CITY OF KIRKLAND
CITY COUNCIL

Joan McBride, Mayor • Doreen Marchione, Deputy Mayor • Dave Asher • Toby Nixon
Bob Sternoff • Penny Sweet • Amy Walen • Kurt Triplett, City Manager

Vision Statement

Kirkland is an attractive, vibrant and inviting place to live, work and visit.
Our lakefront community is a destination for residents, employees and visitors.
Kirkland is a community with a small-town feel, retaining its sense of history,
while adjusting gracefully to changes in the twenty-first century.

123 Fifth Avenue • Kirkland, Washington 98033-6189 • 425.587.3000 • www.kirklandwa.gov

AGENDA
KIRKLAND CITY COUNCIL MEETING
City Council Chamber
Tuesday, August 7, 2012
6:00 p.m. – Special Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.kirklandwa.gov**.** Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (425-587-3190) or the City Manager's Office (425-587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 425-587-3190. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

EXECUTIVE SESSIONS may be held by the City Council only for the purposes specified in RCW 42.30.110. These include buying and selling real property, certain personnel issues, and litigation. The Council is permitted by law to have a closed meeting to discuss labor negotiations, including strategy discussions.

ITEMS FROM THE AUDIENCE provides an opportunity for members of the public to address the Council on any subject which is not of a quasi-judicial nature or scheduled for a public hearing. (Items which may not be addressed under Items from the Audience are indicated by an asterisk*.) The Council will receive comments on other issues, whether the matter is otherwise on the agenda for the same meeting or not. Speaker's remarks will be limited to three minutes apiece. No more than three speakers may address the Council on any one subject. However, if both proponents and opponents wish to speak, then up to three proponents and up to three opponents of the matter may address the Council.

1. *CALL TO ORDER*

2. *ROLL CALL*

3. *STUDY SESSION*

4. *EXECUTIVE SESSION*

5. *HONORS AND PROCLAMATIONS*

   a. Statement of Support: Employer Support of the Guard and Reserve (ESGR)

6. *COMMUNICATIONS*

   a. *Announcements*

   b. *Items from the Audience*

   c. *Petitions*

7. *SPECIAL PRESENTATIONS*

   a. VISTA Program and Volunteer Recognition

   b. Cascade Water Alliance – Chuck Clarke, Chief Executive Officer, Cascade Water Alliance

QUASI-JUDICIAL MATTERS Public comments are not taken on quasi-judicial matters, where the Council acts in the role of judges. The Council is legally required to decide the issue based solely upon information contained in the public record and obtained at special public hearings before the Council. The public record for quasi-judicial matters is developed from testimony at earlier public hearings held before a Hearing Examiner, the Houghton Community Council, or a city board or commission, as well as from written correspondence submitted within certain legal time frames. There are special guidelines for these public hearings and written submittals.

ORDINANCES are legislative acts or local laws. They are the most permanent and binding form of Council action, and may be changed or repealed only by a subsequent ordinance. Ordinances normally become effective five days after the ordinance is published in the City's official newspaper.

RESOLUTIONS are adopted to express the policy of the Council, or to direct certain types of administrative action. A resolution may be changed by adoption of a subsequent resolution.

8. CONSENT CALENDAR

a. Approval of Minutes: July 17, 2012

b. Audit of Accounts:

Payroll $

Bills $

c. General Correspondence

d. Claims

e. Award of Bids

(1) Lakeview Elementary Project, Road Construction Northwest, Inc., Renton, Washington and Authorize Funding

(2) Rose Hill Business District Sidewalks, 124th Avenue NE from NE 80th Street to NE 90th Street Project, Road Construction Northwest, Inc., Renton, Washington

(3) Diesel Pump, Apsco, Inc., Kirkland, Washington and Authorize Funding

f. Acceptance of Public Improvements and Establishing Lien Period

(1) Juanita Beach Park Redevelopment Phase I, Marshbank Construction, Inc., Authorize Funding and Project Debrief

g. Approval of Agreements

(1) AFSCME Local 1863 Collective Bargaining Agreement 2012-2014

(2) Teamsters Local 763 Collective Bargaining Agreement 2012-2014

h. Other Items of Business

(1) Park Lane Corridor Enhancements – Project Update

(2) January, 2012 Storm Debrief and Authorize Funding

(3) Salary Commission Resignation

(4) Resolution R-4933, Relinquishing Any Interest the City May Have, Except for a Utility Easement, in an Unopened Right-of-Way as Described Herein and Requested by Property Owners Ronald T. and Theresa L. Kuehner

(5) Resolution R-4934, Relinquishing Any Interest the City May Have, Except for a Utility Easement, in an Unopened Right-of-Way as Described Herein and Requested by Property Owner Kathryn Mizrahi

(6) Resolution R-4935, Relinquishing Any Interest the City May Have, Except for a Utility Easement, in an Unopened Right-of-Way as Described Herein and Requested by Property Owners Eugene B. Sheasley and Laura J. Seitz

(7) Surplus and Donation of Equipment Rental Vehicle

(8) Report on Procurement Activities

PUBLIC HEARINGS are held to receive public comment on important matters before the Council. You are welcome to offer your comments after being recognized by the Mayor. After all persons have spoken, the hearing is closed to public comment and the Council proceeds with its deliberation and decision making.

9. PUBLIC HEARINGS

10. UNFINISHED BUSINESS

a. Cross Kirkland Corridor Program Approval and Authorize Funding

b. Ordinance O-4366, Relating to Downtown Employee Parking Fines and Amending Chapter 12.45 of the Kirkland Municipal Code

NEW BUSINESS consists of items which have not previously been reviewed by the Council, and which may require discussion and policy direction from the Council.

11. NEW BUSINESS

a. Ordinance O-4367 and it Summary, Relating to Flood Damage Prevention and Amending Chapter 21.56 of the Kirkland Municipal Code, File CAM12-00694.

b. Ordinance O-4368 and its Summary, Authorizing and Providing for the Acquisition of Interests in Land for the Purpose of Construction of the NE 120th Street Roadway Extension Project Within the City of Kirkland, Providing for the Cost of Property Acquisition and Authorizing the Initiation of Appropriate Eminent Domain Proceedings in the Manner Provided for by Law.

c. 2012 Miscellaneous Zoning and Municipal Code Amendments:

(1) Ordinance O-4369 and its Summary, Relating to Zoning, Planning, and Land Use and Amending Chapter 117 Personal Wireless Service Facilities of the Kirkland Zoning Ordinance 3719 as Amended; and Approving a Summary Ordinance for Publication, File No. ZON12-00002.

(2) Ordinance O-4370 and its Summary, Relating to Zoning, Planning, and Land Use and Amending Ordinance 3719 as Amended, the Kirkland Zoning Ordinance: Sections 60.180, 60.182 and 115.20 Relating to Animals in Residential Zones; and Repealing Kirkland Municipal Code Chapter 8.08 Relating to Fowl and Approving a Summary Ordinance for Publication, File No. ZON12-00002.

(3) Ordinance O-4371 and its Summary, Relating to Zoning, Planning, and Land Use and Adding a New Chapter 118 Hazardous Liquid Pipelines; and Amending Chapter 5 definitions and Chapter 55 Totem Lake Zone TL7 of the Kirkland Zoning Ordinance 3719 as Amended; and Approving a Summary Ordinance for Publication, File No. ZON12-00002.

(4) Ordinance O-4372 and its Summary, Relating to Zoning, Planning, and Land Use, and Amending the Following Chapters of the Kirkland Zoning Ordinance 3719 as Amended: 5, 15, 17, 18, 30, 40, 45, 47, 48, 52, 53, 55, 56, 60, 75, 90, 95, 105, 113, 115, 117, 125, 142, 145, 150, 152, 162; Amending Title 1 and Title 22 of the Kirkland Municipal Code; and Approving a Summary Ordinance for Publication, File No. ZON12-00002.

ITEMS FROM THE AUDIENCE Unless it is 10:00 p.m. or later, speakers may continue to address the Council during an additional Items from the Audience period; provided, that the total amount of time allotted for the additional Items from the Audience period shall not exceed 15 minutes. A speaker who addressed the Council during the earlier Items from the Audience period may speak again, and on the same subject, however, speakers who have not yet addressed the Council will be given priority. All other limitations as to time, number of speakers, quasi-judicial matters, and public hearings discussed above shall apply.

12. REPORTS

a. City Council

(1) Regional Issues

b. City Manager

(1) Calendar Update

13. ITEMS FROM THE AUDIENCE

14. ADJOURNMENT

CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Marie Stake, Communications Program Manager

Date: August 1, 2012

Subject: Statement of Support for Employer Support of the Guard and Reserve (ESGR)

RECOMMENDATION**:**

Council authorizes the Mayor to present the Statement of Support prepared by the Employer Support of the Guard and Reserve (ESGR).

BACKGROUND DISCUSSION:

ESGR is a Department of Defense organization. It is a staff group within the Office of the Assistant Secretary of Defense for Reserve Affairs. The focus of ESGR is to:

- promote understanding of Guard and Reserve service;
- enlist support of employers in development of human resource policies and practices that support and encourage employee participation in Guard and Reserve programs;
- provide information to improve knowledge of, and voluntary compliance with, the Uniform Services Employment and Re-employment Rights Act among Reserve leaders, members, and their employers;
- Sustain willingness of employers to support their employees called to military service for the Global War on Terrorism over potentially longer periods of time and greater frequency.

Bob DeWald, State Chair, Washington Committee, requested that the City of Kirkland, Kirkland Police Department and Kirkland Fire Department sign the Statement of Support prepared by ESGR to recognize the essential duty of Guard and Reserve personnel. Mr. DeWald will be present to receive the statements.

Information about ESGR can be found at http://www.esgr.mil/site/.

STATEMENT OF SUPPORT FOR THE GUARD AND RESERVE

City of Kirkland

We recognize the Guard and Reserve are essential to the strength of our nation and the well-being of our communities.

In the highest American tradition, the patriotic men and women of the Guard and Reserve serve voluntarily in an honorable and vital profession. They train to respond to their community and their country in time of need. They deserve the support of every segment of our society.

If these volunteer forces are to continue to serve our nation, increased public understanding is required of the essential role of the Guard and Reserve in preserving our national security.

Therefore, we join other employers in pledging that:

- We fully recognize, honor and enforce the Uniformed Services Employment and Reemployment Rights Act (USERRA).
- Our managers and supervisors will have the tools they need to effectively manage those employees who serve in the Guard and Reserve.
- We appreciate the values, leadership and unique skills service members bring to the workforce and will encourage opportunities to hire Guardsmen, Reservists, and Veterans.
- We will continually recognize and support our country's service members and their families in peace, in crisis, and in war.

Employer

James G. Rebholz
National Chair, ESGR

Leon E. Panetta
Secretary of Defense

August 7, 2012
Date

EMPLOYER SUPPORT OF THE GUARD AND RESERVE

Council Meeting: 08/07/2012
Agenda: Special Presentations
Item #: 7. a.

CITY OF KIRKLAND
Fire & Building Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3650
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Helen Ahrens-Byington, Deputy Fire Chief / City Emergency Manager

Date: July 19, 2012

Subject: VISTA Program and Volunteer Recognition

RECOMMENDATION:

The City Council recognizes Jennie Marker and all the volunteers that have stepped forward to prepare the community for all hazards and to create a community that is resilient.

BACKGROUND DISCUSSION:

The mission of the Kirkland Office of Emergency Management (OEM) is to create and sustain partnerships that support disaster prevention, preparedness, response and recovery to become a resilient community. This cannot happen with out the community being involved in their own preparedness. Starting in 2010, the City of Kirkland was awarded a Washington Service Corps, VISTA Volunteer for 12 months, to support community emergency preparedness in Kirkland. In 2011 – 2012 Kirkland was awarded another VISTA position to continue the preparedness outreach and to create sustainability. VISTA stands for, "Volunteers In Service To America" and they are involved with a variety of organizations. This is the last year that the State awarded VISTA positions to focus on disaster preparedness. This position is paid by Washington Service Corps approximately $1000 a month, and requires the member not to work any other jobs. The City of Kirkland paid just $5,000 for a full time position.

Jennie Marker is the City of Kirkland's current VISTA member and her year of service ends August 31, 2012. While she has been in service to the community her primary focus has been to develop volunteers that can assist with community emergency preparedness to all facets of the community. She has been coordinating volunteer outreach events, recruiting and supporting new volunteers, writing volunteer job descriptions, and assisting to develop new volunteer opportunities within the Office of Emergency Management. She has also been reaching out and making connections with a variety of organizations within the city developing partnerships. Her final project is in partnership with Hopelink as well as other groups like the Kirkland Senior Council to distribute preparedness kits to low income senior citizens, preparing members of our community that are high risk during a disaster and have little to no resources to prepare themselves. In fact she is still looking for donations if anyone is interested in partnering with the city to help.

CERTIFICATE OF APPRECIATION

AWARDED TO

Jennifer Marker

This certificate is presented in recognition of your outstanding year of service to the citizens of the City of Kirkland. Your efforts have encouraged volunteerism and helped to create a resilient community.

CITY OF KIRKLAND WASHINGTON

Awarded this seventh day of August, 2012

Joan McBride, Mayor
City of Kirkland

Council Meeting: 08/07/2012
Agenda: Special Presentations
Item #: 7. b.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Julie Elsom, Public Works Senior Operations and Financial Analyst
Ray Steiger, Public Works Director

Date: July 26, 2012

Subject: Cascade Water Alliance - Presentation

RECOMMENDATION**:**

City Council receive a presentation summarizing background of Cascade Water Alliance and outlining Cascade Water Alliance Member Charges for 2013-2014

BACKGROUND DISCUSSION:

This presentation is in response to a request made by City Council to receive an update on Cascade Water Alliance (CWA). Councilmember Penny Sweet serves on the Board of Directors for CWA; Deputy Mayor Doreen Marchione serves as the alternate.

The City of Kirkland became a founding member of the Cascade Water Alliance ("CWA", or "Cascade") by signing the Cascade Interlocal Agreement (by Resolution R-4181) in April 1999. In addition to the Interlocal Agreement, this Resolution assigned Kirkland's Water Purveyor Contract with Seattle to Cascade, whereby establishing Cascade as the Kirkland's current and future wholesale water provider. A detailed chronology of the history of Cascade Water Alliance is attached.

As a member, the City of Kirkland pays proportionate percentages of the operating costs (referred to as "Demand Share"), water conservation programs, and administrative costs. The CERU (Cascade Equivalent Residential Unit) is one of the key metrics used by Cascade to allocate costs to its members. Member Charges include:

- Administrative Dues - Annual dues paid by Cascade Members based on actual CERU counts as of January 1st, 2012 as reported by members.
- Conservation Charges – Also based on actual CERU counts as of January 1st, 2012 as reported by members.
- Demand Share Charges – based on a rolling actual three-year historical demand history. Demand Share Charges account for the majority of Cascade's rate revenue.

Chuck Clarke, CEO of CWA, will provide a brief summary of the background of Cascade Water Alliance and will go over Member Charges for 2013-2014.

Chronology

1889 Washington becomes the 42nd state to enter the Union. Without contracts or local representation Seattle provides water to local region.

1982 Seattle enters into 30-year agreement with 27 regional water purveyors

1991 Formation of Tri-Caucus (Seattle, Suburban Cities Association and King County Water Alliance)

1995 Planning and development of new water supply sources to meet needs and governance issues

1996 Interim Water Group forms to create a new entity

1997 Multi utility agreement for developing Tacoma's Second Supply Project (Tacoma, Seattle, Kent, Lakehaven Utilities District and Covington Water)

1998 Cascade Water Alliance organization planning complete. Membership opens to agencies

1999 Cascade Water Alliance created with Bellevue, Issaquah, Kirkland, Redmond, Tukwila, Sammamish Plateau Water and Sewer, Skyway Water and Sewer and Covington Water District. (Other original members who did not continue as members include Duvall, Mercer Island and Woodinville Water District.)

2001 Cascade and Puget Sound Energy enter into agreement to jointly pursue water rights for Lake Tapps (PSE will cease century long production of hydroelectric power)

Seattle offers water purveyors new 60-year full or partial requirements contracts.

2003 Cascade signs declining block contract with Seattle for water

2004 PSE halts all power production on Lake Tapps and with community agree to try to save the lake

2005 Cascade and PSE execute term sheet related to Cascade acquisition of Lake Tapps

Seattle drops out of participation in Tacoma Second Supply Project

Cascade signs Tacoma Wholesale Water agreement

2008 Cascade signs agreement with Puyallup Tribe of Indians and Muckleshoot Indian Tribe ensuring in-stream flows on the White River (White River Management Agreement)

Cascade and Seattle amend declining block contract for additional water supply

2009 Cascade finalizes purchase of Lake Tapps from PSE

Cascade and the Lake Tapps community sign agreement ensuring lake levels (Lake Tapps Homeowners Agreement)

2010 Cascade issues environmental impact statement; DOE issues water rights

Cascade, Auburn, Bonney Lake, Buckley and Sumner sign Lake Tapps Area Water Resource Agreement ensuring the four communities around the lake will have water for the future

2053 Expiration of cascade supply agreement with Seattle

KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
July 17, 2012

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:
Members Present: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.
Members Absent: None.

3. STUDY SESSION

a. Utility Rate Policy Issues

Joining Councilmembers for this discussion were City Manager Kurt Triplett, Finance and Administration Director Tracey Dunlap, Public Works Director Ray Steiger, and Public Works Solid Waste Program Lead John MacGillivray.

4. EXECUTIVE SESSION

Mayor McBride announced at 6:47 p.m. that the Council was entering into executive session to discuss labor negotiations and would return to regular meeting at 7:30 p.m. City Attorney Robin Jenkinson was also in attendance at the executive session.

At 7:30 p.m., City Clerk Kathi Anderson announced that the Council would require an additional five minutes and would return to regular session at 7:35 p.m., which they did.

a. To Discuss Labor Negotiations

5. HONORS AND PROCLAMATIONS

None.

6. COMMUNICATIONS

a. Announcements

(1) Doris Cooper Houghton Beach Park Renaming Ceremony at 10 a.m. on Saturday, July 21st

b. Items from the Audience

Bernie Krane
Margaret Schwender
Dian Kruse
Tom Headly
Santos Contreras
Jeff Grove
Barry Lombard
Bob Style

c. Petitions

7. SPECIAL PRESENTATIONS

None.

8. CONSENT CALENDAR

a. Approval of Minutes: July 3, 2012

b. Audit of Accounts:
Payroll $2,573,258.83
Bills $2,139,953.82
run #1110 checks #535883 - 535989
run #1111 checks #535990 - 536033
run #1112 checks #536034 - 536184

c. General Correspondence

d. Claims

Claims from Catherine Eide, Maria Fialho, Sheila Jarvis, Dennis Matter, John Soper, and The Village Condominiums were acknowledged.

e. Award of Bids

(1) The Construction contract for the NE 53rd Street Sewer Main Replacement Project was awarded to Buno Construction, LLC, Snohomish, WA, in the amount of $422,954.70.

f. Acceptance of Public Improvements and Establishing Lien Period

g. Approval of Agreements

(1) Public Art Loan Agreement

A one year extension of the loan for "Fine Feathered Friends" was approved.

h. Other Items of Business

(1) Development Services Funding Request

Council authorized the use of up to $100,000 from 2012 General Fund savings for an organizational review of the City's development services functions.

(2) 2011 Annual Transportation and Park Impact Fees Report

(3) Surplus Vehicles for Sale

Fleet #	Year	Make	VIN/Serial Number	License #	Mileage
PU-61	2001	Dodge Pickup 2500 HD	3B7KC26Z51M582127	34115D	51,103
PU-48	2000	Chevrolet Pickup 2500 Ext.	2GCEC19V6Y1322322	29918D	63,554
T05-04	2005	Honda ST1300P Motorcycle	JH2SC51765M300044	1387EX	47,884
T05-05	2005	Honda ST1300P Motorcycle	JH2SC51735M300051	2183EX	41,058

(4) Report on Procurement Activities

Motion to Approve the Consent Calendar.
Moved by Councilmember Penny Sweet, seconded by Deputy Mayor Doreen Marchione
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

9. PUBLIC HEARINGS

a. Ordinance O-4364, Providing for the Submission to the Qualified Electors of the City of Kirkland at an Election to be Held on November 6, 2012, of a Proposition Authorizing an Increase to the City's Regular Property Tax Levy and the City's Property Tax Levy Base of $.204 per $1,000 of Assessed Valuation in Order to Pay Costs of Street and Sidewalk Maintenance and Operations and Fund the Improvement and Development of Streets and Sidewalks.

Mayor McBride explained the parameters of the public hearing and declared it open. Public Works Director Ray Steiger provided an overview of the proposed ordinance placing the measure on the general election ballot. No further testimony was offered and Mayor McBride closed the hearing.

Motion to Approve Ordinance O-4364, entitled "AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF KIRKLAND AT AN ELECTION TO BE HELD ON NOVEMBER 6, 2012, OF A PROPOSITION AUTHORIZING AN INCREASE TO THE CITY'S REGULAR PROPERTY TAX LEVY AND THE CITY'S PROPERTY TAX LEVY BASE OF $.204 PER $1,000 OF ASSESSED VALUATION IN ORDER TO PAY COSTS OF STREET AND SIDEWALK MAINTENANCE

AND OPERATIONS AND FUND THE IMPROVEMENT AND DEVELOPMENT OF STREETS AND SIDEWALKS."
Moved by Councilmember Dave Asher, seconded by Councilmember Penny Sweet
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

b. Ordinance O-4365, Providing for the Submission to the Qualified Electors of the City of Kirkland at an Election to be Held on November 6, 2012, of a Proposition Authorizing an Increase to the City's Regular Property Tax Levy and the City's Property Tax Levy Base of $.16 per $1,000 of Assessed Valuation in Order to Pay Costs of Parks Maintenance and Operations and to Fund Facility Renovations and the Acquisition of Parkland and Open Space.

Mayor McBride explained the parameters of the public hearing and declared it open. Parks and Community Services Director Jennifer Schroder provided an overview of the proposed ordinance placing the measure on the general election ballot. Testimony was provided by Paul Backstrom, Jay Arnold, Shelly Kloba, Santos Contreras and Sue Keller. No further testimony was offered and Mayor McBride closed the hearing.

Motion to Approve Ordinance O-4365, entitled "AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF KIRKLAND AT AN ELECTION TO BE HELD ON NOVEMBER 6, 2012, OF A PROPOSITION AUTHORIZING AN INCREASE TO THE CITY'S REGULAR PROPERTY TAX LEVY AND THE CITY'S PROPERTY TAX LEVY BASE OF $.16 PER $1,000 OF ASSESSED VALUATION IN ORDER TO PAY COSTS OF PARKS MAINTENANCE AND OPERATIONS AND TO FUND FACILITY RENOVATIONS AND THE ACQUISITION OF PARKLAND AND OPEN SPACE," as amended.
Moved by Councilmember Penny Sweet, seconded by Councilmember Dave Asher
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

Motion to Amend the ordinance by adding a sentence at the top of page three of the ordinance to read "The City will produce an annual accountability report documenting actions and program status."
Moved by Councilmember Amy Walen, seconded by Deputy Mayor Doreen Marchione
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

10. UNFINISHED BUSINESS

a. Resolution R-4930, Calling for a Special Election to be Held in Conjunction with the General Election on November 6, 2012, for the Purpose of Placing on the Ballot a Proposition for a Street Improvement Levy Rate Increase.

Motion to Approve Resolution R-4930, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND CALLING FOR A SPECIAL ELECTION TO BE HELD IN CONJUNCTION WITH THE GENERAL ELECTION ON NOVEMBER 6, 2012, FOR THE PURPOSE OF PLACING ON THE BALLOT A PROPOSITION FOR A STREET IMPROVEMENT LEVY RATE INCREASE."
Moved by Councilmember Dave Asher, seconded by Deputy Mayor Doreen Marchione
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

b. Resolution R-4931, Calling for a Special Election to be Held in Conjunction with the General Election on November 6, 2012, for the Purpose of Placing on the Ballot a Proposition for a Park Levy Rate Increase.

Motion to Approve Resolution R-4931, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND CALLING FOR A SPECIAL ELECTION TO BE HELD IN CONJUNCTION WITH THE GENERAL ELECTION ON NOVEMBER 6, 2012, FOR THE PURPOSE OF PLACING ON THE BALLOT A PROPOSITION FOR A PARK LEVY RATE INCREASE."
Moved by Councilmember Amy Walen, seconded by Councilmember Penny Sweet
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

c. Ballot Measure Pro/Con Committees Appointments

City Clerk Kathi Anderson reviewed the process and requirements for selecting voter pamphlet statement pro and con committee members to address the 2012 Parks and Streets general election ballot measures.

Motion to appoint Tod Johnson, Charles Pilcher, and Norman Storme to the Proposition 1 pro committee and Robert Style to the Proposition 1 con committee.
Moved by Councilmember Dave Asher, seconded by Councilmember Toby Nixon
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

Motion to appoint Jay Arnold, Mary-Alyce Burleigh and Scott Morris to the Proposition 2 pro committee and Robert Style to the Proposition 2 con committee.
Moved by Councilmember Toby Nixon, seconded by Councilmember Amy Walen
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

Council recessed for a short break.

d. Resolution R-4932, Renaming the Kirkland Cultural Council as the Kirkland Cultural Arts Commission and Refining its Mission.

Economic Development Manager Ellen Miller-Wolfe provided an overview of the proposed changes to the (currently titled) Cultural Council, introduced Special Projects Coordinator Julie Huffman, and responded to Council comment and questions.

Motion to Approve Resolution R-4932, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RENAMING THE KIRKLAND CULTURAL COUNCIL AS THE KIRKLAND CULTURAL ARTS COMMISSION AND REFINING ITS MISSION" as amended.
Moved by Councilmember Bob Sternoff, seconded by Councilmember Amy Walen
Vote: Motion carried 6-1
Yes: Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.
No: Councilmember Dave Asher.
Motion to Amend Resolution R-4932, changing Paragraph 1 in Section 3 to read "reside, own or work for a business in Kirkland," Paragraph 5 in Section 3 to read "have no more than ten regular meetings per year," and change Section 3 so that each paragraph is numbered as a subsection.
Moved by Councilmember Toby Nixon, seconded by Councilmember Bob Sternoff
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

Motion to Amend the amendment to remove the change referencing the number of meetings.
Moved by Councilmember Dave Asher, seconded by Councilmember Amy Walen
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

e. Future Event Pay Parking

The Council decided to postpone discussion on this item to a later date.

f. Puget Sound Energy Sammamish-Juanita Electrical Line Routing Report

Development Engineering Manager Rob Jammerman outlined an updated staff recommendation that Council wait to identify a preferred route until after further process has occurred, and responded to Council questions and comment.

11. NEW BUSINESS

a. NE 85th Street/132nd Avenue NE Watermain Replacement - Funding Approval

Public Works Capital Projects Manager Dave Snider reviewed the cost summary alternatives for the project and responded to Council questions and comment.

Motion to Approve the staff recommendation for funding $626,000 in 2012 from the Utility Reserve for the NE 85th Street/132nd Avenue NE Watermain Replacement project with an estimated total project cost of $3,039,000 (Alternative 4) to be reflected in the 2013-2018 CIP.
Moved by Councilmember Bob Sternoff, seconded by Deputy Mayor Doreen Marchione
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

12. REPORTS

a. City Council

(1) Regional Issues

Councilmembers shared information regarding a Suburban Cities Association interview/questionnaire; Puget Sound Regional Council Transportation Policy Board meeting; Eastside Transportation Partnership; Totem Lake Conversation luncheon; tour of Cascadia Community College; City Manager's "State of the City" address to the Kirkland Chamber of Commerce; Emergency Management Advisory Committee meeting; Cascade Water Alliance meeting; Nourishing Networks Summer Feeding Program; compliments to Celebrate Kirkland; Juanita Bay boating activity; State Joint Select Committee on Junior Taxing Districts, Municipal Corporations, and Local Government Finance elected Representative Larry Springer as the committee chair; Kirkland Business Roundtable at Lake Washington Institute of Technology; 425 Magazine readers' poll announced Kirkland as the Number One Eastside City; Cross Kirkland Corridor: Looking Forward panel discussion sponsored by the Kirkland Library and the Kirkland Arts Center meeting; Seattle Mayor McGinn's

transportation forum; Puget Sound Regional Council Executive Committee appointments.

Motion to appoint Mayor McBride as City's representative on the Puget Sound Regional Council Executive Committee.
Moved by Deputy Mayor Doreen Marchione, seconded by Councilmember Penny Sweet
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

Motion to appoint Councilmember Sweet as the City's alternate representative on the Puget Sound Regional Council Executive Committee.
Moved by Councilmember Amy Walen, seconded by Councilmember Toby Nixon
Vote: Motion carried 7-0
Yes: Councilmember Dave Asher, Deputy Mayor Doreen Marchione, Mayor Joan McBride, Councilmember Toby Nixon, Councilmember Bob Sternoff, Councilmember Penny Sweet, and Councilmember Amy Walen.

b. City Manager

(1) Calendar Update

City Manager Kurt Triplett provided draft informational brochures on ballot measures to the City Council for their comments; shared information regarding a meeting attended by Mayor McBride, City Manager Kurt Triplett, and Intergovernmental Relations Manager Lorrie McKay with King County Executive Dow Constantine, Deputy King County Executive Fred Jarrett, and the Chairs of each of the regional task force committees on the Emergency Medical Services levy; Meeting with Redmond Mayor John Marchione and Deputy City Administrator Jane Christiansen regarding a paramedic unit in Kirkland at Evergreen Hospital; informing the City Council that staff will be coming to them for direction regarding donation of a surplus Kirkland Police Department van to replace a Boys and Girls Club van that has broken.

13. ITEMS FROM THE AUDIENCE

None.

14. ADJOURNMENT

The Kirkland City Council regular meeting of July 17, 2012 was adjourned at 10:10 p.m.

City Clerk

Mayor

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Dave Snider, P.E., Capital Projects Manager
Ray Steiger, P.E., Public Works Director

Date: July 26, 2012

Subject: LAKEVIEW ELEMENTARY PEDESTRIAN IMPROVEMENTS -- AWARD CONTRACT

RECOMMENDATION:

It is recommended that City Council award the construction contract for the Lakeview Elementary Project, to Road Construction Northwest, Inc., of Renton, WA, in the amount of $184,825.00. It is also recommended that City Council approve a project budget increase.

BACKGROUND DISCUSSION:

The Lakeview Elementary Pedestrian Improvements Project will complete two missing segments of concrete sidewalk, upgrade six sidewalk ramps, and install one rectangular rapid flashing beacon pedestrian activated crosswalk system near Lakeview Elementary (Attachment A). In addition to the construction of new sidewalks and crosswalk upgrades, the Project also involves an educational and incentive element (for children and parents) to promote walking and biking to school, as well as making funding available to increase police enforcement in the area during school hours. The goal of the Project is to promote pedestrian safety, decrease vehicular traffic speeds near schools, and to increase the number of kids walking and biking to and from school.

The Project supports goal G4 of the City's Active Transportation Plan, which states: "Increase the number of children who use active transportation to travel to and from school." Among the strategies of that goal is the pursuit of grant money to fund projects at elementary schools in an effort to increase the number of children walking to school. The Project also supports goal G3 of the Active Transportation Plan by adding new facilities for pedestrians where none exists.

In May, 2011, the Project was selected to receive $348,000 through the 2011 Federal Safe Routes to School Grant Program. As a result, the Project was moved from unfunded to funded status during 2011-2016 CIP Update. The grant provides funding for design, construction and a set-aside of $50,000 to be used for the educational incentive, and the police enforcement elements noted above.

With an engineer's estimate of $142,953 for construction, the Project was first advertised for contractor bids on July 2; on July 24, 2012, two contractor bids were received with Road Construction Northwest, Inc., being the lowest responsive bidder, as shown below:

CONTRACTOR	TOTAL BID
Engineer's Estimate	*$142,953.00*
Road Construction Northwest, Inc.	**$184,825.00**
Kamins Construction	$188,419.40

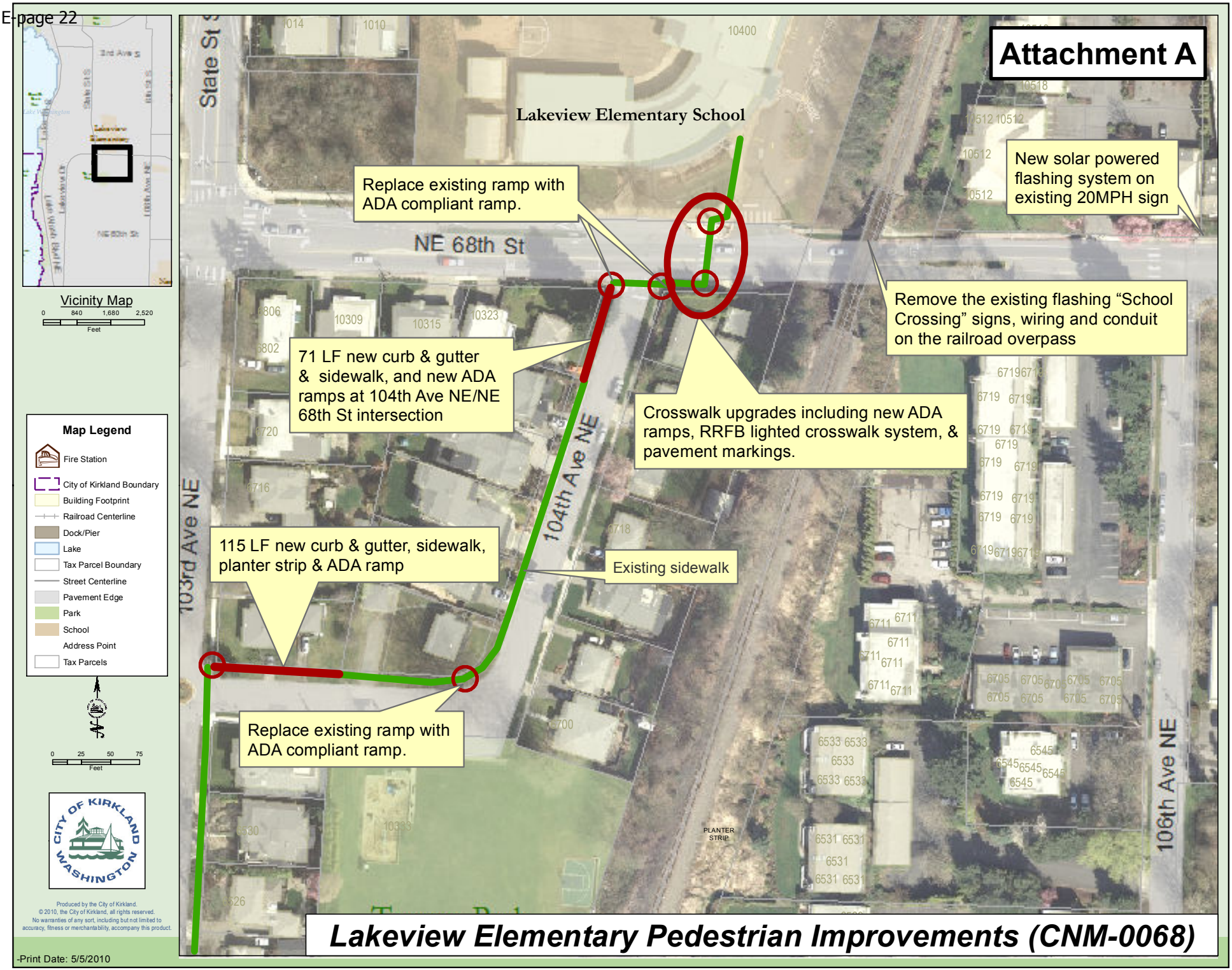
The results of the Lakeview Elementary Pedestrian Project bid opening appear to be consistent with how general contractor bidding has been trending over the past year, with low bidder turn-out and increasing bid prices (Attachment B). Staff research for reasons behind the current trend shows that a primary factor is the number of public works general and specialty sub-contractors that have gone out of business over the past few years, coupled with a consistent volume of various agency projects being bid – those companies that have remained viable are busy and have less competition.

In the case of the Lakeview Elementary Pedestrian Improvements Project, the lowest responsive bidder, Road Construction Northwest, Inc., recently completed the City's NE 85th Street and 114th Avenue NE Intersection Improvement Project and is well qualified to perform the work associated with the subject Project. With a current budget of $348,000, and a desire to maintain a reasonable (10%) total project contingency, a budget increase of $26,300, to be funded by Street Improvement reserves, is recommended by staff, bringing the total project budget to $374,300 (Attachments C and D). Any funding remaining at the end of the Project would be returned to the funding source.

With an award of the contract by City Council at their August 7 meeting, construction would start in late August and be completed by October, 2012. In advance of construction Public Works staff will send a construction informational mailer to nearby residents providing Project timelines and pertinent contact information. In addition, staff will continue to work with Lakeview Elementary staff to keep them informed of the construction schedule and impacts.

Attachments: (4)

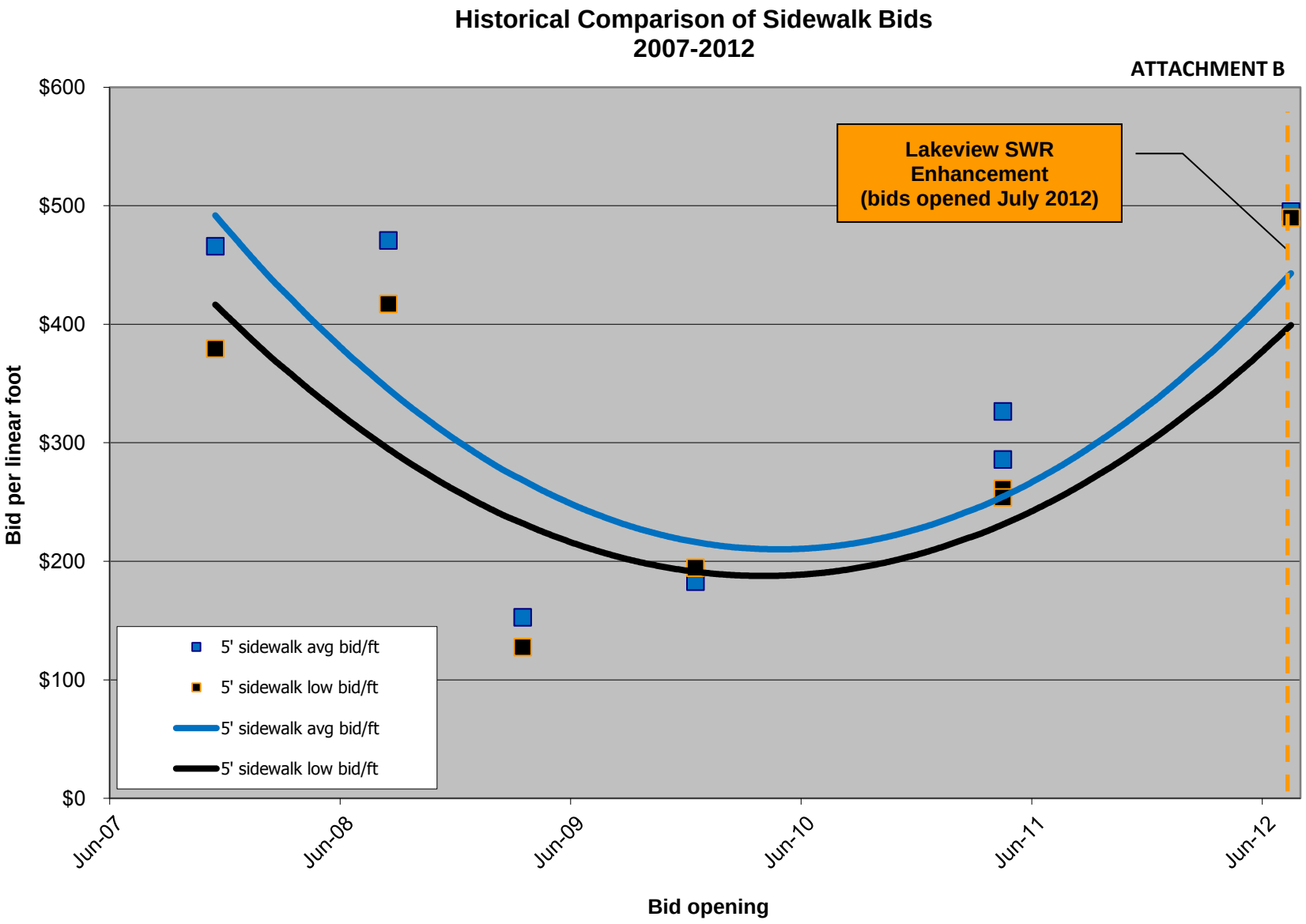
Attachment A



Lakeview Elementary Pedestrian Improvements (CNM-0068)

-Print Date: 5/5/2010

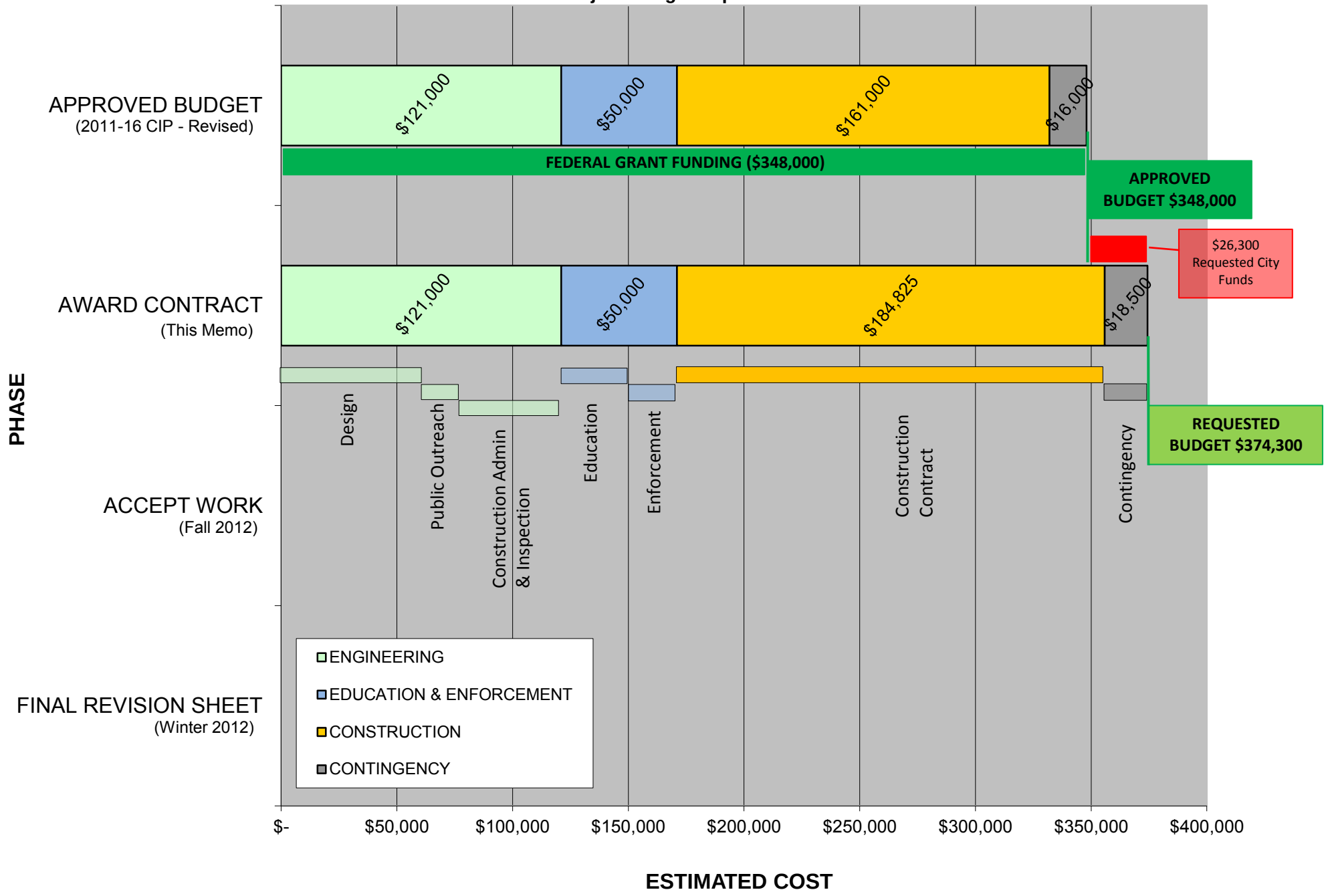
-Location: \\SRV-FILE01\Data\Pw\Grant Applications\School walk routes & safe routes\2010\Andreas files Lakeview-68th\Figure.mxd


Historical Comparison of Sidewalk Bids
2007-2012
ATTACHMENT B
Lakeview SWR Enhancement (bids opened July 2012)
$600
$500
$400
$300
$200
$100
$0
Bid per linear foot
5' sidewalk avg bid/ft
5' sidewalk low bid/ft
5' sidewalk avg bid/ft
5' sidewalk low bid/ft
Jun-07
Jun-08
Jun-09
Jun-10
Jun-11
Jun-12
Bid opening

Lakeview Elementary
(CNM - 0068)

Attachment C

Project Budget Report



ATTACHMENT D

FISCAL NOTE

CITY OF KIRKLAND

Source of Request

Ray Steiger, Public Work Director

Description of Request

Request for funding of $26,300 from the Street Improvement Reserve for additional funding for the Lakewview Elementary Pedestrian Improvement project (CNM 0068) per award of bid memo dated July 26, 2012.

Legality/City Policy Basis

Fiscal Impact

One-time use of $26,300 from the Street Improvement Reserve. The reserve is able to fully fund this request.

