

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.

1           WHEREAS, the City Council received a recommendation from  
2 Staff to amend certain sections of the Kirkland Zoning Code (KZC),  
3 Ordinance 4786, as set forth in the staff report dated November 30,  
4 2023; and

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6           WHEREAS, prior to adoption, the City Council, following notice  
7 thereof as required by KZC 160.40, held a public hearing on December  
8 12, 2023, on the amendment proposals pursuant to Kirkland Municipal  
9 Code (KMC) 3.32.020; and

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11           WHEREAS, pursuant to the State Environmental Policy Act  
12 (SEPA), there has been a SEPA Addendum to the 2015 Comprehensive  
13 Plan Update Environmental Impact Statement issued by the responsible  
14 official pursuant to WAC 197-11-625; and

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16           WHEREAS, the City Council finds that the proposed  
17 amendments to the Zoning Code are in the best interests of the public  
18 in that they clarify existing provisions, and add procedures to assist  
19 developers and staff in understanding how the city's tree requirements  
20 will be applied to development projects at an early stage of the  
21 development process; and

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23           WHEREAS, the City Council recognizes these amendments to  
24 the Zoning Code are consistent with the Kirkland Comprehensive Plan  
25 in that the amendments would balance environmental protection and the  
26 desire for housing development.

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28           NOW, THEREFORE, the City Council of the City of Kirkland do  
29 ordain as follows:

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31           Section 1. The following specified sections of the Kirkland  
32 Zoning Code Chapter 95 Entitled "Tree Management and Required  
33 Landscaping" are amended as set forth in Exhibit A to this ordinance  
34 and incorporated by reference.

35  
36           Chapter 95.05  
37           Chapter 95.30

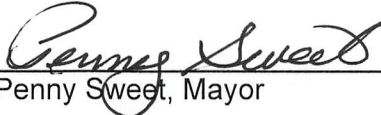
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39           Section 2. If any provision of this ordinance or its application to  
40 any person or circumstance is held invalid, the remainder of the  
41 ordinance or the application of the provision to other persons or  
42 circumstances is not affected.

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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 12<sup>th</sup> day of December, 2023.

Signed in authentication thereof this 12<sup>th</sup> day of December, 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.

1           SECTION 1. Amends various sections of the Kirkland Zoning  
2 Code relating to the adoption of a "Tree Management and Required  
3 Landscaping Code" as set forth in the title of the ordinance.  
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5           SECTION 2. Provides a severability clause for the ordinance.  
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7           SECTION 3. Authorizes publication of the ordinance by  
8 summary, which summary is approved by the City Council pursuant to  
9 Section 1.08.017 Kirkland Municipal Code and establishes the effective  
10 date as five days after publication of summary.  
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12           The full text of this Ordinance will be mailed without charge to  
13 any person upon request made to the City Clerk for the City of Kirkland.  
14 The Ordinance was passed by the Kirkland City Council at its meeting  
15 on the 12<sup>th</sup> day of December, 2023.  
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17           I certify that the foregoing is a summary of Ordinance 4865  
18 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**

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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;

- 34 d. Mitigate the consequences of required tree removal in land development through on- and off-  
35 site tree replacement with the goals of halting net loss and enhancing Kirkland’s tree canopy to  
36 achieve an overall healthy tree canopy cover of at least 40 percent City-wide over time;
- 37 e. Encourage tree retention efforts by providing flexibility with respect to certain other  
38 development requirements;
- 39 f. Balance tree protection with other major City-wide interests, including, but not limited to,  
40 provision of housing opportunities;
- 41 g. Implement the goals and objectives of the City’s Comprehensive Plan and  
42 Sustainability Master Plan;
- 43 h. Implement the goals and objectives of the State Environmental Policy Act (SEPA); and
- 44 i. Manage trees and other vegetation in a manner consistent with the City’s Urban Forest  
45 Strategic Management Plan; industry standards; and best management practices established by  
46 the International Society of Arboriculture (ISA) and the American National Standards Institute  
47 (ANSI) for Management of Trees During Site Planning, Development and Construction, Pruning,  
48 and Tree Risk Assessment.
- 49 j. Preserve and protect street trees, trees in public parks and trees on other City property.

50 (Ord. 4786 § 1, 2022)

51 **95.30 Tree Retention Associated With Development Activity**

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52 The City’s objective is to mitigate the impacts of incremental canopy loss due to development by  
53 establishing clear standards for the retention of existing trees and for planting and maintenance of new  
54 trees.

