Item Description	Planned Quantity	Unit	Unit Price	Total	Qty Complete Todate	Cost Complete Todate	% Complete	CO 037 AJST QTY	CO 037 AJST AMOUNT	QTY	CO 040 AJST AMOUNT	% Complete
A-A001	MINOR CHANGE	25,000.00	F.A.	$1.00	$25,000.00	264,314.72	$264,314.72	1057.3%	**239,314.72**	**$ 239,314.72**	264,314.72	$ 264,314.72	100%
A-A002	CONSTRUCTION SURVEYING	105,000.00	L.S.	$1.00	$105,000.00	105,000.00	$105,000.00	100.0%			105,000.00	$ 105,000.00	100%
A-A003	RECORD DRAWINGS (MINIMUM BID $4,000.00)	4,000.00	L.S.	$1.00	$4,000.00				**(4,000.00)**	**$ (4,000.00)**	0.00	$ -	0%
A-A004	SPCC PLAN	860.00	L.S.	$1.00	$860.00	860.00	$860.00	100.0%			860.00	$ 860.00	100%
A-A005	POTHOLING	20,000.00	F.A.	$1.00	$20,000.00	12,859.73	$12,859.73	64.3%	**(7,140.27)**	**$ (7,140.27)**	12,859.73	$ 12,859.73	100%
A-A006	MOBILIZATION	800,000.00	L.S.	$1.00	$800,000.00	800,000.00	$800,000.00	100.0%			800,000.00	$ 800,000.00	100%
A-A007	PROJECT TEMPORARY TRAFFIC CONTROL	695,000.00	L.S.	$1.00	$695,000.00	695,000.00	$695,000.00	100.0%			695,000.00	$ 695,000.00	100%
A-A008	PORTABLE CHANGEABLE MESSAGE SIGN	23,520.00	HOUR	$2.00	$47,040.00	29,496.00	$58,992.00	125.4%	**5,976.00**	**$ 11,952.00**	29,496.00	$ 58,992.00	100%
A-B001	CLEARING AND GRUBBING	3.10	ACRE	$37,650.00	$116,715.00	2.58	$97,080.52	83.2%	**(0.52)**	**$ (19,578.00)**	2.58	$ 97,137.00	100%
A-B002	SELECTIVE PRUNNING	8,000.00	F.A.	$1.00	$8,000.00	20,816.85	$20,816.85	260.2%	**12,816.85**	**$ 12,816.85**	20,816.85	$ 20,816.85	100%
A-B003	TREE REMOVAL	147.00	EACH	$1,150.00	$169,050.00	163.00	$187,450.00	110.9%	**16.00**	**$ 18,400.00**	163.00	$ 187,450.00	100%
A-B004	REMOVAL OF STRUCTURES AND OBSTRUCTIONS	17,500.00	L.S.	$1.00	$17,500.00	17,500.00	$17,500.00	100.0%			17,500.00	$ 17,500.00	100%
A-B005	REMOVING DRAINAGE STRUCTURE	31.00	EACH	$696.00	$21,576.00	53.00	$36,888.00	171.0%	**22.00**	**$ 15,312.00**	53.00	$ 36,888.00	100%
A-B006	REMOVING PIPE	4,700.00	L.F.	$7.35	$34,545.00	5,533.60	$40,671.94	117.7%	**833.60**	**$ 6,126.96**	5,533.60	$ 40,671.96	100%
A-B007	REMOVING ASPHALT CONC. PAVEMENT	14,144.00	S.Y.	$11.15	$157,705.60	20,143.43	$224,599.22	142.4%	**5,999.43**	**$ 66,893.64**	20,143.43	$ 224,599.24	100%
A-B008	REMOVING CEMENT CONC. PAVEMENT	132.00	S.Y.	$16.76	$2,212.32	3,642.55	$61,049.14	2759.5%	**3,510.55**	**$ 58,836.82**	3,642.55	$ 61,049.14	100%
A-B009	REMOVING CEMENT CONC. SIDEWALK	2,154.00	S.Y.	$11.86	$25,546.44	1,910.93	$22,663.62	88.7%	**(243.07)**	**$ (2,882.81)**	1,910.93	$ 22,663.63	100%
A-B010	REMOVING CEMENT CONC. CURB AND GUTTER	4,170.00	L.F.	$4.62	$19,265.40	3,166.30	$14,628.31	75.9%	**(1,003.70)**	**$ (4,637.09)**	3,166.30	$ 14,628.31	100%
A-B011	REMOVING CONC. BARRIER	370.00	L.F.	$8.00	$2,960.00	300.00	$2,400.00	81.1%	**(70.00)**	**$ (560.00)**	300.00	$ 2,400.00	100%
A-B012	REMOVING WOODEN FENCE	220.00	L.F.	$11.50	$2,530.00	397.00	$4,565.50	180.5%	**177.00**	**$ 2,035.50**	397.00	$ 4,565.50	100%
A-B013	REMOVING CEMENT CONC. CURB	930.00	L.F.	$4.62	$4,296.60	911.50	$4,211.13	98.0%	**(18.50)**	**$ (85.47)**	911.50	$ 4,211.13	100%
A-B014	REMOVING RAISED PAVEMENT MARKERS	2,875.00	L.S.	$1.00	$2,875.00				**(2,875.00)**	**$ (2,875.00)**	0.00	$ -	0%
A-B015	ROADWAY EXCAVATION INCL. HAUL	2,300.00	C.Y.	$40.10	$92,230.00	2,528.65	$101,398.87	109.9%	**228.65**	**$ 9,168.87**	2,528.65	$ 101,398.87	100%
A-B016	GRAVEL BORROW INCL. HAUL	3,350.00	TON	$26.10	$87,435.00	4,037.14	$105,369.36	120.5%	**687.14**	**$ 17,934.35**	4,037.14	$ 105,369.35	100%
A-B017	DITCH EXCAVATION INCL. HAUL	1,700.00	C.Y.	$43.33	$73,661.00	1,697.19	$73,539.25	99.8%	**(2.81)**	**$ (121.76)**	1,697.19	$ 73,539.24	100%
A-B018	STRUCTURE EXCAVATION CLASS A INCL. HAUL	3,130.00	C.Y.	$41.21	$128,987.30	3,781.12	$155,819.95	120.8%	**651.12**	**$ 26,832.66**	3,781.12	$ 155,819.96	100%
A-B019	STRUCTURE EXCAVATION CLASS B INCL. HAUL	1,120.00	C.Y.	$41.21	$46,155.20	9,812.42	$404,369.82	876.1%	**8,692.42**	**$ 358,214.63**	9,812.42	$ 404,369.83	100%
A-B020	SHORING OR EXTRA EXCAVATION CL. A	5,130.00	L.S.	$1.00	$5,130.00	5,130.00	$5,130.00	100.0%			5,130.00	$ 5,130.00	100%
A-B021	SHORING OR EXTRA EXCAVATION CLASS B	42,100.00	S.F.	$0.60	$25,260.00	47,948.25	$28,768.95	113.9%	**5,848.25**	**$ 3,508.95**	47,948.25	$ 28,768.95	100%
A-B022	GEOSYNTHETIC CLAY LINER	700.00	S.Y.	$15.00	$10,500.00	449.28	$6,739.20	64.2%	**(250.72)**	**$ (3,760.80)**	449.28	$ 6,739.20	100%
A-B023	CONSTRUCTION GEOTEXTILE FOR UNDERGROUND DRAINAGE	930.00	S.Y.	$6.00	$5,580.00	1,201.97	$7,211.82	129.2%	**271.97**	**$ 1,631.82**	1,201.97	$ 7,211.82	100%
A-C001	CRUSHED SURFACING BASE COURSE	6,900.00	TON	$31.63	$218,247.00	7,183.65	$227,218.89	104.1%	**283.65**	**$ 8,971.85**	7,183.65	$ 227,218.85	100%
A-C002	CRUSHED SURFACING TOP COURSE	20.00	TON	$45.00	$900.00	146.15	$6,576.75	730.8%	**126.15**	**$ 5,676.75**	146.15	$ 6,576.75	100%
A-D001	PLANING BITUMINOUS PAVEMENT	490.00	S.Y.	$15.56	$7,624.40	3,867.45	$60,177.53	789.3%	**3,377.45**	**$ 52,553.12**	3,867.45	$ 60,177.52	100%
A-D002	HMA CL. 1/2 IN. PG 58H-22	8,750.00	TON	$122.04	$1,067,850.00	9,985.73	$1,218,658.52	114.1%	**1,235.73**	**$ 150,808.49**	9,985.73	$ 1,218,658.49	100%
A-D003	COMMERCIAL HMA	100.00	TON	$270.00	$27,000.00	393.09	$106,134.30	393.1%	**293.09**	**$ 79,134.30**	393.09	$ 106,134.30	100%
A-D004	ASPHALT COST PRICE ADJUSTMENT	50,000.00	CALC	$1.00	$50,000.00	163,499.73	$163,499.73	327.0%	**113,499.73**	**$ 113,499.73**	163,499.73	$ 163,499.73	100%
A-D005	CEMENT CONC. PAVEMENT	5.00	C.Y.	$891.00	$4,455.00				**(5.00)**	**$ (4,455.00)**	0.00	$ -	0%
A-D006	PATTERNED CONC PAVEMENT	262.00	S.Y.	$230.00	$60,260.00	285.11	$65,575.30	108.8%	**23.11**	**$ 5,315.30**	285.11	$ 65,575.30	100%
A-E001	GRAVEL BACKFILL FOR WALL	1,747.00	C.Y.	$39.10	$68,307.70	4,275.84	$167,185.36	244.8%	**2,528.84**	**$ 98,877.64**	4,275.84	$ 167,185.34	100%
A-E002	PEDESTRIAN HANDRAIL	34.00	L.F.	$229.00	$7,786.00	34.00	$7,786.00	100.0%			34.00	$ 7,786.00	100%
A-E003	CONC. CLASS 4000 FOR RETAINING WALL	283.00	C.Y.	$650.00	$183,950.00	273.00	$177,450.00	96.5%	**(10.00)**	**$ (6,500.00)**	273.00	$ 177,450.00	100%
A-E004	EPOXY-COATED ST. REINF. BAR FOR RETAINING WALL	29,100.00	LB.	$2.20	$64,020.00	27,700.00	$60,940.00	95.2%	**(1,400.00)**	**$ (3,080.00)**	27,700.00	$ 60,940.00	100%
A-E005	REMOVING SOLDIER PILE SHAFT OBSTRUCTIONS	30,000.00	EST.	$1.00	$30,000.00	29,640.02	$29,640.02	98.8%	**(359.98)**	**$ (359.98)**	29,640.02	$ 29,640.02	100%
A-E006	SHAFT - 36 IN. DIAMETER	1,977.00	L.F.	$179.00	$353,883.00	1,965.55	$351,833.45	99.4%	**(11.45)**	**$ (2,049.55)**	1,965.55	$ 351,833.45	100%

A-E007	FURNISHING SOLDIER PILE - W24x131	2,323.40	L.F.	$125.00	$290,425.00	2,325.75	$290,718.75	100.1%	**2.35**	**$**	**293.75**	2,325.75	$	290,718.75	100%
A-E008	PRECAST CONCRETE LAGGING	4,336.00	S.F.	$55.00	$238,480.00	4,335.80	$238,469.00	100.0%	**(0.20)**	**$**	**(11.00)**	4,335.80	$	238,469.00	100%
A-F001	UNDERDRAIN PIPE 6 IN. DIAM.	1,508.00	L.F.	$15.00	$22,620.00	1,854.60	$27,819.00	123.0%	**346.60**	**$**	**5,199.00**	1,854.60	$	27,819.00	100%
A-F002	GRAVEL BACKFILL FOR DRAIN	66.00	C.Y.	$72.00	$4,752.00	16.44	$1,183.68	24.9%	**(49.56)**	**$**	**(3,568.32)**	16.44	$	1,183.68	100%
A-F003	POLYPROPYLENE STORM SEWER PIPE 8 IN. DIAM.	120.00	L.F.	$64.00	$7,680.00	77.90	$4,985.60	64.9%	**(42.10)**	**$**	**(2,694.40)**	77.90	$	4,985.60	100%
A-F004	POLYPROPYLENE STORM SEWER PIPE 12 IN. DIAM.	2,211.00	L.F.	$64.35	$142,277.85	2,067.10	$133,017.87	93.5%	**(143.90)**	**$**	**(9,259.97)**	2,067.10	$	133,017.89	100%
A-F005	POLYPROPYLENE STORM SEWER PIPE 15 IN. DIAM.	170.00	L.F.	$96.65	$16,430.50	177.00	$17,107.05	104.1%	**7.00**	**$**	**676.55**	177.00	$	17,107.05	100%
A-F006	POLYPROPYLENE STORM SEWER PIPE 18 IN. DIAM.	3,580.00	L.F.	$94.25	$337,415.00	3,957.00	$372,947.26	110.5%	**377.00**	**$**	**35,532.25**	3,957.00	$	372,947.25	100%
A-F007	POLYPROPYLENE STORM SEWER PIPE 24 IN. DIAM.	957.00	L.F.	$123.05	$117,758.85	959.70	$118,091.09	100.3%	**2.70**	**$**	**332.24**	959.70	$	118,091.09	100%
A-F008	POLYPROPYLENE STORM SEWER PIPE 30 IN. DIAM.	2,060.00	L.F.	$153.05	$315,283.00	2,015.70	$308,502.88	97.8%	**(44.30)**	**$**	**(6,780.11)**	2,015.70	$	308,502.89	100%
A-F009	TESTING STORM SEWER PIPE	9,080.00	L.F.	$1.91	$17,342.80	5,211.50	$9,953.97	57.4%	**(3,868.50)**	**$**	**(7,388.84)**	5,211.50	$	9,953.97	100%
A-F010	CATCH BASIN TYPE 1	52.00	EACH	$2,276.00	$118,352.00	48.00	$109,248.00	92.3%	**(4.00)**	**$**	**(9,104.00)**	48.00	$	109,248.00	100%
A-F011	CATCH BASIN TYPE 1L	5.00	EACH	$2,325.00	$11,625.00	7.00	$16,275.00	140.0%	**2.00**	**$**	**4,650.00**	7.00	$	16,275.00	100%
A-F012	CATCH BASIN TYPE 2 48 IN. DIAM.	42.00	EACH	$3,687.00	$154,854.00	44.00	$162,228.00	104.8%	**2.00**	**$**	**7,374.00**	44.00	$	162,228.00	100%
A-F013	CATCH BASIN TYPE 2 60 IN. DIAM.	20.00	EACH	$4,189.00	$83,780.00	18.00	$75,402.00	90.0%	**(2.00)**	**$**	**(8,378.00)**	18.00	$	75,402.00	100%
A-F014	CONNECTION TO DRAINAGE STRUCTURE	37.00	EACH	$881.50	$32,615.50	49.00	$43,193.50	132.4%	**12.00**	**$**	**10,578.00**	49.00	$	43,193.50	100%
A-F015	FLOW SPLITTER PRE-CAST CONCRETE VAULT	1.00	EACH	$30,000.00	$30,000.00	1.00	$30,000.00	100.0%				1.00	$	30,000.00	100%
A-F016	SPILLWAY STRUCTURE WITH DEBRIS CAGE	1.00	EACH	$11,000.00	$11,000.00	1.00	$11,000.00	100.0%				1.00	$	11,000.00	100%
A-F017	FLOW CONTROL STRUCTURE WITH RESTRICTOR	1.00	EACH	$9,220.00	$9,220.00	1.00	$9,220.00	100.0%				1.00	$	9,220.00	100%
A-F018	ABANDON EXISTING MANHOLE	3.00	EACH	$850.00	$2,550.00	5.00	$4,250.00	166.7%	**2.00**	**$**	**1,700.00**	5.00	$	4,250.00	100%
A-F019	ADJUST CATCH BASIN	29.00	EACH	$510.00	$14,790.00	24.00	$12,240.00	82.8%	**(5.00)**	**$**	**(2,550.00)**	24.00	$	12,240.00	100%
A-F020	TRASH RACK	3.00	EACH	$592.00	$1,776.00	4.00	$2,368.00	133.3%	**1.00**	**$**	**592.00**	4.00	$	2,368.00	100%
A-F021	FILTERRA BIORETENTION SYSTEM	10.00	EACH	$19,781.00	$197,810.00	10.00	$197,810.00	100.0%				10.00	$	197,810.00	100%
A-F022	MODULAR WETLAND SYSTEM LINEAR, VAULT TYPE, 8 FT. x 16 FT.	1.00	EACH	$133,100.00	$133,100.00	1.00	$133,100.00	100.0%				1.00	$	133,100.00	100%
A-F023	LOCKING SOLID COVER	1.00	EACH	$925.00	$925.00	1.00	$925.00	100.0%				1.00	$	925.00	100%
A-F024	PLUGGING EXISTING PIPE	6.00	EACH	$675.00	$4,050.00	19.00	$12,825.00	316.7%	**13.00**	**$**	**8,775.00**	19.00	$	12,825.00	100%
A-G001	EROSION CONTROL AND WATER POLLUTION PREVENTION	29,000.00	L.S.	$1.00	$29,000.00	29,000.00	$29,000.00	100.0%				29,000.00	$	29,000.00	100%
A-G002	ESC LEAD	180.00	DAY	$140.00	$25,200.00	167.50	$23,450.00	93.1%	**(12.50)**	**$**	**(1,750.00)**	167.50	$	23,450.00	100%
A-G003	SILT FENCE	8,070.00	L.F.	$5.50	$44,385.00	4,418.50	$24,301.75	54.8%	**(3,651.50)**	**$**	**(20,083.25)**	4,418.50	$	24,301.75	100%
A-G004	HIGH VISIBILITY FENCE	982.00	L.F.	$5.15	$5,057.30	781.00	$4,022.15	79.5%	**(201.00)**	**$**	**(1,035.15)**	781.00	$	4,022.15	100%
A-G005	INLET PROTECTION	147.00	EACH	$62.15	$9,136.05	40.00	$2,486.00	27.2%	**(107.00)**	**$**	**(6,650.05)**	40.00	$	2,486.00	100%
A-G006	STREET CLEANING	440.00	HOUR	$166.75	$73,370.00	657.50	$109,638.14	149.4%	**217.50**	**$**	**36,268.13**	657.50	$	109,638.13	100%
A-G007	BIODEGRADABLE EROSION CONTROL BLANKET	1,330.00	S.Y.	$5.70	$7,581.00	1,642.84	$9,364.19	123.5%	**312.84**	**$**	**1,783.19**	1,642.84	$	9,364.19	100%
A-G008	CHECK DAM	238.00	L.F.	$15.35	$3,653.30	44.00	$675.40	18.5%	**(194.00)**	**$**	**(2,977.90)**	44.00	$	675.40	100%
A-G009	COMPOST SOCK	90.00	L.F.	$21.00	$1,890.00	50.00	$1,050.00	55.6%	**(40.00)**	**$**	**(840.00)**	50.00	$	1,050.00	100%
A-G010	TURBIDITY AND PH MONITORING	180.00	EACH	$140.00	$25,200.00	78.00	$10,920.00	43.3%	**(102.00)**	**$**	**(14,280.00)**	78.00	$	10,920.00	100%
A-G011	SWPPP	850.00	L.S.	$1.00	$850.00	850.00	$850.00	100.0%				850.00	$	850.00	100%
A-G012	WEED AND PEST CONTROL	8,000.00	F.A.	$1.00	$8,000.00	7,360.69	$7,360.69	92.0%	**(639.31)**	**$**	**(639.31)**	7,360.69	$	7,360.69	100%
A-G013	TOPSOIL TYPE A	1,656.00	C.Y.	$54.00	$89,424.00	2,890.00	$156,060.00	174.5%	**1,234.00**	**$**	**66,636.00**	2,890.00	$	156,060.00	100%
A-G014	FINE COMPOST	1,208.00	C.Y.	$54.00	$65,232.00	282.00	$15,228.00	23.3%	**(926.00)**	**$**	**(50,004.00)**	282.00	$	15,228.00	100%
A-G015	SEEDING, FERTILIZING, AND MULCHING	1.80	ACRE	$12,000.00	$21,600.00				**(1.80)**	**$**	**(21,600.00)**	0.00	$	-	0%
A-G016	BARK OR WOOD CHIP MULCH	524.00	C.Y.	$54.00	$28,296.00	365.00	$19,710.00	69.7%	**(159.00)**	**$**	**(8,586.00)**	365.00	$	19,710.00	100%
A-G017	PSIPE - ACER RUBRUM 'KARPICK' 2 INCH CAL	58.00	EACH	$432.00	$25,056.00	58.00	$25,056.00	100.0%				58.00	$	25,056.00	100%
A-G018	PSIPE - ARBUTUS UNEDO 'COMPACTA' 3 FT HT MIN	16.00	EACH	$32.40	$518.40	16.00	$518.40	100.0%				16.00	$	518.40	100%
A-G019	PSIPE - CARPINUS CAROLINIANA 'NATIVE FLAME' 2 INCH CAL	28.00	EACH	$432.00	$12,096.00	28.00	$12,096.00	100.0%				28.00	$	12,096.00	100%
A-G020	PSIPE - CERCIDIPHYLLUM JAPONICUM 2 INCH CAL	2.00	EACH	$432.00	$864.00	2.00	$864.00	100.0%				2.00	$	864.00	100%
A-G021	PSIPE - CORNUS 'EDDIE'S WHITE WONDER' 1.75 INCH CAL	47.00	EACH	$432.00	$20,304.00	47.00	$20,304.00	100.0%				47.00	$	20,304.00	100%
A-G022	PSIPE - CORNUS SERICEA 1 GAL	10.00	EACH	$32.40	$324.00	10.00	$324.00	100.0%				10.00	$	324.00	100%
A-G023	PSIPE - CORNUS SERICEA 'KELSEYI' 1 GAL	220.00	EACH	$32.40	$7,128.00	50.00	$1,620.00	22.7%	**(170.00)**	**$**	**(5,508.00)**	50.00	$	1,620.00	100%
A-G024	PSIPE - CORYLUS CORNUTA 1 GAL	7.00	EACH	$32.40	$226.80	7.00	$226.80	100.0%				7.00	$	226.80	100%
A-G025	PSIPE - EPIMEDIUM 'SULPHEREUM' QUART	923.00	EACH	$10.80	$9,968.40	923.00	$9,968.40	100.0%				923.00	$	9,968.40	100%

A-G026	PSIPE - ESCALLONIA X LANGLEYNSIS 'PRIDE OF DONARD' 5 GAL	4.00	EACH	$86.40	$345.60	4.00	$345.60	100.0%				4.00	$	345.60	100%
A-G027	PSIPE - EUPHORBIA AMYGDALOIDES 1 GAL	156.00	EACH	$32.40	$5,054.40	156.00	$5,054.40	100.0%				156.00	$	5,054.40	100%
A-G028	PSIPE - GAULTHERIA SHALLON 1 GAL	2,435.00	EACH	$10.80	$26,298.00	2,435.00	$26,298.00	100.0%				2,435.00	$	26,298.00	100%
A-G029	PSIPE - LIQUIDAMBAR STYRACIFLUA 'ROTUNDILOBA' 2 INCH CAL	12.00	EACH	$432.00	$5,184.00	14.40	$6,220.80	120.0%	**2.40**	**$**	**1,036.80**	14.40	$	6,220.80	100%
A-G030	PSIPE - LIRIOPE MUSCARI 1 GAL	654.00	EACH	$16.20	$10,594.80	654.00	$10,594.80	100.0%				654.00	$	10,594.80	100%
A-G031	PSIPE - LIRIOPE MUSCARI 'ROYAL PURPLE' 4 INCH CONT	645.00	EACH	$10.80	$6,966.00	645.00	$6,966.00	100.0%				645.00	$	6,966.00	100%
A-G032	PSIPE - LONICERA NITIDA 'LEMON BEAUTY' 2 GAL	72.00	EACH	$32.40	$2,332.80	72.00	$2,332.80	100.0%				72.00	$	2,332.80	100%
A-G033	PSIPE - MAHONIA AQUIFOLIUM 'COMPACTA' 2 GAL	475.00	EACH	$21.60	$10,260.00	463.00	$10,000.80	97.5%	**(12.00)**	**$**	**(259.20)**	463.00	$	10,000.80	100%
A-G034	PSIPE - MYRICA CALIFORNICA 36 INCH HT MIN	24.00	EACH	$54.00	$1,296.00	24.00	$1,296.00	100.0%				24.00	$	1,296.00	100%
A-G035	PSIPE - NARCISSUS 'KING ALFRED'	215.00	EACH	$5.40	$1,161.00	240.00	$1,296.00	111.6%	**25.00**	**$**	**135.00**	240.00	$	1,296.00	100%
A-G036	PSIPE - OEMLERIA CERASIFORMIS 1 GAL	7.00	EACH	$16.20	$113.40	7.00	$113.40	100.0%				7.00	$	113.40	100%
A-G037	PSIPE - PARTHENACISSUS TRICUSPIDATA 'VEITCHII' 1 GAL	32.00	EACH	$43.20	$1,382.40	32.00	$1,382.40	100.0%				32.00	$	1,382.40	100%
A-G038	PSIPE - PENNISETUM ALPOECUROIDES 'LITTLE BUNNY' 1 GAL	2,594.00	EACH	$10.80	$28,015.20	2,594.00	$28,015.20	100.0%				2,594.00	$	28,015.20	100%
A-G039	PSIPE - POLYSTICHUM MUNITUM 1 GAL	2,736.00	EACH	$10.80	$29,548.80	2,300.00	$24,840.00	84.1%	**(436.00)**	**$**	**(4,708.80)**	2,300.00	$	24,840.00	100%
A-G040	PSIPE - PRUNUS LAUROCERASUS 'MOUNT VERNON' 2 GAL	220.00	EACH	$21.60	$4,752.00	220.00	$4,752.00	100.0%				220.00	$	4,752.00	100%
A-G041	PSIPE - PRUNUS LAUROCERASUS 'NANA' 48 INCH HT MIN	62.00	EACH	$32.40	$2,008.80	76.00	$2,462.40	122.6%	**14.00**	**$**	**453.60**	76.00	$	2,462.40	100%
A-G042	PSIPE - RHODODENDRON 'ROSEUM ELEGANS' 30 INCH HT MIN	8.00	EACH	$108.00	$864.00	8.00	$864.00	100.0%				8.00	$	864.00	100%
A-G043	PSIPE - RIBES SANGUINIEUM 'KING EDWARD VII' 5 GAL	14.00	EACH	$32.40	$453.60	14.00	$453.60	100.0%				14.00	$	453.60	100%
A-G044	PSIPE - ROSA RUGOSA 'PURPLE PAVEMENT' 1 GAL	218.00	EACH	$21.60	$4,708.80	285.00	$6,156.00	130.7%	**67.00**	**$**	**1,447.20**	285.00	$	6,156.00	100%
A-G045	PSIPE - ROSA RUGOSA 'SCHNEEKOPPE' 1 GAL	276.00	EACH	$21.60	$5,961.60	290.00	$6,264.00	105.1%	**14.00**	**$**	**302.40**	290.00	$	6,264.00	100%
A-G046	PSIPE - RUBUS SPECTABALIS 1 GAL	7.00	EACH	$21.60	$151.20	7.00	$151.20	100.0%				7.00	$	151.20	100%
A-G047	PSIPE - SALIX SITCHENSIS 1 GAL	7.00	EACH	$21.60	$151.20	7.00	$151.20	100.0%				7.00	$	151.20	100%
A-G048	PSIPE - SOPHORA JAPONICA 'REGENT' 2" CAL	6.00	EACH	$432.00	$2,592.00	6.00	$2,592.00	100.0%				6.00	$	2,592.00	100%
A-G049	PSIPE - SYMPHORICARPOS ALBUS 1 GAL	363.00	EACH	$16.20	$5,880.60	335.00	$5,427.00	92.3%	**(28.00)**	**$**	**(453.60)**	335.00	$	5,427.00	100%
A-G050	PSIPE - SYMPHORICARPOS X CHENAULTII 'HANCOCK' 1 GAL	291.00	EACH	$21.60	$6,285.60	291.00	$6,285.60	100.0%				291.00	$	6,285.60	100%
A-G051	PSIPE - THUJA PILCATA 'GREEN GIANT' 4 FT HT MIN	5.00	EACH	$108.00	$540.00	5.00	$540.00	100.0%				5.00	$	540.00	100%
A-G052	PSIPE - VACCINIUM OVATUM 1 GAL	291.00	EACH	$16.20	$4,714.20	295.00	$4,779.00	101.4%	**4.00**	**$**	**64.80**	295.00	$	4,779.00	100%
A-G053	PSIPE - VACCINIUM OVATUM 2 GAL	38.00	EACH	$21.60	$820.80	70.00	$1,512.00	184.2%	**32.00**	**$**	**691.20**	70.00	$	1,512.00	100%
A-G054	PSIPE - VACCINIUM OVATUM 'THUNDERBIRD' 2 GAL	65.00	EACH	$43.20	$2,808.00	65.00	$2,808.00	100.0%				65.00	$	2,808.00	100%
A-G055	BACKFILL FOR SAND DRAINS	12.00	C.Y.	$123.50	$1,482.00				**(12.00)**	**$**	**(1,482.00)**	0.00	$	-	0%

A-G056	PROPERTY RESTORATION	40,000.00	F.A.	$1.00	$40,000.00	74,575.03	$74,575.03	186.4%	**34,575.03**	**$**	**34,575.03**	74,575.03	$	74,575.03	100%
A-G057	ROOT BARRIER	1,440.00	L.F.	$10.80	$15,552.00	1,938.00	$20,930.40	134.6%	**498.00**	**$**	**5,378.40**	1,938.00	$	20,930.40	100%
A-G058	IRRIGATION SYSTEM	183,700.00	L.S.	$1.00	$183,700.00	183,788.18	$183,788.18	100.0%	**88.18**	**$**	**88.18**	183,788.18	$	183,788.18	100%
A-G059	CEMENT CONC. TRAFFIC CURB AND GUTTER	13,430.00	L.F.	$19.00	$255,170.00	13,045.30	$247,860.70	97.1%	**(384.70)**	**$**	**(7,309.30)**	13,045.30	$	247,860.70	100%
A-G060	CEMENT CONC. TRAFFIC CURB	22.00	L.F.	$32.45	$713.90	340.00	$11,033.00	1545.5%	**318.00**	**$**	**10,319.10**	340.00	$	11,033.00	100%
A-G061	CEMENT CONC. ROLLED CURB	140.00	L.F.	$37.00	$5,180.00	214.00	$7,918.00	152.9%	**74.00**	**$**	**2,738.00**	214.00	$	7,918.00	100%
A-G062	CEMENT CONC. PEDESTRIAN CURB	250.00	L.F.	$31.05	$7,762.50	434.00	$13,475.72	173.6%	**184.00**	**$**	**5,713.20**	434.00	$	13,475.70	100%
A-G063	RETAINING CURB	150.00	L.F.	$107.00	$16,050.00	223.00	$23,861.00	148.7%	**73.00**	**$**	**7,811.00**	223.00	$	23,861.00	100%
A-G064	CEMENT CONC. DRIVEWAY ENTRANCE TYPE	860.00	S.Y.	$50.00	$43,000.00	1,131.05	$56,552.50	131.5%	**271.05**	**$**	**13,552.50**	1,131.05	$	56,552.50	100%
A-G065	PRECAST DUAL FACED SLOPED MOUNTABLE CURB	770.00	L.F.	$25.92	$19,958.40	775.00	$20,088.00	100.6%	**5.00**	**$**	**129.60**	775.00	$	20,088.00	100%
A-G066	RAISED PAVEMENT MARKER TYPE 2	2.50	HUND	$594.00	$1,485.00	6.46	$3,837.24	258.4%	**3.96**	**$**	**2,352.24**	6.46	$	3,837.24	100%
A-G067	BEAM GUARDRAIL TYPE 31	1,100.00	L.F.	$34.35	$37,785.00	1,495.00	$51,353.25	135.9%	**395.00**	**$**	**13,568.25**	1,495.00	$	51,353.25	100%
A-G068	BEAM GUARDRAIL TYPE 31 - 8 FT. LONG POST	670.00	L.F.	$38.35	$25,694.50	512.00	$19,635.20	76.4%	**(158.00)**	**$**	**(6,059.30)**	512.00	$	19,635.20	100%
A-G069	BEAM GUARDRAIL TYPE 31 NON-FLARED TERMINAL	6.00	EACH	$2,955.00	$17,730.00	8.00	$23,640.00	133.3%	**2.00**	**$**	**5,910.00**	8.00	$	23,640.00	100%
A-G070	BEAM GUARDRAIL TRANSITION SECTION TYPE 21	1.00	EACH	$4,377.00	$4,377.00				**(1.00)**	**$**	**(4,377.00)**	0.00	$	-	0%
A-G071	REMOVING GUARDRAIL	2,190.00	L.F.	$4.80	$10,512.00	1,692.00	$8,121.60	77.3%	**(498.00)**	**$**	**(2,390.40)**	1,692.00	$	8,121.60	100%
A-G072	COATED CHAIN LINK FENCE TYPE 3	616.00	L.F.	$46.00	$28,336.00	667.00	$30,682.00	108.3%	**51.00**	**$**	**2,346.00**	667.00	$	30,682.00	100%
A-G073	COATED CHAIN LINK FENCE TYPE SR	2,054.00	L.F.	$43.20	$88,732.80	2,121.00	$91,627.20	103.3%	**67.00**	**$**	**2,894.40**	2,121.00	$	91,627.20	100%
A-G074	DOUBLE 14 FT. COATED CHAIN LINK GATE	1.00	EACH	$1,300.00	$1,300.00	1.00	$1,300.00	100.0%				1.00	$	1,300.00	100%
A-G075	SINGLE 6 FT. COATED CHAIN LINK GATE	2.00	EACH	$1,105.00	$2,210.00	1.00	$1,105.00	50.0%	**(1.00)**	**$**	**(1,105.00)**	1.00	$	1,105.00	100%
A-G076	WOOD FENCE	215.00	L.F.	$52.95	$11,384.25	185.00	$9,795.75	86.0%	**(30.00)**	**$**	**(1,588.50)**	185.00	$	9,795.75	100%
A-G077	ADJUST MONUMENT CASE AND COVER	3.00	EACH	$450.00	$1,350.00				**(3.00)**	**$**	**(1,350.00)**	0.00	$	-	0%
A-G078	CEMENT CONC. SIDEWALK	5,100.00	S.Y.	$37.25	$189,975.00	5,009.75	$186,613.20	98.2%	**(90.25)**	**$**	**(3,361.81)**	5,009.75	$	186,613.19	100%
A-G079	THICKENED EDGE SIDEWALK	275.00	S.Y.	$166.55	$45,801.25	93.19	$15,520.80	33.9%	**(181.81)**	**$**	**(30,280.46)**	93.19	$	15,520.79	100%
A-G080	INTEGRAL CURB SIDEWALK	70.00	S.Y.	$205.00	$14,350.00	197.57	$40,501.85	282.2%	**127.57**	**$**	**26,151.85**	197.57	$	40,501.85	100%
A-G081	CEMENT CONC. CURB RAMP TYPE PARALLEL	14.00	EACH	$2,560.00	$35,840.00	18.00	$46,080.00	128.6%	**4.00**	**$**	**10,240.00**	18.00	$	46,080.00	100%
A-G082	CEMENT CONC. CURB RAMP TYPE PERPENDICULAR	9.00	EACH	$1,852.00	$16,668.00	8.00	$14,816.00	88.9%	**(1.00)**	**$**	**(1,852.00)**	8.00	$	14,816.00	100%
A-G083	CEMENT CONC. CURB RAMP TYPE SINGLE DIRECTION	1.00	EACH	$3,867.00	$3,867.00	4.00	$15,468.00	400.0%	**3.00**	**$**	**11,601.00**	4.00	$	15,468.00	100%
A-G084	CEMENT CONC TRANSITION RAMP	5.00	EACH	$2,085.00	$10,425.00	3.00	$6,255.00	60.0%	**(2.00)**	**$**	**(4,170.00)**	3.00	$	6,255.00	100%
A-G085	CONCRETE LANDING	5,444.00	L.S.	$1.00	$5,444.00	5,444.00	$5,444.00	100.0%				5,444.00	$	5,444.00	100%
A-G086	QUARRY SPALLS	2.00	C.Y.	$155.00	$310.00	4.22	$654.10	211.0%	**2.22**	**$**	**344.10**	4.22	$	654.10	100%
A-G087	MAILBOX SUPPORT TYPE 1	4.00	EACH	$500.00	$2,000.00	1.00	$500.00	25.0%	**(3.00)**	**$**	**(1,500.00)**	1.00	$	500.00	100%
A-G088	MAILBOX SUPPORT TYPE 2	6.00	EACH	$1,050.00	$6,300.00				**(6.00)**	**$**	**(6,300.00)**	0.00	$	-	0%
A-G089	TRAFFIC SIGNAL MODIFICATION 145TH	42,400.00	L.S.	$1.00	$42,400.00	42,400.00	$42,400.00	100.0%				42,400.00	$	42,400.00	100%
A-G090	TRAFFIC SIGNAL MODIFICATION 153RD	51,270.00	L.S.	$1.00	$51,270.00	51,270.00	$51,270.00	100.0%				51,270.00	$	51,270.00	100%
A-G091	CONDUIT PIPE 3 IN. DIAM.	100.00	L.F.	$57.25	$5,725.00				**(100.00)**	**$**	**(5,725.00)**	0.00	$	-	0%
A-G092	RELOCATE RECTANGULAR RAPID FLASHING BEACON SYSTEM COMPLETE	7,730.00	L.S.	$1.00	$7,730.00	7,730.00	$7,730.00	100.0%				7,730.00	$	7,730.00	100%
A-G093	RECTANGULAR RAPID FLASHING BEACON SYSTEM COMPLETE	27,776.00	L.S.	$1.00	$27,776.00	27,776.00	$27,776.00	100.0%				27,776.00	$	27,776.00	100%
A-G094	PERMANENT SIGNING	52,000.00	L.S.	$1.00	$52,000.00	52,000.00	$52,000.00	100.0%				52,000.00	$	52,000.00	100%
A-G095	RELOCATE SPEED FEEDBACK SIGN	0.00	L.S.	$1.00	$0.00	0.00	$0.00	0.0%				0.00	$	-	0%
A-G096	PAINT LINE	36,140.00	L.F.	$0.54	$19,515.60	48,895.00	$26,403.30	135.3%	**12,755.00**	**$**	**6,887.70**	48,895.00	$	26,403.30	100%
A-G097	PLASTIC WIDE LANE LINE	1,510.00	L.F.	$2.70	$4,077.00	2,121.00	$5,726.70	140.5%	**611.00**	**$**	**1,649.70**	2,121.00	$	5,726.70	100%
A-G098	PLASTIC CROSSWALK LINE	1,750.00	S.F.	$5.95	$10,412.50	1,443.00	$8,585.85	82.5%	**(307.00)**	**$**	**(1,826.65)**	1,443.00	$	8,585.85	100%
A-G099	GREEN PLASTIC BICYCLE LANE	3,300.00	S.F.	$10.80	$35,640.00	3,971.25	$42,889.50	120.3%	**671.25**	**$**	**7,249.50**	3,971.25	$	42,889.50	100%
A-G100	PLASTIC BIKE CROSSING LINE	1,120.00	S.F.	$2.70	$3,024.00	623.33	$1,682.99	55.7%	**(496.67)**	**$**	**(1,341.01)**	623.33	$	1,682.99	100%
A-G101	PLASTIC STOP LINE	220.00	L.F.	$8.65	$1,903.00	236.50	$2,045.72	107.5%	**16.50**	**$**	**142.73**	236.50	$	2,045.73	100%
A-G102	PLASTIC TRAFFIC ARROW	30.00	EACH	$270.00	$8,100.00	37.00	$9,990.00	123.3%	**7.00**	**$**	**1,890.00**	37.00	$	9,990.00	100%
A-G103	PLASTIC BICYCLE LANE SYMBOL	57.00	EACH	$270.00	$15,390.00	61.00	$16,470.00	107.0%	**4.00**	**$**	**1,080.00**	61.00	$	16,470.00	100%
A-G104	PLASTIC SPEED BUMP SYMBOL	3.00	EACH	$270.00	$810.00				**(3.00)**	**$**	**(810.00)**	0.00	$	-	0%
A-G105	PLASTIC TRAFFIC LETTER	12.00	EACH	$162.00	$1,944.00	7.00	$1,134.00	58.3%	**(5.00)**	**$**	**(810.00)**	7.00	$	1,134.00	100%
A-G106	PAINTING NEW OR EXISTING CURB	1,830.00	L.F.	$1.62	$2,964.60				**(1,830.00)**	**$**	**(2,964.60)**	0.00	$	-	0%
A-G107	DETECTABLE WARNING SURFACE (CAST IRON)	64.00	S.F.	$36.00	$2,304.00				**(64.00)**	**$**	**(2,304.00)**	0.00	$	-	0%
A-G108	TEMPORARY PAVEMENT MARKING - SHORT DURATION	58,000.00	L.F.	$0.35	$20,300.00	12,175.00	$4,261.25	21.0%	**(45,825.00)**	**$**	**(16,038.75)**	12,175.00	$	4,261.25	100%
A-G109	MODULAR BLOCK WALL	2,174.00	S.F.	$37.00	$80,438.00	2,948.50	$109,094.50	135.6%	**774.50**	**$**	**28,656.50**	2,948.50	$	109,094.50	100%

A-G110	GRAVITY BLOCK WALL	5,260.00	S.F.	$35.00	$184,100.00	8,967.25	$313,853.77	170.5%	**3,707.25**	**$**	**129,753.75**	8,967.25	$	313,853.75	100%
A-G111	BRONZE INLAY	31.00	EACH	$750.00	$23,250.00	31.00	$23,250.00	100.0%				31.00	$	23,250.00	100%
A-G112	ARROWHEAD SIGN WALL	35,000.00	L.S.	$1.00	$35,000.00	35,000.00	$35,000.00	100.0%				35,000.00	$	35,000.00	100%
A-G113	145TH MEDIAN STREETSCAPE	170,000.00	L.S.	$1.00	$170,000.00	170,000.00	$170,000.00	100.0%				170,000.00	$	170,000.00	100%
A-G114	165TH MEDIAN STREETSCAPE	210,000.00	L.S.	$1.00	$210,000.00	210,000.00	$210,000.00	100.0%				210,000.00	$	210,000.00	100%
					$10,069,935.81		$11,595,098.82			**$**	**1,525,219.37**		$	11,595,155.18	100%

SCHEDULE B

Bid Item No.	Item Description	Planned Quantity	Unit	Unit Price	Total	Qty Complete Todate	Cost Complete Todate	% Complete	CO 037 AJST QTY	CO 040 AJST AMOUNT	CO 040 AJST QTY	CO 040 AJST AMOUNT	% Complete
B-H001	MINOR CHANGE	15,000.00	F.A.	$1.00	$15,000.00	14,255.20	$14,255.20	95.0%	**(744.80)**	**$ (744.80)**	14,255.20	$ 14,255.20	100%
B-H002	POTHOLING	10,000.00	F.A.	$1.00	$10,000.00	8,543.60	$8,543.60	85.4%	**(1,456.40)**	**$ (1,456.40)**	8,543.60	$ 8,543.60	100%
B-I001	HMA CL. 1/2 IN. PG 58H-22	520.00	TON	$162.03	$84,255.60	598.37	$96,953.89	115.1%	**78.37**	**$ 12,698.29**	598.37	$ 96,953.89	100%
B-J001	ADJUST MANHOLE	24.00	EACH	$450.00	$10,800.00	25.00	$11,250.00	104.2%	**1.00**	**$ 450.00**	25.00	$ 11,250.00	100%
B-J002	MANHOLE SECTION AND CONE - 12 IN.	10.00	EACH	$1,325.00	$13,250.00	10.00	$13,250.00	100.0%			10.00	$ 13,250.00	100%
B-J003	MANHOLE SECTION AND CONE - 24 IN.	3.00	EACH	$1,645.00	$4,935.00	2.00	$3,290.00	66.7%	**(1.00)**	**$ (1,645.00)**	2.00	$ 3,290.00	100%
B-J004	TRENCH SAFETY	4,065.00	L.S.	$1.00	$4,065.00	4,065.00	$4,065.00	100.0%			4,065.00	$ 4,065.00	100%
B-J005	DUCTILE IRON PIPE FOR WATER MAIN 4 IN. DIAM.	30.00	L.F.	$170.00	$5,100.00	52.00	$8,840.00	173.3%	**22.00**	**$ 3,740.00**	52.00	$ 8,840.00	100%
B-J006	DUCTILE IRON PIPE FOR WATER MAIN 8 IN. DIAM.	260.00	L.F.	$107.70	$28,002.00	362.00	$38,987.40	139.2%	**102.00**	**$ 10,985.40**	362.00	$ 38,987.40	100%
B-J007	DUCTILE IRON PIPE FOR WATER MAIN 12 IN. DIAM.	960.00	L.F.	$120.10	$115,296.00	1,126.85	$135,334.69	117.4%	**166.85**	**$ 20,038.69**	1,126.85	$ 135,334.69	100%
B-J008	ADJUST WATER STRUCTURE TO GRADE	3.00	EACH	$475.00	$1,425.00	1.00	$475.00	33.3%	**(2.00)**	**$ (950.00)**	1.00	$ 475.00	100%
B-J009	4 IN. PIPE ADJUSTMENT AND BENDS	1.00	EACH	$7,500.00	$7,500.00	1.00	$7,500.00	100.0%			1.00	$ 7,500.00	100%
B-J010	8 IN. PIPE ADJUSTMENT AND BENDS	10.00	EACH	$6,935.00	$69,350.00	8.00	$55,480.00	80.0%	**(2.00)**	**$ (13,870.00)**	8.00	$ 55,480.00	100%
B-J011	12 IN. PIPE ADJUSTMENT AND BENDS	5.00	EACH	$9,360.00	$46,800.00	3.00	$28,080.00	60.0%	**(2.00)**	**$ (18,720.00)**	3.00	$ 28,080.00	100%
B-J012	CONNECT TO EXISTING WATER SYSTEM	6.00	EACH	$4,300.00	$25,800.00	16.00	$68,800.00	266.7%	**10.00**	**$ 43,000.00**	16.00	$ 68,800.00	100%
B-J013	ADDITIONAL DI FITTINGS (IF REQUIRED)	500.00	LBS	$8.25	$4,125.00	773.38	$6,380.38	154.7%	**273.38**	**$ 2,255.39**	773.38	$ 6,380.39	100%
B-J014	CRUSHED ROCK	680.00	TON	$30.50	$20,740.00	802.15	$24,465.57	118.0%	**122.15**	**$ 3,725.58**	802.15	$ 24,465.58	100%
B-J015	IMPORTED BACKFILL GRAVEL	2,600.00	TON	$27.00	$70,200.00	2,924.46	$78,960.42	112.5%	**324.46**	**$ 8,760.42**	2,924.46	$ 78,960.42	100%
B-J016	IMPORTED FOUNDATION GRAVEL (IF REQUIRED)	120.00	TON	$36.00	$4,320.00	57.68	$2,076.48	48.1%	**(62.32)**	**$ (2,243.52)**	57.68	$ 2,076.48	100%
B-J017	GATE VALVE ASSEMBLY 8 IN.	3.00	EACH	$2,055.00	$6,165.00	8.00	$16,440.00	266.7%	**5.00**	**$ 10,275.00**	8.00	$ 16,440.00	100%
B-J018	GATE VALVE ASSEMBLY 12 IN.	11.00	EACH	$2,885.00	$31,735.00	10.00	$28,850.00	90.9%	**(1.00)**	**$ (2,885.00)**	10.00	$ 28,850.00	100%
B-J019	REMOVE AND REPLACE VALVE BOX	23.00	EACH	$405.00	$9,315.00	12.00	$4,860.00	52.2%	**(11.00)**	**$ (4,455.00)**	12.00	$ 4,860.00	100%
B-J020	AIR & VACUUM RELIEF VALVE - 2 In.	2.00	EACH	$4,695.00	$9,390.00	1.00	$4,695.00	50.0%	**(1.00)**	**$ (4,695.00)**	1.00	$ 4,695.00	100%
B-J021	2" BLOW-OFF ASSEMBLY	1.00	EACH	$1,920.00	$1,920.00	1.00	$1,920.00	100.0%			1.00	$ 1,920.00	100%
B-J022	FIRE HYDRANT ASSEMBLY	16.00	EACH	$5,755.00	$92,080.00	16.00	$92,080.00	100.0%			16.00	$ 92,080.00	100%
B-J023	SERVICE CONNECTION 1 IN. DIAM. (STANDARD)	8.00	EACH	$1,970.00	$15,760.00	8.00	$15,760.00	100.0%			8.00	$ 15,760.00	100%
B-J024	SERVICE CONNECTION 1 IN. DIAM. (LONG)	0.00	EACH	$3,285.00	$0.00						0.00	$ -	
B-J025	SERVICE CONNECTION 1.5 IN. DIAM.	1.00	EACH	$2,703.00	$2,703.00	1.00	$2,703.00	100.0%			1.00	$ 2,703.00	100%
B-J026	SERVICE CONNECTION 2 IN. DIAM.	2.00	EACH	$4,521.00	$9,042.00	3.00	$13,563.00	150.0%	**1.00**	**$ 4,521.00**	3.00	$ 13,563.00	100%
B-K001	PROPERTY RESTORATION	15,000.00	F.A.	$1.00	$15,000.00				**(15,000.00)**	**$ (15,000.00)**			
B-K002	CURB DOOR	1.00	EACH	$500.00	$500.00	1.00	$500.00	100.0%	**0.00**	**$ -**	1.00	$ 500.00	100%
					$734,573.60		$788,358.63			**$ 53,785.04**		$ 788,358.64	100%
									10.0%	**$ 5,378.50**			
										$ 59,163.54			

SCHEDULE A CHANGE ORDERS

Bid Item No.	Item Description	Planned Quantity	Unit	Unit Price	Total	Qty Complete Todate	Cost Complete Todate	% Complete	CO 037 AJST QTY	CO 037 AJST AMOUNT	CO 037 AJST QTY	CO 037 AJST AMOUNT	% Complete
C-001-A009	OFF-DUTY UNIFORMED POLICE OFFICER	200.00	HR	$110.00	$22,000.00	975.84	$107,341.85	487.9%	**775.84**	**$ 85,342.40**	975.84	$ 107,342.40	100%
C-003-A009	CO #003 TEMORARY TRAFFIC CONTROL	1.00	LS	$7,714.00	$7,714.00	1.00	$7,714.00	100.0%			1.00	$ 7,714.00	100%
C-003-F025	CATCH BASIN TYPE 2 72 IN. DIAM.	1.00	EACH	$7,073.00	$7,073.00	1.00	$7,073.00	100.0%			1.00	$ 7,073.00	100%
C-003-F026	CO #003 STRUCTURE EXCAVATION CL B	1.00	LS	$3,591.86	$3,591.86	1.00	$3,591.86	100.0%			1.00	$ 3,591.86	100%
C-004-G115	EROSION CONTROL AND WATER POLLUTION PREVENTION	50,000.00	FA	$1.00	$50,000.00	52,042.08	$52,042.08	104.1%	**2,042.08**	**$ 2,042.08**	52,042.08	$ 52,042.08	100%
C-006-B024	TREE REMOVAL 60289, STA 167+80	1.00	LS	$3,320.00	$3,320.00	1.00	$3,320.00	100.0%			1.00	$ 3,320.00	100%
C-008-B019	EXCAVATION INCL. HAUL, BACKFILL, PAVEMENT REPAIR - ZIPLY L1 CONFLICT	1.00	LS	$32,236.52	$32,236.52	1.00	$32,236.52	100.0%			1.00	$ 32,236.52	100%
C-010-B025	ADDITIONAL TREE REMOVAL, CLEARING AND GRUBBING	1.00	LS	$86,100.21	$86,100.21	1.00	$86,100.21	100.0%			1.00	$ 86,100.21	100%
C-011-G116	12 IN. IRRIGATION HEADS	1.00	LS	$8,494.65	$8,494.65	1.00	$8,494.64	100.0%			1.00	$ 8,494.65	100%
C-012-G117	STANDBY - JUANITA DETOUR	1.00	LS	$14,587.91	$14,587.91	1.00	$14,587.91	100.0%			1.00	$ 14,587.91	100%
C-013-G118	EXCAVATION INCL. HAUL AT PSE VAULT	1.00	LS	$27,435.47	$27,435.47	1.00	$27,435.47	100.0%			1.00	$ 27,435.47	100%
C-013-G119	SURVEY AT PSE VAULT	1.00	LS	$181.50	$181.50	1.00	$181.50	100.0%			1.00	$ 181.50	100%
C-013-G126	MOBILIZATION ADJUSTMENT	76.50	DAY	$2,285.71	$174,856.82	76.50	$174,856.81	100.0%			76.50	$ 174,856.82	100%
C-013-G127	PROJECT TEMPORARY TRAFFIC CONTROL	76.50	DAY	$1,985.71	$151,906.82	76.50	$151,906.81	100.0%			76.50	$ 151,906.82	100%
C-013-G128	EROSION CONTROL AND WATER POLLUTION PREVENTION	76.50	DAY	$82.86	$6,338.79	76.50	$6,338.79	100.0%			76.50	$ 6,338.79	100%
C-014-G120	POTHOLE PSE CONDUIT	1.00	LS	$4,382.09	$4,382.09	1.00	$4,382.09	100.0%			1.00	$ 4,382.09	100%
C-014-G121	SURVEY PSE CONDUIT	1.00	LS	$1,331.00	$1,331.00	1.00	$1,331.00	100.0%			1.00	$ 1,331.00	100%
C-014-G122	WALL 4 PSE S33	1.00	LS	$5,075.00	$5,075.00	1.00	$5,075.00	100.0%			1.00	$ 5,075.00	100%
C-014-G123	DPC 027 ADDED COST	1.00	LS	$27,212.10	$27,212.10	1.00	$27,212.10	100.0%			1.00	$ 27,212.10	100%
C-014-G124	FURNISH AND INSTALL REVISED PANELS	1.00	LS	$84,621.68	$84,621.68	1.00	$84,621.68	100.0%			1.00	$ 84,621.68	100%
C-016-G129	ZIPLY DUCT BANK CONFLICTS	1.00	LS	$78,245.71	$78,245.71	1.00	$78,245.71	100.0%			1.00	$ 78,245.71	100%
C-021-G130	TREE REMOVAL 11050, STA119+85	1.00	LS	$6,924.97	$6,924.97	1.00	$6,924.97	100.0%			1.00	$ 6,924.97	100%
C-022-G132	WALL 7 OVER EXCAVATION	1.00	LS	$32,662.85	$32,662.85	1.00	$32,662.85	100.0%			1.00	$ 32,662.85	100%
C-023-G133	ADDED IRRIGATION DPC 048	1.00	LS	$11,067.19	$11,067.19	1.00	$11,067.19	100.0%			1.00	$ 11,067.19	100%
C-025-G134	SOUTHWEST CORNER OF 153RD	1.00	LS	$5,046.51	$5,046.51	1.00	$5,046.51	100.0%			1.00	$ 5,046.51	100%
C-026-G135	SOLAR POWERED SPEED FEEDBACK	16,593.00	LS	$1.00	$16,593.02	16,593.02	$16,593.02	100.0%			16,593.00	$ 16,593.00	100%
C-027-G137	ABANDON DETENTION PIPE	1.00	LS	$13,764.52	$13,764.52	1.00	$13,764.52	100.0%			1.00	$ 13,764.52	100%
C-028-G134	PETE ST TRENCH DRAIN	1.00	LS	$30,473.72	$30,473.72	1.00	$30,473.72	100.0%			1.00	$ 30,473.72	100%
C-029-G135	ADD UNDERDRAIN	1.00	LS	$11,619.62	$11,619.62	1.00	$11,619.62	100.0%			1.00	$ 11,619.62	100%
C-030-G147	CUTTING ACCESS HOLE IN CATCH BASIN	6.00	EACH	$1,982.99	$11,897.94	6.00	$11,897.94	100.0%			6.00	$ 11,897.94	100%
C-031-G136	EXTRA DRIVEWAY WORK	1.00	LS	$5,572.01	$5,572.01	1.00	$5,572.01	100.0%			1.00	$ 5,572.01	100%
C-032-G137	DPC 015 ADDED POND IRRIGATION AND PLANTING	1.00	LS	$10,001.48	$10,001.48	1.00	$10,001.48	100.0%			1.00	$ 10,001.48	100%
C-033-G138	PERMANENT SIGNING ADDITIONS & REVISIONS	1.00	LS	$12,376.00	$12,376.00	1.00	$12,376.00	100.0%			1.00	$ 12,376.00	100%
C-033-G139	REPLACE EXISTING SIGN	1.00	LS	$504.00	$504.00	1.00	$504.00	100.0%			1.00	$ 504.00	100%
C-033-G140	KENMORE WELCOME SIGN	1.00	LS	$8,960.00	$8,960.00	1.00	$8,960.00	100.0%			1.00	$ 8,960.00	100%
C-034-G149	POND DRAINAGE REPAIR	1.00	LS	$101,227.73	$101,227.73	1.00	$101,227.73	100.0%			1.00	$ 101,227.73	100%
C-035-G148	TREE PIT OUTLETS	1.00	LS	$14,116.79	$14,116.79	1.00	$14,116.79	100.0%			1.00	$ 14,116.79	100%
C-036-G150	DRIVEWAY 23 REVISION	1.00	LS	$21,394.95	$21,394.95	1.00	$21,394.95	100.0%			1.00	$ 21,394.95	100%
					$1,110,908.43		$1,198,292.33			**$ 87,384.48**		$ 1,198,292.88	100%

SCHEDULE B CHANGE ORDERS

Bid Item No.	Item Description	Planned Quantity	Unit	Unit Price	Total	Qty Complete Todate	Cost Complete Todate	% Complete	**CO 037 AJST QTY**	**CO 037 AJST AMOUNT**	CO 037 AJST QTY	CO 040 AJST AMOUNT	% Complete
D-002-J027	REDUCED PRESSURE BACKFLOW PREVENTER	8,701.20	LS	$1.00	$8,701.15	8,701.15	$8,701.15	100.0%			8,701.20	$ 8,701.20	100%
D-005-J028	FIRE HYDRANT ADDITIONAL COST	3.00	EACH	$445.00	$1,335.00	3.00	$1,335.00	100.0%			3	1335	100%
D-005-J029	2" WATER SERVICE ADDITIONAL COST	2.00	EACH	$359.00	$718.00	2.00	$718.00	100.0%			2	718	100%
D-005-J030	1" WATER SERVICE ADDITIONAL COST	1.00	EACH	$359.00	$359.00	1.00	$359.00	100.0%			1	359	100%
D-005-J031	ADDITIONAL DEPTH SAW CUT (>7"), 8"-17"	1.00	LS	$5,183.19	$5,183.19	1.00	$5,183.19	100.0%			1	5183.19	100%
D-007-J032	INSTALL MONUMENT	1.00	LS	$2,240.00	$2,240.00	1.00	$2,240.00	100.0%			1	2240	100%
D-009-J033	INSTALL IRRIGATION SERVICE - SPRINGTIME DAYCARE	1.00	LS	$3,419.71	$3,419.71	1.00	$3,419.71	100.0%			1	3419.71	100%
D-015-J034	SERVICE CONNECTION 1 IN. DIAM. (STANDARD) - CO 15	27.00	EACH	$2,049.90	$55,347.30	29.00	$59,447.10	107.4%	**2**	**4099.8**	29	59447.1	100%
D-015-J035	SERVICE CONNECTION 1 IN. DIAM. (LONG) - CO 15	9.00	EACH	$3,480.00	$31,320.00	10.00	$34,800.00	111.1%	**1**	**3480**	10	34800	100%
D-018-J036	6" Gate Valve	1.00	EACH	$1,795.84	$1,795.84	1.00	$1,795.84	100.0%			1	1795.84	100%
D-019-J037	SERVICE CONNECTION 2 IN DIAM (STD) - PEX	1.00	EACH	$4,182.97	$4,182.97	1.00	$4,182.97	100.0%			1	4182.97	100%
							$122,181.96			**$ 7,579.80**		$ 122,182.01	100%
									10.0%	**$ 757.98**			
										$ 8,337.78			

Schedule A =	$	1,525,219.37
Schedule A Change Orders =	$	87,384.48
Change Order 037 Schedule A Total =	**$**	**1,612,603.85**
Schedule B =	$	53,785.04
Schedule B Tax =	$	5,378.50
Schedule B Change Orders =	$	7,579.80
Schedule B Change Order Tax =	$	757.98
Change Order 037 Schedule B Total =	**$**	**67,501.32**
Change Order 037 Total =	**$**	**1,680,105.17**

City Council Agenda Bill
City of Kenmore, WA

Subject/Topic: Joint Planning Commission/City Council Middle Housing Study Session **Proposed Council Action/Motion:** No proposed action. Review and discussion only.	**For Council Meeting Agenda of:** 4/8/2024 **Department:** Community Development **Prepared by:** Debbie Bent, Community Development Director and Todd Hall, Principal Planner **Initial & Date** **Approved by Department Head:** DB, 3/26/24 **Approved by City Attorney:** N/A **Approved by Finance Director:** N/A **Approved by City Manager:** RK, 3/28/24 **Attachments/Exhibits:** 1. Briefing Memo 2. Presentation by Clay White, Kimley-Horn (Consultant)

Summary:
At the 4/8/24 City Council meeting, Community Development staff and Clay White from Kimley-Horn (consultant) will lead a discussion regarding middle housing concepts and options for implementation consideration. This study session is for informational/discussion only and no action is required.

Information/Background:
The City is required to amend both the Housing Element and Land Use Element of the Comprehensive Plan (adopted in 2022) to be consistent with recent state law passed on middle housing and accessory dwelling units (ADUs) by December 31, 2024. The City must also develop and implement new zoning regulations for middle housing and ADUs by June 2025.

Middle housing information will be available at the April 15 Town Hall meeting to hear public comments. Draft Comprehensive Plan and zoning code amendments will be presented to Planning Commission this spring.

Fiscal Consideration:
The Community Development Department received grants from the Department of Commerce in 2022 ($125,000) for the periodic update to the Comprehensive Plan, and in 2024 ($40,000) to address new State legislation related to middle housing.

City Council Priority or Budget Objective Being Addressed:
Priority #1: Increase and preserve the options for affordable housing
Priority #5: Implement the Diversity, Equity, Including and Accessibility (DEIA) Strategic Plan

Kimley»Horn

TO: Debbie Bent, Community Development Director
Todd Hall, Principal Planner

FROM: Clay White, Director of Planning

DATE: March 28th, 2024

RE: April 8, 2024, Kenmore City Council and Planning Commission Joint Study Session – Middle Housing Policy and Code update project

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On behalf of the Kimley-Horn team, I look forward to the opportunity to brief the Kenmore City Council on April 8, regarding the Middle Housing Policy and Code update project. This provides an opportunity to provide the City Councilmembers and the Planning Commission an early briefing on the background for this project, the project requirements and schedule, and early project tasks. This briefing also provides the opportunity for the Councilmembers to provide initial feedback that will help shape our work moving forward.

Background

The Washington Legislature passed Engrossed 2nd Substitute House Bill 1110 ("E2SHB 1110", commonly referred to as "HB 1110") in 2023. HB 1110 requires 77 cities across the State of Washington to adopt development regulations allowing for middle housing on all lots zoned predominantly for residential use. The City of Kenmore is required to adopt new zoning and development regulations in compliance with these new requirements by June 30, 2025. If no action is taken, the legislation will become effective.

Overview of Bill requirements

House Bill 1110 has different requirements for cities that have a population under/over 25,000. In 2023, the City of Kenmore population estimate was 24,230. It is likely that Kenmore will grow past the 25,000 thresholds within the next two or three years. When a city moves into a new population tier, it must comply with the new requirements. On April 8, we will show the City Council and Planning Commission the difference in requirements and outline why it may be prudent to meet requirements for cities above 25,000 as part of this project.
We will also review where new requirements will apply, the middle housing types being discussed, and implementation options that City of Kenmore can consider.

Requirements for population over 25,000
At least six of nine middle housing building types must be allowed
2 units per lot
4 units per lot when near major transit or when at least 1 affordable housing unit is provided

Community Engagement Overview

The consultant team has assembled a high-level draft project charter, draft project schedule, and outline for the community engagement plan. This project will build on the community outreach completed in Phase 1 (available on the City's website, Framing the Future of Housing). The project team's approach to community engagement will be to provide the space for residents and stakeholders to learn about the state requirements and the subsequent process to modify housing policy and codes. This project briefing, followed by an town hall event on April 15, 2024, will focus on engaging decisionmakers and the community early in the update process. This will set the foundation for our work.

Project Schedule

We have developed a project schedule that will guide our efforts. The primary goal is to align the development of both policy and code with the ongoing comprehensive plan update which will conclude in December 2024. Milestones for this project are also aligned with the grant timelines Kenmore has established with the Department of Commerce.

Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
		Ongoing Engagement with Community and Stakeholders								
Discovery										
		Draft Housing Element								
		Draft Regulations								
		PC & Town Hall		✸	Public Meetings			PC, Council, Hearings		

✸ Potential check-in with Planning Commission and City Council.

As part of the briefing, we hope to receive early feedback on the information we present. In addition, comments on the following questions will be extremely helpful as we begin this project.

- What do you see as the project opportunities or issues the project team needs to consider?
- What can you share upfront that may assist and help guide the project team as new policies and code is developed?
- How often would you like to be provided project briefings (briefings and/or memos)?
- Any additional feedback on the information presented today?

Middle Housing Policy and Code Update Project

Joint City Council and Planning Commission Study Session

April 8, 2024

Briefing Overview

- Project team introductions
- Legislation overview
- Project overview and schedule
- Community engagement approach
- Questions and early feedback from the City Council and Planning Commission
- Next Steps

Introductions

Kimley-Horn Project Team

Clay White, Project Manager

Nick Chen, Lead Planning Analyst

Legislation Overview

House Bill 1110

- Passed by legislature in 2023
- Requires the City of Kenmore to adopt housing policies and implementing regulations to allow more middle housing in residential zones.
- Must be completed by June 30, 2025, or model code will apply.
- Requirements modified by city population.

