

Public Works, Parks, & Human Services Committee Meeting Minutes

Date: October 5, 2016

Attendance: Shelley Kloba, Dave Asher, Toby Nixon, Lynn Zwaagstra, Michael Cogle, Kathy Brown, Erin Devoto, Rob Jammerman, Jenny Gaus, Stacey Rush, Deb Powers, Dorian Collins, Joel Pfundt

Agenda Item:	Action Items:
<p>1. Parks Organizational Structure</p> <p>Notes: Lynn gave a background on the Parks Department organizational structure and differences in hierarchy throughout the department, highlighting the goals of the restructure and the outcomes.</p> <p><i>Presentation/Documents Attached</i></p>	<ul style="list-style-type: none">• Lynn will provide the Councilmembers with the overall cost of Parks Personnel (pay and benefits)• Add the organizational chart to the file.
<p>2. LID Code Review</p> <p>Notes: Stacey Rush presented on the NPDES permit requirement on LID as the preferred and commonly used approach by the end of 2016. Overview of the process, which began last year, and various groups this has been presented to was discussed. Deb and Dorian discussed the proposed changes to Chapter 95, involving trees. Questions were asked regarding lifecycle costs of pervious pavement, and if removing the stormwater incentives also removed the density bonus. Changes to Chapters 114 and 115 of the Zoning code were also discussed. It was also noted that the pre-approved plans will need to be updated to match the updated requirements. The municipal code will also be proposed to be updated to refer to the pre-approved plans.</p> <p><i>Presentation/Documents Attached</i></p>	<ul style="list-style-type: none">• Communicate with development group on upcoming workshops.• Send link to code review documents and include them in the minutes.• Check if Houghton Community Council has the authority to not adopt state law.
<p>3. Complete Streets Update</p> <p>Notes: Joel presented on the background of complete streets in Kirkland, the existing ordinance, and walked through the proposed changes to the ordinance. It was noted that staff should be aware and look for potential issues due to multiple updates that conflict and cause increased administrative responsibilities. The TIB award process was also explained.</p> <p><i>Presentation Attached</i></p>	<ul style="list-style-type: none">• Look at the cost of the City joining NACTO.• Send the text of the changes in ordinance to committee, when available.
<p>4. Free Speech in Parks</p> <p>Notes: Michael presented on the constitutional right of free speech in parks, and explained that current practices by the City related to free speech at parks and at events that are free and open to the public are consistent with State law. Amplification in parks is allowed at the Director's discretion. Cannot influence content, but can direct the time, place, and manner of speech. Port Townsend's code, which has been upheld in the Washington courts, was presented as an example. It was also noted that the State constitution does allow Cities to limit free speech inside public facilities.</p>	<ul style="list-style-type: none">•

<i>Documents Attached</i>	
5. Set November Agenda Notes: <ol style="list-style-type: none">1. Free Speech in Parks2. Houghton Transfer Station	<ul style="list-style-type: none">• 144th Street Bike Lanes are being parked in. Check with Police if warnings or tickets are being issued.
Tentative Next Agenda October 27, 2016 Future Topics Travel Lane/Bike Lane Standards	

Kirkland Parks and Community Services

Organizational chart adjustments

Why are we making changes?

Challenges:

- Span of control issue in recreation division
 - 300+ employees working in 5 locations reporting to 1 manager (no supervisory tier)
- Lack of onsite supervision at recreation sites
 - Concerns with safety, accountability, program assessment, risk management
- Organizational chart is shallow, horizontal
 - No backup of duties, cross training, career progression
- Disparity in the use of title “coordinator”, lack of consistency between coordinator job descriptions and salaries
- Lack of consistency between manager job descriptions, span of control and salaries
- Customer service processes decentralized with significant differences in policies, procedures and processes creating confusing system for the customer
- New technology implementation necessitating new processes
- 2 cases of non-supervisory coordinator level pay scale higher than MAC supervisors

What are we trying to accomplish?

Goals:

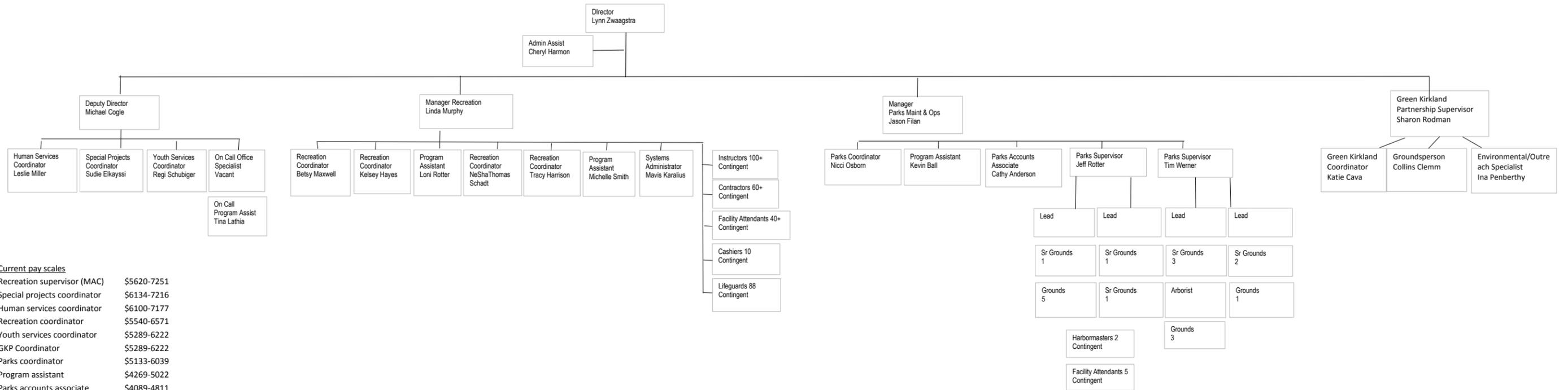
- Safe, quality programs and services (through appropriate onsite supervision)
- Customer friendly processes
- Operational efficiencies
- Appropriate span of control
- Equity between jobs of the same class
- Organizational cross training, backup coverage, career progression and succession planning

With what strategies?

Solutions:

- Implement new technology, adapt and adjust as necessary
- Combine operational lines where efficiencies exist, shift reporting lines
- Reestablish supervisory tier in recreation division
- Align similar jobs, job descriptions and salaries
- Rebalance workload
- Unify customer service processes
- Ensure work schedules and work plans meet organizational need
- Establish cross departmental communication, training, expectations and teamwork

Parks and Community Services Organizational Chart



Current pay scales

Recreation supervisor (MAC)	\$5620-7251
Special projects coordinator	\$6134-7216
Human services coordinator	\$6100-7177
Recreation coordinator	\$5540-6571
Youth services coordinator	\$5289-6222
GKP Coordinator	\$5289-6222
Parks coordinator	\$5133-6039
Program assistant	\$4269-5022
Parks accounts associate	\$4089-4811

Challenges

- Span of control issue in recreation division: 300+ employees working in 5 locations reporting to 1 manager, no supervisory tier
- Lack of onsite supervision at recreation sites: limited supervision and oversight of programs, concerns with safety, risk management and program assessment
- Lack of onsite supervision at recreation sites: confusing organizational structure for staff, difficult coverage of programs and services, limited back up, inefficiencies
- Organizational chart is horizontal: no backup of duties, cross training, career progression or succession planning
- Lack of consistency between use of title "coordinator": inconsistent job descriptions and salaries
- Lack of consistency between span of control for manager positions
- Disparity between coordinator job descriptions and salaries compared to MAC supervisors
- Limited resources available for new positions



Low Impact Development Code Revisions

Kirkland Public Works/Parks/Human Services Council Committee

October 5, 2016

Presented by:

Stacey Rush and Dorian Collins

LID Code Revision – Overview

- ▶ LID Code Revision – required by Kirkland’s NPDES Stormwater Permit
- ▶ LID code review process and findings
- ▶ Proposed changes to KZC, KMC, and other documents
- ▶ Next Steps



LID Code Revision – NPDES Permit

Controlling Runoff from Development & Construction Sites

- ▶ “Review, revise and make effective local development related codes, rules, standards, or other enforceable documents to incorporate and require LID principles and BMPs.”
- ▶ Update stormwater design standards



Intent: Make LID the preferred and commonly-used approach.

Revisions must be implemented by December 31, 2016.

Low Impact Development

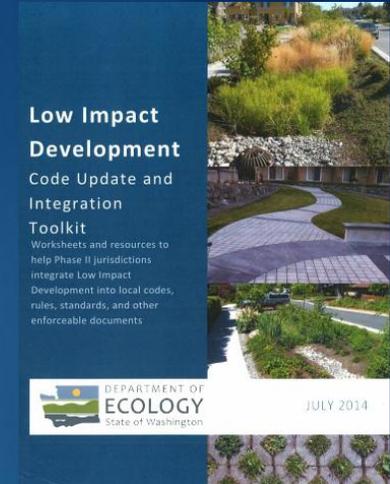
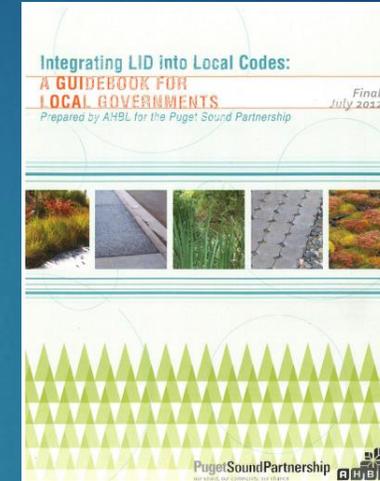
- ▶ Untreated stormwater runoff is toxic to fish
- ▶ Routing stormwater through vegetation or soil provides treatment and reduces toxicity
- ▶ Update to stormwater design standards requires LID



Increase projects with LID = cleaner stormwater runoff

LID Code Revision – Process

- ▶ Assembled multi-disciplinary team
- ▶ Good reference documents
- ▶ Look for ways to minimize:
 - Impervious surface
 - Loss of native vegetation
 - Stormwater runoff
- ▶ Identify gaps/barriers to LID
- ▶ Presented results to PC & HCC



IMPLEMENTATION BENCHMARK	REVIEW FORM EXAMPLE TEMPLATE	SUBTOPIC FOCUS SHEETS	CODE & ORDINANCE REFERENCE SHEET	TALKING POINTS	RESOURCE LIST
Streets and Roads					
			<ul style="list-style-type: none"> Travel lane widths Right-of-way (ROW) widths Use of permeable pavement for streets and roads Placement of utilities under paved areas in the ROW Required turn around area (e.g., fire, SFR) Shoulder widths Shoulder slope Minimum outside-turn radius Alternatives to oil de-icers LID Subtopic as necessary 		
Parking					
			<ul style="list-style-type: none"> Minimum/maximum parking ratios Use of permeable pavement for parking lots (e.g., parking stalls, driving aisles) Parking stall dimensions Driving aisle dimensions Off-street parking regulations LID Subtopic as necessary 		
Design Guidelines and Standards					
			<ul style="list-style-type: none"> Trees and plantations Continuous curb requirements Curb radii LID Subtopic as necessary 		
Stormwater Management and Maintenance					
			<ul style="list-style-type: none"> Inspection access (stormwater, easements) Enforcement LID Subtopic as necessary 		
Subdivision and Planned Unit Development					
			<ul style="list-style-type: none"> Individual open space requirements Provision to address open space requirements Opportunities for Performance Based Design (PBD) LID Subtopic as necessary 		
Critical Areas and Shoreline Management					
			<ul style="list-style-type: none"> Allowance of LID based management practices (BMPs) in critical areas/shorelines where applicable LID Subtopic as necessary 		
LID Subtopic Areas as necessary					
			<ul style="list-style-type: none"> LID Subtopic as necessary LID Subtopic as necessary 		

Note – the discussion of topic areas and subtopics in Step 2 will typically include comments from various team members on specific jurisdictional codes and documents. The team lead for design/lead should take notes during the Step 2 discussions to expedite the review process in Step 3.

IMPLEMENTATION BENCHMARK	REVIEW FORM EXAMPLE TEMPLATE	SUBTOPIC FOCUS SHEETS	CODE & ORDINANCE REFERENCE SHEET	TALKING POINTS	RESOURCE LIST
Integrating LID into Local Codes					
Focus on Parking					
Subtopic	Why is this important?	What should I consider during my review?			
Minimum parking ratios	Adjusting minimum parking ratios can reduce the amount of impervious surface and ensure that you are not requiring more parking than is needed.	<ul style="list-style-type: none"> What is your minimum parking ratio for the following: <ul style="list-style-type: none"> Professional office building Shopping center Single family home Can the number of required parking spaces be reduced due to shared parking, proximity to transit, car sharing, etc.? 			
Maximum parking ratios	Establishment of a maximum parking ratio can be an effective strategy for reducing large and underutilized parking areas.	<ul style="list-style-type: none"> Are the parking requirements set as maximum or median (rather than minimum) requirements? Can a maximum number of parking spaces be specified? 			
Permeable paving use	Permeable pavement is applicable to low-volumes, low-traffic surfaces, and allows for infiltration of stormwater.	<ul style="list-style-type: none"> Can permeable pavement be used for parking areas, parking lanes, and/or parking spaces? Can permeable pavement be incentivized for volunteer (frequently used) parking areas? 			
Parking stall dimensions	Impervious surface area can be reduced with compact spaces/narrowing of the parking space, reduced length, reduced width.	<ul style="list-style-type: none"> What is the minimum stall length and width for a standard parking space? (See Figure 8 for a breakdown of the total impervious area needed to support a single parking stall) Can the parking stall length and/or width be reduced? Are a fixed percentage of stalls (15 to 35%) assigned to compact cars? 			
Driving aisle dimensions	A reduction in driving aisle width can have a significant impact in overall impervious surface coverage.	<ul style="list-style-type: none"> Is the driving aisle wider than required by the fire department or other emergency responders? Can one-way streets be used in conjunction with angled parking stalls instead of two-way streets? 			
Off-street parking regulations	Focused on establishing a minimum number of off-street parking spaces based on specific land uses or zones.	<ul style="list-style-type: none"> Can mechanisms be integrated to reduce parking requirements (e.g., shared parking, proximity to transit, car share, etc.)? Can structured or back-up parking be incentivized? 			

LID Code Revision – Findings

KZC Chapter 95 – Tree Management and Required Landscaping

- ▶ Incentivize conifer retention & replanting (95.33)
- ▶ Include soil **BAS & BMPs** (95.34)
- ▶ Refer to **Pre-Approved Plans** for consistency, clarity, new requirements (95.34, 95.45, 95.50)
- ▶ Preference for **native species** (95.40, 95.41)
- ▶ Clarify - **LID facilities count as landscaping requirements** (95.44, 95.45)

LID Code Revision – Findings

KZC Chapter 114 – Low Impact Development

- ▶ Chapter 114 provides:
 - ▶ Incentives for use of LID facilities
 - ▶ Additional beneficial items: open space, clustering of housing, retention and planting of native vegetation
- ▶ LID principles and facilities are now required under new surface water manual
- ▶ **Proposed amendments:**
 - ▶ Revise language for consistency with new surface water manual
 - ▶ Simplify approval processes for 2/3 unit homes

LID Code Revision – Findings

KZC Chapter 115 – Calculating Lot Coverage

▶ Proposed Amendments for Clarification - **Exceptions**

- ▶ **NEW** Section 115.90.2.d: To acknowledge that rockeries and retaining walls surrounded by turf allow for percolation of water on site.

“Rockeries and retaining walls, unless located adjacent to or within twelve (12) inches of another impervious surface such as a patio, building or parking area.”

- ▶ **NEW** Section 115.90.2.e: To ensure private property is not burdened by a public easement.

“Public sidewalk if located within a public easement on private property.”

Calculating Lot Coverage (continued)

▶ Proposed amendments for consistency with LID changes – **Exemptions**

▶ **ELIMINATE** Section 115.90.3: Remove LID incentives since new design manual requires the use of LID principles to greatest extent possible.

a. ~~Permeable pavement (non-grassed)~~

b. ~~Grassed modular grid pavement~~

c. ~~Open grid decking over pervious area~~

d. ~~Pervious surfaces in compliance with the stormwater design manual adopted in KMC 15.52.060~~

LID Code Revision – Other Changes

PW Pre-Approved Plans and Policies

- ▶ Development standard plans/policies used throughout Kirkland
- ▶ Various changes

Modify existing street tree policy, expand tree selection list for bioretention

Develop new standard detail for pervious pavement parking lots

Specifications for Street and Curb Cutting (KMC 19.12.130)

- ▶ Inconsistency between KZC 110.65 and KMC; change reference to the Public Works Pre-approved Plans and Policies.

