AN ORDINANCE of the City Council of the City of Kent, Washington, amending Chapter 15.02 and Chapter 15.08 of the Kent City Code pertaining to preservation of trees.

RECITALS

A. Kent City Code section 15.08.240 establishes that the purpose of retention of trees is to maintain and protect property values, to enhance the visual appearance of the City, to preserve the natural wooded character of the area, to promote utilization of natural systems, to reduce the impacts of development on the storm drainage system, and to provide a transition between various land uses in the City.

B. While trees and other vegetation serve vital ecological functions when located in or near environmentally sensitive areas such as wetlands and steep slopes, development impacts to trees and vegetation within these areas are minimized and addressed by the regulations in Kent City Code chapters 11.06, Critical Areas, and 11.04, Shoreline Master Program.

C. Trees and vegetation suited to development in multifamily, commercial and industrial zoning districts are addressed in the landscaping requirements for perimeter and parking areas in Kent City Code chapters 15.05 and 15.07.

Amend KCC Title 15
RE: Tree Preservation
D. Policies LU-8.1 and LU-8.4 of the 2015 Comprehensive Plan support achievement of allowable density in single family developments and encourage infill development through flexible and innovative site design. Goal LU-8 is to revise development regulations to encourage development that is more flexible and innovative.

E. Policies LU-17.2 and LU-17.7 of the 2015 Comprehensive Plan are to conserve energy resources, improve air and water quality, minimize the loss of vegetation and recognize the value of trees as new development occurs. These policies support Goal LU-17 of recognizing the role of the natural environment in shaping a sustainable community by contributing to health, environmental justice, and economic vitality.

F. Goal E-5 of the 2015 Economic Development Plan is to update design standards of residential, commercial, and downtown development, in support of the City’s vision to “ Beautify Kent.”

G. By specifying retention of fifteen percent of the total diameter inches of existing significant trees, the tree preservation requirements adopted in 2007 have yielded inconsistent results and often not achieved the goals as intended. Few to no trees are required to be retained or planted in development of sites having little to no forest cover. On forested sites, trees proposed to be retained often have grown in a location and manner that adds little value to the developed site or the neighborhood. Such trees subsequently risk damage from wind or disease, and are often removed by City residents for reasons of safety, utility, and aesthetics.

H. In the context of Comprehensive Plan and community goals supporting increasing urbanization of residential areas, the value of trees in contributing to the aesthetics, environmental quality, and function of urban infrastructure systems is becoming increasingly important. Trees

Amend KCC Title 15
RE: Tree Preservation
planted or retained in a context-appropriate manner will add perceived and functional value and be retained accordingly. Such trees will be more likely to survive to maturity and thus provide benefits to property values, neighborhood aesthetics, air and water quality, stormwater systems, and wildlife.

I. On February 9, 2015, staff received direction from the Economic and Community Development Committee to explore alternatives to the City’s existing tree retention standards.

J. On April 13, 2015, staff presented options for updating the requirements for tree preservation at a Land Use and Planning Board (“LUPB”) workshop meeting. Substituting the standards adopted in 2007 with a tree credit system based on net project acreage was selected from several alternatives.

K. On May 9, 2016, staff presented a draft code amendment to replace the previous requirements for tree retention with a tree credit system, requiring a certain number of tree diameter credits per net acre of development, to the LUPB at a workshop meeting.

L. On May 5, 2016, the City requested expedited review under RCW 36.70A.106 from the Washington State Department of Commerce regarding the proposed code amendment. The Washington State Department of Commerce granted the request for expedited review on May 23, 2016.

M. The City’s State Environmental Policy Act (SEPA) Responsible Official conducted an environmental analysis of the impacts of the proposed amendment and issued a Determination of Nonsignificance on June 17, 2016.
N. On June 27, 2016, after holding a public hearing, the LUPB made its recommendation to the City Council on the proposed code amendments.

O. On July 11, 2016, the Economic and Community Development Committee considered the recommendations of the LUPB at its regularly scheduled meeting, and recommended to the full City Council adoption of the proposed code amendments.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

**ORDINANCE**

**SECTION 1. - Amendment.** Section 15.08.240 of the Kent City Code, entitled “Preservation of trees,” is hereby amended as follows:

**Sec. 15.08.240 Preservation of trees.**

A. **Purpose.** Trees have a significant role in contributing to the quality of life in urban environments. The planting or retention of significant trees as required by this section is necessary to maintain and protect property values, to enhance the visual appearance of the city, to preserve the natural wooded character of the area, to promote utilization of natural systems, to reduce the impacts of development on the storm drainage system, to improve air quality, to provide habitat for wildlife, and to provide a transition between various land uses in the city.
B. Regulations. Application of regulations for the preservation of significant trees is as follows: General restrictions for all districts.

1. Except as provided for in this section, on all undeveloped property in the city, all trees of a six (6) inch caliper-diameter or greater shall be retained on the property where they are growing.