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1110

Chapter 332, Laws of 2023

68th Legislature
2023 Regular Session

GROWTH MANAGEMENT ACT—MINIMUM DEVELOPMENT DENSITIES IN RESIDENTIAL ZONES

EFFECTIVE DATE: July 23, 2023

Passed by the House April 18, 2023
Yeas 79 Nays 18

LAURIE JINKINS
Speaker of the House of Representatives

Passed by the Senate April 11, 2023
Yeas 35 Nays 14

DENNY HECK
President of the Senate

Approved May 8, 2023 1:11 PM

JAY INSLEE
Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1110** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN
Chief Clerk

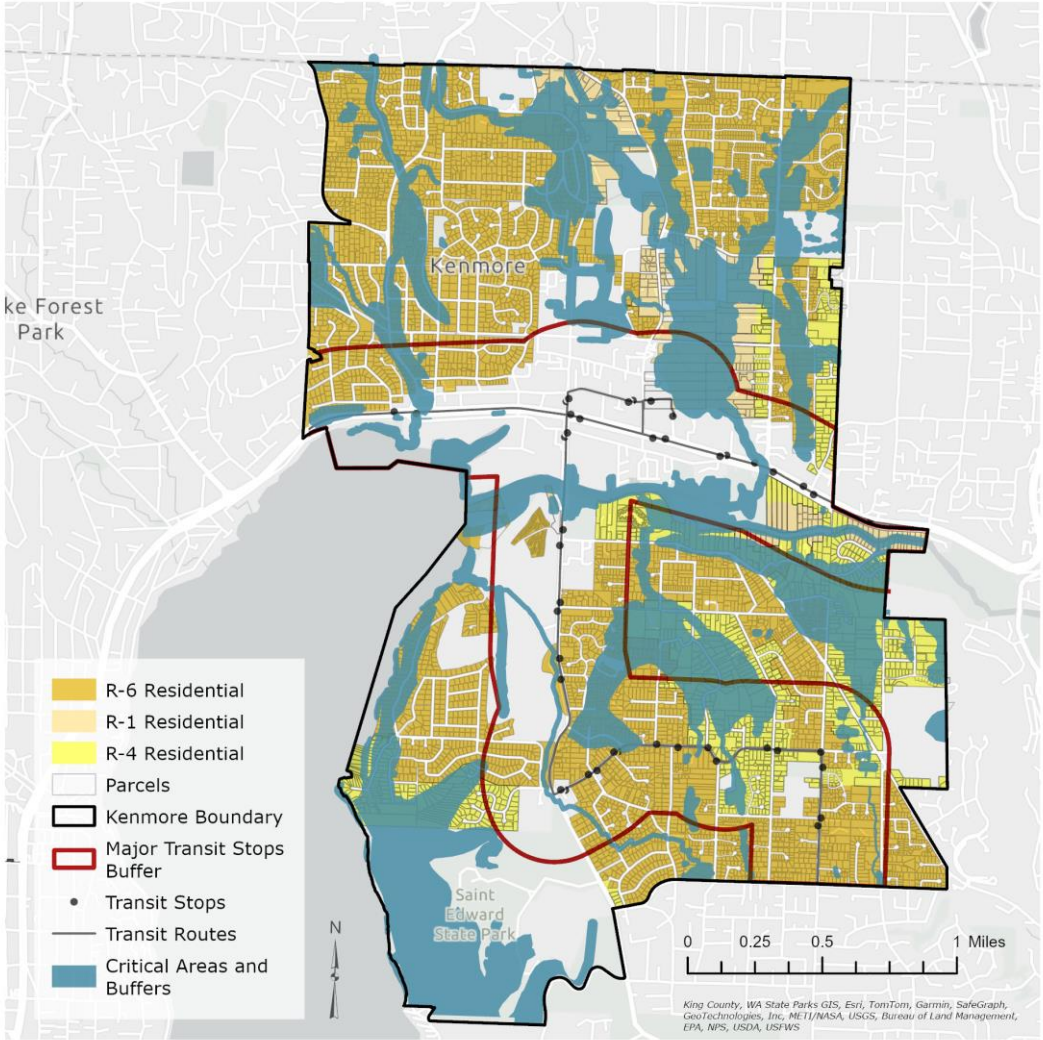
FILED

May 10, 2023

Secretary of State
State of Washington

High level details

- Applies to R-1, R-4, R-6 zones.
- Limits on more restrictive standards than single family housing.
- Design review must be administrative.
- Limits parking requirements.
- Permit subdivision of new units.



For illustrative purposes only.

Bill requirements overview

- 2023 City of Kenmore population estimate – 24,230.
- Allowing six of the nine housing types does not mean they will be permitted.
- “Units per lot” standard changes how density is calculated.

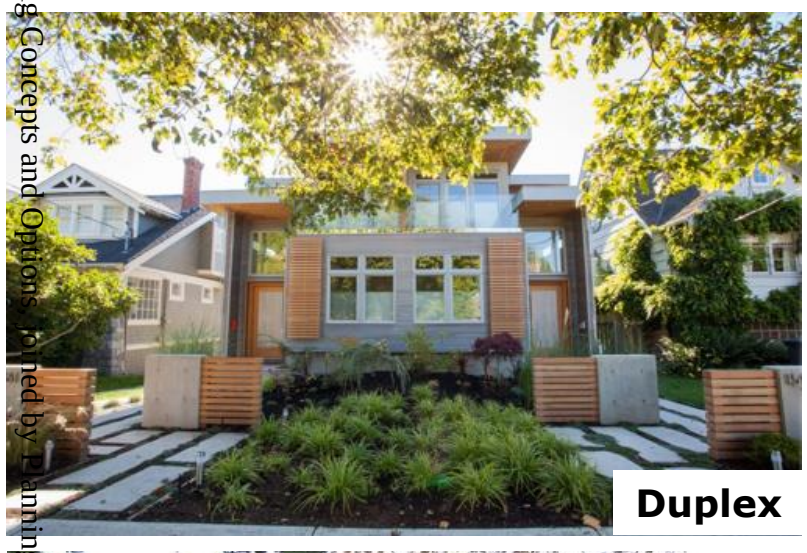
Requirements	Tier 2 – over 25,000 population	Tier 3 – under 25,000 population
Middle Housing Types	At least six of nine middle housing building types must be allowed	At least four of nine middle housing building types must be allowed, subject to review by the city’s attorney
Base Unit Density	2 units per lot	2 units per lot
Increased Unit Density	4 units per lot when near major transit or when at least 1 affordable housing unit is provided	No additional density increase

Implementation options

HB 1110 provides cities with three paths to compliance, summarized below.

Standard requirements	Alternative to density requirements	Alternative local action option
• At least six of nine middle housing building types must be allowed in all residential zones. • 2 units per lot. • 4 units per lot when near major transit or when at least 1 affordable housing unit is provided.	Same as standard requirements except: • Applied to 75% of residential zones. • Statute provides specifics regarding what must be included in the 25% area.	City can implement actions which are substantially similar to the Standard requirements. • Side boards set in statute. • Must be approved by the Department of Commerce.

Nine Defined Housing Types



Duplex

Triplex

Fourplex

Cottages

Townhouses

Additional Potential Housing Types:

- Fiveplexes
- Sixplexes
- Stacked Flats
- Courtyard Apartments

Project Schedule

Project Schedule

Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Ongoing Engagement with Community and Stakeholders										
Discovery										
		Draft Housing Element								
		Draft Regulations								
		PC & Town Hall			Public Meetings			PC, Council, Hearings		

Potential check-in with Planning Commission and City Council.

Schedule developed to sync with Comprehensive Plan update schedule which will be complete by December 31, 2024.

Community Engagement

Community Engagement Goals

- Build off engagement from initial phase of work.
- Inform residents and stakeholders about the state requirements and the subsequent processes.
- Provide opportunities to listen and inform outside of a public meetings and hearings.
- Listen to residents and special interest groups.

Initial Questions

Initial Questions

- What do you see as the project opportunities or issues the project team needs to consider?
- What can you share upfront that may assist and help guide the project team as new policies and code is developed?
- How often would you like to be provided project briefings (briefings and/or memos)?
- Any additional feedback on the information presented today?

Next Steps

Next Steps

- Community engagement in Spring and Summer
- Prepare draft Housing policies to align with project.
- Develop code framework.

City Council Agenda Bill
City of Kenmore, WA

Subject/Topic:

Discuss Ordinance No. 23-0597
(Tier 2 Tree Regulations)

For Council Meeting Agenda of: April 8, 2024

Department: Development Services

Prepared by: Samantha Loyuk, Development Services Director, and Garrett Oppenheim, Assistant to the City Manager

	Initial & Date
Approved by Department Head:	SL 3/19/24
Approved by City Attorney:	DR 3/26/24
Approved by Finance Director:	MM 3/28/24
Approved by City Manager:	RK 3/28/24

Attachments/Exhibits:

1. Compiled and Analyzed Feedback from the public
2. Written Feedback from the Public on Proposed Regulations
3. Current KMC Provisions
4. Code Amendments, as Proposed in November 2023
    a. Ordinance No. 23-0597
    b. Ord. 23-0597 Exhibit A
    c. Ord. 23-0597 Exhibit B
    d. Ord. 23-0597 Exhibit C
5. Code Amendments, as Proposed in November 2023 with Annotations Where Public Recommends Revisions
    a. Ord. 23-0597 Exhibit A
    b. Ord. 23-0597 Exhibit B
    c. Ord. 23-0597 Exhibit C
6. City of Kirkland Updated Tree Code
7. Snohomish County Tree Code

Proposed Council Action/Motion:

Study session to discuss and provide direction on tree code amendments.

Summary:

In December 2023, Kenmore City Council ("Council") asked staff to confer with interested members of the public to gain feedback on how to improve the Tier 2 Tree Regulation amendments. Amendments

LAST UPDATED 12/21/2023 MK
IMANAGE\359830\0001\10843485.v1-3/26/24

were brought forth for Public Hearings in November and December 2023. The information presented represents community feedback and collaboration with the stakeholders.

Information/Background:

In April 2021, Development Services staff provided an informational presentation to summarize existing tree regulations in Kenmore, as requested by the City Council at the January 2021 retreat. During the presentation, there was discussion about potential code amendments to further preserve, protect, and enhance Kenmore's tree canopy. These recommendations included short-term and long-term action items, referred to as List 1 and List 2 (later referred to as "Tier 1 and Tier 2"). The Tier 1 action items were adopted on March 21, 2022.

The following items are included in Tier 2:

1. Increase the tree density requirement for new development.
2. Decrease yearly allowances for single-family tree removal.
3. Always require replacement.
4. Preserve existing trees along the perimeter of a development.
5. Establish a tree fund for instances where replacement is infeasible ("fee in lieu").
6. Establish an Exceptional Tree program (adopted 10/16/2023).

Increase the tree density requirement for new development. The amendments to KMC 18.57.060 increase the tree density requirements for new development from 30 tree units per acre to 40, a 33% increase in the tree units that must be present on newly developed land.

Decrease yearly allowances for single-family tree removal. KMC 15.25.070(B)(2)(d) currently allows for the removal of 2 trees annually from a lot up to 10,000 square feet, 4 trees annually for lots between 10,000 and 20,000 square feet, 6 trees annually for lots between 20,000 and 30,000 square feet, and 8 trees annually for lots larger than 30,000 square feet. These amendments would eliminate all of those allowances and permit the removal of only a single significant tree per year from any property and requiring replacement at a one-to-one ratio.

Always require replacement. KMC 15.25.070 does not currently require replacement when significant trees are removed. The amended 15.25.070 requires planting of a native tree as a standard condition to receive a permit for removal of a significant tree.

Preserve existing trees along the perimeter of a development. In order to preserve all significant trees on a property's perimeter, the amendments add a definition for the term "perimeter landscape" in KMC 15.25 and 18.20 as the area along the boundaries of a development site. A new footnote is added to KMC 18.35.045 requiring the retention of significant trees in residential development setbacks and KMC 18.57.080(D) is revised to require retention of all significant trees within the perimeter landscaping.

Establish a tree fund for instances where replacement is infeasible ("fee in lieu"). In order to establish a tree fund, KMC 18.57.080(D)(2), which dealt with off-site planting of replacement trees, would be replaced by a new section that details a fee-in-lieu system, whereby the city manager has authority to approve payments by property owners into a fund to plant trees on City-owned property where it would be infeasible to plant replacement trees on the subject property.

At the December 4, 2023 public hearing, several Kenmore residents and interested parties shared their thoughts about the proposed amendments. Comments received during the public hearing referred to things such as the impact on developing affordable housing, missing-middle housing, and accessory dwelling units (ADUs), difficulty preserving additional tree density, tree maintenance in the right-of-way, and the need for amendments to landscape requirements such as soil depth standards. Following the public hearing, Council directed staff to obtain and consider additional feedback from Kenmore residents and stakeholders.

Staff discussed the concerns shared by interested members of the public related to Tier 2 amendments, as well as feedback received regarding the exceptional tree ordinance (adopted in October 2023). Staff seek guidance from Council on public feedback and proposed amendments. In the annotated draft amendments, each recommendation has been embedded into the text in a colorful text box to provide context for how it would fit into the Code.

Feedback was collected starting December 2023 through March 2024 and has been analyzed by staff (Attachment 1). Copies of feedback (e.g., emails) are included as an attachment as well (Attachment 2). The study session will be used to discuss the feedback as it relates to proposed tree code amendments. Additional feedback was received regarding existing Exceptional Tree regulations. While these amendments were already adopted, the feedback received will be presented to illustrate potential impacts to development proposals.

SEPA review and notice to the Washington State Department of Commerce have been completed, as required before adoption.

The City has received public comments about the difficulty of reconciling housing obligations and tree protections, implying that the protection of trees will prevent the City from meeting its housing obligations under the Growth Management Act. However, the two goals are not mutually exclusive, as shown by the substantial amount of work on housing the City Council has performed over the years (and will continue to do in the future):

- Housing Strategy Plan
- Missing Middle Housing
- RFP Issued for Affordable Housing Development at the City-owned Holt property
- Comprehensive Plan Update

Council has prioritized environmental stewardship by considering tree code amendments at 12 public meetings since 2021. A brief history is provided below to help illustrate progress made over the years[1].

- December 4, 2023: Public hearing on proposed Tier 2 regulations (agenda link)
- November 20, 2023: Public hearing on proposed Tier 2 regulations (agenda link)
- October 16, 2023: Adoption of exceptional tree ordinance (agenda link)
- October 9, 2023: Public hearing on proposed exceptional tree ordinance (agenda link)
- September 25, 2023: Public hearing on proposed exceptional tree ordinance (agenda link)
- September 11, 2023: Staff presentation on proposed exceptional tree ordinance (agenda link)
- October 24, 2022: Study session on amendments to the tree regulations, including a proposed exceptional tree ordinance (agenda link)
- July 18, 2022: Continued tree regulations discussion (agenda link)

[1] This list is specific to tree code amendments and is intended as a brief summary (not comprehensive).

- May 16, 2022: Tree regulations discussion (agenda link)
- March 21, 2022: Adoption of tree regulation ordinance, including definition of significant trees, nuisance species, and permitting process for tree removal (agenda link)
- December 6, 2021: Tree regulations discussion (agenda link)
- September 20, 2021: Report and discussion on exceptional trees and residential tree subsidy programs (agenda link)
- 2019: Ordinance 19-0488 was adopted. The ordinance required replacement trees at a 3:1 ratio when removed within a critical area or buffer.
- 2015: Ordinance 15-0409 was adopted. The ordinance required a windthrow evaluation as part of the tree protection plan, for new development.
- 2009: Ordinance 09-0295 was adopted. The ordinance required more tree credits for new development (increased to 30 tree units per acre), adjusted penalties for non-compliance, required monitoring, and focused on retaining perimeter trees.
- 2004: Ordinance 04-0214 was adopted. The ordinance repealed the King County rules, required tree surveys and a tree protection plan and established a minimum tree density of 20 tree units per acre for new development.
- 1998: At incorporation, Ordinance 98-0026 adopted the King County Code.

Fiscal Consideration:

The proposed tree regulations will result in increased staff workloads, including fielding more questions and concerns from property owners, permit processing, plan review, and code enforcement. The code may result in the need for a new position, City Arborist.

City Council Priority or Budget Objective Being Addressed:

#2. Implement the adopted Climate Action Plan and promote environmental stewardship, including water, air, forest, and habitat restoration and preservation.

Commenter	Applicable Code Section
Jim Howard	KMC 18.35.080 H (New Item)
Jim Howard	KCM 18.35.120 A
Jim Howard	KMC 15.25.030 k (2)
Jim Howard	KMC 18.35.090 F
Jim Howard	KMC 18.57.050, 5 , f
Jim Howard	KMC 18.35.080

Master Builders KMC 18.57.060

Master Builders KMC 15.25.070(B)(2)(d)

Master Builders KMC 18.57.080

Master Builders KMC 18.57.100

Master Builders	KMC 18.57.063 Exceptional tree ordinance and net loss of density
Master Builders	KMC 18.57.063
Master Builders	KMC 18.57.063
Master Builders	KMC 18.57.080

Master Builders KMC 18.35.130

Patrick O'Brien

Carl Michelman

Laurie Sperry

WA Dept of Fish & Wildlife	KMC 15.25.070 A-C Permit Exception
WA Dept of Fish & Wildlife	KMC 15.25.070(B)(2)
WA Dept of Fish & Wildlife	KMC 15.25.070(B) and 18.35.040(C)
WA Dept of Fish & Wildlife	KMC 18.35.100
WA Dept of Fish & Wildlife	KMC 18.57.050
WA Dept of Fish & Wildlife	KMC 18.57.060(B)
WA Dept of Fish & Wildlife	KMC 18.57.065(B)(3-4)
Merle Ash	KMC 18.57

Recommended Changes

Jim Howard: I recommend the City update our landscape code to a comprehensive landscape sustainability standard such as defined in City of Bellevue 20.25A.120.A.5 shown below and Enviromental Best Practices https://bellevuewa.gov/city-government/departments/parks/nature-and-environment/policies-best-practices/environmental-best-management-practices. Attached is a COB standard soil detail for soil preparation that requires a minimum 24" depth soil preparation. See attached COB soil preparation detail (attachment is on 12/14/23 email). City of Seattle Green Factor https://www.seattle.gov/sdci/codes/codes-we-enforce-(a-z)/seattle-green-factor and SDCI Directors Rule 11-202 - Rule G Soil and Mulch require minimum 19" depth soil preparation.

Jim Howard: I recommend KMC 18.35.120 A have an additional sentence. "The property owner must replace any unhealthy or dead plant materials in conformance with the approved landscape development proposal and shall maintain the landscape material". This code language is taken from City of Bellevue code 20.20.520 K (1) maintenance of Plant Materials.

Jim Howard: Change the defintion of an exceptional tree. Update KMC 15.25.030 k (2) to replace 48" with 24" or 30" d.b.h.

Jim Howard: Item F should be changed to "Groundcovers shall be planted and spaced to result in total coverage of landscape area within 3 years". Delete "majority of" from sentence.

Jim Howard: Add item (f) that states "provide recommendations for post construction maintenance to ensure long term survival and healthy growth"

H. All new tree, shrub and groundcover areas shall:
1. Have minimum 8" depth of imported 3-way mix planting soil consisting of Sandy Loam, Sand and Compost.
2. Have an organic content of five percent or more **to a depth of 24 inches**. Provide soil preparation details and soil test documentation to confirm compliance with this requirement.

You might consider moving this item up to become Item C. This would then follow the turf area soil preparation code requirement and keep soil preparation requirements together.

We recommend retaining the current tree density requirements.

We recommend retaining the current yearly allowances for tree removal.

We advise retaining the off-site fee in lieu system, or as an alternative, providing a clear and specific definition for the term "infeasibility."

We recommend modifying the financial guarantees section.

oAfter a Growth Management Hearings Board settlement with MBAKS, Kirkland recently added in their tree code language stating, unless retention of trees would either “(a) reduce lot density, number of lots, maximum FAR
or lot coverage; (b) preclude construction of an ADU; or (c) preclude required access and utility connections.” Kenmore should add similar language that the tree code would not result in a net loss of density.

oThe case of Rimmer v. City of Edmonds, combined with the Kirkland tree code settlement, offers compelling precedent for Kenmore to consider when revising its tree code, emphasizing the balance between preservation and development. By incorporating language similar to Kirkland’s, which allows for tree removal under specific conditions, Kenmore could ensure that its regulations protect green spaces without unnecessarily hindering development of middle housing and accessory dwelling units (ADUs), reducing lot density, or complicating access to utility connections. This approach could provide a balanced solution that respects both environmental concerns and property owners’ rights to develop their land efficiently.

The statement in Section 18.57.063, “No variance is allowed in order to create additional lots” restricts, if not all out prohibits, the development of middle housing in Kenmore by preventing the subdivision of into smaller lots for such housing. Middle housing, which includes duplexes, triplexes, and townhomes, is crucial for providing affordable and diverse housing options. By disallowing variances for additional lots, this policy restricts housing density and diversity. This restriction not only constrains the physical development of diverse housing types but also the efficient use of land. Efficient land use is a critical factor in urban planning and maximizing housing availability and affordability.

Section 18.57.063 should be amended to allow the removal of exceptional trees and be replaced by tree canopy requirements language. The tree replacement ratio found unconstitutional in Rimmer v. City of Edmonds was a two to one ratio (2:1). Currently, Kenmore’s section on mitigation requirements requires a three to one ratio (3:1), which is substantially more burdensome than the ordinance ruled unconstitutional in a neighboring jurisdiction.

In Section 18.57.080 stating, “significant trees located in the perimeter landscaping shall be retained” add the provision “not required to be removed for development access or necessary to comply with other code provisions.”

The amended language could read, "Significant trees situated within the perimeter landscaping shall be retained, unless their removal is required for development access or necessary to comply with to other code requirements."

o The section on three-year financial guarantees on individuals lots should be eliminated. Instead, a covenant requirement should be introduced. This change would increase predictability for homebuilders. Currently, the three-year financial guarantee binds homebuilders to a project for an impractical duration. For instance, under the current system, if a future owner were to remove a tree associated with the financial guarantee, the original homebuilder would be held accountable.

oThe financial guarantee extension language in Section 18.35.130 is ambiguous. This should be amended to state, “This time period may be extended by the city manager, if necessary to cover a single planting and growing season.”

oKenmore should consolidate the tree and landscaping bonds into one program. Snohomish County currently has a single bond program for landscaping that encompasses trees. These can be found in Snohomish County Code Sections 30.84.150, 30.84.105, and 30.25.043.

Owns trees on his property and wants to remove them and replant them somewhere else (for example, if he moves). Is this considered tree removal because it shouldn't be - especially if the eventual development would destroy them.

Did you check out Washington State law on trees blocking solar projects?

This section shold make clear that in all instances of grading, tree removal, and engineering, a permit will be required if occurring within critical areas and/or their buffers. No net loss of ecosystem funcion can occur within these areas.

WDFW requires a minimum 3:1 replacement for trees removed during Hydraulic Project Approval (HPA) activity along streams, wetlands, and within their associated buffers.

WDFW does not recommend adding code language to allow tree removal "for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the presence of significant trees is denied to the subject property" because the addition of this policy could lead to an overuse of exception and have a negative ipmact on ecosystem services and wildlife habitat. If this code language remains, tighter additional language may be warranred to further limit the use of this item. For example, maximum percentages could be included (sq footage of lot would dictate percentage of trees to be removed), mitigation requirements should be clearly outlined (no net loss is still required by state law), and a possible reduction in impervious surfaces to off-set tree removal could be required (a certain number of trees can be removed depending on the percentage of impervious surfaces removed).

Don't delete "For this subsection, the net developable area of the site shall not include areas deemed unbuildable de to their location within critical areas and any associated buffers."

We suggest that a requirement of this plan include a detailed monitoring plan to ensure tree health into the future. We also suggest incorporating additional assurance options rather than limiting the options to submitting a “bond quantity worksheet.” See King County Tree Protection assurances for tree replacement for examples. 17.52.160 Assurances. Chapter 17.52 TREE PROTECTION.

Question regarding KMC 18.57.060(B).

Require mitigation for private access in the same way that you do for hazardous tree removal.

Feedback regarding the entire tree code (not just Tier 2 regluations) as they relate to Urban Growth Areas and the Growth Management Act.

Why Do You Believe the Change Is Essential?

Soil is an essential component of healthy plant growth and stormwater management. These are critical components of the Citys Climate Action Plan. Soil ensures healthy long term plant growth and also helps reduce stormwater runoff and improves water quality.

Tree canopy is an essential component of City Climate Action Plan. Several properties have recently planted code required trees that have died and have not been replaced. Trees are a critical for pavement shading and stormwater quality.

There are no non-native trees in Kenmore that are larger than 48". A smaller d.b.h. is appropriate for non-native trees

Current code would allow only 55% groundcover coverage within 3 years. The code should require 100% coverage in 3 years.

Post construction maintenance is critical to successful tree protection.

The current tree density requirements have been effective. The City's tree canopy assessment shows the citywide tree canopy is increasing under current policies and code requirements. The existing code has successfully achieved equilibrium between promoting environmental responsibility and addressing the demand for a wider range of housing options.

This presents a noteworthy hurdle, especially when it comes to the construction of Accessory Dwelling Units (ADUs) and middle housing. These types of housing play a vital role in expanding affordable housing choices and enhancing residential area density. The strict regulations on tree removal do not adequately consider the specific space and landscaping needs of ADUs and middle housing, which are essential for accommodating the growing population and broadening the range of available housing options.

The proposed fee-in-lieu system is highly constrictive and ambiguous. The amended language states "only in rare cases and as a last resort, when planting replacement trees on site is infeasible, shall a fee-in-lieu be approved by the city manager." This requirement limits flexibility. Furthermore, the determination of what constitutes "infeasibility" is not clearly defined, leaving it open to subjective interpretation. To address this issue, it is essential to establish a transparent and standardized method for assessing infeasibility, ensuring that property owners and developers have a clear understanding of the criteria and procedures involved and how infeasibility will be determined.

The requirement for 3-year financial guarantees raises significant concerns for homebuilders. This 3-year period would extend well after the new home has been sold and the builder has no control over what the buyer may do with regard to tree removal. A better option would be to require a covenant to be put in place binding on the buyer and prohibiting them from removing regulated trees.

Section 18.57.063 should be removed to allow for diverse housing types and foster the efficient use of the land.

Adopting tree canopy requirements represents a more comprehensive strategy for urban forestry, as evidenced by Snohomish County's implementation of such policies. Snohomish County's policies require specific tree canopy coverage percentages based on the type of development. These policies can be found in the Snohomish County Code Chapter 30.25 on General Development Standards.

The percentage of developable area should not include critical areas or their buffers, as these areas should not be slated for development. 15 percent of landscaping requirements should be imposed on the developable area, which critical areas are not.

What is the intent of the policy change in terms of density? How many retained trees would qualify an applicant to reduce total tree units by 20 percent? Does this policy refer to all trees, significant trees, etc.?

Code is unreasonable, unbalanced, overly burdensome, oppresses the public purpose, is unduly oppressive, and is considered a taking.

Additional Comments

Regarding Code item 18.35.080 and soil depths, I know updating our landscape code to include a Seattle or Bellevue Green Factor design calculation may not be possible under the current update to the Exceptional tree ordinance.

It is suggested to remove strong language in Section 18.57.080 that states “only in rare cases and as a last resort” will fee-in-lieu be approved. Infeasibility already indicates the rarity of when the fee-in-lieu is applicable. Additionally, the added language introduces more ambiguity and subjectivity to the fee-in-lieu program.

In addition, it is necessary to further define what constitutes infeasibility for when the fee-in-lieu system can be used. There needs to be a clear and predictable process. One method of doing this is through a pre-submittal process.
A pre-submittal process provides a higher degree of certainty about retention determinations. This approach is similar to what was recently adopted in Kirkland.
Kenmore could create a written “preliminary decision” about allowed tree removal for inclusion in a project’s file. While not a final permit decision, this preliminary decision would only change if Kenmore learned of information that differed from that presented in this pre-submittal process.

Talked on phone with Mr. O'Brien 1/24/24. He is concerned about a 5th amendment taking of the cedar trees he has on his property that he wants to be able to take with him should he move from Kenmore.

I don’t have a problem with the tree ordinance. Just wish there was real clarifications on if someone needs to cut a tree down due to Insurance requirements. Example; I had clients who the insurance company asked them to cut a tree down as it may be too close to the house or they will not be offered a renewal. Other issues are if a tree is in bad shape and the person from the next house hires an arborist to say the tree is sick and the neighbor will be responsible for liability and the city disagrees with the arborist. It would be nice to get clarity. Don’t get me wrong, I am ok with keeping the trees, but as insurance person I see the city could be exposed to a lawsuit in a couple of those examples. I am sure you have heard me over time at city council meeting that the city should reach out to professional where they don’t think about these issues and how it could affect the city. Phone call feedback: legal exposure (insurance perspective). Property rights: can I transplant it? It's my property -- what about property rights?

I live in a single-family home on approximately 1/3 acre in Kenmore. My house is 50 years old and replaced an earlier home on the property. I have 3 to 4 Douglas Fir that are likely 90 plus years old and are considered exceptional and therefore cannot be cut down with the new regulations. One of the trees (actually two grown together) is in my backyard where my husband and I have considered building a backyard cottage or ADU. I would not be able to do so if the current regulations are passed.

The regulations as proposed would severely limit the use of my property for an ADU.

This comment applies to the critical areas code (KMC 18.55).

We spoke with DFW on 2.21.24 and clarified that the activity they refer to is covered elsewhere in the Code (KMC 18.55).

During our 2.21.24 conversation with DFW, Samantha clarified that this is covered under other sections of the Code (KMC 18.20, KMC 18.57).

During our 2.21.24 conversation with DFW, Samantha clarified that monitoring is required under other sections of the Code.

During out 2.21.24 conversation with DFW, Samantha explained the City's preference for tree tracts and clarified that they are listed on plat maps.

Staff Recommendation

Revising the landscape chapter (KMC 18.35) to model the City of Bellevue's landscape sustainability standards (BMC 20.25A.120.A.5) and Enviromental Best Practicesis Manual would require an overhaul and rewrite of the landscape chapter. This is outside the scope of this project and is could be considered as a future docket item/work plan item. However, minor changes for the purposes of tree preservation could be incorperated since they are consistent with the purpose of the Tier 2 tree regs. Staff support the following changes: 1) Require landscape plans to include a minimum 24" depth soil preparation; 2) Include a standard soil detail for soil preparation (minimum 24" depth soil preparation). This could be added to KMC 18.35.080 - General standards for all landscape areas or KMC 18.35.090 - Additional standards for required landscape areas.

The intent of KMC 18.35.120.A is consistent with this recommendation however, the wording differs. There does not appear to be any dup;ication or conflict with the property maintenance code (KPMC).

The exceptional tree ordinance was recently adopted by Council. Based on feedback from the development community, including anticipated negative impacts to density, staff does not recommend changing the definition to include smaller trees.

Generally the performance standard for the first year is 100%; year three is typically reduced (80-90% survival). The code may include "majority of" for flexibility and in consideration of year three surivival rates. Staff does not see current code provisions that say 55% retention is allowed for year three (3); additional discussion could be had regarding adding a "performance standards" section. Staff recommend keeping the code as-is.

Staff support this change (exact wording may vary).

Staff take no exception to the recommendation provided.

Council to discuss at study session.

Council to discuss at study session.

Council to discuss at study session.

Staff agree that the financial guarentee section could benefit from an update. Staff can work on providing clarifying language and a more streamlined process.

Council to discuss at study session.

Council to discuss at study session.

Council to discuss at study session.

Staff take no exception to the recommendation provided.

Staff take no exception to the recommendation provided and acknowledges that post-construction financial guaratentees for landscaping on private property are difficult to maintain by the builder once lots are sold. Responsibility should be passed to the HOA or property owner(s).

Council to discuss at study session.

We met with Carl on January 16, 2024. He clarified that he is only raising concerns about insurance. He brought up two hypothetical situations that were forwarded to WCIA Office of Risk Assessment for review. First, if Person A hires an arborist to inspect his neighbor, Person B's tree. The arborist says Person B should cut it down. The City denies the permit (or alternately, too much time passes because of the arduous process of going to City for permit). Tree falls and damages Person A's property. Person A sues Person B and the City for damages. Is this a concern to the City, that it could get caught up in a lawsuit and bear liability? Second, an insurance company informs a homeowner that unless they remove 5 otherwise healthy trees from their property, they will lose coverage. City won't allow it because of the 1-tree-per-year limit so homeowner loses their insurance policy.

Council to discuss at study session.

Comments were addressed; no changes to the code are recommended based on this comment.

Comments were addressed; no changes to the code are recommended based on this comment.

Council to discuss at study session.

Comments were addressed; no changes to the code are recommended based on this comment.

Comments were addressed; no changes to the code are recommended based on this comment.

Comments were addressed; no changes to the code are recommended based on this comment.

Staff take no exception to the recommendation provided.

Council to discuss at study session.

April 8, 2024
City Council Study Session: Feedback on Tier 2 Tree Regulations

1. Jim Howard
2. Masters Builders Association of King and Snohomish Counties (MBAKS)
3. Patrick O'Brien
4. Carl Michelman
5. Laurie Sperry
6. Washington State Department of Fish and Wildlife (WDFW)
7. Merle Ash

Garrett Oppenheim

From:	Jim and Cynthia Howard <jhoward79@hotmail.com>
Sent:	Thursday, December 14, 2023 1:04 PM
To:	Garrett Oppenheim
Cc:	Samantha Loyuk
Subject:	Re: Tier 2 Trees Ordinance
Attachments:	COB Std Dtl SW-130-1.pdf
Categories:	List 2 Tree Regulations

Garrett,
Thank you for this opportunity to provide comments. Here is my response to your email.

18.35.080 Landscaping General Standards

- The code section you feel must be changed, **18.35.080 H (New Item)**

- what change you recommend, **I recommend the City update our landscape code to a comprehensive landscape sustainability standard such as defined in City of Bellevue 20.25A.120.A.5 shown below and Enviromental Best Practices https://bellevuewa.gov/city-government/departments/parks/nature-and-environment/policies-best-practices/environmental-best-management-practices. Attached is a COB standard soil detail for soil preparation that requires a minimum 24" depth soil preparation. See attached COB soil preparation detail.**

and
City of Seattle Green Factor https://www.seattle.gov/sdci/codes/codes-we-enforce-(a-z)/seattle-green-factor and SDCI Directors Rule 11-202 - Rule G Soil and Mulch require minimum 19" depth soil preparation.

1.

- why you believe the change is essential. **Soil is an essential component of healthy plant growth and stormwater management. These are critical components of the Citys Climate Action Plan. Soil ensures healthy long term plant growth and also helps reduce stormwater runoff and improves water quality.**

18.35.120 Maintenance

- The code section you feel must be changed, **KCM 18.35.120 A**
- what change you recommend, **I recommend KMC 18.35.120 A have an additional sentence. "The property owner must replace any unhealthy or dead plant materials in conformance with the approved landscape development proposal and shall maintain the landscape material". This code language is taken from City of Bellevue code 20.20.520 K (1) maintenance of Plant Materials.**
- why you believe the change is essential. **Tree canopy is an essential component of City Climate Action Plan. Several properties have recently planted code required trees that have died and have not been replaced. Trees are a critical for pavement shading and stormwater quality.**

15.25.030 Definitions

- The code section you feel must be changed, **15.25.030 k (2)**
- what change you recommend, and **48" should be changed to 24" or 30" d.b.h.**
- why you believe the change is essential. **There are no non-native trees in Kenmore that are larger than 48". A smaller d.b.h. is appropriate for non-native trees**

18.35.090 Landscaping Additional Standards

- The code section you feel must be changed, **18.35.090 F**
- what change you recommend, and **Item F should be changed to "Groundcovers shall be planted and spaced to result in total coverage of landscape area within 3 years". Delete "majority of" from sentence.**
- why you believe the change is essential. **Current code would allow only 55% groundcover coverage within 3 years. The code should require 100% coverage in 3 years.**

18.57.050 Tree Protection Plan

- The code section you feel must be changed, **18.57.050, 5 , f**
- what change you recommend, and **Add item (f) that states "provide recommendations for post construction maintenance to ensure long term survival and healthy growth"**
- why you believe the change is essential. **Post construction maintenance is critical to successful tree protection.**

City of Bellevue 20.25A.120 Green and sustainability factor.

[ ]

A. General.

All new development shall provide landscaping and other elements that meet a minimum Green and Sustainability Factor score. All required landscaping shall meet standards promulgated by the Director to provide for the long-term health, viability, and coverage of plantings. These standards may include, but are not limited to, the type and size of plants, spacing of plants, depth of soil, and the use of drought-tolerant plants. The Green and Sustainability Factor score shall be calculated as follows:

1.

Identify all proposed elements, presented in Figure 20.25A.120.A.5.

2.

Multiply the square feet, or equivalent unit of measurement where applicable, of each landscape element by the multiplier provided for that element in Figure 20.25A.120.A.5 according to the following provisions:

a.

If multiple elements listed in Figure 20.25A.120.A.5 occupy the same physical area, they may all be counted. For example, groundcover and trees occupying the same physical space may be counted under the ground cover element and the tree element.

b.

Landscaping elements and other frontage improvements in the right-of-way between the lot line and the roadway may be counted.

c.
Elements listed in Figure 20.25A.120.A.5 that are provided to satisfy any other requirements of Part 20.25A LUC may be counted.
d.
Unless otherwise noted, elements shall be measured in square feet.
e.
For trees, large shrubs and large perennials, use the equivalent square footage of each tree or shrub provided in Figure 20.25A.120.A.5. Tree sizing shall be determined by the Green and Sustainability Factor Tree List maintained by the Director in the Development Services Department. If a tree species is not included on the list, the Director shall determine the size of the proposed tree species.
f.
For green wall systems, use the square footage of the portion of the wall that will be covered by vegetation at three years. Green wall systems shall include year-round irrigation and a submitted maintenance plan shall be included as an element in the calculation for a project's Green and Sustainability Factor Score.
g.
All vegetated structures, including fences counted as vegetated walls shall be constructed of durable materials, provide adequate planting area for plant health, and provide appropriate surfaces or structures that enable plant coverage. Vegetated walls shall include year-round irrigation and a submitted maintenance plan shall be included as an element in the calculation for a project's Green and Sustainability Factor Score.
h.
For all elements other than trees, large shrubs, large perennials, green walls, structural soil systems and soil cell system volume; square footage is determined by the area of the portion of the horizontal plane that lies over or under the element.
i.
All permeable paving and structural soil credits may not count for more than one-third of a project's Green and Sustainability Factor Score.
3.
Add together all the products calculated in Figure 20.25A.120.A.5 to determine the Green and Sustainability Factor numerator.
4.
Divide the Green and Sustainability Factor numerator by the lot area to determine the Green and Sustainability Factor score. A development shall achieve a minimum score of 0.3. On DT-Small Sites, a development shall achieve a minimum score of 0.25.
5.
The Director has the final authority in determining the accuracy of the calculation of the Green and Sustainability Factor score.

Table 20.25A.120.A.5.

A. Landscape Elements		Multiplier
	1. Bioretention Facilities and Soil Cells. Bioretention facilities and soil cells shall comply with Bellevue's Storm and Surface Water Engineering Standards. Bioretention facilities shall be calculated in horizontal square feet. The soil cell systems shall be calculated in cubic feet. The volume of	1.2

	the facility shall be calculated using three feet of depth or the depth of the facility, whichever is less.	
	2. Structural Soil Systems. The volume of structural soil systems can be calculated up to three feet in depth. The volume of structural soil systems shall be calculated in cubic feet. The volume of the facility shall be calculated using three feet of depth or the depth of the facility, whichever is less.	0.2
	3. Landscaped Areas with Soil Depth Less than 24 Inches.	0.1
	4. Landscaped Areas with Soil Depth of 24 Inches or More.	0.6
	5. Preservation of Existing Trees. Existing trees – proposed for preservation shall be calculated at 20 square feet per inch d.b.h. Trees shall have a minimum diameter of six inches at d.b.h. Existing street trees proposed for preservation shall be approved by the Director.	1.0
	6. Preservation of Existing Evergreen Trees Bonus. Existing evergreen trees proposed for this bonus shall be calculated at 20 square feet per inch d.b.h. and shall have a minimum diameter of six inches at d.b.h.	0.1
	7. Shrubs or Large Perennials. Shrubs or large perennials that are taller than two feet at maturity shall be calculated at 12 square feet per plant.	0.4
	8. Small Trees. Small trees shall be calculated at 90 square feet per tree. Consult the Green and Sustainability Factor Tree List for size classification of trees.	0.3
	9. Medium Trees. Medium trees shall be calculated at 230 square feet per tree. Consult the Green and Sustainability Factor Tree List for size classification of trees.	0.3
	10. Large Trees. Large trees shall be calculated at 360 square feet per tree. Consult with the Green and Sustainability Factor Tree List for size classification of trees.	0.4
B. Green Roofs		
	1. Green Roof, Two to Four Inches of Growth Medium. Roof area planted with at least two inches of growth medium, but less than four inches of growth medium.	0.4
	2. Green Roof, at Least Four Inches of Growth Medium. Roof area planted with at least four inches of growth medium.	0.7
C. Green Walls		
	1. Vegetated Wall. Façade or structural surface obscured by vines. Vine coverage shall be calculated with an estimate of three years' growth. A year-round irrigation and maintenance plan shall be provided.	0.2
	2. Green Wall System. Façade or structural surface planted with a green wall system. A year-round irrigation and maintenance plan shall be provided.	0.7
D. Landscape Bonuses		

	1. Food Cultivation. Landscaped areas for food cultivation.	0.2
	2. Native or Drought-Tolerant Landscaping. Landscaped areas planted with native or drought-tolerant plants.	0.1
	3. Landscape Areas at Sidewalk Grade.	0.1
	4. Rainwater Harvesting. Rainwater harvesting for landscape irrigation shall be calculated as a percentage of total water budget times total landscape area.	0.2
E. Permeable Paving		
	1. Permeable Paving, Six to 24 Inches of Soil or Gravel. Permeable paving over a minimum of six inches and less than 24 inches of soil or gravel.	0.2
	2. Permeable paving over at least 24 inches of soil or gravel.	0.5
F. Publicly Accessible Bicycle Parking		
	1. Bicycle Racks. Bicycle racks in publicly accessible locations shall be calculated at nine square feet per bike locking space and shall be visible from sidewalk or public area.	1.0
	2. Bicycle Lockers. Bicycle lockers in publicly accessible locations shall be calculated at 12 square feet per locker, and shall be visible from public areas and open for public use.	1.0

From: Jim and Cynthia Howard <jhoward79@hotmail.com>
Sent: Sunday, December 10, 2023 9:48 AM
To: Garrett Oppenheim <goppenheim@kenmorewa.gov>
Cc: Samantha Loyuk <sloyuk@kenmorewa.gov>
Subject: Re: Tier 2 Trees Ordinance

Garrett,
Thank you for this email. I will begin work on my response.

Best regards,
Jim Howard

Get Outlook for iOS

From: Garrett Oppenheim <goppenheim@kenmorewa.gov>
Sent: Friday, December 8, 2023 7:00:16 PM
To: Jim and Cynthia Howard <jhoward79@hotmail.com>
Cc: Samantha Loyuk <sloyuk@kenmorewa.gov>
Subject: Tier 2 Trees Ordinance

Dear Mr. Howard,

Thank you for your interest in City of Kenmore Ordinance 23-0597. As you know, the City Council at its November 20 and December 4 meetings discussed additional regulations to further preserve, protect, and enhance Kenmore's tree canopy. The proposed tree regulations provide added protections by increasing the requirements for tree density on new developments, decreasing the number of trees property owners can remove each year, always requiring replacement whenever significant trees are removed, requiring tree retention in perimeter landscaped areas, and establishing a tree fund for instances when replacement is infeasible.

At the latter meeting, City Council directed staff to work with stakeholders on Tier 2 tree regulations and to consider possible amendments. We are beginning that work and will engage with stakeholders during the month of December. This email is the beginning of that process. We have your previous email that laid out your initial concerns but if there is anything you would like to add, please reply all to this email with your feedback regarding the ordinance and we will strive to incorporate your concerns and recommendations as appropriate and consistent with Council's direction. In your response, please include the following information:

8. The code section you feel must be changed,
9. what change you recommend, and
10. why you believe the change is essential.

Thank you. We look forward to working with you on this important subject.

Garrett Oppenheim
Assistant to the City Manager/Diversity, Equity, Inclusion, and Accessibility (DEIA) Coordinator
City of Kenmore
18120 68th Ave NE | Kenmore, WA 98028
ph: 425-984-6171
email: goppenheim@kenmorewa.gov
M.P.A., J.D., Member of the Washington State Bar Association
(he)

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Garrett Oppenheim

From: Jim and Cynthia Howard <jhoward79@hotmail.com>
Sent: Friday, December 15, 2023 8:05 AM
To: Garrett Oppenheim
Cc: Samantha Loyuk
Subject: Re: Tier 2 Trees Ordinance

Categories: List 2 Tree Regulations

Garrett,
Regarding Code item 18.35.080 and soil depths, I know updating our landscape code to include a Seattle or Bellevue Green Factor design calculation may not be possible under the current update to the Exceptional tree ordinance. Alternatively, an easier update to the code may be adding Item H to 18.35.080 with the following:

H. All new tree, shrub and groundcover areas shall:
1. Have minimum 8" depth of imported 3-way mix planting soil consisting of Sandy Loam, Sand and Compost.
2. Have an organic content of five percent or more to a depth of 24 inches. Provide soil preparation details and soil test documentation to confirm compliance with this requirement.

You might consider moving this item up to become Item C. This would then follow the turf area soil preparation code requirement and keep soil preparation requirements together.

Please let me know if you have questions or would like to discuss further.

Jim

Samantha Loyuk

From: Jonathan Lounds <jlounds@mbaks.com>
Sent: Tuesday, December 12, 2023 1:04 PM
To: Garrett Oppenheim
Cc: Samantha Loyuk
Subject: RE: <External>Tier 2 Trees Ordinance

This email originated from outside your organization. Be cautious of phishing attempts. Please do not click on links or open attachments unless you are confident of the source of this email and know the contents are safe.

Hello Garrett and Samantha,

Thank you for the opportunity to provide input on this matter. Below are our recommendations:

- **Tree density requirements**
  1. KMC 18.57.060
  2. We recommend retaining the current tree density requirements.
  3. The current tree density requirements have been effective. The City's tree canopy assessment shows the citywide tree canopy is increasing under current policies and code requirements. The existing code has successfully achieved equilibrium between promoting environmental responsibility and addressing the demand for a wider range of housing options.

- **Decrease in yearly allowances for tree removal**
  1. KMC 15.25.070(B)(2)(d)
  2. We recommend retaining the current yearly allowances for tree removal.
  3. This presents a noteworthy hurdle, especially when it comes to the construction of Accessory Dwelling Units (ADUs) and middle housing. These types of housing play a vital role in expanding affordable housing choices and enhancing residential area density. The strict regulations on tree removal do not adequately consider the specific space and landscaping needs of ADUs and middle housing, which are essential for accommodating the growing population and broadening the range of available housing options.

- **"Fee in lieu" Fund:**
  1. KMC 18.57.080
  2. We advise retaining the off-site fee in lieu system, or as an alternative, providing a clear and specific definition for the term "infeasibility."
  3. The proposed fee-in-lieu system is highly constrictive and ambiguous. The amended language states "only in rare cases and as a last resort, when planting replacement trees on site is infeasible, shall a fee-in-lieu be approved by the city manager." This requirement limits flexibility. Furthermore, the determination of what constitutes "infeasibility" is not clearly defined, leaving it open to subjective interpretation. To address this issue, it is essential to establish a transparent and standardized method for assessing infeasibility, ensuring that property owners and developers have a clear understanding of the criteria and procedures involved and how infeasibility will be determined.

- **Financial Guarantees:**
  1. KMC 18.57.100
  2. We recommend modifying the financial guarantees section.

3. The requirement for 3-year financial guarantees raises significant concerns for homebuilders. This 3-year period would extend well after the new home has been sold and the builder has no control over what the buyer may do with regard to tree removal. A better option would be to require a covenant to be put in place binding on the buyer and prohibiting them from removing regulated trees.

I would appreciate the chance to arrange a meeting with both of you to discuss this issue further. If possible, I'd also like to invite one of our homebuilder members to join the conversation. I will share my availability for next week by this Friday.

Thank you.

Respectfully,

Jonathan Lounds | King County Government Affairs Manager

p 425.460.8201 **m** 206.804.1604
335 116th Ave. SE, Bellevue, WA 98004

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From: Garrett Oppenheim <goppenheim@kenmorewa.gov>
Sent: Friday, December 8, 2023 6:58 PM
To: Jonathan Lounds <jlounds@mbaks.com>
Cc: Samantha Loyuk <sloyuk@kenmorewa.gov>
Subject: <External>Tier 2 Trees Ordinance

Dear Mr. Lounds,

Thank you for your interest in City of Kenmore Ordinance 23-0597. As you know, the City Council at its November 20 and December 4 meetings discussed additional regulations to further preserve, protect, and enhance Kenmore's tree canopy. The proposed tree regulations provide added protections by increasing the requirements for tree density on new developments, decreasing the number of trees property owners can remove each year, always requiring replacement whenever significant trees are removed, requiring tree retention in perimeter landscaped areas, and establishing a tree fund for instances when replacement is infeasible.

At the latter meeting, City Council directed staff to work with stakeholders on Tier 2 tree regulations and to consider possible amendments. We are beginning that work and will engage with stakeholders during the month of December. This email is the beginning of that process. Please reply all to this email with your feedback regarding the ordinance and we will strive to incorporate your concerns and recommendations as appropriate and consistent with Council's direction. In your response, please include the following information:

1. The code section you feel must be changed,
2. what change you recommend, and
3. why you believe the change is essential.

If you would like to meet with Development Services Director Samantha Loyuk and me to discuss this matter, will you please provide some times in the next two weeks when you would be available and we can attempt to coordinate a meeting on Microsoft Teams or Zoom.

Thank you. We look forward to working with you on this important subject.

Garrett Oppenheim
Assistant to the City Manager/Diversity, Equity, Inclusion, and Accessibility (DEIA) Coordinator
City of Kenmore
18120 68th Ave NE | Kenmore, WA 98028
ph: 425-984-6171
email: goppenheim@kenmorewa.gov
M.P.A., J.D., Member of the Washington State Bar Association
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Samantha Loyuk

From: Jonathan Lounds <jlounds@mbaks.com>
Sent: Wednesday, February 7, 2024 12:08 PM
To: Garrett Oppenheim; Samantha Loyuk
Subject: Edmonds Tree Litigation Update
Attachments: Rimmer v. City of Edmonds Brief.docx

This email originated from outside your organization. Be cautious of phishing attempts. Please do not click on links or open attachments unless you are confident of the source of this email and know the contents are safe.

Hi Garrett and Samantha,

I hope you are doing well. I am looking forward to our meeting today and wanted to share some additional information regarding tree codes. There is a case in Edmonds regarding tree replacement that was recently ruled on. I have attached a brief of the case.

Thank you!

Warm regards,

Jonathan Lounds | King County Government Affairs Manager

p 425.460.8201 **m** 206.804.1604
335 116th Ave. SE, Bellevue, WA 98004

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Snohomish County Superior Court Judge Delivers Landmark Ruling Challenging Local Tree Regulations in Washington

Snohomish County Superior Court Judge George F. Appel on January 31st made a potentially landmark ruling in Washington regarding local jurisdictions' regulation of trees in the case *Rimmer v. City of Edmonds*.

Nathan Rimmer applied to the City for a building permit to construct a home on his vacant lot in Edmonds. There are two cedar trees on the lot that are deemed "significant" under the City's tree code but can be removed because they are within ROW to be dedicated for frontage improvements. However, the case centers around an ornamental dogwood tree in the middle of the lot that is a significant tree under the City's tree code and requires Rimmer to plant two replacement trees. The tree code further prohibits those replacement trees from being removed or significantly trimmed. And, to help ensure the replacement trees would remain on the property in perpetuity the tree code requires Rimmer to execute and record a notice on title (the "Notice") to alert subsequent owners that there are trees on the property protected by the tree code.

The City and Rimmer agreed that all information necessary to warrant approval of the building permit has been submitted other than the execution and recording of the Notice. Even though the City's tree code says the Notice must be recorded as a condition of permit issuance City staff has demanded that Rimmer execute and record the Notice as a pre-condition of approving the building permit application. City staff persisted despite Rimmer's repeated assertions that requiring the replacement trees and the Notice violates the "unconstitutional conditions" doctrine and his substantive due process rights.

Following the City's threat to cancel his building permit application due to the failure to timely execute and record the Notice Rimmer filed a lawsuit seeking a writ of mandamus to compel the City to issue his building permit, and a declaratory judgment that requiring 2 replacement trees and recording of the Notice protecting those replacement trees in perpetuity constituted an unconstitutional condition and also violated his substantive due process rights under 42 USC § 1983 (which, if successful, would entitle Rimmer to damages and attorneys' fees). Rimmer is represented in this case by the Pacific Legal Foundation.

The "unconstitutional conditions doctrine" protects private property owners from being forced to surrender their Fifth Amendment right to just compensation under the United States Constitution to obtain a building permit or development approval related to their property. State and federal cases are split on whether the doctrine applies to conditions imposed to a proposed use of property based on a legislative enactment (for example, in this case the requirements to provide 2 replacement trees and to record the Notice comes from the City's tree code legislatively enacted by the City Council) only if the condition imposed requires such things as a dedication of property, an easement or payment of the fee in lieu of dedication. (Whether the unconstitutional conditions doctrine requires some form of property rights conveyance to apply to a condition resulting from a legislative enactment will be resolved in the case of Sheetz v. County of El Dorado, which was argued before the U.S. Supreme Court on January 9th (and involves whether the unconstitutional conditions doctrine applies to the imposition of impact fees).) If the unconstitutional conditions doctrine applies, then the condition is subject to analysis under the United States Supreme Court decisions in Nollan v. California Coastal Commission ("Nollan" – requiring a nexus between the condition imposed and the impact of the proposed development) and

Dolan v. City of Tigard ("Dolan" – requiring in addition to a "nexus" the requested dedication of property rights must be "roughly proportionate" to the impacts of the proposed development).

Rimmer argued that the City's demand for him to provide 2 replacement trees and protect those in perpetuity through recording of the Notice effectively was no different than a dedication of property rights and therefore is subject to the unconstitutional conditions doctrine – as they say, "if it walks and talks like a duck then it must be a duck"! Consequently, Rimmer argued the City was required to conduct nexus and proportionality analysis to justify requiring 2 replacement trees to mitigate the impact resulting from removing a single ornamental dogwood tree and the City's failure to do so rendered this an unconstitutional condition. The City argued that the Notice was just that, a notice on title, but did not convey any property rights to the City. The City therefore asserted requiring the replacement trees and the Notice was entirely within the City's police power authority and not subject to the unconstitutional conditions doctrine and analysis under Nollan and Dolan.

On cross motions for summary judgment Judge Appel made an oral ruling from the bench agreeing entirely with Rimmer's arguments. He concluded that requiring the recording of the Notice to protect the 2 replacement trees was tantamount to a conveyance of property. He therefore concluded the condition is subject to the unconstitutional conditions doctrine and analysis under Nollan and Dolan. Judge Appel found that the City's condition to require the Notice and a 2:1 replacement ratio did not pass muster under the Dolan rough proportionality test because the City made no determination that the blanket 2:1 replacement ratio was roughly proportional to the impact of Rimmer removing a single ornamental dogwood tree for construction of his home. In fact, Judge Appel went so far as to conclude that remanding the case for the City to evaluate proportionality was not appropriate because he concluded that cutting down a single tree would not have an impact on the City. In other words, he concluded there was not even a nexus under Dolan to justify requiring replacement trees. Judge Appel concluded that the City's demand for recording the Notice was clearly an unconstitutional taking that was tantamount to coercion.

In a resounding victory for Rimmer Judge Appel in an oral ruling (a) denied the City's motion for summary judgment, (b) granted Rimmer's request for a declaratory judgment that the City imposed an unconstitutional condition on the approval of his building permit application, (c) granted Rimmer's request for a writ of mandamus compelling the City to promptly issue Rimmer's building permit without the unconstitutional condition, and (d) granted Rimmer's request that the City's actions violated substantive due process rights under 42 USC § 1983. Judge Appel is in the process of memorializing his oral ruling into a written order. A hearing regarding damages and attorneys' fees under 42 USC § 1983 will be held in early March.

Samantha Loyuk

From: Samantha Loyuk
Sent: Friday, February 16, 2024 4:43 PM
To: Jonathan Lounds
Subject: RE: Updated Tree Code Recommendations

Received. Thank you Jonathan.

Samantha Loyuk *(Pronounced Low-Yuke)*
Development Services Director | City of Kenmore
18120 68th Ave NE | Kenmore, WA 98028
Desk: (425) 984-6162 | SLoyuk@kenmorewa.gov

From: Jonathan Lounds <jlounds@mbaks.com>
Sent: Friday, February 16, 2024 2:41 PM
To: Samantha Loyuk <sloyuk@kenmorewa.gov>; Garrett Oppenheim <goppenheim@kenmorewa.gov>
Subject: Updated Tree Code Recommendations

> This email originated from outside your organization. Be cautious of phishing attempts. Please do not click on links or open attachments unless you are confident of the source of this email and know the contents are safe.

Hi Samantha and Garrett,

Thank you for meeting with me last week. I have attached the updated version of my tree code recommendations.

Have a great weekend!

Warm regards,

MASTER BUILDERS ASSOCIATION of King and Snohomish Counties

Jonathan Lounds | King County Government Affairs Manager

p 425.460.8201 **m** 206.804.1604
335 116th Ave. SE, Bellevue, WA 98004

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Tree Code Amendments:

- **<u>Background</u>**
  - <u>*Rimmer v. City of Edmonds*</u>: In a significant ruling on January 31st, 2024, a Snohomish County Superior Court judge sided with Nathan Rimmer in *Rimmer v. City of Edmonds*, challenging Edmond's tree code as it applied to Rimmer's property development. The judge found the City's demand for two replacement trees and a notice on the title, protecting these trees in perpetuity, to be an unconstitutional condition and a violation of Rimmer's substantive due process rights. This ruling, emphasizing the "unconstitutional conditions doctrine," mandated the city to issue Rimmer's building permit with these conditions.
  - <u>Kirkland Tree Code Amendments</u>: In December of 2023, Kirkland City Council adopted negotiated tree code amendments. MBAKS and eight homebuilders reached agreement with the City of Kirkland regarding amendments to the City's tree protection ordinance. The agreement addresses concerns regarding the City's Ordinance O-4886 adopted in March 2022 and settles the appeal challenging the ordinance that was filed with the Growth Management Hearings Board. The agreement was approved unanimously by Kirkland City Council at their meeting on December 12, 2023.

- **<u>Recommendations</u>**

  - <u>Net Loss of Density</u>
    - After a Growth Management Hearings Board settlement with MBAKS, Kirkland recently added in their tree code language stating, unless retention of trees would either "(a) reduce lot density, number of lots, maximum FAR, or lot coverage; (b) preclude construction of an ADU; or (c) preclude required access and utility connections." Kenmore should add similar language that the tree code would not result in a net loss of density.
    - The case of *Rimmer v. City of Edmonds*, combined with the Kirkland tree code settlement, offers compelling precedent for Kenmore to consider when revising its tree code, emphasizing the balance between preservation and development. By incorporating language similar to Kirkland's, which allows for tree removal under specific conditions, Kenmore could ensure that its regulations protect green spaces without unnecessarily hindering development of middle housing and accessory dwelling units (ADUs), reducing lot density, or complicating access to utility connections. This approach could provide a balanced solution that respects both environmental concerns and property owners' rights to develop their land efficiently.

  - <u>Variance Amendments</u>
    - The statement in Section 18.57.063, "No variance is allowed in order to create additional lots" restricts, if not all out prohibits, the development of middle housing in Kenmore by preventing the subdivision of into smaller lots for such housing. Middle housing, which includes duplexes, triplexes, and townhomes, is crucial for providing affordable and diverse housing options. By disallowing variances for

additional lots, this policy restricts housing density and diversity. This restriction not only constrains the physical development of diverse housing types but also the efficient use of land. Efficient land use is a critical factor in urban planning and maximizing housing availability and affordability.
    - Section 18.57.063 should be removed to allow for diverse housing types and foster the efficient use of the land.

- Canopy Requirements instead of Tree Replacement
    - Section 18.57.063 should be amended to allow the removal of exceptional trees and be replaced by tree canopy requirements language. The tree replacement ratio found unconstitutional in *Rimmer v. City of Edmonds* was a two to one ratio (2:1). Currently, Kenmore's section on mitigation requirements requires a three to one ratio (3:1), which is substantially more burdensome than the ordinance ruled unconstitutional in a neighboring jurisdiction.
    - Adopting tree canopy requirements represents a more comprehensive strategy for urban forestry, as evidenced by Snohomish County's implementation of such policies. Snohomish County's policies require specific tree canopy coverage percentages based on the type of development. These policies can be found in the Snohomish County Code Chapter 30.25 on General Development Standards. https://snohomishcountywa.gov/2737/Tree-Canopy-in-Landscaping

- Perimeter landscaping
    - In Section 18.57.080 stating, "significant trees located in the perimeter landscaping shall be retained" add the provision "not required to be removed for development access or necessary to comply with other code provisions."
    - The amended language could read, "Significant trees situated within the perimeter landscaping shall be retained, unless their removal is required for development access or necessary to comply with to other code requirements."

- Fee-in-lieu
    - It is suggested to remove strong language in Section 18.57.080 that states "only in rare cases and as a last resort" will fee-in-lieu be approved. Infeasibility already indicates the rarity of when the fee-in-lieu is applicable. Additionally, the added language introduces more ambiguity and subjectivity to the fee-in-lieu program.
    - In addition, it is necessary to further define what constitutes infeasibility for when the fee-in-lieu system can be used. There needs to be a clear and predictable process. One method of doing this is through a pre-submittal process.
        - A pre-submittal process provides a higher degree of certainty about retention determinations. This approach is similar to what was recently adopted in Kirkland.
        - Kenmore could create a written "preliminary decision" about allowed tree removal for inclusion in a project's file. While not a final permit decision, this preliminary decision would only change if Kenmore learned of information that differed from that presented in this pre-submittal process.

- Bonds & Financial Guarantee Extension
    - The section on three-year financial guarantees on individuals lots should be eliminated. Instead, a covenant requirement should be introduced. This change would increase predictability for homebuilders. Currently, the three-year financial guarantee binds homebuilders to a project for an impractical duration. For instance, under the current system, if a future owner were to remove a tree associated with the financial guarantee, the original homebuilder would be held accountable.
    - The financial guarantee extension language in Section 18.35.130 is ambiguous. This should be amended to state, "This time period may be extended by the city manager, if necessary to cover a single planting and growing season."
    - Kenmore should consolidate the tree and landscaping bonds into one program. Snohomish County currently has a single bond program for landscaping that encompasses trees. These can be found in Snohomish County Code Sections 30.84.150, 30.84.105, and 30.25.043.

Samantha Loyuk

From: Jonathan Lounds <jlounds@mbaks.com>
Sent: Wednesday, February 21, 2024 10:31 AM
To: Garrett Oppenheim
Cc: Samantha Loyuk
Subject: RE: <External>Snohomish County Tree Code
Attachments: Snohomish County 2022 Tree Canopy Monitoring Report.pdf

This email originated from outside your organization. Be cautious of phishing attempts. Please do not click on links or open attachments unless you are confident of the source of this email and know the contents are safe.

Hi Garrett,

Yes, thank you for the opportunity to clarify. The tree canopy requirements are located in Snohomish County Code 30.25.016. https://snohomish.county.codes/SCC/30.25.016

I have also attached Snohomish County's latest tree canopy monitoring report, which highlights the programs success at the beginning of the report.

Warm regards,

Jonathan Lounds | King County Government Affairs Manager

p 425.460.8201 **m** 206.804.1604
335 116th Ave. SE, Bellevue, WA 98004

mbaks.com Find us on

We believe everyone deserves a place to call home.

From: Garrett Oppenheim <goppenheim@kenmorewa.gov>
Sent: Wednesday, February 21, 2024 10:20 AM
To: Jonathan Lounds <jlounds@mbaks.com>
Cc: Samantha Loyuk <sloyuk@kenmorewa.gov>
Subject: <External>Snohomish County Tree Code

Hi Jonathan,

You had mentioned that the Snohomish County code does a good job with tree density. Would you be able to share the provisions of the Code you were referring to? Thanks!