55 This section includes provisions that establish tree retention priorities, incentives, and variations to  
56 development standards in order to retain viable trees on development sites. Applicants for a development  
57 permit are encouraged to confer with City staff as early in the design process as possible so that the  
58 applicable tree retention and planting principles found in this chapter can be incorporated into the design  
59 of the subject property. The Planning Official and the applicant shall work in good faith to find reasonable  
60 solutions. Applicants may use the pre-submittal procedures in subsection 7 to obtain an early  
61 understanding of how tree retention, protection, and planting standards of this Code apply to a particular  
62 property and proposed project.

63 1. Tree Retention Plan Applicability. A tree retention plan is required for any proposed development of  
64 the subject property requiring approval through a building permit; land surface modification permit;  
65 demolition permit; and/or Design Review, Process I, IIA, or IIB, described in  
66 Chapters [142](#), [145](#), [150](#) and [152](#) KZC, respectively, unless:

- 67 a. Otherwise exempted pursuant to KZC [95.15](#).
- 68 b. The permit is for additions to and remodels of existing improvements in which the total square  
69 footage of the proposed improvements is less than 50 percent of the total square footage of the

70 existing footprint on the subject property and where no development activity is proposed within the  
71 CRZ of regulated trees.

72 2. Tree Retention Plan Review Authority. The authority to make decisions under this chapter resides  
73 with the Planning Official for building permit; land surface modification permit; demolition permit; and/or  
74 with the applicable review authority for Design Review, Process I, IIA, or IIB, described in  
75 Chapters [142](#), [145](#), [150](#) and [152](#) KZC. To retain regulated trees, the City shall review for consistency with  
76 the provisions set forth in this chapter.

77 Based on the tree retention plan information submitted by the applicant, ~~and the subject to the~~  
78 Planning Official's ~~evaluation of the trees relative to the proposed development on the subject~~  
79 ~~property verification of accuracy~~, the Planning Official shall designate trees on the subject property  
80 as viable high retention value trees, including landmark trees and groves, and/or trees with a  
81 moderate retention value ~~based on using the definitions provided in KZC [95.10](#), Definitions, for~~  
82 ~~application towards the regulations in this chapter.~~

83 The City does not require tree retention efforts that either (i) would reduce maximum allowed  
84 density, number of allowed lots, maximum allowed floor area ratio (FAR) or lot coverage, (ii) or  
85 preclude the ability to construct ADUs consistent with KZC [115.07](#), or (iii) ~~that~~ preclude required  
86 access and utility connections.

87 3. Tree Retention Plan Requirements. Tree retention plans shall contain the following information,  
88 unless waived by the Planning Official:

89 a. Inventory with the following information:

90 1) All existing regulated trees on the subject property identified by a numbering system that  
91 is consistent throughout the arborist report, site plan and on-site tree tags. The inventory must  
92 also include regulated trees that are on adjacent properties that appear to have CRZs  
93 extending onto the subject property;

94 2) Identification of all existing trees in the public right-of-way adjacent to the subject  
95 property, regardless of tree size;

96 3) The CRZ and the proposed TPZ of all existing regulated trees specified in feet from the  
97 face of each tree trunk. The inventory must also include the approximate CRZ and proposed  
98 TPZ of regulated trees on adjoining properties that appear to have CRZs extending onto the  
99 subject property;

100 4) DBH of all existing regulated trees, including the approximate DBH of regulated trees on  
101 adjoining properties that appear to have CRZs extending onto the subject property;

102 5) Proposed tree removals;

103 6) Viability status of each regulated tree based on the combined condition ratings pursuant  
104 to KZC [95.30\(3\)\(c\)](#);

105 7) Tree species and/or common name; and

106 8) Potential landmark trees and groves.