Recommended Funding Source(s)

	Description	2012 Est End Balance	Prior Auth. 2011-12 Uses	Prior Auth. 2011-12 Additions	Amount This Request	Revised 2012 End Balance	2012 Target
Reserve	Street Improvement Reserve	1,092,258	42,000	0	26,300	1,023,958	N/A
	2011-12 Prior Authorized Use of this reserve: $5,000 for 520 Tolling Impact Traffic Counts and $37,000 for the 2011 Crosswalk Upgrade project.						
Revenue/Exp Savings							
Other Source							

Other Information

Prepared By	Neil Kruse, Senior Financial Analyst	Date	July 26, 2012

Council Meeting: 08/07/2012
Agenda: Award of Bids
Item #: 8. e. (2).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Dave Snider, P.E., Capital Projects Manager
Ray Steiger, P.E., Public Works Director

Date: July 26, 2012

Subject: ROSE HILL BUSINESS DISTRICT SIDEWALKS - AWARD CONTRACT;
124th Avenue NE Sidewalk from NE 80th Street to NE 90th Street

RECOMMENDATION:

It is recommended that City Council award the construction contract for the Rose Hill Business District Sidewalks, 124th Avenue NE Sidewalk from NE 80th Street to NE 90th Street, to Road Construction Northwest, Inc., of Renton, WA, in the amount of $1,241,851.00.

BACKGROUND DISCUSSION:

The corridor improvements along NE 85th Street are made up of multiple projects that include: the on-going undergrounding of a significant portion of the overhead utilities and the future installation of a new 24-inch water main, the addition of traffic signal upgrades and additional capacity improvements at key intersections, storm water quality improvements, the provision of continuous sidewalks and pedestrian improvements on both sides of NE 85th Street, and this subject project that will provide for the installation of continuous sidewalks and pedestrian improvements on both sides of 124th Avenue NE, between NE 80th and NE 90th Streets (Attachment A). The 124th Avenue NE Sidewalk Project will also add surface water quality features, new retaining walls, bicycle lanes, and landscaping.

With an engineer's estimate of $1,003,827 for construction, the Project was first advertised for contractor bids on July 9; on July 24, 2012, six bids were received with Road Construction Northwest, Inc., being the lowest responsive bidder submitting a bid of $1,241,851. Road Construction Northwest, Inc., recently completed the City's NE 85th Street and 114th Avenue NE Intersection Improvement Project (and happens to also be the lowest responsive bidder on the Lakeview Elementary Pedestrian Improvement under a separate City Council memo for the August 7, 2012 meeting). A list of the bid results is as follows:

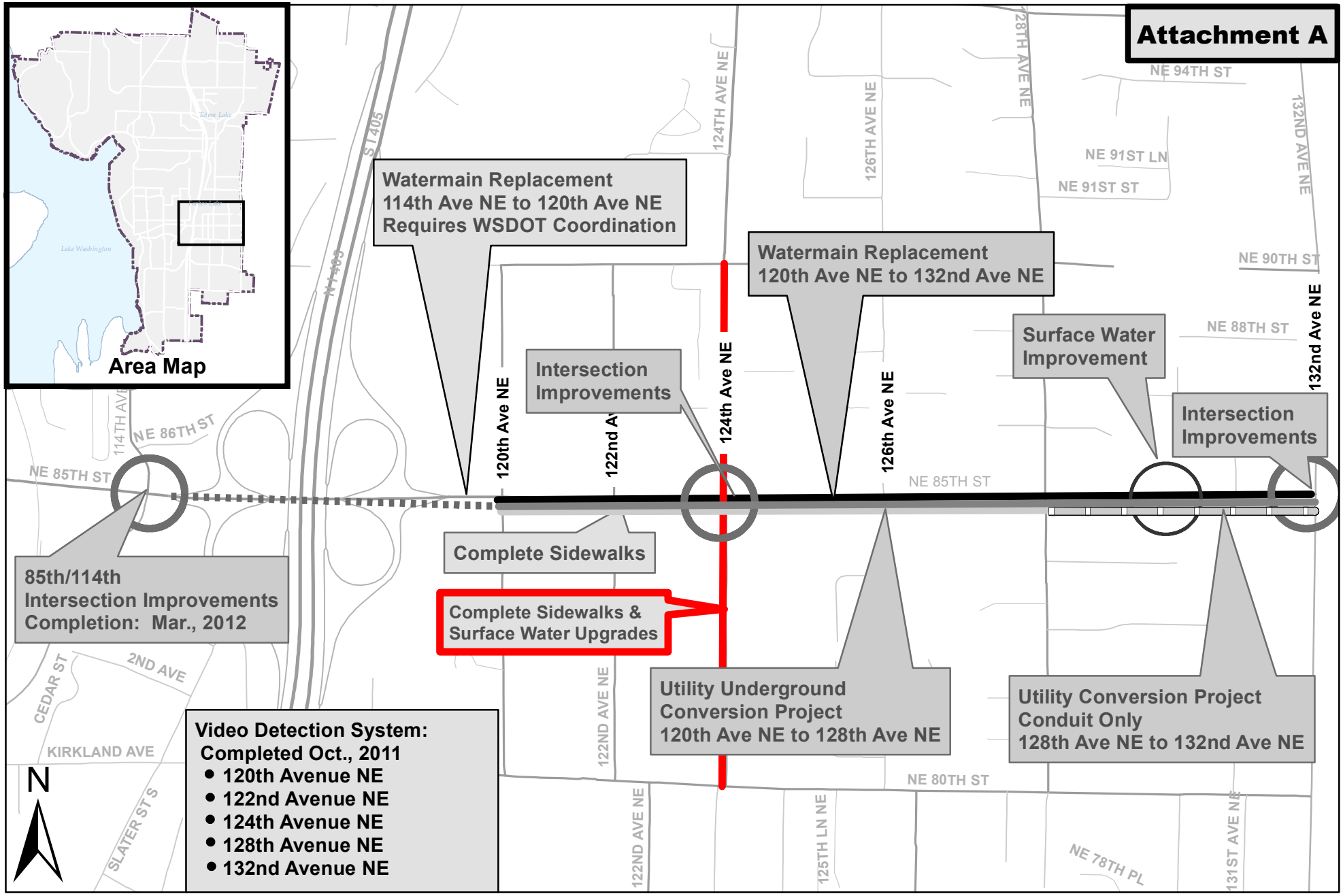
Contractor	Total Bid
Engineer's Estimate	*$ 1,003,827*
Road Construction Northwest	**$ 1,241,851**
West Coast Construction	$ 1,285,478
Kamins Construction	$ 1,304,221
Award Construction Inc (ACI)	$ 1,311,063
Johansen Excavating	$ 1,345,677
Westwater Construction Company	$ 1,461,673

The results of the 124th Avenue Sidewalk bid opening appear to be consistent with how general contractor bidding has been trending over the past year; bid prices for sidewalk and other types of transportation project have been moving upward over the past two years (Attachment B). Staff is pleased with the bidder turn-out on this particular project; however, as shown above, the grouping of contractor bids at an amount near the approximate bidder average of $1.32M, or nearly 30% over the engineer's estimate, speaks to the need for an updating of costs used in estimating sidewalk projects. Staff will be working with the City's engineering consultants as we mover towards the subsequent phases of the overall NE 85th Street corridor improvements.

The work elements for this Project were planned as a separate construction package in order to help expedite the completion of all Corridor construction phases, as well as to allow for greater control over work zones and the number of contractor crews working within the area. The remaining work elements for the overall NE 85th Street Corridor Improvement Project will include the 124th Avenue NE and 132nd Avenue NE Signal Improvements, the NE 85th Street Watermain Replacement, and NE 85th Street Surface Water Improvements. These next elements of work will be advertised for contractor bids in late fall, 2012, with construction following in 2013. The total budget for the sidewalk only elements of the overall NE 85th Street Corridor Improvement Project, including this Project and the future sidewalks along NE 85th Street, is $4,338,300. The current estimate for the future NE 85th Street Sidewalk Improvements is $2,990,000; the Road Construction Northwest bid of $1,241,851 represents 29% of that overall Corridor's sidewalk-only budget. The budget remaining for all future Corridor work elements is $8,757,600 (Attachment C). Based on the results of the subject Project bid opening, staff will be updating the engineer's estimate for the overall NE 85th Corridor Improvement Project (all schedules and phases of work) and will provide City Council with an updated budget report prior to advertising for construction bids for the next phases of work.

With an award of the contract by City Council at their August 7 meeting, construction would start in September and is expected to be completed by December, 2012. In advance of construction, Public Works staff will notify adjacent property owners through project flyers, direct mailings, and the City's web page. Staff will continue to provide regular updates through the *NE 85th Corridor Project Newsletter*. The *Newsletter* provides in-depth information regarding the overall general scope, individual project locations, the various Project phases, and general Project schedule. Additionally, staff has assembled a construction management team that will work with a stakeholder Construction Advisory Group (CAG) to facilitate construction, coordinate with businesses, enhance pedestrian and business access plans, and maximize traffic flow through the work zones.

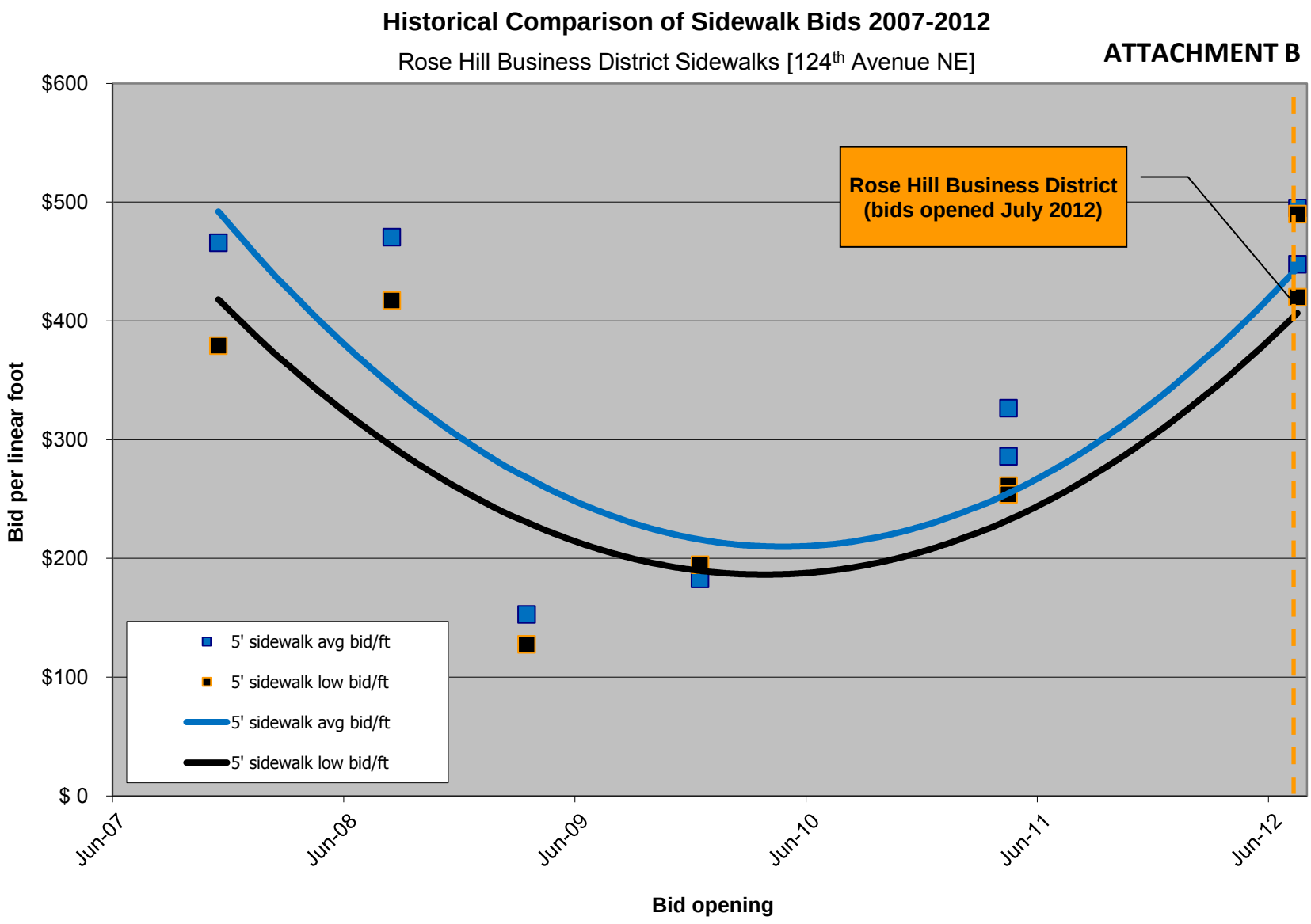
Attachments: (3)



Vicinity Map

NE 85th Street Corridor Improvements

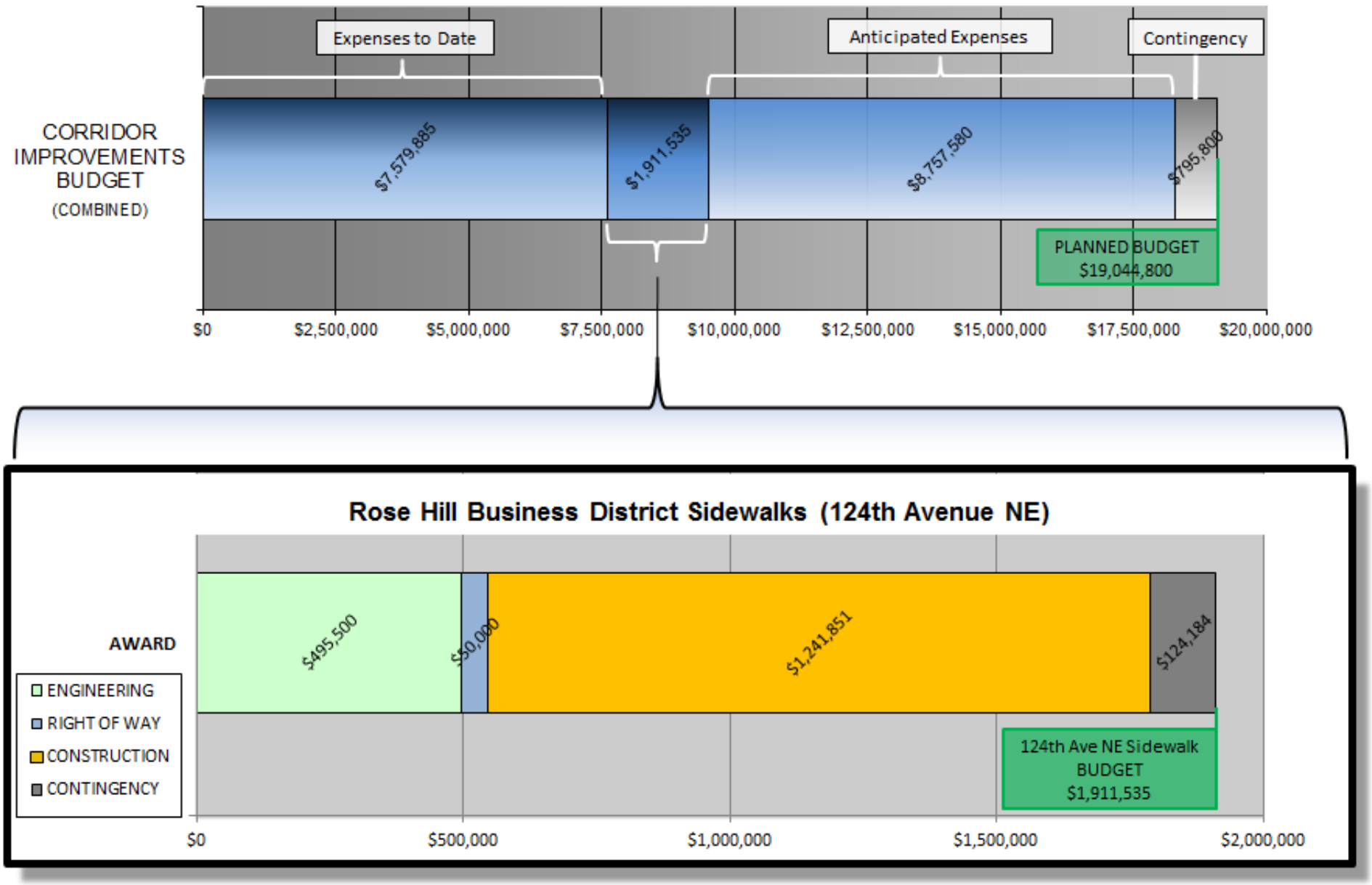
Rose Hill Business District Sidewalks [124th Ave NE from NE 80th St to NE 90th St]


Historical Comparison of Sidewalk Bids 2007-2012
Rose Hill Business District Sidewalks [124th Avenue NE]
ATTACHMENT B
Rose Hill Business District
(bids opened July 2012)
$600
$500
$400
$300
$200
$100
$ 0
Bid per linear foot
5' sidewalk avg bid/ft
5' sidewalk low bid/ft
5' sidewalk avg bid/ft
5' sidewalk low bid/ft
Jun-07
Jun-08
Jun-09
Jun-10
Jun-11
Jun-12
Bid opening

Attachment C

NE 85th STREET CORRIDOR IMPROVEMENTS

PROJECT BUDGET REPORT



ESTIMATED COST

Council Meeting: 08/07/2012
Agenda: Award of Bids
Item #: 8. e. (3).

CITY OF KIRKLAND
Department of Finance
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Ray Steiger, Public Works Director
Bobbi Wallace, Storm Water and Wastewater Manager

Date: July 26, 2012

Subject: Award of Contract – Apsco Screwsucker Pump

RECOMMENDATION:

It is recommended that the City Council award the contract to purchase (1) Screwsucker pump, from Apsco of Kirkland, WA for the total amount of $53,307.19, including sales tax.

BACKGROUND AND DISCUSSION:

At their regular meeting on November 15, 2011, City Council received information on summer 2011 activities related to the Totem Lake Flood control measures. That update described the work completed in 2011 and identified the ongoing plan to provide emergency pumping as a means to minimize possible occurrences of Totem Lake flooding. The City does not currently own a pump of the size necessary; therefore, a diesel pump was leased through the 2011-2012 winter/wet season, from mid-November to mid-May, at a cost of $20,112 for the 6 months.

On April 10, 2012 Council was given an update on Totem Lake Flood Control Measures. The update included information regarding the success of the on-going pumping operations. During the very wet winter months, a number of relatively significant rainfall events occurred, the pump helped tremendously to control the flooding on the surface streets at Totem Lake. The 2011-12 season was the first season the City did **not** have to shut down lanes of traffic due to water on the roadway. Pumping will most likely need to begin again in November 2012, depending on weather conditions. If a pump is leased again, through the 2012-2013 wet season, approximately $51,300 will have been paid for rental; almost the full cost to purchase.

An Invitation for Bids was advertised on May 16 in the Seattle Daily Journal of Commerce, bid opened on May 23rd. The estimated total cost was $50,000 to $55,000. Apsco submitted the winning bid, received on May 23rd for $53,307.19 (includes sales tax). The bid of $53,307 includes a discount equal to 50% of what the city has paid to date for rental fees. Godwin Pump submitted a bid for $47,078.16 (sales tax included); however, the Godwin pump is not fuel efficient. Based on our records of 2011-2012 usage, it would have cost the city an additional $5,000 just for fuel if the Godwin pump was used vs. the Apsco, and this estimate does not include staff time necessary for refueling. In addition, the Godwin pump is not approved as fish friendly which is a permit requirement for our operations by the Department of Fish and Wildlife.

The total bill for rental of the Apsco Screwsucker pump was discounted; we paid $20,112 for 6 months rental (discounted from $5,500 per month to $3,352 per month. The purchase price of $53,307 includes a discount equal to 50% of the rental should the unit used last winter be purchased.) This pump is a new pump, only used last winter by our field staff. It ran great, is very quiet and the staff are now well familiar with its operation. If we do not purchase we will be

charged the normal rental rate of $5,500 per month or $33,000 for rental of the pump during the upcoming 2012-2013 wet season.

The pump will be used for next winter flooding at Totem Lake Mall as well as assist with summer use on Cochran Springs Box Culvert project and Totem Lake Storm Water Conveyance project. The pump will be made available to assist during a major emergency or for any potential wastewater lift station failures to bypass sewer and avoid overflows into the lake. Ongoing cost for maintenance of the pump is anticipated to be less than $1,000 per year and can be absorbed in the budget. The department is expecting to realize expenditure savings to offset the purchase cost; however, there is also sufficient funding in working capital to cover the cost of the pump.

ATTACHMENT A

FISCAL NOTE

CITY OF KIRKLAND

Source of Request

Ray Steiger, Public Work Director

Description of Request

Request for funding of $53,307 from Surface Water Operating fund working capital to purchase a Screwsucker pump per the award of contract memo dated July 16, 2012. The department is expecting to realize expenditure savings that will most likely offset the purchase cost.

Legality/City Policy Basis

Fiscal Impact

One-time use of $53,307 of Surface Water Operating fund working capital. The reserve is able to fully fund this request.

Recommended Funding Source(s)

	Description	2012 Est End Balance	Prior Auth. 2011-12 Uses	Prior Auth. 2011-12 Additions	Amount This Request	Revised 2012 End Balance	2012 Target
Reserve	Surface Water Working Capital	863,371	0	0	53,307	810,064	N/A
Revenue/Exp Savings							
Other Source							

Other Information

Surface Water Operating fund working capital is available for unanticipated expenditures.

Prepared By	Neil Kruse, Senior Financial Analyst	Date	July 25, 2012

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Jennifer Schroder, CPRP, Director of Parks and Community Services
Michael Cogle, Deputy Director

Date: July 27, 2012

Subject: ACCEPTANCE OF WORK AND ESTABLISH LIEN PERIOD:
Juanita Beach Park Redevelopment Phase I

RECOMMENDATION:

It is recommended that City Council accept the work on Juanita Beach Park Redevelopment Phase I as completed by Marshbank Construction, Inc. and establish statutory lien period. In addition, it is recommended that Council authorize a budget increase of $346,000 from the General Capital Contingency.

BACKGROUND DISCUSSION:

In 2010 the City Council awarded a construction contract to DMSL Construction, Inc. (DMSL) as the low responsive bidder for the Juanita Beach Park Project – Phase I. Project items included all work related to demolition of existing shelters and creek bridge, construction of a concrete waterfront promenade, parking lot reconfiguration and associated rain gardens, surface drainage bio-filtration swales and associated water quality improvements, wetland restoration, riparian restoration of Juanita Creek including side channel (marsh) creation, removal of hazard trees, significant new plantings, lawn renovation, new site furniture, new bridge, new irrigation, new paths, and a public art sculpture. Scheduled improvements were consistent with the approved 2005 park master plan.

On June 3, 2011 the City terminated the contract of DMSL for non-performance. The contractor was only compensated for actual work which it completed. Approximately $450,000 of DMSL's contract was available to help defray costs to complete the Project, as shown below:

$1,180,390.57	Authorized Original DMSL Contract
$ 165,668.83	Approved Change Orders ($180,000 Construction Contingency Budgeted)
$1,346,059.40	Revised Contract Amount
($ 897,315.28)	Amount paid to DMSL for work completed
$ 448,744.12	Balance to Finish Contract

Due to an urgent need to complete environmental work within permitting requirements and strong community interest in seeing the park's beachfront reopened during the summer season, the City Council on June 7, 2011 approved Resolution R-4883, thereby waiving competitive bidding requirements and authorizing staff to execute all necessary contracts for emergency completion of the Project. After receiving the waiver, staff hired Marshbank Construction, Inc., Lake Stevens, WA, on June 13, 2011

to proceed with the work as soon as possible, with activities compensated on a "time and materials" basis (rather than a lump sum). Due to the actions of the City Council and the responsiveness of Marshbank Construction, the City was able to partially reopen the park, including the popular beachfront, on August 5, 2011. Construction activities were completed within permit requirements in October of 2011.

Status of Surety

During this same time, we began working cooperatively with DMSL's bond company, First Sealord Surety Inc., in order to protect the City's financial interests. Sealord and the City monitored and evaluated the full costs necessary to complete the entire Project and those costs which would be the responsibility of the surety. After the Project was completed, the City was prepared to provide a comprehensive project accounting to Sealord for remittance to the City as anticipated by the terms of DMSL's payment and performance bonds.

Unfortunately, while the City was in the process of submitting the amount of its damages as a result of the DMSL default, we were made aware that First Sealord had gone into receivership. Receivership is similar to a bankruptcy, but under state law instead of bankruptcy's federal laws. At the time the City accepted the bond from First Sealord, it was believed to be a financially viable insurer and had an A.M. Best rating of A-. Also, at that time it was on the list of contractors approved to do business with the federal government. There was nothing that would have given the City notice that First Sealord was in financial distress, if it was, or that it would become distressed. The incidence of such insurers collapsing like this is relatively small: about one every five years, which is one of the lowest industry failure rates in the U.S. economy. Unfortunately the City has been impacted by this rare event.

As a result, the City will be unable to get reimbursed at this time for the expenses it incurred in finishing the Project. Likewise, the subcontractors and suppliers will remain unpaid at this time. The City has submitted a claim to the trustee appointed to administer the receivership but according to him it will be years before the extent of First Sealord's liabilities are known and the claims paid. It is unknown if any of the City's claim will be paid because the trustee does not know what financial resources will be available for distribution. Efforts to collect will be ongoing but the City cannot assume any future payment.

Impact to State Grant

The City received a $500,000 matching grant from the State in 2007, and another $500,000 matching grant in 2008, for a total of up to $1,000,000 in State matching funds to complete the Project. Due to the City receiving a favorable bid from DMSL, the City determined that a total of up to $925,000 of Project costs would be eligible for reimbursement under the terms of the grant agreement.

The original terms of the agreement were for the Project to be completed in 2009. Due to permitting challenges which delayed the start of construction, the City received an initial time extension from the State to complete the Project by the end of 2010. After construction started, a second and final extension request was approved by the State, requiring Project completion by June 1, 2011. Despite repeated efforts from the City, because the Project was not completed by this date, the City was only eligible to receive reimbursement for a total of $622,000 of project expenses. This loss of grant funding was one financial item that the City believed would have been reimbursed by the First Sealord since the loss was attributable to DMSL's failure to perform the work in a timely manner. Unfortunately since First Sealord is in receivership, the City will need to cover the funding gap out of existing reserves.

Need for Supplemental Project Funding

Financial projections during the Marshbank phase were difficult to pinpoint, since not all of the costs could be anticipated. The additional costs were due in part to the transition from DMSL to Marshbank and the correction of nonconformities and defects in DMSL work that were discovered. Based on a rough order of magnitude projection, we originally anticipated that the cost to complete the work would exceed the DMSL contract balance of approximately $450,000 by an estimated $750,000. As a result, on

September 6, 2011 the Council approved a funding request from the City's General Capital Contingency fund to complete the project. The approved fund transfer of $750,000 was the anticipated net effect of expenditures over and above the original estimated amount and lost grant revenue.

As shown in Figure 1 below, the final accounting for the Project shows a deficit of $346,000, primarily due to the lost state grant revenues. This is the difference between available (approved) funding resources for the Project and the expenses necessary to complete the Project. Funding resources include a pending $117,000 grant from the King County Flood Control District and Project expenses include a set-aside of $78,000 for permit-required long-term wetland monitoring services.

Figure 1 - Juanita Beach Park Project Completion (CPK0119)

	Project Completion
Resources:	
City Contribution (CIP and Bond Proceeds)	1,518,000
City Supplemental (Capital Contingency)	750,000
State Grant	622,000
KC Flood Control District Grant	117,000
King County Contribution (per transfer agreement)	200,000
Total Resources	**3,207,000**
Expenses:	
DMSL Contract	897,000
Marshbank Contract	1,420,000
In-house management	148,000
Master Planning, A&E, Permitting, Inspections	791,000
Required Future Long Term Wetland Monitoring Services	78,000
Remove Pier Vertical Wave Baffles (separate contract)	31,000
Miscellaneous Costs 2003 - Present [1]	188,000
Total Expenses	**3,553,000**
Project Deficit/Request from Contingency	**(346,000)**

[1] *Miscellaneous Costs include:*
Interim improvements to park after City takeover in 2003; Public Art; Utility Connection Charges; Bathhouse repairs; Other costs such as legal, printing, advertising, supplies, etc.

The funding request of $346,000 is the final net effect of expenditures over and above the adjusted funded amount and lost grant revenue. The following table identifies the original Project budget, what the City paid to have Marshbank complete the project, and the final variance. The lost grant revenue of $303,000 and the added cost of $1,153,000 eliminated the projected project savings and left a deficit final funding need of $346,000.

Figure 1 - Juanita Beach Park Project Completion (CPK0119)

	Original Budget	Marshbank Completion	Variance
Resources:			
City Contribution (CIP & Bond Proceeds)	1,500,000	1,518,000	18,000
City Supplemental (Capital Contingency)	-	750,000	750,000
State Grant	925,000	622,000	(303,000)
KC Flood Control District Grant	100,000	117,000	17,000
King County Contribution (per transfer agreement)	200,000	200,000	-
Total Resources	**2,725,000**	**3,207,000**	**482,000**
Expenses:			
DMSL Contract	1,345,000	897,000	(448,000)
Marshbank Contract	-	1,420,000	1,420,000
In-house management	120,000	148,000	28,000
Master Planning, A&E, Permitting, Inspections	650,000	791,000	141,000
Required Long Term Wetland Monitoring Services	50,000	78,000	28,000
Remove Pier Vertical Wave Baffles (separate contract)	60,000	31,000	(29,000)
Miscellaneous Costs 2003 - Present	175,000	188,000	13,000
Total Expenses	**2,400,000**	**3,553,000**	**1,153,000**
Projected Project Savings/Funding Deficit	**325,000**	**(346,000)**	
Total Financial Impact			**(671,000)**

In summary, staff requests supplemental funding from the General Capital Contingency Fund in the amount of $346,000 to complete the Project for environmental and park improvements to Juanita Beach Park. Please see the attached fiscal note.

Lessons Learned and Updated Processes

As a result of the challenges with the Juanita Beach Project, in the fall of 2011 the City Manager convened a high level working group of Parks, Public Works, Finance and the City Attorney's office that met multiple times to review all aspects of what went wrong and what changes were necessary to prevent similar capital project problems in the future. Staff has prepared an expanded report (Attachment C) summarizing the Project's history and highlighting some recommended changes to the implementation of future capital projects. Some of these changes have already been implemented and recommendations for specific revisions to the Chapter 3 of the Kirkland Municipal Code pertaining to public works bidding and contracting will be provided to Council later this year.

Attachments

Attachment A

ATTACHMENT B

FISCAL NOTE

CITY OF KIRKLAND

Source of Request

Jennifer Schroder, Director Parks and Community Services

Description of Request

Request for $346,000 from the General Capital Contingency to complete the Juanita Beach Park project improvements (CPK 0119) to complete funding for Phase I improvements.

Legality/City Policy Basis

Fiscal Impact

One-time use of $346,000 from the General Capital Contingency. The reserve is able to fully fund this request.

Recommended Funding Source(s)

	Description	2012 Est End Balance	Prior Auth. 2011-12 Uses	Prior Auth. 2011-12 Additions	Amount This Request	Revised 2012 End Balance	2012 Target
Reserve	General Capital Contingency	4,669,463	750,000		346,000	3,573,463	N/A
	2011-12 Prior Authorized Use of this reserve: $750,000 for Juanita Beach Park						
Revenue/Exp Savings							
Other Source							

Other Information

Prepared By	Neil Kruse, Senior Financial Analyst	Date	July 30, 2012

Attachment C

CITY OF KIRKLAND
Department of Parks & Community Services
505 Market Street, Suite A, Kirkland, WA 98033 425.587.3300
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Jennifer Schroder, Director of Parks and Community Services
Michael Cogle, Deputy Director
Ray Steiger, Public Works Director

Date: July 24, 2012

Subject: Juanita Beach Project Debrief and Recommendations for Improvements to Capital Project Implementation

RECOMMENDATION:

That City Council receives a report on the Juanita Beach Project and recommendations for changes to the implementation of capital projects, including those related to bidding/contractor selection, ensuring performance, and construction management.

BACKGROUND DISCUSSION:

History

In 2010 the City Council awarded a construction contract in the amount of $1,180,390.57 to DMSL Construction, Inc. (DMSL) as the lowest responsive bidder for the Juanita Beach Park Project – Phase I. Items included in the project included all work related to demolition of existing shelters and creek bridge, construction of a concrete waterfront promenade, parking lot reconfiguration and associated rain gardens, surface drainage bio-filtration swales and associated water quality improvements, wetland restoration, riparian restoration of Juanita Creek including side channel (marsh) creation, removal of hazard trees, significant new plantings, lawn renovation, new site furniture, a new bridge, new irrigation, new paths, and a public art sculpture. Scheduled improvements were consistent with the Council-approved 2005 park master plan.

The contractor officially began work in April 2010 and contractually was provided 300 calendar days to complete the Project. Due to allowances for poor weather and approved change orders over the course of the Project, the completion date was revised to June 1, 2011.

DMSL was issued a notice of default on January 20, 2011 stating that they were not following a schedule which would enable them to finish the Project in a timely manner. Subsequently, for several weeks DMSL was generally able to meet specific mutually-agreed-upon performance measures and milestones. However, DMSL was again notified on April 12, 2011 that it was in breach of contract once again for failure to prosecute the contract with sufficient diligence to ensure a timely completion. The contractor was given, as specified in the contract, 15 days to remedy the breach and subsequently provided

documentation of additional financing and a viable schedule intended to complete the Project within contract requirements.

However, in mid-May of 2011 the City received a Notice of Lien from the State of Washington Department of Revenue due to DMSL's non-payment of State sales tax, and on June 1, 2011 the City received a Notice of Claim from the State of Washington Department of Labor and Industries due to DMSL's non-payment of wages to its workers. On June 3, 2011, with the Project not completed and DMSL unable to provide an updated construction schedule, anticipated date of project completion, or prompt plan to resolve State claims, the City terminated the contract.

The contractor had not completed the installation of the wetland, stream and related buffer enhancements or shoreline restorative plants according to permit requirements. There was inadequate protection of the stream bank and riparian areas to prevent erosion and no vegetation in place to provide adequate shade for fish habitat. The contractor had not planted any vegetation specified for the wetland, stream and related buffer enhancements and shoreline areas as specified by the contract. In order to meet the requirements of the Endangered Species Act and for the protection of Puget Sound Chinook, Steelhead, and bull trout, the remaining in-stream, shoreline and buffer work needed to be completed by August 31, 2011 as described in the Nationwide Permit (NWP) Terms and Conditions issued by the U.S. Army Corps of Engineers.

Due to these factors, and pursuant to Kirkland Municipal Code (3.85.210), City Council passed a resolution at their meeting of June 7, 2011 authorizing an emergency public works procurement process to be established and for the City Manager to take the steps necessary to purchase the services required to complete the Juanita Beach Project as quickly as possible. Staff had consulted with the State Auditor's Office who concurred that an emergency waiver was warranted and met the criteria for exempting competitive bidding requirements for public works projects (RCW 39.04.280).

Subsequently, the City selected Marshbank Construction, Inc., Lake Stevens, WA, to complete the project. Marshbank had worked successfully with the City in the past and had the available resources to commit to Juanita Beach. As a result of their efforts the City was able to reopen the beachfront on August 5, 2011 and complete all other aspects of the project and meet all permit deadlines by October of 2011. The park has been fully open since that time with generally positive comments from park users about the improvements that were made to the park.

1. Bidding/Contractor Selection

The Juanita Beach Park Project was advertised for bids in November of 2009 and the bids were opened on December 1, 2009. Thirteen bids were received. After tabulating all the bids, checking references and determining that DMSL met the required bidder responsibility criteria, staff recommended awarding a contract to DMSL in the amount of $1,180,380.57.

Legal context

RCW 39.04.010 and KMC 3.85.130(a) provide that contracts for public work be awarded to the bidder that submitted the lowest responsive and responsible bid.

DMSL's bid was the lowest bid and it was responsive in that it was submitted on time, in the right format, it was signed and it was accompanied by the required bid bond. DMSL was also found to meet the mandatory bidder responsibility criteria as set forth in RCW 39.04.350. These criteria address basic registration and compliance issues of the bidder. Those requirements are there to ensure that the contractor awarded the project is a legitimate contractor who pays appropriate taxes and has not been debarred from doing business in the state. Additionally, the reference checks for other public work projects (State of Washington, City of Olympia, City of Redmond, and Edmonds School District) performed by DMSL were satisfactory and they had successfully completed a demolition project for the

City of Kirkland at the Rose Hill Meadows park site. DMSL was also able to meet the Project's bonding requirement and was financially able to post the mandated payment and performance bonds.

Given that DMSL was the bidder that submitted the lowest responsive and responsible bid, there was no legal basis to deny them the award of the contract.

Use of Supplemental Bidder Responsibility Criteria

However, as a result of our process review, staff believes that the City could have taken an additional step to assure that a contractor with the appropriate experience and resources was awarded the contract. RCW 39.04.350 went into effect in 2007 and allows for the use of supplemental bidder responsibility criteria. As noted above, the mandatory criteria are very specific and must be met by any contractor being considered for award of a public works contract (e.g. contractor must be licensed in WA State). The supplemental criteria are discretionary bidder responsibility criteria designed to meet the needs of a specific project.

Prior to 2007, there was no statutory permission to employ supplemental bidder responsibility criteria and public entities were slow in adopting their use. After the Bidder Responsibility Statute was passed, many public works owners have now begun including the use of supplemental criteria in their bid documents when it is believed to be appropriate to do so.

The State's Capital Projects Advisory Review Board (CPARB) was instrumental in developing the requirements for both mandatory and supplemental bidder responsibility criteria, and CPARB developed suggested guidelines for the use of supplemental criteria. The CPARB guidelines define supplemental bidder responsibility criteria as follows:

> *"Supplemental Bidder Responsibility Criteria describe the relevant experience, training, and/or certification requirements or qualifications that must be met by the low bidder. Criteria may also include experience and other qualifications of the bidder's subcontractors, suppliers, or employees who will be performing specific work on the project. An Owner must make its determination of whether the bidder with the low responsive bid meets the Supplemental Bidder Responsibility Criteria and is a responsible bidder before award of the contract."*

The awarding entity must be thoughtful in its use of supplemental criteria and contractors have the right to challenge the requirement for supplemental criteria during the bidding process if they believe that the criteria unduly restrict competition. Also, a contractor that is denied award of a contract because it is believed that the contractor did not sufficiently meet the supplemental criteria must be given the opportunity to appeal the decision denying them the award. So, if not carefully applied and evaluated, the use of supplemental criteria may cause delays in the bidding and award processes. But the use of supplemental criteria is intended to elicit bids only from contractors with the qualifications to meet the needs of a specific project, thus reducing the chances of an unqualified contractor disrupting a vital public project at taxpayer expense.

In order to assist entities in determining if supplemental criteria are appropriate for use on a given project, CPARB has made available a Checklist for Developing Supplemental Bidder Responsibility Criteria (Attachment D).

Kirkland's Public Works Department incorporated supplemental criteria in their "CIP tool kit" for project managers in 2008 and has utilized them for several capital projects. Recently supplemental bidder responsibility criteria were used when bidding the North Rose Hill Reservoir Repainting and Seismic Retrofit and the NE 85th Street Utility Undergrounding projects. In the case of the NE 85th Street project, the following supplemental bidder responsibility criteria were included in the bid document:

Supplemental Criteria: The Contractor shall have experience in installing dry utility conduit lines and vaults within a Public right-of-way which contains existing utilities and surface improvements for a public agency. Experience shall mean: that the on-site field superintendent or on-site foreman assigned to the project has successfully installed utility conduits and utility vaults within existing public right-of-way where the contract value of such work is equal to or in excess of $1,500,000, within the last 5 years counting from the date of the Bid submittal deadline.

As evidence that the Bidder meets the project specific responsibility criteria above, the apparent two lowest Bidders must submit to the Contracting Agency within 48 hours of the official Bid tabulation by the City documentation demonstrating compliance with the above.

At a minimum, documentation will include but is not limited to Construction drawings, Contract amounts for dry conduit and utility vault work, time frame of construction, name of owner work was performed for, and a reference (name, title, phone number, e-mail address) whom is familiar with the work for the Contracting Agency to make contact with.

Even with the inclusion of the above requirements, the City received eight competitive bids from well recognized local contractors, indicative that by limiting the number of qualified bidders, the City nevertheless was able to obtain ample competition in the construction community for the work.

In the case of the Juanita Beach Park Project, staff might have asked for bids only from those contractors who could demonstrate to the City's satisfaction that they had successfully completed a major park renovation project in a timely manner and that they still had the personnel (e.g. superintendent) and equipment to do so again. Given the size and complexity of the Project, staff believes that the use of supplemental criteria would have been appropriate and consistent with the statutory guidelines.

Significantly Lower Bid

One of the possible indicators of a potentially problematic project is receiving a bid that is significantly lower than the engineer's estimate and significantly lower than the bids of other bidders. Such was the case with the Juanita Beach Project, in which the awarded bid was 22% lower than the second-lowest bidder, 53% lower than the average of the 13 bids received, and over 100% lower than the consulting architect's estimate of $2,000,000. However the low DMSL bid for the project occurred during a time of high volatility in the construction industry, with many public projects being bid at well under their engineer's estimates and so did not raise as much concern as it should have.

Even so, as part of the bid evaluation process, staff did discuss with DMSL ownership our concern about DMSL's significantly lower bid. However, DMSL provided assurances that they had reviewed the scope of the Project and the details of their bid, and were confident in their bid amount and their ability to complete the Project as specified. Another "assurance" was that DMSL's bonding company underwrote the Project, DMSL's bid discrepancy notwithstanding. DMSL was only required to submit a "lump sum" price for the Project. A detailed, itemized review of their bid was not conducted.

Lesson Learned: In this circumstance it would have been prudent for the City Project team to meet at length with the bidder before the formal bid award to review and affirm the Project's scope of work, its equipment, manpower, and financial resources, as well as commitments on other projects. Such a meeting would have ensured that the bidder had an accurate understanding of the Project and the City's expectations. Requesting and reviewing a detailed breakdown of the bidder's bid should have occurred. Encouraging a bidder with a bid that is clearly *too* low to withdraw its bid is a long run preemptive measure that can save public agencies significant problems later on. This change shall be implemented in future projects.

Recommendation for bidding/contractor selection:
We recommend that the City revise purchasing policies to integrate Supplemental Bidder Responsibility Criteria into certain construction bid documents. The threshold for determining whether or not to require Criteria could be based either on the size of the project (i.e. for projects of $1,000,000 or more, for example) and/or on a case-by-case basis, by reviewing CPARB's suggested Checklist for Developing Supplemental Bidder Responsibility Criteria (Attachment D). Inclusion of these Criteria for certain qualifying projects, particularly those of larger size and/or complexity can help ensure that the selected contractor has sufficient experience and resources to successfully complete the project. Staff is already using supplemental bidding on a case-by-case basis now, but a formal staff recommendation for policy changes will be presented to City Council later this year.

2. Ensuring Performance

Two tools are available to ensure the contractor selected performs the work awarded properly and timely, and pay its creditors: liquidated damages and bonding (performance & payments). For this project, both were in place but due to circumstances beyond the City's control, neither was ultimately effective to ensure performance.

Liquidated Damages
Where the actual damages a city may incur as a result of delay in the completion of a project are difficult to measure, the law allows for the parties to agree instead to a pre-determined amount as damages. This amount is referred to as "liquidated damages" and is generally calculated as an amount due for each day the work continues beyond the original completion date. Having a liquidated damages provision should motivate a contractor to complete a project on time because, unlike actual damages which can be difficult to calculate, liquidated damages are easy to determine and leave no room for argument by the Contractor.

For this Project, liquidated damages were calculated to be $400 per day that the work was not completed by the agreed upon date. Unfortunately, this amount did not provide sufficient motivation for DMSL that one would normally expect because, as staff later found out, DMSL did not have the assets to pay such damages. The liquidated damages could have been doubled and the impact on DMSL would have been negligible because, as it turns out, it had no financial resources to pay any liquidated damages. However, staff recommends continuing to include liquidated damages provisions in future contracts to ensure performance because the incidence of insolvent contractors will hopefully be limited and generally liquidated damages provide a powerful incentive to an established contractor to perform work on schedule.

Performance and payment bonds
A Contractor has two primary obligations when it undertakes work for the City. First, it agrees that it will perform the work properly (in accordance with the City contract) and, second, it agrees to pay all of its subcontractors and suppliers for work and supplies they provide for the project. To attempt to ensure these commitments are kept, the City requires the contractor to get "insurance" to cover the cost of completing the project and paying the subs in the event the Contractor fails to do either. In the construction industry, this is called obtaining a "bond" for the project from a surety (bonding company). In the event the contractor fails to complete the work or pay its subs, the surety is then responsible for doing both.

The City requires such a bond, which we call a performance and payment bond, in the full amount of the Contract on all projects over $35,000 (KMC 3.85.230). For this Project, DMSL submitted a bid of $1,180,380.57, so, the bond was for that same amount. The surety selected by DMSL to provide this performance & payment bond was First Sealord Surety, Inc. When it became clear DMSL was not going to be able to complete the work and that it was not paying its subs, the City notified the surety that it expected the surety to cover these costs.

Unfortunately, while the City was in the process of calculating the amount of its damages as a result of the DMSL default, staff were made aware that First Sealord had gone into receivership. Receivership is akin to a bankruptcy but under state law instead of bankruptcy's federal laws. What this means is that the City will be unable to get reimbursed at this time for the expenses it incurred in finishing the Project. Likewise, the subcontractors and suppliers will remain unpaid at this time. The City has submitted a claim to the trustee appointed to administer the receivership but according to him it will be years before the extent of First Sealord's liabilities are known and the claims paid. Too, it is unknown how much of our claim, if any, will be paid because neither the trustee nor the City yet know what financial resources will be available for distribution.