Best,

Garrett Oppenheim
Assistant to the City Manager/Diversity, Equity, Inclusion, and Accessibility (DEIA) Coordinator
City of Kenmore
18120 68th Ave NE | Kenmore, WA 98028
ph: 425-984-6171
email: goppenheim@kenmorewa.gov
M.P.A., J.D., Member of the Washington State Bar Association

(he)

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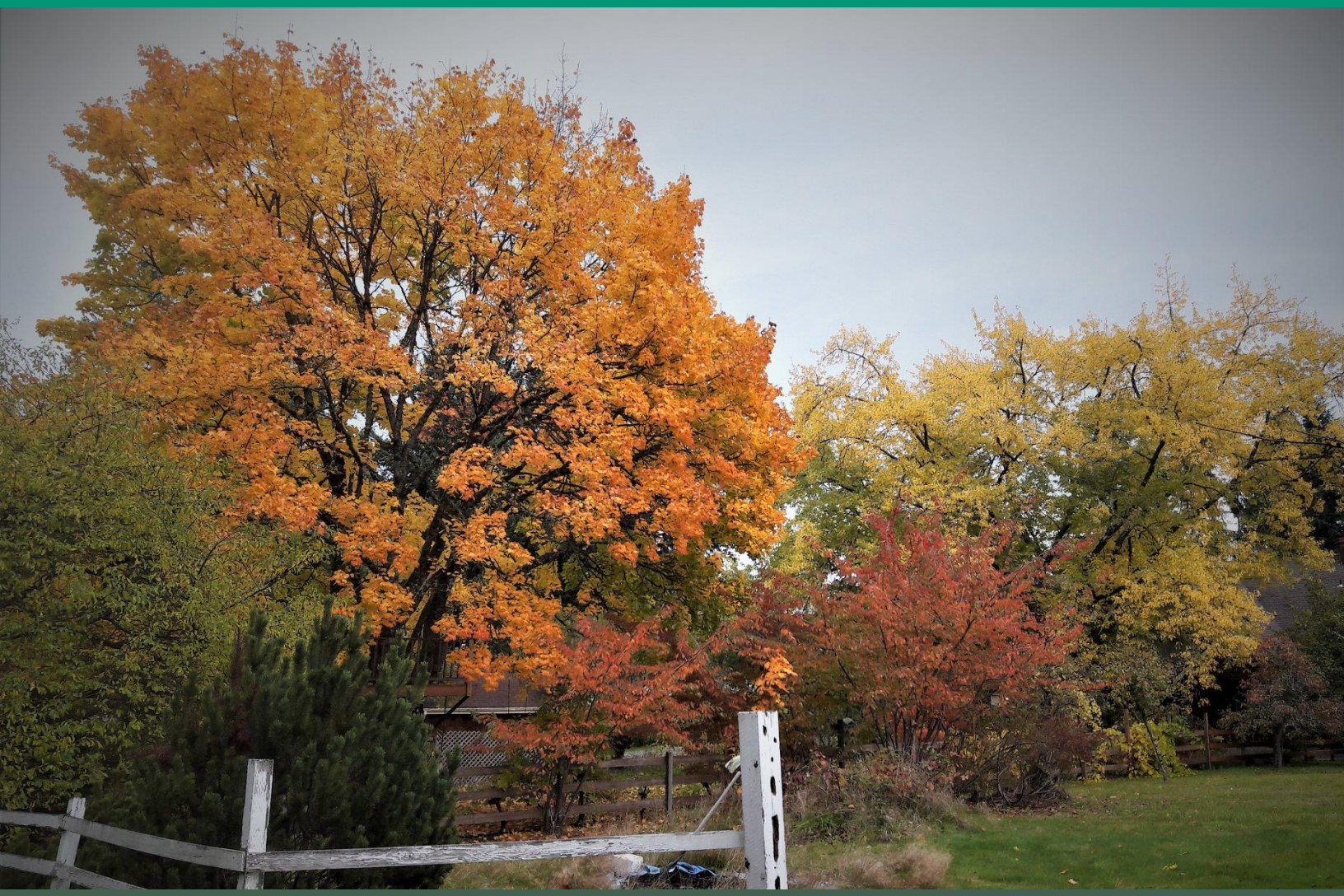
2022 Tree Canopy Monitoring Report

January 1, 2022 – December 31, 2022



Report Published January 31, 2023

Snohomish County

Executive Summary

The 2022 Tree Canopy Monitoring Report details the amount of tree canopy preserved and planted for new residential permits in urban unincorporated Snohomish County. This monitoring report is required under Snohomish County Code 30.25.016.

To find past reports and learn more about tree canopy monitoring in Snohomish County, please visit https://snohomishcountywa.gov/2737/Tree-Canopy-in-Landscaping.

The purpose of the report is to summarize the outcomes from the updated tree canopy regulations on an annual basis to assess their effectiveness and to determine whether any adjustments or refinements should be considered.

Newly planted canopy calculations are measured by the estimated square footage size of a 20-year mature tree. The numbers below highlight the total amount of proposed and required 20-year tree canopy coverage in 2022, and the total new and retained tree canopy from 2014 to 2022. In 2022, every proposed landscape plan that was approved met or exceeded the minimum 20-year tree canopy coverage required in SCC 30.25.016(3).

Summary of 2022 Urban Tree Canopy Monitoring.

1,278,474 sq. ft.
2022 Total 20-Year Canopy Area (New & Retained)

2,766
2022 New Trees Planted

1,101,055 sq. ft.
2022 Total 20-Year Canopy Area Required (New & Retained)

43%
2022 Retained Canopy

57%
2022 Newly Planted Canopy

14,623,758 sq. ft.
Total 20-Year Canopy Area (New & Retained) from 2014-2022

Introduction

On October 8, 2014, the Snohomish County Council passed Amended Ordinance No. 14-073, relating to new regulations for tree canopy coverage. These new regulations, effective October 27, 2014, modified development standards for urban residential landscaping to preserve tree canopy in addition to individual significant trees. These regulations are located in Chapter 30.25 of the Snohomish County Code (SCC). The code requires that significant trees be retained in all Critical Area Protection Areas (CAPA) and buffers, and in perimeter landscaping buffers. Significanttrees and existing tree canopy are also incentivized to be retained outside of CAPA and perimeter landscaping buffers per SCC 30.25.016(5).

Included in Amended Ordinance No. 14-073 was a requirement for the Department of Planning and Development Services (PDS) to prepare an annual report on the effectiveness of the county's tree canopy regulations. The report is required to be submitted to the County Council by January 31 of each year.

Per SCC 30.25.014, PDS is required to provide data on the following five topics for the applications it approved within the reporting period:

1. The number of applications exempted from tree canopy requirements by each of the exemptions in SCC 30.25.016(1).
2. The number of applications to which the tree canopy requirements are applied, subtotaled by type of application.
3. The number of applications using the Tree Survey method and the number using the Aerial Estimation method for estimating existing tree canopy (applicable when the retention of existing canopy is to be used – in whole or in part – to meet the requirements).
4. For each application to which the tree canopy requirements are applied:
    a. The tree canopy required by Table 30.25.016(3) prior to any adjustments.
    b. Any adjustments to the required tree canopy, the specific type of incentive or other adjustments, and the specific code authority for the adjustment.
    c. The required tree canopy after all adjustments are made.
    d. The use and effect of applying any other incentives for tree retention.
    e. The result of the calculation of existing canopy.
    f. The canopy of trees retained.
    g. The number of new trees planted.
    h. The result of the calculation of 20-year canopy.
5. For every allowable type of adjustment, the total number of applications that used it and the total reduction in required tree canopy resulting from it.

METHODOLOGY

Because of the nature of monitoring and reporting, the methodology for data collection included in the report has evolved over the past five years. Table 1 contains a summary of how report methodologies have changed since the first tree canopy monitoring report was prepared in 2015. A more detailed discussion of the methodology changes follows the table.

Table 1. Tree Canopy Monitoring Report Data Collection Methods 2015-2021.

Report Year	Data Collection Method
2015 & 2016	Included data for proposed landscaping plans for *all* residential land use applications within the urban growth area that were either submitted or approved in the prior year.
2017 & 2018	Included only data from landscape plans for *approved* development activities that were subject to tree canopy regulations in SCC 30.25.016. Data collection time frames varied and generally included the previous year's approved landscape plans (but also included more than a 12-month timeframe)
CY 2018 & CY 2019	These reports follow the same methodology as the 2017 and 2018 reports, apart from limiting the timeframe to 12 months. The timeframe for data collection is now a calendar-year (CY), and the report titles reflect this change.
2020 2021 2022	These reports follow the same methodology established as the previous three years. The 2020-2022 reports have removed the calendar-year based title heading for further clarity.

Due to limited data availability, the first two reports (2015 & 2016) included landscape plans for all residential land use development applications proposed within the urban growth areas (UGAs) which were either submitted or approved in the prior year.

The methodology was substantially revised for the 2017 report, which transitioned to only include approved landscaping plans. This was changed because it is not uncommon for an application to be revised between the time of submittal and final approval. Including only those applications in the monitoring report which received final approval improved the accuracy of the monitoring report. As a result, the 2017 report included only landscaping plans that were approved from the effective date of Amended Ordinance No. 14-073 (November 1, 2014) through November 30, 2016. In total, the 2017 report included 61 landscaping plans. The 2018 report followed the same methodology and included a total of 58 landscaping plans, which were approved between December 1, 2016, through December 31, 2017.

In the 2018 report, PDS staff recommended transitioning to a calendar year (CY) reporting timeframe. This change created a standardized 12-month reporting period so that the information in each year's report could be more consistently compared over time. The CY 2018 report was the first report to adopt this recommendation.

This 2022 report uses the same methodology as the past four reports and includes information from 49 approved landscape plans within approved residential development activity applications. These landscape plans were approved between January 1, 2022, and December 31, 2022. Due to the revised methodology, information from reports prior to the CY 2018 report will be used sparingly to avoid false comparisons. These reports (2015 through 2018) summarized data only from landscaping plans that were submitted prior to approval, so including them in this report would potentially double-count tree canopy.

Background

The genesis for the updated 2014 tree canopy regulations was feedback from developers who, in designing projects under the 2009 tree retention regulations, identified a number of issues, including:

- Concerns about the survivability of newly planted trees when planted in inappropriatelocations or dense clusters to meet the requirements;
- Costs to complete a survey of significant trees on forested parcels;
- Unavailability of off-site replanting areas within the immediate vicinity of many projects (allowed by code when there was insufficient area on-site for replacement trees); and
- Developers bypassing heavily forested sites due to the cost of complying with the 2009 tree retention regulations.

In addition, PDS staff hypothesized that, under the tree retention/replacement regulations, the full build-out density of urban residential sites as prescribed by the Growth Management Act (GMA)Comprehensive Plan might not be feasible on some heavily forested parcels. This was noted as apotential conflict with the GMA goals and Puget Sound Regional Council's Vision 2040, which encourages development within UGAs to preserve rural and resource lands.

In 2014, PDS proposed amending the code to focus on the concept of preserving and expanding tree canopy rather than just on retaining and replacing individual trees. The staff proposal included incentives for retaining significant trees. Following Planning Commission review, extensive public outreach and participation, and several public hearings, the County Council adopted the code amendments in October 2014.

The code amendments were passed under Ordinance 14-073, which amended Title 30 SCC and updated the county's landscaping standards. The ordinance's goal was to maintain canopy coverage through the retention and replacement of existing tree canopy while providing flexible options for developers to obtain urban densities as prescribed in the Snohomish County Comprehensive Plan.

Tree Canopy Coverage Analysis Background

In order to establish base line percentages for tree canopy coverage in UGAs, the County relied on a high-level GIS analysis of the National Land Cover Data provided by the US Geologic Service (USGS). This data was analyzed in 2013 utilizing USGS Land Cover Data from 2011. Every five years USGS releases updated land cover data.

The analysis in 2013 determined the unincorporated UGAs of Snohomish County contained an estimated 30% canopy coverage between public and private lands. The ordinance sought to maintain 30% tree canopy coverage in unincorporated UGAs of Snohomish County. Although, the code does not require further analysis of USGS Best Available Land Cover Data post 2013, and canopy coverage is measured individually by permits.

For the 2020 Tree Canopy Report, PDS staff took the opportunity to update the tree canopy coverage beyond the individual projects approved within unincorporated urban Snohomish County. While this was not a required element of the monitoring report, PDS staff wanted a better understanding of how tree canopy coverage was changing in the county. It should be noted that both the original and updated analysis of satellite imagery covered the entire urban unincorporated areas, although Snohomish County's tree canopy regulations only apply to new urban residential development.

The 2020 Tree Canopy Monitoring Report included an updated tree canopy coverage analysis that used canopy coverage data from the USGS National Land Cover Database and the National Oceanic and Atmospheric Administration (NOAA) National Agriculture Imagery Program that was then analyzed by Snohomish County's Surface Water Management (SWM) division. Three maps and datasets were produced: 2011 USGS data, 2016 USGS data, and the 2015 NOAA/SWM data.

To learn more about the analysis and results of updated tree canopy maps and datasets, you can find the '2020 Annual Report on Tree Canopy' at: https://snohomishcountywa.gov/2737/Tree-Canopy-in-Landscaping

2022 Updated Tree Canopy Coverage Analysis

The 2020 Tree Canopy Monitoring Report utilized 2015 Snohomish County imagery that included an infra-red (IR) band which allowed for a more accurate analysis of tree canopy coverage. The county has partnered with other cities, tribes, and agencies to commit to flying high resolution imagery every other year for a total of five flights (2018, 2020, 2022, 2024, 2026). In this collaboration, Washington State conducts the imagery and distributes its findings.

Washington State Department of Natural Resources (DNR) and the Community Forestry Program (UCF), along with support and funding from the USDA Forest Service Urban Forestry Program and other partners, collaborated in developing a high-resolution urban canopy assessment for every incorporated municipality in King, Pierce, and Snohomish Counties. These assessments were

published in 2022 and are available at the link below. As this tool only surveyed incorporated jurisdictions, no tree canopy mapping data is available for use for unincorporated Snohomish County. This Snohomish County Monitoring Report will continually pursue using updated federal, state, and local data for future tree canopy coverage analysis.

Tree canopy mapping policies are being considered to be included as a part of the Snohomish County 2024 Comprehensive Plan Update. These proposed policies would support future mapping and tree canopy analysis, in addition to supporting the county pursuing designation as an Evergreen Community.

WA DNR Tree Canopy GIS Data:

https://data-wadnr.opendata.arcgis.com/

To learn more about WA DNR Urban and Community Forestry Program:
https://www.dnr.wa.gov/urbanforestry

Photo 2: Trees covered in snow. Photo credit PDS Staff.

Tree Canopy Regulations

Snohomish County Tree canopy regulations are contained in SCC 30.25.016. These regulations establish a minimum amount of tree canopy to be provided for each new urban residential development on a sliding scale, depending on the type of residential construction (e.g., detached versus attached) and the number of lots or units (see Table 2). Under this approach, a higher canopy percentage is required for single family than multiple family developments to balance environmental goals with increased density and to accommodate future population growth in an efficient manner. Table 2 presents the amount of tree canopy required for new residential development applications.

Table 2. Tree Canopy Coverage Requirements (SCC 30.25.016(3))

Type of Development	Required 20-Year Tree Canopy Coverage (gross site area)
Subdivisions for Single Family Residential (10+ lots)	30%
Short Subdivisions for Single Family Residential (4 to 9 lots)	25%
Short Subdivisions for Single Family Residential (< 4 lots)	20%
Single Family Detached Units, Cottage Housing, Townhouse, Multi-family (10+ units)	20%
Single Family Detached Units, Cottage Housing, Townhouse, Multi-family (< 10 units)	15%
Urban Center (residential and mixed use projects only)	15%

These tree canopy requirements apply equally to sites that have existing canopy and those that do not, and they can be met through tree retention, new planting, or a combination of both. This is an important change from the 2009 tree replacement regulations which only applied to sites with significant trees. The current approach provides an opportunity to expand the urban tree canopy on redevelopment sites or sites that have been cleared in the past. Snohomish County Code does not require a one-for-one replacement requirement for significant trees, so heavilyforested lots proposed for residential development may lose tree canopy when developed. In order to balance the growing demand for housing and to comply with Growth Management Act

(GMA) goals to incentivize growth in urban areas, reduce sprawl, protect the environment, and provide affordable housing,large lots with existing trees in the UGA can be developed when in compliance with the requirements of Table 2.

Retaining significant trees remains an objective of the current regulations. Under the current regulations, incentives exist to encourage developers to retain both individual significant trees and stands of significant trees. The tree canopy regulations also maintain the pre-2014 requirements that significant trees in critical areas and perimeter landscaping buffers be retained. The regulations also address species mix, encouraging more native trees to be planted to minimize disease and improve survivability. Finally, the regulations promote planting the right tree in the right place to ensure long term survivability.

You can find the Snohomish County Code (SCC) Tree canopy requirements in SCC 30.25.016:
https://snohomish.county.codes/SCC/30.25.016

Measuring New and Existing Canopy

Newly planted canopy calculations are measured by estimating what the square footage size will be when it is a 20-year old mature tree (SCC 30.25.016(4)). Snohomish County uses a Tree Canopy Coverage List of approved landscaping trees to measure the mature canopy area. Developers can also provide a report from a qualified landscape designer for trees not on the Tree Canopy Coverage List. The existing canopy is measured using either an aerial survey or a tree survey done on site.

Annual Report on Tree Canopy: Five Requirements

The assessment of the five reporting requirements, pursuant to SCC 30.25.014 outlined in the Introduction section of this report, is based on a review of approved residential development activities between January 1, 2022, and December 31, 2022, that are subject to the tree canopy regulations in SCC 30.25.016. Each of the five specific reporting requirements is discussed in the following sections.

Report Requirement #1:

Number of Applications Exempt from Requirements

The following activities, which are listed in SCC 30.25.016(1), are exempt from the tree canopy requirements in SCC 30.25.016:

1. Removal of any hazardous, dead, or diseased trees, and as necessary to remedy an immediate threat to person or property as determined by a letter from a qualified arborist;
2. Construction of a single-family dwelling, duplex, accessory or non-accessory storage structure on an individual lot created prior to April 21, 2009, or created by a subdivision orshort subdivision for which a complete application was submitted prior to April 21, 2009;
3. Construction or maintenance of public or private road network elements, and public or private utilities including utility easements not related to development subject to chapters 30.23A, 30.34A, 30.41G or 30.42E SCC;
4. Construction or maintenance of public parks and trails when located within an urban residential zone; and
5. Pruning and maintenance of trees.

Photo 3: Backyard trees. Photo credit PDS Staff.

Since PDS does not issue a permit for pruning or for the removal of hazardous trees, there is currently no method to accurately track and report these two activities. Collecting data for the three remaining exempted activities is also very challenging because available permit data does not provide a means to track or report on these activities. As a result, no data has been collected for this, or for any past reports. The development of a system to collect, monitor, and assess this information would be a major program effort.

Report Requirement #2:

Number and Type of Applications

During this reporting period (January 1, 2022, through December 31, 2022), a total of 49 urban residential development applications subject to tree canopy regulations were approved. The 2022 report compares the 49 approved development applications with data from previous reports.

Chart 1 shows the overall trends of permit applications that have been subject to tree canopy regulations since 2017. Table 3 summarizes the number and type of applications that are subject to the tree canopy requirements in SCC 30.25.016. It should be noted that some of the townhouse applications also involved land subdivisions pursuant to SCC 30.41A.205.

Chart 1. Total Permit Applications Subject to Tree Canopy Regulations

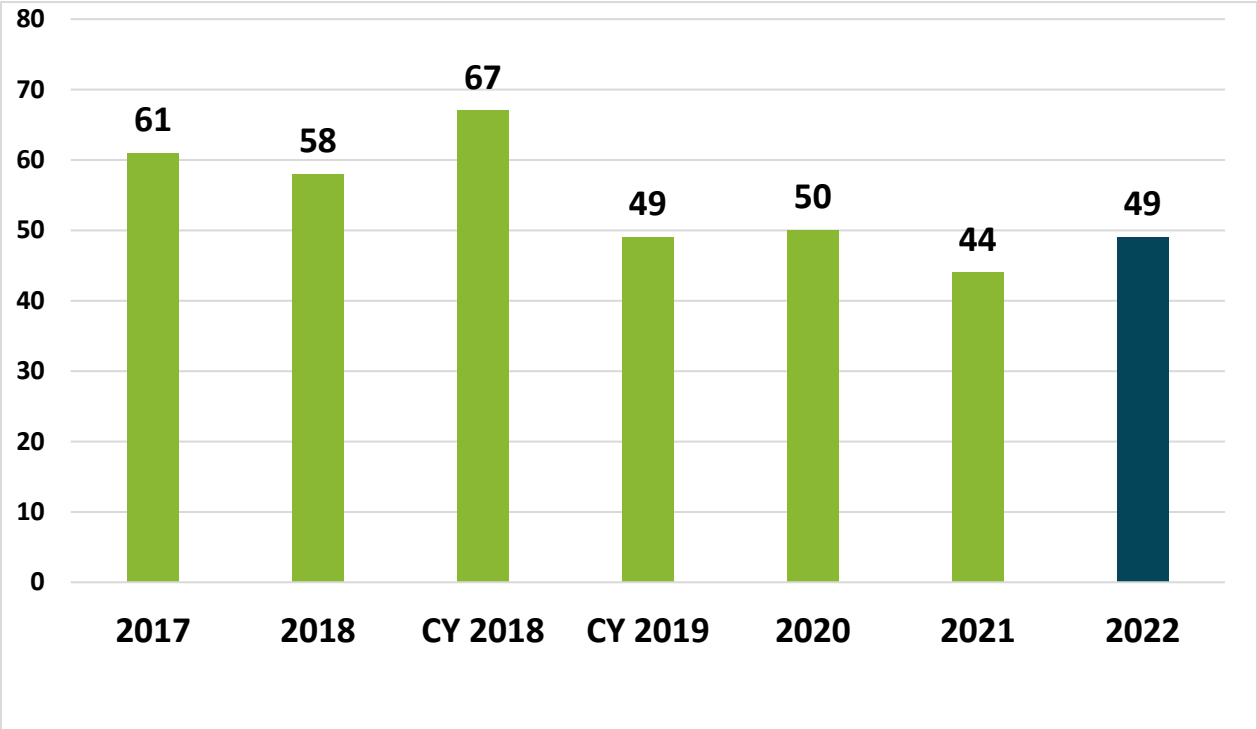


Table 3. Number and Type of Applications (CY 2018 – 2022)

Application Type	CY 2018 Report (1/19-12/19)	CY 2019 Report (1/19 – 12/19)	2020 Report (1/20-12/20)	2021 Report (1/21-12/21)	2022 Report (1/22-12/22)
Subdivision (10+ lots)	18	9	10	9	**7**
Short Subdivision (4 – 9 lots)	14	9	7	3	**9**
Short Subdivision (< 4 lots)	8	3	11	5	**5**
Single Family Detached Units (10+ units)	7	10	4	5	**6**
Single Family Detached Units (<10 units)	6	6	12	8	**5**
Cottage Housing (10+ units)	0	0	0	0	**0**
Cottage Housing (< 10 units)	0	0	0	0	**0**
Townhouse (10+ units)	5	3	3	8	**11**
Townhouse (<10 units)	3	2	3	2	**3**
Multiple Family (10+ units)	3	4	0	1	**0**
Multiple Family (<10 units)	0	0	0	1	**0**
Urban Center (residential and mixed use only)	3	3	0	2	**2**
Total	**67**	**49**	**50**	**44**	**49**

Report Requirement #3:

Number of Applications Calculating the Retained Existing Tree Canopy

Applicants that propose retaining a portion or all the existing tree canopy on a subject property to meet the minimum tree canopy requirements have two options for calculating canopy coverage: the tree survey method or the aerial estimation method. Under the tree survey method, the average 20-year canopy is calculated for each tree to be retained, whereas, under the aerial estimation method, an applicant can calculate the extent of the canopy by using a recent aerial photo.

Table 4 shows the number of applications that elected to retain tree canopy, and the specific method used to calculate existing canopy. Applicants that decide not to utilize either of these

methods to preserve trees and rely only on planting new canopy, calculate their 20-year canopy coverage for each new tree planted as previously discussed in this report. The percentage of retained canopy in proposed permits by report year is displayed in Table 5.

Table 4. Number of Applications by Method (CY 2018 – 2022)

Tree Canopy Estimation Method	CY 2018 Report (1/18 – 12/18)	CY 2019 Report (1/19 – 12/19)	2020 Report (1/20-12/20)	2021 Report (1/21-12/21)	2022 Report (1/22-12/22)
Tree Survey	19	4	7	4	**8**
Aerial Estimation	11	15	19	11	**15**
New Canopy Only	37	30	24	29	**26**
Total	**67**	**49**	**50**	**44**	**49**
Percent of Permits that Retained Canopy Coverage	**45%**	**39%**	**52%**	**34%**	**43%**

For this reporting period, eight applications utilized the tree survey method while fifteen applied the aerial estimation method. The remaining 26 applications used only new canopy to meet their required canopy coverage. There were four applications that relied on existing tree canopy only. The percentage of permits that retained tree canopy coverage in order to meet their required canopy coverage increased in 2022 when compared to 2021's report.

57% of the approved permits proposed exclusively new tree canopy to meet the canopy requirements. In several of these cases, the landscape plans indicated that some existing canopy and some significant trees were retained – often to meet other landscaping and retention requirements outside of the requirements SCC 30.25.016(3). However, this information is not included in the canopy calculations relied upon forthis report primarily because the existing canopy coverage information was not consistently provided on these plans.

Overall, there were 20 significant trees that were surveyed and retained in 2022. Due to different reporting methods, the full canopy of each individual significant tree that was retained was not fully reported (such as when the trees were in clusters), but the full canopy from each of these reporting methods is included in this report.

Data presented in Table 4 suggests that aerial estimation is used more often by developers to measure existing canopy potentially because it costs less than identifying individual trees within a tree survey. This suggests that the cost placed on developers of conducting a tree survey or aerial estimation is notadequately compensated by the canopy bonuses available for retaining significant trees. To further assess this trend, it may be useful to survey developers to better understand their reasoning for utilizing or not utilizing a particular incentive.

Report Requirement #4 and #5:

Data for Each Application & Number of Adjustments Used

These two reporting requirements require additional detailed information about each of the 49 applications approved during this reporting period. The specific data required for each application is enumerated below and is provided in its original form within Appendix 2 to this report. Table 5 focuses on retained canopy and Table 6 provides an aggregated overview of all the data requirements listed below.

1. The tree canopy required by Table 30.25.016(3) prior to any adjustments;
2. Any adjustments to the required tree canopy, the specific type of incentive or other adjustments, and the specific code authority for the adjustment;
3. The required tree canopy after all adjustments;
4. The use and effect of applying any other incentives for tree retention;
5. The result of the calculation of existing the canopy;
6. The canopy of trees retained;
7. The number of new trees planted; and
8. The result of the calculation of 20-year canopy.

Table 5. Retained Tree Canopy Data (CY 2018 – 2022)

Tree Canopy Estimation Method	**CY 2018 Report** (1/18 – 12/18)	**CY 2019 Report** (1/19 – 12/19)	**2020 Report** (1/20-12/20)	2021 Report (1/21-12/21)	**2022 Report (1/22-12/22)**	**Cumulative Retained Canopy** **(CY 2018-2022)**
Tree Survey (sq. ft.)	84,051	35,420	22,418	6,199	**32,131**	**180,219**
Aerial Estimation (sq. ft.)	253,004	475,231	1,041,803	370,662	**523,339**	**2,664,039**
Total Retained Canopy (sq. ft.)	337,055	510,651	1,064,221	376,861	**555,470**	**2,884,258**
Percent of Total Canopy Coverage Retained	**19.9%**	**28.1%**	**51.8%**	**32.8%**	**43.4%**	**36.1%**

Table 6. Aggregate Data for Approved Applications (CY 2018 - 2022)

Reporting Requirement		CY 2018 Report (1/18–12/18)	CY 2019 Report (1/19 – 12/19)	2020 Report (1/20-12/20)	2021 Report (1/21-12/21)	2022 Report (1/22-12/22)	Total (1/18 – 12/22)
Number of applications		67	49	50	44	**49**	**259**
Tree canopy required by code (sq. ft.)		1,464,513	1,455,244	1,933,354	1,126,694	**1,107,055**	**7,086,860**
Existing Canopy Retained	*Tree Survey (sq. ft.)*	84,051	35,420	22,418	6,199	**32,131**	**180,219**
	Aerial Estimation (sq. ft.)	253,004	475,231	1,041,803	370,662	**523,339**	**2,664,039**
New Canopy (sq. ft)		1,409,735	1,308,286	984,551	770,738	**723,004**	**5,196,314**
Total number of trees planted		4,297	3,989	2,844	3,306	**2,766**	**17,202**
Cumulative 20-year tree canopy calculation (sq. ft.)		1,686,790	1,818,937	2,054,772	1,147,599	**1,278,474**	**7,986,572**

Photo 4: Residential Trees near 164th Street. Photo credit PDS Staff.

Tree Type Diversity

In past monitoring reports, there was a recommendation to track tree type diversity from the already provided planting information on the landscape plans. Incorporating this data into the report provides an improved picture of the new canopy diversity. You can find the full species diversity list in Appendix 2 of this report. There were 69 total tree species utilized in approved landscape plans in 2021 and 80 total tree species in 2022. Table 7 shows the most popular tree species planted out of the total 2,766 trees planted in urban residential permits in 2022. These eight tree species represent 52% of all the trees that were planted in 2022.

For additional information about each tree listed here and in Appendix 2, please visit https://snohomishcountywa.gov/2737/Tree-Canopy-in-Landscaping and click the "Tree Canopy Database PDF". Information about the species, growth type, drought tolerance, estimated 20-year canopy square footage, and more are included in this document.

Table 7. Most Planted Tree Species within Approved Applications

Tree Species – Common Name	Tree Species – Scientific Name	Native Species	2022 Trees Planted
Douglas Fir	Pseudotsuga menziesii	Yes	**242**
Vine Maple	Acer circinatum	Yes	**210**
Columnar AmericanArborvitae	Thuja occidentalis'Fastigiata'	Yes	**210**
Western Red Cedar	Thuja plicata	No	**205**
Shore Pine	Pinus contorta	Yes	**175**
Excelsa Western Red Cedar	Thuja plicata 'Excelsa'	No	**165**
Paperbark Maple	Acer griseum	No	**119**
Warrenred Pacific Sunset Maple	Acer truncatum x A. platanoides 'Warrenred	No	**105**

Summary of 2022 Data

Every proposed landscape plan that was approved in 2022 met or exceeded the minimum 20-year tree canopy coverage required in SCC 30.25.016(3). 9 out of 49 of the landscape plans (18%) had at least five percentage points more canopy than necessary to meet their minimum requirements. This is compared to 2021 which had 7 out of the 44 landscape plans (16%) and 2020 which had 13 out of 50 landscape plans (26%) which had at least five percentage points more than required.

A total of 2,766 new trees were proposed to be planted to meet the specific tree canopy requirements of SCC 30.25.016. More than 2,766 trees were planted in 2022 but were not included in this report because they were not necessary to meet the minimum tree canopy requirements. The additional trees were planted to meet other landscaping requirements, such as parking lot landscaping and street trees. In many applications, those trees are not always included in the canopy calculations (although they could be eligible if located on the subject property) because of the species mix requirements applicable to new canopy coverage trees. For this reason, the actual tree canopy provided by urban residential development is often under-reported by the canopy calculations provided by the applicants and compiled into this report. Similarly, the actual retention of tree canopy and existing significant trees is likely under-reported and is often greater than is indicated by the canopy calculations. Since retention is required within perimeter landscaping and critical areas, there is often no tree survey performed in those areas where no land disturbance is planned.

For this reporting period, a total of seven applications utilized canopy bonuses (adjustments to canopy requirements) available for significant tree retention in SCC 30.25.016(5)(a), compared to the three in 2021. 20 significant trees were retained and given a 125% bonus to their existing canopy coverage and a cluster of three trees were retained and given a 200% bonus to their existing canopy coverage. These bonuses added 9,595 sq. ft. cumulative in these three applications, compared to the 499 sq. ft. bonuses in 2021.

As in last year's report, none of the projects sought a reduction in their canopy requirements as allowed for certain situations by subsections SCC 30.25.016(8) and (9). The only bonuses used in 2022 were for individual significant trees under SCC 30.25.016(5)(a), which counts individual significant trees retained on site to be counted as 125% of their actual canopy area, and SCC 30.25.016(5)(c) which allows clusters or stands of five or more significant trees to be counted at 200 percent of its actual canopy area. This could suggest that the tree canopy requirements are not overly burdensome to applicants or that the incentives to retain significant trees are not high enough. In the future, the County may consider reviewing why the reductions have not been utilized as frequently, and whether or not they should be revised.

Overall, four projects met their canopy requirements exclusively through retention of the existing canopy, compared to two from 2021, six from 2020, and one from CY 2019. 26 projects met their requirements entirely through the planting of new trees. The remaining 23 projects used a combination of canopy retention and new trees to meet the canopy requirements. This diversity of approach suggests that the regulations are flexible enough to accommodate different site conditions within the urbangrowth areas. It also indicates that the regulations are producing both canopy retention and new canopy creation within urban residential areas to help mitigate the inevitable loss of tree canopy from development on previously undeveloped urban sites.

Because pre-development tree canopy calculations are not required, except for projects and site areas where retention is used to meet the canopy requirements, it is not possible to measure the overall net change in the urban tree canopy using only the data available for these monitoring reports. Even if such canopy measurements were made, other factors, such as changes to landscaping after development approval despite requirements in code to retain proposed landscaping, would hamper efforts to accurately monitor changes in the overall canopy.

As mentioned above, even at the project level the canopy calculations do not accurately reflect new canopy because they frequently exclude trees used to meet other landscaping requirements where species mix is not also required. The best tool for overall canopy monitoring remains the satellite imagery available that is discussed in 'Tree Canopy Coverage Analysis Background' found earlier in the report.

Recommendations for 2023 and Beyond

PDS staff intends to continue to refine administrative processes to make the documentation and review steps associated with the canopy regulations streamlined for both the customer and PDS staff. Staff has also explored ways to better utilize its permit tracking system (AMANDA) to complete the data collection and compilation processes required to complete this annual

report. There is an opportunity for PDS staff to continue improvements to promote efficiency in the collection of tree canopy calculations and the preparation of the annual report.

The following recommendations represent efforts that could streamline the administrative process, improve the quality of the data collected, and further expand flexibility for applicants.

1. Pursue additional mapping of unincorporated Snohomish County tree canopy. The Amended Ordinance No. 14-073 identified that the urban areas of unincorporated Snohomish County had 30% tree canopy coverage and that the intent of the Tree Canopy requirements was to maintain this percentage. Currently, Snohomish County Code does not require further GIS analysis of themost recent USGS Best Available Land Cover Data or improved dataset. Through updates to the most recent data, the county would benefit from a better understanding of how effective the current policies are at complying with their original intent and provide betterdata for future reports to use for analysis.

2. Update the Native Tree Species List. PDS is currently in the process of updating the Native Tree Species List for the county. Officially updating this list that is provided to developers would help to broaden the available tree species to include in the landscape plan, potentially increase the diversity of trees selected within developments, and more accurately represent the predicted 20-year canopy coverage.

3. Continue to track the proposed tree canopy policies for the 2024 Comprehensive Plan Update. These proposed policies include mapping analysis, new goals for urban tree canopy coverage, coordination with jurisdictions on tree canopy, pursuing Evergreen Community status, and more.

APPENDIX 1

Table 8: Detailed Information by Application for Approvals from January 1, 2022 through December 31, 2022.

#	Application	Development Type	Tree Canopy Percent Required	Required Tree Canopy Area (sq. ft.)	Gross Site Area (sq. ft.)	Option 1 Total Retained Canopy Area with Bonus (sq. ft.)	Option 2 Total Retained Canopy Area with Bonus (sq. ft.)	New Canopy Area (sq. ft.)	Number of New Trees Planted	20 Year Canopy Area Proposed (New & Retained) (sq. ft.)	Total Tree Canopy Percent Proposed
1	164th St Apts	Urban Center (residential and mixed use only)	15%	32,020	213,466	-	-	34,915	174	34,915	16%
2	18 Degrees ULS fka Canvas Townhomes ULS	Townhouse (10 or more units)	20%	18,295	91,476	-	6,354	12,121	81	18,475	20%
3	Ash Way SFDU	Single Family Detached Units (10 or more units)	20%	29,451	147,255	-	-	29,548	103	29,548	20.1%
4	Bellflower Court PRD	Subdivision (10 or more lots)	30%	31,308	104,360	-	-	62,736	170	62,736	60.1%
5	Bothell Gardens II ULS	Townhouse (10 or more units)	20%	7,613	38,064	-	4,420	3,268	9	7,688	20%
6	Bruntsfield ULS	Townhouse (10 or more units)	20%	39,678	198,388	-	31,655	11,725	51	43,380	22%

#	Application	Development Type	Tree Canopy Percent Required	Required Tree Canopy Area (sq. ft.)	Gross Site Area (sq. ft.)	Option 1 Total Retained Canopy Area with Bonus (sq. ft.)	Option 2 Total Retained Canopy Area with Bonus (sq. ft.)	New Canopy Area (sq. ft.)	Number of New Trees Planted	20 Year Canopy Area Proposed (New & Retained) (sq. ft.)	Total Tree Canopy Percent Proposed
7	Canyon Ridge 7 lot SP	Short Subdivision (4 - 9 lots)	25%	13,194	52,776	1,752	-	11,625	27	13,377	25%
8	Carter Rd Spencer SP	Short Subdivision (4 - 9 lots)	25%	11,480	45,919	-	-	11,530	43	11,530	25%
9	Cascadian Way SFDU	Single Family Detached Units (10 or more units)	20%	12,892	64,459	6,890	-	6,008	23	12,898	20.0%
10	Cedar Pointe SFDU	Single Family Detached Units (10 or more units)	20%	54,457	272,284	-	5,541	49,023	159	54,564	20%
11	Cederlind Short Plat	Short Subdivision (less than 4 lots)	20%	3,804	19,019	1,614	-	2,478	9	4,092	22%
12	Dalston Grove 7 lot PRD SP	Short Subdivision (4 - 9 lots)	25%	10,540	42,159	-	-	10,568	44	10,568	25%
13	Danvers Rd SFDU	Single Family Detached Units (less than 10 units)	15%	7,640	50,936	-	-	7,830	25	7,830	15.4%

#	Application	Development Type	Tree Canopy Percent Required	Required Tree Canopy Area (sq. ft.)	Gross Site Area (sq. ft.)	Option 1 Total Retained Canopy Area with Bonus (sq. ft.)	Option 2 Total Retained Canopy Area with Bonus (sq. ft.)	New Canopy Area (sq. ft.)	Number of New Trees Planted	20 Year Canopy Area Proposed (New & Retained) (sq. ft.)	Total Tree Canopy Percent Proposed
14	Echo Estates PRD	Subdivision (10 or more lots)	30%	35,942	119,808	-	-	36,613	118	36,613	31%
15	Edmonds Project SFDU	Single Family Detached Units (10 or more units)	20%	11,348	56,742	-	-	15,918	48	15,918	28%
16	Ellis Station ULS	Townhouse (10 or more units)	20%	13,051	65,253	-	-	13,154	65	13,154	20%
17	Fabian Short Plat	Short Subdivision (4 - 9 lots)	25%	11,357	45,428	-	-	11,376	36	11,376	25.0%
18	Harbour Cove Estates	Single Family Detached Units (10 or more units)	20%	17,633	88,167	-	-	17,687	83	17,687	20%
19	Harmony Village at Lynnwood	Urban Center (residential and mixed use only)	15%	33,674	224,492	-	-	36,717	74	36,717	16%
20	Hillside Townhome 5 lot ULS	Townhouse (less than 10 units)	15%	1,350	8,998	-	149	1,230	6	1,379	15.3%
21	Ironwood Lane Townhomes	Townhouse (10 or more units)	20%	4,523	22,613	-	-	5,689	28	5,689	25%

#	Application	Development Type	Tree Canopy Percent Required	Required Tree Canopy Area (sq. ft.)	Gross Site Area (sq. ft.)	Option 1 Total Retained Canopy Area with Bonus (sq. ft.)	Option 2 Total Retained Canopy Area with Bonus (sq. ft.)	New Canopy Area (sq. ft.)	Number of New Trees Planted	20 Year Canopy Area Proposed (New & Retained) (sq. ft.)	Total Tree Canopy Percent Proposed
22	Juniper ULS	Townhouse (10 or more units)	20%	32,523	162,615	-	47,892	0	0	47,892	29%
23	Kilbirnie ULS	Townhouse (10 or more units)	20%	34,275	171,374	-	40,040	0	0	40,040	23%
24	Klimenko Short Plat	Short Subdivision (less than 4 lots)	20%	4,562	22,811	-	3,406	1,440	3	4,846	21%
25	Larch Way SFDU	Single Family Detached Units (10 or more units)	20%	49,309	246,545	-	-	49,469	208	49,469	20%
26	LCNA Investments	Short Subdivision (less than 4 lots)	20%	3,202	16,008	131	-	3,417	13	3,548	22%
27	Legacy at Canyon Creek Plat	Subdivision (10 or more lots)	30%	59,204	197,346	-	6,278	53,254	303	59,532	30%
28	Legacy at Canyon Creek Short Plat	Short Subdivision (4 - 9 lots)	25%	6,886	27,543	-	-	6,921	49	6,921	25%
29	Liberty View Preliminary PRD	Subdivision (10 or more lots)	30%	41,109	137,030	-	-	45,576	138	45,576	33%

#	Application	Development Type	Tree Canopy Percent Required	Required Tree Canopy Area (sq. ft.)	Gross Site Area (sq. ft.)	Option 1 Total Retained Canopy Area with Bonus (sq. ft.)	Option 2 Total Retained Canopy Area with Bonus (sq. ft.)	New Canopy Area (sq. ft.)	Number of New Trees Planted	20 Year Canopy Area Proposed (New & Retained) (sq. ft.)	Total Tree Canopy Percent Proposed
30	McKelvey SFDU	Single Family Detached Units (less than 10 units)	15%	1,895	12,632	-	1,325	861	12	2,186	17%
31	Michel SP	Short Subdivision (less than 4 lots)	20%	4,392	21,959	-	-	4,664	14	4,664	21%
32	MSR Lake View Homes ULS	Townhouse (less than 10 units)	15%	4,604	30,693	-	-	4,655	28	4,655	15%
33	North Creek Vista	Subdivision (10 or more lots)	30%	101,815	339,382	-	55,692	46,247	155	101,939	30.0%
34	Penny Creek Townhomes	Townhouse (10 or more units)	20%	16,303	81,514	-	34,530	5,578	36	40,108	49%
35	Picnic Point Townhomes (Tariq Ahmed Development)	Townhouse (10 or more units)	20%	8,754	43,770	5,850	-	10,749	39	16,599	38%
36	Poddubny SFDU	Single Family Detached Units (less than 10 units)	15%	3,002	20,012	-	-	3,120	7	3,120	16%

#	Application	Development Type	Tree Canopy Percent Required	Required Tree Canopy Area (sq. ft.)	Gross Site Area (sq. ft.)	Option 1 Total Retained Canopy Area with Bonus (sq. ft.)	Option 2 Total Retained Canopy Area with Bonus (sq. ft.)	New Canopy Area (sq. ft.)	Number of New Trees Planted	20 Year Canopy Area Proposed (New & Retained) (sq. ft.)	Total Tree Canopy Percent Proposed
37	Point 47N ULS	Townhouse (10 or more units)	20%	10,290	51,451	-	-	10,663	47	10,663	21%
38	Remington East	Subdivision (10 or more lots)	30%	227,803	759,344	-	282,132	0	0	282,132	37.2%
39	Ridgemont PRD 9 lot SP	Short Subdivision (4 - 9 lots)	25%	13,206	52,822	-	1,307	12,130	50	13,437	25%
40	Rosholt Short Plat	Short Subdivision (less than 4 lots)	20%	4,320	21,600	6,880	-	0	0	6,880	31.9%
41	RP-1 Short Plat	Short Subdivision (4 - 9 lots)	25%	8,574	34,295	6,800	-	1,806	7	8,606	25.1%
42	Serenity Park Townhomes ULS	Townhouse (10 or more units)	20%	6,087	30,434	-	-	6,276	45	6,276	20.6%
43	Smith 29th SFDU	Single Family Detached Units (less than 10 units)	15%	2,144	14,292	-	-	2,418	20	2,418	17%
44	Spring Hollow North PRD	Subdivision (10 or more lots)	30%	22,193	73,975	-	-	22,335	72	22,335	30.2%

#	Application	Development Type	Tree Canopy Percent Required	Required Tree Canopy Area (sq. ft.)	Gross Site Area (sq. ft.)	Option 1 Total Retained Canopy Area with Bonus (sq. ft.)	Option 2 Total Retained Canopy Area with Bonus (sq. ft.)	New Canopy Area (sq. ft.)	Number of New Trees Planted	20 Year Canopy Area Proposed (New & Retained) (sq. ft.)	Total Tree Canopy Percent Proposed
45	Spruce Curt SP	Short Subdivision (4 - 9 lots)	25%	10,880	43,520	-	-	10,993	38	10,993	25%
46	The Towns at North Creek	Urban Center (residential and mixed use only)	15%	7,528	50,184	-	2,618	5,184	22	7,802	16%
47	Toth SFDU	Single Family Detached Units (less than 10 units)	15%	5,616	37,443	-	-	9,497	31	9,497	25%
48	Valley View PRD 9 lot SP	Short Subdivision (4 - 9 lots)	25%	13,204	52,817	-	-	13,392	51	13,392	25.4%
49	VU Duplexes	Townhouse (less than 10 units)	15%	2,129	14,196	2,214	-	600	2	2,814	19.8%

APPENDIX 2

Table 9: Tree Types Planted from January 1, 2021 through December 31, 2022.

Tree Species - Common Name	Scientific Name	Native	2021	2022
Alaska Yellow Cedar	Chamaecyparis nootkatensis	No	60	32
American Hornbeam	Carpinus caroliana	No	16	55
American Sweet Gum	Liquidambar styraciflua	No	12	5
Autumn Applause Ash	Fraxinus americana	Yes	31	0
Autumn Gold Maidenhair Tree	Gingko bilboa 'Autumn Gold'	Yes	7	1
Bigleaf Maple	Acer macrophyllum	No	18	0
Bloodgood Londong Plane Tree	Platanus acerifolia 'Bloodgood'	No	3	0
Bowhall Maple	Acer rubrum 'Bowhall'	No	60	85
Chokecherry	Prunus virginiana	No	0	7
Columnar American Arborvitae	Thuja occidentalis 'Fastigiata'	Yes	208	210
Columnar Sargent Cherry	Prunus sargentii 'Columnarus'	No	6	6
Douglas Fir	Pseudotsuga menziesii	Yes	301	242
Eastern redbud	Cercis canadensis	No	0	11
Eddie's White Wonder Dogwood	Cornus 'Eddies White Wonder'	Yes	0	1
Edith Bougue Southern Magnolia	Magnolia Grandiflora 'Edith Bougue'	No	70	99
European Beech	Fagus Sylvatica 'Dawyk Purple'	Yes	2	0
European Plum	Prunus domestica	Yes	2	2
Excelsa Western Red Cedar	Thuja plicata 'Excelsa'	No	115	165
Flowering Peach	Prunus persica	No	2	2
Freeman's Maple	Acer x freemani 'Jeffersred'	No	0	65
Giant Green Arborvitae	Thuja plicata 'Green Giant'	Yes	37	85
Grand Fir	Abies Grandis	No	30	12
Green Column Maple/Black Maple	Acer saccharum 'Green Column'	No	0	2
Greenspire Linden	Tillia cordata 'Greenspire'	No	21	16
Hedge Maple	Acer campestre	No	7	5
Himalayan Birch	Betula jaquemontii	No	0	4
Hinoki cypress	Chamaecyparis obtusa	No	0	20
Incense Cedar	Calocedrus decurrens	No	130	98
Japanese Snowbell	Styrax Japonicus 'Emerald Pagoda'	No	1	5
Jonagold Apple	Malus x domestica 'Jona Gold'	No	2	2
Juniperus scopulorum	Juniperus scopulorum	No	7	26

Tree Species - Common Name	Scientific Name	Native	2021	2022
Katsura Japanese Maple	Acer palmatum 'Katsura'	No	4	0
Katsura Tree	Cercidiphylum japonicum	No	43	31
Kousa Dogwood	Cornus kousa	No	20	42
Kwanzan Cherry	Prunus serrulata 'Kwanzan'	No	4	4
Leyland Cyprus	Cupressocyparis leylandii	No	13	24
Limber Pine	Pinus flexillis	No	0	6
Mountain Hemlock	Tsuga mertensiana	No	16	22
Noble Fir	Abies procera	No	2	0
Northern Red Oak	Quercus rubra	No	0	4
Northern White-Cedar	Thuja occidentalis	No	0	6
Oregon Ash	Fraxinus latifolia	Yes	56	0
Osakazuki Japanese Maple	Acer palmatum 'Osakazuki'	No	1	0
Pacific Madrone	Arbutus menziesii	No	240	0
Pacific Wax Murtle	Myrica Californica	No	102	43
Paper Birch	Betula papyrifera	No	23	7
Paperbark Maple	Acer griseum	No	75	119
Pear tree	Pyrus calleryana	No	46	40
Persian ironwood	Parrotia persica	No	2	0
Prariefire Crabapple	Malus x 'Prariefire'	No	0	7
Princeton Sentry	Gingko bilboa 'Princeton Sentry'	No	4	0
Pyramidal European Hornbeam	Carpinus betulus 'Fastigiata'	No	36	6
Quaking Aspen	Populus Tremuloides	Yes	4	40
Rainier Cherry	Prunus avium 'Rainier'	Yes	2	2
Raywood Ash	Fraxinus oxycarpa 'Raywood'	No	23	23
Red maple	Acer rubrum	Yes	9	18
Redspire Callery Pear	Pyrus calleryana 'Redspire'	No	109	63
Saskatoon Serviceberry	Amelanchier Alnfolia	No	34	30
Scarlet Oak	Quercus coccinea	No	88	5
Shademaster Honeylocust	Gleditsia triacanthos 'Shademaster'	No	60	33
Shore Pine	Pinus contorta	Yes	69	175
Silver Fir	Abies amabillis	Yes	6	0
Sitka Spruce	Picea sitchensis	No	7	4
Slender Hinoki Cypress	Chamaecyparis obtusa 'Gracillis'	No	40	22
Sour Gum	Nyssa Sylvatica	No	4	45
Spire Cherry	Prunus x hillieri 'Spire'	No	3	11
Stellar Pink Dogwood	Cornus x 'Rutgan'	No	1	3

Tree Species - Common Name	Scientific Name	Native	2021	2022
Subalpine Fir	Abies lasiocarpa	No	15	3
Sugar Maple	Acer saccharum	No	3	7
Tulip Tree	Liriodendron Tulupera	No	11	16
Vanderwolf's Pine	Pinus flexillis 'Vanderwolf's Pyramid'	No	3	35
Vine Maple	Acer circinatum	Yes	299	210
Warrenred Pacific Sunset Maple	Acer truncatum x A. platanoides 'Warrenred'	No	238	105
Washington Hawthorne	Crataegus phaenopryum	No	62	65
Western Flowering Dogwood	Cornus nuttalii	No	20	0
Western Hemlock	Tsuga heterophylla	Yes	25	18
Western Larch	Larix occidentalis	No	14	0
Western Red Cedar	Thuja plicata	No	296	205
Whitebarked Himalayan Birch	Betula utilis jacquemontii	Yes	2	0
Zelkova 'Village Green'	Zelkova serrata 'Village Green'	No	24	4
		TOTAL TREES	3306	2766

*For additional information about each tree listed here, please visit https://snohomishcountywa.gov/2737/Tree-Canopy-in-Landscaping and click the “Tree Canopy Database PDF”. Information about the species, growth type, drought tolerance, estimated 20-year canopy square footage, and more are included in this document.

Samantha Loyuk

From: Jonathan Lounds <jlounds@mbaks.com>
Sent: Tuesday, March 26, 2024 1:36 PM
To: Samantha Loyuk; Garrett Oppenheim
Subject: Tier 2 Tree Code Letter to City Council
Attachments: 2024, 3-26 Kenmore Tier 2 Tree Code Letter.pdf

This email originated from outside your organization. Be cautious of phishing attempts. Please do not click on links or open attachments unless you are confident of the source of this email and know the contents are safe.

Hi Samantha and Garrett,

Attached is a letter I provided to City Council regarding the upcoming Tier 2 tree code study session. I wanted to make sure you got a copy as well. Thank you.

Warm regards,

Jonathan Lounds | King County Government Affairs Manager

p 425.460.8201 **m** 206.804.1604
335 116th Ave. SE, Bellevue, WA 98004

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We believe everyone deserves a place to call home.

MASTER BUILDERS ASSOCIATION of King and Snohomish Counties
WEB MBAKS.COM | OFFICE 425.451.7920
335 116TH AVENUE SE | BELLEVUE, WASHINGTON 98004

March 26, 2024

Kenmore City Council
18120 68th Avenue NE
Kenmore, WA 98028

RE: Tier 2 Tree Regulations

Dear Mayor and Members of the Council:

On behalf of the approximately 2,600 member companies of the Master Builders Association of King and Snohomish Counties (MBAKS), I am writing to propose additional amendments to Kenmore Tier 2 tree code and bring to your attention recent developments related to tree codes, with specific reference to *Rimmer v. City of Edmonds* case and the negotiated tree code amendments in Kirkland. These instances highlight the need for Kenmore to carefully review its tree code to ensure it balances environmental preservation with sustainable development.

In the *Rimmer v. City of Edmonds* case, a Snohomish County Superior Court judge ruled in favor of Nathan Rimmer on January 31st, 2024, deeming Edmond's tree code requirements – specifically, the demand for two replacement trees and a notice on the title protecting these trees in perpetuity – as an unconstitutional condition and a violation of Rimmer's substantive due process rights. This decision underscores the importance of ensuring Kenmore's regulations do not infringe on property owners' rights while still achieving environmental objectives.

Additionally, in December 2023, the Kirkland City Council adopted tree code amendments that were the result of negotiations between MBAKS, eight homebuilders, and the city. These amendments addressed concerns with the Kirkland's tree code and settled an appeal challenging the ordinance.

Moreover, Kenmore's recent community survey results show that housing affordability is a top issue for residents. The community has also expressed support for the development of middle housing. Middle housing, encompassing duplexes, triplexes, and townhomes, is essential for offering affordable and varied housing choices. However, the proposed Tier 2 tree regulations would severely hamper the efforts to create more middle housing by introducing additional inflexible requirements.

Considering this context, Kenmore must undertake a thorough review of the proposed tree regulations. By doing so, it can identify and implement necessary amendments that not only protect the environment but also permit the development of attainable and diverse housing options. This approach will enable Kenmore to attract new developments, meet its housing targets, and foster a community that supports growth while maintaining its green spaces.

Based on these developments, MBAKS recommends the following revisions to Kenmore's Tier 2 tree code proposal:

MASTER BUILDERS ASSOCIATION of King and Snohomish Counties
WEB MBAKS.COM | OFFICE 425.451.7920
335 116TH AVENUE SE | BELLEVUE, WASHINGTON 98004

1. **Net Loss of Density**: After a Growth Management Hearings Board settlement with MBAKS, Kirkland adopted in their tree code language stating, unless retention of trees would either "(a) reduce lot density, number of lots, maximum FAR, or lot coverage; (b) preclude construction of an ADU; or (c) preclude required access and utility connections." Kenmore should add similar language that the tree code would not result in a net loss of density.

   The case of *Rimmer v. City of Edmonds*, combined with the Kirkland tree code settlement, offers compelling precedent for Kenmore to consider when revising its tree code, emphasizing the balance between preservation and development. By incorporating language similar to Kirkland's, which allows for tree removal under specific conditions, Kenmore could ensure that its regulations protect green spaces without unnecessarily hindering development of middle housing and accessory dwelling units (ADUs), reducing lot density, or complicating access to utility connections. This approach could provide a balanced solution that respects both environmental concerns and property owners' rights to efficiently develop their land.

2. **Variance Amendments:** The restrictions imposed by Section 18.57.063, which bans variances for creating additional lots, are a significant barrier to expanding the range of housing options in Kenmore. This limitation is a roadblock to making the most out of available land, a key factor in urban planning that directly affects the increase of housing supply and its affordability. Currently, the existence of an exceptional tree on a property can prevent any efforts to enhance density by replacing that tree to make space for additional homes.

   By revising Section 18.57.063 to permit variance for tree removal, it would open new possibilities for property owners with large lots to create more housing units. The inability to adapt these rules or find alternatives hampers Kenmore's ability to meet its housing goals and inadvertently encourages urban sprawl, pushing residential development further from job centers.

   Lastly, the stringent nature of the exceptional tree ordinance might dissuade property owners from planting additional trees, fearing that these might ultimately devalue their property by limiting future development opportunities. This scenario not only contradicts Kenmore's housing ambitions by inhibiting denser development but also potentially reduces green coverage, as property owners may opt against planting new trees to preserve their land's developmental potential. The lack of flexibility in granting variances presents Kenmore with the dual challenge of failing to achieve its housing goals and inadvertently disincentivizing the planting of more trees on private property.

3. **Canopy Requirements:** Section 18.57.063 should be amended to allow the removal of exceptional trees and be replaced by tree canopy requirements language. The tree replacement ratio found unconstitutional *in Rimmer v. City of Edmonds* was a two to one ratio (2:1). Currently, Kenmore's section on mitigation requirements requires a three to one ratio (3:1), which is substantially more burdensome than the ordinance ruled unconstitutional in a neighboring jurisdiction.

   Adopting tree canopy requirements represents a more comprehensive strategy for urban forestry, as evidenced by Snohomish County's implementation of such policies. Snohomish County's policies require specific tree canopy coverage percentages based on the type of development. In Snohomish County's 2023 Tree Canopy Monitoring Report, the county reports that developers are retaining significantly more than the minimum required amount of tree canopy, highlighting the effectiveness of the policies. These policies can be found in the Snohomish County Code Chapter 30.25 on General

MASTER BUILDERS ASSOCIATION of King and Snohomish Counties
WEB MBAKS.COM | OFFICE 425.451.7920
335 116TH AVENUE SE | BELLEVUE, WASHINGTON 98004

Development Standards.

4. **Perimeter Landscaping:** In Section 18.57.080 stating, "significant trees located in the perimeter landscaping shall be retained" add the provision "not required to be removed for development access or necessary to comply with other code provisions." The amended language could read, "Significant trees situated within the perimeter landscaping shall be retained, unless their removal is required for development access or necessary to comply with to other code requirements."

5. **Fee-in-lieu:** It is suggested to remove strong language in Section 18.57.080 that states "only in rare cases and as a last resort" will fee-in-lieu be approved. Infeasibility already indicates the rarity of when the fee-in-lieu is applicable. Additionally, the added language introduces more ambiguity and subjectivity to the fee-in-lieu program.

6. **Bonds and Financial Guarantee Extension:** The section on three-year financial guarantees on individuals lots should be eliminated. Instead, a covenant requirement should be introduced. This change would increase predictability for homebuilders. Currently, the three-year financial guarantee binds homebuilders to a project for an impractical duration. For instance, under the current system, if a future owner were to remove a tree associated with the financial guarantee, the original homebuilder would be held accountable. Additionally, the financial guarantee extension language in Section 18.35.130 is ambiguous. This should be amended to state, "This time period may be extended by the city manager, if necessary to cover a single planting and growing season." Lastly, Kenmore should consolidate the tree and landscaping bonds into one program. Snohomish County currently has a single bond program for landscaping that encompasses trees.

Kenmore should consider broader environmental goals. As Kenmore has stated itself, "allowing for responsible tree cutting and replacement inside King County urban growth boundary for the purposes of increasing urban housing supply prevents even more tree cutting that comes from urban sprawl in rural areas outside the urban growth boundary." The current proposal undermines these efforts to increase urban density, thereby acting against environmental interests by promoting the spread of low-density development which consumes more land and resources.

The Growth Management Act (GMA) outlines 15 planning goals, which encompass considerations for the environment and climate change. These goals also emphasize the importance of avoiding urban sprawl, safeguarding private property rights, and making provisions for adequate housing. Furthermore, the King Countywide Planning Policies have set a growth target for Kenmore of 3,070 housing units for the period of 2019-2044, and Kenmore's Comprehensive Plan outlines housing goals, indicating that "the city should expect and plan for 123 additional units each year." However, the tree code, as it currently stands, would thwart these objectives and cause Kenmore to fall short on providing the much-needed housing for the community.

MBAKS is deeply committed to providing diverse and attainable housing options for our growing community, and we recognize and support the importance of preserving our natural environment and maintaining a healthy tree canopy. The above changes to the Tier 2 Tree Code proposal would be a substantial improvement to the current proposal and help balance the need for urban development and the preservation of our natural green spaces.

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We are committed to working collaboratively with the City Council and other stakeholders to develop regulations that protect our tree canopy while also promoting diverse and affordable housing options. We believe that by working together, we can achieve our shared goals of sustainability, inclusive, and thriving community.

Thank you for considering our perspective on this important matter. We look forward to a constructive dialogue and are available for further discussion at your convenience.

Sincerely,

Jonathan Lounds
King County Government Affairs Manager
Master Builders Association of King and Snohomish Counties

Garrett Oppenheim

From: Patrick O'Brien <patrickobrien859@gmail.com>
Sent: Wednesday, December 20, 2023 9:11 PM
To: Garrett Oppenheim; Samantha Loyuk; Carl Michelman; CI_Council; Rob Karlinsey
Subject: Re: Tier 2 Trees Ordinance

Categories: List 2 Tree Regulations

> This email originated from outside your organization. Be cautious of phishing attempts. Please do not click on links or open attachments unless you are confident of the source of this email and know the contents are safe.

Hi Garrett:

Yes, I own all those trees on my property and if I want to replant them somewhere else I will.

Especially if the eventual development would destroy them.

Did you check out Washington State law on trees blocking solar projects?

Regards.

Patrick E. O'Brien

On Mon, Dec 18, 2023 at 2:53 PM Garrett Oppenheim <goppenheim@kenmorewa.gov> wrote:

> Hello and thank you again for your interest in City of Kenmore Ordinance 23-0597.
>
> As you will recall, if you have any feedback regarding the ordinance please reply to this email and we will strive to incorporate your concerns and recommendations as appropriate and consistent with City Council's direction. In your response, please include the following information:
>
> 1. The code section you feel must be changed,
> 2. what change you recommend, and
> 3. why you believe the change is essential.
>
> Please send your feedback by December 31 to give us time to consider it before returning to the Council again with the proposed amended regulations.
>
> Garrett Oppenheim

Assistant to the City Manager/Diversity, Equity, Inclusion, and Accessibility (DEIA) Coordinator

City of Kenmore

18120 68th Ave NE | Kenmore, WA 98028

ph: 425-984-6171

email: goppenheim@kenmorewa.gov

M.P.A., J.D., Member of the Washington State Bar Association

(he)

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From: Garrett Oppenheim
Sent: Friday, December 8, 2023 6:55 PM
Cc: Samantha Loyuk <sloyuk@kenmorewa.gov>
Subject: Tier 2 Trees Ordinance

Dear Mr. Michelman,

Thank you for your interest in City of Kenmore Ordinance 23-0597. As you know, the City Council at its November 20 and December 4 meetings discussed additional regulations to further preserve, protect, and enhance Kenmore's tree canopy. The proposed tree regulations provide added protections by increasing the requirements for tree density on new developments, decreasing the number of trees property owners can remove each year, always requiring replacement whenever significant trees are removed, requiring tree retention in perimeter landscaped areas, and establishing a tree fund for instances when replacement is infeasible.

At the latter meeting, City Council directed staff to work with stakeholders on Tier 2 tree regulations and to consider possible amendments. We are beginning that work and will engage with stakeholders during the month of December. This email is the beginning of that process. Please reply all to this email with your feedback regarding the ordinance and we will strive to incorporate your concerns and

recommendations as appropriate and consistent with Council's direction. In your response, please include the following information:

1. The code section you feel must be changed,
2. what change you recommend, and
3. why you believe the change is essential.

Thank you. We look forward to working with you on this important subject.

Garrett Oppenheim

Assistant to the City Manager/Diversity, Equity, Inclusion, and Accessibility (DEIA) Coordinator

City of Kenmore

18120 68th Ave NE | Kenmore, WA 98028

ph: 425-984-6171

email: goppenheim@kenmorewa.gov

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(he)

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PHONE CALL NOTES

Date: **January 24, 2024**
Participants: **Garrett Oppenheim and Patrick O'Brien**
Topic: **Tier 2 Tree regulations**

5th amendment takings concerns

- Has 40 red cedars he wants to move to another property
- Apple, plum, grape trees
- 150-foot cedar tree he wants to see remain in place
- Working to put a 72-unit building on his property

Solar arrays and shade concerns

- He has 20 of them on his property
- Says that state law prohibits shading solar arrays

No written comments received from Patrick O'Brien

Garrett Oppenheim

From: Carl Michelman <carl@michelmaninsurance.net>
Sent: Monday, December 18, 2023 4:42 PM
To: Garrett Oppenheim; G. S. Oppenheim
Cc: Samantha Loyuk; Rob Karlinsey; Stephanie Lucash; Krista Michelman
Subject: RE: Tier 2 Trees Ordinance

Categories: List 2 Tree Regulations

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Hi Garrett

Thank you for your email. I don't have a problem with the tree ordinance. Just wish there was real clarifications on if someone needs to cut a tree down due to Insurance requirements. Example; I had clients who the insurance company asked them to cut a tree down as it may be too close to the house or they will not be offered a renewal. Other issues are if a tree is in bad shape and the person from the next house hires an arborist to say the tree is sick and the neighbor will be responsible for liability and the city disagrees with the arborist. It would be nice to get clarity. Don't get me wrong, I am ok with keeping the trees, but as insurance person I see the city could be exposed to a lawsuit in a couple of those examples. I am sure you have heard me over time at city council meeting that the city should reach out to professional where they don't think about these issues and how it could affect the city.

Carl B. Michelman, LUTCF
Michelman Insurance Group, Inc
18023 62nd Ave NE, Kenmore, WA 98028
Phone: 425-398-1234 Fax: 425-485-0676
www.michelmaninsurance.net

From: Garrett Oppenheim <goppenheim@kenmorewa.gov>
Sent: Monday, December 18, 2023 2:53 PM
To: G. S. Oppenheim <garrettoppenheim@gmail.com>
Cc: Samantha Loyuk <sloyuk@kenmorewa.gov>
Subject: RE: Tier 2 Trees Ordinance

Hello and thank you again for your interest in City of Kenmore Ordinance 23-0597.

As you will recall, if you have any feedback regarding the ordinance please reply to this email and we will strive to incorporate your concerns and recommendations as appropriate and consistent with City Council's direction. In your response, please include the following information:

1. The code section you feel must be changed,
2. what change you recommend, and
3. why you believe the change is essential.

Please send your feedback by December 31 to give us time to consider it before returning to the Council again with the proposed amended regulations.

Garrett Oppenheim
Assistant to the City Manager/Diversity, Equity, Inclusion, and Accessibility (DEIA) Coordinator
City of Kenmore
18120 68th Ave NE | Kenmore, WA 98028
ph: 425-984-6171
email: goppenheim@kenmorewa.gov
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(he)

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From: Garrett Oppenheim
Sent: Friday, December 8, 2023 6:55 PM
Cc: Samantha Loyuk <sloyuk@kenmorewa.gov>
Subject: Tier 2 Trees Ordinance

Dear Mr. Michelman,

Thank you for your interest in City of Kenmore Ordinance 23-0597. As you know, the City Council at its November 20 and December 4 meetings discussed additional regulations to further preserve, protect, and enhance Kenmore's tree canopy. The proposed tree regulations provide added protections by increasing the requirements for tree density on new developments, decreasing the number of trees property owners can remove each year, always requiring replacement whenever significant trees are removed, requiring tree retention in perimeter landscaped areas, and establishing a tree fund for instances when replacement is infeasible.

At the latter meeting, City Council directed staff to work with stakeholders on Tier 2 tree regulations and to consider possible amendments. We are beginning that work and will engage with stakeholders during the month of December. This email is the beginning of that process. Please reply all to this email with your feedback regarding the ordinance and we will strive to incorporate your concerns and recommendations as appropriate and consistent with Council's direction. In your response, please include the following information:

1. The code section you feel must be changed,
2. what change you recommend, and
3. why you believe the change is essential.