- 107           b. Site Plan. The site plan must be drawn to scale showing the following:
- 108                   1) Location of all proposed improvements, including building footprint, access, utilities,  
109                   applicable required yards, buffers, and required landscaped areas clearly identified;
- 110                   2) Surveyed location of regulated trees on the subject property. The site plan must also  
111                   show the approximate trunk location of regulated trees that are potentially impacted on  
112                   adjacent properties;
- 113                   3) Trees labeled corresponding to the tree inventory numbering system per subsection  
114                   (3)(a) of this section;
- 115                   4) CRZs drawn to scale around all trees potentially impacted by site disturbance resulting  
116                   from grading, demolition, or construction activities (including approximate CRZs of all trees  
117                   that are potentially impacted on adjacent properties). Site plans shall include site disturbances  
118                   associated with over-excavation of foundations, retaining walls, and similar improvements;
- 119                   5) Location of tree protection fences at the proposed TPZs, with distances from the  
120                   applicable trunks to fences noted on the site plan. Specific tree protection standards during  
121                   construction, as described in KZC [95.32](#) or recommended by the qualified professional  
122                   arborist, shown on demolition, grading, and building permit plans;
- 123                   6) Trees proposed to be removed, noted by an 'X' or by ghosting out; and
- 124                   7) Proposed locations of any replacement trees to be planted to meet tree density credits  
125                   or mitigation requirements, including the proposed size and species, as outlined in KZC [95.34](#).
- 126           c. Qualified professional arborist report with the following:
- 127                   1) A combined overall viability status based on the condition ratings of both health and  
128                   structure for each regulated tree, including regulated trees on adjoining properties that appear  
129                   to have CRZs extending onto the subject property. The condition ratings for each regulated  
130                   tree shall be assessed using the following criteria:

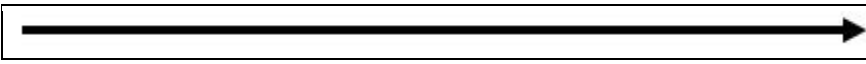
**Table 95.30.1 Tree Condition Ratings**

| <b>Condition Rating</b> | <b>Tree Health</b><br><i>Twig and leaf density, size and growth, pest/pathogen issues</i>  | <b>Tree Structure</b><br><i>Root flare, trunk condition, branch assembly</i>   |
|-------------------------|--|--|
| <b>Excellent</b>        | 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.  |
| <b>Good</b>             | 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. |
| <b>Fair</b>             | 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.  |
| <b>Poor</b>             | 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.                      |

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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**

|                       |                  | <b>Tree Health</b>   |             |             |             |
|-----------------------|------------------|--|-------------|-------------|-------------|
|                       |                  |  |             |             |             |
| <b>Tree Structure</b> |                  | <b>Excellent</b>   | <b>Good</b> | <b>Fair</b> | <b>Poor</b> |
|                       | <b>Excellent</b> | Viable   | Viable      | Viable      | Not viable  |
|                       | <b>Good</b>      | Viable   | Viable      | Viable      | Not viable  |
|                       | <b>Fair</b>      | Viable   | Viable      | Not viable  | Not viable  |
|                       | <b>Poor</b>      | Not viable   | Not viable  | Not viable  | Not viable  |

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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.'

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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



138 no reasonable alternative action is possible (pruning, cabling, etc.). The City shall review the  
139 viability ratings for consistency with the condition ratings in Table 95.30.1 and Table 95.30.2;

140 3) The qualified professional arborist's description of the method(s) used to determine TPZs  
141 (i.e., CRZ formula, exploratory root excavations, or a case-by-case basis description for  
142 individual trees);

143 4) Any special instructions specifically outlining any work proposed within the CRZ of  
144 retained trees (i.e., additional protection from soil compaction, hand-digging, tunneling or  
145 boring, root pruning, mitigating any grade changes, monitoring during development activity,  
146 watering during summer and aftercare), including potentially impacted trees on adjacent  
147 properties;

148 5) If development proposals result in the retention and/or removal of high retention value  
149 trees (including landmark trees and groves) provide an explanation of how tree retention was  
150 prioritized based on retention feasibility and proposed construction impacts;

151 6) A discussion of timing and installation of tree protection measures that must include  
152 fencing in accordance with the tree protection standards in KZC [95.32](#), including any  
153 anticipated changes to tree protection fence location or other activity within the CRZ of  
154 retained trees during project construction (e.g., material delivery, equipment  
155 access, landscaping);

156 7) Describe the impact of necessary tree removal on the trees to be retained, including  
157 those on adjacent properties;

158 8) The suggested location and species of replacement trees to be planted. The report shall  
159 include planting and maintenance specifications pursuant to KZC [95.50](#), [95.51](#), and [95.52](#);  
160 and

161 9) Arborist reports that are based on field work collected three or more years prior to  
162 submittal shall be updated with current tree data.

163 d. A description of additional tree retention and protection requirements that apply to properties  
164 with development projects proposed within:

165 1) Shoreline setbacks as set forth in Chapter [83](#) KZC;

166 2) Critical areas and associated buffers as set forth in Chapters [85](#) and [90](#) KZC; and

167 3) Holmes Point Overlay Zone areas as set forth in Chapter [70](#) KZC.