At the time the City accepted the bond from First Sealord, it was believed to be a financially viable insurer and had an A.M. Best rating of A-. Also, at that time it was on the list of contractors approved to do business with the federal government. In other words, there was nothing that would have given the City notice that First Sealord was in financial distress, if it was, or that it would become distressed. Fortunately, the incidence of such insurers collapsing like this is relatively small: about one every five years, which is one of the lowest industry failure rates in the U.S. economy.

Recommendation for Ensuring Performance:
One fact staff did discover thorough this process is that the City could require separate performance and payments bonds, each in the total amount of the contract. Separate payment and performance bonds would give the City and subcontractors twice as much coverage and would not cost the Contractor any more to provide. Of course, for the Juanita Beach Project this would not have made any difference because of DMSL's collapse. However, going forward, this doubling of coverage will be implemented once the Council approves amendment of KMC 3.85.230, thus enabling staff to take this step, which will be presented to Council at a future meeting.

As an alternative to bonding, staff did considerable research into the possibility of the City becoming the surety for projects rather than requiring a bond. Rather than requiring a Contractor to purchase a bond at the cost of about 1% of the Contract amount, the City would become the insurer for the project, which would be funded over time by the savings the City should realize because Contractors would not include the cost of bonds in their bids. However, determining whether the City actually received such savings in each case might be difficult. Too, it is possible that the City might have to complete a project or pay subs before sufficient savings have been realized to cover those costs. Last, there is some concern that the City might have to adhere to the regulations governing sureties duties (similar to the obligations insurance companies owe) because it would be acting like a surety. For the foregoing reasons, staff does not recommend self-insuring the bonding at this time as it appears to create potential expense and liability for the City. Setting aside capital contingency reserves against such rare losses is much simpler and is in fact how the City is currently paying for the deficit in the Juanita Beach Park project.

3. Construction Management

Historically the City has delegated oversight of park capital projects to the Parks and Community Services Department, and the Department has a long history of completing capital construction projects on time and on budget. The Juanita Beach Project was administered by the (then) Park Planning and Development Manager, a position which has since been discontinued within the Department and its responsibilities absorbed within the Deputy Director's duties. Construction management involves ensuring compliance with the terms and conditions of the contract, as well as documenting and agreeing on any changes or amendments that may arise during its implementation or execution.

Recommendation for Construction Management:
Given the experience with Juanita Beach and the potential for significant capital park projects occurring in the future, the Parks and Community Services Department will be partnering with the Public Works

Department on future CIP projects. Public Works has the technical expertise and administrative support to manage parks projects, which is a common practice in other cities, including Redmond, Bothell, and Edmonds.

The following are established project management elements within the Kirkland Public Works Project Contract Development Manual, with an emphasis on the administration of municipal projects in anticipation and defense of claims and/or lawsuit based project completion:

Key Project Management personnel:

- Refine project management training for Project Engineering staff – spend time with new hires and seasoned staff on potential construction contract issues before they administer projects.
- Educate those in key roles in dealing with Washington State Department of Transportation (WSDOT) Standard Specifications regarding changes, protests by the Contractor, and disputes (specifically Standard Spec Sections 1-04.4, 1-04.5, 1-09.11 respectively).
- Review the City's Change Order Matrix developed specifically for addressing contract changes and the requirements of the parties under the WSDOT Standard Specifications.
- Discuss the importance of Inspector's Daily Report, Owner created meeting minutes, photographs, and other job progress documentation.
- Provide opportunities to observe a deposition in preparation of a lawsuit; consider conducting mock deposition process as a part of training.
- Encourage all City project personnel to raise potential contractor payment and performance issues to decision makers for early resolution.

During the Project Development stage:

- Involve construction claim analyst/construction counsel in more complex projects; build these costs into budget.
- Develop conflict mitigation strategies (pre-con, construction).
- Build a system that requires franchisees and utility companies to submit plans/coordination agreements earlier; consider not going to bid until commitments are in hand – balance timeliness with other factors: bid climate, community expectations, grant requirements.
- Consider franchise authority and timelines.
- Consider adding bidder "responsibility" criteria to bid documents beyond those currently utilized; allow legislative disqualification to be acceptable.
- Consider supplementing the existing Critical Path Method (CPM) scheduling obligation by the Contractor; consider tying to payments.
- Keep abreast of termination for convenience (Standard Spec Section 1-08.10) for work completed in City standard contract.
- Consider augmenting the WSDOT Standard Spec provision for liquidated damages.
- Consider/review Standard Spec 1-04.5 in light of 2004 Johnson vs. Spokane (failure of Contractor to comply with notification and pricing during municipal construction project).
- Use Supplemental Criteria (SC), as appropriate, given the specifics of each project; not all projects need or warrant the use of SC – large and/or especially complex projects are prime candidates for SC.

Prior to Award of contract:

- Include broader contacts in reference checks.
- Conduct financial inquiries beyond standard 5% bid bond/insurance evaluation.
- For key subcontractors, consider requiring identification in addition to RCW 39.30.060 plumbing, piping and electrical at bid time.

- Make sure subcontractor listing for RCW 39.30.060 plumbing, piping and electrical is NOT going to be grounds for protests.
- Check viability of performance bond company
- Reject Contractor's bids that are unable to meet the City's Supplemental Bidder Criteria.

During Construction:

- Move to a "Partnering" or "Synergistic Teaming" approach in lieu of "Kirkland Friendly".
- Obtain contractor weekly work plans where applicable and analyze logic/resources.
- Adhere to CPM requirements in specifications.
- Analyze CPM for logic and resources, reject if not correct; make a requirement for payment.
- Force CPM adherence/analysis by Contractor – "no play, no pay"
- Early engagement of construction claim analyst/construction counsel; consider risk management in advance of construction issues/impacts, as/if appropriate.
- Schedule Periodic "audit" meetings with construction claims analyst and construction counsel re: notice, changes, delays etc.
- Make sure weekly meeting minutes are accurate with Owner/Engineer authored minutes.
- Maintain strict control of internal email, documentation, and memoranda; consider out-of-context disclosure.
- Utilize Cost Reduction Incentive Proposal (CRIP) or other WSDOT Standard Specifications approved procedures to manage changes.
- Force immediate pricing and resolution of issues; employ change order for quantity increases/decreases.
- Remove unqualified contractor personnel through existing contract language.
- Reaffirm legislative support and willingness to terminate for cause or terminate for convenience.
- Insistence on early and complete resolution of all Project issues including change orders and claims.

Summary of Recommendations

The following is a summary of recommendations for changes outlined in this report which will be made by the City resulting from lessons learned from the Juanita Beach Project:

1. Revise purchasing policies to integrate Supplemental Bidder Responsibility Criteria into construction bid documents for certain capital projects. A formal staff recommendation will be presented to City Council later this year.

2. Revise purchasing policies to require separate payment and performance bonds from general contractors, which would give the City and subcontractors twice as much coverage and would not cost the Contractor any more to provide. A formal staff recommendation will be presented to City Council later this year.

3. Assign responsibility for Parks capital projects to the Public Works Department so as to maximize in-house expertise and take advantage of organizational efficiencies.

Attachment

Attachment D

State of Washington

Capital Projects Advisory Review Board
(CPARB)

Suggested Guidelines

for

Bidder Responsibility

Approved by CPARB

October 11, 2007

Revised January 10, 2008

Last Revised February 9, 2012

Attachment D

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Attachment D

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Attachment D

Introduction

In 2007, legislation was approved regarding responsible bidder criteria for public works projects, and is codified in RCW 39.04.010, 39.04.350, and 39.06.020.[1] The purpose of the law is to provide tools for public owners in the award of public works contracts that will help ensure that responsible contractors and subcontractors perform the work.

The legislation, effective July 22, 2007, addresses three major areas of bidder responsibility:

1. Bidder responsibility criteria (mandatory)

2. Supplemental bidder responsibility criteria (optional)

3. Subcontractor responsibility criteria (mandatory)

These Suggested Guidelines have been developed in response to the charge in RCW 39.04.350 (3) for CPARB to develop Suggested Guidelines to assist public agencies in developing and implementing the bidder responsibility statute.[2]

Note: These Suggested Guidelines are not legal advice. Public agencies with questions or issues related to the implementation of the bidder responsibility requirements should contact appropriate individuals, including but not limited to the agency's legal counsel, other management and technical personnel, or applicable governmental associations (i.e., Association of Washington Cities, Washington State Association of Counties, Washington Ports, etc.).

Training: As needed and resource permitting, CPARB, in conjunction with various industry stakeholders, may sponsor training for public agencies on the use of bidder responsibility criteria. Contact CPARB personnel as noted on CPARB's website (http://www.ga.wa.gov/CPARB/index.html) for more information.

[1] SHB 2010

[2] RCW 39.04.350 (3) requires that "The capital projects advisory review board created in RCW 39.10.800 shall develop suggested guidelines to assist the state and municipalities in developing supplemental bidder responsibility criteria. The guidelines must be posted on the board's web site." Note: RCW 39.10.800 was recodified as RCW 39.10.220.

Attachment D

Mandatory Requirements

Bidder Responsibility Criteria (mandatory)

Purpose and Goals: The 2007 Legislature defined the term "responsible bidder" for public works contracts by amending RCW 39.04.010 and creating a new section RCW 39.04.350. To be considered a responsible bidder, the bidder must have a certificate of registration as a contractor at the time of bid submittal; a current state unified business identifier number; and if applicable, industrial insurance coverage for the bidder's employees working in Washington, an Employment Security Department number, and a state excise tax registration number. In addition, the bidder must not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3). Most of these requirements existed prior to the enactment of RCW 39.04.350. Since the adoption of the bidder responsibility legislation in 2007, the Legislature has added additional mandatory bidder responsibility criteria pertaining to apprenticeship utilization and reporting on the use of out-of-state off-site prefabrication of non-standard, project specific items. The law requires that public owners verify these items prior to award of a public works contract, and requires contractors and subcontractors to verify these items prior to execution of a subcontract.

The Law: RCW 39.04.350 (1) states the following:

> (1) Before award of a public works contract, a bidder must meet the following responsibility criteria to be considered a responsible bidder and qualified to be awarded a public works project. The bidder must:
>
> (a) At the time of bid submittal, have a certificate of registration in compliance with chapter 18.27 RCW;
>
> (b) Have a current state unified business identifier number;
>
> (c) If applicable, have industrial insurance coverage for the bidder's employees working in Washington as required in Title 51 RCW; an employment security department number as required in Title 50 RCW; and a state excise tax registration number as required in Title 82 RCW;
> (d) Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).
>
> (e) If bidding on a public works project subject to the apprenticeship utilization requirements in RCW 39.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the date of the bid solicitation; and
>
> (f) Until December 31, 2013, not have violated RCW 39.04.370 more than one time as determined by the department of labor and industries.

Attachment D

Suggested Language for Bidding Documents: The following is suggested language for bidding documents addressing the requirements for mandatory bidder responsibility criteria:

Bidder Responsibility Criteria

A. It is the intent of Owner to award a contract to the low responsible bidder. Before award, the bidder must meet the following bidder responsibility criteria to be considered a responsible bidder. The bidder may be required by the Owner to submit documentation demonstrating compliance with the criteria. The bidder must:

1. Have a current certificate of registration as a contractor in compliance with chapter 18.27 RCW, which must have been in effect at the time of bid submittal;

2. Have a current Washington Unified Business Identifier (UBI) number;

3. If applicable:
   a. Have Industrial Insurance (workers' compensation) coverage for the bidder's employees working in Washington, as required in Title 51 RCW;

   b. Have a Washington Employment Security Department number, as required in Title 50 RCW;

   c. Have a Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;

4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).

5. Until December 31, 2013, not have violated more than one time the off-site, prefabricated, non-standard, project specific items reporting requirements of RCW 39.04.370.

6. For public works projects subject to the apprenticeship utilization requirements of RCW 3.0.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the first date of advertising for the project.

Documentation: It is advisable for audit purposes that Owners maintain documentation in their contract files demonstrating that the bidder met all of the bidder

responsibility criteria. With respect to maintaining documentation of a bidder's UBI number, such an action is required by the three statutes referenced in RCW 39.06.010 (2).

Subcontractor Responsibility Criteria (mandatory)

Purpose and Goals: RCW 39.06.020 requires that public works contractors and subcontractors verify that any subcontractors they directly hire meet the responsibility criteria for the project at the time of subcontract execution. In addition to verifying the bidder responsibility criteria (mandatory) discussed at the beginning of these Suggested Guidelines, the contractor or subcontractor must also verify that a subcontractor has an electrical contractor license or elevator contractor license, if required.

The Law: RCW 39.06.020 states the following:

> A public works contractor must verify responsibility criteria for each first tier subcontractor, and a subcontractor of any tier that hires other subcontractors must verify responsibility criteria for each of its subcontractors. Verification shall include that each subcontractor, at the time of subcontract execution, meets the responsibility criteria listed in RCW 39.04.350 (1) and possesses an electrical contractor license, if required by chapter 19.28 RCW, or an elevator contractor license, if required by chapter 70.87 RCW. This verification requirement, as well as the responsibility criteria, must be included in every public works contract and subcontract of every tier.

Suggested Language for Contracts: The following is suggested contract language for Owners to include in their public works contracts regarding subcontractor responsibility criteria:

Subcontractor Responsibility:

A. The Contractor shall include the language of this section in each of its first tier subcontracts, and shall require each of its subcontractors to include the same language of this section in each of their subcontracts, adjusting only as necessary the terms used for the contracting parties. Upon request of the Owner, the Contractor shall promptly provide documentation to the Owner demonstrating that the subcontractor meets the subcontractor responsibility criteria below. The requirements of this section apply to all subcontractors regardless of tier.

B. At the time of subcontract execution, the Contractor shall verify that each of its first tier subcontractors meets the following bidder responsibility criteria:

Attachment D

1. Have a current certificate of registration in compliance with chapter 18.27 RCW, which must have been in effect at the time of subcontract bid submittal;

2. Have a current Washington Unified Business Identifier (UBI) number;

3. If applicable, have:
    a. Have Industrial Insurance (workers' compensation) coverage for the subcontractor's employees working in Washington, as required in Title 51 RCW;

    b. A Washington Employment Security Department number, as required in Title 50 RCW;

    c. A Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;

    d. An electrical contractor license, if required by Chapter 19.28 RCW;

    e. An elevator contractor license, if required by Chapter 70.87 RCW.

4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065 (3).

5. Until December 31, 2013, not have violated more than one time the off-site, prefabricated, non-standard, project specific items reporting requirements of RCW 39.04.370.

6. For public works projects subject to the apprenticeship utilization requirements of RCW 3.0.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the first date of advertising for the project.

Attachment D

Optional Tools

Supplemental Bidder Responsibility Criteria (optional)

Purpose and Goals: In developing these Suggested Guidelines for Supplemental Bidder Responsibility Criteria, CPARB notes the following purposes and goals:

- RCW 39.04.350 (2) specifically authorizes public owners to develop Supplemental Bidder Responsibility Criteria applicable to particular projects. Public owners are *not required* to adopt Supplemental Bidder Responsibility Criteria. However, if a public owner chooses to adopt Supplemental Bidder Responsibility Criteria, the law provides statutory requirements that public owners and bidders must follow.

- These Suggested Guidelines are only suggestions to help provide a framework for public agencies. They are not requirements, except as the Suggested Guidelines specifically reference provisions of the law.

- Each public agency adopting Supplemental Bidder Responsibility Criteria is responsible for making its own decisions, consistent with the requirements of RCW 39.04.350 (2), as to what Supplemental Bidder Responsibility Criteria to include in bidding documents.

- To avoid challenges to a bidding process that includes Supplemental Bidder Responsibility Criteria, public agencies should make efforts to ensure that their use of supplemental criteria is deliberate, documented, and defensible, and that the criteria used are relevant to the project.

- In establishing Supplemental Bidder Responsibility Criteria, the competing interests of public agencies and contractors must be balanced. The public agency's interests to ensure that a responsible contractor builds the project must be weighed against the competing interest to ensure that the procurement encourages sufficient competition from the contracting community, without unduly restricting the pool of qualified bidders. Only when these two interests are balanced will the public obtain the work at the best price.

- It is not CPARB's intent that these Suggested Guidelines be used either by contractors or auditors to demonstrate that a public agency's establishment of Supplemental Bidder Responsibility Criteria is deficient for failure to follow these Suggested Guidelines.

- Adopting Supplemental Bidder Responsibility Criteria applicable to all projects is not recommended, unless a public agency utilizes some or all of the examples of generic Supplemental Bidder Responsibility Criteria found in Appendix A. Instead, Supplemental Bidder Responsibility Criteria should be carefully crafted for each project based on the specific constraints of each project.

Attachment D

The Law: RCW 39.04.350 (2) states the following:

> (2) In addition to the bidder responsibility criteria in subsection (1) of this section, the state or municipality may adopt relevant supplemental criteria for determining bidder responsibility applicable to a particular project which the bidder must meet.
>
> (a) Supplemental criteria for determining bidder responsibility, including the basis for evaluation and the deadline for appealing a determination that a bidder is not responsible, must be provided in the invitation to bid or bidding documents.
>
> (b) In a timely manner before the bid submittal deadline, a potential bidder may request that the state or municipality modify the supplemental criteria. The state or municipality must evaluate the information submitted by the potential bidder and respond before the bid submittal deadline. If the evaluation results in a change of the criteria, the state or municipality must issue an addendum to the bidding documents identifying the new criteria.
>
> (c) If the bidder fails to supply information requested concerning responsibility within the time and manner specified in the bid documents, the state or municipality may base its determination of responsibility upon any available information related to the supplemental criteria or may find the bidder not responsible.
>
> (d) If the state or municipality determines a bidder to be not responsible, the state or municipality must provide, in writing, the reasons for the determination. The bidder may appeal the determination within the time period specified in the bidding documents by presenting additional information to the state or municipality. The state or municipality must consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the state or municipality may not execute a contract with any other bidder until two business days after the bidder determined to be not responsible has received the final determination.

Definition: Supplemental Bidder Responsibility Criteria describe the relevant experience, training, and/or certification requirements or qualifications that must be met by the low bidder. Criteria may also include experience and other qualifications of the bidder's subcontractors, suppliers, or employees who will be performing specific work on the project.[3] An Owner must make its determination of whether the bidder with the

[3] Supplemental Bidder Responsibility Criteria are included in bidding documents and are different from pre-qualification. In pre-qualification, bids are only accepted from bidders whose qualifications have been

low responsive bid meets the Supplemental Bidder Responsibility Criteria and is a responsible bidder before award of the contract. Refer to Appendix A for examples of Supplemental Bidder Responsibility Criteria that an Owner may choose to utilize. Refer to Appendix B for examples of language from actual bidding documents of various Owners.

Adequate Competition: Supplemental Bidder Responsibility Criteria should not be written in such a way as to unduly restrict the pool of available qualified bidders. As part of the process of developing the criteria, Owners should have an understanding of how many potential bidders would meet or exceed the criteria. Such an understanding may be developed through discussions with other Owners, with consultants, or by contacting others involved in the construction industry If a consultant to the Owner develops the draft criteria, it is important for the Owner to still have an understanding of how many potential bidders meet the criteria.

Changing Criteria During Bidding Period: To ensure that potential bidders are aware of the Supplemental Bidder Responsibility Criteria, an Owner may want to highlight the existence of the criteria in the public advertisement. During the bidding period, a potential bidder who believes that the Supplemental Bidder Responsibility Criteria will exclude them from bidding may request the Owner to consider modifying the criteria. The Owner shall evaluate any such requests, and if a decision is made by the Owner to modify the criteria, such modification shall be communicated to all bidders and plan holders via the issuance of an addendum to the bidding documents.[4] Likewise, in the event the Owner determines not to modify the criteria, the Owner is encouraged to notify the requesting bidder of its decision. In the interest of maintaining transparency in the bidding process, it is considered a good practice to describe (in the bidding documents) the process and right of potential bidders to request that the Supplemental Bidder Responsibility Criteria be modified.

The following is suggested contract language for Owners to include in public works bidding documents which advises bidders of their right to question and request changes to the Supplemental Bidder Responsibility Criteria during the bidding period:

> Request to Change Criteria During Bidding: Bidders with concerns about the relevancy or restrictiveness of the Supplemental Bidder Responsibility Criteria required in these bidding documents may make or submit requests to the Owner to modify the criteria. Such requests shall be in writing, describe the nature of the concerns, and propose specific modifications to the criteria that will make the criteria more relevant and/or less restrictive of competition. Bidders should submit such requests to the Owner no later than ___ business days prior to the bid submittal deadline and address the request to _____.

Owners are encouraged to identify in the bidding documents (see blank in paragraph

evaluated ahead of time as meeting certain criteria. With Supplemental Bidder Responsibility Criteria, the evaluation of whether a bidder meets the criteria is determined after bid submittal.

[4] RCW 39.04.350 (2) (b)

above) the name of a person in a higher level position in the Owner's organization, and not simply list the specification writer or project manager.

Collecting Documentation: After bid opening[5] and within the time period specified in the bidding documents, the low bidder must submit to the Owner the documentation required by the bidding documents for evaluation by the Owner on whether the bidder meets the Supplemental Bidder Responsibility Criteria and is a responsible bidder.[6]

In the interests of meeting a project's schedule, an Owner may request that the next lowest bidder(s) also submit the documentation.

Bidder Fails to Submit Documentation: If a bidder does not submit the documentation required by the bidding documents to demonstrate compliance with the Supplemental Bidder Responsibility Criteria within the time period specified in the bidding documents, the Owner may:

- Find the bidder not responsible, or

- Find the bidder responsible based upon any available information that demonstrates that the bidder meets the Supplemental Bidder Responsibility Criteria. The Owner should be prepared to justify this decision to other bidders upon request.

Evaluating Bidder Responsibility: The Owner evaluates the documentation submitted by the low bidder to determine if the bidder meets the Supplemental Bidder Responsibility Criteria. Determination of bidder responsibility by the Owner must be made prior to award of the contract. If, in the interest of meeting the project's schedule, the Owner has requested other bidders to submit documentation, they should be evaluated in the same manner as the low bidder. Evaluation of bidder responsibility is not to determine whether one bidder has better qualifications than another. The test is whether the low bidder meets the Supplemental Bidder Responsibility Criteria or not. If not, then the second low bidder's documentation is evaluated to determine if they are responsible. Evaluation of multiple bidders may occur concurrently.

Reference Checks: The Owner may conduct reference checks for the bidder whose bid is under consideration for award. In the event that information obtained from the reference checks:

- Reveals that the bidder does not meet the Supplemental Bidder Responsibility Criteria; or

- Indicates concerns about the bidder's performance on projects identified as

[5] While an Owner "may" request such documentation to be submitted with the bid, this is not recommended as it can lead to a non-responsive bid if the bidder fails to submit the documentation. In addition, requiring such documentation with the bid takes away from the focus of the bidder on submitting a competitive bid, and requires all bidders to submit the documentation.

[6] A bidder must meet not only any Supplemental Bidder Responsibility Criteria in order to be determined to be responsible, but must also meet the mandatory bidder responsibility criteria.

meeting the Supplemental Bidder Responsibility Criteria, which may include, but not be limited to the quality of construction, the bidder's management of subcontractors, timeliness of required submittals, and safety record on the project; or

- Indicates other concerns about the bidder's ability to successfully perform the work,

the Owner may determine that the bidder is not a responsible bidder. Prior to making such a determination that a bidder is not responsible based on information received through reference checks, the Owner is encouraged to discuss with the bidder the information obtained from the references, and provide the bidder with the opportunity to offer explanations that may help inform whether the Owner declares the bidder not responsible.

In conducting reference checks, the Owner may include itself as a reference if the bidder has performed work for the Owner, even if the bidder did not identify the Owner as a reference.

If the Owner determines the bidder is not a responsible bidder, subject to following the requirements of the appeal process (see below) [7], the Owner may award the contract to the next lowest bidder who meets the Supplemental Bidder Responsibility Criteria and whose reference checks validate the ability of the bidder to successfully perform the work. The Owner is encouraged to use the same process in checking references for any bidders other than the low bidder.

Optional Remedy Period: If the Owner determines that the bidder does not meet one or more of the Supplemental Bidder Responsibility Criteria based on its evaluation of the documentation submitted by the bidder and reference checks conducted, the Owner may provide the bidder with the opportunity to submit different or additional information in an effort to be deemed responsible. For example, this may involve the bidder proposing a different subcontractor if the originally proposed subcontractor did not meet the criteria,[8] or proposing a different superintendent who meets the Supplemental Bidder Responsibility Criteria.

Appeal Process: If an Owner determines that a bidder does not meet the Supplemental Bidder Responsibility Criteria, it shall provide in writing to the bidder the reasons for determining that the bidder is not a responsible bidder. The bidder may appeal such a determination within the appeal period specified in the bidding documents and submit additional supporting documentation with its appeal. The Owner must consider such an appeal and additional information. After review, if the Owner determines that the bidder is still not a responsible bidder, the Owner shall issue in writing its final determination. The Owner shall not execute a contract to another bidder

[7] Subject to complying with the requirements of RCW 39.04.350 (d) regarding the appeal process for bidders determined to not be responsible bidders.

[8] If the subcontractor to be substituted was listed on a subcontractors list required by RCW 39.30.060, the requirements of that law would apply with respect to any cause of action that the substituted subcontractor may wish to pursue against the bidder.

until two (2) business days after the bidder receives the Owner's final determination that the bidder is not a responsible bidder.[9]

Impact on Project Schedule: Owners should be aware that development and evaluation of Supplemental Bidder Responsibility Criteria may add additional time to the project schedule. This may occur due to a variety of reasons, including but not limited to the time required to address the following:

- Develop the criteria;
- Evaluate the bidder's documentation;
- Consider an appeal from a bidder determined not to be responsible;
- Deal with a protest from another bidder that the low bidder under consideration does not comply with the Supplemental Bidder Responsibility Criteria.
- Check references supplied by the bidder to validate information provided.

Elements of Supplemental Bidder Responsibility Criteria: The following are suggested elements for Owners to consider in developing and implementing Supplemental Bidder Responsibility Criteria. These elements may help to reduce the risk for protests and legal challenges:

A. Relevancy of Criteria: RCW 39.04.350 (2) requires that Supplemental Bidder Responsibility Criteria be "relevant" to the project.

There should be a clear relationship between the Owner's concerns about obtaining a qualified contractor and the specific Supplemental Bidder Responsibility Criteria. The Owner should be deliberate and logical in developing Supplemental Bidder Responsibility Criteria, and be able to demonstrate, upon request, the rationale of why a particular criterion is appropriate and what methodology was used in establishing the requirements. For example, why is it important and necessary that the bidder have completed 5 projects installing a 48" watermain instead of only 4 projects with a 36" watermain?

B. Risk Management:

- Based on the particular project, what areas pose significant risks to timely completion of the project? What experience or other factors can help in managing or mitigating those risks?

- Can the risks of the project be managed without using Supplemental Bidder Responsibility Criteria, and relying instead on ensuring that the contractor awarded the project meets the performance standards of the specifications?

C. Clarity of Criteria: The Supplemental Bidder Responsibility Criteria should be clear and specific (e.g. "5 projects, each over $500,000, each completed in the last 3 years, installing for each project at least 2,000 feet of 48" ductile iron

[9] RCW 39.04.350 (2) (d)

watermain pipe.") It is recommended that Owners not use general language such as: "ability and capability to install watermain pipe," since such a criterion is not clear about the expectations of what requirements must be met.

Information Required in Bidding Documents: According to RCW 39.04.350 (2), Owners using Supplemental Bidder Responsibility Criteria must include the following information in their bidding documents:

A. Criteria: Supplemental Bidder Responsibility Criteria. The criteria should be developed separately for each project, dependent upon the particular needs and features of the project.

B. Evaluation: The basis for evaluating whether a bidder meets the criteria. The bidding documents should describe the specific documentation that must be submitted by the low bidder and that the Owner will use to evaluate whether the bidder meets the Supplemental Bidder Responsibility Criteria. There should be a one-to-one relationship between the criteria and the documentation that must be submitted by the low bidder to demonstrate that they meet the criteria specified. The role of reference checks in determining bidder responsibility should also be described.

C. Deadline for Submitting Documentation: The period of time after the bid submittal deadline that the low bidder has to submit documentation demonstrating compliance with the Supplemental Bidder Responsibility Criteria.

D. Appeal Deadline: The deadline for a bidder to appeal a determination that they are not a responsible bidder.

Suggested Language for Bidding Documents: The following is suggested language and a structure that a public agency may decide to use in its bidding documents regarding Supplemental Bidder Responsibility Criteria. The actual criteria would still need to be developed on a project-by-project basis. There is no one structure that works in all situations, however, and thus the wording related to the actual criteria and documentation to be submitted for each project must be adapted to meet the specific needs of a project.

Supplemental Bidder Responsibility Criteria

B. Criteria: In addition to the bidder responsibility criteria above,[10] the bidder must also meet the following relevant supplemental bidder responsibility criteria applicable to the project:

1.

[10] This section is intended to follow the language describing the mandatory bidder responsibility criteria, explained earlier in these Suggested Guidelines. If no Supplemental Bidder Responsibility Criteria are used, the mandatory bidder responsibility criteria should still be described in the bidding documents.

2.

3.

C. Documentation: As evidence that the bidder meets the bidder responsibility criteria in paragraph B above, the apparent low bidder must submit the following documentation to the Owner within 48 hours[11] of the bid submittal deadline. The Owner reserves the right to request such documentation from other bidders also.

1.

2.

3.

D. Appeals: If the Owner determines the bidder does not meet the bidder responsibility criteria in paragraph B above and is therefore not a responsible bidder, the Owner shall notify the bidder in writing with the reasons for its determination. If the bidder disagrees with this determination, it may appeal the determination within 24 hours[12] of receipt of the Owner's determination by presenting additional information to the Owner. The Owner will consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the Owner will not execute a contract with any other bidder until two business days[13] after the bidder determined to be not responsible has received the final determination.

Developing Criteria (Item B above): The following may help Owners in thinking through some of the issues involved in developing Supplemental Bidder Responsibility Criteria:

- Who do the criteria apply to: contractor, subcontractor, field superintendent, project manager, etc.? Be specific. Think through the difference between a requirement for a company versus a person, and what is most important. For example, is it important that the company have certain experience even if it doesn't currently have employees with the specific knowledge and experience desired? Likewise, if a company hasn't done this type of work before, but they have hired personnel with the necessary experience, is this acceptable?

- Describe the specific experience the bidder must have: how many years,

[11] The time deadline indicated here for the bidder to submit documentation indicating compliance with the criteria may be adjusted by the Owner, adopting either a standard for all projects or changing it on a project-by-project basis.

[12] The time deadline for a bidder to appeal a determination that they are not responsible, as indicated here, may be modified by the Owner, adopting either a standard for all projects or changing it on a project-by-project basis.

[13] This two day period of time may not be reduced. It is required in RCW 39.04.350 (d).

doing what type of work, what certifications must they or workers have, how recent must the experience be, etc.

- Language must be clear and specific. Do not use undefined terms such as "recent experience" or "similar work."

- An Owner may develop Supplemental Bidder Responsibility Criteria that are relevant to and applied to all projects.

- Owners are encouraged to discuss proposed Supplemental Bidder Responsibility Criteria with other Owners, with consultants, and with others involved in the construction industry in order to help gauge the reasonableness of the criteria and how many bidders would meet the criteria.

- The most challenging, but also, in many instances, the most pertinent of Supplemental Bidder Responsibility Criteria relates to assessing the Bidder's qualifications by questioning the Bidder's "Completion of Similar Projects." The key to writing, fair and relevant Supplemental Bidder Responsibility Criteria involving completion of similar projects is "balance." The interests of the public agency of having a qualified contractor build the project should be weighed against ensuring sufficient competition to protect the taxpaying public. The public agency's interest is to ensure that the contractor selected the build the project has adequate experience such that the project is performed safely, and completed in a timely manner and within budget. That expectation must be balanced against the taxpaying public's interest in ensuring that the responsibility criteria are such that they foster competition. This challenge is difficult to describe in guidelines.

Developing List of Documentation to be Submitted (Item C above):

- It is recommended that there be a one-to-one correspondence between the Supplemental Bidder Responsibility Criteria and the documentation requested. Thus, if the specification requires "5 projects each over $500,000, each completed in the last 3 years, installing for each project at least 2,000 feet of 48" ductile iron watermain pipe," the Owner should ask the bidder to list information about each of these facets of the projects. In addition, the Owner would not want to ask the bidder to document things not included in the Supplemental Bidder Responsibility Criteria.

    - For example, the documentation portion should request the bidder to list the 5 projects, the contract amount, the date of completion of each project, the diameter of the watermain for each project, and the length of the watermain pipe for each project. The Owner may also request more specific project information, such as the name of the owner or contractor, a contact person and telephone number so that the Owner can verify the information. As an example, the Owner should not, however, require the bidder to document whether the watermain installation involved an excavation of a certain depth, unless the

specification stated this as part of the Supplemental Bidder Responsibility Criteria.

- The documentation to be submitted should be clear and specific.

- The Owner may choose to develop and provide a form to the bidder for collecting the documentation necessary to demonstrate compliance with the Supplemental Bidder Responsibility Criteria. Such a form may help ensure that the bidder submits clear information addressing each of the issues in the Supplemental Bidder Responsibility Criteria.

- If the Supplemental Bidder Responsibility Criteria language requires specific qualifications or experience for certain personnel who will be involved with the project, it may be appropriate for the Owner to request a copy of resumes or certifications, as applicable, to document the specific requirements.

Example of Structure for Criteria and Documentation: The following provides an example of one potential structure for Supplemental Bidder Responsibility Criteria. The example includes details of both criteria and documentation that a public agency may choose use or adapt for a specific project:

A. Criterion: The Bidder shall have successfully completed projects of a similar size and scope as required by the contract documents for this project. In evaluating whether the projects were "successfully completed," the Owner may check owner references for the previous projects and may evaluate the owner's assessment of the Bidder performance, including but not limited to the following areas:

   - Quality of project and quality control;
   - Management of safety and safety record;
   - Timeliness of performance;
   - Use of skilled personnel;
   - Management of subcontractors;
   - Availability of and use of appropriate equipment;
   - Compliance with contract documents;
   - Management of schedule, submittals process, change orders, and close-out.

B. Documentation: The Bidder shall submit a list of projects of similar size and scope to this project. For the purposes of meeting this criterion, the Owner has determined that "similar size and scope to this project" means projects that have the following characteristics:_____[Note to Owner: Include a detailed description of the important features of this project that must be met by the Bidder.] The information about each project shall include the following:

- Owner's name and contact information for the owner's representative;
- Awarded contract amount;
- Final contract amount;
- A description of the scope of the project and how the project is similar to this project;
- The Bidder's assessment of its performance of each project, including but not limited to the following:

  - Quality of project and quality control;
  - Management of safety and safety record;
  - Timeliness of performance;
  - Use of skilled personnel;
  - Management of subcontractors;
  - Availability of and use of appropriate equipment;
  - Compliance with contract documents;
  - Management of schedule, submittals process, and change orders, and close-out.

Standards for Declaring a Bidder Responsible: There are two basic options available to public agencies in making a determination whether a bidder is responsible and meets the Supplemental Bidder Responsibility Criteria.

1. Meet All the Criteria: Under this option, also known as the "pass/fail" option, a bidder must meet all of the Supplemental Bidder Responsibility Criteria established by the public agency. If a bidder doesn't meet each element of the criteria, they would be declared not responsible by the public agency, and the public agency would then evaluate the responsibility of the second low bidder.

2. Substantially Meet the Criteria: Under this option, also known as the "discretionary" option, a bidder must substantially meet the Supplemental Bidder Responsibility Criteria established by the public agency. If the bidder does not meet each element of the criteria, the public agency may, nevertheless, exercise its discretion and declare the bidder responsible if the agency is confident that the bidder is capable of successfully performing the project.

Checklist for Developing Supplemental Bidder Responsibility Criteria: It is recommended that Owners review and complete the Checklist for Developing Supplemental Bidder Responsibility for each project on which the criteria are applied. The Checklist is available in Appendix F of these Guidelines or may be accessed at www.mpurdy.com/resources.

Appendix A

OPTIONAL TOOLS

Examples of Supplemental Bidder Responsibility Criteria

The use of Supplemental Bidder Responsibility Criteria by Owners is optional. The criteria may be either tailored to a specific project or may apply more generally to all projects. In either event, the criteria must be relevant to the project.

In reviewing the examples of Supplemental Bidder Responsibility Criteria listed below, Owners should:

- Be aware that some of the criteria may not be applicable to all projects.
- Make appropriate changes in the criteria to fit the Owner's objectives, which may include modifying the number of years identified in some of the criteria.

The following are examples of Supplemental Bidder Responsibility Criteria that an Owner may decide to use on some or all of its projects. If Supplemental Bidder Responsibility Criteria are utilized, they must be incorporated into the bidding documents. The examples below also suggest the documentation that must be produced by the Bidder in order to demonstrate compliance with the criteria.

1. **Delinquent State Taxes**

   A. Criterion: The Bidder shall not owe delinquent taxes to the Washington State Department of Revenue without a payment plan approved by the Department of Revenue.

   B. Documentation: The Bidder shall not be listed on the Washington State Department of Revenue's "Delinquent Taxpayer List" website: http://dor.wa.gov/content/fileandpaytaxes/latefiling/dtlwest.aspx, unless accompanied by a written payment plan approved by the Department of Revenue.

2. **Federal Debarment**

   A. Criterion: The Bidder shall not currently be debarred or suspended by the Federal government.

   B. Documentation: The Bidder shall not be listed as a current debarred or suspended bidder on the U.S. General Services Administration's "Excluded Parties List System" website: http://www.epls.gov/.

3. **MWBE Participation on Federally Funded Projects**

A. Criterion: The Bidder shall have complied with MWBE, DBE, or HUBZone utilization requirements or goals on federally funded public works projects with such requirements, completed by the Bidder within three years of the bid submittal date for this project, unless there are extenuating circumstances acceptable to the Owner.

B. Documentation: For each federally funded public works project with requirements for utilization of Minority and Women's Business Enterprises (MWBE), Disadvantaged Business Enterprises (DBEs), or Historically Underutilized Businesses (HUBZone) that was completed by the Bidder within three years of the bid submittal date for this project, the Bidder shall submit the following:

- A list of such projects;
- The owner and contact information for the owner's representative;
- A description of the goal for the project;
- The actual of utilization of such businesses by the Bidder;
- If the Bidder failed to meet the contracts' utilization goal, an explanation of any extenuating circumstances that contributed to the Bidder not meeting the goals.

The Owner may contact previous owners to validate the information provided by the Bidder, and shall consider whether the goals were mandatory or voluntary, and the validity of any explanation of extenuating circumstances.

4. **Apprenticeship**[14]

A. Criterion: The Bidder shall have complied with apprenticeship utilization goals on public works projects with such requirements, that were completed by the Bidder within three years of the bid submittal date for this project, unless there are extenuating circumstances acceptable to the Owner.

B. Documentation: For each public works project with an apprenticeship utilization goal that was completed by the Bidder within three years of the bid submittal date for this project, the Bidder shall submit the following:

- A list of such projects;
- The owner and contact information for the owner's representative;

[14] This suggested criterion may be used by public agencies not subject to the requirements of RCW 39.04.320 that imposes mandatory apprenticeship utilization requirements and mandatory bidder responsibility criteria on certain projects. The agencies affected by RCW 39.04.320 include the following: State Department of Transportation (WSDOT), State Department of Enterprise Services (DES), all institutions of higher education, all school districts.

- The apprenticeship utilization percentage goal for the project;
- The actual percentage of utilization by the Bidder;
- An explanation of any extenuating circumstances that contributed to the Bidder not meeting the goals.

The Owner may contact previous owners to validate the information provided by the Bidder, and shall consider whether the goals were mandatory or voluntary, and the validity of any explanation of extenuating circumstances.

5. **Public Bidding Crime**

A. Criterion: The Bidder and its owners shall not have been convicted of a crime involving bidding on a public works contract within five years from the bid submittal deadline.

B. Documentation: The Bidder shall sign a statement (on a form to be provided by the Owner) that the Bidder and owners have not been convicted of a crime involving bidding on a public works contract. The Owner may also use independent sources of information to demonstrate whether the Bidder is in compliance with this criterion.

6. **Subcontractor Responsibility**

A. Criterion: The Bidder's standard subcontract form shall include the subcontractor responsibility language required by RCW 39.06.020, and the Bidder shall have an established procedure which it utilizes to validate the responsibility of each of its subcontractors. The Bidder's subcontract form shall also include a requirement that each of its subcontractors shall have and document a similar procedure to determine whether the sub-tier subcontractors with whom it contracts are also "responsible" subcontractors as defined by RCW 39.06.020.

B. Documentation: The Bidder shall submit a copy of its standard subcontract form for review by the Owner, and a written description of its procedure for validating the responsibility of subcontractors with which it contracts.

7. **Claims Against Retainage and Bonds**

A. Criterion: The Bidder shall not have a record of excessive claims filed against the retainage or payment bonds for public works projects during the previous three years, that demonstrate a lack of effective management by the Bidder of making timely and appropriate payments to its subcontractors, suppliers, and workers, unless there are extenuating circumstances and such circumstances are deemed acceptable to the Owner.

B. Documentation: The Bidder shall submit a list of the public works projects completed within the previous three years and include for each project the following information:

- The owner and contact information for the owner;
- A list of claims filed against the retainage and/or payment bond for any of the projects listed;
- A written explanation of the circumstances surrounding each claim and the ultimate resolution of the claim.

The Owner may contact previous owners to validate the information provided by the Bidder.

8. **Termination for Cause / Termination for Default**

A. Criterion: The Bidder shall not have had any public works contract terminated for cause or terminated for default by a government agency during the five year period immediately preceding the bid submittal deadline for this project, unless there are extenuating circumstances and such circumstances are deemed acceptable to the Owner.

B. Documentation: The Bidder shall sign a statement (on a form to be provided by the Owner) that the Bidder has not had any public works contract terminated for cause by a government agency during the five year period immediately preceding the bid submittal deadline for this project. The Owner may also use independent sources of information to demonstrate whether the Bidder is in compliance with this criterion.

9. Lawsuits

A. Criterion: The Bidder shall not have lawsuits with judgments entered against the Bidder within five years of the bid submittal date that demonstrate a pattern of failing to meet the terms of contracts, unless there are extenuating circumstances and such circumstances are deemed acceptable to the Owner.

B. Documentation: The Bidder shall submit a list of lawsuits with judgments entered against the Bidder within five years of the bid submittal date, along with a written explanation of the circumstances surrounding each such lawsuit. The Owner shall evaluate these explanations to determine whether the lawsuits demonstrate a pattern of failing to meet of terms of construction related contracts. The Owner may also evaluate lawsuits within the time period specified that are not reported by the Bidder.

10. Prevailing Wages

A. Criterion: The Bidder shall not have a record of prevailing wage complaints filed against it within five years of the bid submittal date that demonstrates a pattern of failing to pay workers prevailing wages, unless there are

extenuating circumstances and such circumstances are deemed acceptable to the Owner.

B. Documentation: The Bidder shall submit a list of prevailing wage complaints filed against it within five years of the bid submittal date along with an explanation of each complaint and how it was resolved. The Owner shall evaluate these explanations and the resolution of each complaint to determine whether the complaints demonstrate a pattern of failing to pay its workers prevailing wages as required. The Owner may also evaluate complaints filed within the time period specified that were not reported by the Bidder.

Appendix B

OPTIONAL TOOLS

Sample Supplemental Bidder Responsibility Criteria Language from Actual Projects

Explanation of Samples: The following are ***samples only*** of Supplemental Bidder Responsibility Criteria that different public agencies have used on specific projects of varying size and complexity. The samples are included solely as examples of what other agencies have used. Some of the samples show both an early draft of the Supplemental Bidder Responsibility Criteria, and how it was edited to be more relevant, specific, and less restrictive of competition.

Each of these samples was developed for the unique circumstances of a particular project. No representation is made that these samples are specifically applicable to any other agency's projects. Because each public works project is different, the project specific Supplemental Bidder Responsibility Criteria should be different for each project. Some of the samples provide a better structure than others and public agencies should not interpret the samples below as an endorsement of any of the samples.

Sample 1:

University of Washington: During the year 2000 or more recently, the Bidder shall have successfully completed at least one project with a construction cost of at least $750,000, in a licensed acute care hospital that remained in operation during the construction period, and that included work adjacent to an occupied patient care area ("adjacent" means immediately adjacent to the work, or on the floor below or above the work). This project must have included the installation of complex diagnostic imaging or radiation therapy equipment (for example: MRI, Angiography Bi-Plane, Linear Accelerator, Gamma Knife, CT Scanner) by the owner's equipment vendor.

Sample 2:

University of Washington

Early Version of Criteria	*Edited Version of Criteria*
Contractor must have worked at least one project involving medium voltage cable and terminations at the University of Washington within the last 5 years.	The Contractor must have performed work stringing and terminating medium voltage cables (at least 601 volts) on at least one project in which the electrical work a.) was substantially complete in the year 2003 or later, and b.) had a contract cost of at least $250,000.

Attachment D

Early Version of Documentation	*Edited Version of Documentation*
Documentation that Contractor worked at least one project involving medium voltage cable and terminations at University of Washington within the last 5 years.	The Contractor shall submit the following information about the project being submitted in compliance with the supplemental bidder responsibility criteria: name of the project, location of the project, description of the scope of work performed by the Contractor, the voltage of the cables worked on, name and contract information of the owner and engineer/designer, date of substantial completion of the electrical work, total contract cost of the electrical portion of the project.