Thank you. We look forward to working with you on this important subject.

Garrett Oppenheim
Assistant to the City Manager/Diversity, Equity, Inclusion, and Accessibility (DEIA) Coordinator
City of Kenmore
18120 68th Ave NE | Kenmore, WA 98028
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Garrett Oppenheim

From: Laurie SPERRY <vrsperry@msn.com>
Sent: Friday, December 22, 2023 1:43 PM
To: Garrett Oppenheim
Subject: Tree Ordinance comments

This email originated from outside your organization. Be cautious of phishing attempts. Please do not click on links or open attachments unless you are confident of the source of this email and know the contents are safe.

Good Afternoon,

I live in a single-family home on approximately 1/3 acre in Kenmore. My house is 50 years old and replaced an earlier home on the property. I have 3 to 4 Douglas Fir that are likely 90 plus years old and are considered exceptional and therefore cannot be cut down with the new regulations. One of the trees (actually two grown together) is in my backyard where my husband and I have considered building a backyard cottage or ADU. I would not be able to do so if the current regulations are passed.

The regulations as proposed would severely limit the use of my property for an ADU.

Thank you for considering my input.

Sincerely,
Laurie Sperry
206-817-2260

State of Washington
Department of Fish and Wildlife, Region 4
Region 4 information: 16018 Mill Creek Blvd, Mill Creek, WA 98012 | phone: (425)-775-1311

November 20, 2023

City of Kenmore
Samantha Loyuk, Development Services Director
(425)-398-8900 ext. 6162
sloyuk@kenmorewa.gov

Dear Samantha Loyuk,

On behalf of the Washington State Department of Fish and Wildlife (WDFW), thank you for the opportunity to formally comment on the proposed policy changes to the Tier 2 Tree Regulations (PRJ23-0050). WDFW provides our comments and recommendations in keeping with our legislative mandate to preserve, protect, and perpetuate fish and wildlife and their habitats for the benefit of future generations – a mission we can only accomplish in partnership with local governments. Specific comments on the proposed Tier 2 Tree Regulations are provided in the following table.

Table 1. Recommended changes to draft Tier 2 Tree Regulations update.

Policy Number	Policy Language	WDFW Comment
15.25.070 Permit Required – Exception	Sections A, B, and C	We suggest this section make clear that in all instances of grading, tree removal, and engineering, a permit will be required if occurring within critical areas and/or their buffers. No net loss of ecosystem function can occur within these areas, pursuant of WAC 365-196-830
15.25.070 Permit Required – Exception B. Clearing and Tree Removal of Significant Trees 2. Removal of significant trees…..	d. The *tree(s)* proposed for *removal* complies with the yearly *tree removal* maximum: One (1) *significant tree* per year (applies to all lot sizes). Replacement trees are required at a 1:1 ratio; replacement *trees* shall be *native*. Replacement trees shall not be Alder (any species), Black Cottonwood, English Holly, or Leyland Cypress. ~~allowances table shown below:~~	WDFW requires a minimum of 3:1 replacement for trees removed during Hydraulic Project Approval (HPA) activity along streams, wetlands, and within their associated buffers.
15.25.070 Permit Required 0-Exception. B. Clearing and Tree	7. Removal of tree(s) necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the	WDFW does not recommend adding this code language. The addition of this policy could lead to an overuse of exception and have a negative impact on ecosystem services and wildlife habitat. If this code

Removal of Significant Trees.	presence of significant trees is denied to the subject property.	language remains, tighter additional language may be warranted to further limit the use of this item. For example, maximum percentages could be included (sq footage of lot would dictate percentage of trees to be removed), mitigation requirements should be clearly outlined (no net loss is still required by state law), and a possible reduction in impervious surfaces to off-set tree removal could be required (a certain number of trees can be removed depending on the percentage of impervious surfaces removed).
18.35.040 Landscaping – Screen types and descriptions. C. Type III Landscaping Screen	3. Removal of tree(s) may be permitted when necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the presence of significant tree(s) is denied to the subject property. Exceptions under this subsection shall be constructed narrowly.	See previous response to 15.25.070 (B).
18.35.100 Landscaping – Alternate Options, A	The amount of required landscape area may be reduced to ensure that the total area for required landscaping, and/or the area remaining undisturbed for the purpose of wildlife habitat or corridors does not exceed 15 percent of the net developable area of the site. For this subsection, the net developable area of the site shall not include areas deemed unbuildable due to their location within critical areas and any associated buffers;	We suggest that the deleted portion of this section of code remain. The percentage of developable area should not include critical areas or their buffers, as these areas should not be slated for development. 15 percent of landscaping requirements should be imposed on the developable area, which critical areas are not.
18.57.050 Tree Protection Plan	Suggested addition in chapter	We suggest that a requirement of this plan include a detailed monitoring plan to ensure tree health into the future. We also suggest incorporating additional assurance options rather than limiting the options to submitting a "bond quantity worksheet." See King County Tree Protection assurances for tree replacement for examples. 17.52.160 Assurances. Chapter 17.52 TREE PROTECTION.
18.57.060 Tree Density Requirement. B. tree Density Calculation.	The minimum tree density required for each site is 40 ~~30~~ tree units per acre of net buildable area. Sites capable of exceeding the minimum tree density requirement by retaining existing trees shall do so unless doing so would prevent use of the subject property otherwise allowed by applicable law."	WDFW appreciates this proposed code language change that focuses on retaining existing mature native trees.
18.57.060 Tree Density Requirement B. Tree Density Calculation	1.c. Replacement trees are considered only after exhausting all options for retention of existing trees.	Beneficial code addition
18.57.060 Tree Density Requirement	1.d If ~~replacement~~ trees are retained ~~planted as groves~~ within designated tracts or protective	We suggest that the intent of this policy be made clearer. How many retained trees would qualify an applicant to reduce total

B. Tree Density Calculation	easements, then applicant may reduce total tree units required by 20 ~~10~~ percent.	tree units by 20 percent? Does this policy refer to all trees, significant trees, etc.?
18.57.060 Tree Density Requirement C. Replacement Tree Requirements	Replacement trees shall not be used when existing viable trees can be retained to meet the minimum tree density requirement.	Beneficial code addition
18.57.060 Tree Density Requirements	4. If replacement trees are planted as groves within designated tracks or protective easements, then applicant may reduce total tree unit required by 20 percent.	See previous response to 18.57.060 1. d. Additionally, defining 'grove' within this policy would be suggested.
18.57.065 Exceptional Tree Protection, B	Suggested additions	We suggest that the additions stated above for 15.25.070 B (7) also be included as requirements for variances to tighten this code and construe variances more narrowly.
18.57.065 Exceptional Tree Protection, B (3) and (4)	Private Access. a. Prior to commencing with the removal the owner shall obtain a permit from the City. b. Exceptional trees may be removed where necessary to provide for access to development sites, provided there are no feasible alternative alignments. Alternative access must be pursued to the maximum extent feasible.	We suggest that mitigation be required in alignment with the 'Hazardous Tree' section (18.57.065 B (2)) for section 3 and 4 as well.
18.21 Residential Zones	b. The *development* shall be *clustered* away from *critical areas* or corridors such as urban separators or the wildlife habitat network to the extent possible and the *open space* shall be placed in a separate tract that includes at least 50 percent of the *site*. *Open space* tracts shall be permanent and meet the provisions of KMC 17.20.130.	Beneficial code addition

WDFW appreciates the efforts the City of Kenmore has already undertaken to protect and improve habitat and ecosystem conditions throughout their jurisdiction. We look forward to continuing to work with the City of Kenmore during the review and implementation of the city's updated planning documents.

If you have any questions, please call me at (206)-707-5434

Sincerely,

Morgan Krueger
Regional Land Use Planner, WDFW Region 4

CC:

Kara Whittaker, Land Use Conservation and Policy Section Manager (Kara.Whittaker@dfw.wa.gov)

Marian Berejikian, Environmental Planner (Marian.Berejikian@dfw.wa.gov)

Stewart Reinbold, Assistant Regional Habitat Program Manager (Stewart.Reinbold@dfw.wa.gov)

Bethany Scoggins, Habitat Biologist (Bethany.Scoggins@dfw.wa.gov)

R4SPlanning@dfw.wa.gov, Southern District Planning Inbox

LAND TECHNOLOGIES, INC.
PLANNING • PERMITTING • ENGINEERING
MAKING A "WAY" OUT OF "NO WAY"

March 3rd, 2024

Kenmore City Council
18120 68th Ave NE
Kenmore, WA 98028

Att: Samantha Loyuk
RE: Exceptional Tree Ordinance KMC 18.20.2730 an exceptional overreach

While I also very much appreciate trees for the many attributes they do provide, these attributes need to be balanced to other elements of "life". The City's whole Tree Management and Protection ordinance goes to the extreme of protecting trees at the expense of these other elements of "life". Elements like adequate, diverse, and affordable Housing to all economic segments of the population; these elements are also goals of GMA. These kinds of tree ordinances serve to increase pressure on pushing out Urban Growth Boundaries into Resource Areas better suited for this kind of tree protection. This kind of tree protection also goes against important goals of GMA such as the encouragement of development in urban areas and the reduction of sprawl.

To add some context, the State has 23 million acres as designated/zoned Forest Land which is about 47% of the State. Ag Land makes up 33% of the State putting 80% of the State in Resource Lands. Less than 5% of the State is Urban Growth Areas (UGAs); 80.7% of the States 7.9 million people live in Urban Areas. Trees and Resource development is a priority in the Resource Areas. Homes and people are supposed to be a priority in Urban Areas.

From the Pre-Application review, it was stated that The Exceptional Tree Ordinance helps the City get closer to some of its Climate Action goals, like carbon sequestration… "Global Warming", is, as the name implies, a Global issue. The City would be doing far more good with their Climate Action goals if they would assure compliance with all goals of the Growth Management Act and the responsibilities of the areas in the UGA. Doing more to make sure that development stays in the "5%" of the State instead of enacting regulations that reduce housing and drives up prices beyond affordable. Reducing access to developable land ends up putting pressure on expansion of the UGAs.

This Exceptional Tree Ordinance puts an unfair and unjust burden on the few property owners that have managed to save trees on their property over the years. Goal 6 of the GMA is to protect property rights from arbitrary and discriminatory actions. Have you asked yourself if this regulation is reasonably necessary to achieve the public purpose? This ordinance seems unduly oppressive in balancing the public's interests against those of the regulated landowners. This Exceptional Tree Regulation is unduly oppressive on just a few landowners, penalizing those few landowners that kept trees on their property while rewarding those that have already cleared their property.

The City needs to review this Tree Management and Protection Ordinance, especially the Exceptional Tree provisions in regards to Regulatory Takings or Substantive Due Process provisions in State and Federal Law. Nearby communities with less oppressive ordinances have had to revise their regulations due to issues associated with "takings".

18820 3rd Ave NE - Arlington, WA. 98223 (360) 652-9727 Fax (360) 652-5374

What the City and public gain is severally out of balance with the burdens put on these select property owners. If the City believes this Exceptional Tree Ordinance is for the public good, then the public needs to pay for the public good. The City cannot put the burden on specific landowners to provide for the general good of the public.

There are fairer and more just ways to meet the "purpose" of a good Tree Management and Protection Regulation. Snohomish County's Canopy Cover Ordinance does that.

We do have a very specific example as to the unfairness of the Exceptional Tree regulation. A family has about 2.42 acres in R-6 zoning that combined with a couple small adjacent lots could get 17 homes while still addressing other critical area issues on the site. Any development of the site for new homes does require a significant offsite sewer extension, it takes at least 14 lots to make the sewer extension economically viable.

The site is mostly forested with around a hundred trees onsite. Thirty-two of these trees meet the criteria for Exceptional Trees (ETs). The site has some terrain challenges that could be easily handled in most circumstances but this ordinance nullifies any options to modify the grades without damaging the Exceptional Trees.

Given the location of these ETs, maybe one or two homes could be built but they would have to be on septic systems. The two new homes could not economically make the offsite sewer extension. Septic Systems are not allowed except in Urban Enclaves.

As in many cases, these larger parcels were created when the area was in rural and suburban type zoning before GMA. The families have owned them for years and have relied on the income that would come from selling their home and land for Urban Development. Typically, these families count on this income for their retirement.

This regulation has a Severe Impact on the Landowner's Economic Interest. This regulatory action will result in a substantial reduction in Property Value. It is highly questionable that the impacts of developing this property will provide a balance to the environmental benefit it will provide to the public. It seems the City's Ordinance is looking to acquire some public benefit with only a few property owners, those with these trees, being asked to shoulder the cost of obtaining that public benefit. Just a few property owners, like the one example above, is being forced to bear the burden of addressing a social concern when, in all fairness, the cost of the "public benefits" needs to be shared across society.

Government actions are often characterized in terms of overall fairness. The City seriously needs to consider a fairer tree ordinance that balances all elements of "life" and the Goals of GMA.

There are many other proven ways to provide balance that are being practiced in nearby communities. We are asking the Council to look at this Tree Ordinance and revise it to reach a balance in meeting all the goals of GMA. This tree ordinance unfairly regulates certain landowners for the stated purpose of the public good—please review the merits or demerits of this ordinance and consider an ordinance fair to all property owners in this City.

Thank you---Merle Ash

The image below reflects pre-application comments from the City received for a 14-lot subdivision that will now be reduced to 2-3 lots due to exceptional tree regulations.

City of Kenmore, Washington

Development Review Comments

- 54" Douglas Fir
- 34" Douglas Fir (off site to the west, CRZ within the property)
- 30" Douglas Fir
- 30" Douglas Fir
- 30" Madrona
- 38" Douglas Fir
- 36" Douglas Fir
- 30" Douglas Fir
- 36" Douglas Fir
- 30" Douglas Fir
- 34" Douglas Fir
- 36" Douglas Fir (off site to the south, CRZ within the property)
- 30" Western Red Cedar
- 41" Douglas Fir
- 30" Douglas Fir
- 32" Douglas Fir
- 30" Douglas Fir
- 32" Douglas Fir
- 35" Douglas Fir
- 38" Douglas Fir
- 34" Douglas Fir
- 32" Douglas Fir
- 38" Douglas Fir
- 34" Douglas Fir
- 34" Douglas Fir
- 32" Douglas Fir
- 43" Douglas Fir
- 36" Douglas Fir
- 32" Douglas Fir
- 30" Douglas Fir (off site to the east, CRZ within the property)
- 32" Douglas Fir
- 34" Douglas Fir
- 34" Douglas Fir

This will impact the feasibility of the project. An arborist report is required at the next pre-application meeting. The report shall specifically address all exceptional trees.

Chapter 15.25
LAND ALTERATIONS

15.25.070 Permit required – Exception.

No *land alteration* shall be performed without first having obtained a permit therefor from the City. Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of the City. Even if a permit is required, best management practices must be utilized to limit *erosion* and sedimentation. Permits shall not be required for the following:

A. Grading.

1. *Excavation* for construction of a *structure* authorized by a valid building permit;

2. *Excavations* for trenches for utilities not within critical areas, shorelines or associated buffer;

3. Exploratory *excavations* performed under the direction of a registered design professional; provided, that any disturbance of the area shall be the minimum necessary to carry out the work or studies and the disturbed area shall be immediately restored; and

4. *Excavation* or *fill* less than four feet in vertical depth not involving more than 100 cubic yards of earth or other material on a single *site* and not within critical areas, shorelines or associated buffers;

B. *Clearing* and *Tree Removal* of *Significant Trees*. This section does not apply to *exceptional trees*.

1. *Clearing* and *removal of trees* for the construction of a *structure* authorized by a valid building permit;

2. *Removal* of *significant trees* requires a permit filed by the owner of real property within the City on forms provided by the department for review and approval prior to removing the *tree*. The city manager may approve, deny, or approve with conditions an application for *tree removal*. The decision shall be based on the following approval criteria:

a. The *tree(s)* proposed for *removal* is on a lot containing an existing single-family detached dwelling unit;

b. The *tree(s)* proposed for *removal* is not located within critical areas or associated buffers, shorelines or associated buffers, native growth protection areas, or wildlife protection zones;

c. The *tree(s)* proposed for *removal* has not been previously designated for protection (e.g., as part of a plat); and

d. The *tree(s)* proposed for *removal* complies with the yearly *tree removal* maximum allowances table shown below:

Lots up to 10,000 sq. ft.:	2 *trees* per year
Lots 10,001 sq. ft. to 20,000 sq. ft.:	4 *trees* per year
Lots 20,001 sq. ft. to 30,000 sq. ft.:	6 *trees* per year
Lots 30,000 sq. ft. and greater:	8 *trees* per year

3. *Clearing* by a public agency, franchise utility or public or private golf course for routine maintenance activities;

4. Minor stream restoration projects for fish habitat enhancement pursuant to a Washington State joint aquatic resource permit application (JARPA);

5. Normal and routine maintenance of existing lawns and landscaping; and

6. *Removal* of Noxious Weeds. *Removal* of noxious weeds from critical areas, shorelines or associated buffers shall be subject to the requirements of KMC Title 16 and Chapter 18.55 KMC;

C. Engineering.

1. Less than 2,000 square feet of replaced *impervious surface* or new plus replaced *impervious surface* that is not within critical areas or associated buffers; and

2. *Land alterations* that are exempt from a *grading* permit and that do not alter the method by which the *stormwater* leaves the *site*. [Ord. 23-0593 § 2 (Exh. A); Ord. 22-0547 § 2 (Exh. A); Ord. 16-0428 § 11 (Att. G); Ord. 12-0345 § 3 (Exh. A).]

Chapter 18.20
TECHNICAL TERMS AND LAND USE DEFINITIONS

18.20.2730 Significant tree.

"Significant tree" means an existing healthy *tree* that is not a *hazard tree* and that is at least six inches in diameter at breast height (d.b.h.) as measured at four and one-half feet (54 inches) above the ground. For *trees* with multiple leaders at four and one-half feet above the ground, the d.b.h. shall be the combined cumulative total of branches greater than six inches diameter at four and one-half feet above the ground. For *trees* that have been removed and whereas only the stump remains, the size of the *tree* shall be measured from the diameter of the top of the stump. Replacement trees required as mitigation for removed *exceptional trees* are considered *significant trees*, regardless of size. [Ord. 23-0593 § 3 (Exh. B); Ord. 22-0547 § 3 (Exh. B(I)); Ord. 11-0329 § 3 (Exh. 1).]

18.20.2925 Street tree.

"Street tree" means *trees* located within the *street* right-of-way, adjacent to public or *private streets*, including undeveloped areas. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.3082 Tree.

"Tree" means a self-supporting woody perennial plant characterized by one main stem or trunk of at least six inches d.b.h., or a multiple stemmed or trunk system with a definite *crown*, maturing at a height of at least 12 feet above ground level. The *department* shall determine whether any specific woody plant shall be considered a tree. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.3083 Tree, exceptional.

"Exceptional tree" means a tree which because of its unique combination of size, species, and age is worthy of long-term retention for the purposes and values set forth in KMC 18.57.015, and that has been determined to constitute an important community resource and may not be *removed* or damaged.

A. All healthy specimens of *tree* species in Table 1 are *exceptional trees* if they have a diameter at breast height (d.b.h.) equal to or greater than that listed for the respective species.
For *trees* with multiple leaders at four and one-half feet above the ground, the d.b.h. shall be the combined cumulative total of branches greater than six inches diameter at four and one-half feet above the ground. For *trees* that have been removed and whereas only the stump remains, the size of the *tree* shall be measured from the diameter of the top of the stump.

B. Any healthy *tree* with a d.b.h. of 48 inches or greater is an *exceptional tree* except those in Table 2 that are never considered exceptional.

Table 1: Exceptional Tree Species and Required Diameters at Breast Height

Tree Species (Common Name)	Scientific Name	Threshold d.b.h. (in inches)
Bigleaf Maple	*Acer macrophyllum*	42"
Douglas Fir	*Pseudotsuga menziesii*	30"
Grand Fir	*Abies grandis*	24"
Madrona	*Arbutus menziesii*	12"
Oregon Ash	*Fraxinus latifolia*	24"
Oregon White Oak	*Quercus garryana*	24"
Pacific Dogwood	*Cornus nuttallii*	24"
Pine (any species)	*Pinus* family	30"
Sitka Spruce	*Picea sitchensis*	24"
Western Hemlock	*Tsuga heterophylla*	24"
Western Red Cedar	*Thuja plicata*	30"
Willow (any species)	*Salix* family	24"

Table 2: Tree Species That Are Not Exceptional Trees

Tree Species (Common Name)	Scientific Name
Alder (any species)	*Alnus* family
Black Cottonwood	*Populus trichocarpa*
English Holly	*Ilex aquifolium*
Leyland Cypress	*Cupressus x leylandii*

[Ord. 23-0593 § 3 (Exh. B).]

18.20.3084 Tree, hazard.

"Hazard tree" means any *tree* with any structural defect, disease, damage, or combinations of these which make it subject to a high probability of failure which might cause damage to persons or property. A "hazard tree" includes, but is not limited to, any isolated *tree(s)* that have a high probability of failure due to low *wind-firmness* in post-construction conditions as determined by a *qualified tree protection professional*. [Ord. 11-0329 § 3 (Exh. 1).]

18.20.3088 Tree, remove or removal.

"Remove" or "removal" with regard to *trees* means the act of removing a *tree* by digging up, cutting down, or any act which causes a *tree* to die within a period of three years from such act. [Ord. 11-0329 § 3 (Exh. 1).]

Chapter 18.21
RESIDENTIAL ZONES

18.21.030 Residential zones R-1, R-4 and R-6 – Development standards.

The following zone-specific development standards in Table B apply in the R-1, R-4 and R-6 residential zones:

Table B. R-1, R-4 and R-6 Residential Zones Development Standards

STANDARDS	ZONES	R-1[1]	R-4	R-6
Base Density: *Dwelling Unit*/Acre[2]		1 du/ac	4 du/ac[3]	6 du/ac
Maximum Density: *Dwelling Unit*/Acre[4]			6 du/ac	9 du/ac
Minimum Density				
Minimum Lot Width[6]		35 ft.[7]	30 ft.	30 ft.
Minimum *Street Setback*		20 ft.[7]	15 ft.[8,9]	15 ft.[8,9]
Minimum Side *Setback*[5,10]		5 ft.[7]	15 ft. total[11]	15 ft. total[11]
Minimum Rear *Setback*[5,10]		5 ft.[7]	20 ft.	20 ft.
Maximum Height[12]		35 ft.	35 ft.	35 ft. 45 ft.[13]
Base *Impervious Surface*: Percentage		30%	45%	60%
Maximum *Impervious Surface*: Percentage[14]		30%[15]	55%	70%
Minimum Lot Size		2,500 sq. ft.	7,200 sq. ft.[16,17]	5,400 sq. ft.[16,17]

[1] a. All subdivisions and short subdivisions in the R-1 zone shall be required to be *clustered* when the property is located within or contains:

(1) A *floodplain*;

(2) A regionally or locally significant resource area;

(3) Existing or planned public *parks* or *trails*, or connections to such facilities;

(4) A Category I or II *wetland* or Type S or F *stream*;

(5) A "greenbelt/urban separator" or "wildlife corridor" area designated by the comprehensive plan.

b. The *development* shall be *clustered* away from *critical areas* or corridors such as urban separators or the wildlife habitat network to the extent possible and the *open space* shall be placed in a separate tract that includes at least 50 percent of the *site*. *Open space* tracts shall be permanent and meet the provisions of KMC 17.20.130.

[2] Density applies only to *dwelling units* and not to sleeping units.

[3] *Manufactured housing communities* shall be allowed a base density of six *dwelling units* per acre.

[4] This maximum density may be achieved only through the application of residential density incentives pursuant to Chapter 18.80 KMC or *transfers of density credits*, or any combination of density incentive or density transfer. Maximum density may only be exceeded pursuant to KMC 18.80.040(E)(1)(f).

[5] These standards may be modified under the provisions for *zero-lot-line developments*.

[6] The *building envelope* is determined through meeting minimum lot size and minimum lot width measurement requirements (KMC 18.30.110).

[7] The standards of the R-4 zone shall apply if a *lot* is less than 15,000 square feet in area.

[8] If *development* provides *alleys* or consists of *townhouses*, then the *street setback* may equal 10 feet.

[9] At least 20 linear feet of driveway shall be provided between any garage, carport or other fenced parking area and the *street* property line. The linear distance shall be measured along the centerline of the driveway from the access point to such garage, carport or fenced area to the *street* property line.

[10] Vehicle access points from garages, carports or fenced parking areas shall be set back from the property line on which a *joint use driveway* is located to provide a straight line length of at least 26 feet as measured from the centerline of the garage, carport or fenced parking area, from the access point to the opposite side of the *joint use driveway*.

[11] Any side yard shall equal a minimum of five feet but the two side yards combined must equal a minimum of 15 feet.

[12] Reserved.

[13] The maximum height of 45 feet to be used only for projects as follows:

a. In R-6 zones, a *building* with a footprint built on slopes exceeding a 15 percent finished grade.

[14] Applies to each individual *lot*. *Impervious surface* area standards for:

a. Regional *uses* shall be established at the time of permit review;

b. Nonresidential *uses* in residential zones shall comply with KMC 18.21.060 and 18.30.170;

c. Individual *lots* in the R-4 through R-6 zones which are less than 9,076 square feet in area shall be subject to the applicable provisions of the nearest comparable R-6 zone;

d. *Lots* may be increased beyond the total amount permitted in this chapter subject to approval of a *conditional use permit*;

e. The base *impervious surface* percentage may be exceeded, up to the maximum *impervious surface* percentage, provided low impact development strategies are implemented subject to approval by the *city manager.*

[15] *Lots* smaller than one-half acre in area shall comply with standards of the nearest comparable R-4 through R-6 zone. For *lots* that are one-half acre in area or larger, the maximum *impervious surface* area allowed shall be at least 10,000 square feet. On any *lot* over one acre in area, an additional five percent of the lot area may be used for *buildings* related to agricultural or forestry practices. For *lots* smaller than two acres but larger than one-half acre, an additional 10 percent of the lot area may be used for *structures* which are determined to be medically necessary, provided the *applicant* submits with the permit application a notarized affidavit, conforming with the requirements of KMC 18.100.170(A)(2).

[16] For properties with *critical areas* or topographic constraints, up to 20 percent of the number of *lots* in a subdivision or a short subdivision of more than four *lots*, and one of

the *lots* in a short plat of four *lots* or less, may contain an area less than the prescribed minimum for this zoning district. In no case shall any *lots* be created which contain an area more than 10 percent less than the prescribed minimum for this zoning district. These smaller *lots* shall be located so as to have the least impact on surrounding properties in terms of consistency of *street frontages* and privacy of abutting properties.

[17] This excludes any area required for public or *private streets*, access easements, access tracts, and access panhandles.

[Ord. 19-0481 § 2 (Exh. A); Ord. 16-0433 § 2 (Att. A); Ord. 16-0428 § 13 (Att. I); Ord. 11-0329 § 3 (Exh. 1).]

Chapter 18.35
DEVELOPMENT STANDARDS – LANDSCAPING

Sections:

18.35.010 Purpose.
18.35.020 Application.
18.35.030 Land use grouping.
18.35.040 Landscaping – Screen types and description.
18.35.045 Landscaping – General requirements.
18.35.050 Landscaping – Street trees for single-family subdivisions.
18.35.060 *Repealed.*
18.35.070 Landscaping – Surface parking areas.
18.35.080 Landscaping – General standards for all landscape areas.
18.35.090 Landscaping – Additional standards for required landscape areas.
18.35.100 Landscaping – Alternative options.
18.35.110 Landscaping – Plan design, design review, and installation.
18.35.120 Maintenance.
18.35.130 Financial guarantees.

18.35.010 Purpose.

The purpose of this chapter is to preserve the aesthetic character of communities; to improve the aesthetic quality of the built environment; to promote retention and protection of existing *vegetation*; to promote water efficiency; to promote native wildlife; to reduce the impacts of *development* on drainage systems and natural habitats; and to increase privacy for residential zones by:

A. Providing visual relief from large expanses of parking areas and reduction of perceived *building* scale;

B. Providing physical separation between residential and nonresidential areas;

C. Providing visual screens and barriers as a transition between differing land *uses*;

D. Retaining existing *vegetation* and *significant trees* by incorporating them into the site design;

E. Providing increased areas of permeable surfaces to allow for:

1. Infiltration of surface water into groundwater resources;

2. Reduction in the quantity of stormwater discharge; and

3. Improvement in the quality of stormwater discharge;

F. Encouraging the use of native plant species by their retention or use in the landscape design;

G. Encouraging the use of a diversity of plant species which promote native wildlife habitat. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.020 Application.

Except for *wireless communication facilities* regulated pursuant to Chapter 18.60 KMC, all new *development* shall be subject to the *landscaping* provisions of this chapter; provided, that specific *landscaping* and *tree* retention provisions for *uses* established through a *conditional use permit* or *special use permit* shall be determined during the applicable review process. [Ord. 16-0426 § 7 (Att. E); Ord. 11-0329 § 3 (Exh. 1).]

18.35.030 Land use grouping.

To facilitate the application of this chapter, land *uses* have been grouped in the following manner:

A. “Residential *development*” refers to *residential land uses*.

B. “Attached/group residences” refers to:

1. *Multiple-family dwellings*, except as provided in subsection (C)(1) of this section;

2. *Single detached dwelling units* developed on common property at a density of 12 or more units per acre;

3. *Supportive living facilities*;

4. *Temporary lodging*;

5. *Adult family homes*; and

6. *Manufactured housing communities*.

C. "Single-family *development*" refers to:

1. Residential subdivisions and short subdivisions, including attached and detached *dwelling units* on individually platted or short platted *lots*;

2. Any detached *dwelling units* located on a *lot*;

3. *Family child-care homes*; and

4. Type I *community residential facilities*.

D. "Commercial *development*" refers to:

1. *Recreational/cultural land uses*, except library, museum, *park* and *trail*;

2. *General services land uses*, except recycling centers, *health care and social assistance*, *hospital*, *laboratory*, *educational service*, *day care* I, and *religious institution*; and

3. *Retail land uses.*

E. "Industrial *development*" refers to:

1. *Government/business services land uses*, except *public agency* or *utility office*; *public agency or utility yard*; *public agency archive*; court; *fire or police facility*; *utility facility*; *commuter parking lot*; *private stormwater management facility*; and *vactor waste receiving facility*;

2. *Manufacturing land uses*; and

3. Mineral extraction and processing.

F. "Institutional *development*" refers to:

1. Library, museum and *conference center*;

2. *Religious institution*, *hospital*, *health care and social assistance*, *ambulatory surgery center*, *laboratory*, and *educational service*; and

3. *Public agency or utility office*; *public agency or utility yard*; *public agency archive*; court; *fire or police facility*; *commuter parking lot*; *private stormwater management facility*; and *vactor waste receiving facility*.

G. "Utility *development*" refers to *utility facility*, except *private stormwater management facility* and *vactor waste receiving facility.*

H. *Uses* that are not listed in this section shall not be subject to *landscaping* requirements except as specified in any applicable review of a *conditional use* or *special use permit*. [Ord. 19-0481 § 2 (Exh. A); Ord. 17-0438 § 2 (Att. A); Ord. 14-0391 § 2 (Exh. 1); Ord. 11-0329 § 3 (Exh. 1).]

18.35.040 Landscaping – Screen types and description.

The three types of *landscaping* screens are described and applied as follows:

A. Type I *Landscaping* Screen.

1. Type I *landscaping* is a "full screen" that functions as a visual barrier.

2. Type I *landscaping* shall minimally consist of:

a. A mix of primarily *evergreen trees* and shrubs generally interspersed throughout the landscape strip and spaced to form a continuous screen;

b. Between 70 and 90 percent *evergreen trees*;

c. *Trees* provided at the rate of one per 10 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. *Evergreen* shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090;

3. Landscape-based stormwater management facilities are permitted within Type I *landscaping* screen areas; provided, that the screening objectives in subsections (A)(1) and (2) of this section are achieved.

B. Type II *Landscaping* Screen.

1. Type II *landscaping* is a "filtered screen" that functions as a visual separator.

2. Type II *landscaping* shall minimally consist of:

a. A mix of *evergreen* and *deciduous trees* and shrubs generally interspersed throughout the landscape strip spaced to create a filtered screen;

b. At least 50 percent *deciduous trees* and at least 30 percent *evergreen trees*;

c. *Trees* provided at the rate of one per 20 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090;

3. Landscape-based stormwater management facilities are permitted within Type II *landscaping* screen areas; provided, that the screening objectives in subsections (B)(1) and (2) of this section are achieved.

C. Type III *Landscaping* Screen.

1. Type III *landscaping* is a "see-through screen" that functions as a partial visual separator to soften the appearance of parking areas and building elevations.

2. Type III *landscaping* shall minimally consist of:

a. A mix of *evergreen* and *deciduous trees* generally interspersed throughout the landscape strip and spaced to create a continuous canopy;

b. At least 70 percent *deciduous trees*;

c. *Trees* provided at the rate of one per 25 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090.

3. Landscape-based stormwater management facilities are permitted within Type III landscaping screen areas; provided, that the screening objectives in subsections (C)(1) and (2) of this section are achieved. [Ord. 16-0428 § 13 (Att. I); Ord. 11-0329 § 3 (Exh. 1).]

18.35.045 Landscaping – General requirements.

	Street frontage perimeter landscaping (average width)[9]	**Interior lot line perimeter landscaping (average width)**[14]	**Surface parking lots of 10 or more stalls**
Residential development[1]	10' Type III[8]	5' Type II[8] 10' Type II[11]	20 sq. ft. per stall in common parking areas.
Commercial development[2]	10' Type III	20' Type I[10]	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.
Industrial development[3]	10' Type II	10' Type II[12] 20' Type I[10]	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.
Institutional development[4]	20' Type II[6]	10' Type II	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.
Utility development[5]	10' Type II[7]	10' Type II[13]	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.

[1] As described in KMC 18.35.030(A).

[2] As described in KMC 18.35.030(D).

[3] As described in KMC 18.35.030(E).

[4] As described in KMC 18.35.030(F).

[5] As described in KMC 18.35.030(G).

[6] Excluding playgrounds and playfields.

[7] For an above-ground *utility facilities development* only, excluding distribution and transmission corridors.

[8] Only for attached/group residence *development* as described in KMC 18.35.030(B).

[9] For all zones except the UR, DC and DR zones. In the CB zone, where *street frontage setbacks* are required, the area within the *setback* must contain Type II *landscaping*.

[10] Along any portion adjacent to a residential *development* as described in KMC 18.35.030(A).

[11] Along portions of an attached/group residence *development* as described in KMC 18.35.030(B) adjacent to property developed with single detached residences or vacant property that is zoned R-1 through R-6.

[12] Along any portion adjacent to a commercial or institutional *development* as described in KMC 18.35.030(D) and (F).

[13] Excluding distribution or transmission corridors.

[14] In the DC zone, where interior *setbacks* are required and/or provided, *setbacks* shall be landscaped with Type II *landscaping*. In the CB zone, where interior *setbacks* are required and/or provided, *setbacks* shall be landscaped with Type II *landscaping*.

[Ord. 23-0574 § 2 (Exh. A); Ord. 11-0329 § 3 (Exh. 1).]

18.35.050 Landscaping – Street trees for single-family subdivisions.

For single-family subdivisions:

A. Trees shall be planted at the rate of one tree for every 40 feet of frontage along a neighborhood collector *street* or arterial *street*. Native vegetation cultivars are preferred;

B. The trees shall be:

1. Located within the street right-of-way if permitted by the *City*;

2. No more than 20 feet from the street right-of-way line if located within a *lot*;

3. Maintained by the adjacent landowner unless part of a *City* maintenance program; and

4. A species approved by the *City* if located within the street right-of-way and compatible with overhead utility lines;

C. The trees may be spaced at irregular intervals to accommodate sight distance requirements for driveways and intersections. [Ord. 16-0428 § 13 (Att. I); Ord. 11-0329 § 3 (Exh. 1).]

18.35.060 Landscaping along the Burke-Gilman public trail.

Repealed by Ord. 14-0391. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.070 Landscaping – Surface parking areas.

A. *Trees* shall be provided and distributed throughout the parking area at a rate of:

1. One *tree* for every three parking stalls for a commercial or industrial *development*; and

2. One *tree* for every five parking stalls for residential or institutional *development*;

B. The maximum distance between any parking stall and *landscaping* shall be no more than 100 feet;

C. Permanent curbs or structural barriers shall be provided to protect the plantings from vehicle overhang;

D. Landscaping around the perimeter of a *site* that is in addition to the perimeter *landscaping* required by KMC 18.35.045 may count toward 10 percent of the required surface parking area *landscaping* in all zones except the DC, DR, and UR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street (see subsection F of this section), if it is adjacent to the parking area;

E. Parking area *landscaping* shall consist of:

1. Canopy-type *deciduous trees*, *evergreen trees*, *evergreen* shrubs and ground covers planted in islands or strips. Native vegetation cultivars are preferred;

2. Internal parking lot *landscaping* shall be configured as landscape-based stormwater management feature unless infeasible;

3. Shrubs that do not exceed a maintained height of 42 inches;

4. Plantings contained in planting islands or strips having an area of at least 100 square feet and with a minimum dimension of not less than five feet;

5. Ground cover in accordance with KMC 18.35.090; and

6. At least 70 percent of *trees* are deciduous;

F. Standards for perimeter *landscaping* and screening of surface parking lots for the DC, DR, and UR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street, are defined in Chapter 18.52 KMC, Design Standards. All other landscape requirements for surface parking lot landscaping in this section apply to the DC, DR, and UR zones, and RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street. [Ord. 23-0574 § 2 (Exh. A); Ord. 16-0428 § 13 (Att. I); Ord. 14-0391 § 2 (Exh. 1); Ord. 11-0329 § 3 (Exh. 1).]

18.35.080 Landscaping – General standards for all landscape areas.

All new landscape areas proposed for a *development* shall be subject to the following provisions:

A. *Berms* shall not exceed a slope of two horizontal feet to one vertical foot (2:1).

B. All new turf areas, except all-weather, sand-based athletic fields, shall:

1. Be augmented with a two-inch layer of organic material cultivated a minimum of six inches deep; or

2. Have an organic content of five percent or more to a depth of six inches.

C. Except as specifically outlined for turf areas in subsection B of this section, 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.

D. Landscape areas, except turf or areas of established *ground cover*, shall be covered with at least two inches of *mulch* to minimize evaporation.

E. Plants having similar water use characteristics shall be grouped together in distinct hydrozones.

F. Plant selection shall consider adaptability to climatic, geologic, and topographical conditions of the *site*. Preservation of existing *vegetation* is encouraged.

G. Landscape areas proposed as stormwater management facilities shall be designed in accordance with the Kenmore stormwater management standards. [Ord. 16-0428 § 13 (Att. I); Ord. 11-0329 § 3 (Exh. 1).]

18.35.090 Landscaping – Additional standards for required landscape areas.

In addition to the general standards of KMC 18.35.080, landscape areas required pursuant to KMC 18.35.045 through 18.35.070 shall conform to the following standards:

A. All plants shall conform to American Association of Nurserymen (AAN) grades and standards as published in the “American Standard for Nursery Stock” manual; provided, that existing healthy *vegetation* used to augment new plantings shall not be required to meet the standards of this manual;

B. Single-stemmed *trees* required pursuant to this chapter shall at the time of planting conform to the following standards:

1. In parking area *landscaping* and in *street* rights-of-way:

a. *Deciduous trees* shall have a minimum *caliper* of one and three-quarters inches and a height of 10 feet in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, which shall have a minimum *caliper* of three inches, and

b. Coniferous and *broadleaf evergreen trees* shall be at least five feet in height;

2. In all other required landscape areas:

a. *Deciduous trees* shall have a minimum *caliper* of one and one-half inches and a height of 10 feet in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th

Street between 65th Avenue NE extended and 73rd Avenue NE, which shall have a minimum *caliper* of three inches, and

b. Coniferous and *broadleaf evergreen trees* shall be at least five feet in height except in the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, where they shall be at least 10 feet in height;

C. Multiple-stemmed *trees* shall be permitted as an option to single-stemmed *trees* in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE; provided, that such multiple-stemmed *trees* are:

1. At least six feet in height, and

2. Not allowed within *street* rights-of-way;

D. When the width of any landscape strip is 20 feet or greater, the required *trees* shall be staggered in two or more rows;

E. Shrubs shall be:

1. At least an AAN container class No. 2 (two-gallon) size at time of planting in Types II, III and parking area *landscaping*,

2. At least 24 inches in height at the time of planting for Type I *landscaping*, and

3. Maintained at a height not exceeding 42 inches when located in Type III or parking area *landscaping* except in the DC and DR zones where they shall not exceed a maximum height of 48 inches;

F. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three years;

G. All *fences* shall be placed on the inward side of any required perimeter *landscaping* along the *street frontage*;

H. Required *street landscaping* may be placed within *City street* rights-of-way subject to the *City street* design standards, provided adequate space is maintained along the *street* line to replant the required *landscaping* should subsequent *street* improvements require the removal of *landscaping* within the rights-of-way;

I. Required *street landscaping* may be placed within Washington State rights-of-way subject to permission of the Washington State Department of Transportation; and

J. New landscape material provided within areas of undisturbed *vegetation* or within the protected area of *significant trees* shall give preference to utilizing indigenous plant species. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.100 Landscaping – Alternative options.

The following alternative landscape options may be allowed, subject to *City* approval, only if they accomplish equal or better levels of screening, or when existing conditions on or adjacent to the *site*, such as significant topographic differences, *vegetation*, *structures* or utilities would render application of this chapter ineffective or result in scenic view obstruction:

A. The amount of required landscape area may be reduced to ensure that the total area for required *landscaping*, and/or the area remaining undisturbed for the purpose of wildlife habitat or corridors does not exceed 15 percent of the net developable area of the *site*. For the purpose of this subsection, the net developable area of the *site* shall not include areas deemed unbuildable due to their location within *critical areas* and any associated *buffers*;

B. The average width of the perimeter landscape strip may be reduced up to 25 percent along any portion where:

1. *Berms* at least three feet in height or architectural barriers at least six feet in height are incorporated into the landscape design; or

2. The landscape materials are incorporated elsewhere on-site;

C. Where a local or subarea plan with design guidelines has been adopted, the *city manager* shall base the *landscaping* modifications on the policies and guidelines of such plan;

D. When an existing *structure* precludes installation of the total amount of required *site* perimeter *landscaping*, such *landscaping* material shall be incorporated on another portion of the *site*;

E. Single-stemmed *deciduous tree* species that cannot generally be planted and established in larger sizes may have a *caliper* of less than one and one-half inches;

F. The number of *trees* and shrubs to be provided in required perimeter and parking area *landscaping* may be reduced up to 25 percent when a *development* uses landscaping materials consisting of species typically associated with the Puget Sound Basin in the following proportions:

1. Seventy-five percent of *ground cover* and shrubs, and

2. Fifty percent of *trees*;

G. In the DC and DR zones, alternative landscape requirements may be proposed in order to retain *trees* (over 12 inches DBH if *deciduous* or eight inches DBH if *evergreen*, measured as average trunk diameter at chest height; measured four and one-half feet above grade). This alternative requirement applies only to *trees* which are beyond what is already required in the City's significant tree ordinance. Interior parking lot landscape requirements may be reduced at a 1:1 ratio equal to the land area within the drip line of the *tree* being retained. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.110 Landscaping – Plan design, design review, and installation.

A. The landscape plan submitted to the *department* shall be drawn on the same base map as the development plans and shall identify the following:

1. Total landscape area and separate hydrozones;

2. Landscape materials botanical/common name and applicable size;

3. Property lines;

4. *Impervious surfaces*;

5. Natural or manmade water features or bodies;

6. Existing or proposed *structures*, *fences*, and *retaining walls*;

7. Natural features or *vegetation* left in natural state; and

8. Designated recreational open space areas.

B. The proposed landscape plan shall be certified by a Washington State registered landscape architect, Washington State certified nurseryman, or Washington State certified landscaper.

C. An affidavit signed by an individual specified in subsection B of this section, certifying that the *landscaping* has been installed consistent with the approved landscaping plan, shall be submitted to the *department* within 30 days of installation completion, unless the installed *landscaping* has been inspected and accepted by the *department*.

D. The required *landscaping* shall be installed no later than three months after issuance of a certificate of occupancy for the project or project phase. However, the time limit for compliance may be extended to allow installation of such required *landscaping* during the next appropriate planting season. A *financial guarantee* shall be required prior to issuance of the certificate of occupancy, if *landscaping* is not installed and inspected prior to occupancy. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.120 Maintenance.

A. All *landscaping* shall be maintained for the life of the project;

B. All landscape materials shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure;

C. With the exception of dead, diseased or damaged *trees* specifically retained to provide wildlife habitat, other dead, diseased, damaged or stolen plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season; and

D. Landscape areas shall be kept free of trash. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.130 Financial guarantees.

Financial guarantees shall be required consistent with the provisions of KMC Title 21. This time period may be extended to one year by the *city manager*, if necessary to cover a planting and growing season. [Ord. 11-0329 § 3 (Exh. 1).]

Chapter 18.57
TREE MANAGEMENT AND PROTECTION

Section:

18.57.010 Title.
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18.57.070 Tree protection plan review procedure.
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18.57.085 Tree windthrow evaluation and prevention.
18.57.090 Tree protection during construction.
18.57.100 Post-construction replacement, financial guarantee and maintenance requirements.
18.57.110 Penalties, enforcement.

18.57.010 Title.

This chapter shall be known and may be cited as the Kenmore tree management and protection code. [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.015 Findings and purpose.

A. Reducing soil *erosion* and water pollution in the *City*'s *streams* and creeks by providing wind breaks, slowing the surface movement of water, reducing the amount of stormwater runoff, and stabilizing soil with their roots and fallen leaves;

B. Improving air quality by removing pollutant gases and airborne particles;

C. Positively affecting energy and water conservation by providing shade, lowering temperatures, and reducing net evaporation rates;

D. Reducing noise pollution by absorbing and deadening excessive and/or unwanted noise and by screening the source of the noise from view; and

E. Providing a wide variety of habitats and ecosystems for birds, mammals, and other wildlife;

F. Accordingly, the purpose of this chapter is to establish a process and standards to:

1. Increase the livability of an area by helping to screen people and *buildings* from wind and inclement weather;

2. Create a special sense of identity, a sense of community and civic pride, and a memorable place to live and work;

3. Preserve and enhance the *City*'s physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of *trees*;

4. Promote *site* planning, construction practices, and horticultural practices that are consistent with the *reasonable* use of property;

5. Implement the goals and objectives of the *City's* comprehensive plan; and

6. Implement the goals and objectives of the *City's* parks and recreation master plan. [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.030 Applicability.

A. No individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall directly or indirectly remove or destroy any *tree* as defined in this title within the *City*, without first obtaining a clearing permit as provided in KMC Title 15.

B. Unless otherwise exempted in KMC 18.57.035, any *site* subject to *development*, including the division of a parcel of land into two or more parcels, within the *City* shall comply with the requirements of this chapter.

C. Approval of a tree protection plan pursuant to the provisions of this chapter shall not discharge the obligation of the *applicant* to otherwise comply with the applicable provisions of this chapter.

D. When any provision of any other chapter of the Kenmore Municipal Code conflicts with this chapter or when the provisions of this chapter are in conflict, that provision which provides more protection for individual *trees* and *groves* of *trees* shall apply unless specifically provided otherwise in this chapter or unless such provision conflicts with federal or state laws or regulations. [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.035 Exemptions.

A. The following land *uses* are exempt from the provisions of this chapter. However, compliance with other applicable provisions of the Kenmore Municipal Code including but not limited to then-current *critical* area regulations per Chapter 18.55 KMC and then-current clearing regulations per Chapter 15.25 KMC is still required:

1. Agriculture, meaning the use of the land for the primary purpose of deriving income from growing plants or *trees* on land including, but not limited to, land used principally for fruit or timber production, but not including land used principally for another *use* and only incidentally for growing *trees* or plants for income.

2. *Commercial nursery* or *tree farm*, but only those *trees* which are planted and growing on the premises of a licensed retailer or wholesaler for sale to the general public. Other *trees* on such premises shall remain subject to this chapter.

3. Residential *Development*.

a. All existing *lots* on which are to be situated new *single detached dwelling units* in residential zones based on tree removal limits established by clearing requirements.

b. All existing *lots* on which are situated existing detached *dwelling units* in residential zones based on tree removal limits established by clearing requirements.

c. Residential development is not exempt from the provisions of KMC 18.57.063, *Exceptional tree* protections.

4. Downtown Commercial and Downtown Residential Zones. All *development* occurring within core areas designated as downtown commercial and downtown residential zones. [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.050 Tree protection plan required.

A. Requirement Established. Except for the exemptions enumerated in this chapter, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall remove, transplant, or destroy, or cause to be removed, transplanted, or destroyed, on any land in the *City*, any *tree* as defined in this chapter, without first obtaining the *city manager*'s approval of a tree protection plan and receiving a clearing permit from the *City*. For *sites* proposed for land *development*, including the division of a parcel of land into two or more parcels, having *trees* below the minimum tree density, even though no *trees* are proposed to be removed, a tree protection plan is required to bring the *site* up to the minimum tree density standard herein established.

B. Submittal of Tree Protection Plan. Where the *site* proposed for *development* requires site or plat or short plat review, the tree protection plan shall be submitted concurrent with a site plan or plat or short plat application.

C. Tree Protection Plan Requirements. Attached to the *applicant* information and site plan information required for the clearing permit application, the *applicant* shall include the following tree protection plan information:

1. *Tree* Survey. For all *development proposals*, a *tree* survey, drawn to scale by a land surveyor licensed in Washington State, identifying the exact location and conditions of existing *trees* as defined in this title and containing the following information:

a. Common and botanical name of each *tree*.

b. *Trees* proposed to remain and to be removed.

c. *Groves* with indication of predominant species, number of *trees* and size of d.b.h.

d. Any off-site *tree* with a root protection zone which could be adversely affected by the proposed activity.

e. The location and dimensions of established and proposed perimeter *landscaping*, natural *vegetation* easements, and open space areas for public, *private*, or community use.

f. *Net buildable areas*.

g. *Critical areas* and their *buffers*.

h. Stormwater tracts.

i. Limits of construction line.

j. North arrow, scale, and date of survey.

2. An assessment of *tree windthrow* potential as described in KMC 18.57.085, along with any proposed mitigation measures to minimize windthrow. These measures shall be incorporated into the proposed tree protection plan described in subsection (C)(5) of this section.

3. A statement describing how *trees* intended to remain will be identified, marked, and protected before the start of and during *development* as further described in KMC 18.57.090.

4. A statement that describes replacement tree quality as conforming to the American Standards for Nursery Stock (ANSI).

5. Proposed Tree Protection Plan. The permit *applicant* shall have a *qualified tree protection professional* prepare recommendations for the tree protection plan. The *tree* protection plan shall be drawn to scale using the *tree* survey as a base and containing the following information:

a. The exact location, common name, botanical name, and condition of protected *trees*.

b. The exact location, common name, botanical name, and *caliper* of each *tree* species to be planted.

c. The *site* minimum tree density calculation indicating the total number, size, and species of existing *trees* to be preserved and the replacement *trees* to be planted as described in KMC 18.57.060.

d. The *site* replacement tree calculation as described in KMC 18.57.060 with an explanation including the number, *caliper*, and species.

e. The location, materials, dimensions, and layout of the protective barriers.

6. Submit a bond quantity worksheet on forms provided by the department.

7. Additional Information. Any additional or more detailed information required by the *city manager* to ensure compliance with the provisions of this chapter (i.e., aerial photograph). The *city manager* may waive the requirements for the scaled drawing and other submission data if he finds that the information presented is sufficient to determine the project's compliance with the provisions of this chapter. [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 15-0409 § 1 (Att. A); Ord. 11-0329 § 3 (Exh. 1).]

18.57.060 Tree density requirement.

A. Minimum Tree Density Requirement Established. A minimum tree density is required on each *site*. The tree density may consist of existing *trees* (provided they are not cottonwood, alder, or holly trees), replacement *trees*, or a combination of existing and replacement *trees*. The *site* density of *trees* to be protected on each *site* shall be determined prior to approval of a tree protection plan or clearing permit, by the *city manager*.

B. Tree Density Calculation. The minimum tree density required for each *site* is 30 tree units per acre of *net buildable area*.

1. To calculate the density of *trees* to be protected:

a. Obtain the d.b.h. measurement in inches for each protected *tree* within the *net buildable area*.

b. Go to Table 18.57.060A and select the tree unit value that corresponds to the d.b.h. for each protected *tree*.

c. Add up the tree unit values for all protected *trees* and divide by the total acreage of the *net buildable area*. This value must equal or exceed 30 tree units per acre of *net buildable area*. If the total is less than 30 tree units per acre, more *trees* must be protected or replacement *trees* will be required.

d. If replacement *trees* are planted as *groves* within designated tracts, then *applicant* may reduce total tree units required by 10 percent.

Table 18.57.060A
Existing Trees to Remain.

(Conversion from diameter (d.b.h.) in inches to tree units for *trees* protected on-*site*.)

d.b.h.	Tree Units	d.b.h.	Tree Units
1 – 5	1.0	30	8.2
6 – 10	1.2	31	8.6
11	1.4	32	9.0
12	1.8	33	9.5
13	2.0	34	10.0
14	2.3	35	10.5
15	2.6	36	11.0
16	2.9	37	11.5
17	3.2	38	12.0
18	3.5	39	12.5
19	3.8	40	13.0
20	4.2	41	13.5
21	4.6	42	14.0
22	5.0	43	14.5
23	5.4	44	15.0
24	5.8	45	15.5
25	6.2	46	16.0
26	6.6	47	17.0
27	7.0	48	18.0
28	7.4	49	19.0

Table 18.57.060A
Existing Trees to Remain.

(Conversion from diameter (d.b.h.) in inches to tree units for *trees* protected on-*site*.)

d.b.h.	Tree Units	d.b.h.	Tree Units
29	7.8	50	20.0
For every one inch greater than 50 d.b.h., add an additional 2 tree units (i.e., 62 d.b.h. = 44 tree units).			

C. Replacement *Tree* Requirement. If the number of existing *trees* is not enough to meet the minimum of 30 tree units per acre, a sufficient number of replacement *trees* shall be planted to meet the minimum requirement. To determine the total number of replacement *trees* required:

1. Obtain the *caliper* measurement for each replacement *tree*. Replacement *trees* are measured differently than protected *trees*. Instead of measuring d.b.h. as in protected *trees*, replacement *trees* are measured by *caliper* in inches according to industry standards (ANSI). *Caliper* on replacement *trees* is measured six inches above the ground line for four-inch and smaller *trees*, and 12 inches above ground for larger replacement *trees*.

2. Go to Table 18.57.060B and select the tree unit value that corresponds to the *caliper* for each replacement *tree*.

3. Add the replacement tree unit values together to determine how many of that size *tree* will be required to achieve the minimum *site* density. See Table 18.57.060C for an example.

Table 18.57.060B Replacement Trees.

(Conversion from *caliper* inches to tree units for replacement *trees*.)

Deciduous Tree Caliper in Inches	Tree Units for Deciduous Trees	Coniferous Tree Height in Feet	Tree Units for Conifers	Tree Units for Native Conifers
1.5"	0.4	4' – 6'	0.5	0.8
2"	0.5	6' – 8'	0.7	1.0
3"	0.6	8' – 10'	1.0	1.5
4"	0.7	11' – 12'	1.5	2.0

Table 18.57.060B Replacement Trees.

(Conversion from *caliper* inches to tree units for replacement *trees*.)

Deciduous Tree Caliper in Inches	Tree Units for Deciduous Trees	Coniferous Tree Height in Feet	Tree Units for Conifers	Tree Units for Native Conifers
5"	0.8			
6"	1.0			
7"	1.2			
8" +	1.5			

Table 18.57.060C Sample Tree Density Calculation.

The required density factor is calculated below as follows for five acres: five acres x 30 units = 150 tree units required.

Existing density (ED):

Size	Quantity	Total Units	Size	Quantity	Total Units
24"	3	17.4	12"	5	9.0
18"	3	10.5	8"	6	7.2
10"	4	4.8	15"	8	20.8
30"	7	57.4	4"	10	10.0
				Total ED	137.1

Replacement density (RD):

Size	Units	Quantity	Total Units
2" *Deciduous*	0.5	12	6.0
4" *Deciduous*	0.7	6	4.2
4' – 6' Native Conifer	0.8	5	4.0
		Total RD	14.2

ED + RD =	Site Total Tree Density	>	or	=	Minimum Density Required	
137.1 + 14.2 =	151.3	>			150	Density Satisfied

The sum of the ED and RD must be greater than or equal to the minimum density required.
[Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.063 Exceptional tree protections.

A. Prohibited Activities. The following activities are prohibited with regard to *exceptional trees*.

1. *Removal*, in whole or in part.

2. Harming, injuring, or damaging the *tree*, including cutting its bark or branches with a knife, axe, hatchet, saw, or any other similar device or object.

3. Pouring toxic material on the *tree* or on the ground near enough to the *tree* to affect its health.

4. Burning the *tree* or causing a fire near enough to the *tree* to affect its health.

5. Topping.

6. Pruning beyond the standards provided by the Tree Care Industry Association at ANSI300 Part 1.

7. Attaching any sign, poster, notice, or other object to the *tree*, or fastening any guy wire, cable, rope, nails, screws, or other device to the *tree*, with the following exceptions:

a. To support young or broken *trees*;

b. For residential uses (e.g., treehouses, tire swings, etc.);

c. The *City* may tie temporary signs or banners associated with street improvement, parades, seasonal lighting, or other *City* activities.

B. Variance. *Exceptional trees* may be *removed* only as allowed in this section.

1. *Variances* from the *exceptional tree* standards of this chapter may be authorized by the *city manager* in accordance with the approval criteria described in this section. A variance for removal of *exceptional trees* is a Type 2 land use decision, pursuant to KMC 19.25.020, except as described in subsection (B)(2)(a)(3) of this section.

a. Prior to commencing with the *removal* the owner shall obtain a permit from the *City*.

b. No *variance* is allowed in order to create additional *lots*.

c. Decision Criteria.

(1) Necessary for Rights or Use – Private *Development Proposals*. Such *variance* is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the

presence of *exceptional tree(s)* is denied to the property in question. For a variance to be granted under this section, the applicant must demonstrate compliance with the reasonable use exception approval criteria established in KMC 18.55.180(A)(1)(a) through (g). The phrase "*exceptional tree*" shall replace the phrase "*critical area*" when utilizing said criteria for a variance under this section;

(2) The granting of such *variance* will not be materially detrimental to the public welfare or injurious to the property or improvement;

(3) The granting of the *variance* is consistent with the general purpose and intent of the City's comprehensive plan and adopted development regulations.

d. *City Manager* Review. The *city manager* shall review the application. The *city manager* shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the *variance* criteria in this section.

e. Burden of Proof. The burden of proof shall be on the *applicant* to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

f. Time Limit.

(1) Establishment of any activity authorized pursuant to an *exceptional tree variance* shall occur within four years of the effective date of the decision for such *variance*. This period may be extended for one additional year by the *city manager* if the *applicant* has submitted the applications necessary to authorize the development activity and has provided written justification for the extension.

(2) For the purpose of this subsection, "establishment" shall occur upon the issuance of all local permit(s) needed to begin the development activity; provided, that the improvements authorized by such permits are completed within the time frames of said permits.

g. Mitigation Requirements.

(1) To the extent feasible, *exceptional trees removed* under a *variance* shall be replaced at a ratio of three replacement trees for each *exceptional tree removed* (3:1).

(2) If on-site replacement is not feasible, off-site replanting on public property with the *City*'s written permission.

(3) Whether planted on-site or off-site, replacement *trees* shall be of a species listed in Table 1 at KMC 18.20.3083 and must remain viable for a minimum of five years after planting or themselves be replaced at a 1:1 ratio.

(4) Notwithstanding the foregoing, replacement trees under this chapter are considered *significant trees* pursuant to KMC 18.20.2730, regardless of diameter at breast height (d.b.h.).

(5) Notice on *title*.

(a) In order to inform subsequent purchasers of real property of the existence of replacement *trees* and their required viability period, the owner of any property containing replacement *trees* planted as mitigation for the removal of *exceptional trees* shall file a notice with county records and elections division according to the direction of the *City*. The notice shall state the presence of the replacement *trees* on the property and the date until which they must remain viable, of the application of this chapter to the property, and the fact that limitations on actions affecting the *trees* may exist. The notice shall run with the land.

(b) This notice on title shall not be required for:

(A) A *development proposal* by a *public agency* or utility;

(B) Within a recorded easement or right-of-way;

(C) Where the agency or *utility* has been adjudicated the right to an easement or right-of-way; or

(D) On the site of a public facility.

(c) The applicant shall submit proof that the notice has been filed with the county records and elections division (i.e., copy of document recorded on title).

2. Hazardous Trees.

a. The *removal* of *hazard exceptional trees* shall comply with the following:

(1) Prior to commencing with the *removal* the owner shall obtain a permit from the *City*.

(2) The burden of proving the hazardous nature of the *tree* lies with the property owner. The property owner shall provide the *City* with a report, prepared by an

International Society of Arboriculture (ISA) certified arborist with a current Tree Risk Assessment Qualification (TRAQ), documenting that the *tree(s)* has a "high" or "extreme" risk and no other mitigation measure will reduce the risk below "high."

(3) Emergency Tree Removal. Where tree removal is necessary to prevent or correct an immediate threat to public health, safety, property, or welfare is performed in an emergency situation, the permit application, evidence of the threat, and a tree risk rating of "high" or "extreme" prepared by a *qualified tree protection professional* shall be submitted within the next business working day to the City. Emergency tree removal, as described here within, is exempt from the Type 2 decision process.

b. Mitigation Requirements.

(1) The *removal* of *hazardous*, dying, or dead *exceptional trees* shall be *mitigated* by planting one replacement tree, unless otherwise provided in KMC 18.55.150(E)(2).

(2) Replacement *trees* must be of a species listed in Table 1 at KMC 18.20.3083 and must remain viable for a minimum of five years after planting or themselves be replaced at a 1:1 ratio.

3. Private Access.

a. Prior to commencing with the *removal* the owner shall obtain a permit from the *City*.

b. *Exceptional trees* may be *removed* where necessary to provide for access to *development* sites, provided there are no feasible alternative alignments. Alternative access must be pursued to the maximum extent feasible.

4. Public Facilities.

a. The *City* reserves the right to *remove exceptional trees* where necessary for roads, bridges, *utilities*, and facilities.

b. *Exceptional tree* removal by private utilities require a tree removal permit and right-of-way use permit.

c. *Exceptional trees* removed under this section are subject to the mitigation requirements described in subsections (B)(1)(g)(1) through (4).

C. Modification to Standards to Protect Exceptional Trees.

1. For single-family residential subdivisions and short subdivisions on sites in the R-4 zone that contain *exceptional trees*, the minimum lot size may be reduced to 5,400 square feet with no limitation on the percentage of smaller lots, regardless of KMC 18.21.030, Footnote 16. The lot area shall exclude access easements and access panhandles.

2. Unless it would be unreasonable to do so based on the use of neighboring properties, the *city manager* may reduce *setbacks* in residential zones regulated by Chapter 18.21 KMC to 10 feet, and *setbacks* in other zones to five feet, in order to maximize the protection of an *exceptional tree* and avoid exceptions or variances.

D. Penalties.

1. Civil Penalty. The penalty for *removal* of an *exceptional tree* or any other activity prohibited under subsection A of this section shall be a civil penalty of up to $2,500 per inch in d.b.h. of the *tree removed* with a maximum fine of $150,000. In no case shall the penalty be reduced to less than $10,000 total. For example, the monetary penalty for a 30-inch d.b.h. Douglas fir *removed* results in a maximum penalty of $75,000. If the violation is found to have been willful or malicious, as determined by the *city manager*, the amount of the penalty may be doubled as punitive damages and the violator may be subject to criminal penalties under KMC 18.57.110(B).

2. In addition, any person found to be in violation of this section shall plant three replacement *trees* for each *exceptional tree* removed. Replacement *trees* shall be a species listed in Table 1 at KMC 18.20.3083 and must remain viable for a minimum of five years after planting or themselves be replaced by the offender at a 1:1 ratio. In order to inform subsequent purchasers of real property of the existence of replacement *trees* and their required viability period, a notice will be filed on the title by the same procedure outlined under subsection (B)(1)(g)(4) of this section. [Ord. 23-0593 § 4 (Exh. B).]

18.57.065 Significant tree grove retention in the urban residential zone, downtown commercial zone east of 73rd Avenue NE, public and semi-public zone abutting SR-522, and the urban corridor zone, east subarea.

A. Definitions.

1. Significant Tree Grove Definition. A “significant tree grove” shall consist of two or more trees with a minimum of five and one-half tree units total. A qualifying tree has two tree units minimum. The maximum distance measured in feet between qualifying trees shall be equal to two times the critical root zone in order to be defined as a significant tree grove. For example a 24-inch d.b.h. tree must be within 24 feet of another tree in the grove to be included in the significant tree grove. A tree of any size that is topped or considered a “hazard tree” as defined in KMC 18.20.3084 may not qualify as part of a

significant tree grove as herein defined. For purposes of this chapter, a significant tree grove may not contain trees that are located within a critical area or critical area buffer protected under Chapter 18.55 KMC. A significant tree grove is not the same as a "grove," as defined in KMC 18.20.1273.

2. Tree Units. See KMC 18.57.060(A) for translation of diameter at breast height (d.b.h.) to tree units.

B. Applicability.

1. Development proposals in the urban residential zone, downtown commercial zone east of 73rd Avenue NE, public and semi-public zone abutting SR-522, and the urban corridor zone, east subarea shall be eligible to benefit from providing less parking or more dwelling units or any combination of the two if the development retains one or more significant tree grove(s) as defined in this section in perpetuity. A development may be able to benefit from both reduced parking and additional dwelling units by preserving a significant tree grove so long as the same tree credits are not counted towards both reductions in parking and additional bonus dwellings. Trees or groves retained through other provisions of this chapter may count towards the significant tree grove retention if they meet the definitions found in subsection A of this section.

2. Tree on Property Line. In instances where one or more trees that would qualify as part of a significant tree grove is located on a property line such that the tree is on more than one property, and the properties are in separate ownerships, the tree shall qualify to be counted as part of a separate tree grove by each property owner.