LID Code Revision - Next Steps

- ▶ PW/Parks/HS Council Committee on 10/05/16
- ▶ PED City Council Committee on 10/10/16
- ▶ Public Workshop on 10/24/16

- ▶ Kirkland Planning Commission and Houghton Community Council
 - ▶ Joint Public Hearing on 10/24/16

- ▶ **Kirkland City Council** on 11/15/16 and 12/13/16 (if needed)
- ▶ **Houghton Community Council** on 11/28/16 or in January 2017

- ▶ Code changes effective **December 31, 2016**
- ▶ Submit summary of process and changes to Ecology by March 2017

LID Code Review Proposed Amendments				
Kirkland Zoning Code				
Code Section	Revision	Purpose	Amendment Project	Staff Notes
KZC 95.33	Revise Tree Credit table to give extra points for use of conifers of a similar size as deciduous trees.	To retain and replace native vegetation.	KZC LID Code Update 2016	Deb modified Tree Credit Table to give 1.5time credit preference for conifers. From Gap Analysis Table 1.
KZC 95.34	Revise code to reflect BAS/BMPs; and specify 'soil' in 95.34.	For code to reflect the Best Available Science, and consistency with PW Pre-Approved Plans.	KZC LID Code Update 2016	Deb revised text. From Gap Analysis Table 9.
KZC 95.40	Revise code to include preference for native species (item 2) and soil, and expansion of the Kirkland Native Plant List.	To retain and replace native vegetation.	KZC LID Code Update 2016	Deb revised code text, will revise Kirkland Plant List later. From Gap Analysis Table 1.
KZC 95.41	Revise code to include preference for native species (item 2a).	To retain and replace native vegetation.	KZC LID Code Update 2016	Deb revised code text. From Gap Analysis Table 1.
KZC 95.44	Revise code to specify that LID facilities count towards landscape requirements, but keep tree requirement. Reference PW Pre-Approved Plans.	To allow applicant greater flexibility and options for landscape requirements in parking lots.	KZC LID Code Update 2016	Deb revised code text. From Gap Analysis Table 1.
KZC 95.45	Revise code to specify that LID facilities count towards landscape requirements. Reference PW Pre-Approved Plans. Additional language regarding natives could be considered in a subsequent city code review.	To allow applicant greater flexibility and options for landscape requirements in parking lots.	KZC LID Code Update 2016	Deb revised code text. From Gap Analysis Table 1.
KZC 95.50.4	Revise code for consistency with Storm Design Manual and to reflect BAS/BMPs. Revise soil compaction density requirements, refer to PW Pre-Approved Plans, and specify 'soil' in 95.50 (restoration).	Existing code is vague; does not use industry standard soil specs, consistency with PW Pre-Approved Plans and new storm design manual, and to reflect Best Available Science.	KZC LID Code Update 2016	Deb/Stacey revised code text. From Gap Analysis Table 9.
KZC 115.90	Remove three lot coverage exemption items in KZC 115.90.3 (a) permeable pavement, (b) grassed modular grid pavement, and (d) pervious surfaces in compliance with the stormwater design manual.	Revision needed for consistency with new storm design manual to be adopted 12/2016; permeable pavement is required so should not be exempt from lot coverage. Grassed grid pavement is not allowed on residential driveways (cannot support daily use).	KZC LID Code Update 2016	Dorian revised text. From Gap Analysis Table 3.
KZC 115.90	Add the following Exception to lot coverage: d. Rockeries and retaining walls, unless integral to an adjacent structure (like a patio, building, or parking area). Also add sidewalk if located in easement (to accommodate bioretention area between sidewalk and road).	Rockeries/retaining walls surrounded by turf or landscape disperse on site. Individual rockeries throughout a site are difficult for staff to measure accurately.	KZC LID Code Update 2016	Dorian/Stacey revised text. From Gap Analysis Table 3.

Kirkland Zoning Code				
Code Section	Revision	Purpose	Amendment Project	Staff Notes
KZC 115.90	Code language may be unclear to applicants, whether artificial turf (e.g., AstroTurf) is impervious or pervious. Revise code to clearly state how artificial turf surface is counted regarding lot coverage. Stormwater regulations consider artificial turf as 100% impervious if it is installed with under drains. If under drains are not installed, the artificial surface is 100% pervious.	Current code language may be unclear to applicants. Synthetic lawn is not "vegetated open space", but may still be considered open space because of the lack of structures.	KZC LID Code Update 2016	Planning Commission to determine policy use of synthetic turf in Kirkland. Stacey to prepare draft criteria for design and installation. Dorian/Stacey/Deb to prepare background info. From Gap Analysis Table 3.
KZC 114	Revise code to remove stormwater incentives (modify so not offering incentives for stormwater LID that will be required once new storm design manual is adopted 12/2016), added conifer preference, added 80% cover in 2 years for required open space, and consider reducing the approval process.	Incentives were written into code several years ago to encourage LID. New storm design manual to be adopted 12/2016 requires LID so modifications are needed to code not offer incentives for required items.	KZC LID Code Update 2016	Stacey/David revised text. From Gap Analysis Table 3.
KZ Chapter 90	Add definition for "Native Vegetation".	Consistency with Ecology NPDES Municipal Stormwater Permit	CAO Revision 2016	Joan added to definitions in CAO Revision.
Kirkland Municipal Code				
Code Section	Revision	Purpose	Amendment Project	Staff Notes
KMC 19.12.130	Specifications for street and curb cutting, refers to 1977 Edition of "Standard Specifications for Municipal Works Construction".	For consistency, change reference to same as KZC 110.65 Engineering Standards (which refers to PW Pre-Approved Plans).	KMC Update 2016	Stacey will revise text. From Gap Analysis Tables 3 and 8.
Kirkland Public Works Pre-Approved Plans				
Code Section	Revision	Purpose	Amendment Project	Staff Notes
PW Pre-Approved Plans, General Policy	Establish new Policy in Pre-Approved Plans regarding utility setbacks for trees; also include street improvements. Specify trees should be saved whenever possible.	To retain native vegetation.	PW Pre-Approved Plans 2017	PW Development staff to write policy. From Gap Analysis Table 1.
Pre-Approved Plans, Roadway Policy	Develop written policy on when permeable pavement will be used on private and public streets and alleys; including when to use for travel lanes, road shoulders, parking lanes, and emergency parking areas. Include requirements dictated by new storm design manual.	LID (including permeable pavement) is required as feasible under the new storm design manual to be adopted 12/2016.	PW Pre-Approved Plans 2017	PW Development staff to write policy. From Gap Analysis Table 8.
Pre-Approved Plans, Road Detail	Develop standard details for pervious pavement streets, private and public.	LID (including permeable pavement) is required as feasible under the new storm design manual to be adopted 12/2016.	PW Pre-Approved Plans 2017	PW development staff to prepare details. From Gap Analysis Table 8.

Kirkland Public Works Pre-Approved Plans				
Code Section	Revision	Purpose	Amendment Project	Staff Notes
Pre-Approved Plans, Detail R.23	Modify design standard to show sidewalk draining to landscape strip/bioretenion/road; depending on requirements in new storm design manual.	New Storm Design Manual adopted 12/2016 will require either pervious pavement sidewalks or traditional sidewalks draining to a bioretention area.	PW Pre-Approved Plans 2017	PW development staff to modify detail. From Gap Analysis Table 8.
Pre-Approved Plans, Storm Policies D-2, D-3	Require a separate Soil Management Plan document for all LSM permits, and for multi-family and commercial BLD permits.	Soil Management Plan is required by new storm design manual to be adopted 12/2016, and will help staff during construction.	PW Pre-Approved Plans 2017	PW Development staff to add document. From Gap Analysis Table 9.
Pre-Approved Plans, Road Detail	Develop standard details for permeable pavement parking lots (porous asphalt and pervious concrete).	LID (including permeable pavement) is required as feasible under the new storm design manual to be adopted 12/2016.	PW Pre-Approved Plans 2017	PW Development staff to add standard details. From Gap Analysis Table 10.
Pre-Approved Plans or Standard Operating Procedure	Create a policy and/or standard operating procedure stating when educational signage is used on stormwater facilities/BMPs.	To create a consistent policy on when educational signage is used on stormwater facilities/BMPs, and to include materials cost in project budgets.	PW Pre-Approved Plans 2017	PW Development staff to adopt a sign standard and update PW Pre-Approved Plans or SOPs. From Gap Analysis Table 12.
Pre-Approved Plans, Road Details R.48,R.48 A	Add note requiring adequate soil volume in existing tree planting details.	To restore healthy soil and help new plants thrive.	PW Pre-Approved Plans 2017	Deb to revise standard detail. From Gap Analysis Table 9.
Pre-Approved Plans, Erosion Detail E.12	On Soil Amendment Notes, increase worked soil depth from 12" to 18".	To restore healthy soil.	PW Pre-Approved Plans 2017	Deb to revise standard detail. From Gap Analysis Table 9.
Pre-Approved Plans, Road Policy R-10	Modify policy by expanding Kirkland Street Tree Selection List to include tree species compatible with bioretention designs.	To allow applicant greater flexibility with more options for street trees, and to allow bioretention facilities in the public row to include trees.	PW Pre-Approved Plans 2017	Deb to revise street tree list. From Gap Analysis Table 11.

115.90 Calculating Lot Coverage

1. General – The area of all structures and pavement and any other impervious surface on the subject property will be calculated as a percentage of total lot area. If the subject property contains more than one (1) use, the maximum lot coverage requirements for the predominant use will apply to the entire development. Lot area not calculated under lot coverage must be devoted to open space as defined in KZC [5.10.610](#).

2. Exceptions

- a. An access easement or tract that is not included in the calculation of lot size will not be used in calculating lot coverage for any lot it serves or crosses.
- b. Pervious areas below eaves, balconies, and other cantilevered portions of buildings.
- c. Landscaped areas at least two (2) feet wide and 40 square feet in area located over subterranean structures if the Planning Official determines, based on site-specific information submitted by the proponent and prepared by a qualified expert, soil and depth conditions in the landscaped area will provide cleansing and percolation similar to that provided by existing site conditions.
- d. Rockerries and retaining walls, unless located adjacent to or within twelve (12) inches of another impervious surface such as a patio, building or parking area.
- e. Public sidewalk if located within a public easement on private property.

~~3. Exemptions – The following exemptions will be calculated at a ratio of 50 percent of the total area covered. Exempted area shall not exceed an area equal to 10 percent of the total lot area. Installation of exempted surfaces shall be done in accordance with the current adopted stormwater design manual.~~

- ~~a. Permeable pavement (non-grassed).~~
- ~~b. Grassed modular grid pavement.~~
- ~~c. Open grid decking over pervious area.~~
- ~~d. Pervious surfaces in compliance with the stormwater design manual adopted in KMC [15.52.060](#).~~

(Ord. 4350 § 1, 2012; Ord. 4252 § 1, 2010; Ord. 4121 § 1, 2008; Ord. 4097 § 1, 2007; Ord. 4072 § 1, 2007;
Ord. 3814 § 1, 2001)

KZC 114 Low Impact Development with Proposed 2016 Edits

Chapter 114 – LOW IMPACT DEVELOPMENT

Sections:

- [114.05](#) User Guide
- [114.10](#) Voluntary Provisions and Intent
- [114.15](#) Parameters for Low Impact Development
- [114.20](#) Design Standards and Guidelines
- [114.25](#) Review Process
- [114.30](#) Additional Standards
- [114.35](#) Required Application Documentation

114.05 User Guide

This chapter provides standards for an alternative type of site development that ensures low impact development (LID) ~~principles~~ facilities are utilized to ~~reduce environmental impacts~~ manage stormwater on project sites in specified low density zones. If you are interested in proposing detached dwelling units or two (2) unit homes that reduce environmental impacts or you wish to participate in the City's decision on a project including this type of site development, you should read this chapter.

(Ord. 4350 § 1, 2012)

114.10 Voluntary Provisions and Intent

The provisions of this chapter are available as alternatives to the development of typical lots in low density zones. In the event of a conflict between the standards in this chapter and the standards in Chapters [15](#), [17](#) or [18](#) KZC, the standards in this chapter shall control except for the standards in Chapters [83](#) and [141](#) KZC.

The goal of LID is to conserve and use existing natural site features, to integrate small-scale stormwater controls, and to prevent measurable harm to streams, lakes, wetlands, and other natural aquatic systems from development sites by maintaining a more hydrologically functional landscape. LID may not be applicable to every project due to topography, high groundwater, or other site specific conditions.

The LID requirements in this code do not exempt an applicant from stormwater flow control and water quality treatment development requirements. LID facilities ~~are part of~~ ~~can be counted toward~~ those requirements, and

in some cases may ~~be all that is required. meet the requirements without traditional stormwater facilities (pipes and vaults).~~

The purpose of this chapter is to allow flexibility, establish the development guidelines, requirements and standards for LID low impact development projects. Because all projects are required to use ~~some form of LID principles techniques~~ and facilities best management practices (BMPs) as feasible, the use of LID techniques does not necessarily fulfill all the requirements for a LID project. This chapter is intended to fulfill the following purposes:

34. Manage stormwater through a land development strategy that emphasizes conservation and use of on-site natural features integrated with engineered, small-scale hydrologic controls to more closely mimic predevelopment hydrologic conditions.
12. Encourage creative and coordinated site planning, the conservation of natural conditions and features, the use of appropriate new technologies and techniques, and the efficient layout of streets, utility networks and other public improvements.
43. Minimize impervious surfaces.
24. Encourage the creation or preservation of permanent forested open space.
5. Encourage development of residential environments that are harmonious with on-site and off-site natural and built environments.
6. Further the goals and the implementation of the policies of the Comprehensive Plan.

(Ord. 4350 § 1, 2012)

114.15 Parameters for Low Impact Development

These standards and incentives address the portion of the project site utilizing the LID principles stormwater techniques and facilities to meet applicable stormwater requirements. The remainder of the project site must comply with underlying zoning and ~~conventional~~-stormwater development regulations requirements. Please refer to KZC [114.30](#) and [114.35](#) for additional requirements related to these standards.

- Detached dwelling units.

Permitted Housing Types	<ul style="list-style-type: none"> • <u>Accessory dwelling units.</u> • 2/3 unit homes.
Minimum <u>Lot Size</u>	<ul style="list-style-type: none"> • Individual <u>lot sizes</u> must be at least 50% of the minimum <u>lot size</u> for the underlying zone.
Minimum Number of Lots	<ul style="list-style-type: none"> • 4 lots.
Maximum Density	<ul style="list-style-type: none"> • As defined in underlying zone's <u>Use Zone</u> Chart or Density/Dimensions Table. • Bonus density is calculated by multiplying number of lots or units by 0.10. If a fraction of 0.5 or higher is obtained then round to the next whole number.
<u>Low Impact Development</u>	<ul style="list-style-type: none"> • <u>LID principles and facilities/BMPstechniques</u> must be employed to control stormwater <u>runoff</u> generated from <u>50% of</u> all hard surfaces <u>as feasible</u>. This includes all vehicular and pedestrian access. <u>LID facilities/BMPs</u> must be designed according to Public Works stormwater <u>development regulations</u> as stated in Chapter <u>15.52</u> KMC.
Locations	<p>Allowed in low density <u>residential zones</u> with the exception of the following: PLA 16, PLA 3C, RSA 1, RSA 8, or the RS 35 and RSX 35 zones in the Bridle Trails neighborhood north and northeast of the Bridle Trails State Park, and the Holmes Point Overlay zone. Any property or portion of a property with shoreline jurisdiction must meet the regulations found in Chapter <u>83</u> KZC, including minimum <u>lot size</u> or units per acre and lot coverage.</p>
Review Process	<ul style="list-style-type: none"> • Short plats shall be reviewed under KMC <u>22.20.015</u> and subdivisions shall be reviewed under KMC <u>22.12.015</u>. • Condominium projects shall be reviewed under KZC 145, Process I.
Parking Requirements	<ul style="list-style-type: none"> • 2 stalls per <u>detached dwelling unit</u>. • 1 stall per <u>accessory dwelling unit</u>. • 1.5 stalls per unit in multi-unit home, rounded to next whole <u>number</u>. • See KZC <u>105.20</u> for guest parking requirements. • Parking pad width required in KZC <u>105.47</u> may be reduced to 10 feet. • Parking pad may be counted in required parking. • Tandem parking is allowed where stalls are shared by the same <u>dwelling unit</u>. • Shared garages in separate tract are allowed.

Commented [DB1]: Do we want to align the stalls per unit, this with the new multi-family parking requirements?

	<ul style="list-style-type: none"> All required parking must be provided on the <u>LID</u> project site.
Development Type	<ul style="list-style-type: none"> Subdivision. Condominium.
Minimum <u>Required Yards</u> (from exterior <u>property lines</u>)	<ul style="list-style-type: none"> 20 feet for all front yards. 10 feet for all other <u>required yards</u>.
Minimum <u>Required Yards</u> (from internal <u>property lines</u>)	<ul style="list-style-type: none"> Front: 10 feet. Option: Required front yard can be reduced to 5 feet, if required rear yard is increased by same amount of front yard reduction. Side and rear: 5 feet. Zero lot line for 2/3 unit homes between internal units.
Front Porches	<ul style="list-style-type: none"> Must comply with KZC 115.115(3)(n), except that front entry porches may extend to within 5 feet of the interior required front yard.
Garage Setbacks	<ul style="list-style-type: none"> Must comply with KZC 115.43, except that attached garages on <u>front facade</u> of <u>dwelling unit</u> facing internal front <u>property line</u> must be set back 18 feet from internal front <u>property line</u>.
Lot Coverage (all impervious surfaces)	<ul style="list-style-type: none"> <u>Maximum lot coverage</u> is the <u>maximum lot coverage</u> percentage of the underlying zone and may be aggregated.
Required Common <u>Open Space</u> (RCOS)	<ul style="list-style-type: none"> Minimum of 40%. <u>Must preserve N</u>native and undisturbed vegetation is preferred. Allowance of 1% of required common <u>open space</u> for shelters or other recreational structures. Paths connecting and within required common <u>open space</u> to development must be pervious. Landscape greenbelt <u>easement</u> is required to protect and keep required common <u>open space</u> undeveloped in perpetuity.
Maximum Floor Area ^{1,2}	<ul style="list-style-type: none"> Maximum floor area is 50% of the minimum <u>lot size</u> of the underlying zone.