Samples Not to Use:

Inappropriate Criteria	*Criticism of Criteria*
The Bidder must have the ability, capacity and skill to perform the Contract or provide the services for work required	This statement is not really a criterion as there are no specific standards or details describing the required qualifications of the Bidder's ability, capacity, and skill. This "criteria" is too broad and arbitrary, and should not be used.
The Bidder must have the character, integrity, reputation, judgment, experience, and efficiency to perform the work in a desirable manner.	This statement is not really a criterion as there are no specific standards or details describing how the Bidder's character, reputation, judgment, experience and efficiency will be evaluated. This "criteria" is too broad and arbitrary, and should not be used. "Experience" may be used as part of Supplemental Bidder Responsibility Criteria, but must include details. See the Guidelines (page ___) section titled "Example of Structure for Criteria and Documentation."
The Bidder must be able to perform the contract within the time specified.	This statement is not really a criterion, but only a statement of expectations, and should not be used. A contractor awarded a public works project must meet all of the conditions of the contract documents including the time of performance.

Attachment D

Samples Not to Use:

Inappropriate Criteria	*Criticism of Criteria*
A Bidder may be deemed not responsible and its bid rejected if the Bidder, in the opinion of the Owner, is not qualified for the work of the bid.	This statement is not really a criterion. The purpose of Supplemental Bidder Responsibility Criteria is to define the Owner's specific expectations and standards for what a bidder must do to be qualified to perform the work. The basis of rejection is too broad and arbitrary, and this "criterion" should not be used.
A Bidder may be deemed not responsible and its bid rejected if an unsatisfactory performance record exists based on past or current Owner work or work done for others, as judged from the standpoint of the work, workmanship, progress, affirmative action, equal employment opportunity practices, or disadvantaged business enterprise, minority business enterprise, or women's business enterprise utilization.	This criterion is too broad and arbitrary and lacks a definition of the Owner's specific expectations and standards of the bidder's past performance. This criterion should not be used.
A Bidder may be deemed not responsible and its bid rejected if the Owner defines the Bidder as not responsible.	This criterion is too broad and arbitrary. It lacks any definition of the Owner's expectations and standards. Bidders will be unable to determine the basis of how the Owner will make its responsibility determination. Thus, it is impossible for a bidder to know, prior to submitting a bid, whether they are likely to be deemed responsible or not.

Additional samples from other public agencies will be added to these Suggested Guidelines in the future.

Attachment D

Appendix C

SUGGESTED BIDDER RESPONSIBILITY CRITERIA LANGUAGE FOR BIDDING DOCUMENTS

Mandatory Bidder Responsibility Criteria

A. It is the intent of Owner to award a contract to the low responsible bidder. Before award, the bidder must meet the following bidder responsibility criteria to be considered a responsible bidder. The bidder may be required by the Owner to submit documentation demonstrating compliance with the criteria. The bidder must:

1. Have a current certificate of registration as a contractor in compliance with chapter 18.27 RCW, which must have been in effect at the time of bid submittal;

2. Have a current Washington Unified Business Identifier (UBI) number;

3. If applicable:
    a. Have Industrial Insurance (workers' compensation) coverage for the bidder's employees working in Washington, as required in Title 51 RCW;

    b. Have a Washington Employment Security Department number, as required in Title 50 RCW;

    c. Have a Washington Department of Revenue state excise tax registration number, as required in Title 82 RCW;

4. Not be disqualified from bidding on any public works contract under RCW 39.06.010 or 39.12.065(3).

5. Until December 31, 2013, not have violated more than one time the off-site, prefabricated, non-standard, project specific items reporting requirements of RCW 39.04.370.

6. For public works projects subject to the apprenticeship utilization requirements of RCW 3.0.04.320, not have been found out of compliance by the Washington state apprenticeship and training council for working apprentices out of ratio, without appropriate supervision, or outside their approved work processes as outlined in their standards of apprenticeship under chapter 49.04 RCW for the one-year period immediately preceding the first date of advertising for the project.

Attachment D

Supplemental Bidder Responsibility Criteria

B. Criteria: In addition to the bidder responsibility criteria above, the bidder must also meet the following relevant supplemental bidder responsibility criteria applicable to the project:

1.

2.

3.

C. Documentation: As evidence that the bidder meets the bidder responsibility criteria in paragraph B above, the apparent low bidder submitting a responsive bid must submit the following documentation to the Owner within 48 hours[15] of the bid submittal deadline . The Owner reserves the right to request such documentation from other bidders also.

1.

2.

3.

D. Appeal: If the Owner determines the bidder does not meet the bidder responsibility criteria in paragraph B above and is therefore not a responsible bidder, the Owner shall notify the bidder in writing with the reasons for its determination. If the bidder disagrees with this determination, it may appeal the determination within 24 hours[16] of receipt of the Owner's determination by presenting additional information to the Owner. The Owner will consider the additional information before issuing its final determination. If the final determination affirms that the bidder is not responsible, the Owner will not execute a contract with any other bidder until two business days[17] after the bidder determined to be not responsible has received the final determination.

E. Request to Change Criteria During Bidding: Bidders with concerns about the relevancy or restrictiveness of the Supplemental Bidder Responsibility Criteria required in these bidding documents may make or submit requests to the Owner to modify the criteria. Such requests should be in writing, describe the nature of the concerns, and propose specific modifications to the criteria that will make the criteria more relevant and/or less restrictive of competition. Bidders should

[15] The time deadline indicated here for the bidder to submit documentation indicating compliance with the criteria may be adjusted by the Owner, adopting either a standard for all projects or changing it on a project-by-project basis.

[16] The time deadline for a bidder to appeal a determination that they are not responsible, as indicated here, may be modified by the Owner, adopting either a standard for all projects or changing it on a project-by-project basis.

[17] This two day period of time may not be reduced. It is required in RCW 39.04.350 (d).

submit such requests to the Owner in a timely manner prior to the bid submittal deadline and address the request to _____.

Appendix D

FOR OWNERS

Mandatory Bidder Responsibility Checklist

The following checklist may be used by Owners in documenting that a Bidder meets the mandatory bidder responsibility criteria. It is suggested that Owners print a copy of documentation from the appropriate website to include with this checklist in the contract file.

General Information	
Project Name:	Project Number:
Bidder's Business Name:	Bid Submittal Deadline:
Contractor Registration – https://fortress.wa.gov/lni/bbip/	
License Number:	Status: Active: Yes ☐ No ☐
Effective Date (must be effective on or before Bid Submittal Deadline):	Expiration Date:
Current UBI Number – http://dor.wa.gov/content/doingbusiness/registermybusiness/brd/	
UBI Number:	Account Closed: Open ☐ Closed ☐
Industrial Insurance Coverage – https://fortress.wa.gov/lni/crpsi/MainMenu.aspx	
Account Number:	Account Current: Yes ☐ No ☐
Employment Security Department Number –	
Employment Security Department Number:	
• Has Bidder provided account number on the Bid Form? Yes ☐ No ☐ • And/or have you asked the Bidder for documentation from Employment Security Department on account number? Yes ☐ No ☐	
State Excise Tax Registration Number – http://dor.wa.gov/content/doingbusiness/registermybusiness/brd/	
Tax Registration Number:	Account Closed: Open ☐ Closed ☐
Not Disqualified from Bidding – http://www.lni.wa.gov/TradesLicensing/PrevWage/AwardingAgencies/DebarredContractors/default.asp	
Is the Bidder listed on the "Contractors Not Allowed to Bid" list of the Department of Labor and Industries? Yes ☐ No ☐	
Checked by:	
Name of Employee:	Date:

Appendix E

FOR CONTRACTORS AND SUBCONTRACTORS

Subcontractor Responsibility Checklist

The following checklist may be used by Contractors and Subcontractors in documenting that a subcontractor of any tier meets the subcontractor responsibility criteria. It is suggested that Contractors and Subcontractors print a copy of documentation from the appropriate website to include with this checklist in their contract file.

General Information	
Project Name:	Project Number:
Subcontractor's Business Name:	Subcontract Execution Date:
Contractor Registration – https://fortress.wa.gov/lni/bbip/	
License Number:	Status: Active: Yes ☐ No ☐
Effective Date (must be effective on or before Subcontract Bid Submittal Deadline):	Expiration Date:
Current UBI Number – http://dor.wa.gov/content/doingbusiness/registermybusiness/brd/	
UBI Number:	Account Closed: Open ☐ Closed ☐
Industrial Insurance Coverage – https://fortress.wa.gov/lni/crpsi/MainMenu.aspx	
Account Number:	Account Current: Yes ☐ No ☐
Employment Security Department Number –	
Employment Security Department Number:	
• Has Subcontractor provided account number on the Bid Form? Yes ☐ No ☐ • And/or have you asked the Subcontractor for documentation from Employment Security Department on account number? Yes ☐ No ☐	
State Excise Tax Registration Number – http://dor.wa.gov/content/doingbusiness/registermybusiness/brd/	
Tax Registration Number:	Account Closed: Open ☐ Closed ☐
Not Disqualified from Bidding – http://www.lni.wa.gov/TradesLicensing/PrevWage/AwardingAgencies/DebarredContractors/default.asp	
Is the Subcontractor listed on the "Contractors Not Allowed to Bid" list of the Department of Labor and Industries? Yes ☐ No ☐	
Contractor Licenses – https://fortress.wa.gov/lni/bbip/	
Electrical: If required by Chapter 19.28 RCW, does the Subcontractor have an Electrical Contractor's License? Yes ☐ No ☐	Elevator: If required by Chapter 70.87 RCW, does the Subcontractor have an Elevator Contractor's License? Yes ☐ No ☐
Checked by:	
Name of Employee:	Date:

Appendix F

CHECKLIST FOR DEVELOPING SUPPLEMENTAL BIDDER RESPONSIBILITY CRITERIA

It is recommended that Owners review and complete the Checklist for Developing Supplemental Bidder Responsibility for each project on which the criteria are applied. The Checklist may also be accessed at www.mpurdy.com/resources.

Attachment D

(206) 762-2699 (office)
(206) 295-1464 (cell)
mpurdy@mpurdy.com
www.mpurdy.com

PO Box 46181
Seattle, WA 98146

Checklist for Developing Supplemental Bidder Responsibility Criteria

No.	Description	
1	Appropriateness: Why do you think Supplemental Bidder Responsibility Criteria are appropriate for this project? What are the risks to the project if you don't include Criteria?	
2	Suggested Guidelines: Have you reviewed the Suggested Guidelines for Bidder Responsibility published by the Capital Projects Advisory Review Board (CPARB) (http://www.ga.wa.gov/CPARB/index.html)?	☐ Yes ☐ No
3	Details of Criteria: Based on the project, what types of criteria are important? ☐ Contractor's experience in similar type of work (must be defined) ☐ Experience of contractor's key personnel ☐ Contractor's and their key personnel's experience ☐ Number of years of experience of the contractor ☐ Dollar size of previous projects completed by the contractor ☐ Specialty subcontractor qualifications ☐ Criteria from CPARB's Suggested Guidelines for Bidder Responsibility ☐ Other	
4	Reasons: Describe your reasons for including the specific Criteria you have included in the bidding documents? Be specific. For example, if you have asked for 4 years of experience, describe why 4 years is the appropriate number of years and how you arrived at your conclusion.	

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Checklist for Developing
Supplemental Bidder Responsibility Criteria

5	References: Have you described how references will be used in validating the Documentation submitted and in evaluating whether the bidder is responsible?	☐ Yes ☐ No
6	Relevancy: On a scale of 1 to 10, with 10 being the most relevant, rate the relevancy of the Supplemental Bidder Responsibility Criteria you have developed to the project. 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐ Provide an explanation for why you have rated the Criteria as you have, and describe in detail how the Criteria are "Relevant" to the project.	
7	Project Criteria: Have you included project-specific Supplemental Bidder Responsibility Criteria in the bidding documents?	☐ Yes ☐ No
8	Generic Criteria: Have you included any generic Supplemental Bidder Responsibility Criteria in the bidding documents?	☐ Yes ☐ No
9	Documentation: Have you included a list of the documentation that must be submitted by the bidder to demonstrate they meet the Criteria?	☐ Yes ☐ No
10	Relevance of Documentation: Is there a one-to-one correspondence between the Criteria and the Documentation to be submitted?	☐ Yes ☐ No
11	Deadline for Submittal: Do the bidding documents include the length of time after the bid submittal deadline the bidder has to submit the Documentation?	☐ Yes ☐ No
12	Deadline for Appeal: Do the bidding documents include how long the bidder has to appeal after being notified they are not a responsible bidder?	☐ Yes ☐ No

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Checklist for Developing
Supplemental Bidder Responsibility Criteria

13	Research: What market research have you done to validate which bidders meet the Supplemental Bidder Responsibility Criteria?	
14	Bidding Pool: How many bidders will meet the criteria?	
15	Potential Bidders: What are the names of the bidders who will meet the Criteria?	
16	Bidding Pool Analysis: On a scale of 1 to 10, with 10 being the most restrictive of the bidding pool, rate how restrictive you think the Supplemental Bidder Responsibility Criteria are? 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐	
17	Non-Complying Bidders: What are the names of the bidders who will probably not meet the Criteria?	
18	Protesters: Do you think any bidders may protest the Criteria? If yes, what would be their likely basis of protest?	☐ Yes ☐ No
19	Bid Protest Risk: On a scale of 1 to 10, with 10 being the highest risk, what do you thing the risk is of a bid protest with the Supplemental Bidder Responsibility Criteria you have developed? 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐ Do you think your Criteria are defensible if your agency was taken to court? Why?	

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Checklist for Developing
Supplemental Bidder Responsibility Criteria

20	Definitions: Have you defined all terms and concepts included in the criteria?	☐ Yes ☐ No
21	Undefined Terms: Are there undefined or ambiguous terms included in the Supplemental Bidder Responsibility Criteria that may be subject to a different interpretation by various parties? What are those terms?	☐ Yes ☐ No
22	Delays: Does your project schedule have sufficient time to deal with possible delays resulting from use of Supplemental Bidder Responsibility Criteria based on time to: ☐ Develop the Criteria ☐ Consider requests for changes in the Criteria during bidding ☐ Evaluate bidder's documentation after bid submittal ☐ Check references to validate information provided ☐ Manage an appeal and possible lawsuit from a bidder determined to be not responsible ☐ Deal with a protest from another bidder that the low bidder doesn't meet the Criteria	
23	Review of Criteria: Who in your agency has reviewed the draft Criteria? ☐ Project Manager ☐ Public Works Director ☐ Construction Manager ☐ Purchasing/Contracting/Procurement personnel ☐ Attorney ☐ Outside design consultant (architect or engineer) ☐ Other public agencies ☐ Contractors	
24	Mandatory Responsibility Criteria: Are any of the items you've included in the Supplemental Bidder Responsibility Criteria part of the Mandatory Bidder Responsibility Criteria from RCW 39.04.350?	☐ Yes ☐ No
25	Responsiveness Issues: Are any of the Supplemental Bidder Responsibility Criteria really issues of responsiveness instead of responsibility?	☐ Yes ☐ No
26	Clarity of Criteria: On a scale of 1 to 10, with 10 being the most clear, rate the clarity of the Supplemental Bidder Responsibility Criteria. 1 ☐ 2 ☐ 3 ☐ 4 ☐ 5 ☐ 6 ☐ 7 ☐ 8 ☐ 9 ☐ 10 ☐	

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CITY OF KIRKLAND
Human Resources Department
505 Market Street Suite B, Kirkland, WA 98033 425.587.3210
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: James C. Lopez, Director of Human Resources & Performance Management

Date: July 24, 2012

Subject: Ratification of the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) Local 1837 Staff Agreement 2012 - 2014

RECOMMENDATION

Council adopts the 2012-2014 Collective Bargaining Agreement between the City of Kirkland and the American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) Local 1837.

BACKGROUND DICUSSION:

On July 24, 2012, the City of Kirkland was advised that the members of the AFSCME Local 1837, representing the Kirkland AFSCME Staff, voted for ratification of the 2012 – 2014 Collective Bargaining Agreement. This Agreement was the result of a collaborative negotiation process between the City and the Union. Highlights include:

- Three year agreement (January 01, 2012 – December 31, 2014)
- Percentage based wage increases:
  - 2012 - 2.5 %
  - 2013 - 2.5 %
  - 2014 - 0%
- Market based adjustment to three positions that have salary ranges more than 6% below market. Each position received the percentage difference between below market percentage and 6%.
- Longevity is consistent with Teamsters and will increase by $20.00 for each benchmark years beginning in 2014.
- Life insurance language change to reflect a maximum guarantee of $250K (current practice consistent with other bargaining units)

Members of the Negotiations Teams for both the City and the union warrant commendation for this collaborative negotiation process, which occurred during challenging economic times.

Staff is pleased to recommend to City Council the ratification and adoption of this Agreement with the AFSCME Local 1837.

Attachment: 2012 – 2014 Agreement -City of Kirkland and AFSCME Local 1837.

AGREEMENT

by and between

The City of Kirkland, Washington

and the

LOCAL #1837
The Washington State Council
of County and City Employees
of the
American Federation of State,
County and Municipal Employees
AFL-CIO

January 1, 2012 through December 31, 2014

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PREAMBLE

THIS AGREEMENT is made by and between the CITY OF KIRKLAND, WASHINGTON, (hereinafter referred to as the "Employer"), and Local 1837, Washington State Council of County and City Employees of the American Federation of State, County and Municipal Employees, AFL-CIO, (hereinafter referred to as the "Union").

The purpose of the Employer and the Union in entering into this Agreement is to set forth their entire agreement with regard to wages, hours, and working conditions so as to promote uninterrupted public service, efficient operations, and harmonious relations, giving full recognition to the rights and responsibilities of the Employer and the Employees.

ARTICLE 1 – DEFINITIONS

As used herein, the following terms shall be defined as follows:

1.1 Bargaining Unit (Union) shall be Local 1837 Washington State Council of County and City Employees of the American Federation of State, County and Municipal Employees, AFL-CIO.

1.2 Employer Seniority shall mean the period of continuous service, consistent with Article 8.

1.3 Continuous Service shall be uninterrupted employment with the Employer and is suspended during leaves without pay of thirty (30) continuous days or more.

1.4 Employer shall mean the City of Kirkland.

1.5 Employee shall mean a person occupying a position and paid a salary or wage by the City of Kirkland who is a member of the bargaining unit (as defined in Article 2.1 hereof) covered by this Agreement. Employee shall not include any person retained by the Employer under a written personal services or consultant contract or agreement.

1.6 Executive, Administrative, and Professional Employees shall mean all employees as defined in WAC 296-128-500.

1.7 Flex-time shall mean an authorized alternative work schedule.

1.8 Job classifications and salary steps are listed and categorized in Appendix A of this Agreement.

1.9 Immediate Family shall mean persons related by blood, marriage, domestic partner (as defined by Employer Policy), legal adoption or guardianship in the degree of relationship of spouse/partner, child, parent, grandparent, brother, sister, grandchild, and other persons with the approval of the City Manager or designee.

1.10 Job Classification Seniority shall be defined as the total length of continuous service in a position title within the Bargaining Unit.

1.11 Loudermill Rights is the process of being informed in regards to disciplinary action. Loudermill Rights are the employees' rights of due process and to not be deprived of the property rights of their positions without due process.

1.12 Members of Employee's Household shall mean persons who reside in the same home, who have reciprocal and natural or moral duties to and/or do provide support for one another. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or a commune.

1.13 Oral Warning shall be consistent with Article 7.6 addressing specific performance issues and what needs to be done to correct the performance issue.

1.14 Overtime shall mean all Employer-required work which has been performed in excess of forty hours per week.

1.15 Promotion shall be the appointment of an employee to a higher paid classification.

1.16 Regular full-time Employee means any salaried employee, hired for an indefinite period of time, who works forty or more hours per week on a fixed, regular schedule and is compensated and accrues benefits based on full-time employment.

1.17 Regular part-time Employee means any salaried employee, hired for an indefinite period of time, who works less than forty hours per week on a fixed regular schedule and is compensated and accrues benefits proportionate to the number of hours worked per pay period.

1.18 Temporary Employee shall mean an employee hired for a specific purpose or project and for a specific or definite period of time.

1.19 Transfer shall mean the reassignment of an employee to the same classification in a different Department with different duties and responsibilities, or to a different classification in any Department, provided such different classification is equal or lower in pay than the employee's previous classification. A transfer to a lower paid classification represents a voluntary non-disciplinary demotion.

1.20 Vacation shall mean a scheduled work day or accumulation of scheduled work days on which an employee may, by pre-arrangement, continue to receive the regular rate of compensation although he or she does not work.

1.21 Weingarten Rights are employees' rights to Union representation during an interview that the employee reasonably believes may lead to disciplinary action.

1.22 Working Day shall mean for the purpose of timelines associated with grievances, appeals and policy issues, an 8-hour working day, excluding holidays.

1.23 Written Warning shall describe both the problem and the needed correction in specific terms, and the potential consequences if it reoccurs. A Written Warning shall be part of the employee personnel file. Weingarten Rights must be upheld.

ARTICLE 2 – RECOGNITION

2.1 RECOGNITION

The Employer recognizes the Union as the exclusive collective bargaining representative for all regular employees of the City of Kirkland as noted in the classifications identified in Addendum A – Salary Schedules, excluding supervisory and confidential employees.

2.1.1 The Employer also recognizes the Union as the exclusive bargaining representative for all temporary employees, as defined in Article 5.2.3, working in those job classifications except interns and work study students. The Union agrees that representation of temporaries shall not include input into decisions regarding the tenure of temporary employees. With respect to new job classifications, see Article 2.2.

2.1.2 The Employer also recognizes the Union as the exclusive bargaining representative for those Seasonal or On-Call employees working in represented job classifications, who attain benefits eligibility, consistent with Articles 5.2.4 and 5.2.5,

2.1.3 Both the Employer and the Union recognize the benefit of utilizing volunteers from the local community. Volunteers shall be limited to performing tasks enumerated in mutually agreed to job descriptions which shall include work that is supportive of work performed by regular bargaining unit employees.

2.2 NEW CLASSIFICATIONS

When new regular or temporary positions are created within the departments represented or the classifications listed in Article 9.1, the Union will be notified of the pending action ten (10) working days prior to the date that the position is first posted or advertised.

When existing classifications are substantially modified within the departments represented or the classifications listed in Article 9.1, the Union will be notified of the pending action within ten (10) working days of the date that the position is first posted / advertised or the proposed effective date of the action that would change the status of the classification.

It is mutually agreed that it is the intent of the parties to meet, upon request by either party, in order to include or exclude new or modified positions in the bargaining unit consistent with the duties, responsibilities, and organizational level of the classification.

The parties agree that new classification(s) designated and approved by the Employer to be within the non-represented pay plans shall be excluded from the bargaining unit, absent a request to meet within thirty (30) calendar days. Existing bargaining unit classifications shall remain within the bargaining unit absent a mutual agreement by the parties or a decision by the Public Employment Relations Commission (PERC).

If either party disagrees with the pay plan designation for a new or reclassified position, the parties recognize the determination of whether the position is included within the bargaining unit may be reviewed by PERC upon petition by either party or jointly. Should PERC determine the classification to be included in the bargaining unit, the position shall be placed within the Union salary schedule at the appropriate rate of pay and at a step arrived at either by mutual agreement / negotiation or PERC ruling.

ARTICLE 3 –UNION SECURITY

3.1 MEMBERSHIP

Subject to the provisions of this Article, all employees in the bargaining unit who are members of the Union as of the signature date of this agreement shall remain members in good standing for the term of the agreement.

3.1.1 As of the signing of this agreement, grandfathered employees that have elected not to become Union members are not obligated to pay any monies to the Union under the terms of this agreement, except as provided in Article 3.1.2

3.1.2 When a grandfathered employee voluntarily changes departments, to fill a represented position, they will be responsible for paying Union dues or a service fee in accordance with Article 3.2.

3.2 DUES DEDUCTION

Any employee hired to a position represented by the bargaining unit shall, within thirty (30) days of employment, become and remain a member of the Union; provided that in the event any employee wishes to withdraw from the Union or does not wish to become a member of the Union, the employee shall pay each month an amount equivalent to the Union dues as a service fee toward the cost of the negotiations and administration of this agreement. Such service fee shall not exceed the dues attributable to being a member of the Union.

Dues and service fees levied above shall be deducted by the Employer and provided to the Union upon written authorization from the employee as a condition of employment. Dues and service fee deductions shall not be modified more than once per year. Rights of non-association, dues deductions and any service fee shall be administered consistent with applicable state and federal law.

If any employee does not have a check coming to him or her or the check is not large enough to satisfy the deduction, no deduction shall be made from that employee for that month. The Union agrees to refund to the Employer any amounts paid to it in error upon presentation of proper evidence.

The Union shall indemnify, defend, and hold the Employer harmless against any claims made and against any suit instituted against the Employer on account of any check-off of dues for the Union.

The Employer recognizes that employees of the City of Kirkland may, at their discretion, pay a service fee in lieu of union membership dues. The Union accepts its responsibility to fairly represent all employees in the bargaining unit regardless of membership status.

3.3 BARGAINING UNIT ROSTER

The Employer shall provide the Union with a roster of employees covered by this Agreement on an annual basis or as needed pursuant to Article 8. The roster shall include name, address, salary, classification, department, hire date and termination date.

The Union agrees to supply Human Resources with current lists of officers and stewards. The Employer will recognize the officers and stewards as soon as the list is received, in writing, by Human Resources.

3.4 NONDISCRIMINATION – UNION ACTIVITY

Neither party shall discriminate against any employee because of membership in or non-membership in or activity on behalf of the Union. No employee shall be discharged or discriminated against for upholding Union principles, fulfilling duties as an officer in the Union or serving on a Union committee.

ARTICLE 4 – UNION / EMPLOYER RELATIONS

4.1 UNION ACCESS

The Union's authorized staff representatives shall have access to the Employer's premises where employees covered by this Agreement are working for the purpose of investigating grievances and contract compliance, after notifying the Employer. Access for other purposes shall not be unreasonably denied by the Employer. Such visits shall not interfere with or disturb employees in the performance of their work during working hours.

4.2 FACILITY USE

The conduct of Union business on Employer time and premises shall be subject to the limitations set forth in this Article and with the understanding that no Union member or officer shall use Employer's equipment in the conduct of Union business.

The Union shall be permitted to use designated premises of the Employer for Union meetings, with or without Union staff present, provided it is not disruptive to operations and space is available. Use of Employer's premises for meetings shall be limited to the hours of 5pm to 8am and 12pm to 1pm, unless otherwise approved by the Employer.

4.3 STEWARDS

The Union shall provide the Human Resources Department with a current list of all stewards and officers. With notice to the Employer, stewards and/or the officers shall be allowed reasonable time during working hours to investigate and process grievances, as defined in Article 4.8, 4.9 and 19.4. Employees shall attend Union meetings on their own time.

The Employer recognizes that the Union is entitled to at least one steward in each department in which bargaining unit members are employed.

4.4 ORIENTATION

During the new employee orientation process, the Employer will notify the employee of the requirements of Article 3.1, as appropriate to the respective classification, and Union contact information.

4.5 BULLETIN BOARDS

The Employer will provide a bulletin board for Union use. No materials shall be posted except notices of meetings and elections, results of elections, changes in Union by-laws, notices of employee social occasions, similar Union notices, letters, and memoranda. All material shall be signed by an officer of the Union. Union will limit the posting of any material on the Employers' premises to its bulletin board.

4.6 CONTRACT DISTRIBUTION

The Union will provide access to a copy of this Agreement to each new and current employee in the unit.

4.7 NEGOTIATIONS RELEASE TIME

The Employer will make a good faith effort to assist in providing release time for Union negotiating team members participating in contract negotiations if negotiations take place on work time, provided that coverage can be arranged.

4.8 GRIEVANCE RELEASE TIME

Prior to any proposed investigation of a grievance, stewards or officers provide notice to their and the grievant's supervisor, which will be granted unless the steward, officer or the grievant is working on something that requires immediate attention. If permission cannot be immediately granted, the Employer will arrange to allow investigation of the grievance at the earliest possible time. When it is necessary for stewards or officers to conduct Union business authorized by this Agreement in an area or on a shift other than their own, they shall notify the supervisor of that area or shift of their presence and of the nature of their business. No compensation shall be provided by the Employer for such steward activities outside the employee's work shift, without express pre-authorization by the steward's Department Director or Human Resources.

4.9 UNION BUSINESS

Compensable Union business shall be defined as meeting with an authorized Employer representative who schedules a meeting during normal business hours when it is necessary for a duly authorized officer of the Union (who is also a member of the bargaining unit) to attend for the purpose of resolving a grievance filed by a member of the bargaining unit, or other issues that require the presence of a Union official. When reasonably possible, the Union representative will notify their Supervisor or designee when they are requested to attend a Union meeting during regular business hours. Consistent with Articles 4.3, 4.8 and 19.4, stewards and/or the officers shall be afforded reasonable time for the investigation of grievance and compliance issues dealing with this Agreement. Other Union business will not be conducted on Employer time.

Any concerns by the Employer which indicate that a Union officer or steward is spending an unreasonable amount of time performing Union duties shall be referred to Human Resources for discussion and resolution with the Staff Representative of the Union or their designee.

The Union and the Employer have the right to communicate on matters of concern using e-mail, written correspondence, and telephonic communications. The Parties agree to ensure that all stakeholders are notified and copied appropriately. The parties agree to respond to written and e-mail correspondence within 10 working days and telephonic messages as soon as reasonably possible.

ARTICLE 5 – EMPLOYMENT

5.1 PROBATIONARY PERIODS

Probation - A new employee shall work under the terms of this Agreement, but shall be subject to the normal six (6) month probation period, during which time the employee may be discharged without recourse from the employee or the Union.

The Employer may extend the six month probationary period for new employees up to an additional six months. The Employer shall provide a written notice to the Union no less than fourteen (14) calendar days prior to the probationary period's expiration of his or her intent to extend a probationary period. The Union may request reconsideration of the decision within fourteen (14) calendar days of the date of the notice. The employee will remain on probation until such time as a resolution has been determined.

When temporary employees are hired into a regular position, the duration of the probationary period completed during the temporary assignment will be applied to the probationary period of the regular position utilizing the following criteria:

- There is no change in Classification when moving from the temporary to the regular position.
- There is no change in Department when moving from the temporary to the regular position.
- There is no change in Supervisor when moving from the temporary to the regular position.
- The employee has demonstrated full performance of the job during the temporary assignment.
- The employee has not had performance issues during the temporary assignment.

The Union will be notified if probationary a period is extended or restarted at the time of hire into the regular position.

Trial Service Period - Employees who are transferred or promoted to another position and/or classification in the bargaining unit shall serve a trial service period for six (6) months of work, consistent with Article 7.3.

5.2 TYPES OF EMPLOYMENT

5.2.1 REGULAR FULL-TIME EMPLOYEES:

A regular full time employee is scheduled to work forty (40) hours per week in a regularly budgeted, on-going position. Regular Full-Time employees are eligible to receive the standard benefit package.

5.2.2 REGULAR PART-TIME EMPLOYEES:

A regular part-time employee typically is scheduled to work a minimum of twenty (20) hours per week but no more than forty (40) hours per week in a regularly budgeted, on-going position. Regular Part-Time employees are eligible to receive the standard benefit package, prorated to match the FTE percentage and adjusted by actual hours worked.

5.2.3 TEMPORARY EMPLOYEES:

A temporary employee is hired for a specific assignment that has a duration of employment and schedule that is anticipated to work one thousand and forty (1,040) hours or more in a twelve (12) month period.

A temporary employee is eligible for the standard benefits package, prorated to match the anticipated FTE percentage and adjusted by actual hours worked.

If a regular employee accepts an assignment of a temporary position, that employee will be eligible for return rights to their former position upon completion of the specific assignment or term of the temporary employment or upon twenty (20) calendar days notice from the Employer or 30 calendar days notice from the employee, whichever is earlier. The regular employee shall continue to earn seniority as to their former position during the period of the temporary position assignment. Any new-hire employee who is hired to fill the vacancy, which was created by the regular employee accepting a temporary position, will also be hired as a temporary employee and that employee will cease to have employment rights upon the return of the regular employee to the former position.

Union membership will be required per Article 3 for represented classifications, per the terms of the Agreement. Regular employees moving to a temporary position, as above, will become or remain Union members, per the Agreement representing the temporary position.

After a temporary position is filled longer than three (3) years, the Employer will provide notice and meet and discuss the status of the position with the Union, upon request. If or when the position is fully funded, a temporary employee may apply for that position. The Union may, however, request discussion of the status or term of a temporary position at any point during the temporary position.

Employees in temporary positions serve an anticipated but not guaranteed term. While a term of employment is anticipated, the assignment / project may be terminated at any time for any reason, with or without notice.

5.2.4 SEASONAL EMPLOYEES:

A seasonal employee works for a specific amount of time and is not anticipated to meet or exceed one thousand and forty (1,040) accumulated hours in a twelve (12) month period. A seasonal employee is not eligible to receive the benefits package.

If the one thousand and forty (1,040) hour limitation is met or exceeded in any one (1) type of employment within a twelve (12) month period, the employee will become eligible for the standard benefits package, consistent with current personnel rules. Benefits shall be prorated to match the FTE percentage, as determined by service to that point, and adjusted by actual hours worked. Union membership will then be required per Article 3 for represented classifications, per the terms of the Agreement.

5.2.5 ON-CALL / EXTRA HELP EMPLOYEES:

An on-call / extra help employee works in a limited, but on-going capacity. They do not have a specific end date. Their schedule may consist of an intermittent or varying schedule per week on an as needed basis, and are anticipated to work fewer than one thousand and

forty (1,040) hours within a twelve (12) month period. They are not eligible for the benefits package.

If the one thousand and forty (1,040) hour limitation is met or exceeded in any one (1) type of employment within a twelve (12) month period, the employee will become eligible for the standard benefits package, consistent with current personnel rules. Benefits shall be prorated to match the FTE percentage, as determined by service to that point, and adjusted by actual hours worked. Union membership will then be required per Article 3 for represented classifications, per the terms of the Agreement.

5.3 CONTRACTORS

The Employer will make good faith efforts to limit bargaining unit work to employees covered by this Agreement. "Contractors" who are not employees of the Employer will be permitted to do bargaining unit work where both the need is occasional and temporary and when there are not regular staff either qualified or available to do such work.

5.4 STUDENTS / INTERNS

Student and Internship programs may be created by the employer provided such does not take work away from budgeted classifications represented by the Union, the Union is provided notice and, upon request by the Union, the Employer meets with the Union to discuss the impacts and benefits of the program.

ARTICLE 6 – HOURS OF WORK AND OVERTIME

6.1 WORKDAY / WORKWEEK

A regular full-time workweek shall consist of forty (40) hours of time actually worked or compensated within a seven (7) day period (typically Sunday 12:00 a.m. through Saturday 11:59 p.m.). Changes in work schedule, which may include changes in the schedule or total hours, shall be consistent with Article 6.2.

6.2 WORK SCHEDULES

The normal work schedule for full-time employees shall be Monday – Friday, 8am to 5pm. The employer may change the work schedule at any time. If the Employer makes a non-emergency change in the employee's work schedule, the employee shall be given at least ten (10) working days notice prior to the new schedule going into effect.

6.2.1. If the Employer makes a change in a non-exempt employee's normal work schedule with less than 48 hours' notice, the employee shall be paid a ten percent (10%) premium based on the employee's regular straight time hourly rate of pay for the remainder of work week hours the employee is assigned to work outside his or her regular schedule.

6.2.2 Employees shall be permitted to maintain other employment to the extent that it does not impair the employee's ability to perform his or her normal work duties and/or responsibilities with the City of Kirkland, nor create a conflict of interest as defined by the Employer's Personnel policies.

Flex Time - Employees may work flex time with written approval of the Department Director. Approved flex time shall constitute an employee's normal work schedule and must represent forty (40) hours per work week for full-time employees and such schedule shall comply with the Fair Labor Standards Act and WAC 296.128-500.

6.3 REST / MEAL BREAKS

All employees shall receive a fifteen (15) minute break for each four (4) hours worked, in addition to their lunch break. Lunch break shall be on the employees' own time. Employees working three or more hours longer than a normal work day schedule shall be allowed at least one (1) thirty (30) minute unpaid meal period prior to or during the additional work period. Where the nature of the work allows employees to take intermittent rest periods equivalent to fifteen (15) minutes for each four (4) hours worked, scheduled rest breaks are not required. Missed rest breaks are not compensable as overtime. Breaks may not be collected or not taken in order to shorten the work day or work week.

Employees who because of the nature of their work or by specific direction of their supervisor are required to eat their lunch at their work station shall be provided a paid meal period. Employees whose meal period is normally unpaid may be paid overtime (per Article 6.4) for the time worked or have the day or workweek adjusted.

6.4 OVERTIME

Overtime Eligible

Employees listed in the salary schedule as "overtime eligible" are entitled to overtime compensation. Overtime shall be compensated at one and one half (1 ½) times the employee's normal hourly rate of pay or time off at that rate for all time worked over forty (40) hours per week. Overtime shall be paid in fifteen (15) minute increments. Employees subject to emergency callback and not in a standby mode shall have holiday hours included in the calculation of hours worked for the purpose of calculating overtime.

6.4.1 For purposes of computing overtime, all contractual holidays, comp time, sick leave and vacation time shall be considered as time worked.

6.4.2 While over-time is not paid for working over a regular scheduled shift, unless such results in over forty (40) hours compensated for the workweek, either the employee or the Employer may propose an "adjusted work-week" (i.e. flexing hours within that same work week). The adjusted work week must also be approved in advance by the employee's immediate supervisor and should be established at the time of authorizing the hours worked over a regular shift. The adjusted work week must be by mutual agreement.

6.4.3 Non-pyramiding - Premium or overtime pay shall not be duplicated or pyramided. Except in emergent / emergency situations, all overtime must be approved in advance by the employee's immediate supervisor.

Overtime Exempt

Employees listed in Appendix A as **"**overtime exempt**"** are considered to be executive, administrative, or professional employees and are not entitled to overtime compensation. These employees are responsible for scheduling and performing their duties consistent with their job requirements and the needs of their department. In so doing, these employees occasionally may be

required to work extra time beyond their normal work schedule and will be allowed to take discretionary time off with pay, provided that it does not interfere with the functions of their department. Greater variation in work schedules may be necessary for some employees depending on their job requirements. It is not required that extra time worked and discretionary time off be balanced hour for hour. The payment of the basic salary and benefits is not affected by extra time worked or discretionary time away from the job.

When scheduling use of discretionary time, employees will consult with their immediate supervisor prior to taking the time.

6.5 COMPENSATORY TIME

Generally, overtime shall be paid rather than compensatory time granted. Overtime shall be compensated at the rate of one and one-half (1½) times the employee's regular rate of pay. Compensatory time shall be awarded by mutual agreement between the employee and the supervisor at the time of authorizing the overtime.

Compensatory time, accrued in lieu of cash compensation for overtime hours worked, shall be paid out on an annual basis, on the first pay day following November 1st, for all hours earned through October 31st, provided however, with written notice submitted to the payroll preparer prior to October 31st, the employee may elect to carry over up to forty (40) hours of compensatory time into the next cycle year.

Compensation shall not be paid (or compensatory time taken) more than once for the same hours under any provision of this Article or Agreement. Premium or overtime pay shall not be duplicated or pyramided unless required by the Fair Labor Standards Act, in which case premium or overtime pay shall be based on the employee's regular rate of pay.

ARTICLE 7 – EMPLOYMENT PRACTICES

7.1 NONDISCRIMINATION

The Employer and Union shall ensure that all terms and conditions of employment included in this Agreement shall be administered in accordance with Federal or State law governing employment discrimination. Administration and application that is not in contravention of Federal or State law shall not be construed to be discrimination under this Article.

The Union and the Employer agree to provide equal opportunity as to the provisions of this Agreement to all their members and employees. Neither the Employer nor the Union shall discriminate against any person on the basis of such person's race, sex, marital status, color, creed or religion, national origin, age, veteran status, sexual orientation or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification.

Wherever words denoting a specific gender are used in this Agreement, they are intended and shall be construed so as to apply equally to either gender.

7.2 JOB POSTING

When a job opening or vacancy in the bargaining unit occurs, notice of such position shall be posted by the Human Resources department for a period of no less than five (5) working days

before the position is filled. Job openings shall always be posted internally ("internal posting") and may also be posted externally. Except as limited by Article 7.3, the Employer may consider applicants from within the Employer or may advertise and solicit applicants simultaneously from outside the City. The posting shall indicate the salary range for the position, the required or preferred minimum qualifications and/or experience, the department to whom the position will report and the application process. Union positions will be identified as such.

7.3 PROMOTIONS

When a new position is created or a vacancy occurs, the Employer shall select the most qualified candidate to fill the position. The Union recognizes the Employer's obligation to comply with State and Federal statutes regarding Affirmative Action. At the discretion of the Employer, outside recruitment and selection may take place. It shall be the goal of the Employer to promote insofar as possible from the ranks of the employees. When an employee applies and is not selected for a vacancy, he/she will receive notification.

Promotions to a higher job classification shall be according to ability and seniority; ability determined to be equal, seniority shall prevail. There shall be a six (6) month trial service period, or less at the Employer's option, for such promotions, in order for the employees to acquire skills and demonstrate their qualifications, during which time the employee shall be compensated at the higher rate of pay. At any time during the trial service period the Employer may assign the promoted employee back to their previous position to help with workload or training.

During the trial service period, an employee promoted to a regular position may return to the former position by their choice. The employee may also be returned to their former position upon an evaluation of unsatisfactory performance by the employer during the six (6) months trial service period. Upon returning to the former position, the employee shall retain their seniority and be placed in the salary schedule and step in which they would have been had they not been promoted. The employee may voluntarily waive their return rights in writing, with a copy to the Union, at any point after the promotion has occurred.

Employees who are transferred or promoted to another position and/or classification in the bargaining unit shall serve a trial service period for six (6) months of work. The employer shall not be required to hold the positions open from which the employees were transferred or promoted. If the position is eliminated or filled, the trial service period and any associated return rights will end. If the previous position is filled, the right to assign the promoted employee back to the previous position to assist with workload or training shall continue. During the trial service period, the employees may be reassigned to their previous positions and/or classifications at the sole discretion of the Employer. However, the discharge or discipline (as defined in Article 7.6) of a transferred or promoted employee shall be subject to the grievance procedure.

7.4 PERSONNEL FILE / POLICIES

Unless otherwise provided by the terms of this Agreement, the City of Kirkland Administrative and Personnel Policies shall apply to members of this bargaining unit. Employees shall also refer to Employer policies to resolve matters not covered by this Agreement or for clarification of matters covered by this Agreement. However, where there is a conflict between Employer policies and any provisions of this Agreement, the provision(s) of this Agreement shall govern.

Employees shall have access to their personnel file with reasonable frequency. Upon request to the Human Resources department, access shall be provided within a maximum of four (4) working days. Conditions of hiring, termination, change in status, shift, evaluations, commendations and disciplinary actions shall be in writing with a copy to the Employee prior to placement in their personnel file. The Employer's failure to abide by this section pertaining to personnel file access shall not affect the Employer's ability to proceed with the merits of discipline or discharge but may be a separate Union grievable matter and any grievance time-lines will be correspondingly extended.

Employees shall have the right to provide a written response to any written evaluations or disciplinary actions to be included in the personnel file. Upon approval of the Human Resources Department, employees may add additional documents to their personnel file including, but not limited to, certifications, degrees, and commendations.

7.5 EVALUATIONS

The purpose of an evaluation is to help an employee be successful in performance and to understand the standards and goals of their position and their department. The evaluation will assess and focus on the employee's accomplishment of their job functions and the goals and standards of the position. Where the employee does not meet the above, a plan for correction, training or support should be developed with the employee.

Evaluation may occur in two forms:

7.5.1 All regular employees should be formally evaluated in writing by their immediate supervisor and/or department head or designee during the probationary or trial service period and at least annually (at date of hire or a common date) thereafter.

7.5.2 Additionally, evaluation of job performance may occur at any time and on an ongoing basis. Evaluation may occur in various ways and may include coaching, counseling or written assessment.

The evaluation process shall also include a review of the current job description.

Evaluation shall not, by itself, constitute disciplinary action – disciplinary action must be specifically identified as such, in writing, consistent with Article 7.6.

Employees will be given a copy of the evaluation. Employees will be required to sign the evaluation, acknowledging its receipt. Evaluations are not grievable, however, employees may elect to provide a written response to the evaluation, which will be retained with the evaluation in the employee's personnel file.

7.6 DISCIPLINE / CORRECTIVE ACTION

The Employer agrees to act in good faith in the discipline, dismissal or demotion of any regular employee and any such discipline, dismissal or demotion shall be made only for just cause.

No employee shall be discharged except for just cause. The parties recognize that just cause requires progressive discipline. Progressive discipline may include:

- oral warnings, which will be documented;
- written warnings – which may also include work performance improvement or corrective action plans for poor work performance or misconduct,
- suspension without pay;
- demotion; or
- discharge.

The intent of progressive discipline is to assist the employee with performance improvement or to correct misconduct. Progressive discipline shall not apply where the offense requires more serious discipline in the first instance. Both the sequencing and the steps of progressive discipline are determined on a case-by-case basis, given the nature of the problem.

All disciplinary actions shall be clearly identified as such in writing. The employee will be requested to sign the disciplinary action. The employee's signature thereon shall not be construed as admission of guilt or concurrence with the discipline, but rather shall be requested as an indication that they have seen and comprehend the gravity of the disciplinary action. Employees shall have the right to review and comment on disciplinary actions in their personnel file.

A copy of all disciplinary notices shall be provided to the employee before such material is placed in their personnel file. Employees disciplined or discharged shall be entitled to utilize the grievance procedure. If, as a result of the grievance procedure utilization, just cause is not shown, personnel records shall be cleared of reference to the incident, which gave rise to the grievance.