168 4. Development of Single-Family Dwellings, Short Plats, Subdivisions, Two/Three-Unit Homes,  
169 Cottage/Carriage Dwellings, and Accessory Structures. Tree retention plan review and approval shall be  
170 based on compliance with the following provisions:

171 a. High Retention Value Trees. In order to retain trees located in required yards, land use buffers,  
172 and/or common open spaces, and to retain landmark trees and groves located anywhere on the  
173 subject property, the applicant shall ~~pursue~~ consider, and the Planning Official (or Public Works  
174 Official, where applicable) is authorized to require, compliance with the following standards:

- 175 1) Site Plan Alterations. Site plan alterations, including the following:
- 176 a) Shift or flip (mirror) the location of proposed building footprints and driveways;
- 177 b) Selection of the required front yard on corner lots in the RSA and RSX zones and  
178 selection of the required side yard to meet the 15-foot total required in RS zones;
- 179 c) Shift the building footprint on the lot to utilize the variations to development  
180 standards allowed in subsection (3) of this section;
- 181 d) Relocate utilities when feasible, taking into account gravity and location of existing  
182 mains;
- 183 e) Adjust deck, patio, and path designs;
- 184 f) Avoid rockery/retaining walls located within ~~CRZs~~ TPZs to maintain existing grades.
- 185 2) Arboricultural Methods. ~~The applicant shall employ a~~ Arboriculture methods to retain  
186 trees, such as, but not limited to, air excavations, boring under roots instead of trenching  
187 within TPZs for utilities less than two inches diameter, and using additional ~~CRZ~~ protection  
188 per KZC 95.32.
- 189 3) Variations to Development Standards. ~~The applicant shall pursue the following variations~~  
190 ~~and the Planning Official (or Public Works Official, where applicable) is authorized to require~~  
191 ~~these variations to development standards~~ Variations to development standards, such as, but  
192 not limited to:
- 193 a) Reduce required front yard by up to five feet;
- 194 b) Reduce required rear yards by up to five feet where the rear yard is adjacent to an  
195 access easement, tract, or alley;
- 196 c) Allow variations to the garage requirements of KZC 115.43(3);
- 197 d) Allow variations to increase the maximum lot coverage by not more than 10 percent  
198 where necessary to extend access due to building footprint location while ensuring that  
199 the driveway width does not exceed a width of 20 feet;
- 200 e) Allow minimum 18-foot by 18-foot parking pads;
- 201 f) Modify right-of-way frontage improvement requirements, such as adjusting the  
202 location of any required landscape strip;
- 203 g) Allow up to a five-foot increase in building height where the additional height is  
204 clearly related to tree retention (e.g., locating mechanical equipment in the attic,  
205 avoiding excavation or fill); and
- 206 h) With short plats and subdivisions, allow clustering per subsection (4)(d) of this  
207 section.

208 b. In order to retain landmark trees and groves located anywhere on the subject property, in  
209 addition to the site plan alterations and variations to development standards listed in subsection  
210 (4)(a) of this section, the applicant shall ~~pursue~~ consider, and the Planning Official (or Public Works  
211 Official, where applicable) is authorized to require, the following additional standards:

212 1) Site Plant Alterations. Site plan alterations, ~~as follows~~ including the following:

213 a) Reasonable modifications to the proposed building footprints and driveways;

214 b) Shore basements and other extensive excavations in order to avoid impact within  
215 CRZs;

216 c) Cantilever structures over CRZs; and

217 d) With short plats and subdivisions, clustering per subsection (4)(d) of this section,  
218 rearrangement of property lines within the applicable short plat or subdivision, relocation  
219 of access roads, and relocation of utilities.

220 2) Arboricultural Methods. ~~The applicant shall employ a~~ Arboricultural methods to retain  
221 landmark trees and groves such, but not limited to, as air excavations, boring under roots  
222 instead of trenching, and using additional ~~CRZ~~ protection per KZC 95.32.

223 3) Variations to Development Standards. ~~The applicant shall pursue, and the Planning~~  
224 ~~Official is authorized to require, the following additional standards~~ Variations to development  
225 standards, such as, but not limited to:

226 a) Allow required side yards to be reduced to three feet where those yards are internal  
227 within a proposed short plat or subdivision;

228 b) Allow required yards to be reduced to 10-foot front and five-foot rear;

229 c) Reductions and variations in required parking and driveways.