Footnotes:

1. The maximum floor area for LID projects does not apply within the disapproval jurisdiction of Houghton.

2. The maximum floor area for LID projects in RS 35 and RSX 35 zones is 20 percent of the minimum lot size of the underlying zone.

(Ord. 4476 § 3, 2015; Ord. 4437 § 1, 2014; Ord. 4350 § 1, 2012)

114.20 Design Standards and Guidelines

1. Required Low Impact Development Stormwater Principles and Facilities/BMPs – Low impact development (LID) ~~stormwater facilities shall be designed to control stormwater runoff from 50 percent of all hard surfaces created within the LID portion of the project site. This includes all vehicular and pedestrian access. LID~~ facilities/BMPs shall be designed according to Public Works stormwater development regulations, as stated in KMC 15.52.060. The maintenance of LID facilities shall be maintained in accordance with requirements in KMC 15.52.120. The proposed site design shall incorporate the use of LID strategies to meet stormwater management standards. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water, which allows water to soak into the ground closer to its source. The design should seek to meet the following objectives:

- a. Preservation of natural hydrology.
- b. Reduced impervious surfaces.
- c. Treatment of stormwater in numerous small, decentralized structures.
- d. Use of natural topography for drainage ways and storage areas.
- e. Preservation of portions of the site in undisturbed, natural conditions.
- f. Restoration of disturbed sites.
- g. Reduction of the use of piped systems. Whenever possible, site design shall use multifunctional open drainage systems such as rain gardens, vegetated swales or filter strips that also help to fulfill landscaping and open space requirements.

2. Required Common Open Space – Required common open space shall support and enhance the project's LID stormwater facilities/BMPs; secondarily to provide a sense of openness, visual relief, and community for low impact development projects.

a. The minimum percentage for required common open space is 40 percent and is calculated using the size of the LID portion of the project site. Wetland and streams shall not be included in the calculation. The required common open space must be located outside of wetlands and streams, and may be developed and maintained to provide for passive recreational activities for the residents of the development as allowed in Chapter 90 KZC.

b. Conventional surface-stormwater management facilities such as vaults and tanks shall not be located within required common open space areas unless there is no other feasible alternative placement for stormwater facilities and shall be placed underground at a depth to sufficiently allow landscaping to be planted on top of them. Low impact development (LID) facilities/BMPs features are permitted, provided they do not adversely impact access to or use of the required common open space for passive recreation. Neither conventional nor LID stormwater facilities can result in the removal of healthy native trees, unless a positive net benefit can be shown and there is no other alternative for the placement of stormwater facilities. The Public Works Director must approve locating conventional stormwater facilities within the required common open space.

c. Existing native vegetation, forest litter and understory shall be preserved to the extent possible in order to reduce flow velocities and encourage sheet flow on the site. Invasive species, such as Himalayan blackberry, must be removed and replaced with native conifers and plants (see Kirkland Native Tree and Plant List). Undisturbed native vegetation and soil shall be protected from compaction during construction. A Native Tree and Plant Plan that achieves 80% coverage within two (2) years must be included with the applicant's submittal.

d. If no existing native vegetation, then applicant may propose a restoration plan to achieve 80% coverage within two (2) years that shall include all native conifer and plant species (see Kirkland Native Tree and Plant List). No new lawn is permitted and all improvements installed must be of pervious materials.

e. Vegetation installed in required common open space areas shall be designed to allow for access and use of the space by all residents, and to facilitate maintenance needs. However, existing mature trees should be retained.

(Ord. 4437 § 1, 2014; Ord. 4350 § 1, 2012)

114.25 Review Process

1. Approval Process – Low Impact Development Projects

a. The City will review and process an application for a LID project concurrent with and through the same process as the underlying subdivision proposal (Process I, Chapter 145 KZC for short plats; Process IIA, Chapter 150 KZC for subdivisions). However, public notice for LID projects shall be as set forth under the provisions of Chapter 150 KZC (Process IIA). A Process I and site plan review will be required for projects that use a condominium ownership structure and do not subdivide the property into individually platted lots.

b. Lapse of Approval – Unless otherwise specified in the decision granting Process I approval, the applicant must begin construction or submit to the City a complete building permit application for development of the subject property consistent with the Process I approval within four (4) years after the final decision granting the Process I approval or that decision becomes void. The applicant must substantially complete construction consistent with the Process I approval and complete all conditions listed in the Process I approval decision within six (6) years after the final decision on the Process I approval or the decision becomes void. "Final decision" means the final decision of the Planning Director.

2. Approval Process – 2/3 Unit Homes – The City will review and process a LID project application that includes a 2/3 unit home with an additional land use process as follows:

a. One 2/3 unit home requires a Planning Official -Process I review.

b. More than one 2/3 unit home requires a Process IIA review.

3. Approval Process – Requests for Modifications to Standards

a. Minor Modifications – Applicants may request minor modifications to the general parameters and design standards set forth in this chapter. The Planning Director under a

Commented [DB2]: There have been 3 or 4 LID projects since inception and none have included a 2/3 unit home. If we are trying to get more open space and retain more significant trees, I believe it would be prudent to reduce barriers to the use of these code provisions.

Process I, Chapter [145](#) KZC or Hearing Examiner under Process IIA, Chapter [150](#) KZC may modify the requirements if all of the following criteria are met:

- 1) The site is constrained due to unusual shape, topography, easements or sensitive areas; and
- 2) The modification is consistent with the objectives of this chapter; and
- 3) The modification will not result in a development that is less compatible with neighboring land uses.

(Ord. 4350 § 1, 2012)

114.30 Additional Standards

1. The City's approval of a low impact development project does not constitute approval of a subdivision or short plat. An applicant wishing to subdivide in connection with a development under this chapter shall seek approval to do so concurrently with the approval process under this chapter.
2. To the extent there is a conflict between the standards set forth in this chapter and Title 22 of the Kirkland Municipal Code, the standards set forth in this chapter shall control.

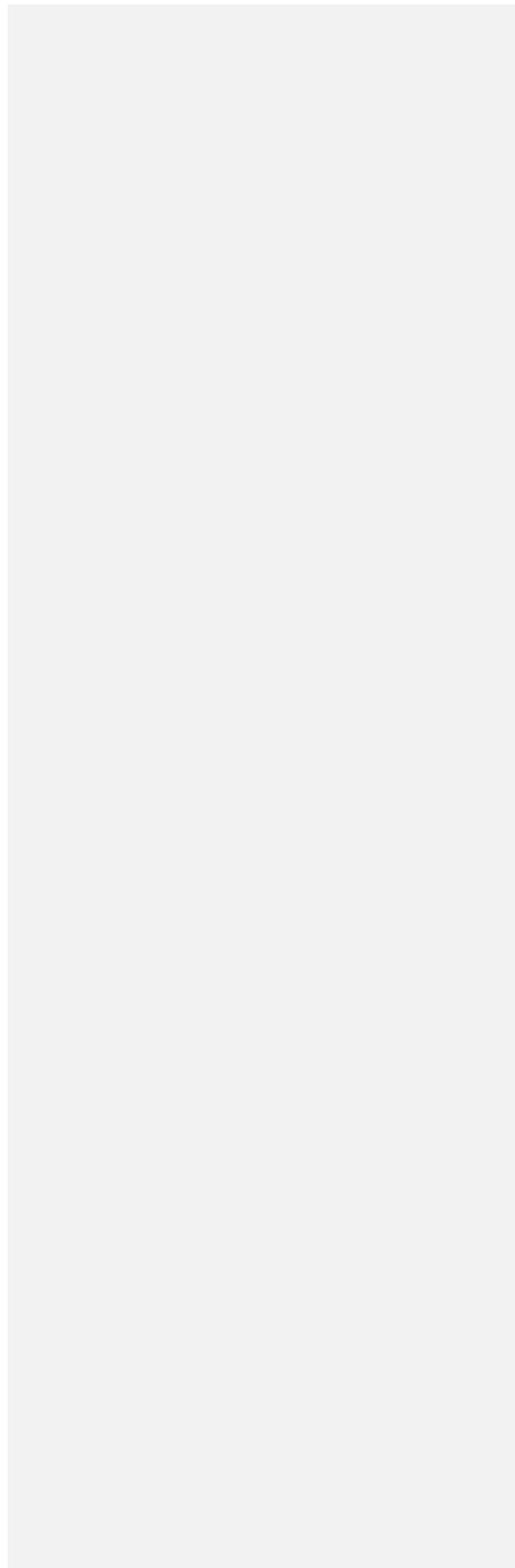
(Ord. 4350 § 1, 2012)

114.35 Required Application Documentation

1. Site assessment documents to be submitted with application include:
 - a. Survey prepared by a registered land surveyor or civil engineer.
 - b. Location of all existing and proposed lot lines and easements.
 - c. Location of all sensitive areas, including lakes, streams, wetlands, flood hazard areas, and steep slope/erosion hazard areas.
 - d. Landscape plan showing existing and proposed trees and other vegetation. The plan must show that the Required Common Open Space to be restored or augmented will be planted with Native Conifers and native plants to achieve 80% coverage within two (2) years.
2. Soil report prepared by a licensed civil engineer, geotechnical engineer, or engineering geologist.

3. Stormwater drainage report/technical information report.

(Ord. 4350 § 1, 2012)



Chapter 95 – TREE MANAGEMENT AND REQUIRED LANDSCAPING

Sections:

95.05 Purpose and Intent

95.10 Definitions

95.20 Exemptions

1. Emergency Tree Removal

2. Utility Maintenance

3. Commercial Nurseries or Tree Farms

95.21 Tree Pruning

1. Tree Pruning of Street Trees

2. Tree Pruning on Private Property

95.23 Tree Removal – Not Associated with Development Activity

1. Introduction

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

3. Tree Removal Permit Application Form

4. Tree Removal Permit Application Procedures and Appeals

5. Tree Removal Allowances

95.25 Sustainable Site Development

95.30 Tree Retention Associated with Development Activity

1. Introduction

2. Tree Retention Plan Required

3. Tree Retention Plan Review

4. Tree Retention Plan Components

5. Tree Retention Plan

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

a. Phased Review

b. Modifications to Tree Retention Plan for Short Plats and Subdivisions

95.32 Incentives and Variations to Development Standards

95.33 Tree Density Requirement

95.34 Tree Protection during Development Activity

95.40 Required Landscaping

1. User Guide

2. Use of Significant Existing Vegetation

3. Landscape Plan Required

- 95.41 Supplemental Plantings
- 95.42 Minimum Land Use Buffer Requirements
- 95.43 Outdoor Use, Activity, and Storage
- 95.44 Internal Parking Lot Landscaping Requirements
- 95.45 Perimeter Landscape Buffering for Driving and Parking Areas
- 95.46 Modifications to Landscaping Standards

- 1. Modifications to Land Use Buffer Requirements
- 2. Modifications to General Landscaping Requirements

- 95.47 Nonconforming Landscaping and Buffers
- 95.50 Installation Standards for Required Plantings

- 1. Compliance
- 2. Timing
- 3. Grading
- 4. Soil Specifications
- 5. Plant Selection
- 6. Fertilization
- 7. Irrigation
- 8. Drainage
- 9. Mulch
- 10. Protection
- 11. Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers

- 95.51 Tree and Landscape Maintenance Requirements

- 1. Responsibility for Regular Maintenance
- 2. Maintenance Duration
- 3. Maintenance of Preserved Grove
- 4. Maintenance in Holmes Point Overlay Zone
- 5. Maintenance of Critical Area and Critical Area Buffers
- 6. Nonnative Invasive and Noxious Plants
- 7. Pesticides, Herbicides, and Fertilizer
- 8. Landscape Plans and Utility Plans

- 95.52 Prohibited Vegetation
- 95.55 Enforcement and Penalties
- 95.57 City Forestry Account

.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 City-wide tree canopy coverage of 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 significant trees, associated vegetation, and woodlands located in the City of Kirkland.

The intent of this chapter is to:

- a. Maintain and enhance canopy coverage provided by trees for their functions as identified in KZC 95.05(1);
- b. Preserve and enhance the City of Kirkland's environmental, economic, and community character with mature landscapes;
- c. Promote site planning, building, and development practices that work to avoid removal or destruction of trees and vegetation, that avoid unnecessary disturbance to the City's natural vegetation, and that provide landscaping to buffer the effects of built and paved areas;
- d. Mitigate the consequences of required tree removal in land development through on- and off-site tree replacement with the goals of halting net loss and enhancing Kirkland's tree canopy to achieve an overall healthy tree canopy cover of 40 percent City-wide over time;
- e. Encourage tree retention efforts by providing flexibility with respect to certain other development requirements;
- f. Implement the goals and objectives of the City's Comprehensive Plan;
- g. Implement the goals and objectives of the State Environmental Policy Act (SEPA); and
- h. Manage trees and other vegetation in a manner consistent with the City's Natural Resource Management Plan.

- i. Preserve and protect street trees, trees in public parks and trees on other City property.

(Ord. 4238 § 2, 2010; Ord. 4010 § 2, 2005)

.10 Definitions

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

1. Caliper – The American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six (6) inches above the ground for up to and including 4-inch caliper size and 12 inches above the ground for larger sizes.
2. Critical Root Zone – The area surrounding a tree at a distance from the trunk, which is equal to one (1) foot for every inch of trunk diameter measured at 4.5 feet from grade or otherwise determined by a qualified professional (example: one (1) foot radius per one (1) inch DBH).
3. Crown – The area of a tree containing leaf- or needle-bearing branches.
4. Diameter at Breast Height (DBH) – The diameter or thickness of a tree trunk measured at 4.5 feet from the ground. DBH is also known as Diameter at Standard Height (DSH).
5. Dripline – The distance from the tree trunk, that is equal to the furthest extent of the tree's crown.
6. Grove – A group of three (3) or more significant trees with overlapping or touching crowns.
7. Hazard Tree – A tree that meets all the following criteria:
 - a. A tree with a combination of structural defects and/or disease which makes it subject to a high probability of failure;
 - b. Is in proximity to moderate to high frequency targets (persons or property that can be damaged by tree failure); and
 - c. The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices nor can the target be removed.
8. Impact – A condition or activity that affects a part of a tree including the trunk, branches, and critical root zone.
9. Limit of Disturbance – The boundary between the protected area around a tree and the allowable site disturbance as determined by a qualified professional measured in feet from the trunk.
10. Nuisance Tree – A tree that meets either of the following criteria:
 - a. Is causing obvious physical damage to private or public structures, including but not limited to: sidewalk, curb, road, driveway, parking lot, building foundation, or roof; or
 - b. Has sustained damage from past maintenance practices.

The problems associated with the tree must be such that they cannot be corrected by reasonable practices including but not limited to: pruning of the crown or roots of the tree, bracing, and/or cabling to reconstruct a healthy crown.
11. Public Works Official – Designee of the Public Works Director.
12. Qualified Professional – An individual with relevant education and training in arboriculture or urban forestry, having two (2) or more of the following credentials:
 - International Society of Arboriculture (ISA) Certified Arborist;

- Tree Risk Assessor Certification (TRACE) as established by the Pacific Northwest Chapter of ISA (or equivalent);
- American Society of Consulting Arborists (ASCA) registered Consulting Arborist;
- Society of American Foresters (SAF) Certified Forester for Forest Management Plans;

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

13. Retention Value – The Planning Official's designation of a tree based on information provided by a qualified professional that is one (1) of the following:

a. High, a viable tree, located within required yards and/or required landscape areas. Tree retention efforts shall be directed to the following trees if they are determined to be healthy and windfirm by a qualified professional, and provided the trees can be safely retained when pursuing alternatives to development standards pursuant to KZC 95.32:

- 1) Specimen trees;
- 2) Tree groves and associated vegetation that are to be set aside as preserved groves pursuant to KZC 95.51(3);
- 3) Trees on slopes of at least 10 percent; or
- 4) Trees that are a part of a grove that extends into adjacent property, such as in a public park, open space, sensitive area buffer or otherwise preserved group of trees on adjacent private property. If significant trees must be removed in these situations, an adequate buffer of trees may be required to be retained or planted on the edge of the remaining grove to help stabilize;

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

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

14. Significant Tree – A tree that is at least six (6) inches in diameter at breast height (DBH) as measured at 4.5 feet from the ground.

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

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

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

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

19. Tree Removal – The removal of a tree, through either direct or indirect actions, including but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at

least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.

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

21. **Wildlife Snag** – The remaining trunk of a tree that is intentionally reduced in height and usually stripped of its live branches.

22. **Windfirm** – A condition of a tree in which it withstands average peak local wind speeds and gusts.

(Ord. 4238 § 2, 2010; Ord. 4193 § 1, 2009; Ord. 4010 § 2, 2005)

.20 Exemptions

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

1. **Emergency Tree Removal.** Any tree that poses an imminent threat to life or property may be removed. The City must be notified within seven (7) days of the emergency tree removal with evidence of the threat for removing the tree to be considered exempt from this chapter. If the Planning Official determines that the emergency tree removal was not warranted or if the removed tree was required by a development permit, the Planning Official may require that the party obtain a permit and/or require that replacement trees and vegetation be replanted as mitigation.

2. **Utility Maintenance.** Trees may be removed by the City or utility provider in situations involving interruption of services provided by a utility only if pruning cannot solve utility service problems. Utility maintenance shall conform to a City-approved Utility Vegetation Management Plan.

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

(Ord. 4238 § 2, 2010; Ord. 4010 § 2, 2005)

.21 Tree Pruning

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

2. **Tree Pruning on Private Property.** A permit is not required to prune trees on private property. Pruning which results in the removal of at least half of the live crown will be considered tree removal and subject to the provisions in KZC 95.23.