2. Where it is not feasible to retain all trees on the site due to the proposed development, a site-specific tree plan, drawn to scale, shall be prepared. The tree plan shall indicate the species, tree and precise location of all trees of a six (6) inch caliper or greater on the site in relation to proposed buildings, streets, parking areas, storm drainage facilities, and utilities. Trees to be retained pursuant to this section shall be marked by encircling the tree with a stripe of nontoxic paint of a color and type sufficient to remain visible during onsite construction activity. Trees to be retained shall be protected during construction, and the dripline shall be delineated with boundary markers. No grade changes or storage of materials shall be allowed within the tree dripline. Drainage patterns shall not be significantly altered that may be detrimental to the subject trees.

3. The tree plan and photograph of the trees on the property shall be submitted to the city planning services division for its review prior to the issuance of a zoning or building permit.

4. The planning services division shall review the tree plan in relation to the proposed development and make a determination of which trees will be permitted to be removed.

5. The planning services division may cause a modification of the development plan to ensure the retention of the maximum number of trees. Should the applicant elect to alter the development plan in order to preserve special trees or wooded areas in a natural state, the planning
manager may waive specific requirements to allow for flexibility and innovation of design.

6. There shall be no clear-cutting of trees of a six (6) inch diameter or greater on undeveloped land for the purpose of preparing that site for future development.

C. Applicability.

1. The requirements of this section shall be imposed in conjunction with approval of apply to new single family or duplex development that is not subject to a previously approved tree plan, including but not limited to subdivisions, short subdivisions, planned unit developments, development of undeveloped land, and/or when a change in the area devoted to parking and circulation is required by the Kent City Code and development of existing lots.

However, this section does not apply to a permit for a single family dwelling, unless restrictions on the removal of significant trees on individual single family lots have been imposed through prior city approval.

2. Developments other than new single family or duplex developments, such as multifamily, commercial, institutional, or industrial developments, are exempt from the requirements of this section.

D. Required Review. The city planning service division shall review the proposed removal of significant trees with each application within the applicability of this section. Tree density credits requirements. The number of trees required for new development shall be measured in tree density credits. Development proposals shall provide a minimum of 20 tree density credits per net acre. Tree density credits may be achieved by preservation of existing trees, planting of supplemental trees, or a combination of both. The density credit value of existing and supplemental
trees is shown in Table A. A tree density calculation that results in a fraction shall be rounded to the nearest whole number.

1. The net area to be used for tree density calculation shall include all residential building lots, recreation space, and open space tracts or easements not designated as critical areas. Public right-of-way, areas of a project site required to be dedicated as public right-of-way, critical areas and associated buffers, stormwater tracts, perimeter landscaping areas required by city code, and vehicular access or utility tracts shall be excluded from the area used for tree density calculation.

2. The tree credit value that corresponds with a tree’s diameter at breast height (DBH) is found in Table A. Diameter breast height (DBH) of the tree shall be measured in inches at the height of four and one-half feet above the ground.

   a. Existing individual trees proposed for retention shall be at least six inches in diameter at breast height (DBH).

   b. For the purpose of fulfilling the required tree density, the diameter inches of alder and cottonwood trees proposed for retention shall be discounted by a factor of one-half in the tree density calculation.

   c. Where the existing trees to be retained do not alone satisfy the tree density requirement, supplemental trees shall be planted to achieve the required tree density. Credit value for supplemental trees is shown in Table A.
d. Supplemental trees shall be of a type and variety that is compatible with development in the Pacific Northwest, such as those included on the city’s approved street tree list.

e. Street trees required by public works standards shall be counted to fulfill the tree density credit requirement.

f. Supplemental trees shall be planted in the following locations, in order of priority:

i. On individual residential building lots;

ii. In private access tracts, as approved by the public works department;

iii. In on-site recreation areas as approved by the parks and human services department.

g. Trees required to be planted around stormwater ponds and in site perimeter tracts, pursuant to other city codes, regulations or development standards, shall not be counted as supplemental trees for the purpose of achieving the required tree density credits.
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*Applies to supplemental trees only. Supplemental or replacement deciduous trees shall be at least two inches DBH at the time of planting. An evergreen tree shall be at least six feet in height at the time of planting. See, Kent City Code 15.08.240 (1)(3).*

E. *Retention of significant trees* Tree retention plan. An applicant for a development permit shall submit and receive city approval of a tree retention plan prior to permit issuance, unless modified by the economic and community development director in accordance with the criteria set forth in subsection (H) of this section. The tree retention plan shall contain the following elements:

1. A tree inventory containing the following:
   a. Size (DBH) and common genus name of trees proposed for retention; and
   b. A formalized finding by a licensed arborist stating that all trees proposed for retention are healthy and growing in a condition and manner that is compatible with the proposed development.
2. A site plan drawn to a verifiable engineering scale depicting the following:

a. Accurate location of trees proposed for retention in relationship to proposed buildings, streets, parking areas, storm drainage facilities, and utilities (surveyed locations may be required);

b. Limits of disturbance (LOD) around retained trees, as recommended by a licensed arborist to ensure the health of the trees during and after construction;

c. Location, common genus name, and size of proposed supplemental trees; and

d. Location of tree protection measures to be maintained in proximity to retained trees, as recommended by a licensed arborist.