C. Reduced Parking. In order to retain qualifying significant tree groves, required parking may be reduced at the maximum rate of one stall per each five and one-half tree units. Parking quantities may be reduced up to a maximum of 20 percent from the parking requirement after other reductions are applied, if any.

D. Residential Bonus Units. In order to retain qualifying significant tree groves, residential units are offered at the rate of one bonus unit per each 11 tree units preserved. Grove bonus units are not included in maximum unit density calculations. Grove bonus units are not subject to the affordability requirements of KMC 18.27.020 and Chapter 18.77 KMC.

E. Significant Tree Grove Preservation Requirements.

1. Tree Protection Plan Required. A tree protection plan as identified in KMC 18.57.050 shall be required for any development application proposing to protect one or more significant tree groves through this section.

2. Recorded on Title. The map of significant tree groves preserved through this section, along with a covenant preventing removal, shall be recorded and shown on the property title.

3. Subject to Tree Protection Measures of Chapter 18.57 KMC. Significant tree groves protected under this section shall be subject to the tree protection measures during construction found in KMC 18.57.090, the post-construction replacement, financial guarantee, and maintenance requirements of KMC 18.57.100, and the penalties and enforcement of KMC 18.57.110.

Exception: This section, as adopted by Ordinance No. 23-0574, shall not apply to certain real properties located within the area of the transit oriented development (TOD) district overlay as identified in KMC 18.29.020 and Figure 18.29.020.1, and as further identified by the following tax parcel numbers (TPN): TPN 011410-0889, TPN 011410-0881, TPN 011410-0870, TPN 011410-0885, TPN 011410-0865, TPN 011410-0860, and TPN 011410-0855. [Ord. 23-0593 § 4 (Exh. B); Ord. 23-0574 § 2 (Exh. A).]

18.57.070 Tree protection plan review procedure.

A. *Departmental* Review. The *city manager* shall review the tree protection plan and clearing permit application to determine whether the *applicant* has provided all required information. Completed applications shall be referred to appropriate *City departments* for review. Upon request of either the *applicant* or the *City*, the *City* may conduct field inspections or review meetings. *City departments* involved in the review and/or inspections shall submit their report(s) and recommendation(s) to the *city manager*.

B. Evaluation for Compliance. The *city manager* may require an evaluation by a *qualified tree protection professional*, a qualified engineer, landscape architect, soils engineer, testing lab, or other specialist at any time during the tree protection plan review process or tree removal inspection as necessary to ensure compliance with the provisions of this chapter and/or the terms of the clearing permit. Individual *applicants* will be responsible for payment to the *City* of the actual cost to the *City* of this evaluation. The actual costs of any such evaluation shall be paid to the *City* within 30 days of receipt of the *City's* invoice.

C. *Financial Guarantees*. For all projects required to have a tree protection plan, *financial guarantees* shall be required consistent with the provisions of KMC 21.20.070; provided, however, that to the extent that the *financial guarantee* requirements of KMC 18.57.100 are more protective of tree preservation, performance and maintenance, then the more protective requirements shall prevail. [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.080 Tree protection plan review standards.

The following standards shall govern the approval of a tree protection plan and the granting or denial of an application for clearing permit:

A. Design. *Development* shall be designed, located, and conducted so as to minimize the loss of healthy *groves* and protected *trees* as identified by a *qualified tree protection professional*, degradation of wildlife habitat as identified through environmental review, and the potential for *erosion* and slope failure.

B. *Tree* Protection Priority. In designing a development project and in meeting the required minimum tree density, the *applicant* shall protect *trees* within the *net buildable area* as described in KMC 18.57.060(B)(1), in the following order of priority. *Trees* to be preserved and protected must be healthy and vigorous, *wind-firm*, and not in conflict with utilities.

1. *Exceptional trees*.

2. *Groves*.

3. Individual *trees* which provide wildlife habitat as identified through environmental review.

4. Individual *trees* and *groves* which occur within required *setbacks*.

5. *Trees* that protect against windthrow, including *trees* sheltering interior *trees* or *trees* on adjacent property from strong winds that could otherwise cause them to blow down.

6. *Trees* which provide a buffer and separate incompatible *uses* or reduce sound and wind levels.

C. Replacement *Tree* Planting Conditions. Replacement *trees* should be planted in areas with soil, climate, exposure, and moisture conditions appropriate to the replacement *tree* species' growing requirements as determined by a *qualified tree protection professional*, licensed landscape architect, or certified nurseryman.

D. Replacement *Tree* Planting Location Priority. On *sites* where the number of existing *trees* falls below the minimum density requirements, then replacement *tree* planting shall be required. The *applicant*'s proposed location of transplanted or replacement *trees* shall be subject to review by a *qualified tree protection professional*, licensed landscape architect, or certified nurseryman, and *City* approval as part of the tree protection plan. Replacement *trees* should be planted according to the following priority:

1. On-Site.

a. Designated Tracts. *Trees* located in separate deeded *tree* tracts specifically set aside for the preservation and planting of *trees* and/or the required recreation open space area if *trees* do not interfere with recreation activities.

b. Perimeter *Landscaping*. In which case, replacement *trees* shall not count toward and shall be in addition to perimeter landscape requirements.

c. Landscaping. This may include entrance landscaping, traffic islands, and other common open space areas. *Trees* located in a public right-of-way may be credited as replacement *trees* only if *street trees* are not a requirement.

2. Off-Site. In cases where an *applicant* believes that lot size prevents installation of the required number of *trees*, the *applicant* may propose to the *City* payment of a fee in lieu for installation of *trees* in a public *park* or other *public space*. The *city manager* shall review and make the final decision on the *applicant*'s proposal, based on a recommendation from a *qualified tree protection professional*.

E. Replacement Conifer Tree Types. Replacement *trees* shall be of a similar type of genus to the conifer *trees* that are removed; i.e., a western red cedar (Thuja plicata) may be replaced with a *tree* in the genus Thuja, such as an American arborvitae (Thuja occidentalis). [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 15-0409 § 1 (Att. A); Ord. 11-0329 § 3 (Exh. 1).]

18.57.085 Tree windthrow evaluation and prevention.

A. Increased *tree windthrow* potential as a result of impacts to *trees* on a site shall be evaluated based on the following risk factors:

1. Root system disruption that will extend within an area one to two and one-half times the radius of the canopy;

2. Topography of the site;

3. Whether the *tree* is deciduous or evergreen;

4. Height of the *tree* relative to the neighboring *trees*;

5. Whether the tree is part of a *grove*.

B. The windthrow evaluation shall be conducted as part of the preparation of the tree protection plan (see KMC 18.57.050) based on the aforementioned risk factors. The assessment shall be conducted by a *qualified tree protection professional*. This assessment also shall evaluate increased windthrow potential for *trees* on neighboring lots that are within 50 feet of the closest *trees* being removed on the site, including *trees* that share a root system with *tree(s)* on the site.

C. Tree Protection Plan.

1. When significant windthrow potential is identified for *trees* that could impact neighboring properties or are on neighboring properties, the *applicant* shall identify measures to minimize windthrow as part of the tree protection plan. Measures could include but are not limited to demonstrating that the *critical root zone (CRZ)* fencing is adequate to prevent root disruption or that the *CRZ* is expanded to provide root protection; saving *groves* when applicable; taking steps to preserve existing grades around *trees*; and/or tunneling rather than trenching for utilities. The City may deny a request to remove a *tree(s)* if mitigation measures are inadequate to minimize windthrow.

2. If potential windthrow damage is for the *site* itself, the *applicant* shall identify measures to reduce impacts to future *structures* on the site. [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 15-0409 § 2 (Att. B).]

18.57.090 Tree protection during construction.

Prior to initiating tree removal and any *clearing* and *grading* on the *site*, *trees* to be protected and preserved shall be protected from potentially damaging activities as follows unless otherwise approved by the *City*.

A. *Critical Root Zone (CRZ)*. The *CRZ* of individual *trees*, *groves*, or otherwise designated protected tree areas shall include no less than the area of a circle with a radius that extends one foot out from the *tree* for every inch of trunk d.b.h., or the area of a circle with radius extending from a *tree*'s trunk to a point no less than the end of a *tree*'s longest branch, whichever is greater (see Figure 18.57.090A).

B. Tree Protection Fence (TPF). Before *development*, the *applicant*:

1. Shall place three inches of composted woodchips over the *CRZ* of all retained *trees* to retain moisture, increase organic matter, and visually establish the *CRZ*.

2. Shall erect and maintain readily visible protective tree fencing a minimum of three feet beyond the outer edge of the *CRZ* for all individual *trees*, *groves*, or other designated protected tree areas.

a. Fencing shall completely surround the required tree protection area. The *city manager* may allow adjustments to placement of the TPF based on an evaluation of the *tree*, soils, and proposed disturbance.

b. Fencing shall be a minimum of four feet high and may be higher if needed to ensure clear visual delineation. Chain-link *fence* or orange plastic *fence* fastened to steel stakes/posts driven securely into the ground shall be required in order to discourage easy movement.

c. Any deviation from the tree fencing methods listed above must be authorized in writing by the *city manager* in advance.

3. Shall keep the protective fencing in place until the *City* authorizes the removal or issues a final certificate of occupancy, whichever occurs first.

4. Shall ensure that any landscaping done within the root protection zone subsequent to the removal of the *fence* shall not disturb existing trees including roots within the *CRZ*.

C. Placing Materials Near *Tree*. During *development*, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, may conduct any activity within the TPF of any *tree* designated to remain, except as specified in this section.

D. Attachments to *Trees*. During *development*, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall attach any object to any *tree* designated for protection.

E. Grade.

1. The grade shall not be filled or cut within the *CRZ* of any *tree* designated to remain without prior review by a *qualified tree protection professional* and advance, written approval from the *city manager*.

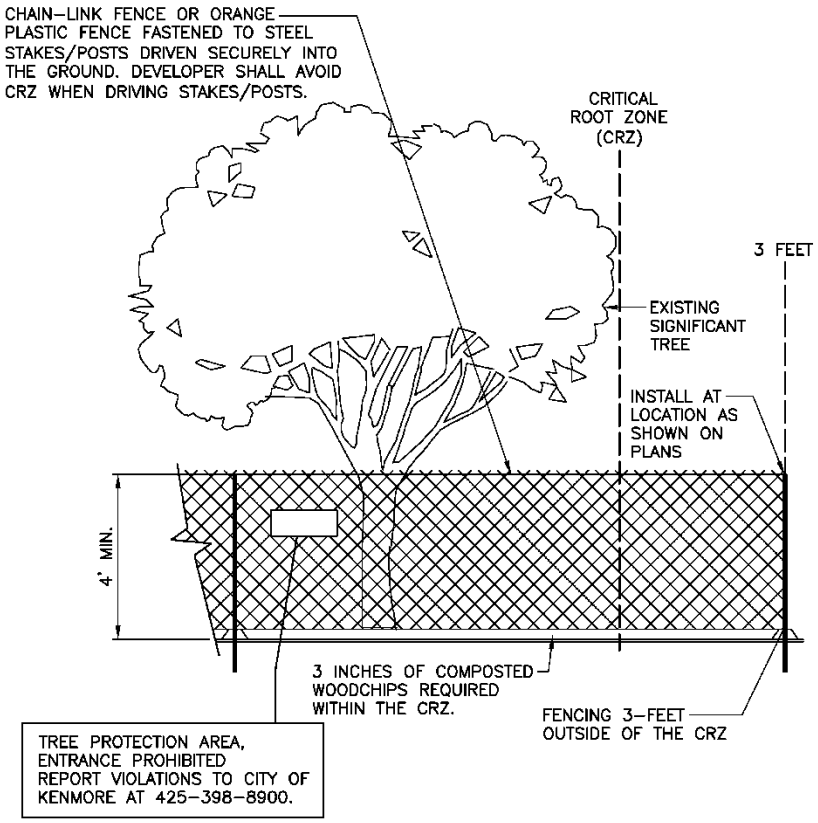
2. The *applicant* shall not install an *impervious surface* within the protective barrier of any *tree* designated to remain without the advance, written authorization of the *city manager*.

3. To the greatest extent practical, utility trenches shall be located outside of the root protection zone of *trees* to be retained. Boring or tunneling under the *CRZ* may be considered an alternative, but shall require the advance, written approval of the *city manager*.

4. *Trees* and other *vegetation* to be retained shall be protected from *erosion* and sedimentation.

F. Additional Requirements. The *city manager* may require additional tree protection measures which are consistent with accepted urban forestry practices.

Figure 18.57.090A Critical Root Zone.



This section shows a cross-section of the typical root zone for a *deciduous* tree. Eighty-five percent of the *tree*'s roots are within the top 18 inches of the soil. Roots typically spread up to two times the height of the *tree* and sometimes more. However, the critical mass of roots is usually found within the *critical root zone*. [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.100 Post-construction replacement, financial guarantee and maintenance requirements.

A. Replace Damaged, Dead, or Dying *Trees*. Replacement *trees* or *groves* that are damaged or die within a period of three years after planting or transplanting must be replaced in kind at a ratio of one-to-one within six months of the *tree*'s death or the date of discovery of the damage. Existing *trees* that are damaged or die within a period of three years after completion of construction activities and as a cause of construction activities as determined by a *qualified tree protection professional* shall be replaced in kind at a ratio of two-to-one within six months of the tree's death or date of discovery of the damage.

B. Replacement *Tree* Quality. Replacement *trees* shall conform to the American Standards for Nursery Stock, ANSI.

C. *Tree* Maintenance. All *trees* shall be maintained in accordance with International Society of Arboriculture guidelines and standards.

D. *Financial Guarantee* Required. A *financial guarantee* as defined and regulated under KMC Title 21 shall be required as a mechanism to cover any potential cost associated with replacing dead or dying replacement or existing *trees* required to satisfy tree unit requirements per this section.

1. A *financial guarantee* shall be required for all plans requiring 15 or more tree units.

2. Calculation of the amount of the *financial guarantee* shall be computed based upon equivalent tree replacement value for all replacement and existing *trees* on the property as determined by a *qualified tree protection professional* using the most recent edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, in collaboration with the Council of Tree and Landscape Appraisers. Fair market value shall be posted. Fair market value includes the value of the *tree(s)*, installation, and maintenance until establishment that would be required to compensate for the *trees* that could be lost.

3. The *financial guarantee* period for maintenance shall be three years, plus an additional 60 days.

4. Release of *Financial Guarantee*.

a. Upon successful tree replacement and establishment as determined by the written approval of the *City* and consistent with Chapter 21.15 KMC, the *financial guarantee* required by this section shall be released.

b. The *City*, in its discretion, may release a *financial guarantee* under this section when fee simple title is transferred. The *City* may condition the release of the existing *financial guarantee* upon establishment of a new *financial guarantee* by the new owner in fee simple. [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.110 Penalties, enforcement.

A. Civil Penalty. Any violation of any provision of this chapter constitutes a civil violation under Chapter 1.15 KMC, and is subject to the enforcement procedures of Chapter 1.20 KMC; provided, however, that an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, who removes any *tree* in violation of this chapter shall be assessed the following civil penalty:

An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, removing a tree in violation of this chapter shall be assessed a monetary penalty of up to $2,000 per inch in *diameter at breast height* (d.b.h.) of the *tree* removed. For example, the monetary penalty for a 20-inch d.b.h. *tree* removed results in a maximum penalty of $40,000. In no case shall the penalty be reduced to an amount less than $500.00 for each violation found committed. The extent of the penalty shall be determined by the *city manager* in consideration of reasonable factors. Monetary penalties shall increase with each violation. The *city manager* is authorized to adopt polices setting forth the reasonable factors for consideration under this subsection. This section shall not apply to the removal of *exceptional trees*, which penalties are set forth in KMC 18.57.063.

B. Criminal Penalty. In addition to or as an alternative to incurring civil liability under this section, an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, who violates any provisions of this chapter shall be guilty of a misdemeanor and subject to the criminal penalties set forth in Chapter 1.15 KMC, and shall be subject to the procedures of the *City*'s criminal code, KMC Title 9.

C. Separate Offense. Every individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, violating any provision of this chapter is guilty of a separate offense for each and every day during any portion of which the violation is committed, continued or permitted by any such individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated. [Ord. 23-0593 § 4 (Exh. B); Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

CITY OF KENMORE
WASHINGTON

ORDINANCE NO. 23-0597

AN ORDINANCE OF THE CITY OF KENMORE, WASHINGTON, AMENDING CHAPTERS 15.25, 18.20, 18.21, 18.35, AND 18.57 OF THE KENMORE MUNICIPAL CODE TO INCREASE THE TREE DENSITY REQUIREMENT FOR NEW DEVELOPMENT; DECREASE YEARLY ALLOWANCES FOR SINGLE-FAMILY TREE REMOVAL; ALWAYS REQUIRE REPLACEMENT FOR THE REMOVAL OF SIGNIFICANT TREES; ESTABLISH REQUIREMENTS TO PRESERVE ALL TREES WHOSE REMOVAL IS NOT REQUIRED FOR CONSTRUCTION; ESTABLISH A TREE FUND; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Kenmore Comprehensive Plan ("Comprehensive Plan") Policy LU-2.2.3 states that Kenmore's regulation of land use should: a) protect public health, safety, and general welfare; b) protect environmentally sensitive areas, including wetlands, groundwater, streams, Lake Washington, the Sammamish River, and Puget Sound; and c) support tree preservation, whenever possible; and

WHEREAS, Comprehensive Plan Policy LU-1.5.2 identifies that development regulations should provide and address, among other things, tree retention standards; and

WHEREAS, consistent with the Comprehensive Plan, the City Council adopted Chapter 18.57 of the Kenmore Municipal Code ("KMC"), the "Tree Management and Protection Code" and declared that the purpose of the chapter was to establish a process and standards to:

1. Increase the livability of an area by helping to screen people and *buildings* from wind and inclement weather;

2. Create a special sense of identity, a sense of community and civic pride, and a memorable place to live and work;

3. Preserve and enhance the *City*'s physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of *trees*;

4. Promote *site* planning, construction practices, and horticultural practices that are consistent with the *reasonable use* of property;

5. Implement the goals and objectives of the *City*'s comprehensive plan; and

6. Implement the goals and objectives of the *City*'s parks and recreation master plan.

WHEREAS, the City Council finds that the purposes for tree protection regulations as articulated above remain valid today, and that protecting trees provides substantial value to the City and its residents by:

A. Reducing soil erosion and water pollution in the City's streams and creeks by providing wind breaks, slowing the surface movement of water, reducing the amount of stormwater runoff, and stabilizing soil with their roots and fallen leaves;

B. Improving air quality by removing pollutant gases and airborne particles;

C. Positively affecting energy and water conservation by providing shade, lowering temperatures, and reducing net evaporation rates;

D. Reducing noise pollution by absorbing and deadening excessive and/or unwanted noise and by screening the source of the noise from view; and

E. Providing a wide variety of habitats and ecosystems for birds, mammals, and other wildlife [KMC 18.57.015.A-.E];

WHEREAS, in May of 2022, the City Council adopted the City of Kenmore Climate Action Plan ("CAP"), which acknowledges that cities like Kenmore have a critical role to play in addressing climate change impacts, including, but not limited to protecting, preserving, and restoring environmental and natural resources; and

WHEREAS, CAP priorities, goals, and strategies include the expansion of tree canopy and sequestration opportunities, protecting critical and natural areas, and protecting local water bodies; and

WHEREAS, the City Council and members of the public have voiced concerns with the scope of tree removal within the City, and the Council directed staff to bring forward proposed regulations to further preserve and protect Kenmore's urban forest canopy; and

WHEREAS, the City Council has considered tree protection regulations at its April 19, 2021, June 14, 2021, September 20, 2021, December 6, 2021, March 21, 2022, May 16, 2022, July 18, 2022, October 24, 2022, September 11, 2023, September 25, 2023, and October 9, 2023 meetings; and

WHEREAS, the adoption of land use and zoning regulations is a valid exercise of the City's police powers and is specifically authorized by RCW 35A.63.100, RCW 36.70A.040, and the Washington Constitution, Article XI, Section 11; and

WHEREAS the Proposed Amendments support Council priorities to implement the adopted Kenmore CAP and promote environmental stewardship, including water, air, forest, and habitat restoration; and

WHEREAS, the City sent notice of the Proposed Amendments to the Washington State Department of Commerce pursuant to RCW 36.70A.106; and

WHEREAS, on September 1, 2023, the City's Responsible Official issued a Determination of Non-Significance pursuant to the State Environmental Policy Act in relation to the Proposed Amendments; and

WHEREAS, the City Council held a public hearing on November 20, 2023, and December 11, 2023, and considered the comments and record relating to the Proposed Amendments; and

WHEREAS, the City Council desires to adopt the Proposed Amendments and finds that such amendments are consistent with the 2023-2024 Council Priorities, the goals, objectives, and policies of the Comprehensive Plan; and

WHEREAS, the City Council has been guided by the goals of the Growth Management Act (RCW 36.70A.020) when considering adoption of the Proposed Amendments; and

WHEREAS, the City Council finds that adoption of the Proposed Amendments is in the best interests of the residents of Kenmore and will promote the public health, safety, and welfare of the City;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON ORDAINS AS FOLLOWS:

Section 1. Findings. The City Council adopts the recitals set forth above as findings in support of this Ordinance, which are incorporated by reference as if set forth in full.

Section 2. Amendment. The City Council amends Chapter 15.25 of the Kenmore Municipal Code as set forth in Exhibit A, attached hereto and incorporated by reference as if set forth in full.

Section 3. Amendment. The City Council amends Chapter 18.20 of the Kenmore Municipal Code as set forth in Exhibit B, attached hereto and incorporated by reference as if set forth in full.

Section 4. Amendment. The City Council amends Chapter 18.21 of the Kenmore Municipal Code as set forth in Exhibit B, attached hereto and incorporated by reference as if set forth in full.

Section 5. Amendment. The City Council amends Chapter 18.35 of the Kenmore Municipal Code as set forth in Exhibit B, attached hereto and incorporated by reference

as if set forth in full.

Section 6. Amendment. The City Council amends Chapter 18.57 of the Kenmore Municipal Code as set forth in Exhibit C, attached hereto and incorporated by reference as if set forth in full.

Section 6. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, the remainder of the ordinance, or the application of the provision to other persons or circumstances, shall not be affected or affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

Section 7. Effective Date. This Ordinance shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AT A MEETING THEREOF ON THE_ DAY OF ____ 2024.

CITY OF KENMORE

_____
Nigel Herbig, Mayor

ATTEST/AUTHENTICATED:

_____
Anastasiya Warhol, City Clerk

Approved as to form:

_____
Dawn Reitan, City Attorney

FILED WITH THE CITY CLERK:
PASSED BY THE CITY COUNCIL:
ORDINANCE NO.:
DATE OF PUBLICATION: EFFECTIVE DATE:

EXHIBIT A TO ORD. 23-0597

I. Chapter 15.25 of the Kenmore Municipal Code (KMC) is amended to read as follows:

A. KMC 15.25.030 is amended to read as follows:

15.25.030 Definitions.
Certain words and phrases used in this chapter, unless otherwise clearly indicated by their context, mean as follows:

A. "Applicant" means a person who files an application for a permit under this chapter and who is either the owner of the land on which that proposed activity would be conducted, a contract purchaser, or the authorized agent of such a person.

B. "Bench" means a relatively level step excavated or constructed on the face of a graded *slope* surface for drainage and maintenance purposes.

C. "City manager" means the City of Kenmore city manager or his or her designee(s).

D. "Clearing" means the cutting or *removal* of *vegetation* or other organic plant material by physical, mechanical, chemical or any other means.

E. "Department" means the *department* designated by the *city manager* to administer this chapter.

F. "Diameter at breast height" means a *tree*'s diameter in inches at four and one-half feet above the ground. On multiple stemmed or trunked *trees*, the diameter shall be the sum of diameters of all individual stems or trunks.

G. "Director" means the director of the *department* designated by the *city manager* to administer this chapter.

H. "Earth material" means any rock, natural soil or any combination thereof.

I. "Erosion" means the wearing away of the ground surface as the result of the movement of wind, water and/or ice.

J. "Excavation" means the *removal* of *earth material*.

K. "Exceptional tree" means a tree which because of its unique combination of size, species, and age is worthy of long-term retention for the purposes and values set forth in KMC 18.57.015, and that has been determined to constitute an important community resource and may not be *removed* or damaged.

1. All healthy specimens of *tree* species in Table 1 are *exceptional trees* if they have a diameter at breast height (d.b.h.) equal to or greater than that listed for the respective species. For *trees* with multiple with multiple leaders at four and one-half feet above the ground, the d.b.h. shall be the combined cumulative total of branches greater than six inches diameter at four and one-half feet above the ground. For *trees* that have been removed and whereas only the stump remains, the size of the *tree* shall be measured from the diameter of the top of the stump.
2. Any healthy *tree* with a d.b.h. of 48 inches or greater is an *exceptional tree* except those in Table 2 that are never considered exceptional.

Table 1. Exceptional Tree Species and Required Diameters at Breast Height

Tree Species (Common Name)	**Scientific Name**	**Threshold DBH (in inches)**
Bigleaf Maple	*Acer macrophyllum*	42″
Douglas Fir	*Pseudotsuga menziesii*	30″
Grand Fir	*Abies grandis*	24″
Madrona	*Arbutus menziesii*	12″
Oregon Ash	*Fraxinus latifolia*	24″
Oregon White Oak	*Quercus garryana*	24″
Pacific Dogwood	*Cornus nuttallii*	24″
Pine (any species)	*Pinus* family	30″
Sitka Spruce	*Picea sitchensis*	24″
Western Hemlock	*Tsuga heterophylla*	24″
Western Red Cedar	*Thuja plicata*	30″
Willow (any species)	*Salix* family	24″

Table 2. Tree Species That Are Not Exceptional Trees

Tree Species (Common Name)	**Scientific Name**
Alder (any species)	*Alnus* family
Black Cottonwood	*Populus trichocarpa*
English Holly	*Ilex aquifolium*
Leyland Cypress	*Cupressus × leylandii*

L. “Fill” means a deposit of *earth material* placed by mechanical means.

M. “Grade” means the elevation of the ground surface.

1. “Existing grade” means the *grade* prior to *grading*.

2. “Rough grade” means the stage at which the *grade* approximately conforms to the approved plan.

3. “Finish grade” means the final *grade* of the *site* which conforms to the approved plan.

N. “Grading” means any excavating, filling, removing of the duff layer, or combination thereof.

O. “Hazard tree” means any *tree* that has a high probability of failure due to any structural defect, disease or damage or combination of defect, disease or damage. A “high probability of failure” means falling and causing damage to persons or property. A “hazard tree” includes, but is not limited to, any isolated *tree(s)* that have a high probability of failure due to low *wind-firmness* in post-construction conditions as determined by a *qualified tree protection professional*.

P. “Impervious surface” means a nonvegetated surface which either prevents or retards the entry of water into the soil mantle under natural conditions prior to development, and/or which causes water to run off the surface in greater quantities or at a rate of flow greater than the flow under natural conditions prior to development. Common *impervious surfaces* include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, paved areas, gravel areas, areas of packed or oiled earthen materials or other surfaces which similarly impede the natural infiltration of surface and *stormwater*. Open uncovered flow control or water quality treatment facilities shall not be considered as *impervious surfaces* for the purposes of determining whether thresholds for the application of minimum requirements are exceeded, but shall be considered *impervious surfaces* for the purposes of runoff modeling.

Q. “Land alteration” means any alteration to the surface of the land or the surface drainage including improvements to a storm water tract. *Land alterations* include but are not limited to: *excavations*, *fills*, *clearing*, *grading*, and *tree removal* or any combination thereof; placing or removing *impervious surfaces*, including *structures* and *pavement*; compacting the earth surface; changing the existing *grade*; or changing the surface so that surface water leaves the *site* differently, including changes to flow path, flow rate, or flow volume.

R. “Native tree” means a tree species native to the Puget Sound lowlands.

~~R~~S. “Removal” with regard to *trees* means the act of removing a *tree* by digging up, cutting down, or causing a *tree* to die within a period of three years from such act.

~~S~~T. “Shorelines” means those lands defined as shorelines in the State Shorelines Management Act of 1971.

~~T~~U. “Significant tree” means an existing healthy *tree* that is not a *hazard tree* and that is at least six inches in *diameter at breast height* (d.b.h.) as measured at four and one-half feet (54 inches) above the ground. For *trees* with multiple leaders at four and one-half feet above the ground, the d.b.h. shall be the combined cumulative total of branches greater than six inches diameter at four and one-half feet above the ground. For *trees* that have been removed and whereas only the stump remains, the size of the *tree* shall be measured from the diameter of the top of the stump. Replacement trees required as mitigation for removed exceptional trees are considered significant trees, regardless of size.

~~U~~V. “Site” means any lot or parcel of land or contiguous combination thereof where projects covered by this chapter are performed or permitted.

~~V~~W. “Slope” means an inclined ground surface, the inclination of which is expressed as a ratio of vertical distance to horizontal distance.

~~W~~X. “Storm drain system” means a system of gutters, pipes, or ditches used to carry surface and *stormwater* from the surrounding lands to drainage facilities, critical areas, streams or lakes.

~~X~~Y. “Stormwater” means water originating from rainfall and other precipitation that ultimately flows into drainage facilities, rivers, streams, lakes and wetlands. As applied in this chapter, *stormwater* is synonymous with the term “surface water.”

~~Y~~Z. “Structure” means anything permanently constructed in or on the ground, or over the water, and excluding fences eight feet or less in height, decks less than 18 inches above *grade*, paved areas, and structural or nonstructural *fill*.

~~Z~~AA. “Terrace” means a relatively level step excavated or constructed on the face of a graded *slope* surface for drainage and maintenance purposes.

~~AA~~BB. “Tree” means a self-supporting woody perennial plant characterized by one main stem or trunk of at least six inches diameter at breast height, or a multiple stemmed or trunk system with a definite crown, maturing at a height of at least 12 feet above ground level.
The *department* shall determine whether any specific woody plant shall be considered a *tree*.

~~BB~~CC. “Vegetation” means any and all organic plant life growing at, below, or above the soil surface. [Ord. 22-0547 § 2 (Exh. A); Ord. 16-0428 § 11 (Att. G); Ord. 12-0345 § 3 (Exh. A).]

B. KMC 15.25 is amended as follows:

~~15.25.070 Permit required – Exception.~~

~~No *land alteration* shall be performed without first having obtained a permit therefor from the City. Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of the City. Even if a permit is required, best management practices must be utilized to limit *erosion* and sedimentation. Permits shall not be required for the following:~~

~~A. *Grading*.~~

~~1. *Excavation* for construction of a *structure* authorized by a valid building permit;~~

~~2. *Excavations* for trenches for utilities not within critical areas, shorelines or associated buffer;~~

~~3. Exploratory *excavations* performed under the direction of a registered design professional; provided, that any disturbance of the area shall be the minimum necessary to carry out the work or studies and the disturbed area shall be immediately restored; and~~

~~4. *Excavation* or *fill* less than four feet in vertical depth not involving more than 100 cubic yards of earth or other material on a single *site* and not within critical areas, shorelines or associated buffers;~~

~~B. *Clearing* and *Tree Removal*.~~

~~1. *Clearing* and *removal* of *trees* for the construction of a *structure* authorized by a valid building permit;~~

~~2. *Removal* of *significant trees* requires a permit filed by the owner of real property within the City on forms provided by the department for review and approval prior to removing the *tree*. The city manager may approve, deny, or approve with conditions an application for *tree removal*. The decision shall be based on the following approval criteria:~~

~~a. The *tree(s)* proposed for *removal* is on a lot containing an existing single-family detached dwelling unit;~~

~~b. The *tree(s)* proposed for *removal* is not located within critical areas or associated buffers, shorelines or associated buffers, native growth protection areas, or wildlife protection zones;~~

~~c. The *tree(s)* proposed for *removal* has not been previously designated for protection (e.g., as part of a plat); and~~

~~d. The *tree(s)* proposed for *removal* complies with the yearly *tree removal* maximum allowances table shown below:~~

~~Lots up to 10,000 sq. ft.:~~	~~2 *trees* per year~~
~~Lots 10,001 sq. ft. to 20,000 sq. ft.:~~	~~4 *trees* per year~~
~~Lots 20,001 sq. ft. to 30,000 sq. ft.:~~	~~6 *trees* per year~~
~~Lots 30,000 sq. ft. and greater:~~	~~8 *trees* per year~~

~~3. *Clearing* by a public agency, franchise utility or public or private golf course for routine maintenance activities;~~

~~4. Minor stream restoration projects for fish habitat enhancement pursuant to a Washington State Joint Aquatic Resource Permit Application (JARPA);~~

~~5. Normal and routine maintenance of existing lawns and landscaping; and~~

~~6. *Removal* of noxious weeds. *Removal* of noxious weeds from critical areas, shorelines or associated buffers shall be subject to the requirements of KMC Title 16 and Chapter 18.55 KMC;~~

~~C. Engineering.~~

~~1. Less than 2,000 square feet of replaced *impervious surface* or new plus replaced *impervious surface* that is not within critical areas or associated buffers; and~~

~~2. *Land alterations* that are exempt from a *grading* permit and that do not alter the method by which the *stormwater* leaves the *site*. [Ord. 22-0547 § 2 (Exh. A); Ord. 16-0428 § 11 (Att. G); Ord. 12-0345 § 3 (Exh. A).]~~

15.25.070 Permit required – Tree Removal.

A. Exceptional trees may be *removed* only as described in KMC 18.57.065.B.

B. *Removal* of *significant trees* requires a permit filed by the owner of real property within the City on forms provided by the department for review and approval prior to removing the *tree*. The *city manager* may approve, deny, or approve with conditions an application for *tree removal*. As a standard condition of the permit, a minimum of one (1) *native tree* is required to replace each tree removed unless the *tree* is hazardous or the fee-in-lieu option described in KMC 18.57.080(D)(2) is approved by the *city manager*. Replacement trees shall not be Alder (any species), Black Cottonwood, English Holly, or Leyland Cypress.

1. The decision shall be based on the following approval criteria:

a. The *tree(s)* proposed for *removal* is on a lot containing an existing single-family detached dwelling unit;

b. The *tree(s)* proposed for *removal* is not located within critical areas or associated buffers, shorelines or associated buffers, native growth protection areas, or wildlife protection zones;

c. The *tree(s)* proposed for *removal* has not been previously designated for protection (e.g., as part of a plat);

d. The *tree(s)* proposed for *removal* complies with the yearly *tree removal* maximum: One (1) *significant tree* per year (applies to all lot sizes). Limited exceptions may be considered by the *city manager*. For example, if trees grow together (e.g., shared root system and/or canopy) and whereas the removal of one *tree* would cause the death of another, as determined by a *qualified tree protection professional*, an exception may be granted by the *city manager* to allow removal of more than one tree. In such a case, replacement would be required at a ratio of one-to-one (1:1). For example, if two trees are removed, two *native* replacement trees would be required.

15.25.075 Permit required – Exception.

No *land alteration* shall be performed without first having obtained a permit therefor from the City. Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of the City. Even if a permit is required, best management practices must be utilized to limit *erosion* and sedimentation.

A. *Grading*.

1. *Excavation* for construction of a *structure* authorized by a valid building permit;

2. *Excavations* for trenches for utilities not within critical areas, shorelines or associated buffers;

3. Exploratory *excavations* performed under the direction of a registered design professional; provided, that any disturbance of the area shall be the minimum necessary to carry out the work or studies and the disturbed area shall be immediately restored; and

4. *Excavation* or *fill* less than four feet in vertical depth not involving more than 100 cubic yards of earth or other material on a single *site* and not within critical areas, shorelines or associated buffers;

5. ~~*Clearing*~~ *Tree removal* by a public agency, franchise utility or public or private golf course for routine maintenance activities;

6. Minor stream restoration projects for fish habitat enhancement pursuant to a Washington State Joint Aquatic Resource Permit Application (JARPA);

7. Normal and routine maintenance of existing lawns and landscaping; ~~and~~

8. *Removal* of noxious weeds. *Removal* of noxious weeds from critical areas, shorelines or associated buffers shall be subject to the requirements of KMC Title 16 and Chapter 18.55 KMC; and

9. *Removal* of *tree(s)* necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the presence of *significant tree(s)* is denied to the subject property. Exceptions under this subsection shall be construed narrowly. The applicant must apply for and meet the variance criteria of KMC 18.115.030 to qualify for this exemption. Exemptions under this subsection shall be processed as a Type 1 land use decision.

C. Engineering.

1. Less than 2,000 square feet of replaced *impervious surface* or new plus replaced *impervious surface* that is not within critical areas or associated buffers; and

2. *Land alterations* that are exempt from a *grading* permit and that do not alter the method by which the *stormwater* leaves the *site*. [Ord. 22-0547 § 2 (Exh. A); Ord. 16-0428 § 11 (Att. G); Ord. 12-0345 § 3 (Exh. A).]

EXHIBIT B TO ORD. 23-0597

I. Chapter 18.20 of the Kenmore Municipal Code is amended to read as follows:

A. Chapter 18.20 KMC is amended by adding a new KMC 18.20.3086, "Tree, native" to read as follows:

18.20.3086 Tree, native.

"Tree, native" means a tree species native to the Puget Sound lowlands.

II. Chapter 18.21 of the Kenmore Municipal Code is amended to read as follows:

Chapter 18.21
RESIDENTIAL ZONES

Sections:

18.21.020 Residential zones R-1, R-4 and R-6 – Use allowances.
18.21.030 Residential zones R-1, R-4 and R-6 – Development standards.
18.21.040 Residential zones R-12, R-18 and R-24 – Use allowances.
18.21.045 Residential zone MHC – Use allowances.
18.21.050 Residential zones R-12, R-18, R-24, R-48, and MHC – Development standards.
18.21.055 MHC zoning exception.
18.21.060 Nonresidential land uses in residential zones.
18.21.070 Personal service, eating and drinking place and retail sales uses in R-4 through R-24 zones.
18.21.073 Accessory uses.
18.21.075 Drive-through service.
18.21.078 Outdoor storage.
18.21.080 Wireless communication facilities.

18.21.030 Residential zones R-1, R-4 and R-6 – Development standards.

The following zone-specific development standards in Table B apply in the R-1, R-4 and R-6 residential zones:

Table B. R-1, R-4 and R-6 Residential Zones Development Standards

STANDARDS	ZONES	R-1[1]	R-4	R-6
Base Density: *Dwelling Unit*/Acre[2]		1 du/ac	4 du/ac[3]	6 du/ac
Maximum Density: *Dwelling Unit*/Acre[4]			6 du/ac	9 du/ac
Minimum Density				
Minimum Lot Width[6]		35 ft.[7]	30 ft.	30 ft.
Minimum *Street Setback*		20 ft.[7]	15 ft.[8,9]	15 ft.[8,9]
Minimum Side *Setback*[5,10]		5 ft.[7]	15 ft. total[11]	15 ft. total[11]
Minimum Rear *Setback*[5,10]		5 ft.[7]	20 ft.	20 ft.
Maximum Height[12]		35 ft.	35 ft.	35 ft. 45 ft.[13]
Base *Impervious Surface*: Percentage		30%	45%	60%
Maximum *Impervious Surface*: Percentage[14]		30%[15]	55%	70%
Minimum Lot Size		2,500 sq. ft.	7,200 sq. ft.[16,17]	5,400 sq. ft.[16,17]

[1] a. All subdivisions and short subdivisions in the R-1 zone shall be required to be *clustered* when the property is located within or contains:

(1) A *floodplain*;

(2) A regionally or locally significant resource area;

(3) Existing or planned public *parks* or *trails*, or connections to such facilities;

(4) A Category I or II *wetland* or Type S or F *stream*;

(5) A “greenbelt/urban separator” or “wildlife corridor” area designated by the comprehensive plan.

b. The *development* shall be *clustered* away from *critical areas* or corridors such as urban separators or the wildlife habitat network to the extent possible and the *open space* shall be placed in a separate tract that includes at least 50 percent of the *site*. *Open space* tracts shall be permanent and meet the provisions of KMC 17.20.130.

[2] Density applies only to *dwelling units* and not to sleeping units.

[3] *Manufactured housing communities* shall be allowed a base density of six *dwelling units* per acre.

[4] This maximum density may be achieved only through the application of residential density incentives pursuant to Chapter 18.80 KMC or *transfers of density credits*, or any combination of density incentive or density transfer. Maximum density may only be exceeded pursuant to KMC 18.80.040(E)(1)(f).

[5] These standards may be modified under the provisions for *zero-lot-line developments*.

[6] The *building envelope* is determined through meeting minimum lot size and minimum lot width measurement requirements (KMC 18.30.110).

[7] The standards of the R-4 zone shall apply if a *lot* is less than 15,000 square feet in area.

[8] If *development* provides *alleys* or consists of *townhouses*, then the *street setback* may equal 10 feet.

[9] At least 20 linear feet of driveway shall be provided between any garage, carport or other fenced parking area and the *street* property line. The linear distance shall be measured along the centerline of the driveway from the access point to such garage, carport or fenced area to the *street* property line.

[10] Vehicle access points from garages, carports or fenced parking areas shall be set back from the property line on which a *joint use driveway* is located to provide a straight line length of at least 26 feet as measured from the centerline of the garage, carport or fenced parking area, from the access point to the opposite side of the *joint use driveway*.

[11] Any side yard shall equal a minimum of five feet but the two side yards combined must equal a minimum of 15 feet.

[12] Reserved.

[13] The maximum height of 45 feet to be used only for projects as follows:

a. In R-6 zones, a *building* with a footprint built on slopes exceeding a 15 percent finished grade.

[14] Applies to each individual *lot*. *Impervious surface* area standards for:

a. Regional *uses* shall be established at the time of permit review;

b. Nonresidential *uses* in residential zones shall comply with KMC 18.21.060 and 18.30.170;

c. Individual *lots* in the R-4 through R-6 zones which are less than 9,076 square feet in area shall be subject to the applicable provisions of the nearest comparable R-6 zone;

d. *Lots* may be increased beyond the total amount permitted in this chapter subject to approval of a *conditional use permit*;

e. The base *impervious surface* percentage may be exceeded, up to the maximum *impervious surface* percentage, provided low impact development strategies are implemented subject to approval by the *city manager.*

[15] *Lots* smaller than one-half acre in area shall comply with standards of the nearest comparable R-4 through R-6 zone. For *lots* that are one-half acre in area or larger, the maximum *impervious surface* area allowed shall be at least 10,000 square feet. On any *lot* over one acre in area, an additional five percent of the lot area may be used for *buildings* related to agricultural or forestry practices. For *lots* smaller than two acres but larger than one-half acre, an additional 10 percent of the lot area may be used for *structures* which are determined to be medically necessary, provided the *applicant* submits with the permit application a notarized affidavit, conforming with the requirements of KMC 18.100.170(A)(2).

[16] For properties with *critical areas* or topographic constraints, or where *exceptional trees* are retained, up to 20 percent of the number of *lots* in a subdivision or a short subdivision of more than four *lots*, and one of the *lots* in a short plat of four *lots* or less, may contain an area less than the prescribed minimum for this zoning district. In no case shall any *lots* be created which contain an area more than 10 percent less than the prescribed minimum for this zoning district. These smaller *lots* shall be located so as to have the least impact on surrounding properties in terms of consistency of *street frontages* and privacy of abutting properties.

[17] This excludes any area required for public or *private streets*, access easements, access tracts, and access panhandles.

III. Chapter 18.35 of the Kenmore Municipal Code is amended to read as follows:

Chapter 18.35
DEVELOPMENT STANDARDS - LANDSCAPING

Sections:

18.35.010 Purpose.
18.35.020 Application.
18.35.030 Land use grouping.
18.35.040 Landscaping – Screen types and description.
18.35.045 Landscaping – General requirements.
18.35.050 Landscaping – Street trees for single-family subdivisions.
18.35.060 *Repealed.*
18.35.070 Landscaping – Surface parking areas.
18.35.080 Landscaping – General standards for all landscape areas.
18.35.090 Landscaping – Additional standards for required landscape areas.
18.35.100 Landscaping – Alternative options.
18.35.110 Landscaping – Plan design, design review, and installation.
18.35.120 Maintenance.
18.35.130 Financial guarantees.

18.35.010 Purpose.

The purpose of this chapter is to preserve the aesthetic character of communities; to improve the aesthetic quality of the built environment; to promote retention and protection of existing *vegetation and trees*; to promote water efficiency; to promote native wildlife; to reduce the impacts of *development* on drainage systems and natural habitats; and to increase privacy for residential zones by:

A. Providing visual relief from large expanses of parking areas and reduction of perceived *building* scale;

B. Providing physical separation between residential and nonresidential areas;

C. Providing visual screens and barriers as a transition between differing land *uses*;

D. Retaining existing *vegetation* and *significant trees* by incorporating them into the site design;

E. Providing increased areas of permeable surfaces to allow for:

1. Infiltration of surface water into groundwater resources;

2. Reduction in the quantity of stormwater discharge; and

3. Improvement in the quality of stormwater discharge;

F. Encouraging the use of native plant species by their retention or use in the landscape design;

G. Encouraging the use of a diversity of plant species which promote native wildlife habitat. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.020 Application.

Except for *wireless communication facilities* regulated pursuant to Chapter 18.60 KMC, all new *development* shall be subject to the *landscaping* provisions of this chapter; provided, that specific *landscaping* and *tree* retention provisions for *uses* established through a *conditional use permit* or *special use permit* shall be determined during the applicable review process. [Ord. 16-0426 § 7 (Att. E); Ord. 11-0329 § 3 (Exh. 1).]

18.35.030 Land use grouping.

To facilitate the application of this chapter, land *uses* have been grouped in the following manner:

A. "Residential *development*" refers to *residential land uses*.

~~B. "Attached/group residences" refers to:~~

~~1. *Multiple-family dwellings*, except as provided in subsection (C)(1) of this section;~~

~~2. *Single detached dwelling units* developed on common property at a density of 12 or more units per acre;~~

~~3. *Supportive living facilities*;~~

~~4. *Temporary lodging*;~~

~~5. *Adult family homes*; and~~

~~6. *Manufactured housing communities*.~~

~~C. "Single-family *development*" refers to:~~

~~1. Residential subdivisions and short subdivisions, including attached and detached *dwelling units* on individually platted or short platted *lots*;~~

~~2. Any detached *dwelling units* located on a *lot*;~~

~~3. *Family child-care homes*; and~~

~~4. Type I *community residential facilities*.~~

B. "Commercial *development*" refers to:

1. *Recreational/cultural land uses*, except library, museum, *park* and *trail*;

2. *General services land uses*, except recycling centers, *health care and social assistance*, *hospital*, *laboratory*, *educational service*, *day care* I, and *religious institution*; and

3. *Retail land uses.*

4. Regional land uses.

C. "Industrial *development*" refers to:

1. *Government/business services land uses*, except *public agency* or *utility office*; *public agency or utility yard*; *public agency archive*; court; *fire or police facility*; *utility facility*; *commuter parking lot*; *private stormwater management facility*; and *vactor waste receiving facility*;

2. *Manufacturing land uses*; and

3. Mineral extraction and processing.

D. "Institutional *development*" refers to:

1. Library, museum and *conference center*;

2. *Religious institution*, *hospital*, *health care and social assistance*, *ambulatory surgery center*, *laboratory*, and *educational service*; and

3. *Public agency or utility office*; *public agency or utility yard*; *public agency archive*; court; *fire or police facility*; *commuter parking lot*; *private stormwater management facility*; and *vactor waste receiving facility*.

E. "Utility *development*" refers to *utility facility*, except *private stormwater management facility* and *vactor waste receiving facility.*

F. *Uses* that are not listed in this section shall not be subject to *landscaping* requirements except as specified in any applicable review of a *conditional use, site plan review,* or *special use permit*. [Ord. 19-0481 § 2 (Exh. A); Ord. 17-0438 § 2 (Att. A); Ord. 14-0391 § 2 (Exh. 1); Ord. 11-0329 § 3 (Exh. 1).]

18.35.040 Landscaping – Screen types and description.

The three types of *landscaping* screens are described ~~and applied as follows:~~ below. For each of these types, retention of existing *significant trees* is required unless otherwise approved pursuant to KMC 18.35.040(C)(3).

A. Type I *Landscaping* Screen.

1. Type I *landscaping* is a "full screen" that functions as a visual barrier.

2. Type I *landscaping* shall minimally consist of:

a. A mix of primarily *evergreen trees* and shrubs generally interspersed throughout the landscape strip and spaced to form a continuous screen;

b. Between 70 and 90 percent *evergreen trees*;

c. *Trees* provided at the rate of one per 10 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. *Evergreen* shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090;

3. Landscape-based stormwater management facilities are permitted within Type I *landscaping* screen areas; provided, that the screening objectives in subsections (A)(1) and (2) of this section are achieved.

B. Type II *Landscaping* Screen.

1. Type II *landscaping* is a "filtered screen" that functions as a visual separator.

2. Type II *landscaping* shall minimally consist of:

a. A mix of *evergreen* and *deciduous trees* and shrubs generally interspersed throughout the landscape strip spaced to create a filtered screen;

b. At least 50 percent *deciduous trees* and at least 30 percent *evergreen trees*;

c. *Trees* provided at the rate of one per 20 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090;

3. Landscape-based stormwater management facilities are permitted within Type II *landscaping* screen areas; provided, that the screening objectives in subsections (B)(1) and (2) of this section are achieved.

C. Type III *Landscaping* Screen.

1. Type III *landscaping* is a "see-through screen" that functions as a partial visual separator to soften the appearance of parking areas and building elevations.

2. Type III *landscaping* shall minimally consist of:

a. A mix of *evergreen* and *deciduous trees* generally interspersed throughout the landscape strip and spaced to create a continuous canopy;

b. At least 70 percent *deciduous trees*;

c. *Trees* provided at the rate of one per 25 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090.

3. *Removal* of *tree(s)* may be permitted for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the presence of *significant tree(s)* is denied to the subject property. Exceptions under this subsection shall be construed narrowly. The applicant must apply for and meet the variance criteria of KMC 18.115.030 to qualify under this subsection. Exceptions under this subsection shall be processed as a Type 1 land use decision.

~~3~~4. Landscape-based stormwater management facilities are permitted within Type III landscaping screen areas; provided, that the screening objectives in subsections (C)(1) and (2) of this section are achieved. [Ord. 16-0428 § 13 (Att. I); Ord. 11-0329 § 3 (Exh. 1).]

18.35.045 Landscaping – General requirements.

Use as described in KMC 18.35.030	Street frontage perimeter landscaping (average width)[3~~9~~]	Interior lot line perimeter landscaping (average width)[7~~14~~]	Surface parking lots of 10 or more stalls
Residential development[1]	10' Type III[8]	~~5' Type II[8]~~ 10' Type II within the rear *setback*[11~~11~~]	20 sq. ft. per stall in common parking areas.
Commercial development[2]	10' Type III	20' Type I[4~~10~~]	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.
Industrial development[3]	10' Type II	10' Type II[5~~12~~] 20' Type I[4~~10~~]	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.
Institutional development[4]	20' Type II[1~~6~~]	10' Type II	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.
Utility development[5]	10' Type II[2~~7~~]	10' Type II[6~~13~~]	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.

~~[1] As described in KMC 18.35.030(A).~~

~~[2] As described in KMC 18.35.030(D).~~

~~[3] As described in KMC 18.35.030(E).~~

~~[4] As described in KMC 18.35.030(F).~~

~~[5] As described in KMC 18.35.030(G).~~

[1~~6~~] Excluding playgrounds and playfields.

[2~~7~~] For an above-ground *utility facilities development* only, excluding distribution and transmission corridors.

~~[8] Only for attached/group residence *development* as described in KMC 18.35.030(B).~~

~~3~~9 For all zones except the DC and DR zones. In the CB zone, where *street frontage setbacks* are required, the area within the *setback* must contain Type II *landscaping*.

~~4~~10 Along any portion adjacent to a single-family residential *development.* ~~as described in KMC 18.35.030(A).~~

~~11 Along portions of an attached/group residence *development* as described in KMC 18.35.030(B) adjacent to property developed with single detached residences or vacant property that is zoned R-1 through R-6.~~

~~5~~12 Along any portion adjacent to a commercial or institutional *development*. ~~as described in KMC 18.35.030(D) and (F).~~

~~6~~13 Excluding distribution or transmission corridors.

~~7~~14 In the DC zone, where interior *setbacks* are required and/or provided, *setbacks* shall be landscaped with Type II *landscaping*. In the CB zone, where interior *setbacks* are required and/or provided, *setbacks* shall be landscaped with Type II *landscaping*.

[Ord. 11-0329 § 3 (Exh. 1).]

18.35.050 Landscaping – Street trees for single-family subdivisions.

For short subdivisions and subdivisions Kenmore Road Standards (KRS) Section 8.12 shall apply to landscaping street trees.

~~A. Trees shall be planted at the rate of one tree for every 40 feet of frontage along a neighborhood collector *street* or arterial *street*. Native vegetation cultivars are preferred;~~

~~B. The trees shall be:~~

~~1. Located within the street right-of-way if permitted by the *City*;~~

~~2. No more than 20 feet from the street right-of-way line if located within a *lot*;~~

~~3. Maintained by the adjacent landowner unless part of a *City* maintenance program; and~~

~~4. A species approved by the *City* if located within the street right-of-way and compatible with overhead utility lines;~~

~~C. The trees may be spaced at irregular intervals to accommodate sight distance requirements for driveways and intersections. [Ord. 16-0428 § 13 (Att. I); Ord. 11-0329 § 3 (Exh. 1).]~~

18.35.060 Landscaping along the Burke-Gilman public trail.

Repealed by Ord. 14-0391. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.070 Landscaping – Surface parking areas.

A. *Trees* shall be provided and distributed throughout the parking area at a rate of:

1. One *tree* for every three parking stalls for a commercial or industrial *development*; and

2. One *tree* for every five parking stalls for residential or institutional *development*;

B. The maximum distance between any parking stall and *landscaping* shall be no more than 100 feet;

C. Permanent curbs or structural barriers shall be provided to protect the plantings from vehicle overhang;

D. Landscaping around the perimeter of a *site* that is in addition to the perimeter *landscaping* required by KMC 18.35.045 may count toward 10 percent of the required surface parking area *landscaping* in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street (see subsection F of this section), if it is adjacent to the parking area;

E. Parking area *landscaping* shall consist of:

1. Canopy-type *deciduous trees*, *evergreen trees*, *evergreen* shrubs and ground covers planted in islands or strips. Native vegetation cultivars are preferred;

2. Internal parking lot *landscaping* shall be configured as landscape-based stormwater management feature unless infeasible;

3. Shrubs that do not exceed a maintained height of 42 inches;

4. Plantings contained in planting islands or strips having an area of at least 100 square feet and with a minimum dimension of not less than five feet;

5. Ground cover in accordance with KMC 18.35.090; and

6. At least 70 percent of *trees* are deciduous;

F. Standards for perimeter *landscaping* and screening of surface parking lots for the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street, are defined in Chapter 18.52 KMC, Downtown Design Standards. All other landscape requirements for surface parking lot landscaping in this section apply to the DC and DR zones, and RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street. [Ord. 16-0428 § 13 (Att. I); Ord. 14-0391 § 2 (Exh. 1); Ord. 11-0329 § 3 (Exh. 1).]

18.35.080 Landscaping – General standards for all landscape areas.

All new landscape areas proposed for a *development* shall be subject to the following provisions:

A. *Berms* shall not exceed a slope of two horizontal feet to one vertical foot (2:1).

B. All new turf areas, except all-weather, sand-based athletic fields, shall:

1. Be augmented with a two-inch layer of organic material cultivated a minimum of six inches deep; or

2. Have an organic content of five percent or more to a depth of six inches.

C. Except as specifically outlined for turf areas in subsection B of this section, 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.

D. Landscape areas, except turf or areas of established *ground cover*, shall be covered with at least two inches of *mulch* to minimize evaporation.

E. Plants having similar water use characteristics shall be grouped together in distinct hydrozones.

F. Plant selection shall consider adaptability to climatic, geologic, and topographical conditions of the *site*. *Native trees* and preservation of existing *vegetation* is encouraged.

G. Landscape areas proposed as stormwater management facilities shall be designed in accordance with the Kenmore stormwater management standards. [Ord. 16-0428 § 13 (Att. I); Ord. 11-0329 § 3 (Exh. 1).]

18.35.090 Landscaping – Additional standards for required landscape areas.

In addition to the general standards of KMC 18.35.080, landscape areas required pursuant to KMC 18.35.045 through 18.35.070 shall conform to the following standards:

A. All plants shall conform to American Association of Nurserymen (AAN) grades and standards as published in the "American Standard for Nursery Stock" manual; provided, that existing healthy *vegetation* used to augment new plantings shall not be required to meet the standards of this manual;

B. Single-stemmed *trees* required pursuant to this chapter shall at the time of planting conform to the following standards:

1. In parking area *landscaping* ~~and in *street* rights-of-way~~:

a. *Deciduous trees* shall have a minimum *caliper* of one and three-quarters inches and a height of 10 feet in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, which shall have a minimum *caliper* of three inches, and

b. Coniferous and *broadleaf evergreen trees* shall be at least five feet in height;

2. In all other required landscape areas:

a. *Deciduous trees* shall have a minimum *caliper* of one and one-half inches and a height of 10 feet in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th

Street between 65th Avenue NE extended and 73rd Avenue NE, which shall have a minimum *caliper* of three inches, and

b. Coniferous and *broadleaf evergreen trees* shall be at least five feet in height except in the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, where they shall be at least 10 feet in height;

C. Multiple-stemmed *trees* shall be permitted as an option to single-stemmed *trees* in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE; provided, that such multiple-stemmed *trees* are:

1. At least six feet in height.~~, and~~

~~2. Not allowed within *street* rights-of-way;~~

~~D. When the width of any landscape strip is 20 feet or greater, the required *trees* shall be staggered in two or more rows;~~

~~E~~D. Shrubs shall be:

1. At least an AAN container class No. 2 (two-gallon) size at time of planting in Types II, III and parking area *landscaping*,

2. At least 24 inches in height at the time of planting for Type I *landscaping*, and

3. Maintained at a height not exceeding 42 inches when located in Type III or parking area *landscaping* except in the DC and DR zones where they shall not exceed a maximum height of 48 inches;

~~F~~E. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three years;

~~G. All *fences* shall be placed on the inward side of any required perimeter *landscaping* along the *street frontage*;~~

~~H. Required *street landscaping* may be placed within *City street* rights-of-way subject to the *City street* design standards, provided adequate space is maintained along the *street* line to replant the required *landscaping* should subsequent *street* improvements require the removal of *landscaping* within the rights-of-way;~~

~~I. Required *street landscaping* may be placed within Washington State rights-of-way subject to permission of the Washington State Department of Transportation; and~~

~~J~~F. New landscape material provided within areas of undisturbed *vegetation* or within the protected area of *significant trees* shall give preference to utilizing ~~indigenous~~ *native* plant species. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.100 Landscaping – Alternative options.

The following alternative landscape options may be allowed, subject to *City* approval, only if they accomplish equal or better levels of screening, or when existing conditions on or adjacent to the *site*, such as significant topographic differences, *vegetation*, *structures* or utilities would render application of this chapter ineffective or result in scenic view obstruction:

A. The amount of required landscape area may be reduced to ensure that the total area for required *landscaping*, and/or the area remaining undisturbed for the purpose of wildlife habitat or corridors does not exceed 15 percent of the net developable area of the *site*. ~~For the purpose of this subsection, the net developable area of the *site* shall not include areas deemed unbuildable due to their location within *critical areas* and any associated *buffers*;~~

B. The average width of the perimeter landscape strip may be reduced up to 25 percent along any portion where:

1. *Berms* at least three feet in height or architectural barriers at least six feet in height are incorporated into the landscape design; or

2. The landscape materials are incorporated elsewhere on-site;

C. Where a local or subarea plan with design guidelines has been adopted, the *city manager* shall base the *landscaping* modifications on the policies and guidelines of such plan;

D. When an existing *structure* precludes installation of the total amount of required *site* perimeter *landscaping*, such *landscaping* material shall be incorporated on another portion of the *site*;

E. Single-stemmed *deciduous tree* species that cannot generally be planted and established in larger sizes may have a *caliper* of less than one and one-half inches;

F. The number of *trees* and shrubs to be provided in required perimeter and parking area *landscaping* may be reduced up to 25 percent when a *development* uses landscaping native to the Puget Sound lowlands ~~materials consisting of species typically associated with the Puget Sound Basin~~ in the following proportions:

1. Seventy-five percent of native *ground cover* and shrubs, and

2. Fifty percent of *native* *trees*;

G. In the DC and DR zones, alternative landscape requirements may be proposed in order to retain *significant or exceptional* *trees* ~~(over 12 inches DBH if *deciduous* or eight inches DBH if *evergreen*, measured as average trunk diameter at chest height; measured four and one-half feet above grade).~~ This alternative requirement applies only to *trees* which are beyond what is already required in Chapter 18.57 KMC. ~~the City's significant tree ordinance~~. ~~Interior parking lot landscape requirements may be reduced at a 1:1 ratio equal to the land area within the drip line of the *tree* being retained.~~ [Ord. 11-0329 § 3 (Exh. 1).]

18.35.110 Landscaping – Plan design, design review, and installation.

A. The landscape plan submitted to the *department* shall be drawn on the same base map as the development plans and shall identify the following:

1. Total landscape area, and separate hydrozones;

2. Landscape materials botanical/common name and applicable size;

3. Property lines;

4. *Impervious surfaces*;

5. Natural or manmade water features or bodies;

6. Existing or proposed *structures*, *fences*, and *retaining walls*;

7. Natural features or *vegetation* left in natural state; and

8. Designated recreational open space areas.

9. Existing *trees*.

B. The proposed landscape plan shall be certified by a Washington State registered landscape architect, Washington State certified nurseryman, or Washington State certified landscaper.

C. An affidavit signed by an individual specified in subsection B of this section, certifying that the *landscaping* has been installed consistent with the approved landscaping plan, shall be submitted to the *department* within 30 days of installation completion, unless the installed *landscaping* has been inspected and accepted by the *department*.

D. The required *landscaping* shall be installed prior to certificate of occupancy. ~~However, the time limit for compliance may be extended to allow installation of such required *landscaping* during the next appropriate planting season. A *financial guarantee* shall be required prior to issuance of the certificate of occupancy, if *landscaping* is not installed and inspected prior to occupancy. [Ord. 11-0329 § 3 (Exh. 1).]~~

18.35.120 Maintenance.

A. All *landscaping* shall be maintained for the life of the project;

B. All landscape materials shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure;

C. With the exception of dead, diseased or damaged *trees* specifically retained to provide wildlife habitat, other dead, diseased, damaged or stolen plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season; and

D. Landscape areas shall be kept free of trash. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.130 Financial guarantees.

SHARE

Financial guarantees shall be required consistent with the provisions of KMC Title 21. This time period may be extended ~~to one year~~ by the *city manager*, if necessary to cover a planting and growing season. [Ord. 11-0329 § 3 (Exh. 1).]

EXHIBIT C TO ORD. 23-0597

I. Chapter 18.57 of the Kenmore Municipal Code is amended to read as follows:

Chapter 18.57
TREE MANAGEMENT AND PROTECTION

Sections:

18.57.010 Title.
18.57.015 Findings and purpose.
18.57.030 Applicability.
18.57.035 Exemptions.
18.57.050 Tree protection plan required.
18.57.060 Tree density requirement.
18.57.065 Exceptional tree protections.
18.57.070 Tree protection plan review procedure.
18.57.080 Tree protection plan review standards.
18.57.085 Tree windthrow evaluation and prevention.
18.57.090 Tree protection during construction.
18.57.100 Post-construction replacement, financial guarantee and maintenance requirements.
18.57.110 Penalties, enforcement.

18.57.010 Title. SHARE

This chapter shall be known and may be cited as the Kenmore tree management and protection code. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.015 Findings and purpose. SHARE

A. Reducing soil *erosion* and water pollution in the *City*'s *streams* and creeks by providing wind breaks, slowing the surface movement of water, reducing the amount of stormwater runoff, and stabilizing soil with their roots and fallen leaves;

B. Improving air quality by removing pollutant gases and airborne particles;

C. Positively affecting energy and water conservation by providing shade, lowering temperatures, and reducing net evaporation rates;

D. Reducing noise pollution by absorbing and deadening excessive and/or unwanted noise and by screening the source of the noise from view;

E. Providing a wide variety of habitats and ecosystems for birds, mammals, and other wildlife; and

F. Accordingly, the purpose of this chapter is to establish a process and standards to:

1. Increase the livability of an area by helping to screen people and *buildings* from wind and inclement weather;

2. Create a special sense of identity, a sense of community and civic pride, and a memorable place to live and work;

3. Preserve and enhance the *City*'s physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of *trees*;

4. Promote *site* planning, construction practices, and horticultural practices that are consistent with the *reasonable use* of property;

5. Implement the goals and objectives of the *City*'s comprehensive plan; and

6. Implement the goals and objectives of the *City*'s parks and recreation master plan. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.030 Applicability. SHARE

A. No individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall directly or indirectly remove or destroy any *tree* as defined in this title within the *City*, without first obtaining a clearing permit as provided in KMC Title 15.

B. Unless otherwise exempted in KMC 18.57.035, any *site* subject to *development*, including the division of a parcel of land into two or more parcels, within the *City* shall comply with the requirements of this chapter.

C. Approval of a tree protection plan pursuant to the provisions of this chapter shall not discharge the obligation of the *applicant* to otherwise comply with the applicable provisions of this chapter.

D. When any provision of any other chapter of the Kenmore Municipal Code conflicts with this chapter or when the provisions of this chapter are in conflict, that provision which provides more protection for individual *trees* and *groves* of *trees* shall apply unless specifically provided otherwise in this chapter or unless such provision conflicts with federal or State laws or regulations. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.035 Exemptions. SHARE

A. The following land *uses* are exempt from the provisions of this chapter. However, compliance with other applicable provisions of the Kenmore Municipal Code including but not limited to then-current *critical area* regulations per Chapter 18.55 KMC and then-current clearing regulations per Chapter 15.25 KMC is still required:

1. Agriculture, meaning the use of the land for the primary purpose of deriving income from growing plants or *trees* on land including, but not limited to, land used principally for fruit or timber production, but not including land used principally for another *use* and only incidentally for growing *trees* or plants for income.

2. *Commercial nursery or tree farm*, but only those *trees* which are planted and growing on the premises of a licensed retailer or wholesaler for sale to the general public. Other *trees* on such premises shall remain subject to this chapter.