Tree topping is not allowed. If a tree required by this chapter is smaller than six (6) inches in diameter and is topped, it must be replaced pursuant to the standards in Chapter 1.12 KMC. If a tree six (6) inches or larger in diameter is topped, the owner must have a qualified professional develop and implement a 5-year restoration pruning program.

(Ord. 4281 § 1, 2011; Ord. 4238 § 2, 2010)

.23 Tree Removal – Not Associated with Development Activity

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

tree canopy on private property, contributing towards the City's canopy goals and a more sustainable urban forest.

2. Permit Required for Removal of Trees on Private Property or City Right-of-Way. It is unlawful for any person (other than City crews) to remove, prune, trim, modify, alter or damage a tree in a public park or on any other City property.

No person, directly or indirectly, shall remove any significant tree on any property within the City, or any tree in the public right-of-way, without first obtaining a tree removal permit as provided in this chapter, unless the activity is exempted in KZC 95.20 and subsection (5) of this section.

3. Tree Removal Permit Application Form. The Planning and Building Department and Public Works Department shall establish and maintain a tree removal permit application form to allow property owners to request City review of tree removal for compliance with applicable City regulations. The tree removal application form shall include at a minimum the following:

- a. A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of structures, driveways, access ways and easements.
- b. For required replacement trees, a planting plan showing location, size and species of the new trees in accordance to standards set forth in KZC 95.33(3).

4. Tree Removal Permit Application Procedure and Appeals.

- a. Applicants requesting to remove trees must submit a completed permit application on a form provided by the City. The City shall review the application within 21 calendar days and either approve, approve with conditions or modifications, deny the application or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.
- b. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.
- c. Time Limit. The removal shall be completed within one (1) year from the date of permit approval.

5. Tree Removal Allowances.

a. Except in the Holmes Point Overlay zone, any private property owner of developed property may remove up to two (2) significant trees from their property within a 12-month period without having to apply for a tree removal permit; provided, that:

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

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

b. Tree Retention and Replacement Requirements.

- 1) Tree Retention. For single-family homes, cottages, carriage units, two/three-unit homes, two (2) trees shall be required to remain on the subject property.

2) Tree Replacement.

- a) For every significant tree that is removed and is not required to remain based on subsection (5)(b)(1) of this section, the City encourages the planting of a tree that is appropriate to the site.
 - b) If a tree removal request is for one (1) or both of the trees required to remain, a tree removal permit and one-for-one replacement is required. The replacement tree shall be six (6) feet tall for a conifer and 2-inch caliper for deciduous or broad-leaf evergreen tree.
 - c) For all other uses not listed in subsection (5)(b)(1) of this section, a tree removal permit is required and the required tree replacement will be based on the required landscaping standards in KZC 95.40 through 95.45.
- c. Shoreline Jurisdiction. Properties located within the City's shoreline jurisdiction are subject to additional tree removal and replacement standards if the tree(s) to be removed are located within the required shoreline setback. See Chapter 83 KZC for additional standards.
- d. Removal of Hazard or Nuisance Trees. Any private property owner seeking to remove any number of significant trees which are a hazard or nuisance from developed or undeveloped property or the public right-of-way shall first obtain approval of a tree removal permit and meet the requirements of this subsection.
- 1) Tree Risk Assessment. If the nuisance or hazard condition is not obvious, a tree risk assessment prepared by a qualified professional explaining how the tree(s) meet the definition of a nuisance or hazard tree is required. Removal of nuisance or hazard trees does not count toward the tree removal limit if the nuisance or hazard is supported by a report prepared by a qualified professional and approved by the City.
 - 2) Trees in Critical Areas or Critical Areas Buffers. For hazard or nuisance trees in (a) easements dedicated to ensure the protection of vegetation; (b) critical areas; or (c) critical area buffers, a planting plan is required to mitigate the removal of the hazard or nuisance tree. The priority action is to create a "snag" or wildlife tree with the subject tree. If creation of a snag is not feasible, then the felled tree shall be left in place unless the Planning Official permits its removal in writing.

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

The removal of any tree in a critical area or native growth protective easement will require the planting of a native tree of a minimum of six (6) feet in height in close proximity to where the removed tree was located. Selection of native species and timing of installation shall be coordinated with the Planning Official.
 - 3) The removal of any tree in the Holmes Point Overlay Zone requires the planting of a native tree of a minimum of six (6) feet in height in close proximity to where the removed tree was located. Selection of native species and timing of installation shall be approved by the Planning Official.
 - 4) Street Trees. Street trees may only be removed if determined to be a hazard or nuisance. If the removal request is for street trees, the Public Works Official may consider whether the tree(s) are now, or may be in the future, part of the City's plans for the right-of-way. The City shall require a one-for-one tree replacement in a suitable location.
- e. Forest Management Plan.

- 1) A Forest Management Plan must be submitted for developed, significantly wooded sites (over 40 percent canopy coverage) of at least 35,000 square feet in size in which removal of more than two (2) trees is requested and is not exempt under KZC 95.20. A Forest Management Plan must be developed by a qualified professional and shall include the following:
 - a) A site plan depicting the location of all significant trees (a survey identifying tree locations is not required) with a numbering system of the trees (with corresponding tags on trees in the field). The site plan shall include size (DBH), species, and condition of each tree;
 - b) Identification of trees to be removed, including reasons for their removal and a description of low impact removal techniques pursuant to subsection (5)(e)(2) of this section;
 - c) A reforestation plan that includes location, size, species, and timing of installation;
- 2) The following Forest Management Plan standards shall apply:
 - a) Trees to remain should be dominant or co-dominant in the stand, healthy and windfirm.
 - b) No removal of trees from critical areas and their buffers, unless otherwise permitted by this chapter.
 - c) No removal of specimen trees, unless otherwise permitted by this chapter.
 - d) No removal of healthy trees that would cause trees on adjacent properties to become hazardous.
 - e) The reforestation plan ensures perpetuity of the wooded areas. The size of planted trees for reforestation shall be a minimum of three (3) feet tall.
 - f) Logging operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time. To control erosion, native shrubs, ground cover and stumps shall be retained where feasible. Where not feasible, appropriate erosion control measures to be approved by the City shall be implemented.
 - g) Removal of tree debris shall be done pursuant to Kirkland Fire Department standards.
 - h) Recommended maintenance prescription for retained trees with a specific timeline for such management.

(Ord. 4491 § 3, 2015; Ord. 4437 § 1, 2014; Ord. 4408 § 1, 2013; Ord. 4372 § 1, 2012; Ord. 4238 § 2, 2010)

.25 Sustainable Site Development

All activities regulated by this chapter shall be performed in compliance with the applicable standards contained in this chapter, unless the applicant demonstrates that alternate measures or procedures will be equal or superior to the provisions of this chapter in accomplishing the purpose and intent of this chapter as described in KZC 95.05.

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

(Ord. 4238 § 2, 2010; Ord. 4010 § 2, 2005)

.30 Tree Retention Associated with Development Activity

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

In order to make better decisions about tree retention, particularly during all stages of development, tree retention plans will require specific information about the existing trees before removal is allowed. Specific tree retention plan review standards provided in this section establish tree retention priorities, incentives, and variations to development standards in order to facilitate preservation of viable trees.

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

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

Properties within jurisdiction of the Shoreline Management Act are subject to additional tree retention and protection regulations as set forth in Chapter 83 KZC.

Properties within the Holmes Point Overlay zone are subject to additional tree retention and protection regulations as set forth in Chapter 70 KZC.

2. Tree Retention Plan Required. An applicant for a development permit must submit a tree retention plan that complies with this section. A qualified professional may be required to prepare certain components of a tree retention plan at the applicant's expense. If proposed development activities call for more than one (1) tree retention plan component, the more stringent tree retention plan component shall apply; provided, that the Planning Official may require a combination of tree plan components based on the nature of the proposed development activities. If the proposed activity is not clearly identified in this chapter, the Planning Official shall determine the appropriate tree retention plan requirements.

The chart in subsection (5) of this section sets forth the tree retention plan requirements for development activities and associated tree removal. Applicants for development are encouraged to confer with City staff as early in the design process as possible so that the applicable tree planting and retention concepts can be incorporated into the design of the subject property. The Planning Official may waive a component of the tree retention plan if the Planning Official determines that the information is not necessary.

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

Based on the tree retention plan information submitted by the applicant and the Planning Official's evaluation of the trees relative to the proposed development on the subject property, the Planning

Official shall designate each tree as having a high, moderate, or low retention value as defined in KZC 95.10, Definitions, for application towards the regulations in this chapter.

4. Tree Retention Plan Components. The tree retention plan shall contain the following information as specified in the chart in subsection (5) of this section, unless waived by the Planning Official:

- a. A tree inventory containing the following:
 - 1) A numbering system of all existing significant trees on the subject property (with corresponding tags on trees); the inventory must also include significant trees on adjacent property with driplines extending over the subject property line;
 - 2) Limits of disturbance (LOD) of all existing significant trees (including approximate LOD of off-site trees with overhanging driplines);
 - 3) Size (DBH);
 - 4) Proposed tree status (trees to be removed or retained);
 - 5) Brief general health or condition rating of these trees (i.e.: poor, fair, good, excellent, etc.);
 - 6) Tree type or species.
- b. A site plan depicting the following:
 - 1) Location of all proposed improvements, including building footprint, access, utilities, applicable setbacks, buffers, and required landscaped areas clearly identified. If a short plat or subdivision is being proposed and the location of all proposed improvements cannot be established, a phased tree retention plan review is required as described in subsection (6)(a) of this section;
 - 2) Accurate location of significant trees on the subject property (surveyed locations may be required). The site plan must also include the approximate trunk location and critical root zone of significant trees that are on adjacent property with driplines extending over the subject property line;
 - 3) Trees labeled corresponding to the tree inventory numbering system;
 - 4) Location of tree protection measures;
 - 5) Indicate limits of disturbance drawn to scale around all trees potentially impacted by site disturbances resulting from grading, demolition, or construction activities (including approximate LOD of off-site trees with overhanging driplines);
 - 6) Proposed tree status (trees to be removed or retained) noted by an 'X' or by ghosting out;
 - 7) Proposed locations of any supplemental trees and any required trees in order to meet tree density or minimum number of trees as outlined in KZC 95.33.
- c. An arborist report containing the following:
 - 1) A complete description of each tree's health, condition, and viability;
 - 2) A description of the method(s) used to determine the limits of disturbance (i.e., critical root zone, root plate diameter, or a case-by-case basis description for individual trees);

- 3) Any special instructions specifically outlining any work proposed within the limits of the disturbance protection area (i.e., hand-digging, tunneling, root pruning, any grade changes, clearing, monitoring, and aftercare);
- 4) For trees not viable for retention, a description of the reason(s) for removal based on poor health, high risk of failure due to structure, defects, unavoidable isolation (windfirmness), or unsuitability of species, etc., and for which no reasonable alternative action is possible must be given (pruning, cabling, etc.);
- 5) Describe the impact of necessary tree removal to the remaining trees, including those in a grove or on adjacent properties;
- 6) For development applications, a discussion of timing and installation of tree protection measures that must include fencing and be in accordance with the tree protection standards as outlined in KZC 95.34; and
- 7) The suggested location and species of supplemental trees to be used when required. The report shall include planting and maintenance specifications pursuant to KZC 95.50 and 95.51.

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

TREE RETENTION PLAN

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

Development Activity	Minor ⁽¹⁾⁽³⁾ – Single-Family, or two attached, detached, or stacked dwelling units, and related demolition and land surface modification applications	Major ⁽²⁾⁽³⁾ Single-Family, or two attached, detached, or stacked dwelling units, and related demolition and land surface modification applications	Multifamily, Commercial, any other use other than residential, and related demolition and land surface modification applications	Short Plat, Subdivisions, cottages, carriage units, two/three-unit homes, and related demolition and land surface modification applications (see KZC 95.30(6)(a), Phased Review, for additional standards)
Required Components				
AND APPLY TO:				
Significant trees within required yards or within 10 feet of any side property line		X		
Significant trees potentially impacted by proposed development activity as determined by the Planning Official			X	
Proposed removal of trees with a high retention value in required landscaping areas			X	
All significant trees				X
TREE RETENTION STANDARDS				
Applicant is encouraged to retain viable trees	X ⁽⁴⁾			
Retain and protect trees with a high retention value to the maximum extent possible		X ⁽⁴⁾	X ⁽⁴⁾	X ⁽⁴⁾
Retain and protect trees with a moderate retention value if feasible		X	X	X
Preservation and maintenance agreements pursuant to KZC 95.51 are required for all remaining trees on the subject property	X	X	X	X ⁽⁵⁾
TREE DENSITY				
Tree density requirements shall apply as required in KZC 95.33		X		X
A minimum of two trees must be on the lot following the requirement set forth in KZC 95.33(4)	X			

Development Activity	Minor ⁽¹⁾⁽³⁾ – Single-Family, or two attached, detached, or stacked dwelling units, and related demolition and land surface modification applications	Major ⁽²⁾⁽³⁾ Single-Family, or two attached, detached, or stacked dwelling units, and related demolition and land surface modification applications	Multifamily, Commercial, any other use other than residential, and related demolition and land surface modification applications	Short Plat, Subdivisions, cottages, carriage units, two/three-unit homes, and related demolition and land surface modification applications (see KZC 95.30(6)(a), Phased Review, for additional standards)
Required Components				
LANDSCAPING				
Preserved trees in required landscaping areas shall apply toward required landscaping requirements			X	

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

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

(3) For lots created through a short subdivision, subdivision, or planned unit development with an approved Tree Retention Plan, the applicant must comply with the Tree Retention Plan approved with the short subdivision, subdivision, or planned unit development unless subsection (6)(a) of this section, Phased Review, applies.

(4) To retain trees with a high retention value, the applicant shall pursue, where feasible, applicable variations in the development standards of this code as outlined in KZC 95.32.

(5) Prior to short plat or subdivision recording.

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

a. Phased Review.

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

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

b. Modifications to Tree Retention Plan for Short Plats and Subdivisions. A Tree Retention Plan modification request shall contain information as determined by the Planning Official based on the

requirements in subsection (5) of this section, Tree Retention Plan. The fee for processing a modification request shall be established by City ordinance.

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

- 1) Modification – General. The Planning Official may approve minor modifications to the approved Tree Retention Plan in which the minimum tree density credits associated with trees identified for retention are not decreased.
- 2) Modification Prior to Tree Removal. The Planning Official may approve a modification request to decrease the minimum number of tree density credits associated with trees previously identified for retention if:
 - a) Trees inventoried in the original Tree Retention Plan have not yet been removed; and
 - b) The Planning Official shall not approve or deny a modification pursuant to this section without first providing notice of the modification request consistent with the noticing requirements for the short plat.
- 3) Modification after Tree Removal. A modification request is required to decrease the minimum number of tree density credits associated with trees previously identified for retention after which trees inventoried in the original Tree Retention Plan have already been removed. Such a request may be approved by the Hearing Examiner only if the following are met:
 - a) The need for the modification was not known and could not reasonably have been known before the tree retention plan was approved;
 - b) The modification is necessary because of special circumstances which are not the result of actions by the applicant regarding the size, shape, topography, or other physical limitations of the subject property relative to the location of proposed and/or existing improvements on or adjacent to the subject property;
 - c) There is no practicable or feasible alternative development proposal that results in fewer additional tree removals;
 - d) The Hearing Examiner shall not approve or deny a modification pursuant to this section without the Planning Official first providing notice of the modification request consistent with the noticing requirements for the short plat and providing opportunity for comments for consideration by the Hearing Examiner; and
 - e) Said comment period shall not be less than 14 calendar days.

(Ord. 4437 § 1, 2014; Ord. 4252 § 1, 2010; Ord. 4238 § 2, 2010; Ord. 4010 § 2, 2005)

.32 Incentives and Variations to Development Standards

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

Requirements of the Kirkland Zoning Code may be modified by the Planning Official as outlined below when such modifications would further the purpose and intent of this chapter as set forth in KZC 95.05 and would involve trees with a high or moderate retention value.

1. Common Recreational Open Space. Reductions or variations of the area, width, or composition of required common recreational open space may be granted.
2. Parking Areas and Access. Variations in parking lot design and/or access driveway requirements may be granted when the Public Works and Planning Officials both determine the variations to be consistent with the intent of City policies and codes.
3. Required Yards. Initially, the applicant shall pursue options for placement of required yards as permitted by other sections of this code, such as selecting one (1) front required yard in the RSX zone and adjusting side yards in any zone to meet the 15-foot total as needed for each structure on the site. The Planning Official may also reduce the front, side or rear required yards; provided, that:
 - a. No required side yard shall be less than five (5) feet; and
 - b. The required front yard shall not be reduced by more than five (5) feet in residential zones. There shall not be an additional five (5) feet of reduction beyond the allowance provided for covered entry porches;
 - c. Rear yards that are not directly adjacent to another parcel's rear yard but that are adjacent to an access easement or tract may be reduced by five (5) feet;
 - d. No required yard shall be reduced by more than five (5) feet in residential zones.
4. Storm Water. Requirements pertaining to stormwater may be varied if approved by the Public Works Official under KMC 15.52.060.
5. Additional Variations. In addition to the variations described above, the Planning Official is authorized to require site plan alterations to retain trees with a high retention value. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways, easements or utilities. The Planning Official and the applicant shall work in good faith to find reasonable solutions.