1. Perimeter landscaping area. In the required perimeter landscaping areas, as set forth in Ch. 15.07 KCC, the applicant shall retain all significant trees which will not constitute a safety hazard. Areas devoted to access and sight distance, and areas to be cleared for required roads, utilities, sidewalks, trails, or storm drainage improvements are exempt from this requirement.

2. Site interior.

   a. In areas of the site other than the required perimeter landscape area, the applicant shall retain a minimum fifteen (15) percent of the diameter inches of the significant trees existing in this area; provided, that alder and cottonwood trees diameter inches shall be discounted by a factor of one-half (1/2). In applying the requirement for
retention of significant trees, the planning manager shall consider a priority the preservation of the following types of significant trees:

(1) Healthy significant trees over sixty (60) feet in height;

(2) Significant trees which form a continuous canopy;

(3) Significant trees which contribute to the character of the environment, and do not constitute a safety hazard;

(4) Significant trees which provide winter wind protection or summer shade;

(5) Groups of significant trees which create a distinctive skyline feature; and

(6) Significant trees in areas of steep slopes or adjacent to watercourses or wetlands.

b. The planning manager may approve retention of trees which do not meet the definition of significant trees as a contribution toward the sum of the diameter inches required under subsection (E)(2)(a) of this section if a group of trees and its associated undergrowth can be preserved.

3. Exemption. The provisions of this subsection which require retention of significant trees are not applicable in any downtown land use district.
4. **Reduced parking bonus.** If the proposed landscape plan incorporates the retention of significant trees above that required by this section, the planning manager may approve a reduction of up to ten (10) percent of the required number of parking spaces if adequate parking will remain on the subject property, and if land area for the required number of spaces remains available for future development on the subject property.

F. **Protection of trees during construction.** Temporary fencing shall be placed around the tree and its LOD prior to site development work, and no construction activities may be carried out within the protected area, except as allowed by permit, in accordance with the recommendation of a licensed arborist.

G. **Required review.** The city planning services division shall review the tree retention plan concurrently with each application for a development permit.

H. **Alternative tree retention provision option.** The economic and community development director may approve a modification of the tree provision requirements if:

1. An applicant may request a modification of the tree-retention requirements set forth in subsection (E) of this section.

2. The planning manager may approve a modification of the perimeter or interior tree-retention requirements if:

   a1. The modification is consistent with the stated purpose of this section; and
b2. The modification proposal either:

(1) Incorporates the retention of significant trees equal in equivalent diameter inches or incorporates the increased retention of significant trees and naturally occurring undergrowth beyond what would otherwise be required, or

(2) Incorporates the retention of other natural vegetation in consolidated locations which promotes the quality and natural vegetated character of the site and neighborhood including use as pasture land or for agricultural uses.

3. Where a modification proposal includes supplemental or replacement trees in lieu of retention, the applicant shall utilize plant materials from the city's list of plants for the Pacific Northwest.

IG. Replacement of removed or damaged trees. Trees removed illegally from undeveloped land or trees designated for retention which are damaged or destroyed shall be replaced as follows:

1. One (1)-existing tree at with a six (6)-inch diameter DBH shall be replaced by two (2)-new trees.

2. For each additional three (3)-inches of diameter at breast height, one (1)-new replacement tree shall be added, up to a maximum of six (6)-trees.

3. Replacement deciduous trees shall be at least two inches in diameter DBH at the time of planting. An A replacement evergreen shall be at least six (6)-to-eight (8)-feet high in height.
SECTION 2. - Amendment. Section 15.02.333 of the Kent City Code, entitled "Planning director," is hereby amended as follows:

Sec. 15.02.333 Planning director. Planning director means the director of the city of Kent planning economic and community development department or his/her the director's authorized designee.

SECTION 3. - Amendment. Section 15.02.529 of the Kent City Code, entitled "Tree," is hereby amended as follows:

Sec. 15.02.529 Tree. Tree means any living woody plant characterized by one (1) main stem or trunk and many branches, and having a diameter of six (6) inches or more measured at three (3) four and one-half feet above ground level.

SECTION 4. - Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 5. - Corrections by City Clerk or Code Reviser. Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

SECTION 6. - Effective Date. This ordinance shall take effect and be in force 30 days from and after its passage, as provided by law.
ATTEST:

Sue Hanson
SUE HANSON, INTERIM CITY CLERK

APPROVED AS TO FORM:

Tom Brubaker, City Attorney

PASSED: 19th day of July, 2016.
APPROVED: 19th day of July, 2016.
PUBLISHED: 22nd day of July, 2016.

I hereby certify that this is a true copy of Ordinance No. 4209 passed by the city council of the city of Kent, Washington, and approved by the Mayor of the city of Kent as hereon indicated.

Sue Hanson (SEAL)
SUE HANSON, INTERIM CITY CLERK

15 Amend KCC Title 15
RE: Tree Preservation