The Employer will notify the Union in writing within three (3) working days after any notice of discharge. The failure to provide such notice shall not affect such discharge but will extend the period within which the affected employee may file a grievance.

The Employer recognizes the right of an employee who reasonably believes that an investigatory interview with a supervisor may result in discipline to request the presence of a Union representative at such an interview. Upon request, they shall be afforded a Union representative. The Employer will delay the interview for a reasonable period of time in order to allow a Union representative an opportunity to attend. If a Union representative is not available or delay is not reasonable, the employee may request the presence of a bargaining unit witness. (Weingarten rights)

Employees shall also have a right to a notice and a determination meeting prior to any disciplinary action (except oral warning). The Employer must provide a notice and statement in writing to the employee identifying the performance violations or misconduct alleged, a finding of fact and the reasons for the proposed action. The employee shall be given an opportunity to respond to the charges in a meeting with the Employer, and shall have the right to Union representation during that meeting, upon request. (Loudermill rights)

The Employer shall endeavor to correct employee errors or misjudgments in private, with appropriate Union representation if requested by the employee.

Discipline shall be subject to the grievance procedure in this Agreement as to whether or not such action as to any post-probationary employee was for just cause. Just cause shall be established if the following has been shown by the Employer:

7.6.1 That the Employer did forewarn employee of possible consequences of conduct;

7.6.2 That the Employer policy, rule, or order involved reasonably related to the orderly, efficient, or safe operation of the Employer;

7.6. 3 That before administering discipline, the Employer did make an effort to discover whether employee did, in fact, violate or disobey an Employer policy or rule;

7.6.4 That the Employer conducted its investigation objectively;

7.6.5 That, in the investigation, the Employer did obtain evidence or proof that the employee violated such Employer policy or rule;

7.6.6 That the Employer applied its rules, orders, and penalties without discrimination under the circumstances; and

7.6.7 That the degree of discipline was reasonably related to the seriousness of the offense and/or the employee's record.

ARTICLE 8 – SENIORITY

8.1 DEFINITIONS

Bargaining Unit Seniority: the total length of continuous calendar-based service with the Employer and in the bargaining unit.

Employer Seniority: the total length of continuous calendar-based service with the Employer.

Classification Seniority: the total length of continuous calendar-based service within a position and employment type represented by the bargaining unit.

Department Seniority: Seniority for the purpose of intra-departmental promotion and transfer shall consist of continuous calendar-based service of the employee with the Department.

Seniority shall be established upon appointment to a regular full-time or part-time, budgeted position within the bargaining unit. No seniority shall be established while an employee is employed in a Temporary, Seasonal or On-Call position. Time in service in a Temporary or benefitted Seasonal / On-Call position shall count for leave accrual or step movement purposes only. A Temporary employee or a Regular employee in a Temporary position who is hired without a break in service directly into a Regular position in the same classification shall be credited for classification seniority from the date of hire into that classification.

Including vacation and sick leave however, seniority shall not be accrued while on a leave of absence without pay in excess of thirty (30) continuous calendar days. The appointment date shall be adjusted for leaves of absence without pay except when such leaves are the result of federal or state legally protected leaves.

Other Definitions:

8.1.1 Application of Seniority
How an employee's years of continuous service are utilized to determine their respective rights in regard to postings, promotions, reassignment, transfer, layoff, or recall.

8.1.2 Continuous Service
Means uninterrupted employment with the Employer subject to the following provisions:

1. Continuous calendar-based service shall include uninterrupted employment.

2. Continuous service is terminated by resignation, termination, retirement, layoff or failure to respond to two offers of recall to former or comparable employment.

8.1.3 Layoff
A layoff is identified as the anticipated and on-going or prolonged reduction in the number of full-time equivalent (FTE) positions or in the number of partial FTEs within the Employer or within a job classification covered by this Agreement. A reduction in force in classification may occur for reasons of lack of funds, lack of work, efficiency or reorganization. Reductions in force are identified by classification within the affected department.

8.1.4 Affected Group / Employees
An Affected Group would be any job classification that is subject to a layoff. An Affected Employee would be the least senior employee(s) within an affected job classification which are subject to lay-off or reduction in force and have certain rights as a result.

8.1.5 Layoff Alternatives
A number of alternatives exist for affected employees including:

1. Assume a vacant position - per Article 8.13.1
2. Bump - displacing a less senior employee
3. Recall - accepting unemployment and the option of future recall

8.1.6 Bumping
The displacement of a less senior regular employee by another regular employee with more seniority as defined by this Article.

8.2 APPLICATION OF SENIORITY
In the event of reassignment, transfer, layoff, or recall, seniority shall be the determining factor where employees are equally qualified to do the job.
Seniority shall be applied in the following manner:

8.2.1 Postings / promotions
In regard to job postings, promotion and reassignment, "qualifications" and/or "ability" will be the primary consideration, with seniority determinative where employees are equally qualified, consistent with Article 7. Qualifications will include the minimum qualifications

of education, training and experience as set forth in the job description, as well as the job performance, ability, employment record and contribution to the needs of the department.

8.2.2 Layoffs
Total classification seniority shall determine who is to be laid off within the selected classification (affected group). The least senior regular employee(s) within the classification shall be the affected employee(s). In the event of two employees having the same classification seniority, bargaining unit seniority shall be determinative. In the event of two employees having the same bargaining unit seniority, Employer seniority shall be determinative.

8.2.3 Bumping
As to bumping, the employee's "competence" and the ability to adequately perform the unique functions of the job assignment will be the primary consideration, applied in accordance with seniority. Competence / Ability to adequately perform will be defined as the immediate, clear and full performance on the job, with a minimal period of orientation and no material reduction in the efficiency of the operation or services, as determined by the Employer.

8.2.4 Recall
Seniority shall be determinative in the identification of which employee is to be recalled, when there are more than one who is qualified and/or have previously performed a position. In the event that an employee is being recalled to a new position, the employee's qualification and the ability to adequately perform the unique functions of the job assignment will be the primary consideration, applied in accordance with seniority, consistent with Article 8.2.3.

8.3 PROBATIONARY PERIOD
Upon successful completion of the probationary period, the Employer seniority of the Regular employee shall be established as the initial date of hire including the service during the probationary period. Department seniority shall then be based on continuous service with the department.

8.4 LOSS OF SENIORITY
An employee will lose seniority rights by and/or upon:

8.4.1 Resignation.

8.4.2 Discharge.

8.4.3 Retirement.

8.4.4 Layoff / Recall list of more than fourteen (14) consecutive months.

8.4.5 Failure to respond to two offers of recall to former or comparable employment.

Employees who are re-employed following the loss of their seniority, shall be deemed a newly-hired employee for all purposes under this Agreement, except as provided in the following: if an

employee is laid off or resigns in good standing after working at least twelve (12) consecutive months, and is thereafter re-employed within twelve (12) months (or fourteen (14) months in the event of recall), the employee will, upon successful completion of the probationary period, regain the seniority that they had as of the effective date that the employee resigned.

8.5 LAYOFFS

A layoff is identified as the anticipated and on-going or prolonged reduction in the number of full-time equivalent (FTE) positions or in the number of partial FTEs within the Employer or within a job classification covered by this Agreement. A reduction in force in classification may occur for reasons of lack of funds, lack of work, efficiency or reorganization. Reductions in force are identified by classification within the affected department.

Total Classification seniority shall determine who is to be laid off within the selected classification. Bumping rights are determined by bargaining unit seniority, consistent with Article 8.2.

For purposes of this article, layoff is further identified as any reduction in hours which results in a regular position being less than their budgeted FTE.

8.6 NOTICE

The Union shall be notified of all proposed layoffs and of positions to which laid off employees may be eligible to bump through the attachment of a current seniority list.

Employees affected / being laid off shall be given written notice of such layoff thirty (30) calendar days prior to the layoff if possible. In no event shall written notice of layoff be less than ten (10) working days. If the employer does not provide ten (10) working days written notice, the Employer shall compensate the employee at his or her normal rate of pay for the time between the last day of work and ten (10) working days from the date the employee receives the notice of layoff, in addition to any other compensation due the employee.

The employee shall inform the Employer within ten (10) working days of the receipt of the notice of layoff of their intention to exercise bumping rights. When all bumping rights have been acted upon, or when someone has chosen not to act on their bumping right, the employee least senior or the employee choosing not to bump shall be the person laid off. Only one thirty (30) day notice of layoff is required, irrespective of the number of bumps.

An employee desiring to exercise bumping rights must do so by delivering written notice to the Employer within ten (10) working days of receipt of notice of layoff. The written notice must state the proposed position to be bumped and contain a statement of the employee's qualifications for that position. Within ten (10) working days of receipt of the employee's notice to exercise the bumping rights, the Employer shall communicate the decision to the employee as to whether the employee meets the qualifications for the position the employee has chosen to bump.

8.7 MEETING WITH UNION

The Union shall also be notified in writing of any reduction in hours proposed by the Employer, including the purpose, scope, and duration of the proposed reduction.

Upon the Union’s request, the Employer and the Union shall meet promptly during the first two (2) weeks of the notice period identified in Article 8.6 to discuss the reasons and the time-lines for the

layoff and to review any suggestions concerning possible alternatives to layoff. Union concerns shall be considered by the Employer prior to implementation of any reduction in hours. This procedure shall not preclude the Employer from providing notice to employees or requesting volunteers to take leaves of absence without pay, provided the Employer notifies the Union of the proposed request.

8.8 AFFECTED GROUP

The following procedure shall apply to any layoff:

8.8.1 Affected employees

The Employer shall first determine by job classification the number of employees or FTEs to be affected by the layoff. The employee(s) holding such FTEs, which are subject to layoff, shall be the "affected employee(s)."

The least senior employee within the affected job classification shall be selected for layoff, consistent with Article 8.2.2. The exception would be only when the Employer determines that the position requires unique qualifications and abilities necessary to perform the specialized and required functions of that position, which would then become an overriding factor.

In cases where seniority within a job classification is equal, bargaining unit seniority will be the determining factor. In the event this is also equal, Employer seniority will control. If all of the seniorities are equal, then Management shall make the final decision based on performance and job skills.

8.8.2 Volunteers

Simultaneous with implementing the provisions of the layoff procedure, the Employer may first seek, by a five (5) working day posting process, volunteers for layoff or voluntary resignation from among those employees who work within the same job classification as the affected employees. If there are more volunteers than affected employees, volunteers will be chosen by bargaining unit seniority. Employees who volunteer for layoff may opt for recall rights as described in this article at the time of layoff.

If there are no or insufficient volunteers within the affected job classification, the remaining affected employees who have received notice must choose promptly (within five (5) full working days of receipt of the Notice) among the layoff options set forth in Article 8.13.

8.8.3 Probationary Employees

If the number of volunteers is not sufficient to meet the announced number of necessary layoffs, and if the affected employee is an initial probationary employee, then that employee shall be laid off and are ineligible to select among layoff options.

8.9 VACANT POSITIONS

Positions will be filled in accordance with Article 8.2 and other sections of this Article.

Within the bargaining unit and the department, affected employees and employees on the recall list shall be given first opportunity for vacant bargaining unit positions for which they are qualified

prior to outside hiring by the Employer, consistent with Article 8.13.1. Within other departments affected employees will be given consideration for vacant positions for which they are qualified.

8.10 SENIORITY LIST

The Employer shall update the seniority list and provide it to the Union annually or upon request, consistent with Article 3.3. If a layoff is announced, a current ranked seniority list including job classifications, names, job locations, and FTE or hours per week shall be provided to the Union and posted in the affected department.

8.11 ORDER OF LAYOFF

The least senior employee (by classification seniority) within the affected job classification and affected department shall be selected for layoff. No regular employee shall be laid off while another employee in the same classification within the department is employed on a probationary, extra help or temporary basis, unless specialized skills are required to fill the position that are not possessed by the regular staff member. This provision shall apply only to the classification where the initial layoff occurs and not to the classification into which laid off employees have bumped.

8.12 COMPARABLE EMPLOYMENT

For purposes of this Article, "comparable employment," "comparable position" or vacancy shall be defined to include a position which has the same salary pay range and, additionally, the educational and experience qualifications, FTE and work-week are substantially similar.

8.13 LAYOFF OPTIONS

Affected employees who have completed their probationary period shall have the following options:

8.13.1 Assume a Vacant Position

On a bargaining unit seniority basis, to assume a vacant position in the same department and bargaining unit, for which they are qualified. On a bargaining unit seniority basis, the employee shall also be considered for available job openings within the Employer for which the employee is qualified.

When a regular full-time or part-time employee is being laid off the Employer may offer a temporary position if one is available and the employee has the ability to perform the work. Laid off employees who accept these assignments will be provided the benefits and provisions of the temporary assignment. Employee(s) accepting these assignments will be subject to recall.

8.13.2 Bump

Laid off employees, including bumped employees, shall be allowed to bump less senior employees (by bargaining unit seniority) within their department in lower classifications or in classifications which the employees previously held and are still competent to perform the work of the classification. The employee may bump to other departments only within their current classification or if they previously held the position and are still competent to perform the duties.

Part-time regular employees shall have the option of remaining in the reduced position (if above the 20 hour threshold) or bumping to a lower classification, if competent as defined

in Article 8.2.3. Competent shall mean having demonstrated skills and required experience to perform the job; and in case of disputes, the final decision shall be made by the Employer.

An employee who has bumped shall move to the highest step of the new range that does not exceed their current salary.

If there is no employee in the next lower classification who is less senior than the person scheduled for layoff, that person may look progressively to the next lower classification for such bumping rights.

The employee who is bumped by the affected employee shall have the same rights under this Article.

8.13.3 Recall
If the affected employee elects not to take a vacant position, elects not to bump or cannot immediately and adequately perform the functions of the job assignment in assuming a vacant or bumped position, then that employee will be placed on the recall list and will be eligible for recall under Article 8.15.

Nothing contained in this layoff section shall be construed to require the Employer to modify its position and classification structure in order to accommodate bumping or other re-employment rights.

Salary placement rules shall apply to recall to regular positions and to employees who have bumped. Employees bumping to another position shall retain their old anniversary date for purposes of step increases. Persons recalled to the same salary range shall be placed in their former step and time in step. The salary for non-regular positions not represented by the bargaining unit shall be determined by the Employer.

8.14 REDUCTION HOURS / FTE
An employee subject to an involuntary reduction in their FTE may elect to accept the reduction, may bump and/or may elect to be placed on recall in accordance with Article 8.13. If the reduction results in hours less than their budgeted FTE, it will be considered a layoff and the employee shall have the right to bump or recall list.

8.15 RECALL
An employee who has been laid off shall be entitled to recall rights for a period of fourteen (14) months from the effective date of their layoff. If a vacancy occurs in a position, employees on the recall list shall be notified of such vacancies at the employee's address on file with the Human Resource Department. The vacancy will be filled, in accordance with seniority, among current employees and those on the recall list. If employees on the recall list elect not to accept two (2) offers to return to work in the former or a comparable position or fail to respond within seven (7) consecutive days of the offer of recall, they shall be considered to have terminated or abandoned their right to re-employment and relinquished all recall rights. If employees on the recall list elect not to accept an offer of a non-comparable position, they may retain their recall rights for the balance of their recall period.

As long as any employee remains on the recall list the Employer shall not newly employ by hiring persons into the affected bargaining unit classification(s), within their department, until all qualified employees holding recall rights to that affected classification have been offered recall.

In other represented departments, as long as any employee remains on the recall list the Employer shall first post internally a vacancy of the affected employee's same classification to assure that the affected employee, together with other current employees are given opportunity for consideration for the vacancy. The employer then reserves the right to post externally if, at the sole discretion of the Employer, a current employee does not best fit the needs of the vacancy.

It shall be the responsibility of the affected employee to provide the Employer with their current mailing address and telephone number.

A copy of the recall list shall be provided to the Union, upon request.

A person on the recall list who is re-employed in a regular position with the Employer shall serve a probationary period of three (3) months. The probationary period may be extended up to an additional three (3) months if the Employer states reasons in writing to the employee at the end of the first three (3) months. An employee who does not successfully complete the probationary period shall return to the recall list and shall remain on the recall list for the portion of their fourteen (14) months remaining at the time of re-hire.

There shall be no probationary requirement for persons returning to their former position if the initial probationary period has been completed.

Employees shall not lose seniority as a result of layoff for a period of up to fourteen (14) months, per Article 8.4.4; provided, however, that no benefits shall be accrued during the period of layoff.

8.16 VACATION & LEAVE CASH OUTS / PAY

Any regular employee who is laid off or terminated shall be cashed out for any unused vacation benefits or comp time with their final paycheck, to the extent of established maximums (per other Articles of this Agreement).

Sick leave balances at the date of layoff shall be restored upon recall with the Employer if the person is recalled into a regular position from the recall list. No sick leave shall accrue during the period of layoff. If a person on the recall list is employed in a temporary position employment, the person may accrue sick leave at the same rate that would apply if it were a regular position. Only sick leave accrued during temporary employment may be used during temporary employment. Sick leave accrued during temporary employment may be added to any existing sick leave balance if the person is hired into a regular position from the recall list.

8.17 UNEMPLOYMENT CLAIMS

If laid off employees apply for unemployment compensation benefits, the Employer will not contest the claim and will confirm that the employee was laid off.

ARTICLE 9 – WAGES

9.1 WAGE SCHEDULE

The monthly salaries for employees and classifications covered by this Agreement are located in Appendix A. The parties recognize that the information used to compile the data for the salary survey needs to be reviewed and updated due to a number of circumstances. Some of these elements include increased population of Kirkland, changes in job descriptions due to layoffs and the re-distribution of work, and the re-use of aged information. The parties agree that before conducting a new salary survey these items, or other related issues, will be discussed and reviewed for possible changes and updates. This provision creates no commitment by either party to act on any survey results.

Should it become necessary to establish a new job classification within the bargaining unit during the life of this Agreement, the Employer may designate a job classification title and salary for the classification. The salary for any new classification within the bargaining unit shall be subject to negotiations, consistent with Article 2.2.

9.1.1 Wage Adjustments

9.1.1.a Effective January 01, 2012, the monthly rates of pay shall be increased by two and five-tenths percent (2.5%) through December 31st, 2012.

9.1.1.b Effective January 01, 2013, the monthly rates of pay shall be increased by two and five-tenths percent (2.5%) through December 31st, 2013.

9.1.1.c Effective January 01, 2014, the monthly rates of pay shall be increased by zero percent (0%) through December 31st, 2014.

For all retroactive amounts, the Employer shall, within thirty days of signature of this Agreement, make all appropriate salary adjustments for the next regular pay period.

9.2 HIRE-IN RATES

New regular employees shall normally be placed at Step A of the appropriate salary range or placed consistent with current personnel rules.

9.3 SHIFT DIFFERENTIAL

Shift differential is not applicable to this bargaining unit.

ARTICLE 10 – OTHER COMPENSATION

10.1 STANDBY PAY

Employees assigned to emergency standby duty during their time off shall be paid 15 percent of their regular straight-time hourly rate for each hour of standby. Employees assigned to standby on paid holidays specified in Article 11 shall be paid 25 percent of their regular straight-time hourly rate for each hour of standby.

Employees not on standby shall receive a minimum of two (2) hours of pay when called back to work by the employee's supervisor to handle a matter that requires immediate attention. Employees on standby shall also receive a minimum of two (2) hours of pay when required to physically return to the worksite to handle a matter that requires immediate attention. Employees on standby that are required to provide telephonic or computer remote services shall receive the greater of a minimum of one (1) hour of pay or the time actually worked. Other hours actually worked during the standby period are tracked in 15 minute increments. Employees will not receive the minimum of one (1) hour of pay for time worked that is considered de minimus (less than 7.5 minutes).

10.2 CALL-BACK PAY

All employees will respond to emergency call-outs unless extenuating circumstances such as illness or other incapacitation prevent the employee from responding.

Full-time employees who are called back to work after leaving the job site shall receive a minimum of two (2) hours pay at the overtime rate. When an employee is called out between shifts, the time worked between shifts shall be paid at the rate of one and one-half (1½) times the regular rate. After working the call out shift, the employee may have the option of working the next regularly scheduled shift, provided the supervisor and the employee feel the employee can carry out the duties of the position safely. When the employee does continue working, the time worked on the next regularly scheduled shift shall be compensated at the normal straight time rate.

During periods of emergency, changes of shift can be made with eight (8) hours' notice, provided the employee has eight (8) hours off between the two (2) shifts.

This provision shall apply to employees who are required to attend Employer scheduled meetings on their regularly scheduled day(s) off.

Part time employees who are called back to work after leaving the job site shall receive a minimum of two (2) hours' pay at the appropriate rate of pay.

10.3 WORK IN A HIGHER CLASSIFICATION

Employees assigned by their Department Director or the City Manager to assume the full range of responsibilities of a higher level position in a temporary capacity for at least 10 continuous working days shall receive Temporary Assignment Pay commencing from the first such day worked. Pay shall be at the "A" step of the higher pay range, or at the lowest step which gives the employee a 5 percent pay increase, whichever is greater.

Out of Class Pay shall be awarded due to a position vacancy created by separation from Employer employment, extended illness, injury, or maternity leave of the incumbent. Management retains the right to determine whether or not to fill vacant positions with temporary appointments.

10.4 MILEAGE REIMBURSEMENT

All bargaining unit employees who are required to use their own vehicles for Employer business shall be reimbursed at the mileage rate set by the current policy for all miles driven on such business.

10.5 FOOTWEAR ALLOWANCE

The Employer shall distribute to each benefitted employee required to wear WISHA approved footwear (currently the classifications of Inspectors and Code Enforcement Officers), a footwear allowance in the amount of two hundred dollars ($200.00) per year to be received on the first payday of September of each year. New employees shall not be eligible for receipt of this benefit until completion of their probation period nor shall they receive more than one (1) allowance per calendar year.

Employee uniforms purchased through an advance or reimbursement that can be worn as street clothing shall be taxable income to the employee in accordance with the Internal Revenue Service rules.

10.6 LONGEVITY

All employees who have completed 9 continuous years of service to the Employer will receive a flat rate per month and will not be affected by the COLA.

Effective upon ratification of the Agreement to recognize long-term service, longevity will be given to all employees who have completed continuous years of service based on the chart below:

For the years 2012-2013:

$ 50.00 total per month at the start of the 10th year of service
$100.00 total per month at the start of the 15th year of service
$150.00 total per month at the start of the 20th year of service

For the year 2014:

$ 70.00 total per month at the start of the 10th year of service
$120.00 total per month at the start of the 15th year of service
$170.00 total per month at the start of the 20th year of service

ARTICLE 11 - HOLIDAYS

11.1 HOLIDAYS

Benefitted full-time employees shall be granted the following holidays and such other days as the City Council may fix without a reduction in pay:

Holiday	Observed
New Year's Day	January 1st
Martin Luther King, Jr. Birthday	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Veteran's Day	November 11th
Thanksgiving Day	4th Thursday in November

The Day after Thanksgiving Day	4th Friday in November
½ Day Christmas Eve	Last regular work day before Christmas Day
Christmas Day	December 25th
½ Day New Year's Eve	Last regular work day before New Year's Day
Floating Holiday	Employee's Choice
Community Service Day	Employee's Choice

11.1.1 In selecting the Floating Holiday, the employee's choice will be granted, provided that prior approval is given by the immediate supervisor or Department Director, and provided that the particular day off selected by the employee does not prevent a department or division thereof from providing efficient public service. The Floating Holiday must be taken during the calendar year or entitlement to the day will be forfeited.

11.1.2 An employee must be employed in a regular or temporary position for six (6) consecutive months in order to be eligible for his or her floating holiday.

11.1.3 Utilization of the Community Service Day shall be for purposes of participation and volunteering for legitimate non-profit organizations, community service organizations or public agencies. Authorization and scheduling shall be in accordance with the same procedures as a Floating Holiday.

11.2 RELIGIOUS HOLIDAYS

Employees may also take other religious holidays off with their supervisor's approval, with or without pay, through utilization of vacation or comp time or by making alternative work schedule arrangements. Such requests shall not be unreasonably denied.

11.3 HOLIDAY OBSERVANCE

Any regular holiday which falls on a Saturday shall be observed on the preceding Friday and any regular holiday which falls on a Sunday shall be observed on the following Monday.

For those employees on a 4/10 work schedule or other alternate schedule, when one of the listed holidays falls on one of the employee's regularly scheduled days off, the holiday shall be observed on a day mutually agreeable to the employee and the Employer within the same workweek.

The holidays listed above represent specific events as indicated. Should the dates for any such holiday be changed by the Legislature or the Governor or the State of Washington, said holiday shall be observed on the date established by the change and not the date set forth above.

11.4 HOLIDAY ON DAY OFF

Benefitted employees shall receive eight (8) hours' holiday benefit pay and time-off for each holiday listed in Article 11.1 – Holidays, pro-rated to their FTE.

11.5 HOLIDAY COMPENSATION

Benefitted employees shall be paid no more than eight (8) hours of holiday benefit pay for that day regardless of their work individual schedule.

Should any work be performed by an employee on a holiday at the approval and/or direction of their supervisor they shall be paid for time worked and overtime may result if, consistent with Article 6.4, it results in over forty (40) hours worked for the workweek. No employee shall be called on a holiday for less than four (4) hours, except those personnel serving Standby Duty.

ARTICLE 12 – VACATION

12.1 VACATION ACCRUAL

Full-time employees shall accrue vacation leave at the rate of one twelfth of annual vacation per month of service, based on the first pay period beginning the following schedule:

Years of Employment	Annual Vacation
1st - 4th years	104 hours
5th -7th years	128 hours
8th -10th years	136 hours
11th -13th years	144 hours
14th - 16th years	160 hours
17th - 19th years	176 hours
20th - 24th years	192 hours
25th year and thereafter	200 hours

Accrual of vacation shall commence on the first pay period after hire date unless the hire date is on the first working day of the month; then accrual begins on that date of hire. Vacation leave shall not accrue during any leave without pay.

Vacation leave shall not be accumulated in excess of two hundred eighty (280) hours within a calendar year without the express prior written authorization of the City Manager or his or her designee. No more than two hundred and forty (240) hours may be carried over from one calendar year to the next, except as provided in Article 12.1.1.

12.1.1 Requests to the City Manager or designee for exceptions shall be for a specific number of hours to be used for a specific purpose and to be taken by a specific date. Generally, the basis for requesting an exception would be that the employee requested to utilize the leave and their service and work requirements precluded the Employer from granting the leave at that time. Accrued unused vacation leave shall not, under any circumstance, exceed three hundred twenty (320) hours.

12.1.2 Any vacation leave accrued in excess of the above referenced maximums shall be forfeited and shall not form the basis of any severance pay or additional compensation. Upon termination of employment, no payment for vacation accumulation shall exceed two hundred forty (240) hours.

Earned vacation leave may be taken at any time during a period of illness after expiration of sick leave. Taking leave without pay in any month shall result in pro-ration of vacation accruals for that month, calculated upon actual hours worked as a percentage of the total hours of the pay period.

12.2 VACATION SCHEDULING

Upon completion of six (6) months' continuous service in a regular position, an employee shall be eligible for paid vacation. An employee's request for vacation leave will be granted, provided that prior approval is given by the employer and provided that leave requested does not prevent a department or division thereof, from providing efficient public service.

Employees shall have the option of using compensatory time or vacation leave for approved paid time off.

12.3 VACATION PAY

Vacation pay shall be the amount that the employee would have earned if the employee had worked their regular position during the vacation period.

If an authorized holiday occurs within an employee's vacation period, that day will be paid as a holiday and not deducted from the employee's vacation accruals. Employees cannot receive vacation, sick leave or holiday pay simultaneously for the same days.

12.4 VACATION UPON TERMINATION

Upon separation from Employer employment, employees who have six (6) or more consecutive months of employment shall receive pay in lieu of unused earned vacation leave, except as established in Article 8.5 of this Agreement. In no case shall an employee receive pay in lieu of unused vacation leave prior to separation from Employer employment, unless approved by City Manager or his or her designee.

Employees shall provide at least ten (10) working days written notice of their effective resignation date. The time limit of the resignation may be waived at the discretion of the Director. Pay in lieu of unused vacation shall be forfeited if ten (10) working days written notice is not provided or waived.

ARTICLE 13 - SICK LEAVE

13.1 SICK LEAVE ACCRUAL

Full-time employees' sick leave with pay shall accrue at the rate of eight (8) hours of leave for each full calendar month of the employee's service. Accrual of sick leave shall commence on the first pay period after hire date unless the hire date is on the first working day of the month; then accrual begins on that date of hire. Any such leave accrued in any one year shall be accumulative for succeeding years to a maximum of nine hundred sixty (960) working hours.

Unused sick leave may be accumulated from year to year to a maximum of nine hundred and sixty (960) hours, but may not be taken or used for any reason other than those specified in Article 13.2.1 of this Agreement. The Employer shall not compensate any employee upon termination or at any other time for unused accrued sick leave by payment of money or compensating time off, except as provided in this section.

Taking leave without pay in any pay period shall result in pro-ration of sick leave accruals for that pay period, calculated upon actual hours worked as a percentage of the total hours of the pay period.

13.2 SICK LEAVE USAGE

Employees are expected to be on the job unless excused by Supervisor or Department Director because of illness. The Employer may make periodic reviews of individual attendance records. Excessive absenteeism or use of sick leave for purposes other than those provided for in this Agreement may result in disciplinary action or termination of the employee.

Sick leave shall be available to benefitted employees after they have worked for a minimum of thirty (30) consecutive calendar days after their most recent date of hire.

13.2.1 Sick leave shall be granted for the following reasons: Personal illness or physical incapacity which renders the employee unable to perform the duties of his or her position, care for or serious illness of immediate family, medical or dental appointments or as otherwise required by law or this agreement.

13.2.2 Employees who appear to be using excessive amount of sick leave may be required to submit a statement from a professional health care provider certifying the illness. A statement from the health care provider may also be required for certifying the date on which the employee is able to return to work and his or her ability to perform the required duties.

13.2.3 Use of accrued sick leave is contingent upon the employee or someone on his or her behalf notifying his or her immediate supervisor of the reason for absence prior to or within one hour of the regular start time each day. In cases of hospitalization or extended illness, daily notice is not required, provided that the employee's supervisor is kept informed of the expected duration of absence and the date of return. For scheduled medical appointments or when sick leave use can be anticipated, the employee will give advance notice of not less than one week to his or her immediate supervisor, unless there are extenuating circumstances.

13.3 SHARED LEAVE

The Employer may permit an employee to receive donation of vacation or comp time consistent with the then current Shared Leave policy.

13.4 COORDINATION - WORKER'S COMPENSATION

In the event an employee shall be entitled to benefits or payments under any program of disability insurance furnished by the Employer, Worker's Compensation Act or similar legislation by the State of Washington or other governmental unit, the Employer shall pay to the employee only the difference between the benefits and payments received under such insurance or act by such employee and the regular rate of compensation that he/she would have received from the Employer if able to work. In such event, the number of hours deducted from the employee's total accrued sick leave shall be the hourly equivalent of the Employer's payment. The foregoing payment or contribution by the employer shall be limited to the period of time that such employee has accumulated sick leave credits as herein above specified.

13.5 FAMILY MEMBER
Sick leave may be utilized as referenced above in this article for immediate family requiring the employee's attendance.

ARTICLE 14 – LEAVES OF ABSENCE

14.1 IN GENERAL
Leaves of absence requests shall not be unreasonably denied. All leaves are to be requested in writing as far in advance as possible.

As appropriate for the type of leave requested, paid leave accruals will be utilized prior to unpaid leave, unless otherwise provided for in this Agreement.

Leave does not accrue nor may it be used until the first day of the following pay period in which it is earned (no "negative" leave use during the period in which it is earned).

14.2 JURY DUTY / COURT
An employee, who is required to serve on a jury or as a result of official Employer duties is required to appear before a court, legislative committee or quasi-judicial body as a witness in response to a subpoena or other directive, shall be allowed authorized leave with pay less any amount received for such duty.

14.3 MILITARY LEAVE
All regular employees shall be allowed military leave as required by RCW 38.40.060 and as interpreted by the Court. This provides for twenty-one (21) working days of military leave per year (October 1 through September 30).

14.4 BEREAVEMENT
Upon notification, a Department Director will grant an employee bereavement leave with pay in the event of death in the immediate family of the employee. The maximum number of working days leave shall be five (5) per year. This leave is not cumulative from year to year.

14.5 MAINTENANCE OF SENIORITY
The Employer shall adjust the employee's anniversary date to reflect any period of unpaid leave in excess of thirty (30) continuous calendar days. Seniority shall continue to accrue and the employee's anniversary date shall not be adjusted for periods of legally protected leave, such as FMLA or military leave.

14.6 LEAVE WITHOUT PAY
As appropriate for the type of leave requested, paid leave accruals will be utilized prior to unpaid leave.

If authorized by the Employer or for periods required by law, regular employees may take up to six (6) months leave without pay. Leaves of thirty (30) calendar days or less can be authorized by the Department Director. Leaves in excess of thirty (30) calendar days require authorization by the City Manager or designee. Such leaves shall not constitute a break in service but no benefits shall accrue during the leave. Upon expiration of the leave, the employee shall be reinstated in the

position held at the time the leave was granted and shall resume accrual of benefits at the same rate at which he/she accrued them prior to the leave.

14.7 FAMILY LEAVE – FMLA

Under the terms of the Family and Medical Leave Act of 1993 (FMLA) and the state law, upon the completion of one (1) year of employment, any employee who has worked at least 1250 hours during the prior twelve (12) months shall be entitled to up to twelve (12) weeks of leave per rolling year for the birth, adoption or placement of a foster child; to care for a spouse or immediate family member with a serious health condition; or when the employee is unable to work due to a serious health condition. For purposes of this Article, the definition of "immediate family" will be found in Article 1.

The Employer shall maintain the employee's health benefits during this leave. If the employee fails to return from leave for any reason other than the medical condition initially qualifying for the FMLA absence, the Employer may recover from the employee the insurance premiums paid during any period of unpaid leave.

If a leave qualifies under both federal and state law, the leave shall run concurrently. Ordinarily, the employee must provide thirty (30) days written advance notice to the Employer when the leave is foreseeable. The employee should report qualifying events as soon as known and practicable.

The combination of FMLA and other types of leave(s) is not precluded and, in fact, leave utilizations are to be concurrent, with the intent that appropriate paid accruals are to be utilized first, consistent with other Articles of this Agreement. The Employee may elect to retain up to forty (40) hours of sick leave and up to forty (40) hours of vacation (prorated by their FTE) for use upon return to work, consistent with the process identified in the personnel policy. Upon the employee's election, any accrued comp time may be utilized prior to any period of unpaid leave.

The Employer will grant leave consistent with state and federal law. Family leave shall be consistent with the FMLA and the adopted conditions and provisions of the state and federal law and are not intended to expand upon the rights thus set forth.

14.8 MATERNITY LEAVE

Consistent with WAC 162-30-020, the Employer will grant a leave of absence for a period of temporary disability because of pregnancy or childbirth. This may be in addition to the leave entitlements of FMLA.

This leave provides female employees with the right to a leave of absence equivalent to the disability phase of pregnancy and childbirth. There is no eligibility requirement, however the Employer has no obligation to pay for health insurance benefits while on this leave (unless utilized concurrent with FMLA).

Leave for temporary disability due to pregnancy or childbirth will be medically verifiable. There is no limit to the length of the disability phase, except for the right for medical verification and the right of second opinion at the employer's expense. At the end of the disability leave, the employee is entitled to return to the same job or a similar job of at least the same pay as provided by law. Employees must use their accrued vacation and sick leave, if any, during the leave period and, at their election, any accrued comp time, consistent with the retention provision as provided in Article

14.7. Once this paid leave is exhausted, the employee's leave may be switched over to unpaid leave.

14.9 INCLEMENT WEATHER

Employee rights and responsibilities during severe weather and emergency or disaster conditions are covered by the current Inclement Weather Policy of the Employer. The goal shall be to continue to provide essential Employer services, consistent with public and employee safety and emergency operations priorities.

ARTICLE 15 – HEALTH & WELFARE

15.1 MAINTENANCE OF BENEFITS

Medical and Dental Insurance - The Employer may self-insure medical and/or dental insurance coverage or select a new medical and/or dental insurance plan and shall make every possible effort to maintain substantially equivalent benefits. The Employer and the Union shall meet to explore alternative insurance coverage prior to selecting any new medical and/or dental insurance plan in order to maintain substantially equivalent benefits at a reasonable cost. The Employer recognizes its responsibility to bargain with the union the impact of those decisions.

The Union shall take part in and have an appointed representative on the Health and Welfare Benefits Committee. The purpose of the Committee is to monitor and evaluate the benefits costs and the plan designs. Among the items to be considered would be identification of options for retiree medical participation. The Benefit Committee representative shall have no authority to negotiate on behalf of the Union any changes to be scheduled or content of benefit plans, any such changes shall be governed in accordance with Article 15.1 of this Agreement.

Participation in benefits shall be consistent with Article 5.2 of this Agreement and the trusts and Plans described below.

15.2 HEALTH AND LIFE INSURANCE

Medical Insurance - the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee coverage and one hundred percent (100%) of the premium necessary for the purchase of dependent coverage for each employee of the bargaining unit.

Changes in insurance carrier shall be subject to Article 15.1.

Dental and Vision - the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee coverage and one hundred percent (100%) of the premium necessary for the purchase of dependent coverage.

Life Insurance - the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee term life insurance coverage that has a policy value of two (2) times the annual base rate of pay of the employee, up to a guaranteed issue amount of $250,000. The employee is responsible for any taxes associated with this benefit.

15.2.1 Part-time regular employees shall receive medical, dental and vision benefits, in accordance with Article 5.2

15.2.2 The employee shall pay, by way of payroll deduction, any and all premiums above the maximum paid by the Employer.

15.2.3 If an employee is on leave without pay in excess of eight (8) hours in a calendar month, the health insurance benefits for the employee and his or her dependents shall be pro-rated.

15.3 FLEXIBLE SPENDING ACCOUNT - FSA

The Employer participates in a special program under the provisions of IRS Section 125. Employees may voluntarily elect to participate in the reimbursement program to pay medical or dependent care expenses with pre-tax dollars. The Employer makes no contribution, makes no assurance of ongoing participation and assumes no liability for claims or benefits.

15.4 RETIREMENT

Pensions for employees and contributions to pension funds will be governed by the Washington State statutes in relation thereto in existence during the contract period.

ARTICLE 16 - TRAINING

16.1 TRAINING

Approval for attendance at training, the hours intended to be compensated and the reimbursement for travel and expenses shall be established by the supervisor prior to the training, consistent with the current policy.

16.2 TRAINING REIMBURSEMENT

Compensation associated with training or representation of the Employer on official business shall be consistent with the current policy and the Fair Labor Standards Act (FLSA) and WAC 296-128-500.

ARTICLE 17 – LABOR / MANAGEMENT COMMITTEES

17.1 PURPOSE OF COMMITTEE

The Employer and the Union agree that a need exists for closer cooperation between labor and management, and that from time to time suggestions and issues of a general nature affecting the Union and the Employer need consideration.

The Labor / Management Committee shall have no collective bargaining authority and understandings reached by the parties will be supported by the parties, but shall not alter or modify any provisions of the collective bargaining agreement.

Upon request by either party, the parties have agreed to participate in quarterly labor-management meetings to discuss matters of mutual concern. It is expected that, unless otherwise agreed, such meetings will occur during normal business hours. Not less than one (1) week before a meeting is

scheduled, each party will advise the other of matters which the party wishes to discuss. Unless otherwise agreed, the agenda will be limited to such matters.

The above provision does not preclude and in fact encourages the parties to also meet informally and expeditiously on an as needed basis on matters of mutual concern.

Policy Work Groups - The Union will be given an opportunity to designate participants to Policy Work Groups related to employment policies. Policy Work Groups will be chaired by Human Resources. Policy Work Group participants will not negotiate on behalf of the Union regarding employment policies that would impact wages, hours and working conditions.

17.2 COMPOSITION OF COMMITTEE

The Labor Management Committee meetings will include a minimum of three (3) representatives of the employer and a minimum of three (3) representatives appointed by Local #1837, unless otherwise mutually agreed upon. Said committee shall attempt to meet for the purpose of discussing and facilitating the resolution of issues which may arise between the parties other than those for which another procedure is provided by law or other provisions of this Agreement.

17.3 COMPENSATION

All meeting time spent by members of the joint Labor-Management Committee will be considered time worked if during duty hours and will be paid at the appropriate regular rate of pay.

ARTICLE 18 – HEALTH & SAFETY

18.1 SAFE WORKPLACE

The Employer is responsible for maintaining a safe and healthful workplace. The Employer shall comply with all federal, state, and local laws applicable to the safety and health of its employees.

Employees shall not be required to perform work if they have a reasonable basis for believing the assignment would constitute a danger to their health and safety. The employee shall immediately contact a supervisor who shall make a determination with regard to safety. Upon the supervisor's review and liability, the employee will perform the work but may refer the matter to the safety committee or risk management.

All on-the-job injuries, no matter how slight, must be reported. Employees must immediately notify their supervisor if they are unable to work because of a work-related injury or illness.

18.2 HEALTH & SAFETY PLAN

The Employer shall develop and follow written policies and procedures to deal with on-the-job safety and shall conduct an ongoing site specific safety and security plans in conformance with state and federal laws.

18.3 DRUG FREE WORKPLACE

The Drug Free Workplace Act of 1988 for federal contractors and grant recipients requires that employers will provide a drug free workplace. This policy strictly prohibits the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace.

Fitness For Duty – If a supervisor or manager reasonably suspects, through observation, that an employee may be under any influence of, or impaired by, a substance, the employee shall be removed from duty immediately and undergo substance testing for the suspected substance. Except in emergency situations, the supervisor or manager shall consult with another supervisor, manager or representative of Human Resources to ensure that adequate grounds for reasonable suspicion exist. The consulted supervisor, manager or representative of Human Resources shall also personally observe the employee before the employee is required to test for the presence of that substance. At this time the employee will also be notified of his or her Weingarten rights.

Employees removed from duty under such circumstances who test positive shall be required to meet with the Employer's Substance Abuse Professional (SAP) and shall only be allowed to return to work, if at all, in accordance with the return to work provisions of the Employer's substance abuse policy.

18.4 WORK PLACE VIOLENCE

The Employer is committed to employee health and safety. Workplace violence, including threats of violence by or against a City employee, will not be tolerated and should be immediately reported whether or not physical injury occurs.

ARTICLE 19 - GRIEVANCE PROCEDURE

19.1 GRIEVANCE DEFINED

A "Grievance" means a claim or dispute by an employee with respect to the interpretation or application of the provisions of this Agreement. All grievance time frames shall be held in abeyance when the parties have mutually agreed. Mediation may be considered at any step in the grievance procedure.

19.2 GRIEVANCE PROCEDURE

In the event of a grievance, the following procedure shall be used:

Step 1 – An employee and the Union representing the employee must present a grievance in writing within ten (10) working days of its alleged occurrence to the employee's Department Director for which the infraction applies, with a copy to Human Resources. The Department Director shall respond in writing to the grievance within ten (10) working days after it is presented to him or her. The grievance must be signed by the employee and must state the issue, the section of this Agreement violated, facts giving rise to the grievance and the remedy sought.

If a grievance is not presented within the time limits set forth above, it shall be considered waived.

Step 2 - If the employee is not satisfied with the solution of the Department Director, the grievance, in writing, together with all pertinent materials may be presented to the City Manager, or designee by the employee and the Union representing the employee within five (5) working days after receiving the Department Director's response. The City Manager or designee shall consult with the Union to try to resolve the grievance and shall respond in writing within twenty (20) working days after it is presented to him or her.

Fact Finding - If requested by either party during step 1 or step 2, the Human Resources Director or designee shall schedule a fact-finding meeting with the parties to the grievance in order to clarify, between the parties, facts related to the grievance. Fact finding shall be completed within twenty (20) working days of the request. The respondent time period shall begin upon conclusion of fact finding. If grievance proceeds to the next step, the "finding of fact report" shall be forwarded to the City Manager or designee.

Step 3 – If the grievance is not satisfactorily resolved by the City Manager or designee and the Union, the Human Resources Director and the Union Staff Representative will meet for purposes of resolution of the grievance or to acknowledge that mutually agreeable resolution is not possible. If so, within ten (10) working days following the response and acknowledgement, the grievance may be referred to an arbitrator. Employee grievances must first have approval by the Union officers prior to being referred to an arbiter.

Step 4 / Arbitration – If agreement cannot be reached as to the arbiter, the parties shall jointly request the Public Employment Relations Commission to provide a panel of seven arbitrators from which the parties may select one. The representatives of the Employer and the Union shall alternately eliminate the name of one person from the list until only one name remains. The person whose name is not eliminated shall be the arbiter. It shall be the function of the arbiter to hold a hearing at which the parties may submit their cases concerning the grievance. The arbiter shall render his or her decision based on the alleged violation of the provision(s) of this Agreement within thirty (30) days after such hearing. The decision shall be final and binding upon both parties to the agreements, provided the decision does not involve action by either party which is beyond its jurisdiction. The expenses of the arbiter shall be shared equally by the Employer and the Union. Each party shall be responsible for compensating its own witnesses and representatives, not to include witnesses that are members of the bargaining unit. The arbitrator shall consider and decide upon only the specific issue(s) submitted in writing by the Employer and the Union, and shall have no authority to make a decision on any other issue not so submitted.

When agreed upon by both parties, outside consultant services shall not be utilized during arbitration meetings.

19.3 UNION / EMPLOYER GRIEVANCE

Either the Union or the Employer may initiate a grievance at Step 2 if the grievance is submitted in writing within ten (10) business days from the date the Employer / employees became aware or reasonably should have known that the grievance existed. The Employer may not grieve the acts of individual employees, but rather, only orchestrated acts or actions of authorized representatives believed to be in conflict with this Agreement. An Employer grievance will not be subject to Arbitration and may only go to mediation upon mutual agreement.