(Ord. 4350 § 1, 2012; Ord. 4238 § 2, 2010)

.33 Tree Density Requirement

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

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

Tree density calculation for existing individual trees:

- a. Diameter breast height (DBH) of the tree shall be measured in inches.
- b. The tree credit value that corresponds with DBH shall be found in Table 95.33.1. Existing native conifers (or other conifer species as approved by the Urban Forester) shall count 1.5 times credits for retention.

Table 95.33.1

Tree Density for Existing Significant Trees

(Credits per minimum diameter – DBH)

DBH	Tree Credits	DBH	Tree Credits	DBH	Tree Credits
3 – 5"	0.5				
6 – 10"	1	24"	8	38"	15
12"	2	26"	9	40"	16
14"	3	28"	10	42"	17
16"	4	30"	11	44"	18
18"	5	32"	12	46"	19
20"	6	34"	13	48"	20
22"	7	36"	14	50"	21

Example: a 7,200-square-foot lot would need five (5) tree credits ($7,200/43,560 = 0.165 \times 30 = (4.9)$ or five (5)). The tree density for the lot could be met by retaining ~~with~~ one (1) existing 16-inch deciduous tree and one (1) existing 6-inch deciduous tree on site. The same 7,200 square-foot-lot would exceed the required five (5) tree credits by retaining one (1) existing 16-inch conifer.

2. Supplemental Trees Planted to Meet Minimum Density Requirement. For sites and activities requiring a minimum tree density and where the existing trees to be retained do not meet the minimum tree density requirement, supplemental trees shall be planted to achieve the required minimum tree density.
3. Tree Location. In designing a development and in meeting the required minimum tree density, the trees shall be planted in the following order of priority:
 - a. On-Site. The preferred locations for new trees are:
 - 1) In preserved groves, critical areas or their buffers.
 - 2) Adjacent to storm water facilities as approved by Public Works under KMC 15.52.060.
 - 3) Entrance landscaping, traffic islands and other common areas in residential subdivisions.
 - 4) Site perimeter – The area of the subject property that is within 10 feet from the property line.
 - 5) On individual residential building lots.
 - b. Off-Site. When room is unavailable for planting the required trees on site, then they may be planted at another approved location in the City.
 - c. City Forestry Account. When the Planning Official determines on-site and off-site locations are unavailable, then the applicant shall pay an amount of money approximating the current market value of the supplemental trees into the City forestry account.

4. Minimum Size and Tree Density Value for Supplemental Trees. The required minimum size of the supplemental tree worth one (1) tree credit shall be six (6) feet tall for Thuja/Arborvitae or four (4) feet tall for native or other a conifers and 2-inch caliper for deciduous or broad-leaf evergreen tree. Additional credits may be awarded for larger supplemental trees. The installation and maintenance shall be pursuant to KZC 95.50 and 95.51 respectively.

(Ord. 4238 § 2, 2010)

.34 Tree & Soil Protection during Development Activity

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

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

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

a. Erect and maintain readily visible temporary protective tree fencing along the limits of disturbance which completely surrounds the protected area of all retained trees, ~~or~~ groups of trees, ~~vegetation and native soil~~. Fences shall be constructed of chain link and be at least six (6) feet high, unless other type of fencing is authorized by the Planning Official.

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

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

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

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

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

1) If equipment is authorized to operate within the ~~protected~~~~critical-root~~ zone, ~~cover~~ the soil and areas adjoining the critical root zone of a tree must be covered with mulch to a depth of at least six (6) inches, or with plywood, steel plates or similar material in order to protect roots and soil from damage caused by heavy equipment.

2) Minimize root damage by hand-excavating a 2-foot-deep trench, at edge of critical root zone, to cleanly sever the roots of trees to be retained. Never rip or shred roots with heavy equipment.

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

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

3. Grade.

a. The grade shall not be elevated or reduced within the critical root zone of trees to be preserved without the Planning Official's authorization based on recommendations from a qualified professional. The Planning Official may allow coverage of up to one-half (1/2) of the area of the tree's critical root zone with light soils (no clay) to the minimum depth necessary to carry out grading or landscaping plans, if it will not imperil the survival of the tree. Aeration devices may be required to ensure the tree's survival.

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

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

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

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

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

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

(Ord. 4238 § 2, 2010)

.40 Required Landscaping

1. User Guide. Chapters 15 through 56 KZC containing the use zone charts or development standards tables assign a landscaping category to each use in each zone. This category is either "A," "B," "C," "D," or "E." If you do not know which landscaping category applies to the subject property, you should consult the appropriate use zone chart or development standards table.

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

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

a. Various use zone charts or development standards tables, in Chapters 15 through 56 KZC, establish additional or special buffering requirements for some uses in some zones.

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

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

- d. Chapter 110 KZC and Chapter 19.36 KMC address vegetation within rights-of-way, except for the I-405 and SR-520 rights-of-way, and the Cross Kirkland Corridor railbanked rail corridor or the Eastside Rail Corridor.
 - e. KZC 115.135, Sight Distance at Intersections, which may limit the placement of landscaping in some areas.
 - f. Chapter 22 KMC addresses trees in subdivisions.
2. Use of Significant Existing Vegetation.
- a. General. The applicant shall apply subsection KZC 95.30(3), Tree Retention Plan Procedure, and KZC 95.32, Incentives and Variations to Development Standards, to retain existing native trees, and vegetation and soil in areas subject to the landscaping standards of this section. The Planning Official shall give substantial weight to the retained native trees and vegetation when determining the applicant's compliance with this section.
 - b. Supplement. The City may require the applicant to plant trees, shrubs, and groundcover according to the requirements of this section to supplement the existing vegetation in order to provide a buffer at least as effective as the required buffer.
 - c. Protection Techniques. The applicant shall use the protection techniques described in KZC 95.34 to ensure the protection of significant existing vegetation and soil.
3. Landscape Plan Required. In addition to the Tree Retention Plan required pursuant to KZC 95.30, application materials shall clearly depict the quantity, location, species, and size of plant materials proposed to comply with the requirements of this section, and shall address the plant installation and maintenance requirements set forth in KZC 95.50 and 95.51. Plant materials shall be identified with both their scientific and common names. Any required irrigation system must also be shown.

(Ord. 4476 § 3, 2015; Ord. 4408 § 1, 2013; Ord. 4238 § 2, 2010; Ord. 4121 § 1, 2008; Ord. 4097 § 1, 2007; Ord. 4037 § 1, 2006; Ord. 4030 § 1, 2006; Ord. 4010 § 2, 2005)

.41 Supplemental Plantings

1. General. The applicant shall provide the supplemental landscaping specified in subsection (2) of this section in any area of the subject property that:
 - a. Is not covered with a building, vehicle circulation area or other improvement; and
 - b. Is not a critical area, critical area buffer, or in an area to be planted with required landscaping; and
 - c. Is not committed to and being used for some specific purpose.
2. Standards. The applicant shall provide the following at a minimum:
 - a. Living plant material which will cover 80 percent of the area to be landscaped within two (2) years. If the material to be used does not spread over time, the applicant shall re-plant the entire area involved immediately. Any area that will not be covered with living plant material must be covered with nonliving groundcover. Preference is given to using native plant species. See Kirkland Native Tree/Plant Lists.
 - b. One (1) tree for each 1,000 square feet of area to be landscaped. At the time of planting, deciduous trees must be at least two (2) inches in caliper and coniferous trees must be at least five (5) feet in height.

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

- 1) The building facade is more than 25 feet high or more than 50 feet long; or
- 2) Additional landscaping is necessary to provide a visual break in the facade.

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

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

(Ord. 4238 § 2, 2010)

.42 Minimum Land Use Buffer Requirements

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

LANDSCAPING CATEGORY	ADJOINING PROPERTY	*Public park or low density residential use or if no permitted use exists on the adjoining property then a low density zone.	Medium or high density residential use or if no permitted use exists on the adjoining property then a medium density or high density zone.	Institutional or office use or if no permitted use exists on the adjoining property then an institutional or office zone.	A commercial use or an industrial use or if no permitted use exists on the adjoining property then a commercial or industrial zone.
A	Must comply with subsection (1) (Buffering Standard 1)	Must comply with subsection (1) (Buffering Standard 1)	Must comply with subsection (2) (Buffering Standard 2)		
B	Must comply with subsection (1) (Buffering Standard 1)	Must comply with subsection (1) (Buffering Standard 1)			
C	Must comply with subsection (1) (Buffering Standard 1)	Must comply with subsection (2) (Buffering Standard 2)			
D	Must comply with subsection (2) (Buffering Standard 2)				
E					

ADJOINING PROPERTY	*Public park or low density residential use or if no permitted use exists on the adjoining property then a low density zone.	Medium or high density residential use or if no permitted use exists on the adjoining property then a medium density or high density zone.	Institutional or office use or if no permitted use exists on the adjoining property then an institutional or office zone.	A commercial use or an industrial use or if no permitted use exists on the adjoining property then a commercial or industrial zone.
LANDSCAPING CATEGORY				
Footnotes:	*If the adjoining property is zoned Central Business District, Juanita Business District, North Rose Hill Business District, Rose Hill Business District, Business District Core or is located in TL 5, this section KZC 95.42 does not apply.			

This chart establishes which buffering standard applies in a particular case. The following subsections establish the specific requirement for each standard:

1. For standard 1, the applicant shall provide a 15-foot-wide landscaped strip with a 6-foot-high solid screening fence or wall. Except for public utilities, the fence or wall must be placed on the outside edge of the land use buffer or on the property line when adjacent to private property. For public utilities, the fence or wall may be placed either on the outside or inside edge of the landscaping strip. A fence or wall is not required when the land use buffer is adjacent and parallel to a public right-of-way that is improved for vehicular use. See KZC 115.40 for additional fence standards. The land use buffer must be planted as follows:

- a. Trees planted at the rate of one (1) tree per 20 linear feet of land use buffer, with deciduous trees of two and one-half (2-1/2) inch caliper, minimum, and/or coniferous trees eight (8) feet in height, minimum. At least 70 percent of trees shall be evergreen. The trees shall be distributed evenly throughout the buffer, spaced no more than 20 feet apart on center.
- b. Large shrubs or a mix of shrubs planted to attain coverage of at least 60 percent of the land use buffer area within two (2) years, planted at the following sizes and spacing, depending on type:
 - 1) Low shrub – (mature size under three (3) feet tall), 1- or 2-gallon pot or balled and burlapped equivalent;
 - 2) Medium shrub – (mature size from three (3) to six (6) feet tall), 2- or 3-gallon pot or balled and burlapped equivalent;
 - 3) Large shrub – (mature size over six (6) feet tall), 5-gallon pot or balled and burlapped equivalent.
- c. Living ground covers planted from either 4-inch pot with 12-inch spacing or 1-gallon pot with 18-inch spacing to cover within two (2) years 60 percent of the land use buffer not needed for viability of the shrubs or trees.

2. For standard 2, the applicant shall provide a 5-foot-wide landscaped strip with a 6-foot-high solid screening fence or wall. Except for public utilities, the fence or wall must be placed on the outside edge of the land use buffer or on the property line when adjacent to private property. For public utilities, the fence or wall may be placed either on the outside or inside edge of the landscaping strip. A fence or wall is not required when the land use buffer is adjacent and parallel to a public right-of-way that is improved for

vehicular use. See KZC 115.40 for additional fence standards. The landscaped strip must be planted as follows:

- a. One (1) row of trees planted no more than 10 feet apart on center along the entire length of the buffer, with deciduous trees of 2-inch caliper, minimum, and/or coniferous trees at least six (6) feet in height, minimum. At least 50 percent of the required trees shall be evergreen.
 - b. Living ground covers planted from either 4-inch pot with 12-inch spacing or 1-gallon pot with 18-inch spacing to cover within two (2) years 60 percent of the land use buffer not needed for viability of the trees.
3. Plant Standards. All plant materials used shall meet the most recent American Association of Nurserymen Standards for nursery stock: ANSI Z60.1.
 4. Location of the Land Use Buffer. The applicant shall provide the required buffer along the entire common border between the subject property and the adjoining property.
 5. Multiple Buffering Requirement. If the subject property borders more than one (1) adjoining property along the same property line, the applicant shall provide a gradual transition between different land use buffers. This transition must occur totally within the area which has the less stringent buffering requirement. The specific design of the transition must be approved by the City.
 6. Adjoining Property Containing Several Uses. If the adjoining property contains several permitted uses, the applicant may provide the least stringent land use buffer required for any of these uses.
 7. Subject Property Containing Several Uses. If the subject property contains more than one (1) use, the applicant shall comply with the land use buffering requirement that pertains to the use within the most stringent landscaping category that abuts the property to be buffered.
 8. Subject Property Containing School. If the subject property is occupied by a school, land use buffers are not required along property lines adjacent to a street.
 9. Encroachment into Land Use Buffer. Typical incidental extensions of structures such as chimneys, bay windows, greenhouse windows, cornices, eaves, awnings, and canopies may be permitted in land use buffers as set forth in KZC 115.115(3)(d); provided, that:
 - a. Buffer planting standards are met; and
 - b. Required plantings will be able to attain full size and form typical to their species.

(Ord. 4495 § 2, 2015; Ord. 4238 § 2, 2010)

.43 Outdoor Use, Activity, and Storage

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

1. That portion of an outdoor use, activity, or storage area which abuts another outdoor use, activity, or storage area which is located on property zoned for commercial or industrial use.
2. Outdoor use, activity, and storage areas which are located adjacent to a fence or structure which is a minimum of six (6) feet above finished grade, and do not extend outward from the fence or structure more than five (5) feet; provided, that the total horizontal dimensions of these areas shall not exceed 50 percent of the length of the facade or fence (see Plate 11).
3. If there is an improved path or sidewalk in front of the outdoor storage area, the outdoor use, activity or storage area may extend beyond five (5) feet if a clearly defined walking path at least three (3) feet in width is maintained and there is adequate pedestrian access to and from the primary use. The total

horizontal dimension of these areas shall not exceed 50 percent of the length of the facade of the structure or fence (see Plate 11).

4. Outdoor dining areas.

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

6. Outdoor Christmas tree lots and fireworks stands if these uses will not exceed 30 days, and outdoor amusement rides, carnivals and circuses, and parking lot sales which are ancillary to the indoor sale of the same goods and services, if these uses will not exceed seven (7) days.

(Ord. 4238 § 2, 2010)

.44 Internal Parking Lot Landscaping Requirements

The following internal parking lot landscape standards apply to each parking lot or portion thereof containing more than eight (8) parking stalls.

1. The parking lot must contain 25 square feet of landscaped area per parking stall planted as follows:

a. The applicant shall arrange the required landscaping throughout the parking lot to provide landscape islands or peninsulas to separate groups of parking spaces (generally every eight (8) stalls) from one another and each row of spaces from any adjacent driveway that runs perpendicular to the row. This island or peninsula must be surrounded by a 6-inch-high vertical curb and be of similar dimensions as the adjacent parking stalls. Gaps in curbs are allowed for stormwater runoff to enter landscape island.

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

1) At least one (1) deciduous tree, two (2) inches in caliper, or a coniferous tree five (5) feet in height.

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

3) Natural drainage landscapes (such as rain gardens, bio-infiltration swales and bioretention planters) are allowed when designed in compliance with the stormwater design manual adopted in KMC 15.52.060. Internal parking lot landscaping requirements for trees still apply. Refer to Public Works Pre-Approved Plans-X.

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

2. Rooftop Parking Landscaping. For a driving or parking area on the top level of a structure that is not within the CBD zone or within any zone that requires design regulation compliance, one

(1) planter that is 30 inches deep and five (5) feet square must be provided for every eight (8) stalls on the top level of the structure. Each planter must contain a small tree or large shrub suited to the size of the container and the specific site conditions, including desiccating winds, and is clustered with other planters near driving ramps or stairways to maximize visual effect.

3. If development is subject to Design Review as described in Chapter 142 KZC, the City will review the parking area design, plant choice and specific plant location as part of the Design Review approval.

The City may also require or permit modification to the required landscaping and design of the parking area as part of Design Review approval.

(Ord. 4350 § 1, 2012; Ord. 4238 § 2, 2010)

.45 Perimeter Landscape Buffering for Driving and Parking Areas

1. Perimeter Buffering – General. Except as specified in subsection (2) of this section, the applicant shall buffer all parking areas and driveways from abutting rights-of-way and from adjacent property with a 5-foot-wide strip along the perimeter of the parking areas and driveways planted as follows (see Figure 95.45.A):

- a. One (1) row of trees, two (2) inches in caliper and planted 30 feet on center along the entire length of the strip.
- b. Living groundcover planted to attain coverage of at least 60 percent of the strip area within two (2) years.

c. Natural drainage landscapes (such as rain gardens, bio-infiltration swales and bioretention planters) are allowed when designed in compliance with the stormwater design manual adopted in KMC 15.52.060. Perimeter landscape buffering requirements for trees in driving and parking areas still apply. Refer to Public Works Pre-Approved Plans-X.

2. Exception. The requirements of this section do not apply to any parking area that:

- a. Is fully enclosed within or under a building; or
- b. Is on top of a building and is at least one (1) story above finished grade; or
- c. Serves detached dwelling units exclusively; or
- d. Is within any zone that requires design regulation compliance. See below for Design District requirements.