230 c. Moderate Retention Value Trees. The following incentives are available in order to protect  
231 moderate retention value trees:

232 1) An applicant may propose to modify their development proposal in the same manner as  
233 provided for high retention value trees in subsections (4)(a) and (b) of this section and  
234 the Planning Official (or Public Works Official, where applicable) is authorized to approve  
235 these variations to development standards for viable trees that are deemed to have  
236 excellent/good health and structure per the Tree Condition Table 95.30.1.

237 2) When landmark trees cannot be feasibly retained after pursuing the variations in  
238 subsections (4)(b)(3)(a) and (b) of this section, the applicant may propose to retain moderate  
239 retention value trees to satisfy landmark tree mitigation requirements and/or pay associated  
240 fees-in-lieu pursuant to KZC 95.23. The applicant shall indicate tree protection areas on site  
241 plans and clearly indicate a request for this incentive.

242 3) When viable trees located in required yards, land use buffers, and/or common open  
243 spaces cannot be feasibly retained after pursuing the variations in subsections (4)(b)(3)(a)

244 and (b) of this section, the applicant may propose to retain moderate retention value trees  
245 instead. The Planning Official may approve this incentive; provided, that the size and  
246 condition of the moderate retention value tree(s) are equal or superior to that of the tree  
247 removed in the required yard, land use buffer, and/or common open space.

248 d. Additional Tree Retention Standards for Short Plats and Subdivisions.

249 1) Clustering of Lots. The Planning and Building Director (for short plat applications) or  
250 Hearing Examiner (for preliminary plat applications) may approve variations to minimum lot  
251 size, maximum floor area ratio, and lot coverage requirements in order to facilitate retention of  
252 high retention value trees where necessitated by retention of trees in protective tracts or  
253 where lot sizes are averaged in order to retain trees. The following standards shall apply:

254 a) Lot sizes may be averaged, with no minimum lot size specified, provided there is no  
255 increase in the allowed density or number of lots otherwise allowed for the subject  
256 property;

257 b) The subject property is entitled to maintain the total aggregate maximum floor area  
258 ratio (FAR) and maximum lot coverage that would otherwise be permitted for the subject  
259 property under a conventional short plat or subdivision. The maximum FAR  
260 and/or maximum lot coverage requirements may be adjusted proportionate to the lot  
261 size reduction(s), provided there is no net increase in the aggregate FAR and/or  
262 aggregate lot coverage otherwise allowed for the subject property;

263 c) The variations and resultant restrictions shall be included in a recorded agreement  
264 and be binding on future owners of the lots.

265 2) Modifications to Tree Retention Plans for Short Plats and Subdivisions. Modifications to  
266 an approved tree retention plan may be approved by the Planning and Building  
267 Director pursuant to the following criteria:

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

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

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

276 3) Public Notice for Modifications. The Planning and Building Director shall not approve or  
277 deny a modification pursuant to this subsection without first providing notice of the  
278 modification request consistent with the noticing requirements for the short plat or subdivision  
279 and providing opportunity for comments for consideration by the Planning and Building  
280 Director. Said comment period shall not be less than 14 calendar days. The fee for processing  
281 a modification request shall be established by City ordinance.

282 5. Development of Multifamily, Commercial and Mixed Use. Tree retention plan review and approval  
283 shall be based on compliance with the following provisions:

284 a. High Retention Value Trees. In order to retain trees located in required yards and/or land use  
285 buffers, the applicant shall ~~pursue~~ consider, and the Planning Official (or Public Works Official,  
286 where applicable) is authorized to require, compliance with the following standards:

287 1) Site Plan Alterations. Site plan alterations, including the following:

288 a) Adjust deck, patio, and path designs;

289 b) Relocate utilities when feasible, taking into account gravity and location of existing  
290 mains;

291 c) Avoid rockery/retaining walls located within CRZs to maintain existing grades;

292 d) Shore basements and other extensive excavations in order to avoid impact within  
293 CRZs;

294 e) Cantilever structures over CRZs.

295 2) Arboricultural Methods. ~~The applicant shall employ a~~ Arboriculture methods to retain  
296 trees such as, but not limited to, air excavations, boring under roots instead of trenching within  
297 TPZs for utilities less than two inches diameter, and using additional ~~CRZ~~ protection per  
298 KZC 95.32.