The Union may initiate a Grievance at Step 2 anytime that it involves a group of employees from different departments. Such grievances may be referred to mediation services by mutual agreement prior to Arbitration.

19.4 SCHEDULE OF MEETINGS

Upon request, and without unnecessary delay, a steward's immediate supervisor or designee shall allow the steward during normal work hours without loss of pay, reasonable time to:

19.4.1 Investigate any grievance or dispute so that same can be properly presented in accordance with the grievance procedure.

19.4.2 Attend meetings with the Director or other Employer representatives when such meetings are necessary to adjust grievances or disputes. Meetings with designated personnel will be by appointment and held without delay when possible.

19.4.3 Confer with a staff representative of the Union and/or employees on Employer premises, at such time and places as may be authorized by the Director or designee in advance of the intended meetings.

For the purposes of this Article and Article 4.3, obtaining coverage to insure minimum staffing levels shall not be considered an unnecessary delay. The Employer shall not be obligated to provide coverage immediately if the use of overtime is the only means of providing that coverage.

ARTICLE 20 - NO STRIKE / NO LOCKOUT

20.1 NO STRIKE / NO LOCKOUT

The Union agrees that there shall be no strikes, slow-downs, or stoppage of work, or any interference with the efficient operation of the department. Any such action shall be subject to disciplinary action, including termination and replacement of the involved employees. The Employer shall not lockout any employee during the life of this Agreement.

ARTICLE 21 – MANAGEMENT RIGHTS AND RESPONSIBILITIES

21.1 MANAGEMENT RIGHTS AND RESPONSIBILITIES

The Union recognizes the prerogative of the Employer to operate and manage its affairs in all respects in accordance with its responsibilities, and the powers and authority which the Employer possesses.

The Employer has the authority to adopt rules for the operation of the department and conduct of its employees, provided such rules are not in conflict with the provisions of this Agreement, or with applicable law. The Union shall be given an appropriate amount of time to review and request bargaining, as they determine needed, on proposed rules and policies, which are mandatory subjects of bargaining.

The Employer has the right to schedule overtime work as required in a manner most advantageous to the Employer and consistent with the requirement of municipal employment and the public interest.

The Employer has the right to assign work and determine the duties of employees; to schedule hours of work, to determine the number of personnel to be assigned at any time, to determine new work methods, to contract out bargaining unit work, for goods and services (provided that the Employer agrees to meet and confer with the Union regarding the impact of the decision), to perform all other functions not expressly limited by this Agreement.

Incidental duties connected with responsibilities enumerated in the job descriptions are not always specifically described. Nevertheless, it is intended that all such duties shall be performed by the employee.

The Employer reserves the right to discipline or discharge in good faith for cause.

The Employer reserves the right to lay-off or reduce normal work hours on a temporary or permanent basis for lack of work, funds, or other legitimate reasons including the occurrence of conditions beyond the control of the Employer or where such continuation of work is determined by the Employer to be wasteful and unproductive.

ARTICLE 22 - GENERAL PROVISIONS

22.1 SAVINGS CLAUSE

If any provision of this Agreement shall be held invalid by operation of law or any tribunal of competent jurisdiction, or if compliance or enforcement of any provision shall be restrained by such tribunal pending final determination as to its validity, the remainder of this Agreement shall not be held invalid and shall remain in full force and effect. Upon the request of one party to the other, the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement of such invalid provision.

Any and all prior agreements, practices, policies, rules, and regulations regarding terms and conditions of employment to the extent inconsistent with the provisions of this Agreement are hereby superseded.

ARTICLE 23 – ENTIRE AGREEMENT

23.1 DURATION CLAUSE

The Agreement shall become effective on January 1, 2012, and remain in full force and effect through December 31, 2014.

Upon mutual written agreement of the parties, the provisions of this Agreement may be modified from time to time by written supplemental agreement. In the event either party wishes to pursue such modification, that party shall give notice of the offer to negotiate a modification. The other party is free to accept or reject the offer to negotiate a modification at its discretion no later than five (5) working days after receipt of the offer, which time period may be extended upon mutual written agreement of the parties. If the parties are agreeable to negotiations, they will meet within ten (10) workings days to discuss ground rules, time frames and interests. Negotiations shall be concluded within the time frame agreed upon by both parties unless extended by mutual agreement. Otherwise, the proposed modification shall be deemed rejected.

If either party wishes to amend or extend the Agreement upon its expiration, notice of such intent must be given no earlier than one hundred and twenty (120) calendar days and no later than sixty (60) calendar days prior to the expiration of the Agreement. The Employer will maintain the status quo with respect to the matters covered by this Agreement during negotiations for a new agreement, following the procedures and time-lines of RCW 41.56.

23.2 ENTIRE AGREEMENT

The agreement expressed herein in writing constitutes the entire agreement between the parties, and there shall be no amendments except in writing and with agreement of both parties.

SIGNATURES

CITY OF KIRKLAND

By: _____
Kurt Triplett, City Manager

WASHINGTON STATE COUNCIL OF COUNTY AND CITY EMPLOYEES, COUNCIL 2, OF THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL EMPLOYEES, AFL-CIO

By: _____
Bill Keenan, Council 2

Approved as to Form:

By:_____
William Evans, Assistant City Attorney

By: _____
Anja Mullin, President, Local # 1837

Appendix A - Salary Schedule

AFSCME 2012 Salary Schedule w/ 2.5% Increase												
AFSCME ADMIN/SUPPORT POSITIONS			Monthly Salary					Hourly Rate				
			Step A	Step B	Step C	Step D	Step E	Step A	Step B	Step C	Step D	Step E
POSITION TITLE	POSITION	INDEX KEY	0-6 mo	7-12 mo	13-24 mo	25-36 mo	37+ mo	0-6 mo	7-12 mo	13-24 mo	25-36 mo	37+ mo
PAYROLL SYSTEMS LEAD	CH2ADMNI12	AFAS/FI12	$ 5,311	$ 5,466	$ 5,623	$ 5,936	$ 6,247	$ 30.64	$ 31.54	$ 32.44	$ 34.24	$ 36.04
PAYROLL SYSTEMS COORDINATOR	CH2ADMNV29	AFAS/AS29	$ 4,987	$ 5,133	$ 5,280	$ 5,574	$ 5,866	$ 28.77	$ 29.61	$ 30.46	$ 32.16	$ 33.84
YOUTH SERVICES COORDINATOR	CH1ADMNV31	AFAS/AS31	$ 4,839	$ 4,980	$ 5,123	$ 5,409	$ 5,693	$ 27.92	$ 28.73	$ 29.56	$ 31.21	$ 32.84
PARKS COORDINATOR	MCADMNV44	AFAS/AS44	$ 4,758	$ 4,896	$ 5,037	$ 5,317	$ 5,597	$ 27.45	$ 28.25	$ 29.06	$ 30.67	$ 32.29
BUYER	CH2ADMNV03	AFAS/AS03	$ 4,654	$ 4,789	$ 4,926	$ 5,201	$ 5,474	$ 26.85	$ 27.63	$ 28.42	$ 30.00	$ 31.58
PARKS ADMINISTRATIVE ASSIST	CH1ADMNV07	AFAS/AS07	$ 4,534	$ 4,667	$ 4,800	$ 5,067	$ 5,333	$ 26.16	$ 26.92	$ 27.69	$ 29.23	$ 30.77
ADMINISTRATIVE ASST FINANCE	CH2ADMNV08	AFAS/AS08	$ 4,534	$ 4,667	$ 4,800	$ 5,067	$ 5,333	$ 26.16	$ 26.92	$ 27.69	$ 29.23	$ 30.77
FIRE/BUILDING ADMIN ASSISTANT	CH2ADMNV09	AFAS/AS09	$ 4,534	$ 4,667	$ 4,800	$ 5,067	$ 5,333	$ 26.16	$ 26.92	$ 27.69	$ 29.23	$ 30.77
PW ADMINISTRATIVE ASSISTANT	CH2ADMNV10	AFAS/AS10	$ 4,534	$ 4,667	$ 4,800	$ 5,067	$ 5,333	$ 26.16	$ 26.92	$ 27.69	$ 29.23	$ 30.77
ADMINISTRATIVE ASSISTANT IT	CH2ADMNV34	AFAS/AS34	$ 4,534	$ 4,667	$ 4,800	$ 5,067	$ 5,333	$ 26.16	$ 26.92	$ 27.69	$ 29.23	$ 30.77
ADMINISTRATIVE ASSISTANT-CMO	CH2ADMNV42	AFAS/AS42	$ 4,534	$ 4,667	$ 4,800	$ 5,067	$ 5,333	$ 26.16	$ 26.92	$ 27.69	$ 29.23	$ 30.77
SENIOR ACCOUNTING ASSOCIATE	CH2ADMNV40	AFAS/AS40	$ 4,494	$ 4,626	$ 4,758	$ 5,023	$ 5,287	$ 25.92	$ 26.69	$ 27.45	$ 28.98	$ 30.50
PERMIT TECHNICIAN	CH2TECHV05	AFAS/AS05	$ 4,300	$ 4,426	$ 4,552	$ 4,805	$ 5,058	$ 24.81	$ 25.53	$ 26.26	$ 27.72	$ 29.18
ACCOUNTING SUPPORT ASSOC IV	CH2ADMNV04	AFAS/AS04	$ 4,107	$ 4,227	$ 4,348	$ 4,590	$ 4,832	$ 23.70	$ 24.39	$ 25.08	$ 26.48	$ 27.88
SR OFFICE SPEC	CH2ADMNV46	AFAS/AS46	$ 4,107	$ 4,227	$ 4,348	$ 4,590	$ 4,832	$ 23.70	$ 24.39	$ 25.08	$ 26.48	$ 27.88
RECREATION SYSTEMS ADMINISTRA	CH1ADMNV16	AFAS/AS16	$ 4,100	$ 4,220	$ 4,341	$ 4,583	$ 4,824	$ 23.65	$ 24.35	$ 25.04	$ 26.44	$ 27.83
DESKTOP PUBLISHING SPECIALIST	CH1ADMNV43	AFAS/AS43	$ 4,037	$ 4,154	$ 4,274	$ 4,511	$ 4,749	$ 23.29	$ 23.97	$ 24.66	$ 26.03	$ 27.40
COMMUNITY CENTER PROG ASSIST	NKCADMNV14	AFAS/AS14	$ 3,932	$ 4,047	$ 4,163	$ 4,394	$ 4,625	$ 22.68	$ 23.35	$ 24.01	$ 25.35	$ 26.68
SENIOR CENTER PROGRAM ASSIST	SRADMNV17	AFAS/AS17	$ 3,932	$ 4,047	$ 4,163	$ 4,394	$ 4,625	$ 22.68	$ 23.35	$ 24.01	$ 25.35	$ 26.68
PROGRAM ASSISTANT	505ADMNV38	AFAS/AS38	$ 3,932	$ 4,047	$ 4,163	$ 4,394	$ 4,625	$ 22.68	$ 23.35	$ 24.01	$ 25.35	$ 26.68
CUSTOMER ACCTS ASSOC BUSINESS	CH2ADMNV32	AFAS/AS32	$ 3,919	$ 4,033	$ 4,149	$ 4,379	$ 4,609	$ 22.61	$ 23.27	$ 23.94	$ 25.26	$ 26.59
PARKS ACCOUNTS ASSOCIATE	MCADMNV41	AFAS/AS41	$ 3,834	$ 3,946	$ 4,060	$ 4,286	$ 4,511	$ 22.12	$ 22.77	$ 23.42	$ 24.72	$ 26.03
CUSTOMER ACCOUNTS ASSOCIATE	CH2ADMNV11	AFAS/AS11	$ 3,816	$ 3,928	$ 4,042	$ 4,266	$ 4,490	$ 22.02	$ 22.66	$ 23.32	$ 24.61	$ 25.90
PROBATION ASSISTANT	CTADMNV36	AFAS/AS36	$ 3,780	$ 3,892	$ 4,004	$ 4,225	$ 4,447	$ 21.81	$ 22.45	$ 23.10	$ 24.38	$ 25.66
RECORDS MANAGEMENT SPECIALIST	CH2ADMNV12	AFAS/AS12	$ 3,761	$ 3,871	$ 3,982	$ 4,204	$ 4,425	$ 21.70	$ 22.34	$ 22.97	$ 24.25	$ 25.53
JUDICIAL SUPPORT ASSOCIATE II	CTADMNV20	AFAS/AS20	$ 3,709	$ 3,818	$ 3,927	$ 4,146	$ 4,363	$ 21.40	$ 22.03	$ 22.65	$ 23.92	$ 25.17
PW OFFICE SPECIALIST	MCADMNV26	AFAS/AS26	$ 3,675	$ 3,783	$ 3,890	$ 4,107	$ 4,323	$ 21.20	$ 21.83	$ 22.44	$ 23.70	$ 24.94
ACCOUNTING SUPPORT ASSOC III	CH2ADMNV13	AFAS/AS13	$ 3,563	$ 3,667	$ 3,771	$ 3,981	$ 4,190	$ 20.56	$ 21.16	$ 21.76	$ 22.97	$ 24.17
CITY CLERK ASSISTANT	CH2ADMNV28	AFAS/AS28	$ 3,538	$ 3,643	$ 3,746	$ 3,955	$ 4,163	$ 20.41	$ 21.02	$ 21.61	$ 22.82	$ 24.01
OFFICE TECHNICIAN	CH2ADMNV45	AFAS/AS45	$ 3,501	$ 3,605	$ 3,708	$ 3,914	$ 4,119	$ 20.20	$ 20.80	$ 21.39	$ 22.58	$ 23.77
UTILITY DATA ENTRY CLERK	MCADMNV39	AFAS/AS39	$ 3,326	$ 3,425	$ 3,522	$ 3,717	$ 3,913	$ 19.19	$ 19.76	$ 20.32	$ 21.44	$ 22.58
JUDICIAL SUPPORT ASSOCIATE I	CTADMNV33	AFAS/AS33	$ 3,314	$ 3,411	$ 3,510	$ 3,704	$ 3,899	$ 19.12	$ 19.68	$ 20.25	$ 21.37	$ 22.49
VAN DRIVER	SRSERVV25	AFAS/AS25	$ 3,265	$ 3,360	$ 3,456	$ 3,648	$ 3,840	$ 18.83	$ 19.38	$ 19.94	$ 21.05	$ 22.15
RECEPTIONIST/ADMIN CLERK	CH2ADMNV27	AFAS/AS27	$ 3,176	$ 3,269	$ 3,363	$ 3,550	$ 3,735	$ 18.33	$ 18.86	$ 19.40	$ 20.48	$ 21.55
MAIL CLERK	CH2ADMNV24	AFAS/AS24	$ 3,032	$ 3,120	$ 3,210	$ 3,390	$ 3,567	$ 17.49	$ 18.00	$ 18.52	$ 19.56	$ 20.58

AFSCME 2012 Salary Schedule w/ 2.5% Increase												
AFSCME PROFESSIONAL/SUPERVISOR			Monthly Salary					Hourly Rate				
			Step A	Step B	Step C	Step D	Step E	Step A	Step B	Step C	Step D	Step E
POSITION TITLE	POSITION	INDEX KEY	0-6 mo	7-12 mo	13-24 mo	25-36 mo	37+ mo	0-6 mo	7-12 mo	13-24 mo	25-36 mo	37+ mo
SENIOR SURFACE WATER ENGINEER	CH2PROFS43	AFPS/FS43	$ 7,091	$ 7,300	$ 7,508	$ 7,925	$ 8,342	$ 40.91	$ 42.12	$ 43.32	$ 45.72	$ 48.13
SR PROJECT ENGINEER	CH2PROFS30	AFPS/PS30	$ 7,044	$ 7,299	$ 7,508	$ 7,925	$ 8,342	$ 40.64	$ 42.11	$ 43.32	$ 45.72	$ 48.13
COMM PRG MGR	CH2PROFM09	AFPS/FM09	$ 6,981	$ 7,187	$ 7,392	$ 7,803	$ 8,213	$ 40.28	$ 41.47	$ 42.65	$ 45.02	$ 47.38
PROJECT ENGINEER	CH2PROFS03	AFPS/PS03	$ 6,447	$ 6,636	$ 6,825	$ 7,206	$ 7,584	$ 37.20	$ 38.28	$ 39.38	$ 41.57	$ 43.75
PLANS EXAM III	CH2PROFS35	AFPS/PS35	$ 6,447	$ 6,636	$ 6,825	$ 7,206	$ 7,584	$ 37.20	$ 38.28	$ 39.38	$ 41.57	$ 43.75
TRANSPORTATION ENGINEER	CH2PROFS05	AFPS/PS05	$ 6,439	$ 6,628	$ 6,818	$ 7,197	$ 7,575	$ 37.15	$ 38.24	$ 39.34	$ 41.52	$ 43.70
SENIOR PLANNER	CH2PROFS11	AFPS/PS11	$ 6,230	$ 6,413	$ 6,597	$ 6,963	$ 7,330	$ 35.94	$ 37.00	$ 38.06	$ 40.17	$ 42.29
DEVELOPMENT ENGINEER	CH2PROFS02	AFPS/PS02	$ 6,091	$ 6,270	$ 6,449	$ 6,807	$ 7,165	$ 35.14	$ 36.17	$ 37.21	$ 39.27	$ 41.34
SURFACE WATER UTILITY ENG	CH2PROFS08	AFPS/PS08	$ 6,091	$ 6,270	$ 6,449	$ 6,807	$ 7,165	$ 35.14	$ 36.17	$ 37.21	$ 39.27	$ 41.34
TRAFFIC CONTROL COORDINATOR	CH2PROFS04	AFPS/PS04	$ 6,065	$ 6,243	$ 6,422	$ 6,777	$ 7,135	$ 34.99	$ 36.02	$ 37.05	$ 39.10	$ 41.16
PARKING COORDINATOR	CH2PROFS31	AFPS/PS31	$ 6,065	$ 6,243	$ 6,422	$ 6,777	$ 7,135	$ 34.99	$ 36.02	$ 37.05	$ 39.10	$ 41.16
NBRHD SVCS OUTREACH COORD	CH2PROFS40	AFPS/PS40	$ 6,065	$ 6,243	$ 6,422	$ 6,777	$ 7,135	$ 34.99	$ 36.02	$ 37.05	$ 39.10	$ 41.16
SOLID WASTE PROGRAMS LEAD	CH2PROFS42	AFPS/FS42	$ 5,932	$ 6,106	$ 6,280	$ 6,630	$ 6,978	$ 34.22	$ 35.23	$ 36.23	$ 38.25	$ 40.26
WATER QUALITY PROGRAMS COORD	CH2PROFS44	AFPS/FS44	$ 5,932	$ 6,106	$ 6,280	$ 6,630	$ 6,978	$ 34.22	$ 35.23	$ 36.23	$ 38.25	$ 40.26
SR OPS & FINANCE ANALYST	CH2PROFS34	AFPS/PS34	$ 5,815	$ 5,985	$ 6,157	$ 6,500	$ 6,841	$ 33.55	$ 34.53	$ 35.52	$ 37.50	$ 39.47
SPECIAL PROJECTS COORDINATOR	CH2PROFS29	AFPS/PS29	$ 5,751	$ 5,921	$ 6,090	$ 6,429	$ 6,767	$ 33.18	$ 34.16	$ 35.13	$ 37.09	$ 39.04
SENIOR PW ACCOUNTANT	CH2PROFS10	AFPS/PS10	$ 5,731	$ 5,899	$ 6,068	$ 6,404	$ 6,741	$ 33.06	$ 34.03	$ 35.01	$ 36.95	$ 38.89
HUMAN SERVICES COORDINATOR	CH1PROFS07	AFPS/PS07	$ 5,721	$ 5,889	$ 6,057	$ 6,394	$ 6,730	$ 33.00	$ 33.97	$ 34.94	$ 36.89	$ 38.83
EMERGENCY PREP COORDINATOR	CH2PROFE40	AFPS/FE40	$ 5,691	$ 5,858	$ 6,026	$ 6,360	$ 6,694	$ 32.83	$ 33.80	$ 34.77	$ 36.69	$ 38.62
SURFACE WATER SYSTEMS ENGNEER	CH2PROFS24	AFPS/PS24	$ 5,658	$ 5,824	$ 5,992	$ 6,324	$ 6,657	$ 32.64	$ 33.60	$ 34.57	$ 36.49	$ 38.41
SOLID WASTE COORDINATOR	CH2PROFS32	AFPS/PS32	$ 5,649	$ 5,816	$ 5,981	$ 6,314	$ 6,646	$ 32.59	$ 33.55	$ 34.51	$ 36.43	$ 38.34
ASSOCIATE PLANNER	CH2PROFS16	AFPS/PS16	$ 5,628	$ 5,793	$ 5,959	$ 6,290	$ 6,622	$ 32.47	$ 33.42	$ 34.38	$ 36.29	$ 38.20
MANAGEMENT ANALYST	MCPROFS17	AFPS/PS17	$ 5,559	$ 5,722	$ 5,886	$ 6,213	$ 6,540	$ 32.07	$ 33.01	$ 33.96	$ 35.84	$ 37.73
NEIGHBORHOOD SERVICES COORD	CH2PROFS21	AFPS/PS21	$ 5,549	$ 5,712	$ 5,876	$ 6,203	$ 6,528	$ 32.02	$ 32.95	$ 33.90	$ 35.79	$ 37.66
DEVELOPMENT ENGINEERING ANAL	CH2PROFS36	AFPS/PS36	$ 5,454	$ 5,614	$ 5,775	$ 6,096	$ 6,417	$ 31.47	$ 32.39	$ 33.32	$ 35.17	$ 37.02
DEPUTY CITY CLERK	CH2PROFD16	AFPS/PD16	$ 5,276	$ 5,430	$ 5,586	$ 5,896	$ 6,206	$ 30.44	$ 31.33	$ 32.23	$ 34.01	$ 35.81
BUDGET ANALYST	CH2PROFS23	AFPS/PS23	$ 5,276	$ 5,430	$ 5,586	$ 5,896	$ 6,206	$ 30.44	$ 31.33	$ 32.23	$ 34.01	$ 35.81
BUSINESS ANALYST	CH1PROFS33	AFPS/PS33	$ 5,276	$ 5,430	$ 5,586	$ 5,896	$ 6,206	$ 30.44	$ 31.33	$ 32.23	$ 34.01	$ 35.81
PLANNER	CH2PROFS19	AFPS/PS19	$ 5,271	$ 5,425	$ 5,579	$ 5,890	$ 6,200	$ 30.41	$ 31.30	$ 32.19	$ 33.98	$ 35.77
ACCOUNTANT	CH2PROFS41	AFPS/PS41	$ 5,168	$ 5,321	$ 5,472	$ 5,776	$ 6,080	$ 29.82	$ 30.70	$ 31.57	$ 33.32	$ 35.08

AFSCME 2012 Salary Schedule w/ 2.5% Increase												
AFSCME TECHNICAL OT ELIGIBLE			Monthly Salary					Hourly Rate				
			Step A	Step B	Step C	Step D	Step E	Step A	Step B	Step C	Step D	Step E
POSITION TITLE	POSITION	INDEX KEY	0-6 mo	7-12 mo	13-24 mo	25-36 mo	37+ mo	0-6 mo	7-12 mo	13-24 mo	25-36 mo	37+ mo
SENIOR APPLICATIONS ANALYST	CH1TECHG06	AFTE/TG06	$ 6,967	$ 7,173	$ 7,378	$ 7,787	$ 8,197	$ 40.19	$ 41.38	$ 42.57	$ 44.92	$ 47.29
NETWORK ENGINEER	CH1TECHE43	AFTE/TE43	$ 6,781	$ 6,980	$ 7,179	$ 7,579	$ 7,978	$ 39.12	$ 40.27	$ 41.42	$ 43.72	$ 46.02
WEB MASTER	CH2TECHE23	AFTE/TE23	$ 6,561	$ 6,754	$ 6,946	$ 7,333	$ 7,719	$ 37.85	$ 38.96	$ 40.08	$ 42.30	$ 44.53
NETWORK ANALYST	CH1TECHE42	AFTE/TE42	$ 5,906	$ 6,079	$ 6,254	$ 6,601	$ 6,948	$ 34.07	$ 35.07	$ 36.08	$ 38.08	$ 40.09
CODE ENFORCEMENT OFFICER	CH2TECHE06	AFTE/TE06	$ 5,825	$ 5,997	$ 6,168	$ 6,511	$ 6,854	$ 33.61	$ 34.60	$ 35.59	$ 37.56	$ 39.54
SR DEVELOPMENT PLANS EXAMINER	CH2TECHE31	AFTE/TE31	$ 5,789	$ 5,960	$ 6,131	$ 6,471	$ 6,811	$ 33.40	$ 34.39	$ 35.37	$ 37.33	$ 39.29
PURCHASING AGENT	CH2TECHE01	AFTE/TE01	$ 5,749	$ 5,915	$ 6,086	$ 6,425	$ 6,763	$ 33.17	$ 34.13	$ 35.11	$ 37.07	$ 39.02
SENIOR CONSTRUCTION INSPECTOR	CH2TECHE30	AFTE/TE30	$ 5,721	$ 5,889	$ 6,057	$ 6,394	$ 6,730	$ 33.00	$ 33.97	$ 34.94	$ 36.89	$ 38.83
URBAN FORESTER	CH2TECHT19	AFTE/TE41	$ 5,681	$ 5,849	$ 6,015	$ 6,349	$ 6,683	$ 32.77	$ 33.74	$ 34.70	$ 36.63	$ 38.56
APPLICATIONS ANALYST	CH1TECHE32	AFTE/TE32	$ 5,667	$ 5,834	$ 6,000	$ 6,335	$ 6,668	$ 32.70	$ 33.66	$ 34.62	$ 36.55	$ 38.47
SENIOR GIS ANALYST	CH1TECHE46	AFTE/TE46	$ 5,667	$ 5,834	$ 6,000	$ 6,335	$ 6,668	$ 32.70	$ 33.66	$ 34.62	$ 36.55	$ 38.47
PLANS EXAM II	CH2TECHE37	AFTE/TE37	$ 5,591	$ 5,755	$ 5,920	$ 6,248	$ 6,577	$ 32.26	$ 33.20	$ 34.16	$ 36.05	$ 37.95
DESKTOP SYSTEMS ANALYST	CH1TECHE50	AFTE/TE50	$ 5,438	$ 5,598	$ 5,757	$ 6,078	$ 6,398	$ 31.37	$ 32.29	$ 33.22	$ 35.07	$ 36.91
ELECTRICAL/BUILDING INSPECTOR	CH2TECHE09	AFTE/TE09	$ 5,394	$ 5,551	$ 5,710	$ 6,028	$ 6,345	$ 31.12	$ 32.03	$ 32.94	$ 34.78	$ 36.60
RECYCLING PROGRAMS COORDINATOR	CH2TECHE48	AFTE/HE48	$ 5,333	$ 5,490	$ 5,647	$ 5,960	$ 6,274	$ 30.77	$ 31.67	$ 32.58	$ 34.39	$ 36.20
WATER QUALITY SPECIALIST	CH2TECHE49	AFTE/HE49	$ 5,333	$ 5,490	$ 5,647	$ 5,960	$ 6,274	$ 30.77	$ 31.67	$ 32.58	$ 34.39	$ 36.20
COMMUNITY EDUCATION INFO SPEC	CH2TECHE19	AFTE/TE19	$ 5,332	$ 5,490	$ 5,647	$ 5,960	$ 6,274	$ 30.76	$ 31.67	$ 32.58	$ 34.39	$ 36.20
ENVIRO EDU & OUTREACH SPEC	CH2TECHE39	AFTE/TE39	$ 5,332	$ 5,490	$ 5,647	$ 5,960	$ 6,274	$ 30.76	$ 31.67	$ 32.58	$ 34.39	$ 36.20
GIS ANALYST	CH2TECHE27	AFTE/TE27	$ 5,209	$ 5,362	$ 5,516	$ 5,822	$ 6,127	$ 30.05	$ 30.93	$ 31.82	$ 33.59	$ 35.35
CONSTRUCTION INSPECTOR	CH2TECHE08	AFTE/TE08	$ 5,141	$ 5,293	$ 5,445	$ 5,747	$ 6,050	$ 29.66	$ 30.54	$ 31.41	$ 33.16	$ 34.90
BUILDING INSPECTOR	CH2TECHE07	AFTE/TE07	$ 5,135	$ 5,287	$ 5,438	$ 5,739	$ 6,042	$ 29.63	$ 30.50	$ 31.37	$ 33.11	$ 34.86
PLANS EXAMINER I	CH2TECHE35	AFTE/TE35	$ 5,135	$ 5,287	$ 5,438	$ 5,739	$ 6,042	$ 29.63	$ 30.50	$ 31.37	$ 33.11	$ 34.86
VIDEO PRODUCTION SPECIALIST	CH1TECHE38	AFTE/TE38	$ 5,078	$ 5,226	$ 5,375	$ 5,675	$ 5,973	$ 29.30	$ 30.15	$ 31.01	$ 32.74	$ 34.46
RECREATION COORDINATOR	CH1TECHE22	AFTE/TE22	$ 5,039	$ 5,187	$ 5,334	$ 5,631	$ 5,928	$ 29.07	$ 29.92	$ 30.77	$ 32.49	$ 34.20
PROBATION OFFICER	CTTECHE26	AFTE/TE26	$ 4,918	$ 5,062	$ 5,207	$ 5,496	$ 5,785	$ 28.37	$ 29.21	$ 30.04	$ 31.71	$ 33.38
WEB & MULTIMEDIA CONTENT SPEC	CH1TECHE51	AFTE/TE51	$ 4,792	$ 4,934	$ 5,082	$ 5,383	$ 5,685	$ 27.65	$ 28.47	$ 29.32	$ 31.06	$ 32.80
ASSISTANT PLANNER	CH2TECHE45	AFTE/TE45	$ 4,720	$ 4,859	$ 4,998	$ 5,276	$ 5,553	$ 27.23	$ 28.03	$ 28.83	$ 30.44	$ 32.04
SERVICE DESK ANALYST	CH1TECHE47	AFTE/TE47	$ 4,644	$ 4,782	$ 4,919	$ 5,191	$ 5,464	$ 26.79	$ 27.59	$ 28.38	$ 29.95	$ 31.52
SENIOR DESIGN SPECIALIST	CH1TECHE34	AFTE/TE34	$ 4,560	$ 4,695	$ 4,829	$ 5,097	$ 5,365	$ 26.31	$ 27.08	$ 27.86	$ 29.41	$ 30.95
ENGINEERING PROGRAM ASSISTANT	CH2TECHS39	AFTE/HS39	$ 4,134	$ 4,256	$ 4,377	$ 4,621	$ 4,864	$ 23.85	$ 24.55	$ 25.25	$ 26.66	$ 28.06

CITY OF KIRKLAND
Human Resources Department
505 Market Street Suite B, Kirkland, WA 98033 425.587.3210
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: James C. Lopez, Director of Human Resources & Performance Management

Date: July 24, 2012

Subject: Ratification of the Teamsters Local 763 Staff Agreement 2012 - 2014

RECOMMENDATION

Council adopts the 2012-2014 Collective Bargaining Agreement between the City of Kirkland and the Teamsters Local 763.

BACKGROUND DICUSSION:

On June 13, 2012, the City of Kirkland was advised that the members of the Teamsters Local 763, representing the Kirkland Teamsters Staff, voted for ratification of the 2012 – 2014 Collective Bargaining Agreement. This Agreement was the result of a collaborative negotiation process between the City and the Union. Highlights include:

- Three year agreement (January 01, 2012 – December 31, 2014)
- A new provision for "double overtime" was added for shifts 12 hours or longer
- Percentage based wage increases:
  - 2012 - 2.5 %
  - 2013 - 2.5 %
  - 2014 - 0%
- Stand-by rates increased by 2.5% for the duration of the contract
- Flat rate annual boot allowance of $225.00 for the duration of the contract
- Flat rate annual clothing allowance of $125.00 for the duration of the contract
- Longevity is consistent with AFSCME and will increase by $20.00 for each benchmark years beginning in 2014.
- Life insurance language change to reflect a maximum guarantee of $250K (current practice consistent with other bargaining units)

Members of the Negotiations Teams for both the City and the union warrant commendation for this collaborative negotiation process, which occurred during challenging economic times.

Staff is pleased to recommend to City Council the ratification and adoption of this Agreement with the Teamsters Local 763.

Attachment: 2012 – 2014 Agreement -City of Kirkland and Teamsters Local 763.

A G R E E M E N T

by and between

CITY OF KIRKLAND, WASHINGTON

and

PUBLIC, PROFESSIONAL & OFFICE-CLERICAL
EMPLOYEES AND DRIVERS
(Representing the Public Works and Parks Maintenance
Employees)
LOCAL UNION NO. 763

January 01, 2012 through December 31, 2014

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A G R E E M E N T

by and between
CITY OF KIRKLAND, WASHINGTON
and
PUBLIC, PROFESSIONAL & OFFICE-CLERICAL EMPLOYEES AND DRIVERS
(Representing the Public Works and Parks Maintenance Employees)
LOCAL UNION NO. 763

January 01, 2012 through December 31, 2014

PREAMBLE

THIS AGREEMENT is by and between the CITY OF KIRKLAND, WASHINGTON, hereinafter referred to as the Employer, and PUBLIC, PROFESSIONAL & OFFICE-CLERICAL EMPLOYEES AND DRIVERS LOCAL UNION NO. 763, affiliated with the International Brotherhood of Teamsters, hereinafter referred to as the Union.

The purpose of the Employer and the Union entering into this Agreement is to set forth their entire agreement with regard to wages, hours and working conditions so as to promote uninterrupted and efficient operations; the proficiency, morale and security of employees covered by this Agreement; and harmonious relations, giving full recognition to the rights and responsibilities for the Employer, the Union and the employees.

ARTICLE 1 – DEFINITIONS

1.1 As used herein, the following terms shall be defined as follows:

1.1.1 "Employer" shall mean the City of Kirkland, Washington.

1.1.2 "Union" shall mean Public, Professional & Office-Clerical Employees and Drivers Local Union No. 763, affiliated with the International Brotherhood of Teamsters.

1.1.3 "Bargaining Unit" shall mean all maintenance and operations employees (outside and shop) as listed in Article 9, excluding supervisors, in the following departments or divisions:

Street
Fleet
Water
Waste Water
Surface Water
Internal Services
Parks and Community Services

1.1.4 "Employee" shall mean a regular full-time**,** regular part-time, and temporary employees in the bargaining unit (as defined in Section 1.1.3 hereof) covered by this Agreement.

1.1.5 "Non Bargaining Unit Employees" shall mean all non-maintenance employees and those employees in the following classifications in the departments or divisions as indicated:

Directors
Clerical Employees
Summer Help
Seasonal Help
All other City Employees
On-Call/Extra Help

1.1.6 "Monthly Salary" shall mean the monthly rate of pay so identified and set forth in Article 9 to this Agreement.

1.1.7 "Overtime" shall mean compensation at one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay for all work performed in excess of the employee's regularly scheduled shift in any one (1) day or forty (40) hours at straight-time in any one (1) week and as defined in Article 6.4.

1.18 “Double Time” shall mean compensation at two (2) times the employee’s regular straight-time hourly rate of pay for all work as defined in Article 6.4.

1.1.9 "Vacation" shall mean a scheduled workday or accumulation of scheduled workdays on which a full-time or part-time employee may, by prearrangement, continue to receive the regular rate of compensation although he does not work.

1.1**.10**"Members of employee's household" shall mean persons who reside in the same residence, who have reciprocal and natural and/or moral duties to and do provide support for one another. The term shall not include persons sharing the same general residence when the living style is primarily that of a dormitory or commune.

1.1.11"Immediate family" shall be defined as persons related by blood, marriage, or legal adoption in the degree of relationship of grandparent, parent, wife, husband, brother, sister, child, grandchild, or domestic partner (as defined by Employer Policy) and other persons when approved by the City Manager or designee.
(Representing the Public Works and Parks Maintenance Employees)

ARTICLE 2 – RECOGNITION

2.1 RECOGNITION

The Employer recognizes the Union as the exclusive bargaining representative for all those employees within the bargaining unit (as defined in Article 1, Section 1.1.3). Supervisory employees shall only instruct or train employees, assure proper standards of work and job performance, temporarily cover when qualified bargaining unit employees are not readily available, and handle emergency situations. The Employer shall not utilize part-time, temporary, or seasonal employees in a way that results in layoff or termination of regular employees from their jobs.

2.2 NEW CLASSIFICATIONS

When new positions are created (or existing classifications substantially modified) within the departments represented or the classifications listed in Article 9.1, the Union will be notified of the pending action within two weeks of the date that the position is first posted or advertised. It is mutually agreed that it is the intent of the parties to meet, upon request, in order to include or exclude new or modified positions in the bargaining unit consistent with the duties, responsibilities, and organizational level of the classification.

The parties agree that classification designated and approved by the Employer to be within the non-represented pay plans shall be excluded from the bargaining unit.

If the Union disagrees with the non-represented pay plans designation for a new or reclassified position, the parties recognize the determination of whether the position is included within the bargaining unit may be reviewed by Public Employment Relations Commission (PERC) upon petition by the Union. Should PERC determine the position is to be included in the bargaining unit, the position shall be placed within the Union Salary Schedule at the appropriate rate of pay and at a step that results in no decrease and be removed from the non-represented pay plan.

ARTICLE 3 - UNION SECURITY

3.1 MEMBERSHIP

Union Membership - Consistent with the provisions of Section 3.1.1, it shall be a condition of employment that all employees of the Employer covered by this Agreement who are members of the Union in good standing on the effective date of this Agreement shall remain members in good standing and all employees covered by this Agreement who are hired on or after its effective date shall, on or before the thirtieth (30th) day following the beginning of such employment, become and remain members in good standing in the Union.

3.1.1 Nothing contained in this Article shall require an employee who can substantiate that there exists bona fide religious tenants or teachings of a church or religious body of which the employee is a member to join the Union, in which case an amount of money equivalent to regular Union dues and initiation fee shall be paid to a non-religious charity mutually agreed upon by the employee and the Union.

3.2 DUES AND INITIATION FEES DEDUCTION

Upon written authorization from an employee within the bargaining unit**,** the Employer shall deduct from the wages of that employee the sum certified as assessments and monthly dues of the Union and shall forward such sum to the Union. Should any employee not have any monies due them or the amount of such monies is not sufficient to satisfy the assessments, no deduction shall be made for that employee for that month. The Union shall indemnify, defend and hold the Employer harmless against any claims made and against any suit instituted against the Employer on account of any check-off of dues for the Union. The Union shall refund to the Employer any amounts paid to it in error on account of the check-off provision upon presentation of proper evidence thereof.

Upon written authorization from an employee within the bargaining unit, the Employer shall also deduct from the wages of that employee the sum certified as the initiation fees of the Union in equal payroll increments and shall forward such sum to the Union. As above, the Union shall indemnify, defend and hold the Employer harmless against any claims made and against any suit instituted against the Employer on account of any initiation fee of dues for the Union.

3.3 BARGAINING UNIT ROSTER

The Employer shall provide the Union with a roster of employees covered by this Agreement on an annual basis or as needed pursuant to Article 8. The roster shall include name, address, social security number, salary, classification, department, hire date and termination date. The Employer will provide notification to the Union for all new hires and promotional advancement by means of a letter courtesy copy, written or electronic.

The Union agrees to supply Human Resources with current lists of officers and stewards. The Employer will recognize the officers and stewards, as soon as the list is received, in writing by Human Resources.

3.4 NONDISCRIMINATION – UNION ACTIVITY

No employee shall be discharged or discriminated against for upholding Union principles, fulfilling duties as an officer in the Union or serving on a Union committee.

ARTICLE 4 - UNION/EMPLOYER RELATIONS

4.1 UNION ACCESS

The Union's authorized staff representatives shall have access to the Employer's premises where employees covered by this Agreement are working for the purpose of investigating grievances and contract compliance. Access for other purposes shall not be unreasonably denied by the Employer. Such visits shall not interfere with or disturb employees in the performance of their work during working hours.

4.2 FACILITY USE

The Union shall be permitted to use designated premises of the Employer for Union meetings with or without Union staff present, provided such is not disruptive to operations and space is available.

4.3 STEWARDS

The Union shall provide the Human Resources Department with a current list of all stewards and officers. With notice to the City, stewards and/or the officers shall be allowed reasonable time during working hours to investigate and process grievances, as defined in Article 4.8, 4.9 and 19.4. Employees shall attend Union meetings on their own time.

4.4 ORIENTATION

During the new employee orientation process, the Employer will notify the employee of the requirements of Article 3.1, as appropriate to the respective classification and Union contact information.

4.5 BULLETIN BOARDS

Bulletin Boards - The Employer shall provide suitable space for a bulletin board to be used by the Union for official Union notices.

4.6 CONTRACT DISTRIBUTION

The Union will provide access to this Agreement to each new and current employee in the unit.

4.7 NEGOTIATIONS RELEASE TIME

The Employer will make a good faith effort to assist in providing release time for Union negotiating team members participating in contract negotiations if negotiations take place on work time, provided that coverage can be arranged.

The Employer shall compensate each employee who is a member of the Negotiation Committee and take time off from their scheduled shift to meet and negotiate successor agreements or changes and amendments to existing agreements. Overtime will not be paid for negotiations that take place outside the employee's normal work schedule.

4.8 GRIEVANCE RELEASE TIME

Prior to any proposed investigation of a grievance, stewards or officers shall provide notice to their and the grievant's supervisor, which will be granted unless the steward, officer or the grievant is working on something that requires immediate attention. If permission cannot be immediately granted, the Employer will arrange to allow investigation of the grievance at the earliest possible time. When it is necessary for stewards or officers to conduct Union business authorized by this Agreement in an area or on a shift other than their own, they shall notify the supervisor of that area or shift of their presence and of the nature of their business. No compensation shall be provided by the Employer for such steward activities outside the employee's work shift, without express pre-authorization by the Department Director or Human Resources.

4.9 UNION BUSINESS

Consistent with Articles 4.3, 4.8 and 19.4, stewards shall be afforded reasonable time for the investigation of grievance and compliance issues dealing with this Agreement. Other Union business will not be conducted on Employer time.

Any concerns by the Employer which indicate that a Union steward is spending an unreasonable amount of time performing Union duties shall be referred to Human Resources for discussion and resolution with the Staff Representative of the Union or their designee.

ARTICLE 5 – EMPLOYMENT

5.1 PROBATIONARY PERIODS

Probation - A new employee shall work under the terms of this Agreement, but shall be subject to the normal six (6) month probation period, during which time the employee may be discharged without recourse from the employee or the Union.

The Employer may extend the six month probationary period for new employees up to an additional six months. The Employer shall provide a written notice to the Union no less than fourteen (14) calendar days prior to the probationary period's expiration of his or her intent to extend a probationary period. The Union may request reconsideration of the decision within fourteen (14) calendar days from the date of the notice. The employee will remain on probation until such time as a resolution has been determined.

Trial Service Period - Employees who are transferred or promoted into a posted position and/or classification in the bargaining unit shall serve a trial service period for three (3) months of work, consistent with Article 7.3. Employees moving between divisions, but in the same classification, does not constitute a transfer but rather is a change of assignment and does not invoke a Trial Service Period.

5.2 TYPES OF EMPLOYMENT

It is the intent of the employer to maximize the number of full-time benefitted employees with the mutual understanding of the potential need for other types of employment as identified in this Article.

5.2.1 Regular Full-Time Employees:

A regular full time employee is scheduled to work forty (40) hours per week in a regularly budgeted, on-going position. Regular Full-Time employees are eligible to receive the standard benefit package.

5.2.2 Regular Part-Time Employees:

A regular part-time employee typically is scheduled to work a minimum of twenty (20) hours per week but no more than forty (40) hours per week in a regularly budgeted, on-going position. Regular Part-Time employees are eligible to receive the standard benefit package, prorated to match the FTE percentage and adjusted by actual hours worked.

5.2.3 Temporary Employees:
A temporary employee is hired for a specific assignment that has a duration of employment and schedule that is anticipated to work one thousand and forty (1,040) hours or more in a twelve (12) month period.

A temporary employee is eligible for the standard benefits package, prorated to match the anticipated FTE percentage and adjusted by actual hours worked.

If a regular employee accepts an assignment of a temporary position, that employee will be eligible for return rights to their former position upon completion of the specific assignment or term of the temporary employment. Any new-hire employee who is hired to fill the vacancy, which was created by the regular employee accepting a temporary position, will also be hired as a temporary employee and that employee will cease to have employment rights upon the return of the regular employee to the former position.

Union membership will be required per Article 3 for represented classifications, per the terms of the Agreement. Regular employees moving to a temporary position, as above, will become or remain Union members, per the Agreement representing the temporary position.

Employees in temporary positions serve an anticipated but not guaranteed term. While a term of employment is anticipated, the assignment/project may be terminated at any time for any reason, with or without notice.

5.2.4 Seasonal Employees:
A seasonal employee works for a specific amount of time and is not anticipated to meet or exceed one thousand and forty (1,040) accumulated hours in a rolling twelve (12) month period. A seasonal employee is not eligible to receive the benefits package.

If the one thousand and forty (1,040) hour limitation is met or exceeded in any one (1) type of employment within a twelve (12) month period, the employee will become eligible for the standard benefits package, consistent with current personnel rules. Benefits shall be prorated to match the FTE percentage, as determined by service to that point, and adjusted by actual hours worked. Union membership will be required per Article 3 for represented classifications, per the terms of the Agreement.

5.2.5 On-Call/Extra Help Employees:
An on-call/extra help employee works in a limited, but on-going capacity. They do not have a specific end date. Their schedule may consist of an intermittent or varying schedule per week on an as needed basis, and are anticipated to work fewer than one thousand and forty (1,040) hours within a rolling twelve (12) month period. They are not eligible for the benefits package.