3. Design Districts. If subject to Design Review, each side of a parking lot that abuts a street, through-block pathway or public park must be screened from that street, through-block pathway or public park by using one (1) or a combination of the following methods (see Figures 95.45.A, B, and C):

- a. By providing a landscape strip at least five (5) feet wide planted consistent with subsection (1) of this section, or in combination with the following. In the RHBD Regional Center (see KZC Figure 92.05.A) a 10-foot perimeter landscape strip along NE 85th Street is required planted consistent with subsection (1) of this section.
- b. The hedge or wall must extend at least two (2) feet, six (6) inches, and not more than three (3) feet above the ground directly below it.
- c. The wall may be constructed of masonry or concrete, if consistent with the provisions of KZC 92.35(1)(g), in building material, color and detail, or of wood if the design and materials match the building on the subject property.
- d. In JBD zones:
 - 1) If the street is a pedestrian-oriented street, the wall may also include a continuous trellis or grillwork, at least five (5) feet in height above the ground, placed on top of or in front of the wall and planted with climbing vines. The trellis or grillwork may be constructed of masonry, steel, cast iron and/or wood.

- 2) If the wall abuts a pedestrian-oriented street, the requirements of this subsection may be fulfilled by providing pedestrian weather protection along at least 80 percent of the frontage of the subject property.
 - e. If development is subject to Design Review as described in Chapter 142 KZC, the City will review plant choice and specific plant location as part of the Design Review approval. The City may also require or permit modification to the required plant size as part of Design Review approval.
4. Overlapping Requirements. If buffering is required in KZC 95.42, Land Use Buffering Standards, and by this subsection, the applicant shall utilize the more stringent buffering requirement.

Perimeter Parking Lot Landscaping

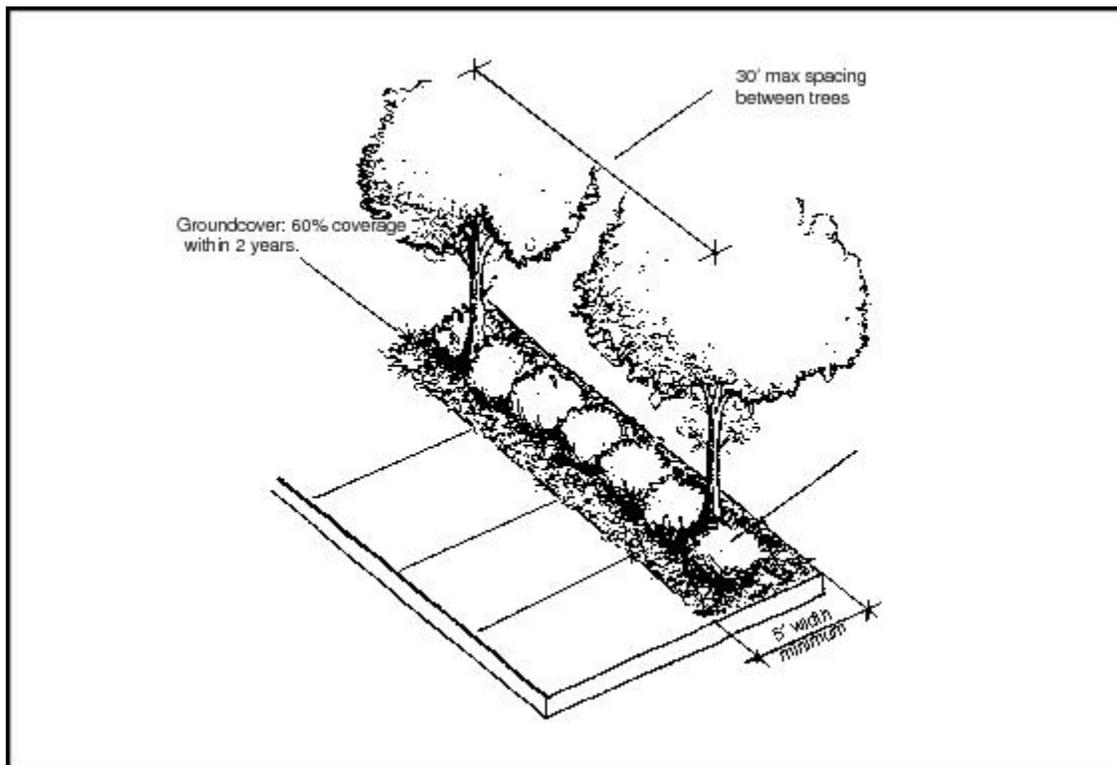


FIGURE 95.45.A

Perimeter Parking – Examples of Various Screen Wall Designs

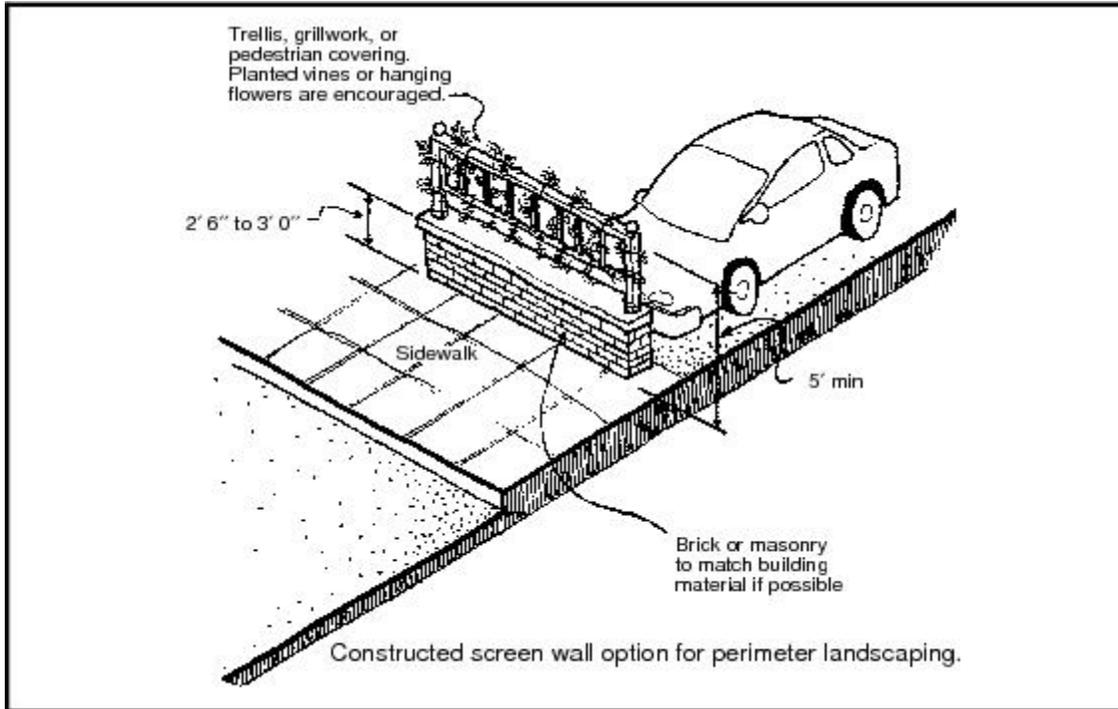


FIGURE 95.45.B

Perimeter Parking – Examples of Various Screen Wall Designs

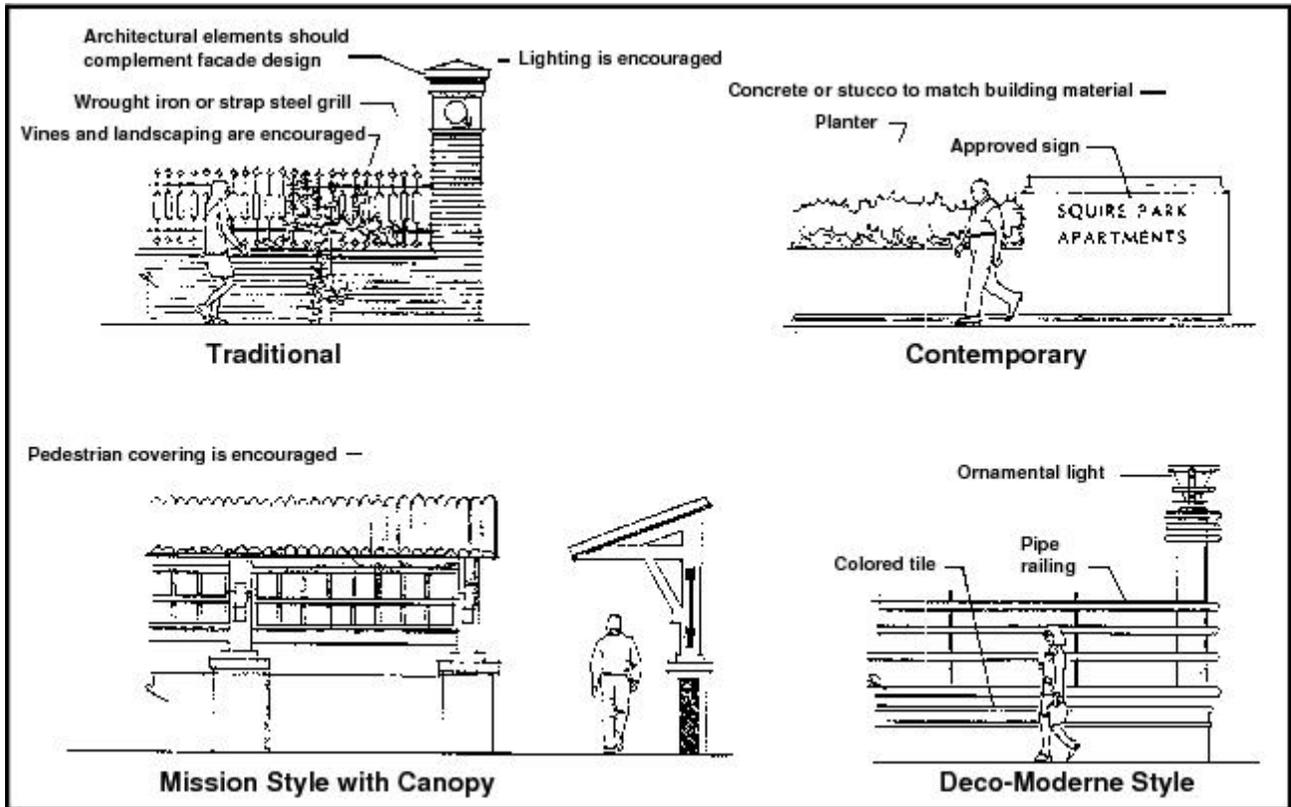


FIGURE 95.45.C

(Ord. 4238 § 2, 2010; Ord. 4010 § 2, 2005)

.46 Modifications to Landscaping Standards

1. Modification to Land Use Buffer Requirements. The applicant may request a modification of the requirements of the buffering standards in KZC 95.42. The Planning Official may approve a modification if:

- a. The owner of the adjoining property agrees to this in writing; and
- b. The existing topography or other characteristics of the subject property or the adjoining property, or the distance of development from the neighboring property decreases or eliminates the need for buffering; or
- c. The modification will be more beneficial to the adjoining property than the required buffer by causing less impairment of view or sunlight; or
- d. The Planning Official determines that it is reasonable to anticipate that the adjoining property will be redeveloped in the foreseeable future to a use that would require no, or a less intensive, buffer; or
- e. The location of pre-existing improvements on the adjoining site eliminates the need or benefit of the required landscape buffer.

2. Modifications to General Landscaping Requirements.

a. Authority to Grant and Duration. If the proposed development of the subject property requires approval through Design Review or Process I, IIA, or IIB, described in Chapters 142, 145, 150, and 152 KZC, respectively, a request for a modification will be considered as part of that process under the provisions of this section. The City must find that the applicant meets the applicable criteria listed in subsections (2)(b) and (2)(c) of this section. If granted under Design Review or Process I, IIA, or IIB, the modification is binding on the City for all development permits issued for that development under the building code within five (5) years of the granting of the modification.

If the above does not apply, the Planning Official may grant a modification in writing under the provisions of this section.

b. Internal Parking Lot Landscaping Modifications. For a modification to the internal parking lot landscaping requirements in KZC 95.44, the landscape requirements may be modified if:

- 1) The modification will produce a landscaping design in the parking area comparable or superior to that which would result from adherence to the adopted standard; or
- 2) The modification will result in increased retention of significant existing vegetation; or
- 3) The purpose of the modification is to accommodate low impact development techniques as approved by the Planning Official.

c. Perimeter parking lot and driveway landscaping. For a modification to the perimeter landscaping for parking lots and driveways, the buffering requirements for parking areas and driveways may be modified if:

- 1) The existing topography of or adjacent to the subject property decreases or eliminates the need for visual screening; or
- 2) The modification will be of more benefit to the adjoining property by causing less impairment of view or sunlight; or

- 3) The modification will provide a visual screen that is comparable or superior to the buffer required by KZC 95.45; or
- 4) The modification eliminates the portion of the buffer that would divide a shared parking area serving two (2) or more adjacent uses, but provides the buffer around the perimeter of the shared parking area.

(Ord. 4238 § 2, 2010)

.47 Nonconforming Landscaping and Buffers

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

- a. An increase of at least 10 percent in gross floor area of any structure; or
- b. An alteration to any structure, the cost of which exceeds 50 percent of the replacement cost of the structure.

2. Land use buffers must be brought into conformance with KZC 95.42 in either of the following situations:

- a. An increase in gross floor area of any structure (the requirement to provide conforming buffers applies only where new gross floor area impacts adjoining property); or
- b. A change in use on the subject property and the new use requires larger buffers than the former use.

(Ord. 4238 § 2, 2010)

.50 Installation Standards for Required Plantings

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

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

1. Compliance. It is the applicant's responsibility to show that the proposed landscaping complies with the regulations of this chapter.
2. Timing. All landscaping shall be installed prior to the issuance of a certificate of occupancy, except that the installation of any required tree or landscaping may be deferred during the summer months to the next planting season, but never for more than six (6) months. Deferred installation shall be secured with a performance bond pursuant to Chapter 175 KZC prior to the issuance of a certificate of occupancy.
3. Grading. Berms shall not exceed a slope of two (2) horizontal feet to one (1) vertical foot (2:1).
4. Soil Specifications. Soils in planting areas shall have soil quality equivalent to WA State Dept. of Ecology BMP T5.13-adequate porosity to allow root growth. ~~Soils which have been compacted to a density greater than one and three-tenths (1.3) grams per cubic centimeters shall be loosened to increase~~

~~eration to a minimum depth of 24 inches or to the depth of the largest plant root ball, whichever is greater. Imported topsoils shall be tilled into existing soils to prevent a distinct soil interface from forming. After soil preparation is completed, motorized vehicles shall be kept off to prevent excessive compaction and underground pipe damage.~~ The soil quality in any landscape area shall comply with the soil quality requirements of the Public Works Pre-Approved Plans. See subsection (9) of this section for mulch requirements.

5. Plant Selection.

- a. Plant selection shall be consistent with the Kirkland Plant List, which is produced by the City's Natural Resource Management Team and available in the Planning and Building Department.
- b. Plants shall be selected and sited to produce a hardy and drought-resistant landscape area. Selection shall consider soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, and compatibility with existing native vegetation preserved on the site. Preservation of existing vegetation is strongly encouraged.
- c. Prohibited Materials. Plants listed as prohibited in the Kirkland Plant List are prohibited in required landscape areas. Additionally, there are other plants that may not be used if identified in the Kirkland Plant List as potentially damaging to sidewalks, roads, underground utilities, drainage improvements, foundations, or when not provided with enough growing space.
- d. All plants shall conform to American Association of Nurserymen (AAN) grades and standards as published in the "American Standard for Nursery Stock" manual.
- e. Plants shall meet the minimum size standards established in other sections of the KZC.
- f. Multiple-stemmed trees may be permitted as an option to single-stemmed trees for required landscaping provided that such multiple-stemmed trees are at least 10 feet in height and that they are approved by the Planning Official prior to installation.

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

7. Irrigation. The intent of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. All required plantings must provide an irrigation system, using either Option 1, 2, or 3 or a combination of those options. For each option irrigation shall be designed to conserve water by using the best practical management techniques available. These techniques may include, but not be limited to: drip irrigation to minimize evaporation loss, moisture sensors to prevent irrigation during rainy periods, automatic controllers to insure proper duration of watering, sprinkler head selection and spacing designed to minimize overspray, and separate zones for turf and shrubs and for full sun exposure and shady areas to meet watering needs of different sections of the landscape.

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

- a. Option 1. A permanent built-in irrigation system with an automatic controller designed and certified by a licensed landscape architect as part of the landscape plan.
- b. Option 2. An irrigation system designed and certified by a licensed landscape architect as part of the landscape plan, which provides sufficient water to ensure that the plants will become established. The system does not have to be permanent if the plants chosen can survive adequately on their own, once established.