~~3. Residential *Development*.~~

~~a. All existing *lots* on which are to be situated new *single detached dwelling units* in residential zones based on tree removal limits established by clearing requirements.~~

~~b.~~ 3. All existing *lots* on which are situated existing detached *dwelling units* in residential zones based on tree removal limits established ~~by clearing requirements.~~ by KMC 15.25.070.B.1.d. This exemption applies to *significant tree removal* only; the provisions described in KMC 18.57.065 for *exceptional trees* still apply.

4. Downtown Commercial and Downtown Residential Zones. All *development* occurring within core areas designated as downtown commercial and downtown residential zones. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.050 Tree protection plan required. SHARE

A. Requirement Established. Except for the exemptions enumerated in this chapter, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall remove, transplant, or destroy, or cause to be removed, transplanted, or destroyed, on any land in the *City*, any *tree* as defined in this chapter, without first obtaining the *city manager*'s approval of a tree protection plan and receiving a clearing permit from the *City*. For *sites* proposed for land *development*, including the division of a parcel of land into two or more parcels, having *trees* below the minimum tree density, even though no *trees* are proposed to be removed, a tree protection plan is required to bring the *site* up to the minimum tree density standard herein established.

B. Submittal of Tree Protection Plan. Where the *site* proposed for *development* requires site or plat or short plat review, the tree protection plan shall be submitted concurrent with a site plan or plat or short plat application.

C. Tree Protection Plan Requirements. Attached to the *applicant* information and site plan information required for the clearing permit application, the *applicant* shall include the following tree protection plan information:

1. *Tree* Survey. For all *development proposals*, a *tree* survey, drawn to scale by a land surveyor licensed in Washington State, identifying the exact location and conditions of existing *trees* as defined in this title and containing the following information:

a. Common and botanical name of each *tree*.

b. *Trees* proposed to remain and to be removed.

c. *Groves* with indication of predominant species, number of *trees* and size of *diameter at breast height* (d.b.h.).

d. Any off-site *tree* with a root protection zone which could be adversely affected by the proposed activity.

e. The location and dimensions of established and proposed perimeter *landscaping*, natural *vegetation* easements, and open space areas for public, *private*, or community use.

f. *Net buildable areas*.

g. *Critical areas* and their *buffers*.

h. Stormwater tracts.

i. Limits of construction line.

j. North arrow, scale, and date of survey.

2. An assessment of *tree windthrow* potential as described in KMC 18.57.085, along with any proposed mitigation measures to minimize windthrow. These measures shall be incorporated into the proposed tree protection plan described in subsection (C)(5) of this section.

3. A statement describing how *trees* intended to remain will be identified, marked, and protected before the start of and during *development* as further described in KMC 18.57.090.

4. A statement that describes replacement tree quality as conforming to the American Standards for Nursery Stock (ANSI).

5. Proposed Tree Protection Plan. The permit *applicant* shall have a *qualified tree protection professional* prepare recommendations for the tree protection plan. The tree protection plan shall be drawn to scale using the *tree* survey as a base and containing the following information:

a. The exact location, common name, botanical name, and condition of protected *trees*.

b. The exact location, common name, botanical name, and *caliper* of each *tree* species to be planted.

c. The *site* minimum tree density calculation indicating the total number, size, and species of existing *trees* to be preserved and the replacement *trees* to be planted as described in KMC 18.57.060.

d. The *site* replacement tree calculation as described in KMC 18.57.060 with an explanation including the number, *caliper*, and species.

e. The location, materials, dimensions, and layout of the protective barriers.

6. Submit a bond quantity worksheet on forms provided by the department.

7. Additional Information. Any additional or more detailed information required by the *city manager* to ensure compliance with the provisions of this chapter (i.e., aerial photograph). The *city manager* may waive the requirements for the scaled drawing and other submission data if he finds that the information presented is sufficient to determine the project's compliance with the provisions of this chapter. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 15-0409 § 1 (Att. A); Ord. 11-0329 § 3 (Exh. 1).]

18.57.060 Tree density requirement. SHARE

A. Minimum Tree Density Requirement Established. A minimum tree density is required on each *site*. The tree density may consist of existing *trees* (provided they are not cottonwood, alder, or holly trees), replacement *trees*, or a combination of existing and replacement *trees*. The *site* density of *trees* to be protected on each *site* shall be determined prior to approval of a tree protection plan or clearing permit, by the *city manager*.

B. Tree Density Calculation. The minimum tree density required for each *site* is 40 ~~30~~ tree units per acre of *net buildable area*

1. To calculate the density of *trees* to be protected:

a. Obtain the d.b.h. measurement in inches for each protected *tree* within the *net buildable area*.

b. Go to Table 18.57.060A and select the tree unit value that corresponds to the d.b.h. for each protected *tree*.

c. Add up the tree unit values for all protected *trees* and divide by the total acreage of the *net buildable area*. This value must equal or exceed 40 ~~30~~ tree units per acre of *net buildable area*. If the total is less than 40 ~~30~~ tree units per acre, more *trees* must be protected.

d. ~~If replacement *trees* are planted as *groves* within designated tracts, then *applicant* may reduce total tree units required by 10 percent.~~ If *trees* are retained within designated tracts, protective easements, or groves, then the *applicant* may reduce total tree units required by 20 percent.

Table 18.57.060A
Existing Trees to Remain.

(Conversion from diameter (d.b.h.) in inches to tree units for *trees* protected on-*site*.)

d.b.h.	Tree Units	d.b.h.	Tree Units
1 – 5	1.0	30	8.2
6 – 10	1.2	31	8.6
11	1.4	32	9.0
12	1.8	33	9.5
13	2.0	34	10.0
14	2.3	35	10.5
15	2.6	36	11.0
16	2.9	37	11.5
17	3.2	38	12.0
18	3.5	39	12.5
19	3.8	40	13.0
20	4.2	41	13.5
21	4.6	42	14.0
22	5.0	43	14.5
23	5.4	44	15.0
24	5.8	45	15.5
25	6.2	46	16.0

Table 18.57.060A
Existing Trees to Remain.

(Conversion from diameter (d.b.h.) in inches to tree units for *trees* protected on-*site*.)

d.b.h.	Tree Units	d.b.h.	Tree Units
26	6.6	47	17.0
27	7.0	48	18.0
28	7.4	49	19.0
29	7.8	50	20.0
For every one inch greater than 50 d.b.h., add an additional 2 tree units (i.e., 62 d.b.h. = 44 tree units).			

C. Replacement *Tree* Requirement. If the number of existing *trees* is not enough to meet the minimum of 40 ~~30~~ tree units per *net buildable acre*, a sufficient number of replacement *trees* shall be planted to meet the minimum requirement. Replacement *trees* shall not be allowed until the *applicant* shows that it is infeasible to retain existing trees. To determine the total number of replacement *trees* required:

1. Obtain the *caliper* measurement for each replacement *tree*. Replacement *trees* are measured differently than protected *trees*. Instead of measuring d.b.h. as in protected *trees*, replacement *trees* are measured by *caliper* in inches according to industry standards (ANSI). *Caliper* on replacement *trees* is measured six inches above the ground line for four-inch and smaller *trees*, and 12 inches above ground for larger replacement *trees*.

2. Go to Table 18.57.060B and select the tree unit value that corresponds to the *caliper* for each replacement *tree*.

3. Add the replacement tree unit values together to determine how many of that size *tree* will be required to achieve the minimum *site* density. See Table 18.57.060C for an example.

4. If replacement *trees* are planted within designated tracts, protective easements, or groves, then *applicant* may reduce total tree units required by 20 percent.

Table 18.57.060B Replacement Trees.

(Conversion from *caliper* inches to tree units for replacement *trees*.)

Deciduous Tree Caliper in Inches	Tree Units for Deciduous Trees	Coniferous Tree Height in Feet	Tree Units for Conifers	Tree Units for Native Conifers
1.5"	0.4	4' – 6'	0.5	0.8
2"	0.5	6' – 8'	0.7	1.0
3"	0.6	8' – 10'	1.0	1.5
4"	0.7	11' – 12'	1.5	2.0
5"	0.8			
6"	1.0			
7"	1.2			
8" +	1.5			

Table 18.57.060C Sample Tree Density Calculation.

The required density factor is calculated below as follows for five *net buildable acres*: five acres x 40 ~~30~~ units = 200 ~~150~~ tree units required.

Existing Retained Trees: ~~density (ED):~~

Size	Quantity	Total Tree Units
24"	3	17.4
18"	3	10.5
10"	4	4.8
30"	7	57.4
12"	5	9.0
8"	6	7.2
15"	8	20.8
4"	10	10.0
50"	1	20.0
44"	2	30.0
	Total ~~ED~~	187.1

Proposed Replacement Trees: ~~density (RD):~~

Size	Units	Quantity	Total Units
2" *Deciduous*	0.5	12	6.0
4" *Deciduous*	0.7	6	4.2
4' – 6' Native Conifer	0.8	5	4.0
		Total ~~RD~~	14.2

Existing Density + Replaced Density =	**Site Total Tree Density**	**>**	**or**	**=**	**Minimum Density Required**	
~~137.1~~ 187.1 + 14.2 =	~~151.3~~ 201.3	>			~~150~~ 200	Density Satisfied

The sum of the retained existing trees and replacement trees ~~ED and RD~~ must be greater than or equal to the minimum density required. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.065 Exceptional Tree Protections.

A. Prohibited Activities.

The following activities are prohibited with regard to *exceptional trees*.

1. *Removal*, in whole or in part.
2. Harming, injuring, or damaging the *tree*, including cutting its bark or branches with a knife, axe, hatchet, saw, or any other similar device or object.
3. Pouring toxic material on the *tree* or on the ground near enough to the *tree* to affect its health.
4. Burning the *tree* or causing a fire near enough to the *tree* to affect its health.
5. Topping.
6. Pruning beyond the standards provided by the Tree Care Industry Association at ANSI300 Part 1.
7. Attaching any sign, poster, notice, or other object to the *tree*, or fastening any guy wire, cable, rope, nails, screws, or other device to the *tree*, with the following exceptions:
    a. To support young or broken *trees*;
    b. For residential uses, (e.g., treehouses, tire swings, etc.);
    c. The *City* may tie temporary signs or banners associated with street improvement, parades, seasonal lighting, or other *city* activities.

B. Variance.

Exceptional trees may be *removed* only as allowed in this section.

1. *Variances* from the *exceptional tree* standards of this chapter may be authorized by the *city manager* in accordance with the approval criteria described in this section. A variance for removal of *exceptional trees* is a Type 2 land use decision, pursuant to KMC 19.25.020, except as described in Section 18.57.063(B)(2)(a)(3).
   a. Prior to commencing with the *removal* the owner shall obtain a permit from the *City*.
   b. No *variance* is allowed in order to create additional *lots*.
   c. Decision Criteria.
      i. Necessary for Rights or Use. Private *Development Proposals*: Such *variance* is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the presence of *exceptional tree(s)* is denied to the property in question. For a variance to be granted under this section, the applicant must demonstrate compliance with the reasonable use exception approval criteria established in KMC 18.55.180.A.1.a through 18.55.180.A.1.g. The phrase *exceptional tree* shall replace the phrase *critical area* when utilizing said criteria for a variance under this section;
      ii. The granting of such *variance* will not be materially detrimental to the public welfare or injurious to the property or improvement;
      iii. The granting of the *variance* is consistent with the general purpose and intent of the *City's* comprehensive plan and adopted development regulations.
   d. *City Manager* Review. The *city manager* shall review the application. The *city manager* shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the *variance* criteria in this section.
   e. Burden of Proof. The burden of proof shall be on the *applicant* to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.
   f. Time Limit.
      i. Establishment of any activity authorized pursuant to an *exceptional tree variance* shall occur within four years of the effective date of the decision for such *variance*. This period may be extended for one additional year by the *city manager* if the *applicant* has submitted the applications necessary to authorize the development activity and has provided written justification for the extension.
      ii. For the purpose of this subsection, "establishment" shall occur upon the issuance of all local permit(s) needed to begin the development activity; provided, that the improvements authorized by such permits are completed within the time frames of said permits.
   g. Mitigation Requirements.

i. To the extent feasible, *exceptional trees removed* under a *variance* shall be replaced at a ratio of three (3) replacement trees for each *exceptional tree removed* (3:1).
ii. If on-site replacement is not feasible, off-site replanting on public property with the *City's* written permission.
iii. Whether planted on-site or off-site, replacement *trees* shall be of a species listed in Table 1 at KMC 18.20.3083 and must remain viable for a minimum of five (5) years after planting or themselves be replaced at a 1:1 ratio.
iv. Notice on title.
    1. In order to inform subsequent purchasers of real property of the existence of replacement *trees* and their required viability period, the owner of any property containing replacement *trees* planted as mitigation for the removal of *exceptional trees* shall file a notice with county records and elections division according to the direction of the *City*. The notice shall state the presence of the replacement *trees* on the property and the date until which they must remain viable, of the application of this chapter to the property, and the fact that limitations on actions affecting the *trees* may exist. The notice shall run with the land.
    2. This notice on title shall not be required for:
        a. A *development proposal* by a *public agency* or utility;
        b. Within a recorded easement or right-of-way;
        c. Where the agency or *utility* has been adjudicated the right to an easement or right-of-way; or
        d. On the site of a public facility.
    3. The applicant shall submit proof that the notice has been filed with the county records and elections division (i.e., copy of document recorded on title).

2. Hazardous Trees.
    a. The *removal* of *hazard exceptional trees* shall comply with the following:
        i. Prior to commencing with the *removal* the owner shall obtain a permit from the *City*.
        ii. The burden of proving the hazardous nature of the *tree* lies with the property owner. The property owner shall provide the *City* with a report, prepared by an International Society of Arboriculture (ISA) certified arborist with a current Tree Risk Assessment Qualification (TRAQ), documenting that the *tree(s)* has a "high" or "extreme" risk and no other mitigation measure will reduce the risk below "high."
        iii. Emergency tree removal. Where tree removal is necessary to prevent or correct an immediate threat to public health, safety, property, or welfare

is performed in an emergency situation, the permit application, evidence of the threat, and a tree risk rating of "high" or "extreme" prepared by a *qualified tree protection professional* shall be submitted within the next business working day to the City. Emergency tree removal, as described here within, is exempt from the Type 2 decision process.

b. *Mitigation* Requirements.

i. The *removal* of *hazardous*, dying, or dead *exceptional trees* shall be *mitigated* by planting one (1) replacement *tree*, unless otherwise provided in KMC 18.55.150(E)(2).

ii. Replacement *trees* must be of a species listed in Table 1 at KMC 18.20.3083 and must remain viable for a minimum of five (5) years after planting or themselves be replaced at a 1:1 ratio.

3. Private Access.

a. Prior to commencing with the *removal* the owner shall obtain a permit from the *City*.

b. *Exceptional trees* may be *removed* where necessary to provide for access to *development* sites, provided there are no feasible alternative alignments. Alternative access must be pursued to the maximum extent feasible.

4. Public Facilities.

a. The *City* reserves the right to *remove exceptional trees* where necessary for roads, bridges, *utilities,* and facilities.

b. *Exceptional tree* removal by private utilities require a tree removal permit and right-of-way use permit.

c. *Exceptional trees* removed under this section are subject to the mitigation requirements described in KMC 18.57.063.B.1.g.i – 18.57.063.B.1.g.iv.

C. Modification to Standards to Protect Exceptional Trees

1. For single-family residential subdivisions and short subdivisions on sites in the R-4 zone that contain *exceptional trees*, the minimum lot size may be reduced to 5,400 square feet with no limitation on the percentage of smaller lots, regardless of KMC 18.21.030, Footnote 16. The lot area shall exclude access easements and access panhandles.

2. Unless it would be unreasonable to do so based on the use of neighboring properties, the *city manager* may reduce *setbacks* in residential zones regulated by Chapter 18.21 KMC to 10 feet, and *setbacks* in other zones to five feet, in order to maximize the protection of an *exceptional tree* and avoid exceptions or variances.

D. Penalties.

1. Civil Penalty. The penalty for *removal* of an *exceptional tree* or any other activity prohibited under subsection A shall be a civil penalty of up to $2,500 per inch in d.b.h. of the *tree removed* with a maximum fine of $150,000. For example, the monetary penalty for a 30-inch d.b.h. Douglas fir *removed* results in a maximum penalty of $75,000. If the violation is found to have been willful or malicious, as determined by the *city manager*, the amount of the penalty may be doubled as punitive damages and the violator may be subject to criminal penalties under KMC 18.57.110.B.
2. In addition, any person found to be in violation of this Section shall plant three (3) replacement *trees* for each *exceptional tree* removed. Replacement *trees* shall be a species listed in Table 1 at KMC 18.20.3083 and must remain viable for a minimum of five (5) years after planting or themselves be replaced by the offender at a 1:1 ratio. In order to inform subsequent purchasers of real property of the existence of replacement *trees* and their required viability period, a notice will be filed on the title by the same procedure outlined under (B)(1)(g)(iv) of this Chapter.

18.57.070 Tree protection plan review procedure. SHARE

A. *Departmenta*l Review. The *city manager* shall review the tree protection plan and clearing permit application to determine whether the *applicant* has provided all required information. Completed applications shall be referred to appropriate *City departments* for review. Upon request of either the *applicant* or the *City*, the *City* may conduct field inspections or review meetings. *City departments* involved in the review and/or inspections shall submit their report(s) and recommendation(s) to the *city manager*.

B. Evaluation for Compliance. The *city manager* may require an evaluation by a *qualified tree protection professional*, a qualified engineer, landscape architect, soils engineer, testing lab, or other specialist at any time during the tree protection plan review process or tree removal inspection as necessary to ensure compliance with the provisions of this chapter and/or the terms of the clearing permit. Individual *applicants* will be responsible for payment to the *City* of the actual cost to the *City* of this evaluation. The actual costs of any such evaluation shall be paid to the *City* within 30 days of receipt of the *City*'s invoice.

C. *Financial Guarantees*. For all projects required to have a tree protection plan, *financial guarantees* shall be required consistent with the provisions of KMC 21.20.070; provided, however, that to the extent that the *financial guarantee* requirements of KMC 18.57.100 are more protective of tree preservation, performance and maintenance, then the more protective requirements shall prevail. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.080 Tree protection plan review standards. SHARE

The following standards shall govern the approval of a tree protection plan and the granting or denial of an application for clearing permit:

A. Design. *Development* shall be designed, located, and conducted so as to minimize the loss of healthy *groves* and protected *trees* as identified by a *qualified tree protection professional*, degradation of wildlife habitat as identified through environmental review, and the potential for *erosion* and slope failure.

B. *Tree* Protection Priority. In designing a development project and in meeting the required minimum tree density, the *applicant* shall protect *trees* within the *net buildable area* as described in KMC 18.57.060(B)(1), in the following order of priority. *Trees* to be preserved and protected must be healthy and vigorous, *wind-firm*, and not in conflict with utilities.

1. *Exceptional trees.*

2. *Groves*.

3. Individual *trees* which provide wildlife habitat as identified through environmental review.

4. Individual *trees* and *groves* which occur within required *setbacks*.

5. *Trees* that protect against windthrow, including *trees* sheltering interior *trees* or *trees* on adjacent property from strong winds that could otherwise cause them to blow down.

6. *Trees* which provide a buffer and separate incompatible *uses* or reduce sound and wind levels.

C. When the proposed *development* does not necessitate *tree* removal, said *trees* shall be retained and protected from potentially damaging activities such as grading.

1. Tree removal may be necessary in the following circumstances: when trees are in the footprint of proposed construction of buildings or roads, when their presence would make it infeasible to install utilities, sidewalks, or storm drainage improvements.

2. To be exempt, the applicant shall consider alternative designs (e.g., building orientation and size) and receive approval from the *city manager*. Exemptions under this subsection shall be processed as a Type 1 land use decision.

~~C~~D. Replacement *Tree* Planting Conditions. Replacement *trees* should be planted in areas with soil, climate, exposure, and moisture conditions appropriate to the replacement *tree* species' growing requirements as determined by a *qualified tree protection professional*, licensed landscape architect, or certified nurseryman.

~~D~~E. Replacement *Tree* Planting Location Priority. On *sites* where the number of existing *trees* falls below the minimum density requirements, then replacement *tree* planting shall be required. The *applicant*'s proposed location of transplanted or replacement *trees* shall be subject to review by a *qualified tree protection professional*, licensed landscape architect, or certified nurseryman, and *City* approval as part of the tree protection plan. Replacement *trees* should be planted according to the following priority:

1. On-Site.

a. Designated Tracts. *Trees* located in separate deeded *tree* tracts specifically set aside for the preservation and planting of *trees* and/or the required recreation open space area if *trees* do not interfere with recreation activities.

b. Perimeter *Landscaping*. In which case, replacement *trees* shall not count toward and shall be in addition to perimeter landscape requirements.

c. Landscaping. This may include entrance landscaping, traffic islands, and other common open space areas. *Trees* located in a public right-of-way may be credited as replacement *trees* only if *street trees* are not a requirement.

~~2. Off-Site. In cases where an *applicant* believes that lot size prevents installation of the required number of *trees*, the *applicant* may propose to the *City* payment of a fee in lieu for installation of *trees* in a public *park* or other *public space*. The *city manager* shall review and make the final decision on the *applicant*'s proposal, based on a recommendation from a *qualified tree protection professional*.~~

2. It is the *City's* intent to preserve and plant replacement *trees* on site. Only in rare cases and as a last resort, when planting replacement trees on site is infeasible, shall a fee-in-lieu be approved by the *city manager*

3. The *tree* fee-in-lieu for replacement tree shall be required for all tree units required that are not planted on the application site.

a. The base fee shall be equivalent to the cost of purchasing one 8' to 10' coniferous tree, 1.0 tree unit on Table 18.57.060B, installation (labor and equipment), and maintenance (including watering, warranty, and monitoring) for three years, as adopted by resolution.

b. The amount of the fee shall be the base fee times the number of replacement tree units necessary to satisfy the tree replacement requirements of this section, less existing *trees* and replacement *trees*.

c. The fee shall be paid to the City prior to final site plan approval, final plat approval, or the issuance of a tree removal permit, whichever applies as determined by the department.

d. A separate account shall be established by the City for fees collected. Tree replacement fees shall be earmarked specifically for this account. Funds withdrawn from this account shall be expended only for the planting of new trees in City-owned parks, open spaces, or rights-of-way, and shall be expended within five years of collection consistent with RCW 82.02.020.

~~E~~F. Replacement ~~Conifer~~ Tree Types. Replacement *trees* shall be a species native to the Puget Sound lowlands. Replacement trees shall not be Alder (any species), Black Cottonwood, English Holly, or Leyland Cypress. ~~of a similar type of genus to the conifer *trees* that are removed; i.e., a western red cedar (*Thuja plicata*) may be replaced with a *tree* in the genus Thuja, such as an American arborvitae (Thuja occidentalis).~~ [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 15-0409 § 1 (Att. A); Ord. 11-0329 § 3 (Exh. 1).]

18.57.085 Tree windthrow evaluation and prevention.

A. Increased *tree windthrow* potential as a result of impacts to *trees* on a site shall be evaluated based on the following risk factors:

1. Root system disruption that will extend within an area one to two and one-half times the radius of the canopy;

2. Topography of the site;

3. Whether the *tree* is deciduous or evergreen;

4. Height of the *tree* relative to the neighboring *trees*;

5. Whether the tree is part of a *grove*.

B. The windthrow evaluation shall be conducted as part of the preparation of the tree protection plan (see KMC 18.57.050) based on the aforementioned risk factors. The assessment shall be conducted by a *qualified tree protection professional*. This assessment also shall evaluate increased windthrow potential for *trees* on neighboring lots that are within 50 feet of the closest *trees* being removed on the site, including *trees* that share a root system with *tree(s)* on the site.

C. Tree Protection Plan.

1. When significant windthrow potential is identified for *trees* that could impact neighboring properties or are on neighboring properties, the *applicant* shall identify measures to minimize windthrow as part of the tree protection plan. Measures could include but are not limited to demonstrating that the *critical root zone (CRZ)* fencing is adequate to prevent root disruption or that the *CRZ* is expanded to provide root protection; saving *groves* when applicable; taking steps to preserve existing grades around *trees*; and/or tunneling rather than trenching for utilities. The City may deny a request to remove a *tree(s)* if mitigation measures are inadequate to minimize windthrow.

2. If potential windthrow damage is for the *site* itself, the *applicant* shall identify measures to reduce impacts to future *structures* on the *site*. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 15-0409 § 2 (Att. B).]

18.57.090 Tree protection during construction.

SHARE

Prior to initiating tree removal and any *clearing* and *grading* on the *site*, *trees* to be protected and preserved shall be protected from potentially damaging activities as follows unless otherwise approved by the *City*.

A. *Critical Root Zone (CRZ)*. The *CRZ* of individual *trees*, *groves*, or otherwise designated protected tree areas shall include no less than the area of a circle with a radius that extends one foot out from the *tree* for every inch of trunk d.b.h., or the area of a circle with radius extending from a *tree*'s trunk to a point no less than the end of a *tree*'s longest branch, whichever is greater (see Figure 18.57.090A).

B. Tree Protection Fence (TPF). Before *development*, the *applicant*:

1. Shall place three inches of composted woodchips over the *CRZ* of all retained *trees* to retain moisture, increase organic matter, and visually establish the *CRZ*.

2. Shall erect and maintain readily visible protective tree fencing a minimum of three feet beyond the outer edge of the *CRZ* for all individual *trees*, *groves*, or other designated protected tree areas.

a. Fencing shall completely surround the required tree protection area. The *city manager* may allow adjustments to placement of the TPF based on an evaluation of the *tree*, soils, and proposed disturbance.

b. Fencing shall be a minimum of four feet high and may be higher if needed to ensure clear visual delineation. Chain-link *fence* or orange plastic *fence* fastened to steel stakes/posts driven securely into the ground shall be required in order to discourage easy movement.

c. Any deviation from the tree fencing methods listed above must be authorized in writing by the *city manager* in advance.

3. Shall keep the protective fencing in place until the *City* authorizes the removal or issues a final certificate of occupancy, whichever occurs first.

4. Shall ensure that any landscaping done within the root protection zone subsequent to the removal of the *fence* shall not disturb existing *trees* including roots within the *CRZ*.

C. Placing Materials Near *Tree*. During *development*, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, may conduct any activity within the TPF of any *tree* designated to remain, except as specified in this section.

D. Attachments to *Trees*. During *development*, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall attach any object to any *tree* designated for protection.

E. Grade.

1. The grade shall not be filled or cut within the *CRZ* of any *tree* designated to remain without prior review by a *qualified tree protection professional* and advance, written approval from the *city manager*.

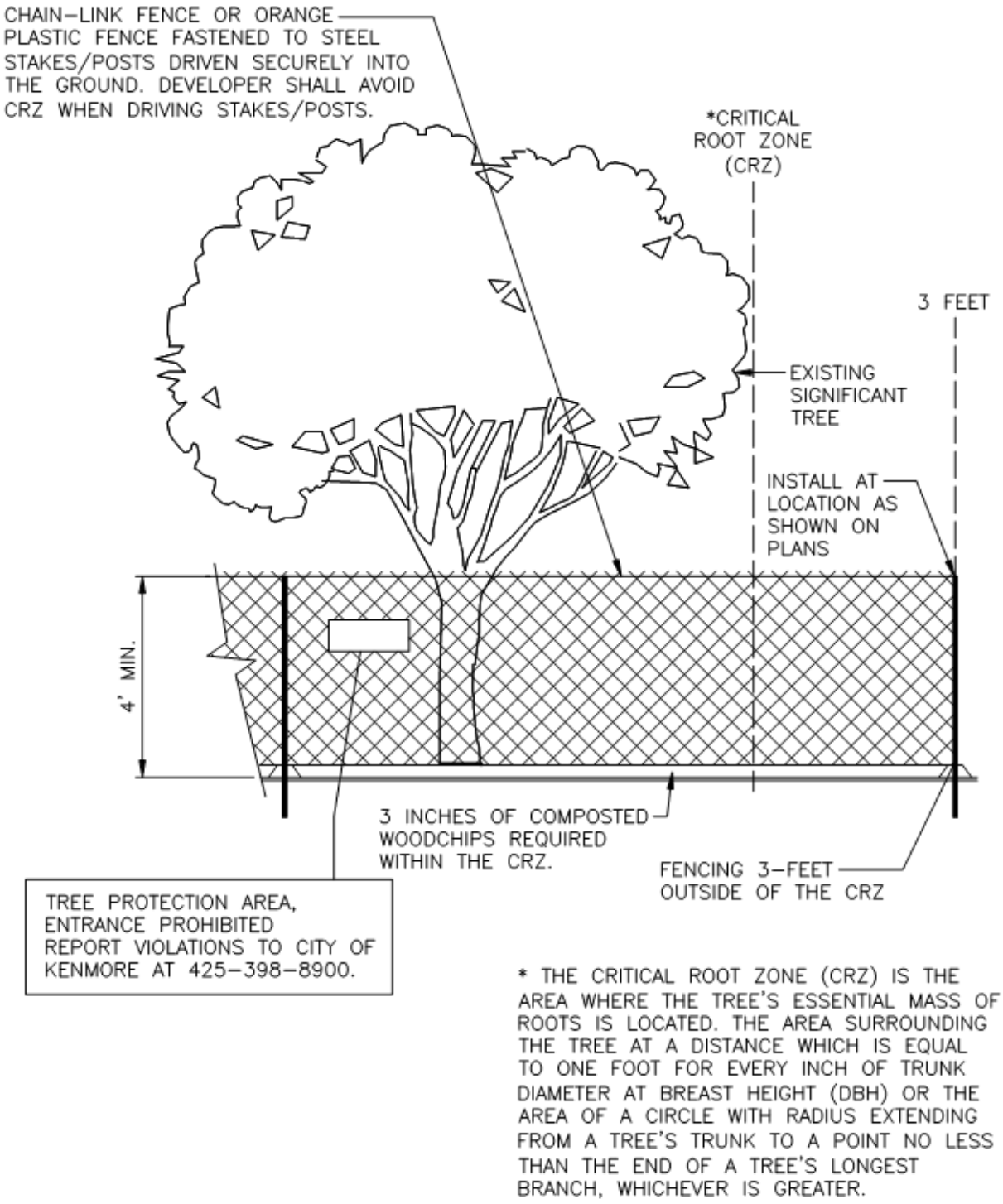
2. The *applicant* shall not install an *impervious surface* within the protective barrier of any *tree* designated to remain without the advance, written authorization of the *city manager*.

3. To the greatest extent practical, utility trenches shall be located outside of the root protection zone of *trees* to be retained. Boring or tunneling under the *CRZ* may be considered an alternative, but shall require the advance, written approval of the *city manager*.

4. *Trees* and other *vegetation* to be retained shall be protected from *erosion* and sedimentation.

F. Additional Requirements. The *city manager* may require additional tree protection measures which are consistent with accepted urban forestry practices.

Figure 18.57.090~~B~~ *Tree Protection Fencing*



18.57.100 Post-construction replacement, financial guarantee and maintenance requirements.

SHARE

A. Replace Damaged, Dead, or Dying *Trees*. Replacement *trees* or *groves* that are damaged or die within a period of three years after planting or transplanting must be replaced in kind at a ratio of one-to-one (1:1) within six months of the *tree*'s death or the date of discovery of the damage. Existing *trees* that are damaged or die within a period of three years after completion of construction activities and as a cause of construction activities as determined by a *qualified tree protection professional* shall be replaced in kind at a ratio of three ~~two~~-to-one (3:1) or to restore the number of tree units lost, whichever is greater, within six months of the *tree*'s death or date of discovery of the damage.

B. Replacement *Tree* Quality. Replacement *trees* shall conform to the American Standards for Nursery Stock, ANSI.

C. *Tree* Maintenance. All *trees* shall be maintained in accordance with International Society of Arboriculture guidelines and standards.

D. *Financial Guarantee* Required. A *financial guarantee* as defined and regulated under KMC Title 21 shall be required as a mechanism to cover any potential cost associated with replacing dead or dying replacement or existing *trees* required to satisfy tree unit requirements per this section.

1. A *financial guarantee* shall be required for all plans requiring 15 or more tree units.

2. Calculation of the amount of the *financial guarantee* shall be computed based upon equivalent tree replacement value for all replacement and existing *trees* on the property as determined by a *qualified tree protection professional* and approved by the *city manager*. ~~using the most recent edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, in collaboration with the Council of Tree and Landscape Appraisers. Fair market value shall be posted. Fair market value includes the value of the *tree(s)*, installation, and maintenance until establishment that would be required to compensate for the *trees* that could be lost.~~

3. The *financial guarantee* period for maintenance shall be three years~~, plus an additional 60 days~~.

4. *Financial guarantees* shall be required consistent with the provisions of KMC Title 21. This time period may be extended to one year by the *city manager*, if necessary to cover a planting and growing season.

~~4. Release of *Financial Guarantee*.~~

~~a. Upon successful tree replacement and establishment as determined by the written approval of the *City* and consistent with Chapter 21.15 KMC, the *financial guarantee* required by this section shall be released.~~

~~b. The *City*, in its discretion, may release a *financial guarantee* under this section when fee simple title is transferred. The *City* may condition the release of the existing *financial guarantee* upon establishment of a new *financial guarantee* by the new owner in fee simple. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]~~

18.57.110 Penalties, enforcement.

A. Civil Penalty. Any violation of any provision of this chapter constitutes a civil violation under Chapter 1.15 KMC, and is subject to the enforcement procedures of Chapter 1.20 KMC; provided, however, that an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, who removes any *tree* in violation of this chapter shall be assessed the following civil penalty:

An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, removing a *tree* in violation of this chapter shall be assessed a monetary penalty of up to $2,000 per inch ~~in *diameter at breast height* (~~d.b.h.~~)~~ of the *tree* removed. For example, the monetary penalty for a 20-inch d.b.h. *tree* removed results in a maximum penalty of $40,000. In no case shall the penalty be reduced to an amount less than $500.00 for each violation found committed. The extent of the penalty shall be determined by the *city manager* in consideration of reasonable factors. Monetary penalties shall increase with each violation. The *city manager* is authorized to adopt ~~polices~~policies setting forth the reasonable factors for consideration under this subsection. This section shall not apply to the removal of exceptional trees, which penalties are set forth in KMC 18.57.063.

B. Criminal Penalty. In addition to or as an alternative to incurring civil liability under this section, an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, who violates any provisions of this chapter shall be guilty of a misdemeanor and subject to the criminal penalties set forth in Chapter 1.15 KMC, and shall be subject to the procedures of the *City*'s criminal code, KMC Title 9.

C. Separate Offense. Every individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, violating any provision of this chapter is guilty of a separate offense for each and every day during any portion of which the violation is committed, continued or permitted by any such individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

EXHIBIT A TO ORD. 23-0597

I. Chapter 15.25 of the Kenmore Municipal Code (KMC) is amended to read as follows:

A. KMC 15.25.030 is amended to read as follows:

15.25.030 Definitions.
Certain words and phrases used in this chapter, unless otherwise clearly indicated by their context, mean as follows:

A. "Applicant" means a person who files an application for a permit under this chapter and who is either the owner of the land on which that proposed activity would be conducted, a contract purchaser, or the authorized agent of such a person.

B. "Bench" means a relatively level step excavated or constructed on the face of a graded *slope* surface for drainage and maintenance purposes.

C. "City manager" means the City of Kenmore city manager or his or her designee(s).

D. "Clearing" means the cutting or *removal* of *vegetation* or other organic plant material by physical, mechanical, chemical or any other means.

E. "Department" means the *department* designated by the *city manager* to administer this chapter.

F. "Diameter at breast height" means a *tree*'s diameter in inches at four and one-half feet above the ground. On multiple stemmed or trunked *trees*, the diameter shall be the sum of diameters of all individual stems or trunks.

G. "Director" means the director of the *department* designated by the *city manager* to administer this chapter.

H. "Earth material" means any rock, natural soil or any combination thereof.

I. "Erosion" means the wearing away of the ground surface as the result of the movement of wind, water and/or ice.

J. "Excavation" means the *removal* of *earth material*.

K. "Exceptional tree" means a tree which because of its unique combination of size, species, and age is worthy of long-term retention for the purposes and values set forth in KMC 18.57.015, and that has been determined to constitute an important community resource and may not be *removed* or damaged.

1. All healthy specimens of *tree* species in Table 1 are *exceptional trees* if they have a diameter at breast height (d.b.h.) equal to or greater than that listed for the respective species. For *trees* with multiple with multiple leaders at four and one-half feet above the ground, the d.b.h. shall be the combined cumulative total of branches greater than six inches diameter at four and one-half feet above the ground. For *trees* that have been removed and whereas only the stump remains, the size of the *tree* shall be measured from the diameter of the top of the stump.
2. Any healthy *tree* with a d.b.h. of 48 inches or greater is an *exceptional tree* except those in Table 2 that are never considered exceptional.

Jim Howard: Change the defintion of an exceptional tree. Update KMC 15.25.030 k (2) to replace 48" with 24" or 30" d.b.h.

Why? There are no non-native trees in Kenmore that are larger than 48". A smaller d.b.h. is appropriate for non-native trees

Staff Recommendation: The exceptional tree ordinance was recently adopted by Council. Based on feedback from the development community, including anticipated negative impacts to density, staff does not recommend changing the definition to include smaller trees.

Table 1. Exceptional Tree Species and Required Diameters at Breast Height

Tree Species (Common Name)	Scientific Name	Threshold DBH (in inches)
Bigleaf Maple	*Acer macrophyllum*	42″
Douglas Fir	*Pseudotsuga menziesii*	30″
Grand Fir	*Abies grandis*	24″
Madrona	*Arbutus menziesii*	12″
Oregon Ash	*Fraxinus latifolia*	24″
Oregon White Oak	*Quercus garryana*	24″
Pacific Dogwood	*Cornus nuttallii*	24″
Pine (any species)	*Pinus* family	30″
Sitka Spruce	*Picea sitchensis*	24″
Western Hemlock	*Tsuga heterophylla*	24″

Western Red Cedar	*Thuja plicata*	30”
Willow (any species)	*Salix* family	24”

Table 2. Tree Species That Are Not Exceptional Trees

Tree Species (Common Name)	**Scientific Name**
Alder (any species)	*Alnus* family
Black Cottonwood	*Populus trichocarpa*
English Holly	*Ilex aquifolium*
Leyland Cypress	*Cupressus × leylandii*

L. “Fill” means a deposit of *earth material* placed by mechanical means.

M. “Grade” means the elevation of the ground surface.

1. “Existing grade” means the *grade* prior to *grading*.

2. “Rough grade” means the stage at which the *grade* approximately conforms to the approved plan.

3. “Finish grade” means the final *grade* of the *site* which conforms to the approved plan.

N. “Grading” means any excavating, filling, removing of the duff layer, or combination thereof.

O. “Hazard tree” means any *tree* that has a high probability of failure due to any structural defect, disease or damage or combination of defect, disease or damage. A “high probability of failure” means falling and causing damage to persons or property. A “hazard tree” includes, but is not limited to, any isolated *tree(s)* that have a high probability of failure due to low *wind-firmness* in post-construction conditions as determined by a *qualified tree protection professional*.

P. “Impervious surface” means a nonvegetated surface which either prevents or retards the entry of water into the soil mantle under natural conditions prior to development, and/or which causes water to run off the surface in greater quantities or at a rate of flow greater than the flow under natural conditions prior to development. Common *impervious surfaces* include, but are not limited to, roofs, walkways, patios, driveways, parking lots, storage areas, paved areas, gravel areas, areas of packed or oiled earthen materials or other surfaces which similarly impede the natural infiltration of surface and *stormwater*. Open uncovered flow control or water quality treatment facilities shall not be considered as *impervious surfaces* for the purposes of determining whether thresholds for the application of minimum requirements are exceeded, but shall be considered *impervious surfaces* for the purposes of runoff modeling.

Q. “Land alteration” means any alteration to the surface of the land or the surface drainage including improvements to a storm water tract. *Land alterations* include but are not limited to: *excavations*, *fills*, *clearing*, *grading*, and *tree removal* or any combination thereof; placing or removing *impervious surfaces*, including *structures* and *pavement*; compacting the earth surface;

changing the existing *grade*; or changing the surface so that surface water leaves the *site* differently, including changes to flow path, flow rate, or flow volume.

R. “Native tree” means a tree species native to the Puget Sound lowlands.

~~R~~S. “Removal” with regard to *trees* means the act of removing a *tree* by digging up, cutting down, or causing a *tree* to die within a period of three years from such act.

~~S~~T. “Shorelines” means those lands defined as shorelines in the State Shorelines Management Act of 1971.

~~T~~U. “Significant tree” means an existing healthy *tree* that is not a *hazard tree* and that is at least six inches in *diameter at breast height* (d.b.h.) as measured at four and one-half feet (54 inches) above the ground. For *trees* with multiple leaders at four and one-half feet above the ground, the d.b.h. shall be the combined cumulative total of branches greater than six inches diameter at four and one-half feet above the ground. For *trees* that have been removed and whereas only the stump remains, the size of the *tree* shall be measured from the diameter of the top of the stump. Replacement trees required as mitigation for removed exceptional trees are considered significant trees, regardless of size.

~~U~~V. “Site” means any lot or parcel of land or contiguous combination thereof where projects covered by this chapter are performed or permitted.

~~V~~W. “Slope” means an inclined ground surface, the inclination of which is expressed as a ratio of vertical distance to horizontal distance.

~~W~~X. “Storm drain system” means a system of gutters, pipes, or ditches used to carry surface and *stormwater* from the surrounding lands to drainage facilities, critical areas, streams or lakes.

~~X~~Y. “Stormwater” means water originating from rainfall and other precipitation that ultimately flows into drainage facilities, rivers, streams, lakes and wetlands. As applied in this chapter, *stormwater* is synonymous with the term “surface water.”

~~Y~~Z. “Structure” means anything permanently constructed in or on the ground, or over the water, and excluding fences eight feet or less in height, decks less than 18 inches above *grade*, paved areas, and structural or nonstructural *fill*.

~~Z~~AA. “Terrace” means a relatively level step excavated or constructed on the face of a graded *slope* surface for drainage and maintenance purposes.

~~AA~~BB. “Tree” means a self-supporting woody perennial plant characterized by one main stem or trunk of at least six inches diameter at breast height, or a multiple stemmed or trunk system

with a definite crown, maturing at a height of at least 12 feet above ground level.
The *department* shall determine whether any specific woody plant shall be considered a *tree*.

~~B~~BCC. "Vegetation" means any and all organic plant life growing at, below, or above the soil surface. [Ord. 22-0547 § 2 (Exh. A); Ord. 16-0428 § 11 (Att. G); Ord. 12-0345 § 3 (Exh. A).]

B. KMC 15.25 is amended as follows:

~~15.25.070 Permit required – Exception.~~

~~No *land alteration* shall be performed without first having obtained a permit therefor from the City. Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of the City. Even if a permit is required, best management practices must be utilized to limit *erosion* and sedimentation. Permits shall not be required for the following:~~

~~A. *Grading*.~~

~~1. *Excavation* for construction of a *structure* authorized by a valid building permit;~~

~~2. *Excavations* for trenches for utilities not within critical areas, shorelines or associated buffer;~~

~~3. Exploratory *excavations* performed under the direction of a registered design professional; provided, that any disturbance of the area shall be the minimum necessary to carry out the work or studies and the disturbed area shall be immediately restored; and~~

~~4. *Excavation* or *fill* less than four feet in vertical depth not involving more than 100 cubic yards of earth or other material on a single *site* and not within critical areas, shorelines or associated buffers;~~

~~B. *Clearing* and *Tree Removal*.~~

~~1. *Clearing* and *removal* of *trees* for the construction of a *structure* authorized by a valid building permit;~~

~~2. *Removal* of *significant trees* requires a permit filed by the owner of real property within the City on forms provided by the department for review and approval prior to removing the *tree*. The city manager may approve, deny, or approve with conditions an application for *tree removal*. The decision shall be based on the following approval criteria:~~

~~a. The *tree(s)* proposed for *removal* is on a lot containing an existing single-family detached dwelling unit;~~

~~b. The *tree(s)* proposed for *removal* is not located within critical areas or associated buffers, shorelines or associated buffers, native growth protection areas, or wildlife protection zones;~~

~~c. The *tree(s)* proposed for *removal* has not been previously designated for protection (e.g., as part of a plat); and~~

~~d. The *tree(s)* proposed for *removal* complies with the yearly *tree removal* maximum allowances table shown below:~~

~~Lots up to 10,000 sq. ft.:~~	~~2 *trees* per year~~
~~Lots 10,001 sq. ft. to 20,000 sq. ft.:~~	~~4 *trees* per year~~
~~Lots 20,001 sq. ft. to 30,000 sq. ft.:~~	~~6 *trees* per year~~
~~Lots 30,000 sq. ft. and greater:~~	~~8 *trees* per year~~

~~3. *Clearing* by a public agency, franchise utility or public or private golf course for routine maintenance activities;~~

~~4. Minor stream restoration projects for fish habitat enhancement pursuant to a Washington State Joint Aquatic Resource Permit Application (JARPA);~~

~~5. Normal and routine maintenance of existing lawns and landscaping; and~~

~~6. *Removal* of noxious weeds. *Removal* of noxious weeds from critical areas, shorelines or associated buffers shall be subject to the requirements of KMC Title 16 and Chapter 18.55 KMC;~~

~~C. Engineering.~~

~~1. Less than 2,000 square feet of replaced *impervious surface* or new plus replaced *impervious surface* that is not within critical areas or associated buffers; and~~

~~2. *Land alterations* that are exempt from a *grading* permit and that do not alter the method by which the *stormwater* leaves the *site*. [Ord. 22-0547 § 2 (Exh. A); Ord. 16-0428 § 11 (Att. G); Ord. 12-0345 § 3 (Exh. A).]~~

15.25.070 Permit required – Tree Removal.

A. Exceptional trees may be *removed* only as described in KMC 18.57.065.B.

B. *Removal* of *significant trees* requires a permit filed by the owner of real property within the City on forms provided by the department for review and approval prior to removing the *tree*. The *city manager* may approve, deny, or approve with conditions an application for *tree removal*. As a standard condition of the permit, a minimum of one (1) *native tree* is required to replace each tree removed unless the *tree* is hazardous or the fee-in-lieu option described in KMC 18.57.080(D)(2) is approved by the *city manager*. Replacement trees shall not be Alder (any species), Black Cottonwood, English Holly, or Leyland Cypress.

1. The decision shall be based on the following approval criteria:

a. The *tree(s)* proposed for *removal* is on a lot containing an existing single-family detached dwelling unit;

b. The *tree(s)* proposed for *removal* is not located within critical areas or associated buffers, shorelines or associated buffers, native growth protection areas, or wildlife protection zones;

c. The *tree(s)* proposed for *removal* has not been previously designated for protection (e.g., as part of a plat);

d. The *tree(s)* proposed for *removal* complies with the yearly *tree removal* maximum: One (1) *significant tree* per year (applies to all lot sizes). Limited exceptions may be considered by the *city manager*. For example, if trees grow together (e.g., shared root system and/or canopy) and whereas the removal of one *tree* would cause the death of another, as determined by a *qualified tree protection professional*, an exception may be granted by the *city manager* to allow removal of more than one tree. In such a case, replacement would be required at a ratio of one-to-one (1:1). For example, if two trees are removed, two *native* replacement trees would be required.

Master Builders: We recommend retaining the current yearly allowances for tree removal.

Why? This presents a noteworthy hurdle, especially when it comes to the construction of Accessory Dwelling Units (ADUs) and middle housing. These types of housing play a vital role in expanding affordable housing choices and enhancing residential area density. The strict regulations on tree removal do not adequately consider the specific space and landscaping needs of ADUs and middle housing, which are essential for accommodating the growing population and broadening the range of available housing options.

Staff Recommendation: Council to discuss at study session.

15.25.075 Permit required – Exception.

No *land alteration* shall be performed without first having obtained a permit therefor from the City. Exemptions from permit requirements of this chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of the City. Even if a permit is required, best management practices must be utilized to limit *erosion* and sedimentation.

A. *Grading*.

1. *Excavation* for construction of a *structure* authorized by a valid building permit;

2. *Excavations* for trenches for utilities not within critical areas, shorelines or associated buffers;

3. Exploratory *excavations* performed under the direction of a registered design professional; provided, that any disturbance of the area shall be the minimum necessary to carry out the work or studies and the disturbed area shall be immediately restored; and

4. *Excavation* or *fill* less than four feet in vertical depth not involving more than 100 cubic yards of earth or other material on a single *site* and not within critical areas, shorelines or associated buffers;

5. ~~*Clearing*~~ *Tree removal* by a public agency, franchise utility or public or private golf course for routine maintenance activities;

6. Minor stream restoration projects for fish habitat enhancement pursuant to a Washington State Joint Aquatic Resource Permit Application (JARPA);

7. Normal and routine maintenance of existing lawns and landscaping; ~~and~~

8. *Removal* of noxious weeds. *Removal* of noxious weeds from critical areas, shorelines or associated buffers shall be subject to the requirements of KMC Title 16 and Chapter 18.55 KMC; and

9. *Removal* of *tree(s)* necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the presence of *significant tree(s)* is denied to the subject property. Exceptions under this subsection shall be construed narrowly. The applicant must apply for and meet the variance criteria of KMC 18.115.030 to qualify for this exemption. Exemptions under this subsection shall be processed as a Type 1 land use decision.

C. Engineering.

1. Less than 2,000 square feet of replaced *impervious surface* or new plus replaced *impervious surface* that is not within critical areas or associated buffers; and

2. *Land alterations* that are exempt from a *grading* permit and that do not alter the method by which the *stormwater* leaves the *site*. [Ord. 22-0547 § 2 (Exh. A); Ord. 16-0428 § 11 (Att. G); Ord. 12-0345 § 3 (Exh. A).]

EXHIBIT B TO ORD. 23-0597

I. Chapter 18.20 of the Kenmore Municipal Code is amended to read as follows:

A. Chapter 18.20 KMC is amended by adding a new KMC 18.20.3086, "Tree, native" to read as follows:

18.20.3086 Tree, native.

"Tree, native" means a tree species native to the Puget Sound lowlands.

II. Chapter 18.21 of the Kenmore Municipal Code is amended to read as follows:

Chapter 18.21
RESIDENTIAL ZONES

Sections:

18.21.020 Residential zones R-1, R-4 and R-6 – Use allowances.
18.21.030 Residential zones R-1, R-4 and R-6 – Development standards.
18.21.040 Residential zones R-12, R-18 and R-24 – Use allowances.
18.21.045 Residential zone MHC – Use allowances.
18.21.050 Residential zones R-12, R-18, R-24, R-48, and MHC – Development standards.
18.21.055 MHC zoning exception.
18.21.060 Nonresidential land uses in residential zones.
18.21.070 Personal service, eating and drinking place and retail sales uses in R-4 through R-24 zones.
18.21.073 Accessory uses.
18.21.075 Drive-through service.
18.21.078 Outdoor storage.
18.21.080 Wireless communication facilities.

18.21.030 Residential zones R-1, R-4 and R-6 – Development standards.

The following zone-specific development standards in Table B apply in the R-1, R-4 and R-6 residential zones:

Table B. R-1, R-4 and R-6 Residential Zones Development Standards

STANDARDS	ZONES	R-1[1]	R-4	R-6
Base Density: *Dwelling Unit*/Acre[2]		1 du/ac	4 du/ac[3]	6 du/ac
Maximum Density: *Dwelling Unit*/Acre[4]			6 du/ac	9 du/ac
Minimum Density				
Minimum Lot Width[6]		35 ft.[7]	30 ft.	30 ft.
Minimum *Street Setback*		20 ft.[7]	15 ft.[8,9]	15 ft.[8,9]
Minimum Side *Setback*[5,10]		5 ft.[7]	15 ft. total[11]	15 ft. total[11]
Minimum Rear *Setback*[5,10]		5 ft.[7]	20 ft.	20 ft.
Maximum Height[12]		35 ft.	35 ft.	35 ft. 45 ft.[13]
Base *Impervious Surface*: Percentage		30%	45%	60%
Maximum *Impervious Surface*: Percentage[14]		30%[15]	55%	70%
Minimum Lot Size		2,500 sq. ft.	7,200 sq. ft.[16,17]	5,400 sq. ft.[16,17]

[1] a. All subdivisions and short subdivisions in the R-1 zone shall be required to be *clustered* when the property is located within or contains:

(1) A *floodplain*;

(2) A regionally or locally significant resource area;

(3) Existing or planned public *parks* or *trails*, or connections to such facilities;

(4) A Category I or II *wetland* or Type S or F *stream*;

(5) A “greenbelt/urban separator” or “wildlife corridor” area designated by the comprehensive plan.

b. The *development* shall be *clustered* away from *critical areas* or corridors such as urban separators or the wildlife habitat network to the extent possible and the *open space* shall be placed in a separate tract that includes at least 50 percent of the *site*. *Open space* tracts shall be permanent and meet the provisions of KMC 17.20.130.

[2] Density applies only to *dwelling units* and not to sleeping units.

[3] *Manufactured housing communities* shall be allowed a base density of six *dwelling units* per acre.

[4] This maximum density may be achieved only through the application of residential density incentives pursuant to Chapter 18.80 KMC or *transfers of density credits*, or any combination of density incentive or density transfer. Maximum density may only be exceeded pursuant to KMC 18.80.040(E)(1)(f).

[5] These standards may be modified under the provisions for *zero-lot-line developments*.

[6] The *building envelope* is determined through meeting minimum lot size and minimum lot width measurement requirements (KMC 18.30.110).

[7] The standards of the R-4 zone shall apply if a *lot* is less than 15,000 square feet in area.

[8] If *development* provides *alleys* or consists of *townhouses*, then the *street setback* may equal 10 feet.

[9] At least 20 linear feet of driveway shall be provided between any garage, carport or other fenced parking area and the *street* property line. The linear distance shall be measured along the centerline of the driveway from the access point to such garage, carport or fenced area to the *street* property line.

[10] Vehicle access points from garages, carports or fenced parking areas shall be set back from the property line on which a *joint use driveway* is located to provide a straight line length of at least 26 feet as measured from the centerline of the garage, carport or fenced parking area, from the access point to the opposite side of the *joint use driveway*.

[11] Any side yard shall equal a minimum of five feet but the two side yards combined must equal a minimum of 15 feet.

[12] Reserved.

[13] The maximum height of 45 feet to be used only for projects as follows:

a. In R-6 zones, a *building* with a footprint built on slopes exceeding a 15 percent finished grade.

[14] Applies to each individual *lot*. *Impervious surface* area standards for:

a. Regional *uses* shall be established at the time of permit review;

b. Nonresidential *uses* in residential zones shall comply with KMC 18.21.060 and 18.30.170;

c. Individual *lots* in the R-4 through R-6 zones which are less than 9,076 square feet in area shall be subject to the applicable provisions of the nearest comparable R-6 zone;

d. *Lots* may be increased beyond the total amount permitted in this chapter subject to approval of a *conditional use permit*;

e. The base *impervious surface* percentage may be exceeded, up to the maximum *impervious surface* percentage, provided low impact development strategies are implemented subject to approval by the *city manager.*

[15] *Lots* smaller than one-half acre in area shall comply with standards of the nearest comparable R-4 through R-6 zone. For *lots* that are one-half acre in area or larger, the maximum *impervious surface* area allowed shall be at least 10,000 square feet. On any *lot* over one acre in area, an additional five percent of the lot area may be used for *buildings* related to agricultural or forestry practices. For *lots* smaller than two acres but larger than one-half acre, an additional 10 percent of the lot area may be used for *structures* which are determined to be medically necessary, provided the *applicant* submits with the permit application a notarized affidavit, conforming with the requirements of KMC 18.100.170(A)(2).

[16] For properties with *critical areas* or topographic constraints, or where *exceptional trees* are retained, up to 20 percent of the number of *lots* in a subdivision or a short subdivision of more than four *lots*, and one of the *lots* in a short plat of four *lots* or less, may contain an area less than the prescribed minimum for this zoning district. In no case shall any *lots* be created which contain an area more than 10 percent less than the prescribed minimum for this zoning district. These smaller *lots* shall be located so as to have the least impact on surrounding properties in terms of consistency of *street frontages* and privacy of abutting properties.

[17] This excludes any area required for public or *private streets*, access easements, access tracts, and access panhandles.

III. Chapter 18.35 of the Kenmore Municipal Code is amended to read as follows:

Chapter 18.35
DEVELOPMENT STANDARDS - LANDSCAPING

Sections:

18.35.010 Purpose.
18.35.020 Application.
18.35.030 Land use grouping.
18.35.040 Landscaping – Screen types and description.
18.35.045 Landscaping – General requirements.
18.35.050 Landscaping – Street trees for single-family subdivisions.
18.35.060 *Repealed.*
18.35.070 Landscaping – Surface parking areas.
18.35.080 Landscaping – General standards for all landscape areas.
18.35.090 Landscaping – Additional standards for required landscape areas.
18.35.100 Landscaping – Alternative options.
18.35.110 Landscaping – Plan design, design review, and installation.
18.35.120 Maintenance.
18.35.130 Financial guarantees.

18.35.010 Purpose.

The purpose of this chapter is to preserve the aesthetic character of communities; to improve the aesthetic quality of the built environment; to promote retention and protection of existing *vegetation and trees*; to promote water efficiency; to promote native wildlife; to reduce the impacts of *development* on drainage systems and natural habitats; and to increase privacy for residential zones by:

A. Providing visual relief from large expanses of parking areas and reduction of perceived *building* scale;

B. Providing physical separation between residential and nonresidential areas;

C. Providing visual screens and barriers as a transition between differing land *uses*;

D. Retaining existing *vegetation* and *significant trees* by incorporating them into the site design;

E. Providing increased areas of permeable surfaces to allow for:

1. Infiltration of surface water into groundwater resources;

2. Reduction in the quantity of stormwater discharge; and

3. Improvement in the quality of stormwater discharge;

F. Encouraging the use of native plant species by their retention or use in the landscape design;

G. Encouraging the use of a diversity of plant species which promote native wildlife habitat. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.020 Application.

Except for *wireless communication facilities* regulated pursuant to Chapter 18.60 KMC, all new *development* shall be subject to the *landscaping* provisions of this chapter; provided, that specific *landscaping* and *tree* retention provisions for *uses* established through a *conditional use permit* or *special use permit* shall be determined during the applicable review process. [Ord. 16-0426 § 7 (Att. E); Ord. 11-0329 § 3 (Exh. 1).]

18.35.030 Land use grouping.

To facilitate the application of this chapter, land *uses* have been grouped in the following manner:

A. "Residential *development*" refers to *residential land uses*.

~~B. "Attached/group residences" refers to:~~

~~1. *Multiple-family dwellings*, except as provided in subsection (C)(1) of this section;~~

~~2. *Single detached dwelling units* developed on common property at a density of 12 or more units per acre;~~

~~3. *Supportive living facilities*;~~

~~4. *Temporary lodging*;~~

~~5. *Adult family homes*; and~~

~~6. *Manufactured housing communities*.~~

~~C. "Single-family *development*" refers to:~~

~~1. Residential subdivisions and short subdivisions, including attached and detached *dwelling units* on individually platted or short platted *lots*;~~

~~2. Any detached *dwelling units* located on a *lot*;~~

~~3. *Family child-care homes*; and~~

~~4. Type I *community residential facilities*.~~

B. "Commercial *development*" refers to:

1. *Recreational/cultural land uses*, except library, museum, *park* and *trail*;

2. *General services land uses*, except recycling centers, *health care and social assistance*, *hospital*, *laboratory*, *educational service*, *day care* I, and *religious institution*; and

3. *Retail land uses.*

4. Regional land uses.

C. "Industrial *development*" refers to:

1. *Government/business services land uses*, except *public agency* or *utility office*; *public agency or utility yard*; *public agency archive*; court; *fire or police facility*; *utility facility*; *commuter parking lot*; *private stormwater management facility*; and *vactor waste receiving facility*;

2. *Manufacturing land uses*; and

3. Mineral extraction and processing.

D. "Institutional *development*" refers to:

1. Library, museum and *conference center*;

2. *Religious institution*, *hospital*, *health care and social assistance*, *ambulatory surgery center*, *laboratory*, and *educational service*; and

3. *Public agency or utility office*; *public agency or utility yard*; *public agency archive*; court; *fire or police facility*; *commuter parking lot*; *private stormwater management facility*; and *vactor waste receiving facility*.

E. "Utility *development*" refers to *utility facility*, except *private stormwater management facility* and *vactor waste receiving facility.*

F. *Uses* that are not listed in this section shall not be subject to *landscaping* requirements except as specified in any applicable review of a *conditional use, site plan review,* or *special use permit*. [Ord. 19-0481 § 2 (Exh. A); Ord. 17-0438 § 2 (Att. A); Ord. 14-0391 § 2 (Exh. 1); Ord. 11-0329 § 3 (Exh. 1).]

18.35.040 Landscaping – Screen types and description.

The three types of *landscaping* screens are described ~~and applied as follows:~~ below. For each of these types, retention of existing *significant trees* is required unless otherwise approved pursuant to KMC 18.35.040(C)(3).

A. Type I *Landscaping* Screen.

1. Type I *landscaping* is a "full screen" that functions as a visual barrier.

2. Type I *landscaping* shall minimally consist of:

a. A mix of primarily *evergreen trees* and shrubs generally interspersed throughout the landscape strip and spaced to form a continuous screen;

b. Between 70 and 90 percent *evergreen trees*;

c. *Trees* provided at the rate of one per 10 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. *Evergreen* shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090;

3. Landscape-based stormwater management facilities are permitted within Type I *landscaping* screen areas; provided, that the screening objectives in subsections (A)(1) and (2) of this section are achieved.

B. Type II *Landscaping* Screen.

1. Type II *landscaping* is a "filtered screen" that functions as a visual separator.

2. Type II *landscaping* shall minimally consist of:

a. A mix of *evergreen* and *deciduous trees* and shrubs generally interspersed throughout the landscape strip spaced to create a filtered screen;

b. At least 50 percent *deciduous trees* and at least 30 percent *evergreen trees*;

c. *Trees* provided at the rate of one per 20 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090;

3. Landscape-based stormwater management facilities are permitted within Type II *landscaping* screen areas; provided, that the screening objectives in subsections (B)(1) and (2) of this section are achieved.

C. Type III *Landscaping* Screen.

1. Type III *landscaping* is a "see-through screen" that functions as a partial visual separator to soften the appearance of parking areas and building elevations.

2. Type III *landscaping* shall minimally consist of:

a. A mix of *evergreen* and *deciduous trees* generally interspersed throughout the landscape strip and spaced to create a continuous canopy;

b. At least 70 percent *deciduous trees*;

c. *Trees* provided at the rate of one per 25 linear feet of landscape strip and spaced no more than 30 feet apart on center;

d. Shrubs provided at the rate of one per four linear feet of landscape strip and spaced no more than eight feet apart on center; and

e. Ground cover pursuant to KMC 18.35.090.

3. *Removal* of *tree(s)* may be permitted for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the presence of *significant tree(s)* is denied to the subject property. Exceptions under this subsection shall be construed narrowly. The applicant must apply for and meet the variance criteria of KMC 18.115.030 to qualify under this subsection. Exceptions under this subsection shall be processed as a Type 1 land use decision.

WA Dept of Fish and Wildlife: WDFW does not recommend adding code language to allow tree removal "for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the presence of significant trees is denied to the subject property" because the addition of this policy could lead to an overuse of exception and have a negative ipmact on ecosystem services and wildlife habitat. If this code language remains, tighter additional language may be warranred to further limit the use of this item. For example, maximum percentages could be included (sq footage of lot would dictate percentage of trees to be removed), mitigation requirements should be clearly outlined (no net loss is still required by state law), and a possible reduction in impervious surfaces to off-set tree removal could be required (a certain number of trees can be removed depending on the percentage of impervious surfaces removed). (also applicable to KMC 15.25.070(B))

Staff Recommendation: Council to discuss at study session.

~~3~~4. Landscape-based stormwater management facilities are permitted within Type III landscaping screen areas; provided, that the screening objectives in subsections (C)(1) and (2) of this section are achieved. [Ord. 16-0428 § 13 (Att. I); Ord. 11-0329 § 3 (Exh. 1).]

18.35.045 Landscaping – General requirements.

Use as described in KMC 18.35.030	Street frontage perimeter landscaping (average width)~~39~~	Interior lot line perimeter landscaping (average width)~~7~~4~~4~~	Surface parking lots of 10 or more stalls
Residential development~~1~~	10' Type III~~8~~	~~5' Type II~~~~8~~ 10' Type II within the rear *setback*~~11~~	20 sq. ft. per stall in common parking areas.
Commercial development~~2~~	10' Type III	20' Type I~~4~~4~~10~~	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.
Industrial development~~3~~	10' Type II	10' Type II~~5~~5~~12~~ 20' Type I~~4~~4~~10~~	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.
Institutional development~~4~~	20' Type II~~16~~	10' Type II	20 sq. ft. per stall if 10 – 30 stalls provided;

Use as described in KMC 18.35.030	**Street frontage perimeter landscaping (average width)**[39]	**Interior lot line perimeter landscaping (average width)**[714]	**Surface parking lots of 10 or more stalls**
			25 sq. ft. per stall if 31 or more stalls provided.
Utility development[5]	10' Type II[27]	10' Type II[613]	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.

[1] ~~As described in KMC 18.35.030(A).~~

[2] ~~As described in KMC 18.35.030(D).~~

[3] ~~As described in KMC 18.35.030(E).~~

[4] ~~As described in KMC 18.35.030(F).~~

[5] ~~As described in KMC 18.35.030(G).~~

[16] Excluding playgrounds and playfields.

[27] For an above-ground *utility facilities development* only, excluding distribution and transmission corridors.

[8] ~~Only for attached/group residence *development* as described in KMC 18.35.030(B).~~

[39] For all zones except the DC and DR zones. In the CB zone, where *street frontage setbacks* are required, the area within the *setback* must contain Type II *landscaping*.

[410] Along any portion adjacent to a single-family residential *development.* ~~as described in KMC 18.35.030(A).~~

[11] ~~Along portions of an attached/group residence *development* as described in KMC 18.35.030(B) adjacent to property developed with single detached residences or vacant property that is zoned R-1 through R-6.~~

[512] Along any portion adjacent to a commercial or institutional *development*. ~~as described in KMC 18.35.030(D) and (F).~~

[613] Excluding distribution or transmission corridors.

[714] In the DC zone, where interior *setbacks* are required and/or provided, *setbacks* shall be landscaped with Type II *landscaping*. In the CB zone, where interior *setbacks* are required and/or provided, *setbacks* shall be landscaped with Type II *landscaping*.