299 3) Variations to Development Standards. ~~The applicant shall pursue the following variations~~  
300 ~~and the Planning Official (or Public Works Official, where applicable) is authorized to require~~  
301 ~~these variations to development standards~~ Variations to development standards, such as, but  
302 not limited to:

303 a) Allow required yards to be reduced to 10-foot front;

304 b) Allow variations to the maximum lot coverage by not more than 10 percent where  
305 necessary to extend access due to building footprint location while ensuring that  
306 the driveway width does not exceed a width of 20 feet;

307 c) Modify right-of-way frontage improvement requirements, such as adjusting the  
308 location of any required landscape strip;

309 d) Allow up to a five-foot increase in building height where the additional height is  
310 clearly related to tree retention (e.g., locating mechanical equipment in the attic,  
311 avoiding excavation or fill);

312 e) Vary parking lot design and/or access driveway requirements when the Public  
313 Works Official and Planning Official both determine the variations to be consistent with  
314 the intent of City policies and codes;

315 f) Vary requirements pertaining to stormwater if approved by the Public Works  
316 Official under KMC 15.52.060; and

- 317 g) Vary the physical features of any required common recreational open space.
- 318 b. Moderate Retention Value Trees. The following incentives are available in order to protect  
319 moderate retention value trees:
- 320 1) An applicant may propose to modify their development proposal in the same manner as  
321 provided for high retention value trees in subsection (5)(a) of this section and the Planning  
322 Official (or Public Works Official, where applicable) is authorized to approve these variations  
323 to development standards for viable trees that are deemed to have Excellent/Good health and  
324 structure per the Tree Condition Table 95.30.1.
- 325 2) The applicant may propose to retain moderate retention value trees to satisfy landmark  
326 tree mitigation requirements and/or associated fees-in-lieu pursuant to KZC [95.23](#). The  
327 applicant shall indicate tree protection areas on site plans and clearly indicate a request for  
328 this incentive.
- 329 6. The Planning Official ~~may~~ will authorize the removal of high retention value trees otherwise required  
330 by this chapter to be retained; provided, that the following conditions are met:
- 331 a. After utilizing the required site plan alterations and allowed variations to development  
332 standards listed in KZC [95.30](#)(4) and (5), there is no practicable or feasible alternative development  
333 proposal that results in fewer tree removals; or
- 334 b. Retention of such tree or trees would either (i) reduce maximum allowed density, number of  
335 allowed lots, maximum allowed floor area ratio (FAR) or lot coverage, (ii) preclude the ability to  
336 construct ADUs consistent with KZC [115.07](#), or (iii) preclude required access and utility  
337 connections.
- 338 7. Pre-Submittal Procedures. Applicants may use the pre-submittal procedures in this section to obtain  
339 an early understanding of how tree retention, protection, and planting standards of this Chapter apply to a  
340 particular property and proposed project.
- 341 a. Checklist. The Planning and Building Department shall maintain a publicly-accessible checklist  
342 for applicants identifying the information needed and process for the City to make a preliminary  
343 determination whether a proposal complies with this Chapter as provided in subsection 7(c).
- 344 1) As part of a pre-submittal meeting for a Process I, IIA, or IIB application, or as a separate pre-  
345 submittal meeting, an applicant should submit prior to the meeting the completed checklist,  
346 together with a preliminary tree inventory and/or survey, and proposed site plan. Applicants are  
347 encouraged to submit accurate information that identifies existing Landmark Trees and should  
348 specify trees proposed for retention and removal with a brief narrative discussion of why the  
349 applicant selected the trees for removal.
- 350 2) The Planning Official will review the checklist and documentation provided by the applicant at  
351 the pre-submittal meeting. The Planning Official shall determine if the applicant needs to submit  
352 additional information specified in subsection 1 above.
- 353 b. Site visit. The applicant may request a pre-submittal site visit. If a site visit is conducted, then the  
354 applicant may incur additional pre-submittal fees.

355 c. Findings. Following the pre-submittal meeting, and after all information submitted by the applicant  
356 has been reviewed, the Planning Official shall advise the applicant, in writing, of their preliminary  
357 determination and this document will be saved with the associated pre-submittal case file. This  
358 preliminary determination shall address tree retention, protection, and planting standards of this  
359 Chapter as applied to the applicant's property and proposed project, and the applicant may use this  
360 preliminary determination in preparing an application. This preliminary determination is not a final  
361 land use decision under the Land Use Petition Act and new or changed conditions or information  
362 could impact this determination. The Planning Official will issue the preliminary determination  
363 consistent with the target timelines published by the Planning and Building Department and will use  
364 best efforts to ensure a timely review following the submittal of the required documents pursuant to  
365 subsection (a) of this section.

366 (Ord. 4786 § 1, 2022)