If the one thousand and forty (1,040) hour limitation is met or exceeded in any one (1) type of employment within a twelve (12) month period, the employee will become eligible for the standard benefits package, consistent with current personnel rules. Benefits shall be prorated to match the FTE percentage, as determined by service to that

point, and adjusted by actual hours worked. Union membership will be required per Article 3 for represented classifications, per the terms of the Agreement.

5.3 CONTRACTORS

The Employer will make good faith efforts to limit bargaining unit work to employees covered by this Agreement. "Contractors" who are not employees of the Employer will be permitted to do bargaining unit work where both the need is occasional and temporary and when there are not regular staff either qualified or available to do such work. Contractors will not be utilized in a manner that will cause an employee to be laid-off or terminated.

5.4 STUDENTS/INTERNS

Student and Internship programs may be created by the employer provided such does not take work away from budgeted classifications represented by the Union, the Union is provided notice and, upon request by the Union, the Employer meets with the Union to discuss the impacts and benefits of the program.

ARTICLE 6 - HOURS OF WORK AND OVERTIME

6.1 WORKDAY/WORKWEEK

A regular full-time workweek shall consist of forty (40) hours of time actually worked or compensated within a seven (7) day period (typically Sunday 12:00 a.m. through Saturday 11:59 p.m.). Such workweek shall be consecutive days. Changes in work schedule, which may include changes in the schedule or total hours, shall be consistent with Article 6.2.

6.2 WORK SCHEDULES

Each employee shall be assigned a regular work schedule and starting time. If a shift change or a starting time change is to occur, other than temporary, the employee shall be given a week's notice prior to the change going into effect. If emergency re-scheduling occurs, the employee shall be paid twenty percent (20%) over their regular straight-time hourly rate of pay for all hours worked outside of the regular schedule.

End of Work Day Cleanup Time - Employees shall be allowed ten (10) minutes on the Employer's time for cleanup purposes at the end of the work day, the cleanup time period shall commence upon the cessation of the employee's duties. Time keeping required for specific work assignments shall be handled during the course of the work day.

Flex Time - Employees may have flexible starting times and working hours (including alternate work schedules such as a 4/10 work week) with mutual consent between the employee and the Department Director, provided such schedule complies with the Fair Labor Standards Act.

Outside Employment - Employees shall be permitted to maintain other employment to the extent that it does not impair the employee's ability to perform his or her normal work

duties and/or responsibilities with the City of Kirkland, nor create a conflict of interest as defined by the City's Personnel policies.

6.3 REST/MEAL BREAKS

Rest Breaks - Employees shall receive a rest period of fifteen (15) minutes, on the Employer's time, for each work period of four (4) hours or more. Rest periods shall be scheduled as near as possible to the midpoint of each four (4) hour work period and shall be taken at the work site or closest location where lavatory and washing facilities are available. No employee shall be required to work more than three (3) hours without a rest period. Missed rest breaks are not compensable as overtime. Breaks may not be collected or not taken in order to shorten the work day or work week.

Meal Periods - During regular or overtime work shifts, employees shall be allowed a meal period of thirty (30) minutes which shall be on the employee's own time. The meal period shall commence within one (1) hour of the mid-point of shift. No employee shall be required to work more than five (5) consecutive hours without a meal period. One-half (1/2) hour overtime shall be paid to an employee who is directed to work in excess of five (5) consecutive hours without a meal period.

6.3.1 Prior to the taking of a meal period, the employee shall be allowed a five (5) minute period for cleanup and travel to the Kirkland Maintenance Center lunch room located at 915 8th Street, Kirkland, Washington, or a nearby sanitary facility. If an employee takes the meal period at the work site, said employee shall be prepared to resume work immediately after the meal period. In the event that the employee takes the meal period at the above-referenced lunch room, or a nearby sanitary facility, the employee shall be allowed five (5) minutes travel time to return to the work site.

6.3.2 For employees on an overtime or emergency rescheduled shift, if the meal period falls between the hours of 9:00 P.M. and 5:00 A.M., a meal shall be reimbursed consistent with the lunch rate in the Employer's reimbursement policy.

6.4 OVERTIME

All work which has been specifically authorized by a supervisor, performed in excess of the employee's daily scheduled work day (if scheduled for eight (8) hours or more) in one (1) day or in excess of forty (40) hours per workweek shall constitute overtime and shall be paid for at one and one-half (1-1/2) times the employee's regular straight-time hourly rate of pay. For employees on a 4/10, 9/80, or other flex schedule, overtime shall be paid consistent with FLSA or the provisions of this section. Overtime shall be paid for in fifteen (15) minute increments for time worked either immediately prior to or immediately after the employee's regular shift. Overtime worked in excess of four (4) hours of the employee's scheduled work day shall be paid at two (2) times the employee's regular straight time hourly rate of pay for actual hours worked (minimum call back hours do not count as actual hours worked). Scheduled overtime on the employee' normally scheduled day off shall be paid at one and one-half (1-1/2) times the employee's regular straight time hourly rate of pay.

6.4.1 For purposes of computing overtime, all contractual holidays, comp time, sick leave and vacation time within the employee's regular scheduled FLSA work week shall be considered as time worked.

6.4.1.1 Hours worked for double overtime will be assigned to the calendar day on which the overtime started.

6.4.2 Non-pyramiding - Premium or overtime pay shall not be duplicated or pyramided. Except in emergent/emergency situations, all overtime must be approved in advance by the employee's immediate supervisor.

6.4.2 For purposes of computing overtime, all contractual holidays, comp time, sick leave and vacation time within the employee's regular scheduled FLSA work week shall be considered as time worked.

6.4.2 Non-pyramiding - Premium or overtime pay shall not be duplicated or pyramided. Except in emergent/emergency situations, all overtime must be approved in advance by the employee's immediate supervisor.

6.4.3 Callbacks shall be offered to qualified employees by Division. In the event there are no qualified employees in the Division that make themselves available for overtime, the overtime shall be offered to those qualified employees outside of the Division.

6.5 COMPENSATORY TIME

Overtime shall either be paid or compensatory time awarded. Overtime shall be compensated at the rate of one and one-half (1½) times the employee's regular rate of pay.

In lieu of paid overtime, compensatory time-off may be utilized upon the request of the employee and shall be taken at the rate of one and one-half (1-1/2) times the actual time worked. Scheduling of compensatory time shall be approved by the employee's immediate supervisor. Compensatory time-off shall be taken in increments of not less than one (1) hour. Use of compensatory time in increments of forty (40) hours or more shall require two (2) weeks prior notice and immediate supervisor's approval.

6.5.1 The employee shall indicate on their daily time card the desire to have compensatory time-off in lieu of paid overtime. The employee's choice for the pay period in question shall not be changed once the employee's time card has been turned into payroll. An employee may only accrue compensatory time up to a maximum balance of one hundred twenty (120) hours. The Employer reserves the right to pay for overtime, rather than award compensatory time, by providing individual notice to the employee prior to or at the time of authorizing the overtime.

6.5.2 All accumulated compensatory time shall be cashed-out and paid to the employee on an annual basis on the first paycheck following November 1st, for all hours earned through October 31st, provided however, with written notice submitted to the payroll preparer prior to October 31st the employee may elect to carryover up to forty (40) hours of compensatory time into the next cycle year. The cycle year shall be November 1 through October 31.

ARTICLE 7 – EMPLOYMENT PRACTICES

7.1 NONDISCRIMINATION

The Employer and Union shall ensure that all terms and conditions of employment included in this Agreement shall be administered in accordance with Federal or State law governing employment discrimination. Administration and application that is not in contravention of Federal or State law shall not be construed to be discrimination under this Article.

The Union and the Employer agree to provide equal opportunity to all their members and employees. Neither the Employer nor the Union shall discriminate against any person on the basis of such person's race, sex, marital status, color, creed or religion, national origin, age, veteran status, sexual orientation or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification.

Wherever words denoting a specific gender are used in this Agreement, they are intended and shall be construed so as to apply equally to either gender.

7.2 JOB POSTING

When a Regular job opening in the bargaining unit or vacancy in the bargaining unit occurs, notice of such position shall be posted by the Human Resources department for a period of no less than five (5) working days before the position is filled. Job openings shall be posted within the City (‘internal posting”) and may also be posted externally. The Employer may consider applicants from within the City or may advertise and solicit applicants simultaneously from outside the City. The posting shall indicate the salary range for the position, the required or preferred minimum qualifications and/or experience, the department to whom the position will report and the application process. Union positions will be identified as such.

When a regular full-time job vacancy occurs, present employees shall be given first consideration for filling the vacancy, based on their length of service with the Employer and ability to perform the duties of the job as measured by a competitive examination.

7.3 PROMOTIONS

Promotions to a higher job classification shall be according to ability and seniority; ability determined to be equal, seniority shall prevail. There shall be a three (3) month trial service period, or less at the Employer's option, for such promotions, in order for the employees to acquire skills and demonstrate their qualifications, during which time the employee shall be compensated at the higher rate of pay. During the trial service period,

an employee promoted to a regular position may return to the former position if they have discussed the reasons for the decision with the supervisor, and if it is within the first three (3) months of the trial service period.

Upon returning to the former position, the employee shall retain their seniority and be placed in the salary schedule and step in which they would have been had they not been promoted. It shall be the policy of the Employer to promote to supervisory positions insofar as possible from the ranks of the employees.

7.4 PERSONNEL FILE/POLICIES

Unless otherwise provided by the terms of this Agreement, the City of Kirkland Administrative and Personnel Policies shall apply to members of this bargaining unit. Employees shall also refer to City policies to resolve matters not covered by this Agreement or for clarification of matters covered by this Agreement. However, where there is a conflict between City Policies and Procedures and any provisions of this Agreement, the provision(s) of this Agreement shall govern.

The agreement of the parties with regards to drug and alcohol testing will become part of this Agreement and adopted by this reference.

Employees shall have access to their personnel file with reasonable frequency. Upon request to the Human Resources department, access shall be provided within a maximum of four (4) working days. Conditions of hiring, termination, change in status, shift, evaluations, commendations and disciplinary actions shall be in writing with a copy to the Employee prior to placement in their personnel file. The Employer's failure to abide by this section pertaining to personnel file access shall not affect the Employer's ability to proceed with the merits of discipline or discharge but may be a separate Union grievable matter and any grievance time-lines will be correspondingly extended.

Employees shall have the right to provide a written response to any written evaluations or disciplinary actions to be included in the personnel file. Upon approval of the Human Resources Department, employees may add additional documents to their personnel file including, but not limited to, certifications, degrees, and commendations.

7.5 EVALUATIONS

The purpose of evaluation is to help an employee be successful in performance and to understand the standards and goals of their position and their department. The evaluation will assess and focus on the employee's accomplishment of their job functions and the goals and standards of the position. Where the employee does not meet the above, a plan for correction, training or support should be developed with the employee.

Evaluation may occur in two forms:

7.5.1 All regular employees should be formally evaluated in writing by their immediate supervisor and/or appointing authority during the probationary or trial service period and at least annually (at date of hire or a common date) thereafter.

7.5.2 Additionally, evaluation of job performance may occur at any time and on an ongoing basis. Evaluation may occur in various ways and may include coaching, counseling or written assessment.

Evaluation shall not, by itself, constitute disciplinary action–disciplinary action must be specifically identified as such, in writing, consistent with Article 7.6.

Employees will be given a copy of the evaluation. Employees will be required to sign the evaluation, acknowledging its receipt. Evaluations are not grievable, however, employees may elect to provide a written response to the evaluation, which will be retained with the evaluation in the employee's personnel file.

7.6 DISCIPLINE/CORRECTIVE ACTION

The Employer agrees to act in good faith in the discipline, dismissal or demotion of any regular employee and any such discipline, dismissal or demotion shall be made only for just cause.

No employee shall be discharged except for just cause. The parties recognize that, just cause requires progressive discipline. Progressive discipline may include:

- oral warnings, which will be documented;
- written warnings – which may also include work performance improvement or corrective action plan for poor work performance or misconduct,
- suspension without pay;
- demotion; or
- discharge.

The intent of progressive discipline is to assist the employee with performance improvement or to correct misconduct. Progressive discipline shall not apply where the offense requires more serious discipline in the first instance. Both the sequencing and the steps of progressive discipline are determined on a case-by-case basis, given the nature of the problem.

All disciplinary actions shall be clearly identified as such in writing. The employee will be requested to sign the disciplinary action. The employee's signature thereon shall not be construed as admission of guilt or concurrence with the discipline, but rather shall be requested as an indication that they have seen and comprehend the gravity of the disciplinary action. Employees shall have the right to review and comment on disciplinary actions in their personnel file.

A copy of all disciplinary notices shall be provided to the employee before such material is placed in their personnel file. Employees disciplined or discharged shall be entitled to utilize the grievance procedure. If, as a result of the grievance procedure utilization, just cause is not shown, personnel records shall be cleared of reference to the incident, which gave rise to the grievance.

The Employer will notify the Union in writing within three (3) working days after any notice of discharge. The failure to provide such notice shall not affect such discharge but will extend the period within which the affected employee may file a grievance.

The Employer recognizes the right of an employee who reasonably believes that an investigatory interview with a supervisor may result in discipline to request the presence of a Union representative at such an interview. Upon request, they shall be afforded a Union representative. The Employer will delay the interview for a reasonable period of time in order to allow a Union representative an opportunity to attend. If a Union representative is not available or delay is not reasonable, the employee may request the presence of a bargaining unit witness. (Weingarten rights)

Employees shall also have a right to a notice and a determination meeting prior to any disciplinary action (except oral warning). The Employer must provide a notice and statement in writing to the employee identifying the performance violations or misconduct alleged, a finding of fact and the reasons for the proposed action. The employee shall be given an opportunity to respond to the charges in a meeting with the Employer, and shall have the right to Union representation during that meeting, upon request. (Loudermill rights)

The Employer shall endeavor to correct employee errors or misjudgments in private, with appropriate Union representation, if requested by the employee.

The Employer may discipline an employee for just cause; provided that the employee is entitled to a Loudermill type hearing before they are disciplined. The hearing does not need to be a full evidentiary hearing and need not include the opportunity for the employee to cross examine his or her accusers. All that is required is:

7.6.1 Written notice to the employee and the Union representative (if requested by the employee) of the charges and the time set for the hearing, which notice must be given within fifteen (15) calendar days of the Employer obtaining knowledge of the conduct giving rise to the need for discipline, unless mutually agreed;

7.6.2 Provide a copy of the Employer's evidence, if any, to the employee and the Union, which obligation continues after the hearing for any subsequent review pursuant to Article 19 and;

7.6.3 An opportunity for the employee to present his or her case and/or any mitigating circumstances.

If after the hearing the employee is disciplined and the employee disagrees with such action, such disagreement shall constitute a dispute regarding the application of the Agreement to the employee and the employee shall use the grievance process set forth in Article 19 of this Agreement to obtain review of that disciplinary action.

The City and the Union agree to consider proposals to change the effective time period for written warnings as part of the Labor Management process outlined in Article 17.

ARTICLE 8 - SENIORITY

8.1 DEFINITIONS

Seniority shall be defined as total length of service in the bargaining unit in a regular full time or part time budgeted position, excluding that portion of extended unpaid leaves of absences in excess of thirty (30) continuous calendar days.

The seniority date shall be adjusted for leaves of absence without pay in excess of thirty (30) consecutive calendar days, except when such leaves are the result of federal or state legally protected leaves.

No seniority shall be established while an employee is employed in any non-regular position. Time in service in a Temporary or benefitted Seasonal / On-Call position shall count for accrual or step movement purposes only.

8.2 APPLICATION OF SENIORITY

Seniority shall be applied in the following manner:

8.2.1 Postings/promotions: - among current employees, where ability and qualifications are equal, seniority will be observed in job postings, promotion and reassignment (i.e. transfers and shift changes). Qualifications will include the minimum qualifications of education, training and experience as set forth in the job description, as well as the job performance, ability, and employment record.

Appointments of employees to positions shall be made by the Employer, upon selection of the applicants determined by the Employer to be best qualified for the positions. First consideration shall be given to the advancement of current employees before appointment of new employees, consistent with Article 7.2.

8.2.2 Layoffs: - Total bargaining unit seniority shall determine who is to be laid off within the selected classification (affected group). The least senior regular employee(s) within the classification shall be the affected employee(s) unless there are overriding reasons related to unique and specific qualifications or job specification. In the event of two employees having the same bargaining unit seniority, time in job classification shall be determinative.

8.2.3 Bumping: - As to bumping, the employee's qualification and the ability to adequately perform the unique functions of the job assignment will be the primary consideration, applied in accordance with seniority. Ability to adequately perform will be defined as the immediate, clear and full performance on the job, with a minimal period of orientation and no material reduction in the efficiency of the operation or services, as determined by the Employer.

8.2.4 Recall: – Seniority shall be determinative in the identification of which employee is to be recalled from the recall list consistent with Article 8.9.

8.3 PROBATIONARY PERIOD

A regular employee's seniority shall be established as the initial date of hire in the bargaining unit, upon completion of the probationary period.

8.4 LOSS OF SENIORITY

An employee will lose seniority rights by and/or upon:

8.4.1. Resignation.
8.4.2. Discharge for cause.
8.4.3. Retirement.
8.4.4. Layoff/Recall list of more than fourteen (14) consecutive months
8.4.5. Failure to respond to offer of recall to former position.
8.4.6. Failure to respond to two offers of recall to comparable employment.

Employees who are re-employed following the loss of their seniority shall be deemed a newly-hired employee for all purposes under this Agreement.

8.5 LAYOFFS

A layoff is identified as the anticipated and on-going or prolonged reduction in the number of full-time equivalent (FTE) positions**,** ~~or~~ in the number of partial FTEs , or a involuntary reduction of scheduled hours (i.e. full time FTE to partial FTE) within the City or within a job classification covered by this Agreement. A reduction in force in classification may occur for reasons of lack of funds, lack of work, efficiency or reorganization. Reductions in force are identified by classification within the affected department.

8.6 NOTICE

Employees affected will be given at least thirty (30) calendar day's written notice of the layoff if possible. In no event shall written notice of layoff be less than ten (10) working days. If the employer does not provide ten (10) working days written notice, the employer shall compensate the employee at his or her normal rate of pay for the time between the last day of work and ten (10) working days from the date the employee receives the notice of layoff, in addition to any other compensation due the employee.

The employee shall inform the Employer, by written notice, within five (5) working days of the receipt of the notice of layoff of their intention to exercise bumping rights. When all bumping rights have been acted upon, or when someone has chosen not to act on their bumping right, the employee least senior or the employee choosing not to bump shall be the person laid off. Only one thirty (30) day notice of layoff is required, irrespective of the number of bumps.

8.7 MEETING WITH UNION

The Union shall also be notified in writing of any reduction in hours proposed by the Employer, including the purpose, scope, and duration of the proposed reduction.

Upon the Union's request, the Employer and the Union shall meet promptly during the first two (2) weeks of the notice period identified in Article 8.6 to discuss the reasons and the time-lines for the layoff and to review possible alternatives to layoff.

8.8 AFFECTED GROUP

The following procedure shall apply to any layoff:

8.8.1 Affected employees: The Employer shall first determine by job classification the number of employees or FTEs to be affected by the layoff.

The least senior employee within the affected job classification shall be selected for layoff. The exception would be only when the Employer determines that the position requires unique qualifications and abilities necessary to perform the specialized and required functions of that position.

8.8.2 Volunteers: Simultaneous with implementing the provisions of the layoff procedure, the Employer may first seek, by a five (5) working day posting process, volunteers for layoff or voluntary resignation from among those employees who work within the same job classification as the affected employees. If there are more volunteers than affected employees, volunteers will be chosen by seniority.

8.8.3 Probationary Employees: If the number of volunteers is not sufficient to meet the announced number of necessary layoffs, and if the affected employee is an initial probationary employee, then that employee shall be laid off and are ineligible to select among layoff options.

8.9 VACANT POSITIONS

Positions will be filled in accordance with Article 8.2 and other sections of this Article.

Within the bargaining unit and the department, affected employees and employees on the recall list shall be given first opportunity for vacant bargaining unit positions for which they are qualified prior to outside hiring by the Employer, consistent with Article 8.13.

8.10 SENIORITY LIST

The Employer shall update the seniority list and provide it to the Union annually, or upon request. If a layoff is announced, a current ranked seniority list including job classifications, names, job locations, and FTE or hours per week shall be provided to the Union and posted in the affected department.

8.11 ORDER OF LAYOFF

The least senior employee (by bargaining unit seniority) within the affected job classification and affected department shall be selected for layoff. No regular employee shall be laid off while another employee in the same classification within the department is employed on a probationary, extra help or temporary basis.

8.12 COMPARABLE EMPLOYMENT

For purposes of this Article, "comparable employment," "comparable position" or vacancy shall be defined to include a position which has the same salary pay range and, additionally, the educational and experience qualifications, FTE and work-week are substantially similar.

8.13 LAYOFF OPTIONS

Affected employees who have completed their probationary period shall have the following options:

8.13.1 Assume a vacant Position: On a bargaining unit seniority basis, to assume a vacant position in the same department, for which they are qualified.

8.13.2 Bump: Laid off employees, including bumped employees, shall be allowed to bump less senior employees (by bargaining unit seniority) in lower classifications or laterally. Qualified shall mean having demonstrated skills and required experience to perform the job.

If there is no employee in the next lower classification or laterally who is less senior than the person scheduled for layoff, that person may look progressively to the next lower classification for such bumping rights.

The employee who is bumped by the affected employee shall have the same rights under this Article.

8.13.3 Recall: If the affected employee elects not to take a vacant position, elects not to bump or cannot immediately and adequately perform the functions of the job assignment in assuming a vacant or bumped position, then that employee will be placed on the recall list and will be eligible for recall under Article 8.15.

Nothing contained in this layoff section shall be construed to require the Employer to modify its position and classification structure in order to accommodate bumping or other re-employment rights.

Salary placement rules shall apply to recall to regular positions and to employees who have bumped. Employees bumping to another position shall retain their old anniversary date for purposes of step increases. Persons recalled to the same salary range shall be placed in their former step and time in step.

8.14 REDUCTION HOURS/FTE

An employee subject to an involuntary reduction in their FTE may elect to accept the reduction, or may elect to be placed on recall in accordance with Article 8.13.

8.15 RECALL

An employee who has been laid off shall be entitled to recall rights for a period of fourteen (14) months from the effective date of their layoff. If a vacancy occurs in a position, employees on the recall list shall be notified of such vacancies at the employee's

address on file with the Human Resource Department. The vacancy will be filled, in accordance with seniority, among current employees and those on the recall list. If employees on the recall list elect not to accept or fail to respond within seven (7) consecutive days of the receipt of the offer of recall, they shall be considered to have terminated or abandoned their right to re-employment and relinquished all recall rights.

As long as any employee remains on the recall list the Employer shall not newly employ by hiring persons into the bargaining unit until all qualified employees holding recall rights have been offered recall.

It shall be the responsibility of the affected employee to provide the Employer with their current mailing address and telephone number.

There shall be no probationary requirement for persons returning to their former position if the initial probationary period has been completed.

8.16 VACATION & LEAVE CASH OUTS/PAY

Any regular employee who is laid off or terminated shall be cashed out for any unused vacation benefits or comp time with their final paycheck, to the extent of established maximums (per other Articles of this Agreement).

Sick leave balances at the date of layoff shall be restored upon recall with the Employer if the person is recalled into a regular position from the recall list. No sick leave shall accrue during the period of layoff.

8.17 UNEMPLOYMENT CLAIMS

If laid off employees apply for unemployment compensation benefits, the Employer will not contest the claim and will confirm that the employee was laid off**.**

ARTICLE 9 – WAGES

The monthly salaries for employees covered by this Agreement are contained herein to this Agreement. Should it become necessary to establish a new job classification within the bargaining unit during the life of this Agreement, the Employer may designate a job classification title and salary for the classification. The salary for any new classification within the bargaining unit shall be subject to negotiations, consistent with Article 2.2.

9.1 WAGE SCHEDULE

TEAMSTERS 2012 2.5% wage increase 01012012

Pay Group	Position Title	Step A 0-12m	Step B - 2 4 m	Step C 25-36m	Step D 37-48m	Step E 49-60m	Step F 61-72m	Step G 73-84m	Step H 85m +	Step A 0-12m	Step B 13-24m	Step C 25-36m	Step D 37-48m	Step E 49-60m	Step F 61-72m	Step G 73-84m	Step H 85m +
1	Vacant	$5,604	$5,745	$5,885	$6,033	$6,187	$6,433	$6,695	$6,695	$32.33	$33.14	$33.95	$34.81	$35.69	$37.11	$38.63	$38.63
	-																
2	Electronic Tech I	$5,463	$5,596	$5,736	$5,879	$6,029	$6,267	$6,519	$6,519	$31.52	$32.28	$33.09	$33.92	$34.78	$36.16	$37.61	$37.61
3	Leadperson	* * *	* * *	$5,100	$5,288	$5,470	$5,687	$5,914	$6,154	* * *	* * *	$30.47	$31.21	$31.96	$32.81	$34.12	$35.50
4	Mechanic I	* * *	* * *	$4,848	$5,099	$5,355	$5,606	$6,067	$6,067	* * *	* * *	$27.97	$29.42	$30.89	$32.34	$33.64	$35.00
5	Electronic Tech II	$4,429	$4,686	$4,946	$5,204	$5,464	$5,722	$5,949	$5,949	$25.55	$27.03	$28.53	$30.02	$31.52	$33.01	$34.32	$34.32
	Emergency Vehicle Tech	$4,429	$4,686	$4,946	$5,204	$5,464	$5,722	$5,949	$5,949	$25.55	$27.03	$28.53	$30.02	$31.52	$33.01	$34.32	$34.32
6	Facilities Services Tech I	$4,386	$4,521	$4,651	$4,795	$5,040	$5,241	$5,448	$5,666	$25.30	$26.08	$26.83	$27.66	$29.08	$30.24	$31.43	$32.69
	Field Arborist	$4,386	$4,521	$4,651	$4,795	$5,040	$5,241	$5,448	$5,666	$25.30	$26.08	$26.83	$27.66	$29.08	$30.24	$31.43	$32.69
7	Sr. Maintenance Person	$4,279	$4,410	$4,538	$4,677	$4,913	$5,110	$5,314	$5,527	$24.69	$25.44	$26.18	$26.98	$28.34	$29.48	$30.66	$31.89
	Sr. Groundsperson	$4,279	$4,410	$4,538	$4,677	$4,913	$5,110	$5,314	$5,527	$24.69	$25.44	$26.18	$26.98	$28.34	$29.48	$30.66	$31.89
	Mechanic II	$4,279	$4,410	$4,538	$4,677	$4,913	$5,110	$5,314	$5,527	$24.69	$25.44	$26.18	$26.98	$28.34	$29.48	$30.66	$31.89
	Senior Craftsperson	$4,279	$4,410	$4,538	$4,677	$4,913	$5,110	$5,314	$5,527	$24.69	$25.44	$26.18	$26.98	$28.34	$29.48	$30.66	$31.89
	Yard Maint & Inv Control	$4,279	$4,410	$4,538	$4,677	$4,913	$5,110	$5,314	$5,527	$24.69	$25.44	$26.18	$26.98	$28.34	$29.48	$30.66	$31.89
	Facilities Services Tech II	$4,279	$4,410	$4,538	$4,677	$4,913	$5,110	$5,314	$5,527	$24.69	$25.44	$26.18	$26.98	$28.34	$29.48	$30.66	$31.89
8	Utility Craftsperson	$3,988	$4,181	$4,333	$4,487	$4,640	$4,792	$4,946	$5,098	$23.01	$24.12	$25.00	$25.89	$26.77	$27.65	$28.53	$29.41
	Utility Craftsperson-Meter Reader	$3,988	$4,181	$4,333	$4,487	$4,640	$4,792	$4,946	$5,098	$23.01	$24.12	$25.00	$25.89	$26.77	$27.65	$28.53	$29.41
Pay Group Pay Group	Position Title	Step A 0-6m	Step B 7-12m	Step C 13-24m	Step D 25-36m	Step E 37-48m	Step F 49-60m	Step G 61-72m	Step H 73m +	Step A 0-6m	Step B 7-12m	Step C 13-24m	Step D 25-36m	Step E 37-48m	Step F 49-60m	Step G 61-72m	Step H 73m +
9	Utilityperson	$3,368	$3,529	$3,696	$3,873	$4,057	$4,253	$4,454	$4,632	$19.43	$20.36	$21.32	$22.34	$23.41	$24.54	$25.70	$26.72
	Groundsperson	$3,368	$3,529	$3,696	$3,873	$4,057	$4,253	$4,454	$4,632	$19.43	$20.36	$21.32	$22.34	$23.41	$24.54	$25.70	$26.72
	Grounds Technician	$3,368	$3,529	$3,696	$3,873	$4,057	$4,253	$4,454	$4,632	$19.43	$20.36	$21.32	$22.34	$23.41	$24.54	$25.70	$26.72
	Mechanic III	$3,368	$3,529	$3,696	$3,873	$4,057	$4,253	$4,454	$4,632	$19.43	$20.36	$21.32	$22.34	$23.41	$24.54	$25.70	$26.72
	Custodian	$3,368	$3,529	$3,696	$3,873	$4,057	$4,253	$4,454	$4,632	$19.43	$20.36	$21.32	$22.34	$23.41	$24.54	$25.70	$26.72
	Electronic Tech III	$3,368	$3,529	$3,696	$3,873	$4,057	$4,253	$4,454	$4,632	$19.43	$20.36	$21.32	$22.34	$23.41	$24.54	$25.70	$26.72
	Facilities Services Tech III	$3,368	$3,529	$3,696	$3,873	$4,057	$4,253	$4,454	$4,632	$19.43	$20.36	$21.32	$22.34	$23.41	$24.54	$25.70	$26.72
		Step A 0-6m	Step B 07-12m							Step A 0-6m	Step B 7-12m						
10	Laborer	$2,990	$3,084							$17.25	$17.79						

Wage Adjustments

9.1.1.a Effective January 01, 2013 the monthly rates of pay, shall be increased by two and one half percent (2.5%) through December 31**, 2013.**

9.1.1.b Effective January 01, 2014 the monthly rates of pay, shall be increased by zero percent (0%).

9.1.1.c

9.1.2 Pay Groups and Steps: positions have been identified in pay groups that compare positions with similar competencies, skills and abilities:

Pay Group 1:	Vacant
Pay Group 2:	Electronic Tech I
Pay Group 3:	Leadperson
Pay Group 4:	Mechanic I
Pay Group 5:	Electronic Tech II, Emergency Vehicle Tech
Pay Group 6:	Facilities Services Tech I, Field Arborist
Pay Group 7:	Sr. Maintenance Person, Sr. Groundsperson, Mechanic II, Senior Craftsperson, Yard Maint & Inv Control, Facilities Services Tech II
Pay Group 8:	Utility Craftsperson, Utility Craftsperson-Meter Reader
Pay Group 9:	Utility Person, Grounds person, Grounds Tech, Mechanic III, Custodian, Electronic Tech III, Facilities Services Tech III
Pay Group10:	Laborer

9.1.3 Any employee hired to the position of Mechanic II, as a condition of employment, shall obtain an EVT within 12 months from date of hire.

9.1.4 Employees performing the work of Scuba Diving for the Parks Department shall be compensated at one and one-half (1-1/2) times their straight time hourly rate of pay, corresponding with the employee's pay Step, for all hours worked as a Scuba Diver.

9.1.5 For PAY GROUPS 1- 8, STEP A to B, STEP B to C, STEP C to D, STEP D to E, STEP E to F, STEP F to G AND STEP G to H are automatic progression PAY STEPS, each being twelve (12) months in duration.

9.1.6 For PAY GROUP 9, STEP A to B and STEP B to C are automatic progression PAY STEPS, each being six (6) months in duration.
STEP C to D, STEP D to E, STEP E to F, STEP F to G, STEP G to H are automatic progression PAY STEPS, each being twelve (12) months in duration.

9.1.7 For PAY GROUP 10, STEP A to B and STEP B of PAY GROUP 10 to STEP A of PAY GROUP 9 are automatic progression PAY STEPS, each being six (6) months in duration.

An employee who is promoted from one classification to another shall be placed into the next higher PAY STEP of the new classification that provides for an increase of at least five percent (5%) above the wage currently being received by the employee prior to the promotion.

The following constitutes those pieces of machinery and tools which are to be operated by a PAY GROUP 7 employee or higher classification and only after being certified by a Supervisor as to operational competency:

Backhoe
Eductor Truck
Crawler Tractor (D4 or above)
Dual Axle Dump Truck
Grader
Loader
Sweeper
Tractor Roadside Mower
16 Foot Mower
Pipeline Video Truck
Track Hoe/Excavator
Motorized Paving Machine

The following constitutes those pieces of machinery and tools which are to be operated by a PAY GROUP 9 employee or higher classification and only after being certified by a Supervisor as to operational competency:

Crawler Tractor (Less than D4)
Loader (Less than 2.5 cy)
Multi-purpose Agricultural Tractor
Rider Mowers*
Roller
Brush Chipper
Aerial Lift/Bucket Truck
Single Axle Dump Truck with airbrakes

The following constitutes those pieces of machinery and tools which are to be operated by a PAY GROUP 10 employee or higher classification and only after being certified by a Supervisor as to operational competency.

Compressor*
Hand and Power Tools*
Pick-up Trucks and Service Vehicles (including ATV & Flatbeds)*
Single Axle Dump Truck without airbrakes

Truck Mounted Weed Sprayer

* May be operated by Seasonal/On call Employees who are properly trained and when no regular employee is present or available to do the work–all other equipment must be operated by or assisted by a regular employee pursuant to classification.

9.2 HIRE-IN RATES

New regular employees shall normally be placed at Step A of the appropriate salary range**.**

9.3 SHIFT DIFFERENTIAL

Shift differential is not applicable to this bargaining unit.

ARTICLE 10 – OTHER COMPENSATION

10.1 STANDBY PAY

Bargaining unit employees who volunteer for Standby Duty shall be added to the weekly assignment rotation list for Standby Duty. If such volunteers are unable to fill the need for Standby Duty, the Employer may assign employees on a regular rotating basis to Standby Duty. Prior to inclusion on the weekly assignment rotation list for Standby Duty an employee shall be approved as to qualifications in their discipline by the departmental Director or his/her designee following, reasonable training provided by the Employer.

10.1.1 The purpose of Standby Duty is to be available during off-duty hours to receive service requests concerning problems; to investigate the nature and seriousness of the problem either by telephone, City issued cell phone, City issued laptop, or by on-site inspection; to correct minor problems causing a hazard, damage or potential damage, or significant inconveniences to the public; to call out appropriate crews when necessary; to direct the crew to the site; to perform work as a crew member if callback should occur; and to keep appropriate records. The City may issue laptop, or cell phone for the expressed use of the standby assignment, no personal use of this equipment will be allowed. An employee on Standby Duty shall be provided a City vehicle while on duty.

10.1.2 In the event personnel are needed, qualified bargaining unit members shall be given first opportunity to respond to call out.

10.1.3 In emergency situations, when providing cross-training for a limited and specific time or when a Department has instituted a Standby Duty practice and has less than six (6) qualified employees who have volunteered for Standby Duty, the Employer may continue to assign non-bargaining unit employees to Standby Duty.

10.1.4 An employee who wishes to be removed from volunteer Standby Duty shall give two (2) weeks' notice. Employees may be moved up on the rotational list as required by the Employer.

10.1.5 The Employer shall make every effort to design the rotation of the Standby Duty among the employees so that no one (1) employee or group of employees is consistently assigned standby on holiday weekends.

Standby Duty shall commence as of quitting time on Tuesday and continue through to starting time on the following Tuesday morning. Other seven (7) day weekly periods of time may be established, in lieu of the Tuesday to Tuesday schedule, by mutual agreement between the Employer and the employee group. An employee who serves on Standby Duty shall receive a flat rate of seven hundred thirteen dollars and eighty-seven cents ($713.87).

10.1.6 Telemetry Standby - Notwithstanding Section 10.1, the Telemetry Standby shall be compensated at a rate that shall average three hundred seventy-five and eighteen cents ($375.18) week. The Employer shall continue to assign non-bargaining unit employees to Telemetry Standby Duty when there are less than six (6) employees who have volunteered for the Standby Duty. The Employer is involved in the training of employee(s) for Telemetry duties.

10.1.7 Partial Week Standby Duty - In the event that a Department institutes a Standby Duty practice that provides for weekend and/or holiday coverage (as distinguished from full week Standby Duty, as specified in Sections 10.1 and 10.1.5 or Telemetry Standby, as specified in Section 10.1.6), the following conditions shall apply:

10.1.8 Weekend Standby Duty - Weekend Standby Duty shall commence as of quitting time on Friday and continue through to starting time on the following Monday morning. An employee who serves Weekend Standby Duty shall receive a flat rate of three hundred six dollars and ninety-seven cents ($306.97). (note: 3 ÷ 7 days = 43% $713.87 = $306.97) per weekend.

10.1.9 Holiday Standby Duty - Holiday Standby Duty shall commence as of quitting time the day before the holiday. (For example, if the holiday falls on Monday, the Holiday Standby Duty shall commence at the normal starting time on the Monday, and shall continue through to the following day's normal start time.) An employee who serves Holiday Standby Duty shall receive a flat rate of one hundred eight dollars and sixty one cents ($108.61) per holiday. This Section shall not apply to those employees on Standby Duty pursuant to Sections 10.1.5 or 10.1.6.

10.1.10 Daily Standby Duty – Shall commence at the end of the regular work shift for the Parks and Facilities staff members. The purpose of daily stand-by is for circumstances such as special events, emergencies, and leave coverage. An employee who serves a single day of Stand by duty shall receive a flat rate of ninety-nine dollars and ninety four cents ($99.94) (note: 1÷7days =14% x $713.87 weekly rate= $99.94).

10.1.11 The Standby Duty rates shall remain constant for the duration of this agreement.

10.2 CALL-BACK PAY

An employee who is called to return to work after having left the work location upon completion of their shift, shall receive a minimum of three (3) hours pay at the overtime rate; provided however, should they be called to return to work within three (3) hours from the starting time of their work shift, they shall receive compensation at the overtime rate only for that period from the callout to the start of their work shift. Upon request of the employee, the Employer shall endeavor to provide no less than a four (4) hour break between the completion of an employee's work on callback and the starting time of their work shift when the employee on callback has worked four (4) hours or more. Only hours actually worked can be counted toward double time, ref: Article 6.4.

10.3 WORK IN A HIGHER CLASSIFICATION

In the event an employee operates equipment or works in a higher classification than that to which the employee is regularly assigned, the employee shall be paid at the next higher pay step of the higher classification that provides for an increase of at least five percent (5%) for the period worked, provided such work exceeds four (4) hours or more during a workday. This Article shall not apply to on the job training under the direction of an instructor. An employee may request to be tested and taken off training status.

Employees on a twelve (12) month Leave from their Job Classifications – Employees, who upon Employer approval, go on leave for the purpose of training within the an AFSCME classification position shall return within twelve (12) months to their original job classification. Employees shall continue to accrue vacations, seniority, including time towards their progressions and all other benefits covered by Local Union No. 763 Labor Agreement.

The Employee shall be responsible for the payment of his/her dues to such Labor Organization which holds jurisdiction over the temporary position. Representation during this temporary assignment will be the responsibility of the jurisdictional Union over the position.

10.4 MILEAGE REIMBURSEMENT

All bargaining unit employees who are required to use their own vehicles for City business shall be reimbursed at the mileage rate set by then current policy for all miles driven on such business.

10.5 FOOTWEAR ALLOWANCE

Footwear - On the first payday in September of each year, the Employer shall distribute to each benefitted employee an allowance, for ANSI approved work footwear in the amount of two hundred twenty-five dollars, $225.00. The employee shall wear protective footwear that meets or exceeds safety specifications to be allowed to perform compensated work.

10.5.1 Protective footwear shall be worn on the job during activities of any hazard exposure in order for the employee to be allowed to work each day.

10.5.2 New Hire Employees – New employees shall be eligible for a footwear allotment upon hire; provided however, should the employee fail to successfully complete their probationary period the value of such footwear shall be withheld from their final pay check.

10.5.3 WISHA compliance procedure may be reviewed from time-to-time, as necessary, by the Safety Risk Analyst.

10.5.4 Street clothing, purchased by the City for an employee as part of a uniform will be considered taxable income.

Clothing Allowance- on the first payday in March of each year, the employer shall issue to each participating employee a clothing allowance for work related pants in the amount of one hundred twenty-five dollars, $125.00.

10.6 LONGEVITY PAY

All employees who have completed 9 continuous years of service to the Employer will receive a flat rate per month and will not be affected by the COLA.

Effective upon ratification of the Agreement, the above sentence will be amended to recognize long-term service and longevity will be added for all employees who have completed continuous years of service based on the chart below:

$ 50.00 total per month at the start of the - 10th year of service
$100.00 total per month at the start of the - 15th year of service
$150.00 total per month at the start of the - 20th year of service

For the year 2014:

$ 70.00 total per month at the start of the 10th year of service
$120.00 total per month at the start of the 15th year of service
$170.00 total per month at the start of the 20th year of service

ARTICLE 11 – HOLIDAYS

11.1 HOLIDAYS

Benefitted employees shall be granted the following holidays and such other days as the City Council may recognize without a reduction in pay:

Holiday	Observed
New Year's Day	January 1st
Martin Luther King, Jr. Birthday	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th

Labor Day	1st Monday in September
Veteran's Day	November 11th
Thanksgiving Day	4th Thursday in November
The Day after Thanksgiving Day	
Day Before Christmas Day	Last regular work day before Christmas Day
Christmas Day	December 25th
Day Before New Year's Day	Last regular work day before New Year's Day
Floating Holiday	

11.2 RELIGIOUS HOLIDAYS

Benefitted employees may also take other religious holidays off with their supervisor's approval, with or without pay, through utilization of vacation or comp time or by making alternative work schedule arrangements. Such requests shall not be unreasonably denied.

11.3 HOLIDAY OBSERVANCE

When one (1) of the above listed holidays falls on the sixth (6th) day of an employee's workweek, the fifth (5th) day shall be observed as the holiday. When one (1) of the above listed holidays falls on the seventh (7th) day of the workweek, the following day shall be observed as the holiday. For those employees on a 4/10 work schedule or other alternate schedule, when one (1) of the listed holidays falls on one (1) of the employee's regularly scheduled days off, the holiday shall be observed on a day mutually agreeable to the employee and the Employer.

The holidays listed above represent specific events as indicated. Should the dates for any such holiday be changed by the Legislature or the Governor or the State of Washington, said holiday shall be observed on the date established by the change and not the date set forth above.

When an employee requests a Floating Holiday, the request must give at least one (1) week advance notice. The employee must have completed probation to be eligible for his/her floating holiday. Granting of the Floating Holiday shall be based on departmental needs and requirements. Seniority shall prevail in granting time off in those instances where more than one (1) employee requests the same day. A Floating Holiday shall equal an eight (8) hour period.

11.4 HOLIDAY ON DAY OFF

Benefitted employees shall receive eight (8) hours' holiday benefit pay for each holiday listed in Article 11.1 – Holidays, pro-rated to their FTE.

11.5 HOLIDAY COMPENSATION

Should any work be performed by an employee on a holiday at the direction of their supervisor, they shall be paid at the overtime rate for such work. No employee shall be called on a holiday for less than four (4) hours, except those personnel serving Standby Duty.

ARTICLE 12 – VACATION

12.1 VACATION ACCRUAL

Benefitted employees shall receive vacation leave each year based upon the following schedule:

YEARS OF EMPLOYMENT	ANNUAL VACATION (DUTY HOURS)
1st -4th years	104 hours
5th -7th years	128 hours
8th -10th years	136 hours
11th -13th years	144 hours
14th - 16th years	160 hours
17th - 19th years	176 hours
20th - 24th years	192 hours
25th year and thereafter	200 hours

The vacation schedule set forth herein shall be used in determination of vacation leave accrual for each employee commencing with their anniversary date of employment.

Vacation leave shall accrue during any leave without pay on a pro rata basis. Such leave shall not be considered an interruption of consecutive years of employment for the purpose of determining entitlement to additional vacation hours under the schedule at Section 12.1.

An additional eight (8) hours of vacation shall be granted in the event a holiday falls within the employee's vacation period.

Vacation leave shall not be accumulated in excess of two hundred eighty (280) hours within a calendar year without the express prior written authorization of the City Manager or designee. No more than two hundred and forty (240) hours may be carried over from one calendar year to the next except as provided in the following paragraph.

Requests to the City Manager or designee for exceptions shall be for a specific number of hours to be used for a specific purpose and to be taken by a specific date. Generally, the basis for requesting an exception would be that the employee requested to utilize the leave and service and work requirements precluded granting the leave. Accrued unused vacation leave shall not, under any circumstance, exceed three hundred twenty (320) hours.

Taking any leave without pay in any pay period shall result in a pro-rationing of vacation accrual for that pay period, which shall be calculated upon actual hours worked as a percentage of the total hours of the pay period.

12.2 VACATION SCHEDULING

Employees shall provide two (2) weeks notice to the Employer for vacation leave of more than one (1) week. With approval of the Department Director, vacation may be taken in one (1) hour increments. Vacations shall be scheduled at such times as the Employer

finds most suitable after considering the wishes of the employee and the requirements of the department.

Employees shall have the option of using compensatory time (consistent with Article 6.5) or vacation leave for approved paid time off.

12.3 VACATION PAY

Vacation pay shall be the amount that the employee would have earned if the employee had worked their regular position during the vacation period.

If an authorized holiday occurs within an employee's vacation period, that day will be paid as a holiday and not deducted from the employee's vacation accruals. Employees cannot receive vacation, sick leave or holiday pay simultaneously for the same days.