[Ord. 11-0329 § 3 (Exh. 1).]

18.35.050 Landscaping – Street trees for single-family subdivisions.

For short subdivisions and subdivisions Kenmore Road Standards (KRS) Section 8.12 shall apply to landscaping street trees.

~~A. Trees shall be planted at the rate of one tree for every 40 feet of frontage along a neighborhood collector *street* or arterial *street*. Native vegetation cultivars are preferred;~~

~~B. The trees shall be:~~

~~1. Located within the street right-of-way if permitted by the *City*;~~

~~2. No more than 20 feet from the street right-of-way line if located within a *lot*;~~

~~3. Maintained by the adjacent landowner unless part of a *City* maintenance program; and~~

~~4. A species approved by the *City* if located within the street right-of-way and compatible with overhead utility lines;~~

~~C. The trees may be spaced at irregular intervals to accommodate sight distance requirements for driveways and intersections. [Ord. 16-0428 § 13 (Att. I); Ord. 11-0329 § 3 (Exh. 1).]~~

18.35.060 Landscaping along the Burke-Gilman public trail.

Repealed by Ord. 14-0391. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.070 Landscaping – Surface parking areas.

A. *Trees* shall be provided and distributed throughout the parking area at a rate of:

1. One *tree* for every three parking stalls for a commercial or industrial *development*; and

2. One *tree* for every five parking stalls for residential or institutional *development*;

B. The maximum distance between any parking stall and *landscaping* shall be no more than 100 feet;

C. Permanent curbs or structural barriers shall be provided to protect the plantings from vehicle overhang;

D. Landscaping around the perimeter of a *site* that is in addition to the perimeter *landscaping* required by KMC 18.35.045 may count toward 10 percent of the required surface parking area *landscaping* in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street (see subsection F of this section), if it is adjacent to the parking area;

E. Parking area *landscaping* shall consist of:

1. Canopy-type *deciduous trees*, *evergreen trees*, *evergreen* shrubs and ground covers planted in islands or strips. Native vegetation cultivars are preferred;

2. Internal parking lot *landscaping* shall be configured as landscape-based stormwater management feature unless infeasible;

3. Shrubs that do not exceed a maintained height of 42 inches;

4. Plantings contained in planting islands or strips having an area of at least 100 square feet and with a minimum dimension of not less than five feet;

5. Ground cover in accordance with KMC 18.35.090; and

6. At least 70 percent of *trees* are deciduous;

F. Standards for perimeter *landscaping* and screening of surface parking lots for the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street, are defined in Chapter 18.52 KMC, Downtown Design Standards. All other landscape requirements for surface parking lot landscaping in this section apply to the DC and DR zones, and RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street. [Ord. 16-0428 § 13 (Att. I); Ord. 14-0391 § 2 (Exh. 1); Ord. 11-0329 § 3 (Exh. 1).]

18.35.080 Landscaping – General standards for all landscape areas.

All new landscape areas proposed for a *development* shall be subject to the following provisions:

A. *Berms* shall not exceed a slope of two horizontal feet to one vertical foot (2:1).

B. All new turf areas, except all-weather, sand-based athletic fields, shall:

1. Be augmented with a two-inch layer of organic material cultivated a minimum of six inches deep; or

2. Have an organic content of five percent or more to a depth of six inches.

Jim Howard: All new tree, shrub and groundcover areas shall:
1. Have minimum 8" depth of imported 3-way mix planting soil consisting of Sandy Loam, Sand and Compost.
2. Have an organic content of five percent or more **to a depth of 24 inches**. Provide soil preparation details and soil test documentation to confirm compliance with this requirement.

You might consider moving this item up to become Item C. This would then follow the turf area soil preparation code requirement and keep soil preparation requirements together.

Additional Comment: Regarding Code item 18.35.080 and soil depths, I know updating our landscape code to include a Seattle or Bellevue Green Factor design calculation may not be possible under the current update to the Exceptional tree ordinance.

Staff Recommendation: Staff take no exception to the recommendation provided.

C. Except as specifically outlined for turf areas in subsection B of this section, 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.

D. Landscape areas, except turf or areas of established *ground cover*, shall be covered with at least two inches of *mulch* to minimize evaporation.

E. Plants having similar water use characteristics shall be grouped together in distinct hydrozones.

F. Plant selection shall consider adaptability to climatic, geologic, and topographical conditions of the *site*. *Native trees* and preservation of existing *vegetation* is encouraged.

G. Landscape areas proposed as stormwater management facilities shall be designed in accordance with the Kenmore stormwater management standards. [Ord. 16-0428 § 13 (Att. I); Ord. 11-0329 § 3 (Exh. 1).]

Jim Howard: I recommend the City update our landscape code to a comprehensive landscape sustainability standard such as defined in City of Bellevue 20.25A.120.A.5 shown below and Enviromental Best Practices https://bellevuewa.gov/city-government/departments/parks/nature-and-environment/policies-best-practices/environmental-best-management-practices. Attached is a COB standard soil detail for soil preparation that requires a minimum 24" depth soil preparation. See attached COB soil preparation detail (attachment is on 12/14/23 email). City of Seattle Green Factor https://www.seattle.gov/sdci/codes/codes-we-enforce-(a-z)/seattle-green-factor and SDCI Directors Rule 11-202 - Rule G Soil and Mulch require minimum 19" depth soil preparation.

Why? Soil is an essential component of healthy plant growth and stormwater management. These are critical components of the Citys Climate Action Plan. Soil ensures healthy long term plant growth and also helps reduce stormwater runoff and improves water quality.

Staff Recommendation: Revising the landscape chapter (KMC 18.35) to model the City of Bellevue's landscape sustainability standards (BMC 20.25A.120.A.5) and Enviromental Best Practicesis Manual would require an overhaul and rewrite of the landscape chapter. This is outside the scope of this project and is could be considered as a future docket item/work plan item. However, minor changes for the purposes of tree preservation could be incorperated since they are consistent with the purpose of the Tier 2 tree regs. Staff support the following changes: 1) Require landscape plans to include a minimum 24" depth soil preparation; 2) Include a standard soil detail for soil preparation (minimum 24" depth soil preparation). This could be added to KMC 18.35.080 - General standards for all landscape areas or KMC 18.35.090 - Additional standards for required landscape areas.

18.35.090 Landscaping – Additional standards for required landscape areas.

In addition to the general standards of KMC 18.35.080, landscape areas required pursuant to KMC 18.35.045 through 18.35.070 shall conform to the following standards:

A. All plants shall conform to American Association of Nurserymen (AAN) grades and standards as published in the "American Standard for Nursery Stock" manual; provided, that existing healthy *vegetation* used to augment new plantings shall not be required to meet the standards of this manual;

B. Single-stemmed *trees* required pursuant to this chapter shall at the time of planting conform to the following standards:

1. In parking area *landscaping* ~~and in *street* rights-of-way~~:

   a. *Deciduous trees* shall have a minimum *caliper* of one and three-quarters inches and a height of 10 feet in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, which shall have a minimum *caliper* of three inches, and

   b. Coniferous and *broadleaf evergreen trees* shall be at least five feet in height;

2. In all other required landscape areas:

   a. *Deciduous trees* shall have a minimum *caliper* of one and one-half inches and a height of 10 feet in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th

   Street between 65th Avenue NE extended and 73rd Avenue NE, which shall have a minimum *caliper* of three inches, and

   b. Coniferous and *broadleaf evergreen trees* shall be at least five feet in height except in the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE, where they shall be at least 10 feet in height;

C. Multiple-stemmed *trees* shall be permitted as an option to single-stemmed *trees* in all zones except the DC and DR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street between 65th Avenue NE extended and 73rd Avenue NE; provided, that such multiple-stemmed *trees* are:

1. At least six feet in height.~~, and~~

~~2. Not allowed within *street* rights-of-way;~~

~~D. When the width of any landscape strip is 20 feet or greater, the required *trees* shall be staggered in two or more rows;~~

~~E~~D. Shrubs shall be:

1. At least an AAN container class No. 2 (two-gallon) size at time of planting in Types II, III and parking area *landscaping*,

2. At least 24 inches in height at the time of planting for Type I *landscaping*, and

3. Maintained at a height not exceeding 42 inches when located in Type III or parking area *landscaping* except in the DC and DR zones where they shall not exceed a maximum height of 48 inches;

~~F~~E. Ground covers shall be planted and spaced to result in total coverage of the majority of the required landscape area within three years;

~~G. All *fences* shall be placed on the inward side of any required perimeter *landscaping* along the *street frontage*;~~

~~H. Required *street landscaping* may be placed within *City street* rights-of-way subject to the *City street* design standards, provided adequate space is maintained along the *street* line to replant the required *landscaping* should subsequent *street* improvements require the removal of *landscaping* within the rights-of-way;~~

~~I. Required *street landscaping* may be placed within Washington State rights-of-way subject to permission of the Washington State Department of Transportation; and~~

~~J~~F. New landscape material provided within areas of undisturbed *vegetation* or within the protected area of *significant trees* shall give preference to utilizing ~~indigenous~~ *native* plant species. [Ord. 11-0329 § 3 (Exh. 1).]

Jim Howard: Item F should be changed to "Groundcovers shall be planted and spaced to result in total coverage of landscape area within 3 years". Delete "majority of" from sentence.

Why? Current code would allow only 55% groundcover coverage within 3 years. The code should require 100% coverage in 3 years.

Staff Recommendation: Generally the performance standard for the first year is 100%; year three is typically reduced (80-90% survival). The code may include "majority of" for flexibility and in consideration of year three surivival rates. **I don't see where the current code says 55% retention is allowed for year three (3); additional discussion could be had regarding adding a "performance standards" section.** Staff recommend keeping the code as-is.

18.35.100 Landscaping – Alternative options.

The following alternative landscape options may be allowed, subject to *City* approval, only if they accomplish equal or better levels of screening, or when existing conditions on or adjacent to the *site*, such as significant topographic differences, *vegetation*, *structures* or utilities would render application of this chapter ineffective or result in scenic view obstruction:

A. The amount of required landscape area may be reduced to ensure that the total area for required *landscaping*, and/or the area remaining undisturbed for the purpose of wildlife habitat or corridors does not exceed 15 percent of the net developable area of the *site*. ~~For the purpose of this subsection, the net developable area of the *site* shall not include areas deemed unbuildable due to their location within *critical areas* and any associated *buffers*;~~

B. The average width of the perimeter landscape strip may be reduced up to 25 percent along any portion where:

1. *Berms* at least three feet in height or architectural barriers at least six feet in height are incorporated into the landscape design; or

2. The landscape materials are incorporated elsewhere on-site;

C. Where a local or subarea plan with design guidelines has been adopted, the *city manager* shall base the *landscaping* modifications on the policies and guidelines of such plan;

D. When an existing *structure* precludes installation of the total amount of required *site* perimeter *landscaping*, such *landscaping* material shall be incorporated on another portion of the *site*;

E. Single-stemmed *deciduous tree* species that cannot generally be planted and established in larger sizes may have a *caliper* of less than one and one-half inches;

F. The number of *trees* and shrubs to be provided in required perimeter and parking area *landscaping* may be reduced up to 25 percent when a *development* uses landscaping native to the Puget Sound lowlands ~~materials consisting of species typically associated with the Puget Sound Basin~~ in the following proportions:

1. Seventy-five percent of native *ground cover* and shrubs, and

2. Fifty percent of *native* *trees*;

G. In the DC and DR zones, alternative landscape requirements may be proposed in order to retain *significant or exceptional* *trees* ~~(over 12 inches DBH if *deciduous* or eight inches DBH if *evergreen*, measured as average trunk diameter at chest height; measured four and one-half feet above grade).~~ This alternative requirement applies only to *trees* which are beyond what is already required in Chapter 18.57 KMC. ~~the City's significant tree ordinance~~. ~~Interior parking lot landscape requirements may be reduced at a 1:1 ratio equal to the land area within the drip line of the *tree* being retained.~~ [Ord. 11-0329 § 3 (Exh. 1).]

18.35.110 Landscaping – Plan design, design review, and installation.

A. The landscape plan submitted to the *department* shall be drawn on the same base map as the development plans and shall identify the following:

1. Total landscape area, and separate hydrozones;

2. Landscape materials botanical/common name and applicable size;

3. Property lines;

4. *Impervious surfaces*;

5. Natural or manmade water features or bodies;

6. Existing or proposed *structures*, *fences*, and *retaining walls*;

7. Natural features or *vegetation* left in natural state; and

8. Designated recreational open space areas.

9. Existing *trees*.

B. The proposed landscape plan shall be certified by a Washington State registered landscape architect, Washington State certified nurseryman, or Washington State certified landscaper.

C. An affidavit signed by an individual specified in subsection B of this section, certifying that the *landscaping* has been installed consistent with the approved landscaping plan, shall be submitted to the *department* within 30 days of installation completion, unless the installed *landscaping* has been inspected and accepted by the *department*.

D. The required *landscaping* shall be installed prior to certificate of occupancy. ~~However, the time limit for compliance may be extended to allow installation of such required *landscaping* during the next appropriate planting season. A *financial guarantee* shall be required prior to issuance of the certificate of occupancy, if *landscaping* is not installed and inspected prior to occupancy. [Ord. 11-0329 § 3 (Exh. 1).]~~

18.35.120 Maintenance.

A. All *landscaping* shall be maintained for the life of the project;

Jim Howard: I recommend KMC 18.35.120 A have an additional sentence. "The property owner must replace any unhealthy or dead plant materials in conformance with the approved landscape development proposal and shall maintain the landscape material". This code language is taken from City of Bellevue code 20.20.520 K (1) maintenance of Plant Materials.

Why? Tree canopy is an essential component of City Climate Action Plan. Several properties have recently planted code required trees that have died and have not been replaced. Trees are a critical for pavement shading and stormwater quality.

Staff Recommendation: The intent of KMC 18.35.120.A is consistent with this recommendation however, the wording differs.

B. All landscape materials shall be pruned and trimmed as necessary to maintain a healthy growing condition or to prevent primary limb failure;

C. With the exception of dead, diseased or damaged *trees* specifically retained to provide wildlife habitat, other dead, diseased, damaged or stolen plantings shall be replaced within three months or during the next planting season if the loss does not occur in a planting season; and

D. Landscape areas shall be kept free of trash. [Ord. 11-0329 § 3 (Exh. 1).]

18.35.130 Financial guarantees. SHARE

Financial guarantees shall be required consistent with the provisions of KMC Title 21. This time period may be extended ~~to one year~~ by the *city manager*, if necessary to cover a planting and growing season. [Ord. 11-0329 § 3 (Exh. 1).]

Master Builders:

o The section on three-year financial guarantees on individuals lots should be eliminated. Instead, a covenant requirement should be introduced. This change would increase predictability for homebuilders. Currently, the three-year financial guarantee binds homebuilders to a project for an impractical duration. For instance, under the current system, if a future owner were to remove a tree associated with the financial guarantee, the original homebuilder would be held accountable.

o The financial guarantee extension language in Section 18.35.130 is ambiguous. This should be amended to state, "This time period may be extended by the city manager, if necessary to cover a single planting and growing season."

o Kenmore should consolidate the tree and landscaping bonds into one program. Snohomish County currently has a single bond program for landscaping that encompasses trees. These can be found in Snohomish County Code Sections 30.84.150, 30.84.105, and 30.25.043.

Staff Recommendation: Staff take no exception to the recommendation provided and acknowledge that post-construction financial guarantees for landscaping on private property are difficult to maintain by the builder once lots are sold. Responsibility should be passed to the HOA or property owner(s).

EXHIBIT C TO ORD. 23-0597

I. Chapter 18.57 of the Kenmore Municipal Code is amended to read as follows:

Chapter 18.57
TREE MANAGEMENT AND PROTECTION

Sections:

18.57.010 Title.
18.57.015 Findings and purpose.
18.57.030 Applicability.
18.57.035 Exemptions.
18.57.050 Tree protection plan required.
18.57.060 Tree density requirement.
18.57.065 Exceptional tree protections.
18.57.070 Tree protection plan review procedure.
18.57.080 Tree protection plan review standards.
18.57.085 Tree windthrow evaluation and prevention.
18.57.090 Tree protection during construction.
18.57.100 Post-construction replacement, financial guarantee and maintenance requirements.
18.57.110 Penalties, enforcement.

18.57.010 Title. SHARE

This chapter shall be known and may be cited as the Kenmore tree management and protection code. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.015 Findings and purpose. SHARE

A. Reducing soil *erosion* and water pollution in the *City*'s *streams* and creeks by providing wind breaks, slowing the surface movement of water, reducing the amount of stormwater runoff, and stabilizing soil with their roots and fallen leaves;

B. Improving air quality by removing pollutant gases and airborne particles;

C. Positively affecting energy and water conservation by providing shade, lowering temperatures, and reducing net evaporation rates;

D. Reducing noise pollution by absorbing and deadening excessive and/or unwanted noise and by screening the source of the noise from view;

E. Providing a wide variety of habitats and ecosystems for birds, mammals, and other wildlife; and

F. Accordingly, the purpose of this chapter is to establish a process and standards to:

1. Increase the livability of an area by helping to screen people and *buildings* from wind and inclement weather;

2. Create a special sense of identity, a sense of community and civic pride, and a memorable place to live and work;

3. Preserve and enhance the *City*'s physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of *trees*;

4. Promote *site* planning, construction practices, and horticultural practices that are consistent with the *reasonable use* of property;

5. Implement the goals and objectives of the *City*'s comprehensive plan; and

6. Implement the goals and objectives of the *City*'s parks and recreation master plan. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.030 Applicability. SHARE

A. No individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall directly or indirectly remove or destroy any *tree* as defined in this title within the *City*, without first obtaining a clearing permit as provided in KMC Title 15.

B. Unless otherwise exempted in KMC 18.57.035, any *site* subject to *development*, including the division of a parcel of land into two or more parcels, within the *City* shall comply with the requirements of this chapter.

C. Approval of a tree protection plan pursuant to the provisions of this chapter shall not discharge the obligation of the *applicant* to otherwise comply with the applicable provisions of this chapter.

D. When any provision of any other chapter of the Kenmore Municipal Code conflicts with this chapter or when the provisions of this chapter are in conflict, that provision which provides more protection for individual *trees* and *groves* of *trees* shall apply unless specifically provided otherwise in this chapter or unless such provision conflicts with federal or State laws or regulations. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.035 Exemptions. SHARE

A. The following land *uses* are exempt from the provisions of this chapter. However, compliance with other applicable provisions of the Kenmore Municipal Code including but not limited to then-current *critical area* regulations per Chapter 18.55 KMC and then-current clearing regulations per Chapter 15.25 KMC is still required:

1. Agriculture, meaning the use of the land for the primary purpose of deriving income from growing plants or *trees* on land including, but not limited to, land used principally for fruit or timber production, but not including land used principally for another *use* and only incidentally for growing *trees* or plants for income.

2. *Commercial nursery or tree farm*, but only those *trees* which are planted and growing on the premises of a licensed retailer or wholesaler for sale to the general public. Other *trees* on such premises shall remain subject to this chapter.

~~3. Residential *Development*.~~

~~a. All existing *lots* on which are to be situated new *single detached dwelling units* in residential zones based on tree removal limits established by clearing requirements.~~

~~b.~~ 3. All existing *lots* on which are situated existing detached *dwelling units* in residential zones based on tree removal limits established ~~by clearing requirements.~~ by KMC 15.25.070.B.1.d. This exemption applies to *significant tree removal* only; the provisions described in KMC 18.57.065 for *exceptional trees* still apply.

4. Downtown Commercial and Downtown Residential Zones. All *development* occurring within core areas designated as downtown commercial and downtown residential zones. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.050 Tree protection plan required. SHARE

A. Requirement Established. Except for the exemptions enumerated in this chapter, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall remove, transplant, or destroy, or cause to be removed, transplanted, or destroyed, on any land in the *City*, any *tree* as defined in this chapter, without first obtaining the *city manager*'s approval of a tree protection plan and receiving a clearing permit from the *City*. For *sites* proposed for land *development*, including the division of a parcel of land into two or more parcels, having *trees* below the minimum tree density, even though no *trees* are proposed to be removed, a tree protection plan is required to bring the *site* up to the minimum tree density standard herein established.

B. Submittal of Tree Protection Plan. Where the *site* proposed for *development* requires site or plat or short plat review, the tree protection plan shall be submitted concurrent with a site plan or plat or short plat application.

C. Tree Protection Plan Requirements. Attached to the *applicant* information and site plan information required for the clearing permit application, the *applicant* shall include the following tree protection plan information:

1. *Tree* Survey. For all *development proposals*, a *tree* survey, drawn to scale by a land surveyor licensed in Washington State, identifying the exact location and conditions of existing *trees* as defined in this title and containing the following information:

a. Common and botanical name of each *tree*.

b. *Trees* proposed to remain and to be removed.

c. *Groves* with indication of predominant species, number of *trees* and size of *diameter at breast height* (d.b.h.).

d. Any off-site *tree* with a root protection zone which could be adversely affected by the proposed activity.

e. The location and dimensions of established and proposed perimeter *landscaping*, natural *vegetation* easements, and open space areas for public, *private*, or community use.

f. *Net buildable areas*.

g. *Critical areas* and their *buffers*.

h. Stormwater tracts.

i. Limits of construction line.

j. North arrow, scale, and date of survey.

2. An assessment of *tree windthrow* potential as described in KMC 18.57.085, along with any proposed mitigation measures to minimize windthrow. These measures shall be incorporated into the proposed tree protection plan described in subsection (C)(5) of this section.

3. A statement describing how *trees* intended to remain will be identified, marked, and protected before the start of and during *development* as further described in KMC 18.57.090.

4. A statement that describes replacement tree quality as conforming to the American Standards for Nursery Stock (ANSI).

5. Proposed Tree Protection Plan. The permit *applicant* shall have a *qualified tree protection professional* prepare recommendations for the tree protection plan. The tree protection plan shall be drawn to scale using the *tree* survey as a base and containing the following information:

a. The exact location, common name, botanical name, and condition of protected *trees*.

b. The exact location, common name, botanical name, and *caliper* of each *tree* species to be planted.

c. The *site* minimum tree density calculation indicating the total number, size, and species of existing *trees* to be preserved and the replacement *trees* to be planted as described in KMC 18.57.060.

d. The *site* replacement tree calculation as described in KMC 18.57.060 with an explanation including the number, *caliper*, and species.

e. The location, materials, dimensions, and layout of the protective barriers.

Jim Howard: Add item (f) that states "provide recommendations for post construction maintenance to ensure long term survival and healthy growth"

Why? Post construction maintenance is critical to successful tree protection.

Staff support this change (exact wording may vary).

6. Submit a bond quantity worksheet on forms provided by the department.

7. Additional Information. Any additional or more detailed information required by the *city manager* to ensure compliance with the provisions of this chapter (i.e., aerial photograph). The *city manager* may waive the requirements for the scaled drawing and other submission data if he finds that the information presented is sufficient to determine the project's compliance with the provisions of this chapter. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 15-0409 § 1 (Att. A); Ord. 11-0329 § 3 (Exh. 1).]

18.57.060 Tree density requirement. SHARE

A. Minimum Tree Density Requirement Established. A minimum tree density is required on each *site*. The tree density may consist of existing *trees* (provided they are not cottonwood, alder, or holly trees), replacement *trees*, or a combination of existing and replacement *trees*. The *site* density of *trees* to be protected on each *site* shall be determined prior to approval of a tree protection plan or clearing permit, by the *city manager*.

B. Tree Density Calculation. The minimum tree density required for each *site* is 40 ~~30~~ tree units per acre of *net buildable area*

Master Builders: We recommend retaining the current tree density requirements.

Why? The current tree density requirements have been effective. The City's tree canopy assessment shows the citywide tree canopy is increasing under current policies and code requirements. The existing code has successfully achieved equilibrium between promoting environmental responsibility and addressing the demand for a wider range of housing options.

Staff Recommendation: Council to discuss at study session.

1. To calculate the density of *trees* to be protected:

   a. Obtain the d.b.h. measurement in inches for each protected *tree* within the *net buildable area*.

   b. Go to Table 18.57.060A and select the tree unit value that corresponds to the d.b.h. for each protected *tree*.

   c. Add up the tree unit values for all protected *trees* and divide by the total acreage of the *net buildable area*. This value must equal or exceed 40 ~~30~~ tree units per acre of *net buildable area*. If the total is less than 40 ~~30~~ tree units per acre, more *trees* must be protected.

   d. ~~If replacement *trees* are planted as *groves* within designated tracts, then *applicant* may reduce total tree units required by 10 percent.~~ If *trees* are retained within designated tracts, protective easements, or groves, then the *applicant* may reduce total tree units required by 20 percent.

Table 18.57.060A
Existing Trees to Remain.

(Conversion from diameter (d.b.h.) in inches to tree units for *trees* protected on-*site*.)

d.b.h.	Tree Units	d.b.h.	Tree Units
1 – 5	1.0	30	8.2
6 – 10	1.2	31	8.6
11	1.4	32	9.0
12	1.8	33	9.5
13	2.0	34	10.0
14	2.3	35	10.5
15	2.6	36	11.0
16	2.9	37	11.5
17	3.2	38	12.0
18	3.5	39	12.5
19	3.8	40	13.0
20	4.2	41	13.5
21	4.6	42	14.0
22	5.0	43	14.5
23	5.4	44	15.0
24	5.8	45	15.5
25	6.2	46	16.0
26	6.6	47	17.0
27	7.0	48	18.0
28	7.4	49	19.0
29	7.8	50	20.0
For every one inch greater than 50 d.b.h., add an additional 2 tree units (i.e., 62 d.b.h. = 44 tree units).			

C. Replacement *Tree* Requirement. If the number of existing *trees* is not enough to meet the minimum of 40 ~~30~~ tree units per *net buildable acre*, a sufficient number of

replacement *trees* shall be planted to meet the minimum requirement. Replacement *trees* shall not be allowed until the *applicant* shows that it is infeasible to retain existing trees. To determine the total number of replacement *trees* required:

1. Obtain the *caliper* measurement for each replacement *tree*. Replacement *trees* are measured differently than protected *trees*. Instead of measuring d.b.h. as in protected *trees*, replacement *trees* are measured by *caliper* in inches according to industry standards (ANSI). *Caliper* on replacement *trees* is measured six inches above the ground line for four-inch and smaller *trees*, and 12 inches above ground for larger replacement *trees*.

2. Go to Table 18.57.060B and select the tree unit value that corresponds to the *caliper* for each replacement *tree*.

3. Add the replacement tree unit values together to determine how many of that size *tree* will be required to achieve the minimum *site* density. See Table 18.57.060C for an example.

4. If replacement *trees* are planted within designated tracts, protective easements, or groves, then *applicant* may reduce total tree units required by 20 percent.

Table 18.57.060B Replacement Trees.

(Conversion from *caliper* inches to tree units for replacement *trees*.)

Deciduous Tree Caliper in Inches	Tree Units for Deciduous Trees	Coniferous Tree Height in Feet	Tree Units for Conifers	Tree Units for Native Conifers
1.5"	0.4	4' – 6'	0.5	0.8
2"	0.5	6' – 8'	0.7	1.0
3"	0.6	8' – 10'	1.0	1.5
4"	0.7	11' – 12'	1.5	2.0
5"	0.8			
6"	1.0			
7"	1.2			
8" +	1.5			

Table 18.57.060C Sample Tree Density Calculation.

The required density factor is calculated below as follows for five *net buildable acres*: five acres x 40 ~~30~~ units = 200 ~~150~~ tree units required.

Existing Retained Trees: ~~density (ED):~~

Size	Quantity	Total Tree Units
24"	3	17.4
18"	3	10.5
10"	4	4.8
30"	7	57.4
12"	5	9.0
8"	6	7.2
15"	8	20.8
4"	10	10.0
50"	1	20.0
44"	2	30.0
	Total ~~ED~~	187.1

Proposed Replacement Trees: ~~density (RD):~~

Size	Units	Quantity	Total Units
2" *Deciduous*	0.5	12	6.0
4" *Deciduous*	0.7	6	4.2
4' – 6' Native Conifer	0.8	5	4.0
		Total ~~RD~~	14.2

Existing Density + Replaced Density =	Site Total Tree Density	>	or	=	Minimum Density Required	
~~137.1~~ 187.1 + 14.2 =	~~151.3~~ 201.3	>			~~150~~ 200	Density Satisfied

The sum of the retained existing trees and replacement trees ~~ED and RD~~ must be greater than or equal to the minimum density required. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

Master Builders: After a Growth Management Hearings Board settlement with MBAKS, Kirkland recently added in their tree code language stating, unless retention of trees would either "(a) reduce lot density, number of lots, maximum FAR or lot coverage; (b) preclude construction of an ADU; or (c) preclude required access and utility connections." Kenmore should add similar language that the tree code would not result in a net loss of density.

The case of Rimmer v. City of Edmonds, combined with the Kirkland tree code settlement, offers compelling precedent for Kenmore to consider when revising its tree code, emphasizing the balance between preservation and development. By incorporating language similar to Kirkland's, which allows for tree removal under specific conditions, Kenmore could ensure that its regulations protect green spaces without unnecessarily hindering development of middle housing and accessory dwelling units (ADUs), reducing lot density, or complicating access to utility connections. This approach could provide a balanced solution that respects both environmental concerns and property owners' rights to develop their land efficiently.

Staff Recommendation: Council to discuss at study session. City attorney may have feedback on precedential value of the case.

18.57.065 Exceptional Tree Protections.

A. Prohibited Activities.

The following activities are prohibited with regard to *exceptional trees*.

1. *Removal*, in whole or in part.
2. Harming, injuring, or damaging the *tree*, including cutting its bark or branches with a knife, axe, hatchet, saw, or any other similar device or object.
3. Pouring toxic material on the *tree* or on the ground near enough to the *tree* to affect its health.
4. Burning the *tree* or causing a fire near enough to the *tree* to affect its health.
5. Topping.
6. Pruning beyond the standards provided by the Tree Care Industry Association at ANSI300 Part 1.
7. Attaching any sign, poster, notice, or other object to the *tree*, or fastening any guy wire, cable, rope, nails, screws, or other device to the *tree*, with the following exceptions:

a. To support young or broken *trees*;
b. For residential uses, (e.g., treehouses, tire swings, etc.);
c. The *City* may tie temporary signs or banners associated with street improvement, parades, seasonal lighting, or other *city* activities.

B. Variance.

Exceptional trees may be *removed* only as allowed in this section.

1. *Variances* from the *exceptional tree* standards of this chapter may be authorized by the *city manager* in accordance with the approval criteria described in this section. A variance for removal of *exceptional trees* is a Type 2 land use decision, pursuant to KMC 19.25.020, except as described in Section 18.57.063(B)(2)(a)(3).
   a. Prior to commencing with the *removal* the owner shall obtain a permit from the *City*.
   b. No *variance* is allowed in order to create additional *lots*.

Master Builders: The statement in Section 18.57.063, "No variance is allowed in order to create additional lots" restricts, if not all out prohibits, the development of middle housing in Kenmore by preventing the subdivision of into smaller lots for such housing. Middle housing, which includes duplexes, triplexes, and townhomes, is crucial for providing affordable and diverse housing options. By disallowing variances for additional lots, this policy restricts housing density and diversity. This restriction not only constrains the physical development of diverse housing types but also the efficient use of land. Efficient land use is a critical factor in urban planning and maximizing housing availability and affordability.

Why? Section 18.57.063 should be removed to allow for diverse housing types and foster the efficient use of the land.

Staff Recommendation: Council to discuss at study session.

c. Decision Criteria.
   i. Necessary for Rights or Use. Private *Development Proposals*: Such *variance* is necessary for the preservation and enjoyment of a substantial property right or use possessed by other similarly situated properties but which because of the presence of *exceptional tree(s)* is denied to the property in question. For a variance to be granted under this section, the applicant must demonstrate compliance with the reasonable use exception approval criteria established in KMC 18.55.180.A.1.a through 18.55.180.A.1.g. The phrase *exceptional tree* shall replace the phrase *critical area* when utilizing said criteria for a variance under this section;

ii. The granting of such *variance* will not be materially detrimental to the public welfare or injurious to the property or improvement;

iii. The granting of the *variance* is consistent with the general purpose and intent of the *City's* comprehensive plan and adopted development regulations.

d. *City Manager* Review. The *city manager* shall review the application. The *city manager* shall approve, approve with conditions, or deny the request based on the proposal's ability to comply with all of the *variance* criteria in this section.

e. Burden of Proof. The burden of proof shall be on the *applicant* to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application.

f. Time Limit.

i. Establishment of any activity authorized pursuant to an *exceptional tree variance* shall occur within four years of the effective date of the decision for such *variance*. This period may be extended for one additional year by the *city manager* if the *applicant* has submitted the applications necessary to authorize the development activity and has provided written justification for the extension.

ii. For the purpose of this subsection, "establishment" shall occur upon the issuance of all local permit(s) needed to begin the development activity; provided, that the improvements authorized by such permits are completed within the time frames of said permits.

g. Mitigation Requirements.

i. To the extent feasible, *exceptional trees removed* under a *variance* shall be replaced at a ratio of three (3) replacement trees for each *exceptional tree removed* (3:1).

Master Builders: Section 18.57.063 should be amended to allow the removal of exceptional trees and be replaced by tree canopy requirements language. The tree replacement ratio found unconstitutional in Rimmer v. City of Edmonds was a two to one ratio (2:1). Currently, Kenmore's section on mitigation requirements requires a three to one ratio (3:1), which is substantially more burdensome than the ordinance ruled unconstitutional in a neighboring jurisdiction.

Why? Adopting tree canopy requirements represents a more comprehensive strategy for urban forestry, as evidenced by Snohomish County's implementation of such policies. Snohomish County's policies require specific tree canopy coverage percentages based on the type of development. These policies can be found in the Snohomish County Code Chapter 30.25 on General Development Standards.

Staff Recommendation: Council to discuss at study session.

ii. If on-site replacement is not feasible, off-site replanting on public property with the *City's* written permission.

iii. Whether planted on-site or off-site, replacement *trees* shall be of a species listed in Table 1 at KMC 18.20.3083 and must remain viable for a minimum of five (5) years after planting or themselves be replaced at a 1:1 ratio.

iv. Notice on title.

1. In order to inform subsequent purchasers of real property of the existence of replacement *trees* and their required viability period, the owner of any property containing replacement *trees* planted as mitigation for the removal of *exceptional trees* shall file a notice with county records and elections division according to the direction of the *City*. The notice shall state the presence of the replacement *trees* on the property and the date until which they must remain viable, of the application of this chapter to the property, and the fact that limitations on actions affecting the *trees* may exist. The notice shall run with the land.
2. This notice on title shall not be required for:
   a. A *development proposal* by a *public agency* or utility;
   b. Within a recorded easement or right-of-way;
   c. Where the agency or *utility* has been adjudicated the right to an easement or right-of-way; or
   d. On the site of a public facility.
3. The applicant shall submit proof that the notice has been filed with the county records and elections division (i.e., copy of document recorded on title).

2. Hazardous Trees.

a. The *removal* of *hazard exceptional trees* shall comply with the following:

i. Prior to commencing with the *removal* the owner shall obtain a permit from the *City*.

ii. The burden of proving the hazardous nature of the *tree* lies with the property owner. The property owner shall provide the *City* with a report, prepared by an International Society of Arboriculture (ISA) certified arborist with a current Tree Risk Assessment Qualification (TRAQ), documenting that the *tree(s)* has a "high" or "extreme" risk and no other mitigation measure will reduce the risk below "high."

iii. Emergency tree removal. Where tree removal is necessary to prevent or correct an immediate threat to public health, safety, property, or welfare

is performed in an emergency situation, the permit application, evidence of the threat, and a tree risk rating of "high" or "extreme" prepared by a *qualified tree protection professional* shall be submitted within the next business working day to the City. Emergency tree removal, as described here within, is exempt from the Type 2 decision process.

b. *Mitigation* Requirements.

i. The *removal* of *hazardous*, dying, or dead *exceptional trees* shall be *mitigated* by planting one (1) replacement *tree*, unless otherwise provided in KMC 18.55.150(E)(2).

ii. Replacement *trees* must be of a species listed in Table 1 at KMC 18.20.3083 and must remain viable for a minimum of five (5) years after planting or themselves be replaced at a 1:1 ratio.

3. Private Access.

a. Prior to commencing with the *removal* the owner shall obtain a permit from the *City*.

b. *Exceptional trees* may be *removed* where necessary to provide for access to *development* sites, provided there are no feasible alternative alignments. Alternative access must be pursued to the maximum extent feasible.

4. Public Facilities.

a. The *City* reserves the right to *remove exceptional trees* where necessary for roads, bridges, *utilities,* and facilities.

b. *Exceptional tree* removal by private utilities require a tree removal permit and right-of-way use permit.

c. *Exceptional trees* removed under this section are subject to the mitigation requirements described in KMC 18.57.063.B.1.g.i – 18.57.063.B.1.g.iv.

WA Dept. of Fish and Wildlife: Require mitigation for private access in the same way that you do for hazardous tree removal.

Staff Recommendation: Staff take no exception to the recommendation provided.

C. Modification to Standards to Protect Exceptional Trees

1. For single-family residential subdivisions and short subdivisions on sites in the R-4 zone that contain *exceptional trees*, the minimum lot size may be reduced to 5,400 square feet with no limitation on the percentage of smaller lots, regardless of KMC 18.21.030, Footnote 16. The lot area shall exclude access easements and access panhandles.
2. Unless it would be unreasonable to do so based on the use of neighboring properties, the *city manager* may reduce *setbacks* in residential zones regulated by Chapter 18.21 KMC to 10 feet, and *setbacks* in other zones to five feet, in order to maximize the protection of an *exceptional tree* and avoid exceptions or variances.

D. Penalties.

1. Civil Penalty. The penalty for *removal* of an *exceptional tree* or any other activity prohibited under subsection A shall be a civil penalty of up to $2,500 per inch in d.b.h. of the *tree removed* with a maximum fine of $150,000. For example, the monetary penalty for a 30-inch d.b.h. Douglas fir *removed* results in a maximum penalty of $75,000. If the violation is found to have been willful or malicious, as determined by the *city manager*, the amount of the penalty may be doubled as punitive damages and the violator may be subject to criminal penalties under KMC 18.57.110.B.
2. In addition, any person found to be in violation of this Section shall plant three (3) replacement *trees* for each *exceptional tree* removed. Replacement *trees* shall be a species listed in Table 1 at KMC 18.20.3083 and must remain viable for a minimum of five (5) years after planting or themselves be replaced by the offender at a 1:1 ratio. In order to inform subsequent purchasers of real property of the existence of replacement *trees* and their required viability period, a notice will be filed on the title by the same procedure outlined under (B)(1)(g)(iv) of this Chapter.

18.57.070 Tree protection plan review procedure. SHARE

A. *Departmenta*l Review. The *city manager* shall review the tree protection plan and clearing permit application to determine whether the *applicant* has provided all required information. Completed applications shall be referred to appropriate *City departments* for review. Upon request of either the *applicant* or the *City*, the *City* may conduct field inspections or review meetings. *City departments* involved in the review and/or inspections shall submit their report(s) and recommendation(s) to the *city manager*.

B. Evaluation for Compliance. The *city manager* may require an evaluation by a *qualified tree protection professional*, a qualified engineer, landscape architect, soils engineer, testing lab, or other specialist at any time during the tree protection plan review process or tree removal inspection as necessary to ensure compliance with the provisions of this chapter and/or the

terms of the clearing permit. Individual *applicants* will be responsible for payment to the *City* of the actual cost to the *City* of this evaluation. The actual costs of any such evaluation shall be paid to the *City* within 30 days of receipt of the *City*'s invoice.

C. *Financial Guarantees*. For all projects required to have a tree protection plan, *financial guarantees* shall be required consistent with the provisions of KMC 21.20.070; provided, however, that to the extent that the *financial guarantee* requirements of KMC 18.57.100 are more protective of tree preservation, performance and maintenance, then the more protective requirements shall prevail. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

18.57.080 Tree protection plan review standards. SHARE

The following standards shall govern the approval of a tree protection plan and the granting or denial of an application for clearing permit:

A. Design. *Development* shall be designed, located, and conducted so as to minimize the loss of healthy *groves* and protected *trees* as identified by a *qualified tree protection professional*, degradation of wildlife habitat as identified through environmental review, and the potential for *erosion* and slope failure.

B. *Tree* Protection Priority. In designing a development project and in meeting the required minimum tree density, the *applicant* shall protect *trees* within the *net buildable area* as described in KMC 18.57.060(B)(1), in the following order of priority. *Trees* to be preserved and protected must be healthy and vigorous, *wind-firm*, and not in conflict with utilities.

1. *Exceptional trees.*

2. *Groves*.

3. Individual *trees* which provide wildlife habitat as identified through environmental review.

4. Individual *trees* and *groves* which occur within required *setbacks*.

5. *Trees* that protect against windthrow, including *trees* sheltering interior *trees* or *trees* on adjacent property from strong winds that could otherwise cause them to blow down.

6. *Trees* which provide a buffer and separate incompatible *uses* or reduce sound and wind levels.

C. When the proposed *development* does not necessitate *tree* removal, said *trees* shall be retained and protected from potentially damaging activities such as grading.

1. Tree removal may be necessary in the following circumstances: when trees are in the footprint of proposed construction of buildings or roads, when their presence would make it infeasible to install utilities, sidewalks, or storm drainage improvements.

2. To be exempt, the applicant shall consider alternative designs (e.g., building orientation and size) and receive approval from the *city manager*. Exemptions under this subsection shall be processed as a Type 1 land use decision.

~~C~~D. Replacement *Tree* Planting Conditions. Replacement *trees* should be planted in areas with soil, climate, exposure, and moisture conditions appropriate to the replacement *tree* species' growing requirements as determined by a *qualified tree protection professional*, licensed landscape architect, or certified nurseryman.

~~D~~E. Replacement *Tree* Planting Location Priority. On *sites* where the number of existing *trees* falls below the minimum density requirements, then replacement *tree* planting shall be required. The *applicant*'s proposed location of transplanted or replacement *trees* shall be subject to review by a *qualified tree protection professional*, licensed landscape architect, or certified nurseryman, and *City* approval as part of the tree protection plan. Replacement *trees* should be planted according to the following priority:

1. On-Site.

a. Designated Tracts. *Trees* located in separate deeded *tree* tracts specifically set aside for the preservation and planting of *trees* and/or the required recreation open space area if *trees* do not interfere with recreation activities.

b. Perimeter *Landscaping*. In which case, replacement *trees* shall not count toward and shall be in addition to perimeter landscape requirements.

c. Landscaping. This may include entrance landscaping, traffic islands, and other common open space areas. *Trees* located in a public right-of-way may be credited as replacement *trees* only if *street trees* are not a requirement.

~~2. Off-Site. In cases where an *applicant* believes that lot size prevents installation of the required number of *trees*, the *applicant* may propose to the *City* payment of a fee in lieu for installation of *trees* in a public *park* or other *public space*. The *city manager* shall review~~

~~and make the final decision on the *applicant*'s proposal, based on a recommendation from a *qualified tree protection professional*.~~

Master Builders: We advise retaining the off-site fee in lieu system, or as an alternative, providing a clear and specific definition for the term "infeasibility."

Why? The proposed fee-in-lieu system is highly constrictive and ambiguous. The amended language states “only in rare cases and as a last resort, when planting replacement trees on site is infeasible, shall a fee-in-lieu be approved by the city manager.” This requirement limits flexibility. Furthermore, the determination of what constitutes “infeasibility” is not clearly defined, leaving it open to subjective interpretation. To address this issue, it is essential to establish a transparent and standardized method for assessing infeasibility, ensuring that property owners and developers have a clear understanding of the criteria and procedures involved and how infeasibility will be determined.

Additional Comment: It is suggested to remove strong language in Section 18.57.080 that states “only in rare cases and as a last resort” will fee-in-lieu be approved. Infeasibility already indicates the rarity of when the fee-in-lieu is applicable. Additionally, the added language introduces more ambiguity and subjectivity to the fee-in-lieu program.

In addition, it is necessary to further define what constitutes infeasibility for when the fee-in-lieu system can be used. There needs to be a clear and predictable process. One method of doing this is through a pre-submittal process.
§ A pre-submittal process provides a higher degree of certainty about retention determinations. This approach is similar to what was recently adopted in Kirkland.
§ Kenmore could create a written “preliminary decision” about allowed tree removal for inclusion in a project’s file. While not a final permit decision, this preliminary decision would only change if Kenmore learned of information that differed from that presented in this pre-submittal process.

Staff Recommendation: Council to discuss at study session.

2. It is the *City's* intent to preserve and plant replacement *trees* on site. Only in rare cases and as a last resort, when planting replacement trees on site is infeasible, shall a fee-in-lieu be approved by the *city manager*

3. The *tree* fee-in-lieu for replacement tree shall be required for all tree units required that are not planted on the application site.

a. The base fee shall be equivalent to the cost of purchasing one 8' to 10' coniferous tree, 1.0 tree unit on Table 18.57.060B, installation (labor and equipment), and maintenance (including watering, warranty, and monitoring) for three years, as adopted by resolution.

b. The amount of the fee shall be the base fee times the number of replacement tree units necessary to satisfy the tree replacement requirements of this section, less existing *trees* and replacement *trees*.

c. The fee shall be paid to the City prior to final site plan approval, final plat approval, or the issuance of a tree removal permit, whichever applies as determined by the department.

d. A separate account shall be established by the City for fees collected. Tree replacement fees shall be earmarked specifically for this account. Funds withdrawn from this account shall be expended only for the planting of new trees in City-owned parks, open spaces, or rights-of-way, and shall be expended within five years of collection consistent with RCW 82.02.020.

~~E~~F. Replacement ~~Conifer~~ Tree Types. Replacement *trees* shall be a species native to the Puget Sound lowlands. Replacement trees shall not be Alder (any species), Black Cottonwood, English Holly, or Leyland Cypress. ~~of a similar type of genus to the conifer *trees* that are removed; i.e., a western red cedar (*Thuja plicata*) may be replaced with a *tree* in the genus Thuja, such as an American arborvitae (Thuja occidentalis).~~ [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 15-0409 § 1 (Att. A); Ord. 11-0329 § 3 (Exh. 1).]

18.57.085 Tree windthrow evaluation and prevention.

SHARE

A. Increased *tree windthrow* potential as a result of impacts to *trees* on a site shall be evaluated based on the following risk factors:

1. Root system disruption that will extend within an area one to two and one-half times the radius of the canopy;

2. Topography of the site;

3. Whether the *tree* is deciduous or evergreen;

4. Height of the *tree* relative to the neighboring *trees*;

5. Whether the tree is part of a *grove*.

B. The windthrow evaluation shall be conducted as part of the preparation of the tree protection plan (see KMC 18.57.050) based on the aforementioned risk factors. The assessment shall be conducted by a *qualified tree protection professional*. This assessment also shall evaluate increased windthrow potential for *trees* on neighboring lots that are within 50 feet of the closest *trees* being removed on the site, including *trees* that share a root system with *tree(s)* on the site.

C. Tree Protection Plan.

1. When significant windthrow potential is identified for *trees* that could impact neighboring properties or are on neighboring properties, the *applicant* shall identify measures to minimize windthrow as part of the tree protection plan. Measures could include but are not limited to demonstrating that the *critical root zone (CRZ)* fencing is adequate to prevent root disruption or that the *CRZ* is expanded to provide root protection; saving *groves* when applicable; taking steps to preserve existing grades around *trees*; and/or tunneling rather than trenching for utilities. The City may deny a request to remove a *tree(s)* if mitigation measures are inadequate to minimize windthrow.

2. If potential windthrow damage is for the *site* itself, the *applicant* shall identify measures to reduce impacts to future *structures* on the *site*. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 15-0409 § 2 (Att. B).]

18.57.090 Tree protection during construction.

SHARE

Prior to initiating tree removal and any *clearing* and *grading* on the *site*, *trees* to be protected and preserved shall be protected from potentially damaging activities as follows unless otherwise approved by the *City*.

A. *Critical Root Zone (CRZ)*. The *CRZ* of individual *trees*, *groves*, or otherwise designated protected tree areas shall include no less than the area of a circle with a radius that extends one foot out from the *tree* for every inch of trunk d.b.h., or the area of a circle with radius extending from a *tree*'s trunk to a point no less than the end of a *tree*'s longest branch, whichever is greater (see Figure 18.57.090A).

B. Tree Protection Fence (TPF). Before *development*, the *applicant*:

1. Shall place three inches of composted woodchips over the *CRZ* of all retained *trees* to retain moisture, increase organic matter, and visually establish the *CRZ*.

2. Shall erect and maintain readily visible protective tree fencing a minimum of three feet beyond the outer edge of the *CRZ* for all individual *trees*, *groves*, or other designated protected tree areas.

a. Fencing shall completely surround the required tree protection area. The *city manager* may allow adjustments to placement of the TPF based on an evaluation of the *tree*, soils, and proposed disturbance.

b. Fencing shall be a minimum of four feet high and may be higher if needed to ensure clear visual delineation. Chain-link *fence* or orange plastic *fence* fastened to steel stakes/posts driven securely into the ground shall be required in order to discourage easy movement.

c. Any deviation from the tree fencing methods listed above must be authorized in writing by the *city manager* in advance.

3. Shall keep the protective fencing in place until the *City* authorizes the removal or issues a final certificate of occupancy, whichever occurs first.

4. Shall ensure that any landscaping done within the root protection zone subsequent to the removal of the *fence* shall not disturb existing *trees* including roots within the *CRZ*.

C. Placing Materials Near *Tree*. During *development*, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, may conduct any activity within the TPF of any *tree* designated to remain, except as specified in this section.

D. Attachments to *Trees*. During *development*, no individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, shall attach any object to any *tree* designated for protection.

E. Grade.

1. The grade shall not be filled or cut within the *CRZ* of any *tree* designated to remain without prior review by a *qualified tree protection professional* and advance, written approval from the *city manager*.

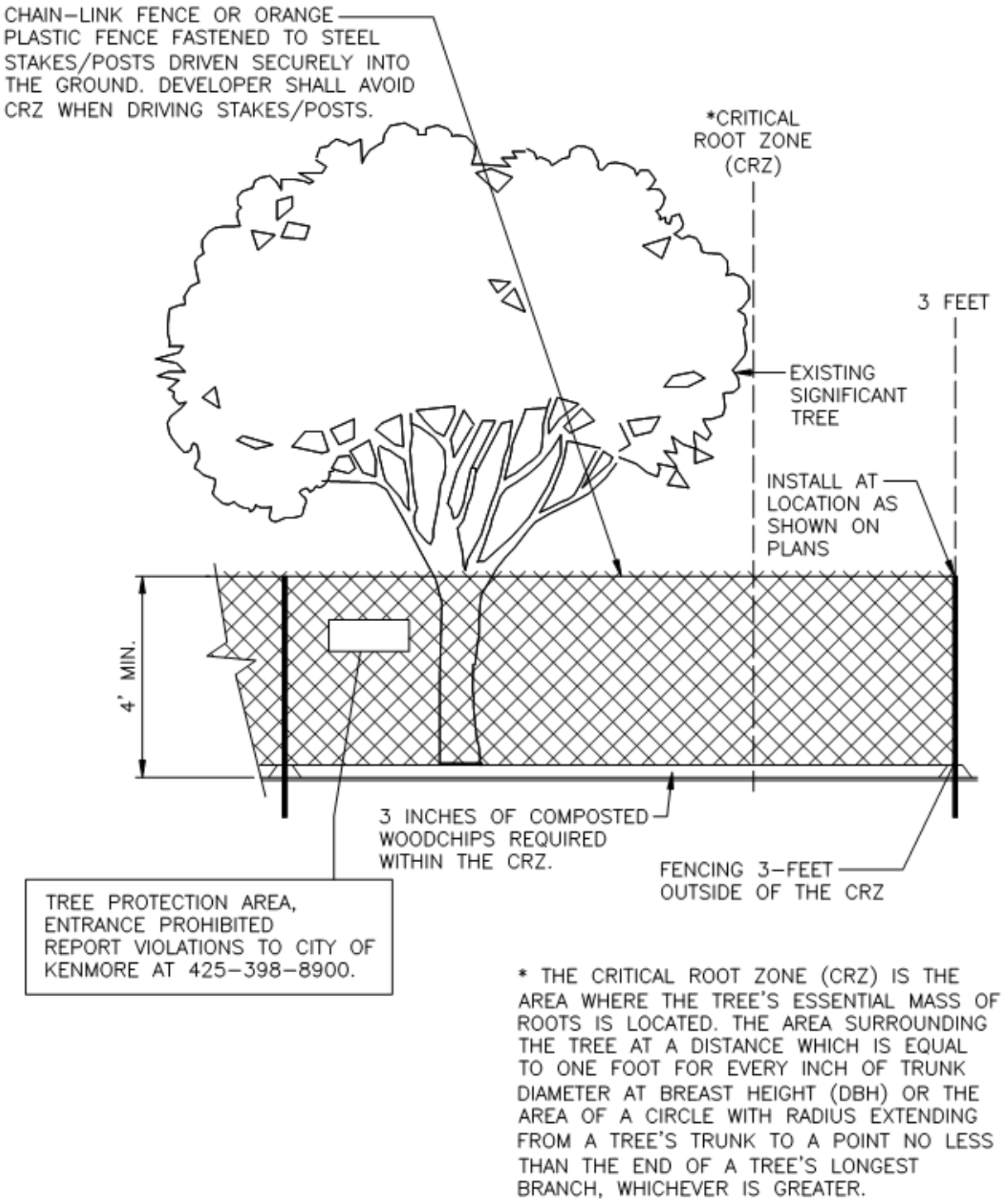
2. The *applicant* shall not install an *impervious surface* within the protective barrier of any *tree* designated to remain without the advance, written authorization of the *city manager*.

3. To the greatest extent practical, utility trenches shall be located outside of the root protection zone of *trees* to be retained. Boring or tunneling under the *CRZ* may be considered an alternative, but shall require the advance, written approval of the *city manager*.

4. *Trees* and other *vegetation* to be retained shall be protected from *erosion* and sedimentation.

F. Additional Requirements. The *city manager* may require additional tree protection measures which are consistent with accepted urban forestry practices.

Figure 18.57.090~~B~~ *Tree Protection Fencing*



18.57.100 Post-construction replacement, financial guarantee and maintenance requirements.

SHARE

A. Replace Damaged, Dead, or Dying *Trees*. Replacement *trees* or *groves* that are damaged or die within a period of three years after planting or transplanting must be replaced in kind at a ratio of one-to-one (1:1) within six months of the *tree*'s death or the date of discovery of the damage. Existing *trees* that are damaged or die within a period of three years after completion of construction activities and as a cause of construction activities as determined by a *qualified tree protection professional* shall be replaced in kind at a ratio of three ~~two~~-to-one (3:1) or to restore the number of tree units lost, whichever is greater, within six months of the *tree*'s death or date of discovery of the damage.

B. Replacement *Tree* Quality. Replacement *trees* shall conform to the American Standards for Nursery Stock, ANSI.

C. *Tree* Maintenance. All *trees* shall be maintained in accordance with International Society of Arboriculture guidelines and standards.

D. *Financial Guarantee* Required. A *financial guarantee* as defined and regulated under KMC Title 21 shall be required as a mechanism to cover any potential cost associated with replacing dead or dying replacement or existing *trees* required to satisfy tree unit requirements per this section.

1. A *financial guarantee* shall be required for all plans requiring 15 or more tree units.

2. Calculation of the amount of the *financial guarantee* shall be computed based upon equivalent tree replacement value for all replacement and existing *trees* on the property as determined by a *qualified tree protection professional* and approved by the *city manager*. ~~using the most recent edition of the Guide for Plant Appraisal published by the International Society of Arboriculture, in collaboration with the Council of Tree and Landscape Appraisers. Fair market value shall be posted. Fair market value includes the value of the *tree(s)*, installation, and maintenance until establishment that would be required to compensate for the *trees* that could be lost.~~

3. The *financial guarantee* period for maintenance shall be three years~~, plus an additional 60 days~~.

4. *Financial guarantees* shall be required consistent with the provisions of KMC Title 21. This time period may be extended to one year by the *city manager*, if necessary to cover a planting and growing season.

~~4. Release of *Financial Guarantee*.~~

~~a. Upon successful tree replacement and establishment as determined by the written approval of the *City* and consistent with Chapter 21.15 KMC, the *financial guarantee* required by this section shall be released.~~

~~b. The *City*, in its discretion, may release a *financial guarantee* under this section when fee simple title is transferred. The *City* may condition the release of the existing *financial guarantee* upon establishment of a new *financial guarantee* by the new owner in fee simple. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]~~

Master Builders: We recommend modifying the financial guarantees section.

Why? The requirement for 3-year financial guarantees raises significant concerns for homebuilders. This 3-year period would extend well after the new home has been sold and the builder has no control over what the buyer may do with regard to tree removal. A better option would be to require a covenant to be put in place binding on the buyer and prohibiting them from removing regulated trees.

Staff Recommendation: Staff agree that the financial guarantee section could benefit from an update. Staff can work on providing clarifying language and a more streamlined process.

18.57.110 Penalties, enforcement. SHARE

A. Civil Penalty. Any violation of any provision of this chapter constitutes a civil violation under Chapter 1.15 KMC, and is subject to the enforcement procedures of Chapter 1.20 KMC; provided, however, that an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, who removes any *tree* in violation of this chapter shall be assessed the following civil penalty:

An individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, removing a *tree* in violation of this chapter shall be assessed a monetary penalty of up to $2,000 per inch ~~in *diameter at breast height* (~~d.b.h.~~)~~ of the *tree* removed. For example, the monetary penalty for a 20-inch d.b.h. *tree* removed results in a maximum penalty of $40,000. In no case shall the

penalty be reduced to an amount less than $500.00 for each violation found committed. The extent of the penalty shall be determined by the *city manager* in consideration of reasonable factors. Monetary penalties shall increase with each violation. The *city manager* is authorized to adopt ~~polices~~policies setting forth the reasonable factors for consideration under this subsection. This section shall not apply to the removal of exceptional trees, which penalties are set forth in KMC 18.57.063.

B. Criminal Penalty. In addition to or as an alternative to incurring civil liability under this section, an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, who violates any provisions of this chapter shall be guilty of a misdemeanor and subject to the criminal penalties set forth in Chapter 1.15 KMC, and shall be subject to the procedures of the *City*'s criminal code, KMC Title 9.

C. Separate Offense. Every individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated, violating any provision of this chapter is guilty of a separate offense for each and every day during any portion of which the violation is committed, continued or permitted by any such individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of any governmental unit, however designated. [Ord. 22-0547 § 4 (Exh. B(II)); Ord. 11-0329 § 3 (Exh. 1).]

Patrick O'Brien: Owns trees on his property and wants to remove them and replant them somewhere else (for example, if he moves). Is this considered tree removal because it shouldn't be - especially if the eventual development would destroy them. He is concerned with a 5th amendment taking.

Did you check out Washington State law on trees blocking solar projects?

Staff Recommendation: Council to discuss at study session.

Carl Michelman: I don't have a problem with the tree ordinance. Just wish there was real clarifications on if someone needs to cut a tree down due to Insurance requirements. Example; I had clients who the insurance company asked them to cut a tree down as it may be too close to the house or they will not be offered a renewal. Other issues are if a tree is in bad shape and the person from the next house hires an arborist to say the tree is sick and the neighbor will be responsible for liability and the city disagrees with the arborist. It would be nice to get clarity. Don't get me wrong, I am ok with keeping the trees, but as insurance person I see the city could be exposed to a lawsuit in a couple of those examples. I am sure you have heard me over time at city council meeting that the city should reach out to professional where they don't think about these issues and how it could affect the city.

Staff Recommendation: We met with Carl on January 16, 2024. He clarified that he is only raising concerns about insurance. He brought up two hypothetical situations that were forwarded to WCIA Office of Risk Assessment for review. First, if Person A hires an arborist to inspect his neighbor, Person B's tree. The arborist says Person B should cut it down. The City denies the permit (or alternately, too much time passes because of the arduous process of going to City for permit). Tree falls and damages Person A's property. Person A sues Person B and the City for damages. Is this a concern to the City, that it could get caught up in a lawsuit and bear liability? Second, an insurance company informs a homeowner that unless they remove 5 otherwise healthy trees from their property, they will lose coverage. City won't allow it because of the 1-tree-per-year limit so homeowner loses their insurance policy.

The City utilizes best practices when it becomes aware of a potentially hazardous tree(s). One such practice is to hire a consultant arborist to inspect and evaluate the tree(s) to identify the defect/damage and to recommend the appropriate action for removal or retention. All consultant contracts require insurance and indemnification language. Staff does not recommend changing its approach in addressing potentially hazardous trees. Staff does not have a recommendation on the comment relating to the potential loss of insurance coverage for failure to remove trees.

Laurie Speery: I live in a single-family home on approximately 1/3 acre in Kenmore. My house is 50 years old and replaced an earlier home on the property. I have 3 to 4 Douglas Fir that are likely 90 plus years old and are considered exceptional and therefore cannot be cut down with the new regulations. One of the trees (actually two grown together) is in my backyard where my husband and I have considered building a backyard cottage or ADU. I would not be able to do so if the current regulations are passed.

The regulations as proposed would severely limit the use of my property for an ADU.

Staff Recommendation: Council to discuss at study session.

ORDINANCE O-4865

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING CHAPTER 95 OF THE KIRKLAND ZONING CODE ENTITLED "TREE MANAGEMENT AND REQUIRED LANDSCAPING" AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. CAM18-00408.

WHEREAS, the City Council received a recommendation from Staff to amend certain sections of the Kirkland Zoning Code (KZC), Ordinance 4786, as set forth in the staff report dated November 30, 2023; and

WHEREAS, prior to adoption, the City Council, following notice thereof as required by KZC 160.40, held a public hearing on December 12, 2023, on the amendment proposals pursuant to Kirkland Municipal Code (KMC) 3.32.020; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has been a SEPA Addendum to the 2015 Comprehensive Plan Update Environmental Impact Statement issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, the City Council finds that the proposed amendments to the Zoning Code are in the best interests of the public in that they clarify existing provisions, and add procedures to assist developers and staff in understanding how the city's tree requirements will be applied to development projects at an early stage of the development process; and

WHEREAS, the City Council recognizes these amendments to the Zoning Code are consistent with the Kirkland Comprehensive Plan in that the amendments would balance environmental protection and the desire for housing development.

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. The following specified sections of the Kirkland Zoning Code Chapter 95 Entitled "Tree Management and Required Landscaping" are amended as set forth in Exhibit A to this ordinance and incorporated by reference.

Chapter 95.05
Chapter 95.30

Section 2. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____day of _____, 2023.

Signed in authentication thereof this _____day of _____, 2023.

_____
Penny Sweet, Mayor

Attest:

_____
Kathi Anderson, City Clerk

Approved as to Form:

_____
Kevin Raymond, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4865

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING CHAPTER 95 OF THE KIRKLAND ZONING CODE ENTITLED "TREE MANAGEMENT AND REQUIRED LANDSCAPING" AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. CAM18-00408.

SECTION 1. Amends various sections of the Kirkland Zoning Code relating to the adoption of a "Tree Management and Required Landscaping Code" as set forth in the title of the ordinance.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. 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 five days after publication of summary.

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 _____ day of _____, 2023.

I certify that the foregoing is a summary of Ordinance 4865 approved by the Kirkland City Council for summary publication.

_____
Kathi Anderson, City Clerk

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 achieving a healthy, resilient urban forest with a City-wide tree canopy coverage of at least 40 percent. 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 regulated 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 the benefits identified in subsection (1) of this section;

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 at least 40 percent City-wide over time;

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

f. Balance tree protection with other major City-wide interests, including, but not limited to, provision of housing opportunities;

g. Implement the goals and objectives of the City's Comprehensive Plan and Sustainability Master Plan;

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

i. Manage trees and other vegetation in a manner consistent with the City's Urban Forest Strategic Management Plan; industry standards; and best management practices established by the International Society of Arboriculture (ISA) and the American National Standards Institute (ANSI) for Management of Trees During Site Planning, Development and Construction, Pruning, and Tree Risk Assessment.

j. Preserve and protect street trees, trees in public parks and trees on other City property.

(Ord. 4786 § 1, 2022)

95.30 Tree Retention Associated With Development Activity

The City's objective is to mitigate the impacts of incremental canopy loss due to development by establishing clear standards for the retention of existing trees and for planting and maintenance of new trees.

This section includes provisions that establish tree retention priorities, incentives, and variations to development standards in order to retain viable trees on development sites. Applicants for a development permit are encouraged to confer with City staff as early in the design process as possible so that the applicable tree retention and planting principles found in this chapter can be incorporated into the design of the subject property. The Planning Official and the applicant shall work in good faith to find reasonable solutions. Applicants may use the pre-submittal procedures in subsection 7 to obtain an early understanding of how tree retention, protection, and planting standards of this Code apply to a particular property and proposed project.

1. Tree Retention Plan Applicability. A tree retention plan is required for any proposed development of the subject property requiring approval through a building permit; land surface modification permit; demolition permit; and/or Design Review, Process I, IIA, or IIB, described in Chapters 142, 145, 150 and 152 KZC, respectively, unless:

a. Otherwise exempted pursuant to KZC 95.15.

b. The permit is for additions to and remodels of existing improvements in which the total square footage of the proposed improvements is less than 50 percent of the total square footage of the

existing footprint on the subject property and where no development activity is proposed within the CRZ of regulated trees.

2. Tree Retention Plan Review Authority. The authority to make decisions under this chapter resides with the Planning Official for building permit; land surface modification permit; demolition permit; and/or with the applicable review authority for Design Review, Process I, IIA, or IIB, described in Chapters 142, 145, 150 and 152 KZC. To retain regulated trees, the City shall review for consistency with the provisions set forth in this chapter.

Based on the tree retention plan information submitted by the applicant, ~~and the~~ subject to the Planning Official's ~~evaluation of the trees relative to the proposed development on the subject property~~ verification of accuracy, the Planning Official shall designate trees on the subject property as viable high retention value trees, including landmark trees and groves, and/or trees with a moderate retention value ~~based on~~ using the definitions provided in KZC 95.10, Definitions~~, for application towards the regulations in this chapter~~.

The City does not require tree retention efforts that either (i) would reduce maximum allowed density, number of allowed lots, maximum allowed floor area ratio (FAR) or lot coverage, (ii) ~~or~~ preclude the ability to construct ADUs consistent with KZC 115.07, or (iii) ~~that~~ preclude required access and utility connections.