- c. Option 3. Irrigation by hand. If the applicant chooses this option, an inspection will be required one (1) year after final inspection to ensure that the landscaping has become established.
8. Drainage. All landscapes shall have adequate drainage, either through natural percolation or through an installed drainage system. A percolation rate of one-half (1/2) inch of water per hour is acceptable.
9. Mulch.
 - a. Required plantings, except turf or areas of established ground cover, shall be covered with two (2) inches or more of organic mulch to minimize evaporation and runoff. Mulch shall consist of materials such as yard waste, sawdust, and/or manure that are fully composted.
 - b. All mulches used in planter beds shall be kept at least six (6) inches away from the trunks of shrubs and trees.
10. Protection. All required landscaped areas, particularly trees and shrubs, must be protected from potential damage by adjacent uses and development, including parking and storage areas. Protective devices such as bollards, wheel stops, trunk guards, root guards, etc., may be required in some situations.
11. Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Plants intended to mitigate for the loss of natural resource values are subject to the following requirements in addition to the other landscaping requirements found in KZC 95.40 through 95.45. Where these requirements conflict with other requirements of this chapter, these requirements take precedence. Refer to Chapters 85 and 90 KZC for additional requirements for these areas.
 - a. Plant Source. Plant materials must be native and selected from the Kirkland Plant List. Seed source must be as local as possible, and plants must be nursery propagated unless transplanted from on-site areas approved for disturbance. These requirements must be included in the Mitigation Plan specifications.
 - b. Installation. Plant materials must be supported only when necessary due to extreme winds at the planting site. Where support is necessary, stakes, guy wires, or other measures must be removed as soon as the plant can support itself, usually after the first growing season. All fertilizer applications to turf or trees and shrubs shall follow Washington State University, National Arborist Association or other accepted agronomic or horticultural standards.
 - c. Fertilizer Applications. Fertilizers shall be applied in such a manner as to prevent its entry into waterways and wetlands and minimize its entry into storm drains. No applications shall be made within 50 feet of a waterway or wetland, or a required buffer as established by the City codes (such as Chapter 90 KZC) or Kirkland Shoreline Master Program (SMP, KMC Title 24), whichever is greater, unless specifically authorized in an approved mitigation plan or otherwise authorized in writing by the Planning Official.

(Ord. 4491 §§ 3, 11, 2015; Ord. 4350 § 1, 2012; Ord. 4238 § 2, 2010; Ord. 4010 § 2, 2005)

.51 Tree and Landscape Maintenance Requirements

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

1. Responsibility for Regular Maintenance. Required trees and vegetation, fences, walls, and other landscape elements shall be considered as elements of the project in the same manner as parking, building materials, and other site details. The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of required landscaping elements. Plants that die must be

replaced in kind. It is also the responsibility of the property owner to maintain street trees abutting their property pursuant to KZC 95.21.

2. Maintenance Duration. Maintenance shall be ensured in the following manner except as set forth in subsections (3), (4) and (5) of this section:

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

b. Any existing tree or other existing vegetation designated for preservation in a tree retention plan shall be maintained for a period of five (5) years following issuance of the certificate of occupancy for the individual lot or development. After five (5) years, all trees on the property are subject to KZC 95.23 unless:

- 1) The tree and associated vegetation are in a grove that is protected pursuant to subsection (3) of this section; or
- 2) The tree or vegetation is considered to be a public benefit related to approval of a planned unit development; or
- 3) The tree or vegetation was retained to partially or fully meet requirements of KZC 95.40 through 95.45, required landscaping.

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

4. Maintenance in Holmes Point Overlay Zone. Vegetation in designated Protected Natural Areas in the Holmes Point Overlay Zone is to be protected in perpetuity pursuant to KZC 70.15(8)(a). Significant trees in the remainder of the lot shall be protected in perpetuity pursuant to KZC 70.15(8)(b).

5. Maintenance of Critical Area and Critical Area Buffers. In critical areas and their buffers, native vegetation is not to be removed without City approval pursuant to KZC 95.23(5)(d). However, it is the responsibility of the property owner to maintain critical areas and their buffers by removing nonnative, invasive, and noxious plants in a manner that will not harm critical areas or their buffers. See also subsection (7) of this section and Chapters 85 and 90 KZC for additional requirements for trees and other vegetation within critical areas and critical area buffers.

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

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

8. Landscape Plans and Utility Plans. Landscape plans and utility plans shall be coordinated. In general, the placement of trees and large shrubs should adjust to the location of required utility routes

both above and below ground. Location of plants shall be based on the plant's mature size both above and below ground. See the Kirkland Plant List for additional standards.

(Ord. 4437 § 1, 2014; Ord. 4238 § 2, 2010)

.52 Prohibited Vegetation

Plants listed as prohibited in the Kirkland Plant List shall not be planted in the City or required to be retained.

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

(Ord. 4450 § 1, 2014; Ord. 4238 § 2, 2010; Ord. 4121 § 1, 2008)

.55 Enforcement and Penalties

Upon determination that there has been a violation of any provision of this chapter, the City may pursue code enforcement and penalties in accordance with the provisions of Chapter 1.12 KMC, Code Enforcement.

(Ord. 4286 § 1, 2011; Ord. 4281 § 1, 2011; Ord. 4238 § 2, 2010; Ord. 4010 § 2, 2005)

.57 City Forestry Account

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

- a. Agreed upon restoration payments imposed under KZC 95.55 or settlements in lieu of penalties;
- b. Sale of trees or wood from City property where the proceeds from such sale have not been dedicated to another purpose;
- c. Donations and grants for tree purposes;
- d. Sale of seedlings by the City; and
- e. Other monies allocated by the City Council.

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

- a. Acquiring, maintaining, and preserving wooded areas within the City;
- b. Planting and maintaining trees within the City;
- c. Establishment of a holding public tree nursery;
- d. Urban forestry education;
- e. Implementation of a tree canopy monitoring program; or
- f. Other purposes relating to trees as determined by the City Council.

(Ord. 4238 § 2, 2010)

KMC 19.12.130 Street and Curb Cutting Specifications with Proposed 2016 Edits

**Chapter 19.12
STREET AND CURB CUTTING**

19.12.130 Specifications.

The Public Works Director is directed to develop and keep current full engineering pre-approved plans and policies for all improvements in the right-of-way. The applicant shall comply with these standards and specifications for all improvements in the right-of-way. These standards and specifications are available for public inspection and copying in the Public Works Department during regular business hours or at www.kirklandwa.gov.

~~All work shall conform to the requirements of "Standard Specifications for Municipal Public Works Construction," 1977 Edition, prepared by Washington State Chapter, American Public Works Association, copies of which are on file with the city and available to the general public.~~

~~Exception: Only Standard Plan No. 10—concrete driveways—type D, alternate 1 or 2, on page VII—11 of the above standards are permitted for driveways. A specific alternate may be required by the public service department after the preconstruction inspection.~~

(Ord. 2606 § 1 (part), 1981; Ord. 2127 § 4(A), 1970)

Complete Streets Ordinance Update

OCTOBER 5, 2016

PW/PK/HS COMMITTEE

Background

Original Complete Streets ordinance passed October 3, 2006

City was the first in the state

Nation Complete Streets Coalition, established in 2004

TIB Complete Streets Award program

Existing Ordinance

Accommodation of bike & ped ways on transportation facilities

Except for in specific situations

- Contrary to public safety
- Cost v benefit
- No identified need
- Violate Comp Plan
- Documented exception by Public Works Director

Updated Complete Streets Ordinance

Based on TMP, TIB, Complete Streets Coalition and current practice

- Title – Complete Streets
- Subsection 1 – All users, all ages and abilities, maximum extent practical, operations & maintenance
- Subsection 2 – Exemptions
- Subsection 3 (new) – Best practices
- Subsection 4 (new) – Plans & policies

TIB Complete Streets Award

October – City submits applications to nominating agencies

December – TIB evaluation, staff jury and negotiate work plans

January – TIB Board award at 1/27/2017 meeting

ORDINANCE _____

AN ORDINANCE OF THE CITY OF KIRKLAND UPDATING AND EXPANDING THE ACCOMMODATION OF TRANSPORTATION USES ALONG TRANSPORTATION FACILITIES TO CREATE COMPLETE STREETS.

WHEREAS, on October 3, 2006, the Kirkland City Council adopted Ordinance No. 4061 relating to "Complete Streets" by accommodating bicycle and pedestrian ways along transportation facilities; and

WHEREAS, the City of Kirkland was the first municipality in the State of Washington to adopt a Complete Streets ordinance, which codified the City's existing practice of considering bicyclists and pedestrians in all transportation projects; and

WHEREAS, in the past decade the definition of Complete Streets has expanded to include transit users and people of all ages and abilities; and

WHEREAS, on November 17, 2015 the Kirkland City Council approved Resolution R-5171, Adopting the Transportation Master Plan, which established multimodal goals and policies to design, construct, operate and maintain a transportation system that supports the City's vision of a livable, walkable, green and connected community; and

WHEREAS, the City Council would like to have the Complete Streets ordinance updated to reflect the Transportation Master Plan and ensure that Kirkland's streets accommodate users of all ages and abilities regardless of their mode of transportation; and

WHEREAS, the Kirkland Transportation Commission met on September 28, 2016 and reviewed the updated ordinance to ensure it was consistent with the Transportation Master Plan;

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

Section 1. Section 19.08.055 of the Kirkland Municipal Code is amended to read as follows:

19.08.055 Complete Streets ~~Bicycle and pedestrian ways along transportation facilities.~~

(1) The safe, convenient and comfortable travel of people of all ages and abilities traveling by any combination of foot, bicycle, transit, or motor vehicle and pedestrian ways shall be accommodated to the maximum extent practical in the scoping, planning, development, and construction, operation and maintenance of all transportation facilities, including the creation of new transportation linkages in order to create a more connected communitywide transportation network, including the incorporation of such practices ways into transportation plans and programs.

(2) Notwithstanding that provision of subsection (1) of this section, new facilities for pedestrians, bicyclists, transit users and people of all ages and abilities bicycle and pedestrian ways are not required to be constructed established:

- (a) Where their establishment would be contrary to public safety;
- (b) ~~When the cost would be excessively disproportionate to the need or probable use;~~
- (c) ~~Where there is no identified need;~~
- (b) Where the establishment would violate comprehensive plan policies;
- (c) When routine maintenance of the transportation network is performed that does not significantly alter the travel facility or does not provide the opportunity to enhance complete streets within the scope of the maintenance work, such as mowing, sweeping, and spot repairs, or;
- (d) In instances where a documented exception is granted by the public works director-city manager because the cost would be excessively disproportionate to the need or probably use.

(3) City policies, design criteria, standards and guidelines shall be based on best practices in street design, construction and operations including, but not limited to, guidance provided by the Association of State Highway Transportation Officials, Institute of Transportation Engineers, and National Association of City Transportation Officials.

(4) City plans and programs, including, but not limited to, the Comprehensive Plan and Transportation Master Plan shall support the implementation of complete streets.

Section 2. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2016.

Signed in authentication thereof this ____ day of _____, 2016.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

City of Port Townsend

Chapter 9.46 RIGHT-OF-WAY USE RULES INCLUDING STREETS AND SIDEWALKS

Sections:

- [9.46.010](#) Purpose.
- [9.46.020](#) Definitions.
- [9.46.030](#) Rules of conduct.
- [9.46.040](#) Administrative regulations.
- [9.46.050](#) Variance.
- [9.46.060](#) Interpretation.
- [9.46.070](#) Enforcement – Violations.

9.46.010 Purpose.

A. The city council determines it appropriate to set reasonable time, place and manner restrictions, which are narrowly tailored to serve a significant governmental interest and leave open ample alternative channels for communication, and which are content and viewpoint neutral, for use of streets, sidewalks, alleyways and other public places in order to accommodate and balance a variety of public interests, including protected speech and expression.

B. The city council recognizes the value of expressive activities including speech and music to a vibrant and diverse outdoor life, particularly for the downtown area. These rules are not intended to prohibit such expressive activities and in no way seek to regulate content of expression or the viewpoint of the speaker or presenter. Rather, the rules are intended to allow free speech and expressive activities subject to reasonable time, place and manner restrictions, so that a variety of public interests including free speech activities are accommodated.

C. In addition to accommodating expressive activity, these rules and regulations are designed and intended to accommodate these important public interests: (1) maintaining the use of sidewalks for reasonably unimpeded, safe and efficient travel and transportation, and incidental authorized uses (for example, sidewalk vending, and sidewalk cafes), and other public purposes (events, parade, etc.), and maintaining streets for pedestrian and vehicular traffic; (2) maintaining the use of sidewalks and streets for safe, efficient and reasonably unimpeded travel and transportation by persons who are infirm, elderly or disabled and to accommodate transportation assistance devices such as wheelchairs, walkers, and crutches; (3) protecting the city's investment in infrastructure designed to promote tourism; (4) respecting the rights of owners and occupants of adjoining properties to light, air, access and view; (5) assisting cleaning and maintenance of the right-of-way; (6) providing for safe and prompt access to utilities and related equipment located in or under rights-of-way; (7)

City of Port Townsend

preserving the safety and aesthetic appearance of public places as inviting areas for pedestrians; and (8) providing an opportunity for a diversity of activities, views, or opinions. Limits, including the limits in this chapter, assist in ensuring that public space is freely available to all, including others who may wish to exercise free speech rights. These limits are especially important in the civic district given its unique public aspect in the city.

D. Over the years, the city has engaged in planning efforts and capital projects. Recent projects include investment in the downtown streetscape and Taylor Street improvements which are in part designed to make the area safe and inviting for pedestrians, encourage downtown business activity and encourage tourism. Setting reasonable time, place and manner restrictions on protected speech and expression helps protect this investment in infrastructure and preserve the use of sidewalks for reasonably unimpeded, safe and efficient pedestrian traffic, including for tourists, while at the same time accommodating protected speech.

E. Over the last couple of years, a number of citizens have complained that certain free speech use of the sidewalks in the downtown area is so extensive and intrusive that it interferes with access to Pope Marine Park or has the effect of obstructing substantial portions of the sidewalk. One person in particular displays large and intrusive whiteboards with various messages. These displays run for at least 80 to 100 feet on the sidewalk and substantially interfere with free, open and safe travel by pedestrians and others with disabilities and those using strollers or other accessories. The complaints (with one or two exceptions) do not object to the content of these messages. The complaints have been both written and verbal. Last fall, out of concern that this type of use could create a safety issue if it occurred during the Wooden Boat Festival and the Arts and Crafts Fair, the council adopted temporary regulations prohibiting placing any obstruction on the sidewalk (free speech, vending cart or otherwise) in the "event zone" (area in the immediate vicinity of the festivals).

F. Without reasonable limits, such activities effectively and unreasonably take over substantial portions of sidewalks and substantially interfere with pedestrian use. Such activities can create safety issues for the public, particularly during major tourist events such as the Wooden Boat Festival and the Arts and Crafts Fair which can draw tens of thousands of people to a small area of the city at any one time.

G. Having rules in place serves the important function of providing clear standards for what activities can take place and under what conditions so that users may know in advance of any activity that is allowed.

H. These rules provide the opportunity to anyone to obtain an administrative interpretation of these rules if a user is unclear of the standards and requirements and wishes to obtain an interpretation in advance of engaging in any conduct.

City of Port Townsend

I. These rules also provide an opportunity to seek a variance from the application of the rules if the user believes their application causes unnecessary hardship or interference with a person's ability to communicate protected speech.

J. These rules build on and supplement – but do not replace – other rules and regulations that allow specified activity in public areas. For example, certain commercial activities on sidewalks, such as sidewalk cafes and vending machines, are subject to the requirements of a street use permit (Chapter [12.10](#) PTMC). Special events occurring within public rights-of-way are subject to the requirements of a special event permit (Chapter [17.60](#) PTMC). Assemblies occurring within public rights-of-way are subject to the requirements of assembly regulations (Chapter [9.24](#) PTMC). Sales on streets and sidewalks are subject to Chapter [5.32](#) PTMC. Activities in public or private areas are also subject to the city's noise ordinance (Chapter [9.09](#) PTMC). Activities in public or private areas can constitute public nuisances under the city's nuisance code (Chapters [9.08](#) and [9.10](#) PTMC). Activities can be subject to traffic and criminal codes, for example, RCW [9A.84.030](#)(1)(c), which makes intentional obstruction of vehicular or pedestrian traffic without lawful authority a misdemeanor.

K. These rules are also necessary to ensure that persons with disabilities have safe and unimpeded access to public streets and sidewalks and to comply with state and federal disabilities laws. As proposed by the Architectural and Transportation Barriers Compliance Board ("Access Board"), a continuous clear width of pedestrian access routes (exclusive of the width of the curb) must be four feet minimum to accommodate persons with disabilities. (Proposed "Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way," published in the Federal Register on July 26, 2011, [36](#) CFR Part [1190](#), Docket No. ATBCB 2011-04.)

L. These rules define the legislative balance of placing reasonable limits on protected speech but allowing ample opportunity for persons to engage in protected speech.

M. These rules are designed to protect the public health, safety, welfare and economic prosperity of the city of Port Townsend.

N. Nothing contained in this chapter is intended to be, or shall be, construed to create a duty to enforce this chapter or to form the basis for liability on the part of the city of Port Townsend or its officers, employees, or agents, for any injury or damage resulting from the failure of any person to comply with this chapter. No provision of this chapter is intended to impose any duty upon the city or any of its officers or employees, which would subject them to damage in a civil action. (Ord. 3107 § 1 (Exh. A), 2014; Ord. 3091 § 1 (Exh. A), 2014).

9.46.020 Definitions.

A. "Busking" means to play music or otherwise perform for voluntary donations on a public space (for example, right-of-way, sidewalk, or park).

City of Port Townsend

B. “Protected speech” means verbal or written communications intended to convey a noncommercial political, religious, philosophical or other similar message to the public, and includes distributing literature, seeking petition signatures, picketing, demonstrating, carrying or displaying signs, billboards, posters and similar messaging, artistic performance, or other activities recognized by the courts as entitled to protection under federal or Washington constitutions.

C. “Public space” means any part of the city of Port Townsend that is not privately owned and that is controlled, managed or operated by the city and available for use by the public, such as (but without limitation) streets, sidewalks, alleyways, rights-of-way, parks, city buildings or properties.