3. Tree Retention Plan Requirements. Tree retention plans shall contain the following information, unless waived by the Planning Official:

a. Inventory with the following information:

1) All existing regulated trees on the subject property identified by a numbering system that is consistent throughout the arborist report, site plan and on-site tree tags. The inventory must also include regulated trees that are on adjacent properties that appear to have CRZs extending onto the subject property;

2) Identification of all existing trees in the public right-of-way adjacent to the subject property, regardless of tree size;

3) The CRZ and the proposed TPZ of all existing regulated trees specified in feet from the face of each tree trunk. The inventory must also include the approximate CRZ and proposed TPZ of regulated trees on adjoining properties that appear to have CRZs extending onto the subject property;

4) DBH of all existing regulated trees, including the approximate DBH of regulated trees on adjoining properties that appear to have CRZs extending onto the subject property;

5) Proposed tree removals;

6) Viability status of each regulated tree based on the combined condition ratings pursuant to KZC 95.30(3)(c);

7) Tree species and/or common name; and

8) Potential landmark trees and groves.

b. Site Plan. The site plan must be drawn to scale showing the following:

1) Location of all proposed improvements, including building footprint, access, utilities, applicable required yards, buffers, and required landscaped areas clearly identified;

2) Surveyed location of regulated trees on the subject property. The site plan must also show the approximate trunk location of regulated trees that are potentially impacted on adjacent properties;

3) Trees labeled corresponding to the tree inventory numbering system per subsection (3)(a) of this section;

4) CRZs drawn to scale around all trees potentially impacted by site disturbance resulting from grading, demolition, or construction activities (including approximate CRZs of all trees that are potentially impacted on adjacent properties). Site plans shall include site disturbances associated with over-excavation of foundations, retaining walls, and similar improvements;

5) Location of tree protection fences at the proposed TPZs, with distances from the applicable trunks to fences noted on the site plan. Specific tree protection standards during construction, as described in KZC 95.32 or recommended by the qualified professional arborist, shown on demolition, grading, and building permit plans;

6) Trees proposed to be removed, noted by an 'X' or by ghosting out; and

7) Proposed locations of any replacement trees to be planted to meet tree density credits or mitigation requirements, including the proposed size and species, as outlined in KZC 95.34.

c. Qualified professional arborist report with the following:

1) A combined overall viability status based on the condition ratings of both health and structure for each regulated tree, including regulated trees on adjoining properties that appear to have CRZs extending onto the subject property. The condition ratings for each regulated tree shall be assessed using the following criteria:

Table 95.30.1 Tree Condition Ratings

Condition Rating	Tree Health *Twig and leaf density, size and growth, pest/pathogen issues*	Tree Structure *Root flare, trunk condition, branch assembly*
Excellent	High or above average vigor with little or no twig dieback, discoloration or defoliation.	Trunk and root flare exhibit no visible defects or cavities. Branch structure and attachments are normal for species and free of defects.
Good	Vigor is normal for species. No significant damage due to diseases or pests. Any twig dieback, defoliation or discoloration is minor (up to 10% of the crown).	Well-developed structure. Defects are minor and can be corrected. Codominant stem formation may be present. Trees in groves may have asymmetries/deviations from an open-grown form of the same species.
Fair	Reduced vigor. Twig dieback, defoliation, discoloration, and/or dead branches up to 30% of the crown. Obvious signs of pest problems contribute to a lesser condition but is not likely to be fatal.	Visible evidence of trunk damage or cavities, large girdling roots or branch attachments that require moderate corrections.
Poor	Poor vigor, unhealthy and declining. Low foliage density with extensive (more than 50%) twig and/or branch dieback. Smaller-than-normal leaf size and little evidence of new growth.	Structural problems cannot be corrected, such as recent change in tree orientation, extensive trunk decay or poor branch attachments. Tree/tree part failure may occur at any time.

Based on the condition ratings for health and structure in Table 95.30.1, the tree's overall viability shall be assessed as follows in Table 95.30.2:

Table 95.30.2 Tree Viability

Tree Health →

Tree Structure ↓

	Excellent	Good	Fair	Poor
Excellent	Viable	Viable	Viable	Not viable
Good	Viable	Viable	Viable	Not viable
Fair	Viable	Viable	Not viable	Not viable
Poor	Not viable	Not viable	Not viable	Not viable

For example: an oak tree on a proposed development site rated as 'Fair' tree structure and 'Good' tree health has an overall viability status based on the tree condition ratings of 'Viable.'

2) For trees rated as not viable, a description of the reason(s) for removal must be given based on the existing health condition; high risk of failure due to existing structure, other defects, or unavoidable isolation (windfirmness); or unsuitability of species, etc., and for which

no reasonable alternative action is possible (pruning, cabling, etc.). The City shall review the viability ratings for consistency with the condition ratings in Table 95.30.1 and Table 95.30.2;

3) The qualified professional arborist's description of the method(s) used to determine TPZs (i.e., CRZ formula, exploratory root excavations, or a case-by-case basis description for individual trees);

4) Any special instructions specifically outlining any work proposed within the CRZ of retained trees (i.e., additional protection from soil compaction, hand-digging, tunneling or boring, root pruning, mitigating any grade changes, monitoring during development activity, watering during summer and aftercare), including potentially impacted trees on adjacent properties;

5) If development proposals result in the retention and/or removal of high retention value trees (including landmark trees and groves) provide an explanation of how tree retention was prioritized based on retention feasibility and proposed construction impacts;

6) A discussion of timing and installation of tree protection measures that must include fencing in accordance with the tree protection standards in KZC 95.32, including any anticipated changes to tree protection fence location or other activity within the CRZ of retained trees during project construction (e.g., material delivery, equipment access, landscaping);

7) Describe the impact of necessary tree removal on the trees to be retained, including those on adjacent properties;

8) The suggested location and species of replacement trees to be planted. The report shall include planting and maintenance specifications pursuant to KZC 95.50, 95.51, and 95.52; and

9) Arborist reports that are based on field work collected three or more years prior to submittal shall be updated with current tree data.

d. A description of additional tree retention and protection requirements that apply to properties with development projects proposed within:

1) Shoreline setbacks as set forth in Chapter 83 KZC;

2) Critical areas and associated buffers as set forth in Chapters 85 and 90 KZC; and

3) Holmes Point Overlay Zone areas as set forth in Chapter 70 KZC.

4. Development of Single-Family Dwellings, Short Plats, Subdivisions, Two/Three-Unit Homes, Cottage/Carriage Dwellings, and Accessory Structures. Tree retention plan review and approval shall be based on compliance with the following provisions:

a. High Retention Value Trees. In order to retain trees located in required yards, land use buffers, and/or common open spaces, and to retain landmark trees and groves located anywhere on the subject property, the applicant shall ~~pursue~~ consider, and the Planning Official (or Public Works Official, where applicable) is authorized to require, compliance with the following standards:

1) Site Plan Alterations. Site plan alterations, including the following:

a) Shift or flip (mirror) the location of proposed building footprints and driveways;

b) Selection of the required front yard on corner lots in the RSA and RSX zones and selection of the required side yard to meet the 15-foot total required in RS zones;

c) Shift the building footprint on the lot to utilize the variations to development standards allowed in subsection (3) of this section;

d) Relocate utilities when feasible, taking into account gravity and location of existing mains;

e) Adjust deck, patio, and path designs;

f) Avoid rockery/retaining walls located within ~~CRZs~~ TPZs to maintain existing grades.

2) Arboricultural Methods. ~~The applicant shall employ a~~ Arboriculture methods to retain trees, such as, but not limited to, air excavations, boring under roots instead of trenching within TPZs for utilities less than two inches diameter, and using~~e~~ additional ~~CRZ~~ protection per KZC 95.32.

3) Variations to Development Standards. ~~The applicant shall pursue the following variations and the Planning Official (or Public Works Official, where applicable) is authorized to require these variations to development standards~~ Variations to development standards, such as, but not limited to:

a) Reduce required front yard by up to five feet;

b) Reduce required rear yards by up to five feet where the rear yard is adjacent to an access easement, tract, or alley;

c) Allow variations to the garage requirements of KZC 115.43(3);

d) Allow variations to increase the maximum lot coverage by not more than 10 percent where necessary to extend access due to building footprint location while ensuring that the driveway width does not exceed a width of 20 feet;

e) Allow minimum 18-foot by 18-foot parking pads;

f) Modify right-of-way frontage improvement requirements, such as adjusting the location of any required landscape strip;

g) Allow up to a five-foot increase in building height where the additional height is clearly related to tree retention (e.g., locating mechanical equipment in the attic, avoiding excavation or fill); and

h) With short plats and subdivisions, allow clustering per subsection (4)(d) of this section.

b. In order to retain landmark trees and groves located anywhere on the subject property, in addition to the site plan alterations and variations to development standards listed in subsection (4)(a) of this section, the applicant shall ~~pursue~~ consider, and the Planning Official (or Public Works Official, where applicable) is authorized to require, the following additional standards:

1) Site Plan Alterations. Site plan alterations, ~~as follows~~ including the following:

a) Reasonable modifications to the proposed building footprints and driveways;

b) Shore basements and other extensive excavations in order to avoid impact within CRZs;

c) Cantilever structures over CRZs; and

d) With short plats and subdivisions, clustering per subsection (4)(d) of this section, rearrangement of property lines within the applicable short plat or subdivision, relocation of access roads, and relocation of utilities.

2) Arboricultural Methods. ~~The applicant shall employ a~~ Arboricultural methods to retain landmark trees and groves such, but not limited to, as air excavations, boring under roots instead of trenching, and using additional ~~CRZ~~ protection per KZC 95.32.

3) Variations to Development Standards. ~~The applicant shall pursue, and the Planning Official is authorized to require, the following additional standards~~ Variations to development standards, such as, but not limited to:

a) Allow required side yards to be reduced to three feet where those yards are internal within a proposed short plat or subdivision;

b) Allow required yards to be reduced to 10-foot front and five-foot rear;

c) Reductions and variations in required parking and driveways.

c. Moderate Retention Value Trees. The following incentives are available in order to protect moderate retention value trees:

1) An applicant may propose to modify their development proposal in the same manner as provided for high retention value trees in subsections (4)(a) and (b) of this section and the Planning Official (or Public Works Official, where applicable) is authorized to approve these variations to development standards for viable trees that are deemed to have excellent/good health and structure per the Tree Condition Table 95.30.1.

2) When landmark trees cannot be feasibly retained after pursuing the variations in subsections (4)(b)(3)(a) and (b) of this section, the applicant may propose to retain moderate retention value trees to satisfy landmark tree mitigation requirements and/or pay associated fees-in-lieu pursuant to KZC 95.23. The applicant shall indicate tree protection areas on site plans and clearly indicate a request for this incentive.

3) When viable trees located in required yards, land use buffers, and/or common open spaces cannot be feasibly retained after pursuing the variations in subsections (4)(b)(3)(a)

and (b) of this section, the applicant may propose to retain moderate retention value trees instead. The Planning Official may approve this incentive; provided, that the size and condition of the moderate retention value tree(s) are equal or superior to that of the tree removed in the required yard, land use buffer, and/or common open space.

d. Additional Tree Retention Standards for Short Plats and Subdivisions.

1) Clustering of Lots. The Planning and Building Director (for short plat applications) or Hearing Examiner (for preliminary plat applications) may approve variations to minimum lot size, maximum floor area ratio, and lot coverage requirements in order to facilitate retention of high retention value trees where necessitated by retention of trees in protective tracts or where lot sizes are averaged in order to retain trees. The following standards shall apply:

a) Lot sizes may be averaged, with no minimum lot size specified, provided there is no increase in the allowed density or number of lots otherwise allowed for the subject property;

b) The subject property is entitled to maintain the total aggregate maximum floor area ratio (FAR) and maximum lot coverage that would otherwise be permitted for the subject property under a conventional short plat or subdivision. The maximum FAR and/or maximum lot coverage requirements may be adjusted proportionate to the lot size reduction(s), provided there is no net increase in the aggregate FAR and/or aggregate lot coverage otherwise allowed for the subject property;

c) The variations and resultant restrictions shall be included in a recorded agreement and be binding on future owners of the lots.

2) Modifications to Tree Retention Plans for Short Plats and Subdivisions. Modifications to an approved tree retention plan may be approved by the Planning and Building Director pursuant to the following criteria:

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 that 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; and

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

3) Public Notice for Modifications. The Planning and Building Director shall not approve or deny a modification pursuant to this subsection without first providing notice of the modification request consistent with the noticing requirements for the short plat or subdivision and providing opportunity for comments for consideration by the Planning and Building Director. Said comment period shall not be less than 14 calendar days. The fee for processing a modification request shall be established by City ordinance.

5. Development of Multifamily, Commercial and Mixed Use. Tree retention plan review and approval shall be based on compliance with the following provisions:

a. High Retention Value Trees. In order to retain trees located in required yards and/or land use buffers, the applicant shall ~~pursue~~ consider, and the Planning Official (or Public Works Official, where applicable) is authorized to require, compliance with the following standards:

1) Site Plan Alterations. Site plan alterations, including the following:

a) Adjust deck, patio, and path designs;

b) Relocate utilities when feasible, taking into account gravity and location of existing mains;

c) Avoid rockery/retaining walls located within CRZs to maintain existing grades;

d) Shore basements and other extensive excavations in order to avoid impact within CRZs;

e) Cantilever structures over CRZs.

2) Arboricultural Methods. ~~The applicant shall employ a~~ Arboriculture methods to retain trees such as, but not limited to, air excavations, boring under roots instead of trenching within TPZs for utilities less than two inches diameter, and using additional ~~CRZ~~ protection per KZC 95.32.

3) Variations to Development Standards. ~~The applicant shall pursue the following variations and the Planning Official (or Public Works Official, where applicable) is authorized to require these variations to development standards~~ Variations to development standards, such as, but not limited to:

a) Allow required yards to be reduced to 10-foot front;

b) Allow variations to the maximum lot coverage by not more than 10 percent where necessary to extend access due to building footprint location while ensuring that the driveway width does not exceed a width of 20 feet;

c) Modify right-of-way frontage improvement requirements, such as adjusting the location of any required landscape strip;

d) Allow up to a five-foot increase in building height where the additional height is clearly related to tree retention (e.g., locating mechanical equipment in the attic, avoiding excavation or fill);

e) Vary parking lot design and/or access driveway requirements when the Public Works Official and Planning Official both determine the variations to be consistent with the intent of City policies and codes;

f) Vary requirements pertaining to stormwater if approved by the Public Works Official under KMC 15.52.060; and

g) Vary the physical features of any required common recreational open space.

b. Moderate Retention Value Trees. The following incentives are available in order to protect moderate retention value trees:

1) An applicant may propose to modify their development proposal in the same manner as provided for high retention value trees in subsection (5)(a) of this section and the Planning Official (or Public Works Official, where applicable) is authorized to approve these variations to development standards for viable trees that are deemed to have Excellent/Good health and structure per the Tree Condition Table 95.30.1.

2) The applicant may propose to retain moderate retention value trees to satisfy landmark tree mitigation requirements and/or associated fees-in-lieu pursuant to KZC 95.23. The applicant shall indicate tree protection areas on site plans and clearly indicate a request for this incentive.

6. The Planning Official ~~may~~ will authorize the removal of high retention value trees otherwise required by this chapter to be retained; provided, that the following conditions are met:

a. After considering ~~utilizing~~ the required site plan alterations and allowed variations to development standards listed in KZC 95.30(4) and (5), there is no practicable or feasible alternative development proposal that results in fewer tree removals; or

b. Retention of such tree or trees would either (i) reduce maximum allowed density, number of allowed lots, maximum allowed floor area ratio (FAR) or lot coverage, (ii) preclude the ability to construct ADUs consistent with KZC 115.07, or (iii) preclude required access and utility connections.

7. Pre-Submittal Procedures. Applicants may use the pre-submittal procedures in this section to obtain an early understanding of how tree retention, protection, and planting standards of this Chapter apply to a particular property and proposed project.

a. Checklist. The Planning and Building Department shall maintain a publicly-accessible checklist for applicants identifying the information needed and process for the City to make a preliminary determination whether a proposal complies with this Chapter as provided in subsection 7(c).

1) As part of a pre-submittal meeting for a Process I, IIA, or IIB application, or as a separate pre-submittal meeting, an applicant should submit prior to the meeting the completed checklist, together with a preliminary tree inventory and/or survey, and proposed site plan. Applicants are encouraged to submit accurate information that identifies existing Landmark Trees and should specify trees proposed for retention and removal with a brief narrative discussion of why the applicant selected the trees for removal.

2) The Planning Official will review the checklist and documentation provided by the applicant at the pre-submittal meeting. The Planning Official shall determine if the applicant needs to submit additional information specified in subsection 1 above.

b. Site visit. The applicant may request a pre-submittal site visit. If a site visit is conducted, then the applicant may incur additional pre-submittal fees.

c. Findings. Following the pre-submittal meeting, and after all information submitted by the applicant has been reviewed, the Planning Official shall advise the applicant, in writing, of their preliminary determination and this document will be saved with the associated pre-submittal case file. This preliminary determination shall address tree retention, protection, and planting standards of this Chapter as applied to the applicant's property and proposed project, and the applicant may use this preliminary determination in preparing an application. This preliminary determination is not a final land use decision under the Land Use Petition Act and new or changed conditions could impact this determination. The Planning Official will issue the preliminary determination consistent with the target timelines published by the Planning and Building Department and will use best efforts to ensure a timely review following the submittal of the required documents pursuant to subsection (a) of this section.

(Ord. 4786 § 1, 2022)

30.25.016 Tree canopy requirements.

(1) Tree canopy requirements shall apply to all new residential development applications within unincorporated urban growth areas. The following activities are exempt from the tree canopy requirements of this section:

(a) Removal of any hazardous, dead or diseased trees, and as necessary to remedy an immediate threat to person or property as determined by a letter from a qualified arborist;

(b) Construction of a single-family dwelling, duplex, accessory or non-accessory storage structure on an individual lot created prior to April 21, 2009 or created by a subdivision or short subdivision for which a complete application was submitted prior to April 21, 2009;

(c) Construction or maintenance of public or private road network elements, and public or private utilities including utility easements not related to development subject to chapter 30.23A, 30.34A, 30.41G or 30.42E SCC;

(d) Construction or maintenance of public parks and trails when located within an urban residential zone; and

(e) Pruning and maintenance of trees.

(2) All significant trees within any perimeter landscaping required pursuant to SCC 30.25.020, critical area protection areas and required buffers shall be retained, except for trees exempted by subsection (1) of this section.

(3) Development subject to the requirements of subsection (1) of this section shall meet the minimum tree canopy coverage requirements set forth in SCC Table 30.25.016(3), except as provided in subsections (5) and (8) of this section. On sites that do not meet the requirements of SCC Table 30.26.016(3) through existing tree canopy or where an applicant removes the existing tree canopy, new plantings to meet the requirements of SCC Table 30.25.016(3) shall be planted pursuant to SCC 30.25.015(5) through (7) and subsection (6) of this section. For sites requiring new plantings to attain the required tree canopy percentage, tree canopy coverage requirements listed in SCC Table 30.25.016(3) shall be calculated according to projected growth at 20 years maturity consistent with Table 30.25.016(4).

(a) Tree canopy shall include all evergreen and deciduous trees six feet in height or greater, excluding invasive species or noxious weeds, within the gross site area.

(b) Existing or planted tree canopy may include street trees and may be located within perimeter landscaping, site landscaping, critical area protection areas and required buffers, and open space tracts or easements.

Table 30.25.016(3) Tree Canopy Coverage Requirements

Type of Development	Required Tree Canopy Coverage of Development Site (gross site area)
Subdivisions for Single Family Residential 10 or more lots	30 percent
Short Subdivisions for Single Family Residential 4 to 9 lots	25 percent
Short Subdivisions for Single Family Residential Less than 4 lots	20 percent
Single Family Detached Units, Cottage Housing, Townhouse, Multi-family 10 or more units	20 percent
Single Family Detached Units, Cottage Housing, Townhouse, Multi-family Less than 10 units	15 percent
Urban Center (residential and mixed use projects only)	15 percent

(4) Site tree canopy shall be measured according to SCC Table 30.25.016(4). Calculation of existing and new tree canopy shall be submitted in writing by a qualified landscape designer or a licensed land surveyor.

Table 30.25.016(4) Measuring Tree Canopy

Existing Canopy		New Canopy
Option 1 Tree Survey	**Option 2 Aerial Estimation**	**20-Year Canopy Calculation**
• Measure average canopy radius (r) for each tree to be retained • Calculate existing canopy area using the formula: Canopy Area (CA)=πr^2	• Obtain aerial imagery of site • Measure site boundaries • Measure canopies of individual trees or stand area using leading edges as the forest boundary	For each proposed species: • Calculate radius (r) of canopy at 20 years maturity • Calculate canopy coverage using the formula: CA=πr^2

Table 30.25.016(4) Measuring Tree Canopy

Existing Canopy		New Canopy
Option 1 Tree Survey	**Option 2 Aerial Estimation**	**20-Year Canopy Calculation**
• Total the sum of tree canopy areas and divide by gross site area to obtain canopy coverage percentage	• Divide total canopy measurement by the gross site area to obtain canopy coverage percentage	• Multiply by the proposed quantity to be planted to obtain total species canopy area • Total the sum of species canopy area for all proposed species and divide by gross site area to obtain 20-year canopy coverage percentage

(5) To assist in the preservation and retention of significant trees and existing tree canopy outside of critical area protection areas and required buffers and perimeter landscaping, the applicant may utilize the following credits:

(a) Individual significant trees retained on site shall be counted at 125 percent of their actual canopy area.

(b) For clusters or stands of five or more trees, each tree shall be counted at 150 percent of its actual canopy area.

(c) For clusters or stands of five or more significant trees, each tree shall be counted at 200 percent of its actual canopy area.

(d) Retained trees located within no more than 20 feet of a rain garden or a bio-swale on site shall be counted at 150 percent of their actual canopy area.

(e) Retained significant trees qualified to receive flow control credits under Appendix III-C of the Snohomish County Drainage Manual shall be counted at 150 percent of their actual canopy area.

(f) The on-site recreation space required by SCC 30.23A.080 may be reduced by 100 percent if 40 percent or more of the site has existing tree canopy that is retained along with all native vegetation under that canopy area.

(g) A project may be exempted from all other requirements of SCC 30.25.015 and this section if the canopy area of significant trees retained onsite is 45 percent or more of the gross site area and the majority of the canopy is provided by evergreen species.

(h) The minimum required lot area in subdivisions or short subdivisions not using the lot size averaging provisions of SCC 30.23.210 may be reduced by 20 percent when at least 20 percent of the site, not including any critical area protection areas and perimeter buffers, is put into a separate tract or tracts that have at least 20 significant trees per acre and where at least 60 percent of the significant trees within the tract or tracts are retained. This does not change the tree canopy requirements.

(i) For subdivisions or short subdivisions using the lot size averaging provisions of SCC 30.23.210(7), the minimum size for each single lot in SCC 30.23.210(7)(a) may be reduced by 20 percent when at least 20 percent of the site, not including any critical area protection areas and perimeter buffers, is put into a separate tract or tracts that have at least 20 significant trees per acre and where at least 60 percent of the significant trees within the tract or tracts are retained. This does not change the tree canopy requirements.

(6) In addition to the requirements of SCC 30.25.015(5) through (7), trees planted to meet tree canopy requirements in SCC Table 30.25.016(3) shall meet the following criteria:

(a) Sites must be planted or replanted with a minimum of 50 percent evergreen species, except:

(i) The evergreen portion of the required planting mix may be reduced to 37.5 percent when the deciduous mix contains exclusively indigenous species to the Puget Sound region, not including Alder; and

(ii) Sites obtaining tree canopy requirements solely through street trees are exempt from the requirement to include evergreen species in the planting mix;

(b) Sites requiring planting or replanting of tree canopy must plant no more than 30 percent of trees from the same species and no more than 60 percent of trees from the same taxonomic family.

(c) Replacement trees shall be planted in locations appropriate to the species' growth habit and horticultural requirements;

(d) When preparing the landscaping plan, applicants are encouraged to meet the requirements of SCC Table 30.25.016(3) by conserving existing tree canopy including significant trees and other vegetation located on the site and place new plantings in protected areas (such as street trees, perimeter landscaping, open spaces and critical area protection areas and required buffers) at healthy spacing densities before placing trees within individual lots or yards; and

(e) Replacement trees shall be located in such a manner to minimize damage to trees or structures on the project site and on properties adjoining the project site.

(7) The following tree protection measures shall be taken during clearing or construction:

(a) Tree protective fencing shall be installed along the outer edge of the drip line surrounding the trees retained in order to protect the trees during any land disturbance activities, and fencing shall not be moved to facilitate grading or other construction activity within the protected area;

(b) Tree protective fencing shall be a minimum height of three feet, visible and of durable construction; orange polyethylene laminar fencing is acceptable; and

(c) Signs must be posted on the fence reading "Tree Protection Area."

(8) An applicant may reduce the tree canopy requirements of SCC Table 30.25.016(3) by no more than five percent through a landscape modification when all of the following criteria and those in SCC 30.25.040 are met:

(a) The applicant demonstrates in writing that they have made a good faith effort to comply with the tree canopy requirements within the physical constraints of the site by:

(i) Retaining as much of the tree canopy as possible on site consistent with best management practices for maintaining the health of trees; or

(ii) Replanting as much of the tree canopy as possible on site consistent with best management practices for maintaining the health of trees;

(b) The applicant proposes to plant additional understory vegetation or ground cover area, excluding lawn cover, invasive species or noxious weeds, to fulfill the remaining canopy requirement in SCC Table 30.25.016(3) not met by retention or replanting of tree canopy; and

(c) When critical areas protection area buffers exist on site and those buffers are not highly functioning, the applicant proposes to enhance the buffers by removing invasive species and noxious weeds and/or planting vegetation indigenous to the Pacific Northwest, spaced for maximum survivability.

(9) On sites without any existing tree canopy, the director may reduce the requirements of SCC Table 30.26.016(3) by no more than five percentage points (for example, 30 percent requirement can be reduced to 25 percent) when an applicant provides a 25 percent increase in the area of open space than that required under SCC Table 30.23A.080(2). The following shall not be eligible for this reduction:

(a) Short subdivisions less than seven lots;

(b) Single family detached units, cottage housing, townhouse, multi-family less than 10 units; and

(c) Urban center development.

(10) The county engineer may modify required frontage improvements to retain significant trees as street trees.

(11) Retained significant trees, trees planted as replacements for significant trees, and trees planted to meet requirements in subsection (3) of this section may not be removed except when determined in writing by a certified arborist to constitute a hazard. Any replacement or significant trees removed without proper documentation from a certified arborist shall be subject to a fine as determined under chapter 30.85 SCC.

(12) Any significant trees identified in a landscape plan to be retained and subsequently damaged or removed during site development shall be replaced at a rate of three trees for each one damaged or removed significant tree. Failure to replace damaged or removed significant trees shall be subject to a fine as determined under chapter 30.85 SCC. (Added by Amended Ord. 08-101, Jan. 21, 2009, Eff date Apr. 21, 2009; Amended by Amended Ord. 14-073, Oct. 8, 2014, Eff date Oct. 27, 2014).

The Snohomish County Code is current through legislation passed January 3, 2024.

Disclaimer: The Clerk of the Council's Office electronically retains the ordinances as passed by Council and subsequently enacted. The Snohomish County Code is updated on the web as new ordinances become effective, and includes new ordinances through 23-137. New ordinances do not necessarily become effective in chronological or numerical order. Users should contact the Clerk of the Council's Office for information on legislation not yet reflected in the web version.

For questions related to the Snohomish County Code, contact the Code Reviser (Council Office): 425-388-3494.

Please note that Code Enforcement is not related to the management of County Code.

For questions and information related to Code Enforcement in Planning and Development Services (PDS), please go to the PDS website at
Code Enforcement | Snohomish County, WA – Official Website (snohomishcountywa.gov) or call 425-388-3650.

County Website: snohomishcountywa.gov

Hosted by Code Publishing Company, A General Code Company.

CITY OF KENMORE

2024 LEGISLATIVE SESSION

Shelly Helder
State Lobbyist

GORDON THOMAS HONEYWELL
GOVERNMENT RELATIONS

PURPOSE

- Overview of the 2024 Legislative Session
- Outcome of Kenmore Priorities
- Additional Legislative Issues
- Next Steps

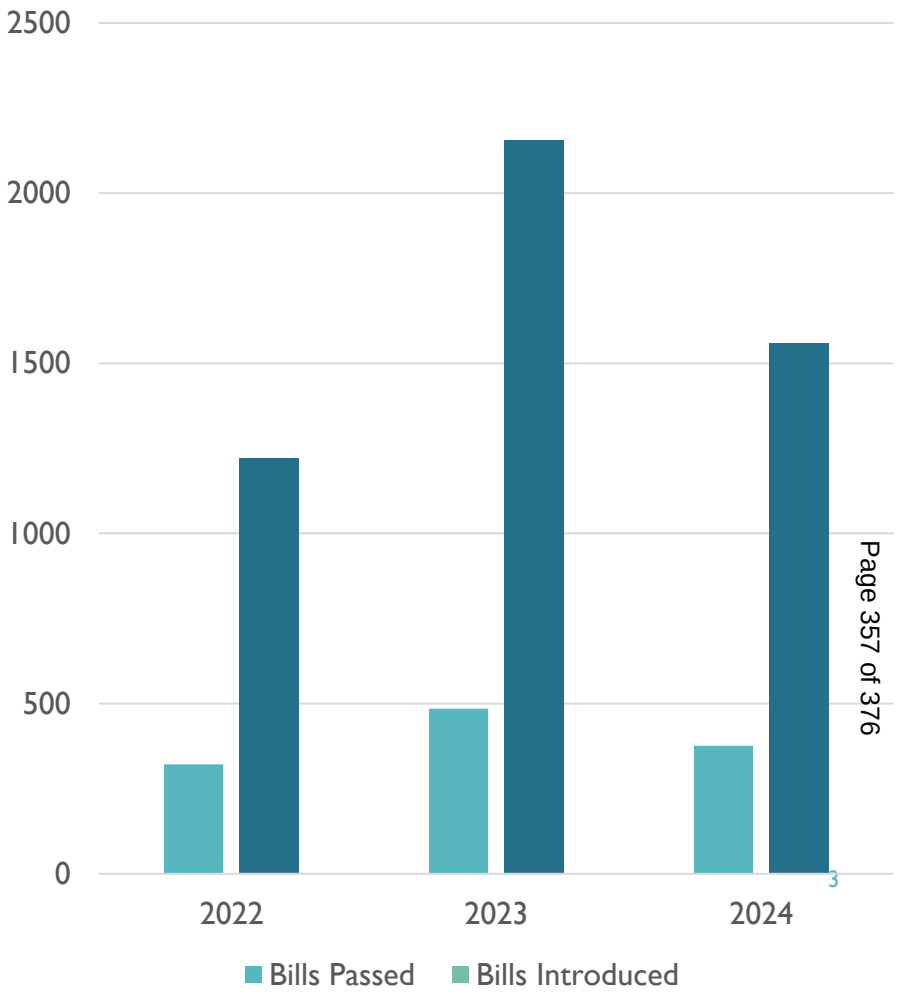
OVERVIEW OF 2024 LEGISLATIVE SESSION

General Context

- Second year of the biennium,60-day session
- Adopted supplemental operating, capital, and transportation budgets
- 1,560 bills introduced, 376 passed into law

Political Context

- Democrats held strong majorities in House and Senate
- 6 Initiatives to the Legislature



OVERVIEW OF 2024 SUPPLEMENTAL BUDGETS

Operating

- Funds all state agency operations
- February revenue forecasts $1.2 billion increase from when budgets were enacted
- $2.1 billion in additional spending for a $71.9 billion biennial budget
- Local Investments: Eliminates local 25% cost share for BLEA, $34M for grants to local governments for homeless housing programs and services

Capital

- Funds public and nonprofit construction projects
- $1.3B of additional investments for a $10.3B biennial budget
  - Combination of bond capacity, CCA, federal funds, MTCA, etc.
  - Many investments are contingent on failure of I-2117
- $72.5M allocated for local community projects ($62M in 2022)
  - Average local community project award: $372,000
- Key investments in housing & homelessness, behavioral health, education

Transportation

- Funds the state's transportation system including highways, ferries, transit and transportation related agencies
- $1B of new spending, $14.6B biennial budget
  - Federal funds, CCA $, increased MAW revenues
  - Many investments are contingent on failure of I-2117
- Traditional revenues (gas tax, license fees, permits, etc.) are down by $56M, an 8% decrease

2024 LEGISLATIVE PRIORITIES

Funding Tools for Affordable Housing

- No new funding tools
- $127M for the Housing Trust Fund
- $34M to local governments for homeless housing programs and services

Climate Commitment Act Funding

- $3.1 million for the 84th Avenue Sidewalk and Bike Lane improvements
- $464,000 for the Geothermal Heating System in the Public Works Operations Center
- Not available until January 2025 and contingent on I-2117 failing

Local Culvert & Stormwater Funding

- $20.7 million allocated to the Fish Barrier Removal Board
- $25 million to the Salmon Recovery Funding Board
- Both amounts are funded with CCA dollars and contingent on I-2117 failing

Air Pollution Emergencies

- Senate Bill 5535 was reintroduced but never scheduled for a public hearing

Traffic Safety Cameras for Transit Lane Violations

- House Bill 2384 provides new authority for cities to use cameras to enforce bus only lane violations
- Protects current use of camera revenue

Lift 1% Property Tax Cap

- Senate Bill 5770 was considered but did not advance

ADDITIONAL LEGISLATIVE ISSUES

Affordable Housing Near Fixed Route Transit

- House Bill 2160 did not pass; a report will be provided to the Legislature in 2025 on best practices and state policy recommendations

Climate Change & Environmental Stewardship

- House Bill 2049, Re-WRAP Act, failed to get across the finish line
- House Bill 2301, organic material management, passed into law

Co-Responder Support

- House Bill 2088 extends liability protections for co-responders
- House Bill 2245 did not pass but budget language directs UW to develop curriculum, a certification and credential opportunities

NEXT STEPS

- Thank the City's legislative delegation
- Implement new policies & take advantage of grant programs
- Interim Action Plan & Steps to prepare for the 2025 session
- 2025 Legislative Session begins January 13th

QUESTIONS?

Shelly Helder
shelder@gth-gov.com
360-209-3338

GORDON THOMAS HONEYWELL
GOVERNMENT RELATIONS

City of Kenmore
End-of-Session Report
April 1, 2024

Overview of the 2024 Legislative Session

The Washington State Legislature convened the 2024 Legislative Session for 60 days, starting January 8th and concluding March 7th. Democrats held strong majorities in both the House of Representatives, 58 to 40, and the State Senate, 29 to 20. Leading up to beginning of the Session, Democrats in the House of Representatives and Senate outlined their priorities for the 2024 session – investing in behavioral health, responding to climate change, increasing gun control, continuing housing efforts from 2023, and improving special education. As the Session progressed, the realities of session lasting a mere 60 days and being immediately followed by a challenging November 2024 election cycle quelled ambitions.

Democrats have had control over the Governor's Office and both chambers of the Legislature for several years and have adopted many policies that Republicans have objected to. In response, in 2023, conservative Republicans mobilized to collect the necessary signatures to file a historic number of initiatives to the Legislature - six. Each of the six initiatives push back on policies advanced by the Democrats in recent years including repealing the Climate Commitment Act, repealing the Capital Gains Tax, allowing taxpayers to opt-in to the payroll tax that funds the Long Term Care Act, increasing parental rights and access to K-12 curriculum and student records, prohibiting the state or local governments from enacting an income tax, and allowing police officers to engage in vehicular pursuits on more occasions. For each initiative, the Legislature could choose whether to 1) adopt the initiative; 2) adopt an alternative to appear on the November ballot alongside the initiative; or 3) take no action and allow the initiative to advance to the November ballot for voter consideration. Initiatives adopted by the Legislature can be amended by future legislatures with a simple majority vote. Initiatives approved by voters at the ballot can only be amended with a 2/3 vote of the Legislature for two years after approval.

The Legislature chose to adopt three of the initiatives as part of an overarching strategy to increase the odds that voters will reject the remaining three initiatives. The Legislature adopted the following three initiatives:

- I-2111 (prohibiting income tax)
- I-2081 (parental rights)
- I-2113 (vehicular pursuits)

The Legislature did not take action on the following three initiatives, and they will appear on the November ballot:

- I-2117 (repealing the Climate Commitment Act)
- I-2109 (repealing the capital gains tax)
- I-2124 (opt out of Washington's long-term care retirement program)

Key Legislation and Issues

As the second year of the two-year legislative biennium, 1,105 bills introduced during the 2023 session that were not passed into law were carried over for consideration during the 2024 session. In addition to those bills that carried over, an additional 1,560 bills were introduced. Of these, the Legislature passed 376 bills into law. A session can sometimes be defined by what did not pass; this year, several significant policies did not get across the finish line including capping rent rates, lowering the blood-alcohol-content for drunk driving, increasing the real estate excise tax to fund housing, increasing the 1% cap on property tax levies to 3%, and more.

In addition to considering the Initiatives to the legislature and proposed legislation, the Legislature adopted supplemental budgets, making changes to the 2023-25 biennial budgets adopted during the 2023 legislative session. See the budget summary section for more information on the adopted budgets.

One of the major challenges facing the Legislature was the Climate Commitment Act, or Washington State cap-and-trade system for carbon emissions. The Legislature approved the Act in 2022, and the first auctions under the program started in 2023 generating significantly more revenue than was forecasted. This excess in revenue was countered with Initiative-2117, proposing to repeal the Act. Legislators balanced this by allocating Climate Commitment Act funds to several projects and programs but making those appropriations contingent on voters rejecting Initiative-2117.

Legislative Retirements and Elections

Following the conclusion of the 2024 legislative session, legislators will transition to focusing on the November 2024 elections. All members of the House of Representatives and roughly half the members of the State Senate will face re-election. The end of the 2024 session brought about several announcements of legislators that do not plan to seek re-election:

- Senator Sam Hunt (D-Olympia) has served in the Legislature since 2000; Rep. Jessica Bateman has announced that she will run for the Senate seat, creating an open House seat.
- Senator Andy Billig (D-Spokane) has served in the Legislature since 2010; Rep. Marcus Riccelli has announced that he will run for the Senate seat, creating an open House seat.
- Senator Karen Keiser (D-SeaTac) has served in the Legislature since 1995.

- Senator Lynda Wilson (R-Vancouver) has served in the Legislature since 2015; Rep. Paul Harris has announced that he will run for the Senate seat, creating an open House seat.
- Representative JT Wilcox (R-Yelm) has served in the Legislature since 2011.
- Representative Joel Kretz (R-Wauconda) has served in the Legislature since 2005.
- Representative Spencer Hutchins (R-Gig Harbor) has served in the Legislature since 2023.
- Representative and former Speaker of the House Frank Chopp (D-Seattle) has served in the Legislature since 1994.

There are also several legislators who have announced they plan to run for higher office, and as a result will not be seeking re-election to their positions:

- Senator Mark Mullet (D-Issaquah) is running for Governor. Rep. Bill Ramos plans to run for the position, leaving an open House seat.
- Senator Kevin Van De Wege (D-Sequim) is running for Commissioner for Public Lands. Rep. Mike Chapman (D-Port Angeles) plans to run for the position, leaving an open House seat.
- Representative Jacquelin Maycumber (R-Republic) is running for the 5th Congressional Seat.
- Representative Kelly Chambers (R-Puyallup) is running for Pierce County Executive.

Still yet, there are legislators who are running for a statewide position but if they are unsuccessful in winning those races will be able to return to the Senate to continue out the remainder of their term (two more years). If they are successful, an appointment process will occur after the November 2024 elections to fill their seats prior to the January 2025 Legislative Session.

- Senator Manka Dhingra (D-Redmond) is running for Attorney General.
- Senator Patty Kuderer (D-Bellevue) is running for the Office of Insurance Commissioner.
- Senator Emily Randall (D-Bremerton) is running for the 6th Congressional Seat.
- Senator Drew MacEwen (R-Shelton) is running for the 6th Congressional Seat.
- Senator Rebecca Saldana (D-Seattle) is running for Commissioner for Public Lands.

Look toward filing week, May 6-10 for more news about who is choosing to file for state legislative offices. Filing week will be followed by the August 6th primary election, and the November 5th general election.

Between legislative retirements and re-election efforts, the Legislature will see yet another re-arranging of the deck chairs prior to the 2025 session. Following the November 5th general election, the Legislature will make new chair and committee assignments for the 2025-27 biennium.

Effective Dates

Unless otherwise noted, bills approved by the Legislature are effective 90 days from the adjournment of the legislative session. For 2024, that would make most bills effective June 6, 2024.

Budget Highlights

Summary of 2024 Supplemental Budgets
The Legislature adopted 2024 supplemental budgets, which make mid-biennial budget adjustments to the 2023-35 budgets that were adopted in April 2023.

Operating Budget: The 2024 Supplemental Operating Budget (click here, labeled "As Passed Legislature") spends $1.1 billion to maintain existing programs, and an additional $1 billion to fund new policy expenditures. The existing programs with the largest increase in cost include Medicaid medical assistance, the Food Assistance Program, K-12 enrollment, and compliance with the *Trueblood* case judgment. The largest new policy expenditures occurred in education and behavioral health.

Capital Budget: The 2024 Supplemental Capital Budget (click here, labeled "As Passed Legislature") allocates $1.3 billion in total funds, with $130.6 million from debt limit bonds and $1.2 billion from other resources including $688.4 million in Climate Commitment Act accounts and $307.5 million from the Common School Construction Fund. Several of the appropriations are contingent on voters rejecting I-2117. The budget also does not appropriate revenue generated from the capital gains tax beyond November 2024.

Transportation Budget: The 2024 Supplemental Transportation Budget (click here, labeled "As Passed Legislature") spends a total of $14.6 billion, including $340 million from Climate Commitment Accounts, which are contingent on voters rejecting I-2117. Funds were predominantly spent on projects already scheduled to receive funding during the 2023-25 biennium. This spending reflects a 0.8 percent decrease in traditional transportation revenues from what was originally forecasted for 2023-25.

Legislative Agenda Items

Funding for Affordable Housing
The City supported new and flexible funding options for local jurisdictions to address the need for affordable housing. While the Legislature considered a handful of proposals that would have modestly increased local funding for affordable housing, ultimately none of those proposals passed.

HB 2276, sponsored by Representative April Berg (D-44th LD) and its Senate companion SB 6191 by Senator Noel Frame (D-36th LD), would have made several changes to the state real estate excise tax to increase the supply of affordable and workforce housing. The bill increased the first tier of the real estate excise tax REET from $525,000 to $750,000; established a new real estate transfer (RETT) tax of 1% on the value of the selling price over $3.025 million; directed revenue from RETT to accounts receiving REET money; and

created a REET exemption for certain proprieties that qualify for a property tax exemption that will be used for a community purpose. Notably, this bill would have directed the Department of Revenue to study and provide recommendations for how to implement a tiered local REET. The bill advanced out of the House Finance committee but made it no further.

The only other proposal that would have provided a new revenue source for local governments for affordable housing was Senate Bill 5334,, which would have authorized cities to impose a 10% tax on short term rental properties. It advanced further than it has in the past but ultimately failed to get over the finish line.

Climate Commitment Act Funding for Greenhouse Gas Reduction

84th Avenue Sidewalk Funding: The supplemental transportation budget includes the City requested $3.1 million for sidewalks and bike lanes along 84th Avenue. This project is funded with revenue generated from the Climate Commitment Act and is void if Initiative 2117 is passed. The funding will be available January 1, 2025 if the CCA is upheld.

Geothermal Heating for Public Works Operations Center: The supplemental capital budget includes the City requested $464,000 for a geothermal heating system in the new public works operations center. Similar to the project above, this is funded with Climate Commitment Act revenues and will be void if I-2117 is approved. Similarly, funding is not available until 2025.

Local Culvert and Stormwater Funding

The supplemental capital budget allocates $20.7 million for locally and privately owned culvert replacement projects, via the Brian Abbott Fish Barrier Removal Board. This is in addition to the $48 million appropriated in the biennial budget (page 103). These resources are provided from the Climate Commitment Act (CCA) and are null and void if the CCA is repealed. An additional $25 million is provided to the Salmon Recovery Funding Board but is null and void if the CCA is repealed (page 99).

Air Pollution Emergencies During Wildfire Smoke Events

Senate Bill 5535, sponsored by Senator Derek Stanford, was introduced in the 2023 session. Because this was the second year of the biennium, the bill was automatically reintroduced in 2024. The bill authorizes clean air agencies to limit the operations of industrial facilities during wildfire smoke events and other compromised air quality episodes that result in a burn ban. The bill was referred to the Senate Environment, Energy and Technology Committee but was never scheduled for a public hearing.

Traffic Safety Cameras for Transit Lane Violations

House Bill 2384, sponsored by Representative Brandy Donaghy (D-44th LD), allows cities and counties expanded authority to use automated traffic safety cameras (school zone cameras, red-light cameras, speed cameras, and bus lane enforcement cameras). Notably, cities with a dedicated bus rapid transit corridor are allowed to use cameras to enforce transit only lane violations. Additionally, cameras are authorized to be used on state routes

within the city that are classified as city streets, and in work zones on city streets and county roads. All revenue generated by each authorized camera remains with the local government. In cities with a population of 10,000 or more, all revenues generated from the cameras must be used for traffic safety purposes, and a proportionate share of the revenue must be spent in census tracts with household incomes in the lowest quartile and in areas that experience above average rates of injury crashes. Cities currently utilizing revenue from red-light cameras and school-zone cameras are exempt from these requirements and may continue to spend revenue consistent with existing practice. The bill also allows trained and authorized civilian employees to review and issue infractions to automated school bus safety camera violations, as opposed to only law enforcement officers. Individuals on public assistance are also able to receive a 50% reduction in a fine resulting from an infraction captured by a camera. The 2024 Supplemental Operating Budget allocates $560,000 to implement the bill (page 19).

Lifting the One Percent Property Tax Cap

Many state lawmakers come from local governments and understand firsthand the challenges faced by cities and counties when it comes to constrained revenue growth and ever-increasing costs. For this reason, there have been many attempts at reforming the state's cap on property tax growth. This year, the primary vehicle was Senate Bill 5770, sponsored by Senator Jamie Pedersen (D-43rd LD), which was a carryover bill from the 2023 session. The bill would have removed the 1% cap on property tax growth and tied it to inflation, capped at 3%. The bill was voted out of the Senate Ways & Means committee on party line and was expected to be voted out of the Senate before the house of origin cutoff. However, there was overwhelming opposition to the proposal in the media and through grassroot efforts. In an election year, advancing legislation with such public resistance does not often occur and this was no exception. Further, replacing the 1% cap with a 3% cap will not come near to solving the fiscal challenges for many cities and that makes the politically heavy lift even harder because the problem will not be fully addressed.

Additional Policy Issues

Affordable Housing Near Fixed Route Transit

House Bill 2160, sponsored by Rep. Julia Reed (D-Seattle), was the second attempt at a establishing a statewide standard for zoning near high capacity transit stations. Among the many aspects of the bill, it would have required a minimum of 10% of all residential units within a station area be affordable for at least 50 years. This requirement was a major sticking point for developers that initially supported the policy. The bill made it through the House and eventually died in the Senate Ways & Means committee. Despite the bill dying, the transportation budget allocates $250,000 is for the Joint Transportation Committee to contract out to complete a review of transit-oriented development conditions in cities in King, Pierce, Spokane, Clark, and Snohomish Counties over 12,500 in population that have at least one major transit stop. The review must look at comprehensive plans, housing-focused tax and fee programs, and development regulations required to be

adopted on or before December 31, 2024. It must include examples of local or national best practices for transit-oriented affordable and workforce housing development. The report must include recommendations for state policies to expand transit-oriented development, minimizing displacement of existing communities, and ensuring affordability. The review is due to the Legislature by June 30, 2025. (page 24 of the 2024 Supplemental Transportation Budget).

Climate Change and Environmental Stewardship

Much of the climate and environment policy discussion this session was overshadowed by the looming possibility of the Climate Commitment Act (CCA) being repealed if Initiative 2117 is approved by voters in November. Revenues generated by the CCA in the first half of the biennium are invested in a variety of programs and projects that reduce carbon emissions. Most notably, $150 million is allocated to provide public and private electric utilities with funding to provide bill credits for low-income and moderate-income residential electricity customers to help with the clean energy transition in the amount of $200 per household by September 15, 2024 (page 148 of the Supplemental Operating Budget). The budget also includes investments that are made with projected CCA revenue that are contingent on Initiative-2117 failing.

A number of notable bills relating to environmental or climate policy were debated but did not survive to final passage, including: House Bill 2051 reducing emissions from small engines, House Bill 1433 concerning energy labeling on residential buildings, and House Bill 2049 which would have placed new requirements on packaging producers to participate and fund the collection and management of products through producer responsibility organizations. One notable bill did pass, along with several investments in the budgets:

Clean Buildings: House Bill 1976, sponsored by Representative Mary Fosse (D-38th LD), relates to changing the incentive structure for tier 1 and tier 2 buildings. The Department of Commerce may provide incentives greater than the base incentive payment for upgrading tier 1 and tier 2 buildings under the Early Adoption Incentive Program to owners of buildings that comply with the State Energy Performance Standard.

Implementation of Green House Gas Emission Subelements of Comprehensive Plans: $10 million is allocated for programs, services, or capital facilities included in greenhouse gas emission reduction sub elements required by HB 1181, approved during the 2023 legislative session. (page 114 of the 2024 Supplemental Operating Budget).

Securing Grant Opportunities: $3.5 million is allocated to the Department of Commerce to develop a web portal for grant opportunities related to energy, climate, and clean technology. An additional $5 million is allocated to assistant entities in access federal tax incentives and grants. $4.5 million is provided to assist entities in authoring grant applications, and to provide support for federal grant reporting for entities that receive federal grants. An additional $2 million is allocated to the Office of Financial Management to build a grant writing, tracking, and management database for the state acquisition of federal funds, and to support development of state strategies for successfully bringing

specific types of federal funding to Washington. This funding is contingent on voters rejecting I-2117. (pages 144-146 and page 179 of the 2024 Supplemental Operating Budget).

Energy Audits: $3.5 million is allocated to provide and facilitate access to energy assistance programs, including incentives, energy audits, and rebate programs to retrofit homes and small businesses. This funding is contingent on voters rejecting I-2117. (page 147 of the 2024 Supplemental Operating Budget).

Clean Energy Ambassadors: $3 million is allocated for the Department of Commerce to establish a Washington Clean Energy Ambassadors program that offers education, planning, technical assistance, and community engagement across the state. Ambassadors will link local entities with resources and best practices to enable clean energy access. This funding is contingent on voters rejecting I-2117. (page 148 of the 2024 Supplemental Operating Budget).

Clean Energy Permitting: $600,000 is allocated to Department of Commerce to establish a grant program for cities and counties to establish permitting processes that rely on the online automated permit processing software developed by the national renewable energy laboratory and that applies to any combination of the following permitting: solar, energy storage, electric vehicle charging infrastructure, or other similar clean energy applications included within the suite of capabilities of the online automated permit processing software. This funding is contingent on voters rejecting I-2117. (page 150 of the 2024 Supplemental Operating Budget).

Sewer Heat Recovery Programs and Pilots: $150,000 is allocated for grants to conduct up to three feasibility studies that will investigate the expansion of sewer heat recovery programs and pilots. This funding is contingent on voters rejecting I-2117. (page 152 of the 2024 Supplemental Operating Budget).

Embodied Carbon Building Code Study: $250,000 is allocated to the State Building Code Council to conduct a study on embodied carbon used in the building codes. Recommendations shall be provided for language addressing embodied carbon for potential adoption by the council. Report is due December 1, 2024. This funding is contingent on voters rejecting Initiative 2117. (page 215 of the 2024 Supplemental Operating Budget).

Compliance with Tier 1 and Tier 2 Buildings: $4 million is provided to the Association of Washington Cities and $4 million to the Washington State Association of Counties to assess current energy performance for tier 1 and tier 2 covered buildings and provide cost estimates for upgrades. (page 4 of the 2024 Supplemental Capital Budget).

Clean Building Grants: $45 million is provided for grants for tier 1 covered buildings and public buildings. The appropriation is null and void if the CCA is repealed. (page 68 of the 2024 Supplemental Capital Budget).

Green Jobs and Infrastructure Catalytic Funds: $24 million is provided for grants to entities, including local governments, to help communities meet their energy and climate change regulatory requirements, bring additional investment to the State, and help develop advanced workforce. This funding lapses if the CCA is repealed. (page 47 of the 2024 Supplemental Capital Budget).

Clean Energy Community Decarbonization: $50 million is appropriated for grants to entities, including local governments, for planning, design, and implementation of capital projects and clean energy technologies that reduce greenhouse gas emissions in vulnerable, overburdened, and tribal communities. This funding lapses if the CCA is repealed. (page 49 of the 2024 Supplemental Capital Budget).

Solar Deployment and Battery Storage: $38 million is provided for grants to increase solar development and installation of battery storage in community buildings (including local government buildings) to enhance grid resilience and provide backup power or to provide incentives to support electric utility demand response programs that include customer-sited solar and battery storage systems. This funding is null and void if the CCA is repealed. (page 49 of the 2024 Supplemental Capital Budget).

Community Electric Vehicle Charging Infrastructure: $105 million is appropriated for the development of community electric vehicle charging infrastructure, including local governments. This funding is void if the CCA is repealed. (page 59 of the 2024 Supplemental Capital Budget).

Co-Responder Support

Extending Liability Protections: House Bill 2088, sponsored by Representative Tina Orwall (D-33rd LD), is request legislation by the Health Care Authority. This bill extends liability protections for responders dispatched from mobile rapid response crisis teams and community-based crisis teams and applies to responders transporting patients to behavioral health services. Individuals will have immunity when acting in good faith within the scope of the individual's employment responsibilities.

Criminal Justice

Criminal Justice Treatment Account: HB 1983, sponsored by Representative Tarra Simmons (D-23rd LD), removes the current sunset provision (end of 2025) that was put in place for the criminal justice treatment account for drug court programs 180 days following graduation.

Vehicular Pursuit Data Collection: $400,000 is allocated to the Office of Financial Management to contract with a consultant to collect, review, and analyze data related to vehicular pursuits and to compile a report. The report must include recommendations to the Legislature on what data should be collected by law enforcement agencies throughout the state so that the Legislature and other policymakers have consistent and uniform information necessary to evaluate policies on pursuits. The report is due June 30, 2025. (page 178 of the 2024 Supplemental Operating Budget).

Firearms

In recent years, Democrats have advanced many progressive gun control policies, the most notable including the banning of automatic assault rifles. The Legislature continued that trend by approving several modest firearm related proposals during the short 60-day session:

Firearm Sensitive Places: Senate Bill 5444, sponsored by Senator Javier Valdez (D-46th LD), makes it a gross misdemeanor for a person to knowingly possess a firearm in public libraries, zoos or aquariums accredited by the Association of Zoos and Aquariums or the Zoological Association of America, and transit station or transit facilities, including all passenger facilities, structures, stops, shelters, bus zones, properties, and rights-of-way owned, leased held, or used by a transit authority for the purpose of providing public transportation services. The definition of transit stations and facilities does not include transit vehicles.

Destroying Forfeited firearms: House Bill 2021, sponsored by Representative Tana Senn (D-41st LD), allows the Washington State Patrol to destroy forfeited firearms. Local governments and law enforcement agencies can also trade or auction off antique firearms to museums or historical societies. The bill also creates requirements for the disposition of firearms obtained through buy-back programs.

Lost or Stolen Firearms: House Bill 1903, sponsored by Representative Liz Berry (D-36th LD), creates a civil infraction for the failure to report the loss or theft of a firearm to law enforcement within 24 hours, and requires law enforcement to enter lost and stolen firearms into the nation Crime Information Center database. Also requires firearm dealers to post signage related to civil and criminal penalties related to the failure to report a lost or stolen firearm and the unsafe storage of a firearm.

Housing Crisis

While the Legislature considered several bold policies, such as House Bill 2114, capping rent increases, and House Bill 2276, generating increased revenue through changes to the state real estate excise tax, legislators chose to proceed forward with a more subdued approach. Even more modest proposals including House Bill 2270, proposing to create a Department of Housing separate from the current Department of Commerce; authorizing cities to impose a 10% tax on short term rentals; House Bill 2353, allowing all counties and cities to utilize the multifamily tax exemption program; and Senate Bill 6030 extending an accessory dwelling unit (ADU) property tax exemption currently available in King County to all counties, did not advance.

Below are those proposals that did pass into law and the investments made in the budgets.

Homeless Housing Programs: $34 million is allocated to local governments for homeless housing programs and services. Of this amount, $12 million is allocated to King County, $3 million is allocated to the City of Tacoma, and $4 million is allocated to the City of Spokane. (page 99 of the 2024 Supplemental Operating Budget).

Housing Assistance: $23,688,000 is allocated for housing assistance, including long-term rental subsidies, permanent supportive housing, and low and no barrier housing beds for unhoused individuals. Priority must be given to individuals with a mental health disorder, substance use disorder, or other complex conditions; individuals with a criminal history; and individuals transitioning from behavioral health treatment facilities or local jails (page 62 of the 2024 Supplemental Operating Budget).

Model for Supportive Housing Demand: Within existing resources, the Department of Commerce is directed to develop a model to estimate demand for operating, maintenance, and services costs for permanent supportive housing units that qualify for the Housing Trust Fund (page 63 of the 2024 Operating Budget).

Downpayment Assistance Account: $250,000 is provided into the downpayment assistance account. (page 865 of the 2024 Supplemental Operating Budget).

Emergency Housing Assistance: $2 million is allocated for grants to cities, counties, or nonprofit organizations to support individuals in need of emergency housing assistance. Funds distributed in coordination with the Governor's Office. (page 94 of the 2024 Supplemental Operating Budget).

Homeownership: $1.5 million is allocated for contracts with organizations to increase homeownership. Additionally, $500,000 is allocated to the Housing Finance Commission to develop a plan with specific strategies to increase homeownership. (page 97 of the 2024 Supplemental Operating Budget).

Calculating Average Median Household Income: $250,000 is allocated to the Department of Commerce to evaluate alternative methods for calculating average median household income. The report is due June 30, 2025. (page 108 of the 2024 Supplemental Operating Budget).

Department of Housing: $250,000 is allocated to the Office of Financial Management to provide recommendations on the method and format for studying the transition to a Department of Housing. Report is due December 1, 2024 (page 180 of the 2024 Supplemental Operating Budget).

Non-traditional Financial Services: $300,000 is allocated to the Department of Financial Institutions to study non-traditional financial services such as home equity sharing agreements, and their effect on communities of color, seniors, and other vulnerable populations. (page 227 of the 2024 Supplemental Operating Budget).

Housing Trust Fund: $127 million is provided in the Supplemental Capital Budget for affordable housing projects through the Housing Trust Fund. This is in addition to the $400 million provided in the biennial budget. The $127 million is allocated as follows: $44 million for housing for those with developmental disabilities; $41 million for specific projects; $20 million for rapid conversion or acquisition of housing to address extremely low-income and unhoused populations; $17 million for housing to benefit low-income and

special needs populations, including permanent supportive housing; $15 million for the acquisition and preservation of mobile homes; $5 million for affordable housing urgent repairs grants (page 12 of the 2024 Supplemental Capital Budget).

Emergency Shelters: $20 million is appropriated to acquire, renovate, and prepare property for rapid conversion into enhanced emergency shelters, permanent supportive housing, transitional housing, permanent housing, youth housing, tiny homes or other shelters. $40 million was provided last session. (page 16 of the 2024 Supplemental Capital Budget).

Affordable Housing Repair Grants: $5 million additional funding is provided for urgent repair grants for affordable housing projects. This is in addition to $25 million provided in the biennial budget. (page 17 of the 2024 Supplemental Capital Budget).

Mobile Homes

Mobile Home Park Cooperative Grants: $10 million is provided for grants to the Northwest Cooperative Development Center to provide grants for the acquisition and preservation of mobile of manufactured home cooperative communities. This is in addition to the $4 million provided last session. In addition, $3.5 million additional funding is provided to the Center for cooperatives to complete capital improvement processes. This section of the Capital Budget also includes over $31 million additional dollars for community-specific projects. (page 15 of the 2024 Supplemental Capital Budget).

Passenger Only Ferry

$500,000 is provided for WSDOT to contract with a third party to evaluate options for the state to return to providing passenger only ferry service to support existing ferry service routes. The study must focus on the routes recommended for further 2020 study by PSRC on passenger only ferry service and well as San Juan County interisland service. The progress report is due October 30, 2024 and the final report is due June 1, 2025. (page 101 of the 2024 Supplemental Transportation Budget).

Product Stewardship

Although the Re-WRAP Act, House Bill 2049, did not pass the Legislature, there was progress made on management of organic materials. It is expected a new version of the Re-WRAP Act will be introduced again in 2025.

Organic Material Management Systems: House Bill 2301, sponsored by Representative Beth Doglio (D-22nd LD), makes various changes related to organic material management. The bill creates and modifies existing grant programs for projects and programs that reduce food waste, policy implementation, and compost products. Organic material collection requirements in certain jurisdictions and certain businesses are modified. Bin colors for solid waste collection services must be standardized across local governments. The bill also makes technical changes and changes to product labeling. To implement this bill the 2024 Supplemental Operating Budget allocates $106,000 (page 58), $1.645 million (page 592), $1.335 million (page 592), and $3.176 million (page 644). These investments are contingent upon voters rejecting I-2117.

Local Infrastructure Funding

Match Act: House Bill 1870, sponsored by Representative Stephanie Barnard (R-8th LD) promotes economic development for local communities by requiring the Department of Commerce to assist local communities with federal grant applications and creating a resource guide for federal grant applicants. The bill is null and void unless funded in the budget. The 2024 Supplemental Operating Budget allocates $500,000 to implement this bill (page 131).

Tax Increment Financing: House Bill 2354, sponsored by Representative Chipalo Street (D-37th LD), makes technical changes to the implementation of the tax increment financing tool. The project analysis that is required to be completed by the sponsoring jurisdiction must now include an assessment on impacts to any junior taxing district, including public hospital service and emergency medical service. This assessment is in addition to the existing assessment on several other special purpose districts, including local fire service. The assessment of impacts for fire service, hospital service and emergency medical service must include any necessary mitigation. Payment for mitigation is an allowable use of TIF revenue. If parties cannot reach agreement on mitigation, the bill outlines an arbitration process.

Tire Dust Pollution

6PPD: Senate Bill 5931, sponsored by Sen. Jesse Salomon (D-32nd LD), designates 6PPD as a priority chemical and certain motorized vehicle tires as a priority consumer product under Safer Products for Washington (SPWA). It requires the Department of Ecology to determine regulatory actions and adopt rules consistent with the existing SPWA process and to specifically consider the effect of the regulatory actions on driver and passenger safety.

6PPD-Q Pollution: $300,000 is allocated to provide an analysis of the contribution of waste tires 26PPD-Q pollution. A report is due June 30, 2025. (page 590 of the 2024 Supplemental Operating Budget).

Zoning & Land Use

The 2023 Legislature approved a slew of bills preempting local governments on land use. The 2024 Legislature introduced many bills to continue that trend, but many of them failed to get across the finish line, including House Bill 2160 regarding transit-oriented development, House Bill 1245 requiring lot splitting, House Bill 2252 allowing businesses in residential areas, and House Bill 2474/House Bill 2113 requiring Commerce approval of local housing development regulations. The Legislature approved several more modest proposals that still contained preemption of local land use:

Residential Parking: Senate Bill 6015, sponsored by Senator Sharon Shewmake (D-42nd LD), requires cities and counties to allow certain parking configurations to satisfy parking requirements for residential development. For example, the bill states that a city cannot require parking to be enclosed or require a garage or carport, and that parking spaces that count towards minimum parking requirements can be enclosed or unenclosed. Tandem parking must be allowed to count toward parking minimums, and a city may not require parking spaces to be greater than 8 feet by 20 feet, except for parking for individuals with

disabilities. It also specifies that the existence of non-conforming gravel surfacing in existing designated parking areas may be used to meet local parking standards for buildings with six parking spaces or less. Additionally, cities may not require off-street parking as a condition of permitting a residential project if compliance with tree retention would otherwise make a proposed residential development or redevelopment infeasible. All requirements related to parking do not apply within a one-mile radius of the SeaTac airport. To implement this bill, the 2024 Supplemental Operating Budget allocates $57,000 for fiscal year 2025 (page 119).

Co-Living Housing Bill: House Bill 1998, sponsored by Representative Mia Gregerson (D-33rd LD), requires cities and counties to adopt regulations or controls to allow co-living housing. The bill requires cities and counties to allow co-living housing on any lot within an Urban Growth Area that allows at least six multifamily residential units. Additionally, a city or county may not treat a sleeping unit in co-living housing as more than one-half of a dwelling unit for purposes of calculating fees for sewer connections unless the city or county makes a finding, based on facts, that the connection fees should exceed the one-half threshold.

Residential Housing Regulations: House Bill 2071, sponsored by Representative Davina Duerr (D-1st LD), concerns residential housing regulations. The bill directs the State Building Code Council to convene two technical advisory groups: one to recommend changes to apply the Washington State Residential Code to multiplex housing, and another to recommend changes needed to the International Building Code (IBC) to allow dwelling units with less than 190 square feet. Additionally, the Office of Regulatory and Innovation Assistance is directed to develop an optional standard energy code plan set that meets or exceeds all energy code regulations for residential housing, subject to the international residential code. The 2024 Supplemental Operating Budget allocates $225,000 (page 31) and $180,00 (page 215) for the implementation of this bill.

Middle Housing: House Bill 2321, sponsored by Representative Jessica Bateman (D-22nd LD), modifies certain provisions of the 2023 middle housing policies. The bill requires that cities with a population of at least 25,000 must allow six of the nine types of middle housing. Cities with less than 25,000 people can choose the number of middle housing types that meet minimum density requirements. The bill also allows middle housing to be built on lots where a portion of the lot is a critical area. Finally, middle housing densities only apply around bus rapid transit stops once construction of those stops has begun. Areas designated as sole-source aquifers by the United States Environmental Protection Agency on islands in the Puget Sound from the density requirements. To implement this bill the 2024 Supplemental Operating Budget allocates $213,000 for fiscal year 2025 (page 118).