D. “Use” means the exercise of dominion or control over or occupation of all or part of a public space. It includes construction, storing, erecting, placing upon, maintaining, or operating any inanimate thing or object in, upon, over, or under any public space. “Use” includes the placement of a table, equipment, placard, display or other similar object. “Use” does not include the placement of an inanimate object in such a location and for such a limited duration of time that, under the circumstances, no reasonable persons could conclude that the public’s right to use or enjoy the public space, in whole or in part, had been or potentially could have been interfered with. For example, a person temporarily setting a purse or other item on the sidewalk is not “using” the sidewalk as defined in this section. “Use” includes busking if the busker places objects on the public space (for example, guitar case) and leaves it there in a manner that meets the definition of “use” above.

“Use” does not include a person who, without placing things on the sidewalk, is leafleting, signature gathering, busking, or carrying stick-mounted signs. The person is still subject to the general rules of conduct in PTMC [9.46.030\(A\)](#), but the person is not limited by the area limitations in PTMC [9.46.030\(B\)](#). (Ord. 3107 § 1 (Exh. A), 2014; Ord. 3091 § 1 (Exh. A), 2014).

9.46.030 Rules of conduct.

The following rules of conduct apply to any person using (as “use” is defined in PTMC [9.46.020\(D\)](#)) the public rights-of-way and public spaces including streets and sidewalks for protected speech activity, and permission is allowed subject to these rules. They apply to any person, including those engaged in any of the following activities: leafleting and signature gathering, busking, carrying stick-mounted signs, and using tables, signs, posters, billboard or similar messaging, or other structures for free speech activity.

A. General Rules. This section applies to all persons who engage in protected speech activity on the public rights-of-way and public spaces including streets and sidewalks.

City of Port Townsend

1. No person shall treat any person in an aggressive, menacing, threatening or abusive manner that would place a reasonable person in fear for their property or personal safety.
2. Leafleting and signature gathering, busking, carrying stick-mounted signs, using tables, signs or other structures for free speech activity, and similar free speech activities shall be done in a manner that does not substantially or unduly block the free and unimpeded use of the sidewalk or streets for pedestrian or vehicular traffic, including those with disabilities, or access to building entrances, or that poses a safety hazard.
3. A person wishing to carry signs must ensure that the sign meets the following requirements:
 - a. No sign may be larger than four square feet, and not be wider than 30 inches.
 - b. A sign may be attached to a stake which is no more than eight feet in length.
 - c. Signs may only be constructed of lightweight materials such as cloth, paper, cardboard or plastic (but not including metal).
4. No person shall make use of a loudspeaker or megaphone or other electronic sound-amplification device, or lighting device, without prior approval.
5. The person engaged in the activity is responsible for any injuries and/or damages to persons or property from the activity. The city shall have no liability for the activity.

B. Area Limitations. This section applies to all persons using (as “use” is defined in PTMC [9.46.020\(D\)](#)) the public rights-of-way and public spaces, including streets and sidewalks, for protected speech activity. As defined in PTMC [9.46.020\(D\)](#)), “use” includes the placing of objects on the sidewalk in connection with protected speech activity. “Use” does not include, and these area limitations do not apply to, persons who, without placing things on the sidewalk, are leafleting, signature gathering, busking, or carrying stick-mounted signs. Such activity is not restricted as to location (except by the general rules in subsection A of this section).

1. A person wishing to occupy or use (as “use” is defined in PTMC [9.46.020\(D\)](#)) the sidewalk or other right-of-way for protected speech activity (including busking) must comply with all of the following:
 - a. Allow a continuous clear width of pedestrian access routes (exclusive of the width of the curb) of five feet minimum to accommodate pedestrian travel and in particular persons with disabilities. To the extent possible, the five-foot “clear

City of Port Townsend

space” shall be located in the middle area of the sidewalk, so as to avoid having pedestrians having to weave through structures.

b. At any intersection, not occupy or use any area on the sidewalk or other public area within the following defined area:

i. For any intersection with two marked crosswalks (or other clear markings showing the area for pedestrians to cross), the area that is within an extension of the two lines of perpendicular sidewalks that represent the outer side of the crosswalks (or other clear markings showing the area for pedestrians to cross). The outer side is the one furthest from the intersection.

ii. For an intersection with only one marked crosswalk, then the area that is within (A) an extension of a line that represents the outer side of the crosswalk, and (B) the perpendicular right-of-way line. The outer side is the one furthest from the intersection.

iii. For an intersection with no marked crosswalks, the area that is within an extension of the perpendicular right-of-way lines.

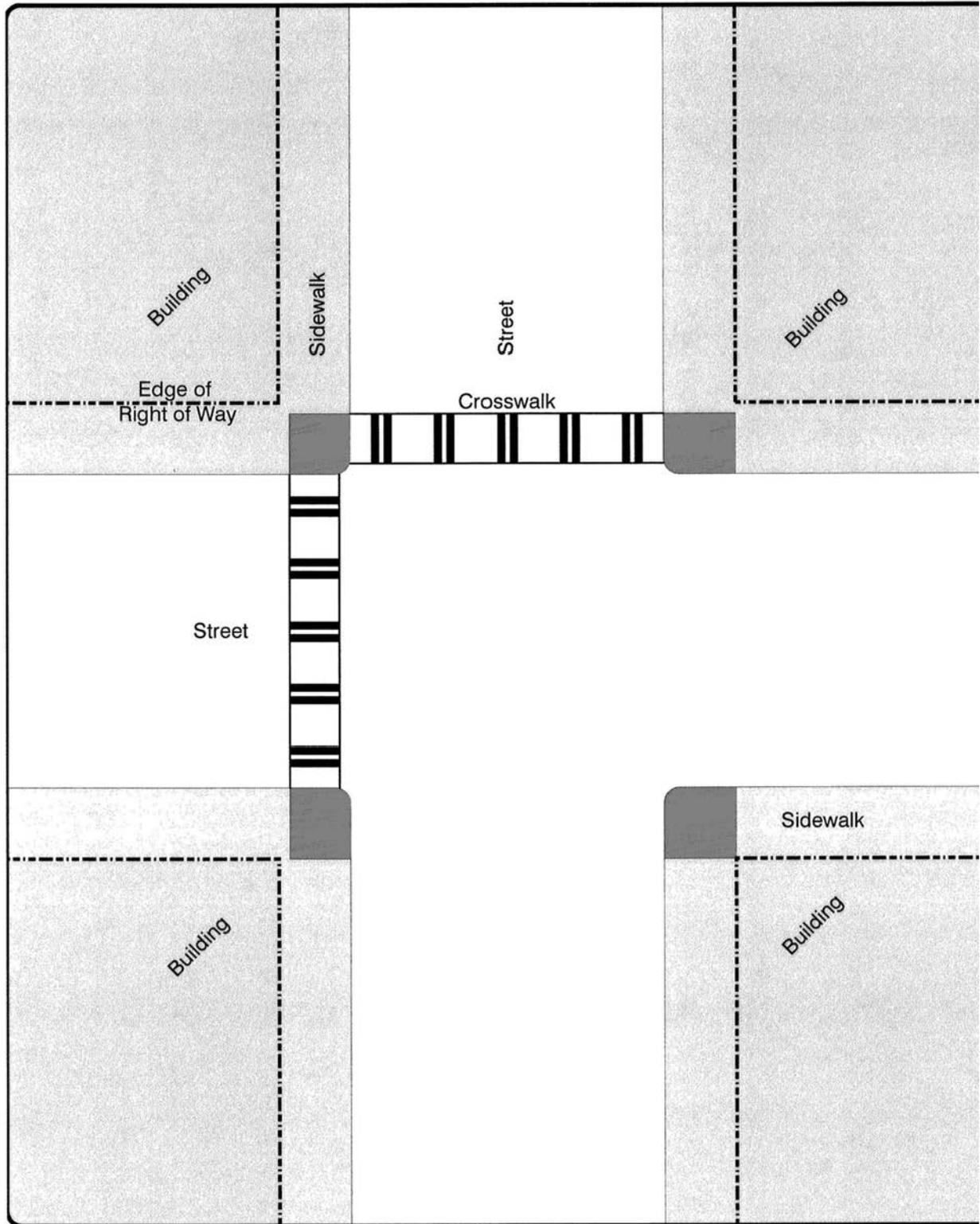
Provided, if there is a bench located within this defined area, nothing prevents a person from using the bench and area within three feet in front of the bench for protected speech activity so long as the rules in subsection (B)(1)(f) of this section are met.

The following illustration provides examples:

City of Port Townsend

No-Use Areas
at Intersections

No-Use Area
(No Structures)



c. Within the following described areas of the civic district, the following rules apply (these rules overlap):

City of Port Townsend

- i. Pope Marine Park – stairs: No use shall occur (no obstructions should be placed) in the area within 10 feet of the top of the stairs or on the stairs.
 - ii. Pope Marine Park – Madison side of park and corner of Madison and Water Streets (and delineated by the stairs to the park and the concrete wall extending along the back side of the sidewalk on Madison Street and in a circular manner around the corner to where it ends close to Pope Marine Building): No use should occur (no obstructions should be placed) within 10 feet of the stairs or this edge.
 - iii. Pope Marine Building, City Dock, Wave Viewing Gallery: No use shall occur (no obstructions should be placed) on these structures or within 10 feet of their entrance(s).
 - iv. No use shall interfere with or block a fire lane.
- d. Not occupy or use any area of the sidewalk within 30 inches of a parking area. The 30 inches provides an area to allow persons to enter or exit a vehicle.
 - e. Not occupy or use any area that physically obstructs or impedes the free passage of a person seeking to enter or depart from a park or public space or private building.
 - f. Not occupy or use any area that physically obstructs or that interferes with use of a public amenity (for example, a public bench). Placing structures in a manner that constitutes “use” under PTMC [9.46.020](#) within five feet of the sides or back of a public bench and within 20 feet of the front of a public bench is prohibited, provided, nothing prevents a person carrying a sign from sitting on a bench, and nothing prevents a person who is busking from sitting on a bench, including placing something to collect donations directly in front of the person. Such use shall not have the effect of taking over a bench so others cannot enjoy it. This rule takes precedence over any prohibition on uses at intersections.
 - g. Maximum sign area is eight square feet per sign face; maximum width of a sign or structure is 30 inches; maximum height of any sign is four feet.
 - h. Structures may not be placed any closer than 12 inches from any tree grate or other planting.
 - i. Not occupy or use an area within 10 feet of any public art, except within 20 feet of the Salish Sea Circle (corner of Madison and Water Streets). Examples of public art include the Salish Sea Circle (corner of Madison and Water Streets) and Haller Fountain (Taylor and Washington Streets).

City of Port Townsend

j. Not occupy or use a space larger than four feet wide by six feet long, and no structure may exceed five feet in height. The area is a contiguous area. A person may not use, for example, a portion of the allowed area in one spot and use the balance of the allotted area in another spot outside the four-foot by six-foot area, and move back and forth between the spots.

The area limitation is “per person,” meaning, for example, that two individuals playing music together (and placing structures like guitar cases on the sidewalk) may each occupy an area of four feet by six feet. In other words, a group of musicians is not prevented by the four-foot-by-six-foot area limitation from playing together as a group.

k. To the extent the foregoing rules in subsections (B)(1)(a) through (j) of this section may conflict in specific circumstances, the more restrictive rule shall apply.

2. If any structure or material is located on the sidewalk (for example, table, self-standing sign, placards, displays, boxes, supplies), it must be located in conjunction with related protected speech activities, and is only allowed so long as the structure or material is attended (and not left unattended). For purposes of this section, “attended” means the person who places the structure or material remains next to the structure(s) or material(s); provided, nothing prevents the person from leaving the area for up to five minutes every 60 minutes. “Next to” means being no further than 10 feet from any structure or material.

3. Except as provided in this chapter, no one shall attach, lean or place any sign or structure on or against any city property or other government agency’s property, or private property, without the written permission of the owner of the property. (Ord. 3107 § 1 (Exh. A), 2014; Ord. 3091 § 1 (Exh. A), 2014).

9.46.040 Administrative regulations.

A. The chief of police may adopt administrative regulations that are consistent with and that further or implement the terms and requirements set forth in these rules or the ordinance to which the rules are related. This authority is in recognition that not all situations that constitute substantial and unreasonable interference with pedestrian or vehicular traffic or that constitute a safety hazard can be anticipated or covered by an ordinance or set of rules, and there may be situations where the chief of police needs to act administratively before the city council can act.

Before adopting an administrative regulation, the administrative regulations shall be reviewed with the mayor (or in the mayor’s absence, the deputy mayor), city manager and city attorney.

City of Port Townsend

B. Administrative regulations shall be posted on the city's website, and kept on file with the chief of police and the city clerk, and shall be available on request by a member of the public for inspection or copying. On adoption, the administrative regulations shall be immediately forwarded to the city council. (Ord. 3107 § 1 (Exh. A), 2014; Ord. 3091 § 1 (Exh. A), 2014).

9.46.050 Variance.

A. Any person may apply in writing to the chief of police for a variance from the requirements of this chapter and these rules, or any administrative regulations, or event or temporary use permit conditions. The person making the request shall include his or her name, address, and other contact information, provide information reasonably related to the request showing a basis for variance or departure from the requirements and, if the variance relates to free speech or expressive activity, why the speech or expressive activities that are restricted by this chapter or otherwise are not reasonable or sufficient to enable the person to communicate the person's message. The chief of police may attach conditions to any variance that are consistent with the purposes of this chapter and these rules. The chief of police (or designee) shall provide a written response to the request for variance as soon as possible, and no later than one business day following the request.

B. Any applicant for a variance may appeal the decision of the chief of police by filing a written request to the city manager within five business days of the date of the police chief's written decision. The city manager shall issue a decision within five business days of the request. (Ord. 3107 § 1 (Exh. A), 2014; Ord. 3091 § 1 (Exh. A), 2014).

9.46.060 Interpretation.

A. Any person may apply in writing to the chief of police for an interpretation of the requirements of these rules or the ordinance to which the rules are related, including, to interpret the scope, intent or meaning of any provision of the ordinance or rules, or any administrative regulations, or event or temporary use permit conditions. The chief (or designee) shall provide a written response to the request for interpretation as soon as possible, and no later than one business day.

B. Any applicant for an interpretation of the requirements of these rules or the ordinance to which the rules are related may appeal the decision of the chief of police by filing a written request to the city manager within five business days of the date of the police chief's written decision. The city manager shall issue a decision within five business days of the request. (Ord. 3107 § 1 (Exh. A), 2014; Ord. 3091 § 1 (Exh. A), 2014).

9.46.070 Enforcement – Violations.

A. All persons must comply with written or oral instructions issued by the chief of police or a police officer to enforce these rules or the ordinance to which the rules are related, or any

City of Port Townsend

administrative regulations, or event or temporary use permit conditions adopted pursuant to this chapter.

B. Before enforcing this chapter or these rules, or any administrative regulations, or event or temporary use permit conditions, police officer(s) shall give a verbal warning informing the violator of this chapter and these rules, including any administrative regulations adopted by the chief of police (or designee), and an opportunity to cease the activity. If the violator continues the activity after this warning, the police may proceed with enforcement.

C. Violation of this chapter or these rules, or an administrative regulation issued by the chief of police (or designee), or the terms of any variance, or the terms of any event or temporary use permit conditions, shall constitute a civil infraction, and the chief of police or city police officer may issue a notice of civil infraction pursuant to Chapter [7.80](#) RCW. Civil infractions are not crimes. The provisions of Chapter [7.80](#) RCW, including any amendments thereto, are adopted by reference in this chapter and rules as if set forth in full. "Enforcement officer" as set forth in Chapter [7.80](#) RCW is the chief of police (or designee) or police officer of the police department.

The civil infraction penalty is \$100.00 per violation.

D. A person who has been issued a notice of civil infraction for a violation of this chapter or these rules, or an administrative regulation issued by the chief of police, or the terms of any variance, and who willfully and knowingly continues or engages in additional conduct prohibited by this chapter or these rules, or an administrative regulation issued by the chief of police, or the terms of any variance after having been issued a notice of civil infraction for a violation of this chapter or these rules, or an administrative regulation issued by the chief of police, or the terms of any variance, or fails to comply with a directive to cease the activity, is guilty of a misdemeanor, and may be cited and/or arrested in connection with the offense.

E. Unattended structures, materials or obstructions may be picked up and removed without notice by the city. Except in an emergency, the police shall make a reasonable effort to notify the person responsible for the unattended structures, materials or obstructions of attendance requirements (including breaks as provided above) and to advise the person that unattended structures, materials or obstructions are not permitted and are subject to removal. "Reasonable notice" may be leaving a written notice on the structures, materials or obstructions of the requirements of city code. Attended structures, materials or obstructions may be picked up and removed after notice by the city to the violator of the violation and the violator, after being given an opportunity to cease the activity, fails to do so. Items picked up shall be freely available to return to the owner; provided, that the owner is responsible for and shall pay all costs of city removal before being allowed to retrieve the items. The cost of removal shall include, but it is not limited to, city employee (officer) time, at the employee's (or officer's) hourly salary plus benefits, transportation costs, storage fees and costs, interest

City of Port Townsend

and attorneys' fees and costs; provided, for a first offense, the total cost shall not exceed \$100.00. The city shall not be liable for any loss or damage to structures, materials or obstructions picked up, removed and stored by the city pursuant to these rules and this chapter. (Ord. 3107 § 1 (Exh. A), 2014; Ord. 3091 § 1 (Exh. A), 2014).

The Port Townsend Municipal Code is current through Ordinance 3151, passed June 6, 2016.

Disclaimer: The City Clerk's Office has the official version of the Port Townsend Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