Earned vacation leave may be taken at any time during a period of sickness after the exhaustion of sick leave. At the employee's election, accrued comp time may also be used.

12.4 VACATION UPON TERMINATION

Upon separation from City employment, employees who have been employed by the Employer for six (6) or more consecutive months shall receive pay in lieu of unused earned vacation leave up to a maximum of two hundred forty (240) hours. Any vacation leave accrued beyond the afore-referenced maximum shall be forfeited and shall not form the basis for any severance pay or additional compensation. In no case shall an employee receive pay in lieu of unused vacation leave prior to separation from City employment, unless approved by City Manager or designee.

ARTICLE 13 - SICK LEAVE

13.1 SICK LEAVE ACCRUAL

Sick Leave - Employees are expected to be on the job, and on time, unless excused by their supervisor or Department Director. Periodic review of employee's attendance records shall be made by each department. Excessive absenteeism or tardiness, or use of sick leave for purposes other than those provided for in this Agreement shall result in disciplinary action against the employee.

13.1.1 Regular employees sick leave with pay shall accrue at the rate of eight (8) hours of leave for each calendar month of the employee's service and any such leave accrued in any year shall be accumulative for succeeding years to a maximum of nine hundred sixty (960) working hours. Taking any leave without pay in any pay period shall result in a pro-rationing of sick leave accrual for that pay period, which shall be calculated upon actual hours worked as a percentage of the total hours of the pay period.

13.2 SICK LEAVE USAGE

Sick leave shall be available to benefitted employees after they have worked for a minimum of thirty (30) consecutive calendar days after their most recent date of hire.

Sick leave shall be granted for the following reasons: Personal illness, mental or physical incapacity which renders the employee unable to perform the duties of his or her position, care for or serious illness of immediate family, medical or dental appointments or as otherwise required by law or this agreement.

After three (3) days and/or at the discretion of the Department Director, certification of illness by a health care provider may be required for approval of sick leave with pay. Certification shall be on a form provided by the Employer and signed by a health care provider stating that the employee has been ill and is now able to return to work and perform the required duties.

Continuance of sick leave pay during absence from duty is contingent upon the employee or someone on their behalf notifying their immediate supervisor of the reason for absence and probable duration of absence within one (1) hour of the regular starting time on the first (1st) day off duty and each day thereafter, provided the illness is not long term.

Absence for a fraction or part of a day that is chargeable to sick leave shall be charged proportionally in an amount not smaller than one-half (1/2) hour a day. Holidays and other normal days off during the week shall not be charged against sick leave.

13.3 SHARED LEAVE

The City may permit an employee to receive donation of vacation or comp time consistent with the then current Shared Leave policy.

13.4 COORDINATION - WORKER'S COMPENSATION

In the event an employee shall be entitled to benefits or payments under any program of disability insurance furnished by the Employer, Workers' Compensation Act or similar legislation by the State of Washington or other governmental unit, the Employer shall pay only the difference between the benefits and payments received under such insurance or act, by such employee and his regular rate of compensation that he would have received from the Employer if able to work. The foregoing payment or contribution by the Employer shall be limited to the period of time that such employee has accumulated sick leave credits as hereinbefore specified.

13.5 FAMILY MEMBER

Sick leave may be utilized as referenced above in this article for an immediate family member requiring the employee's attendance.

ARTICLE 14 – LEAVES OF ABSENCE

14.1 IN GENERAL

Leaves of absence requests shall not be unreasonably denied. All leaves are to be requested in writing as far in advance as possible.

As appropriate for the type of leave requested, paid leave accruals will be utilized prior to unpaid leave, unless otherwise provided for in this Agreement.

Leave does not accrue nor may it be used until the first day of the following pay period in which it is earned (no “negative” leave use during the period in which it is earned).

During unpaid leave, an eligible benefitted employee shall maintain accrued leave, but shall not accrue any additional leave.

14.2 JURY DUTY/COURT

An employee required to serve on a jury or as a result of official City duties is required to appear before a Court, Legislative Committee or Quasi-judicial body as a witness in response to a subpoena or other directive, shall be allowed authorized leave with pay less any amount received for such service.

14.3 MILITARY LEAVE

All regular employees shall be allowed military leave as required by RCW 38.40.060 and as interpreted by the Court. This provides for twenty-one working days of military leave per year (October 1 through September 30).

14.4 BEREAVEMENT

Should an employee or a member of the employee’s household suffer a death in their immediate family, such employee shall be allowed up to twenty-four (24) hours pay per event to attend the funeral. This leave is not cumulative from year to year.

14.4.1 Upon request, and approval from the Department Director additional time up to twenty-four (24) hours of an employee's accumulated sick leave may be utilized where circumstances warrant it.

14.5 MAINTENANCE OF SENIORITY

The Employer shall adjust the employee’s anniversary date to reflect any period of unpaid leave in excess of thirty (30) continuous calendar days. Seniority shall continue to accrue and the employee’s anniversary date shall not be adjusted for periods of legally protected leave, such as FMLA or military leave.

14.6 LEAVE WITHOUT PAY

As appropriate for the type of leave requested, paid leave accruals will be utilized prior to unpaid leave. Compensatory time may be utilized at the discretion of the employee.

If authorized by the Employer or required by law, regular employees may take up to six (6) months leave of absence without pay. Leaves of thirty (30) calendar days or less can be authorized by the Department Director. Leaves in excess of thirty (30) calendar days require authorization by the City Manager or designee. Such leaves shall not constitute a break in service but no benefits shall accrue during the leave. Upon expiration of the leave, the employee shall be reinstated in the position held at the time the leave was granted.

14.7 FAMILY LEAVE – FMLA

Under the terms of the Family and Medical Leave Act of 1993 (FMLA) and the state law, upon the completion of one (1) year of employment, any employee who has worked at least 1250 hours during the prior twelve (12) months shall be entitled to up to twelve (12) weeks of leave per rolling year for the birth, adoption or placement of a foster child; to care for a spouse or immediate family member with a serious health condition; or when the employee is unable to work due to a serious health condition. For purposes of this Article, the definition of "immediate family" will be found in Article 1.

The Employer shall maintain the employee's health benefits during this leave. If the employee fails to return from leave for any other reason other than the medical condition initially qualifying for the FMLA absence, the Employer may recover from the employee the insurance premiums paid during any period of unpaid leave.

If a leave qualifies under both federal and state law, the leave shall run concurrently. Ordinarily, the employee must provide thirty (30) days written advance notice to the Employer when the leave is foreseeable. The employee should report qualifying events as soon as known and practicable.

The combination of FMLA and other types of leave(s) is not precluded and, in fact, leave utilizations are to be concurrent, with the intent that appropriate paid accruals are to be utilized first, consistent with other Articles of this Agreement and subject to the retention provisions provided for in the Employer's Personnel Policy. Upon the employee's election, any accrued comp time may be utilized prior to any period of unpaid leave.

The Employer will grant leave consistent with state and federal law. Family leave shall be consistent with the FMLA and the adopted conditions and provisions of the state and federal law and are not intended to expand upon the rights thus set forth.

14.8 MATERNITY LEAVE

Consistent with WAC 162-30-020(4), the Employer will grant a leave of absence for a period of temporary disability because of pregnancy or childbirth. This may be in addition to the leave entitlements of FMLA.

This leave provides female employees with the right to a leave of absence equivalent to the disability phase of pregnancy and childbirth. There is no eligibility requirement, however the Employer has no obligation to pay for health insurance benefits while on this leave (unless utilized concurrent with FMLA).

Leave for temporary disability due to pregnancy or childbirth will be medically verifiable. There is no limit to the length of the disability phase, except for the right for medical verification and the right of second opinion at the employer's expense. At the end of the disability leave, the employee is entitled to return to the same job or a similar job of at least the same pay in a manner consistent with law. Employees must use their accrued vacation and sick leave, if any, during the leave period and, at their election, any

accrued comp time. Once this paid leave is exhausted, the employee's leave may be switched over to unpaid leave.

14.9 INCLEMENT WEATHER

Employee rights and responsibilities during severe weather and emergency or disaster conditions are covered by the then current Inclement Weather Policy of the City. The goal shall be to continue to provide essential City services, consistent with public and employee safety and emergency operations priorities.

ARTICLE 15 – HEALTH & WELFARE

15.1 MAINTENANCE OF BENEFITS

Medical and Dental Insurance - The Employer may self-insure medical and/or dental insurance coverage or select a new medical and/or dental insurance plan and shall make every possible effort to maintain substantially equivalent benefits. The Employer and the Union shall meet to explore alternative insurance coverage prior to selecting any new medical and/or dental insurance plan in order to maintain substantially equivalent benefits at a reasonable cost. The Employer recognizes its responsibility to bargain with the union the impact of those decisions.

The Union shall take part in and have an appointed representative on the Health and Welfare Benefits Committee. The purpose of the Committee is to monitor and evaluate the benefits costs and the plan designs. Among the items to be considered would be identification of options for retiree medical participation. The Benefit Committee representative shall have no authority to negotiate on behalf of the Union any changes to be scheduled or content of benefit plans, any such changes shall be governed in accordance with Article 15.1 of this Agreement.

Participation in benefits shall be consistent with Article 5.2 of this Agreement and the Trusts and Plans described below.

Changes in insurance carrier shall be subject to Article 15.1.

15.2 HEALTH AND LIFE INSURANCE

Medical Insurance – Effective January 1, 2012 the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee coverage and one hundred percent (100%) of the premium necessary for the purchase of dependent coverage under the City of Kirkland Prime Plan or Group Health Plan, or their equivalent for each employee of the bargaining unit.

Dental and Vision - The Employer shall pay each month into the following Benefit Trust Funds those amounts required on behalf of each eligible employee who was compensated forty (40) hours or more in the month preceding the month in which the contribution is due:

Northwest Teamsters Dental Trust Fund (Plan A)

Vision Services Plan

The employer will strive to ensure employees access to benefits programs in compliance of plan underwriting rules for domestic partners.

Life Insurance - the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee term life insurance coverage that has a policy value of two (2) times the annual base rate of pay of the employee, up to a guaranteed issue amount of $250,000. The employee is responsible for any taxes associated with this benefit.

15.2.1 In the event the employee elects Group Health Cooperative coverage, the employee shall pay the additional amount in premiums that exceed those rates set forth within Section 15.1.

15.2.2 The total amounts due for each calendar month shall be remitted in a lump sum not later than ten (10) days after the last business day of such month. The Employer agrees to abide by such rules as may be established by the Trustees of said Trust Funds to facilitate the determination of contributions due, the prompt and orderly collection of such amounts, and the accurate reporting and recording of such amounts paid on account of each member of the bargaining unit.

15.3 FLEXIBLE SPENDING ACCOUNT – FSA

The Employer participates in a special program under the provisions of IRS Section 125. Employees may voluntarily elect to participate in the reimbursement program to pay medical or dependent care expenses with pre-tax dollars. Except as provided below, the Employer makes no contribution, makes no assurance of ongoing participation and assumes no liability for claims or benefits.

Contributions to the flexible spending account can be made by the employee as a payroll deduction subject to the rules and limitations contained within the Internal Revenue Code.

15.4 RETIREMENT

Teamster Pension – Effective January 1**,** 2012, the City shall pay into the Western Conference of Teamsters Pension Trust Fund on account of each member of the bargaining unit, for each straight time hour for which compensation is paid up to a maximum of one hundred and eighty-four (184) hours per calendar month. The City shall pay up to the contribution rate of thirty five cents ($0.35) per hour. Any rate above the thirty-five cents ($0.35) shall be diverted from the hourly rate of pay for each employee up to the maximum of one hundred and eighty-four (184) hours per calendar month.

15.4.1 The total amounts due for each calendar month shall be remitted in a lump sum not later than ten (10) days after the last business day of such month. The Employer agrees to abide by such rules as may be established by the Trustees of said Trust Fund to facilitate the determination of contributions due, the prompt

and orderly collection of such amounts, and the accurate reporting and recording of such amounts paid on account of each member of the bargaining unit.

15.4.2 Notwithstanding any provision to the contrary that may be contained elsewhere within this Agreement, the Employer shall pay the Teamsters Pension contribution set forth within Section 15.4 on behalf of all individuals performing bargaining unit work, including part-time employees, temporary employees, summer help and seasonal help.

15.4.3 Upon written notice by the Union and effective no sooner than 60 days after such notification, the Employer shall additionally transmit to the trust via payroll deduction in an amount, per hour, determined by the membership, applicable to the bargaining unit members.

Teamsters Retiree's Welfare Trust - If directed by the Union and effective no sooner than 60 days after notification, the Employer shall divert from the hourly rate of pay of each employee each month one hundred percent (100%) of the premium necessary to provide coverage under the Teamsters Retiree's Welfare Trust on behalf of each employee who is compensated eighty (80) hours or more in the month preceding the month in which the contribution is due. The Union shall inform the Employer after a vote of the membership has affirmed the desire to divert such wages.

State Retirement (PERS) - Pensions for employees and contributions to pension funds will be governed by the Washington State statues in relation thereto in existence during the contract period.

15.5 VEBA

Effective January 1, 2012, the employer shall provide access to a Voluntary Employee's Beneficiary Association Trust (VEBA) for eligible employees. The City agrees to provide a mandatory payroll deduction for this plan. All eligible employees will be required to sign and submit to the City an HRA VEBA Enrollment Form. A copy of the HRA VEBA Plan will be provided to each eligible employee for reference.

15.5.1 If directed by the Union (and effective no sooner than 60 days after notification), the Employer shall contribute to the Plan via payroll deduction on behalf of all employees in the bargaining unit as determined by the bargaining unit. The amount shall be calculated and contributed on a monthly basis and the employee's salary shall be reduced in an equal amount.

15.5.2 Contribution levels for this bargaining unit will be in force for each subsequent calendar year until such time one or more members of the bargaining unit request to vote a change in the contribution level for the following year. The amount shall be determined by a majority vote of members in the bargaining unit. Tie votes will be resolved by a flip of a coin.

ARTICLE 16 – TRAINING

16.1 TRAINING

Approval for attendance at training, the hours intended to be compensated and the reimbursement for travel and expenses shall be established by the supervisor prior to the training, consistent with the current policy.

16.2 TRAINING REIMBURSEMENT

Compensation associated with training or representation of the Employer on official business shall be consistent with the current policy and the Fair Labor Standards Act (FLSA).

Certifications – Upon written request, the Employer shall pay for one (1) job related license, professional certification or professional affiliation per employee. Additional requests may be made, on an exceptional basis, and consideration weighed by the work-related value. Excluded from this reimbursement are license fees and/or designations specified as a minimum qualification for the employee's current job classification, such as drivers' license and Commercial Drivers Licenses.

ARTICLE 17 - LABOR/MANAGEMENT COMMITTEES

17.1 PURPOSE OF COMMITTEE

The Employer and the Union agree that a need exists for closer cooperation between labor and management, and that from time to time suggestions and issues of a general nature affecting the Union and the Employer need consideration.

The Labor/Management Committee shall have no collective bargaining authority and understandings reached by the parties will be supported by the parties, but shall not alter or modify any provisions of the collective bargaining agreement.

17.2 COMPOSITION OF COMMITTEE

To accomplish this end, a labor/management committee shall be composed of representatives of the Employer and of the Union. Said employees shall be allowed to attend the labor/management meetings. Said committee shall attempt to meet for the purpose of discussing and facilitating the resolution of issues which may arise between the parties other than those for which another procedure is provided by law or other provisions of this Agreement.

17.3 COMPENSATION

All meeting time spent by members of the joint Labor-Management Committee will be considered time worked if during duty hours and will be paid at the appropriate regular rate of pay.

ARTICLE 18 – HEALTH & SAFETY

18.1 SAFE WORKPLACE

Safety - The Employer and employees shall comply with all federal, state, and local laws applicable to the safety and health of its employees.

Commercial Drivers Licenses - For all employees employed as of the signature date of this Agreement, the Employer shall pay up to fifty-five ($55.00) or the actual cost at an Employer designated facility, whichever is the greater, for the cost of any physical exam necessary for the attainment or renewal of a Commercial Drivers License**.**

Commercial Drivers License's Substance Abuse Testing Policy is incorporated by Appendix A.

Employees shall not be required to perform work if they have a reasonable basis for believing the assignment would constitute a danger to their health and safety. The employee shall immediately contact a supervisor who shall make a determination with regard to safety. Upon the supervisor's instruction and liability, the employee will perform the work but may refer the matter to the safety committee or risk management.

All on-the-job injuries, no matter how slight, must be reported. Employees must immediately notify their supervisor if they are unable to work because of a work-related injury or illness.

18.2 HEALTH & SAFETY PLAN

The Employer shall develop and follow written policies and procedures to deal with on-the-job safety and shall conduct an ongoing site specific safety and security plans in conformance with state and federal laws.

18.3 DRUG FREE WORKPLACE

The Drug Free Workplace Act of 1988 for federal contractors and grant recipients requires that employers will provide a drug free workplace. This policy strictly prohibits the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace.

Fitness For Duty – If a supervisor or manager reasonably suspects, through observation, that an employee may be under any influence of, or impaired by, a substance, the employee shall be removed from duty immediately and undergo substance testing for the suspected substance. Except in emergency situations, the supervisor or manager shall consult with another supervisor, manager or representative of Human Resources to ensure that adequate grounds for reasonable suspicion exist. The consulted supervisor, manager or representative of Human Resources shall also personally observe the employee before the employee is required to test for the presence of that substance. At this time the employee will also be notified of their Weingarten rights.

Employees removed from duty under such circumstances who test positive shall be required to meet with the City's Substance Abuse Professional (SAP) and shall only be allowed to return to work, if at all, in accordance with the return to work provisions of the City's substance abuse policy.

18.4 WORK PLACE VIOLENCE

The Employer is committed to employee health and safety. Workplace violence, including threats of violence by or against a City employee, will not be tolerated and should be immediately reported whether or not physical injury occurs.

ARTICLE 19 - GRIEVANCE PROCEDURE

19.1 GRIEVANCE DEFINED

A "Grievance" means a claim or dispute by an employee with respect to the interpretation or application of the provisions of this Agreement. All grievance time frames shall be held in abeyance when the parties have mutually agreed. Mediation may be considered at any step in the grievance procedure.

19.2 GRIEVANCE PROCEDURE

In the event of a grievance, the following procedure shall be used:

STEP 1 - An employee must present a grievance within twenty (20) working days of its alleged occurrence to the employee's supervisor. The supervisor will provide a copy to Human Resources. The supervisor shall attempt to resolve it within five (5) working days after it is presented.

STEP 2 - If the employee is not satisfied with the solution by the immediate supervisor, the grievance, in writing, may be presented within ten (10) working days of the supervisor's response to the Department Director by a Union representative. The Union may initially file a grievance at this STEP. The written grievance shall include a statement of the issue, a chronological listing of the pertinent events that took place, the Section of the Agreement violated and the remedy sought. The Department Director shall attempt to resolve the grievance within five (5) working days after it has been presented to them.

STEP 3 - If the employee and/or the Union is not satisfied with the solution by the Department Director, the grievance may be presented within ten (10) working days to the City Manager or designee. The City Manager or designee shall attempt to resolve the grievance within fifteen (15) working days after it is presented.

STEP 4 - If the grievance is not resolved by the City Manager or designee, the grievance may, within fifteen (15) working days, be referred to arbitration. The appointment of the Arbitrator shall be by mutual agreement. Should the parties not reach mutual agreement, either party may request the Public Employment Relations Commission to provide a list of five (5) arbitrators from which the parties may select one (1). The representatives of the Employer and the Union shall alternately eliminate the name of one (1) person from the list until only one (1) remains. The party striking the first name shall be selected by lot. The last remaining name on the list shall be the Arbitrator selected to hear the dispute.

By mutual agreement between the Union and the Employer, the afore-referenced time limits may be waived.

It shall be the function of the Arbitrator to hold a hearing at which the parties may present their cases concerning the grievance. The Arbitrator shall render his/her decision based on the interpretation and application of the provisions of the Agreement within thirty (30) calendar days after such hearing. The decision shall be final and binding upon the parties to the grievance provided the decision does not involve action by the Employer which is beyond its jurisdiction. Each party hereto shall pay the expenses of their own representatives and the expenses of the Arbitrator shall be borne equally by the parties hereto.

The term "employee" for purposes of this Article may mean the employee accompanied by his Union representative, if they so desire.

Neither the Arbitrator nor any other person or persons involved in the grievance procedure shall have the power to negotiate new agreements or change any of the present provisions of this Agreement.

19.3 UNION/EMPLOYER GRIEVANCE

Either the Union or the Employer may initiate a grievance at Step 2 if the grievance is submitted in writing within ten (10) business days from the date the Employer/employees became aware or reasonably should have known that the grievance existed. The Employer may not grieve the acts of individual employees, but rather, only orchestrated acts or actions of authorized representatives believed to be in conflict with this Agreement. An Employer grievance will not be subject to Arbitration and may only go to mediation upon mutual agreement.

The Union may initiate at Step 2 anytime that a grievance involves a group of employees (five or more or three or more from different teams or departments). Such grievances may be referred to mediation services by mutual agreement prior to Arbitration.

19.4 SCHEDULE OF MEETINGS

Upon request, and without unnecessary delay, a steward's immediate supervisor or designee shall allow the steward during normal work hours without loss of pay, reasonable time to:

19.4.1 Investigate any grievance or dispute so that same can be properly presented in accordance with the grievance procedure.

19.4.2 Attend meetings with the Director or other Employer representatives when such meetings are necessary to adjust grievances or disputes. Meetings with designated personnel will be by appointment and held without delay when possible.

19.4.3 Confer with a staff representative of the Union and/or employees on Employer premises, at such time and places as may be authorized by the Director or designee in advance of the intended meetings.

For the purposes of this Article and Article 4.3, obtaining coverage to insure minimum staffing levels shall not be considered an unnecessary delay. The Employer shall not be obligated to provide coverage immediately if the use of overtime is the only means of providing that coverage.

ARTICLE 20 - NO STRIKE / NO LOCKOUT

20.1 NO STRIKE / NO LOCKOUT

No employee shall strike, slowdown, interfere with the operation of the department, or refuse to perform the employee's assigned duties to the best of the employee's ability, nor shall the Union cause or condone any strikes, slow downs or other interference with the normal operations of the Employer during the life of this Agreement. The Employer shall not lockout any employee during the life of this Agreement.

ARTICLE 21 – MANAGEMENT RIGHTS AND RESPONSIBILITIES

21.1 MANAGEMENT RIGHTS AND RESPONSIBILITIES

The Union recognizes the prerogative of the Employer to operate and manage its affairs in all respects in accordance with its responsibilities, and the powers and authority which the Employer possesses.

21.1.1 The Employer has the authority to adopt rules for the operation of the Department and conduct of its employees, provided such rules are not in conflict with the provisions of this Agreement or with applicable law. The Union shall be given an appropriate amount of time to review and request bargaining, as they determine needed, on proposed rules and policies.

21.1.2 The Employer has the right to schedule overtime work as required in a manner most advantageous to the Employer and consistent with the requirements of municipal employment and the public interest.

21.1.3 Every incidental duty connected with operations enumerated in job descriptions is not always specifically described, nevertheless, it is intended that all such duties shall be performed by the employee.

21.1.4 The Employer reserves the right to discipline or discharge for cause. The Employer reserves the right to lay off for lack of work or funds, or the occurrence of conditions beyond the control of the Employer, or where such continuation of work would be wasteful and unproductive.

21.1.5 The Employer has the right to assign work and determine the duties of employees, to schedule hours of work, to determine the number of personnel to be assigned at any time, and to perform all other functions not expressly limited by this Agreement.

ARTICLE 22 - GENERAL PROVISIONS

22.1 SAVINGS CLAUSE

If any provision of this Agreement shall be held invalid by operation of law or any tribunal of competent jurisdiction, or if compliance or enforcement of any provision should be restrained by such tribunal pending final determination as to its validity, the remainder of this Agreement shall not be held invalid and shall remain in full force and effect. Upon the request of one (1) party to the other, the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement of such invalid provision.

ARTICLE 23 – ENTIRE AGREEMENT

23.1 DURATION CLAUSE

This Agreement shall be effective January 01, 2012 and shall remain in full force and effect through December 31, 2014.

This Agreement and all of its terms and provisions shall continue to remain in full force and effect during the course of negotiations on a new Labor Agreement until such time as the terms of a new Agreement have been consummated or an impasse has been reached and declared by the Employer and/or the Union, whichever is the sooner; provided however, in no event may this Agreement be terminated earlier than one (1) year following the expiration date.

23.2 ENTIRE AGREEMENT

The agreement expressed herein in writing constitutes the entire agreement between the parties, and there shall be no amendments except in writing and with agreement of both parties.

SIGNATURES

PUBLIC, PROFESSIONAL & OFFICE-CLERICAL EMPLOYEES AND DRIVERS LOCAL UNION NO. 763, affiliated with the International Brotherhood of Teamsters

By _____
Scott A. Sullivan, Secretary-Treasurer

Date _____

CITY OF KIRKLAND, WASHINGTON

By _____
Kurt Triplett, City Manager

Date _____

Approved as to form:

By _____
William Evans, Assistant City Attorney

Date _____

City of Kirkland
505 Market Street, Suite B • Kirkland, Washington 98033• (425) 587-3210 •
TTY (425) 587-3111

APPENDIX A

City of Kirkland
Commercial Driver's License
Substance Abuse Policy

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CITY OF KIRKLAND
COMMERCIAL DRIVERS LICENSE
SUBSTANCE ABUSE POLICY

I. INTRODUCTION

A. Purpose

The purpose of this policy is to establish compliance with the Federal Highway Administration regulations requiring drug and alcohol testing for Commercial Driver's License holders. Regulations issued by the United States Department of Transportation mandate urine drug and evidential breath alcohol testing for employees in safety-sensitive positions, including those who are required to hold a Commercial Driver's License. This policy sets forth the City of Kirkland's alcohol and drug testing program and the testing and reporting requirements as required by those regulations.

B. Policy

The City has a significant interest in the health and safety of its employees and the citizens of the City of Kirkland. In furtherance of that interest, it is the policy of the City to take those steps necessary to ensure that its employees perform their duties and responsibilities free of the influence of drugs and alcohol. Employees are encouraged to seek confidential counseling on problems associated with alcohol and drug abuse through the Employee Assistance Program. There will be mandatory drug and alcohol testing for employees and job applicants under the circumstances outlined in this policy.

C. Applicability

The following groups of employees are required by law to participate in the drug and alcohol testing program:

1. Regular employees who are required to operate a commercial vehicle as part of their routine job duties;

2. Temporary employees who are required to operate a commercial vehicle as part of their routine job duties;

3. Any employee who possesses a Commercial Driver's License who may at any time operate a commercial vehicle on an on-call, emergency, or unscheduled basis (including supervisory employees who may be called upon at any time to operate a commercial motor vehicle);

4. Current employees who transfer or promote to a position requiring operation of a commercial vehicle and possession of a Commercial Driver's License;

5. A pre-employment drug test is required of all persons given a conditional job offer for a position that meets the description outlined above.

D. Definitions

Accident – Accident means an occurrence involving a commercial vehicle on a public road which results in (1) a fatality; (2) an accident involving a moving violation citation and bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or (3) one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicles to be transported away from the scene by a tow truck or other motor vehicle.

Alcohol - Alcohol concentration (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath. (* Federal Motor Carrier Safety Administration – Regulation -390.5.htm)

Driver - This term includes all employees whose positions may involve driving a commercial vehicle and that require the possession of a Commercial Driver's License.

Commercial Vehicle - A commercial vehicle is one that either: (1) has a gross vehicle weight of over 26,000 pounds (including combined weight if towed unit weighs over 10,000 pounds); (2) is designed to transport 16 or more persons, including the driver; or (3) is used to transport hazardous materials.

Drugs - For the purposes of this policy, in accordance with the applicable federal regulations, "drugs" refers to the following five substances: marijuana (THC), cocaine, opiates, phencyclidine (PCP), and amphetamines.

Medical Review Officer (MRO) - The Medical Review Officer is the licensed physician responsible for receiving and interpreting laboratory results from the urine drug tests.

Safety Sensitive Position - For the purposes of this policy, these are positions associated with the driving of commercial vehicles.

Substance Abuse Professional (SAP) - A Substance Abuse Professional is a licensed physician, or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug-related disorders. The SAP is responsible for evaluating employees with positive test results.

E. Designated Contact

The following individual(s) have been designated by the City to answer questions about the program and program materials and may provide employees with resource materials or referral assistance:

Safety/Risk Analyst

Human Resources Analyst

F. Employee Assistance Program

The City offers an Employee Assistance Program (EAP) designed to assist employees and their families who are experiencing personal or job-related problems. The EAP is available to employees who need assistance in dealing with a substance abuse problem. Employees are encouraged to contact the EAP for assistance in early detection of substance abuse problems

and referral for treatment programs. All EAP services are confidential and at no cost to the employee. Employees who would like information on benefits of the Employee Assistance Program should contact the Human Resources Office.

For EAP services, contact Kirkland's EAP provider at 1-800- 999-1077.

G. Testing, Evaluation, and Referral Services

The City has contracted with Healthforce Occupational Medicine Consortium Services for much of the administration of this program. The City has contracted with Healthforce to conduct the random testing services, provide the testing laboratory facilities, arrange the testing collection sites, and provide the Medical Review Officer (MRO) functions. The services of a Substance Abuse Professional (SAP) are also available for employees with positive test results.

Drug and Alcohol Test Collection Site:

Dynacare Laboratories
12911 120TH Avenue NE – Suite D-60
Kirkland, WA 98034

Drug & Alcohol Test Collection Site:

Healthforce - Bellevue
13033 Bel-Red Road, Suite 110
Bellevue, WA 98005

Testing Laboratory:

Drug Proof
Laboratory of Pathology
1229 Madison, Suite 500
Seattle, WA 98104
206-386-2661

Medical Review Officer

Healthforce
18323 Bothell-Everett Highway
Suite 220
Bothell, WA 98012
425-242-3651

Substance Abuse Professional:

Healthforce
Alderwood Professional Building
3924 204th Street SW, Suite 111
Lynnwood, WA 98036
1-800-570-9315

H. Prohibited Conduct

The following conduct regarding alcohol and drug use or abuse is prohibited:

1. Alcohol Concentration

   An employee may not report for or remain on duty requiring the performance of safety sensitive duties covered under this policy while having an alcohol concentration of 0.04 or greater.

2. Alcohol Possession and On-Duty Use of Alcohol

   An employee may not possess or use alcohol while on duty or while operating a commercial vehicle.

3. Pre-Duty Use of Alcohol

   An employee may not operate a commercial vehicle within four (4) hours after using alcohol. An on-call employee who consumes alcohol within four (4) hours of being called in must acknowledge the use of alcohol and may not report for duty.

4. Alcohol Use Following an Accident

   An employee required to take a post-accident alcohol test may not use alcohol for eight hours following the accident, or until a post-accident alcohol test is given, whichever comes first.

5. Use of Drugs

   Any employee, covered by this policy, shall not report for duty or remain on duty following use of a drug or drugs. Except when a physician has advised the employee and the supervisor that the drug does not adversely alter the employee's ability to safely perform their duties, including the operation of a vehicle. Employees are required to inform the supervisor of any therapeutic drug use if the drug may result in a positive test. Use of over-the-counter substances must be used in accordance with the guidelines of its safe use.

6. Refusal to Submit to a Required Test

   An employee may not refuse to submit to a post-accident, random, reasonable suspicion, or follow-up alcohol or drug test as defined by this policy.

7. Positive Drug Test

   An employee may not report for duty or remain on duty requiring the performance of duties covered under this policy if the employee tests positive for drugs or alcohol.

8. Tampering with a Required Test

   An employee may not tamper with, adulterate, alter, substitute, or otherwise obstruct any testing process required under this policy.

9. Possession, Transfer or Sale

   No employee may possess, transfer, or sell drugs or alcohol while on duty or City premises.

II. SECURING INFORMATION FROM PREVIOUS EMPLOYERS

If an applicant has received a conditional offer of employment for a position that requires a CDL, per FMCSA 391.23(e), the City must obtain the following information from all previous DOT regulated employers that employed the driver within the previous three years from the date of application, in a safety-sensitive function that required alcohol and controlled substance testing.

1) Alcohol tests with a BAC 0.04 or higher alcohol concentration
2) Verified positive drug tests
3) Refusal to be tested (including verified adulterated or substituted drugs test results)
4) Failure to undertake or complete a rehabilitation program.

The City may offer conditional employment to the new employee prior to obtaining the information from previous employers. If the information has not arrived by the anticipated start date, and if the person has passed the pre-employment drug test, the person may be conditionally hired. If the requested information is not obtained from the previous employers within thirty (30) calendar days of the date of hire, the conditional employment shall cease and the employee shall be released. If the information obtained from previous employers indicates either a positive test or that a refusal to be tested occurred within the past two (2) years, the conditional employment shall cease, unless the person can provide information indicating a treatment program was successfully completed, including return-to-duty testing.

III. TESTING

A. Pre-Employment Testing

Following a conditional offer of employment, prospective employees will be tested for the presence of drugs prior to being placed in a safety-sensitive position. New employees will not be placed in a safety-sensitive position until a verified negative drug test results are obtained. If pre-employment drug testing is not utilized new hired employees will not be placed in a safety-sensitive position until a verified drug test has been obtained or test confirmation for the new employee is received from a prior employer.

Current employees who are transferring from a position that does not require a Commercial Driver's License to a position that does require one, will be tested for the presence of drugs prior to performing duties that require driving or operating a commercial vehicle.

A positive drug test result for an employment candidate will result in rescinding the conditional offer of employment by the City. A City employee who is seeking to transfer to a position requiring the driving of a commercial vehicle and tests positive will be denied transfer and be eligible to re-apply after a period of six (6) months.

B. Random Testing

The names and social security numbers for employees covered by these procedures at the City have been included in the Healthforce drug and alcohol testing pool. This pool contains all eligible individuals from all of the consortium members. The pool database is managed by Healthforce and is updated monthly as changes in personnel occur.

The annual random testing rate required under federal regulations is fifty (50) percent of the pool for drug testing and ten (10) percent of the pool for alcohol testing. This means that if the pool contains 1,000 members, there will be at least 500 random drug tests and at least 100 random alcohol tests conducted throughout the year.

Healthforce uses a software program called HEIDI to randomly select individuals for random testing on a monthly basis. Some individuals will be selected for drug testing, and others will be selected for both drug and alcohol testing.

Each month, Healthforce will send the names of individuals selected for random testing to the City's Safety/Risk Analyst. These names will be maintained in a confidential manner.

Employees selected for random testing will be scheduled for a test by the Safety/Risk Analyst during the month that the name was selected. The appointment for the collection will be made in advance and maintained in a confidential manner by the Safety/Risk Analyst until the day of the collection. The supervisor and/or the employees will not be notified until just prior to the testing. The employee may request a union steward to accompany him/her to the testing site, provided the sample must be collected within two (2) hours following notification.

Upon notification of selection for random testing, the employee will receive a *Donor Notification of Scheduled Drug and/or Alcohol Test* letter from the Safety/Risk Analyst contact. The employee must present the *Donor Notification of Scheduled Drug and/or Alcohol Test* letter at the collection site along with picture identification at the time of testing. A copy of all of the forms will be retained by the City.

After notification, the employee must proceed directly to the collection site for testing. The collection and testing procedures are outlined in Attachment A.

If an employee scheduled for an alcohol test receives a confirmed test result with a blood alcohol level of 0.02 or above and is unaccompanied at the collection site, a supervisor will be called to the site to transport the employee.

Refusing to submit to a test will be considered the same as a positive test result and will subject the employee to the same consequences as receiving a positive test result.

C. Reasonable Suspicion Testing

According to the federal regulations, reasonable suspicion testing is to be based on "specific, contemporaneous, articulately made observations concerning the appearance, behavior, speech, or body odors of the employee." Only supervisors (or management staff) who has been trained in detecting the symptoms of alcohol misuse or drug use and who have directly observed behaviors, appearance, or physical symptoms can subject an employee to reasonable suspicion testing. Supervisors are required to complete an *Impaired Behavior Incident Report Form* (Attachment D) as soon as possible. When possible, the observation shall be witnessed by another supervisor and verified on the observation form.

If a supervisor has reasonable suspicion to believe that an employee who is on duty or about to go on duty is under any influence of drugs or alcohol, the supervisor will remove the employee from duty immediately and notify Human Resources. The employee will be advised of the reasons for reasonable suspicion and will be transported to the collection site as soon as possible by the supervisor for testing. The employee may request a union steward to accompany him/her to the collection site, provided the testing is not unreasonably delayed.

Alcohol testing for reasonable suspicion may only be conducted just before, during or after an employee is on work duty. If removed from duty based on reasonable suspicion of alcohol use and an alcohol test is not administered within eight hours, the employee will not be allowed to perform or continue to perform covered functions until:

1. An alcohol test is administered and the driver's breath alcohol concentration measures less than 0.02; or

2. Twenty-four (24) hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated this policy concerning the use of alcohol.

D. Post-Accident Testing

All employees covered by these procedures will be subject to post-accident testing if they are involved in an accident with a commercial vehicle on a public road which results in:

1. A fatality, OR

2. The driver receives a citation under state or local law for a moving violation, AND

    a. there is bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene, OR

    b. one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle, OR

3. As otherwise necessitated by Federal Motor Carrier Safety Administration Part 382.

After an accident, employees are responsible for contacting their immediate supervisor or other management personnel. Supervisors are responsible for determining if the accident qualifies the driver for post accident testing and, if so, should escort the employee to the collection site. Employees may request a union steward to accompany them to the collection site, provided it does not cause an unreasonable delay. Post-accident testing for alcohol should occur within two hours if possible, but may not exceed eight hours. Testing for drugs should occur within 32 hours. If an employee is unable to provide consent to testing due to their medical condition, the supervisor will document the reasons why the employee was not tested. If testing is not completed within the required time following an accident, the supervisor will document in writing why the tests were not administered.

Employees subject to post-accident testing are prohibited from consuming alcohol for eight hours following the accident, or until the employee has completed the alcohol test, whichever comes first. An employee who does not comply with the post-accident testing will be considered to have refused testing and will be subject to disciplinary action. An employee in a post-accident situation should cooperate with law enforcement personnel investigating the scene.

E. Return-to-Duty and Follow-Up Testing

All employees who have engaged in prohibited conduct as defined in the Drug and Alcohol Testing Policy for Employees who Operate Commercial Vehicles, including those who have tested positive for drugs or alcohol, are subject to return-to-duty testing and may be subject to follow-up testing.

1. Return-to-Duty Testing

After engaging in prohibited conduct regarding alcohol or drug use, an employee is required to undergo a return-to-duty alcohol and/or drug test prior to returning to a duty which requires driving a commercial vehicle. A return-to-duty alcohol test must result in a breath alcohol concentration of 0.02 or less. A return-to-duty drug test must result in a verified negative result.

2. Follow-Up Testing

Employees who successfully complete a rehabilitation program and are released to return to work, in addition to being subject to reasonable suspicion testing at any time, will be subject to follow-up testing, which involves unannounced drug and/or alcohol testing at least 6 times during the following 12 months. The follow-up testing period for each incident will not exceed twenty-four (24) months unless the SAP recommends a longer period of rehabilitation which shall not exceed sixty (60) months.

F. After-Hours Testing

If the need for testing occurs outside of the normal hours of operation of the designated collection site, a supervisor or manager will be responsible for following the procedures established by Healthforce for such occurrences.

G. Re-Tests

Employees who test positive for drugs may request a second test of the remaining portion of the split sample within seventy-two (72) hours (excluding weekends) of notification of a positive test result by the Medical Review Officer (MRO).

H. Refusal to Take Alcohol or Drug Test

No employee shall refuse to submit to an alcohol or drug test as directed under this policy. A refusal to submit shall include, but is not limited to:

1. A failure to provide adequate breath for testing without a valid medical explanation after the employee has received notice of the requirement for breath testing in accordance with the procedures manual;
2. Failure to provide adequate urine for drug testing without a valid medical explanation after the employee has received notice of the requirement for urine testing in accordance with the procedures manual;
3. Engaging in conduct that obstructs the testing process.

Refusal to submit to a test shall be considered the same as a positive test result.

IV. TESTING COSTS AND COMPENSATION

A. Testing Costs

1. The City will pay for the following alcohol and or initial drug tests:

   a. Random testing
   b. Reasonable suspicion testing
   c. Post-accident testing
   d. Pre-employment testing
   e. Follow-up testing
   f. Return-to-duty testing

2. Employees are responsible for the costs associated with the following tests:

   a. Split sample re-tests made at the employee's request.

      If a split sample re-test returns a negative result, the City will reimburse the employee for the cost of the test.

3. Substance Abuse Professional and rehabilitation costs will be the responsibility of the employee over and above the costs paid by the employee's benefits.

B. Pay Status

1. Time Spent Testing

   Employees will be compensated for time spent directly reporting to the testing facility (and return) and during the following alcohol and/or initial drug tests:

a. Random testing
b. Reasonable suspicion testing
c. Post-accident testing
d. Follow-up testing

Employees are responsible for taking the following tests on their own time:

a. Return-to-duty testing

2. Waiting for Results

Employees who have been asked to submit to a reasonable suspicion drug test will be placed on paid administrative leave pending the outcome of the test results.

3. Alcohol Concentration of 0.02 but less than 0.04

If an employee receives an alcohol test result of at least 0.02 but less than 0.04, the employee must be removed from duty which requires driving a commercial motor vehicle for at least twenty-four (24) hours following the administration of the test.

4. Positive Drug Test or Alcohol Test Result of 0.04 or Higher

An employee who receives a positive drug test or who tests 0.04 or greater on an alcohol test is not allowed to return to work until all of the applicable requirements are met as outlined in the policy (see Consequences of Engaging in Prohibited Conduct and Positive Drug or Alcohol Test

V. TESTING METHODS

A. Drug Testing

The drug testing requires candidates to provide a urine specimen of at least 45 ml to be tested for the presence of amphetamines, cocaine, marijuana (THC), opiates, and phencyclidine (PCP). The specimen will be sent to a laboratory certified by the Substance Abuse and Mental Health Services Administration (SAMSHA) to conduct screening and confirmation tests according to the protocols identified in the Department of Transportation Rules. All test results will be reviewed by the Medical Review Officer (MRO). Specific collection procedures and analytical procedures are covered in Attachment B.

B. Alcohol Testing

Alcohol testing will be conducted using an approved evidential breath testing (EBT) device operated by a trained breath alcohol technician (BAT) at the collection site. The first test performed will be a screening test. If the screening test results in an alcohol concentration of less than 0.02, it will be considered a negative test. If the screening test results in an alcohol concentration of 0.02 or greater, a second, or confirmation test is performed within 15 to 20 minutes. Specific alcohol testing procedures are covered in Attachment A.

VI. CONSEQUENCES OF ENGAGING IN PROHIBITED CONDUCT OR POSITIVE DRUG OR ALCOHOL TESTS

A. Positive Test Result

If an employee tests positive for drugs, engages in other prohibited conduct, or has an alcohol test that indicates a blood alcohol level of 0.04 or greater from a random, reasonable suspicion, or post-accident test, the employee will be immediately removed from all duties requiring the driving of a commercial vehicle. Disciplinary action may also be initiated, which takes into consideration the employees past record. The employee will not be permitted to return to work unless he/she:

1. Has been evaluated by a qualified Substance Abuse Professional; and,

2. If recommended by a Substance Abuse Professional, has properly followed any rehabilitation prescribed; and,

3. Has a verified negative result on a return-to-duty alcohol (less than 0.02) and/or drug test.

Upon completion of a recommended rehabilitation program and a negative return-to-work drug test, the Substance Abuse Professional will establish a follow-up testing plan. The City must ensure the plan is carried out. A minimum of six tests MUST be conducted in the first 12 months. Employees may be subject to testing for a maximum of 60 months.

B. Alcohol Concentration of 0.02 but Less Than 0.04

Employees having a breath alcohol concentration of at least 0.02 but less than 0.04, shall be removed from duty requiring the driving of a commercial vehicle for at least twenty-four (24) hours.

VII. EMPLOYEE ASSISTANCE PROGRAM/VOLUNTARY REFERRAL

The City supports employees who volunteer for treatment of alcohol or drug abuse. Employees are encouraged to seek treatment voluntarily and to utilize the Employee Assistance Program. Any employee who comes forth and notifies the City of alcohol or drug abuse problems will be given the assistance extended to employees as with any other illness or disability including the right to request reasonable accommodation.

Sick leave, vacation leave, or leave of absence without pay may be granted for treatment and rehabilitation as in other illnesses. Insurance coverage for treatment will be provided to the extent of individual coverage. Confidentiality of information will be maintained as much as possible at all times.

Any such voluntary program, however, may not interfere with the tests required by these rules. For example, a driver may not identify himself/herself as unfit to drive after having been notified of a random or reasonable suspicion test and expect to avoid the consequences for a positive test or a refusal to test. In addition, voluntarily seeking assistance does not excuse any failure to comply with all of the provisions of this policy or other policies of the City.

VIII. TRAINING AND EDUCATION

The City will provide all required employees with access to this Appendix A (City of Kirkland Commercial Driver's License Substance Abuse Policy) and access to all other information that are State and Federal regulations and other information as may be required by the federal regulations.

Managers and supervisors designated to determine whether reasonable suspicion exists to require a driver to undergo alcohol or drug testing will receive at least 60 minutes of training on alcohol and 60 additional minutes of training on drug abuse. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

IX. CONFIDENTIALITY AND RECORD RETENTION

All records related to drug and alcohol testing will be maintained in a secure location with controlled access and maintained in a confidential manner. These records will be kept in the employee's medical file.

ATTACHMENT A

HealthForce Occupational Medicine Occupational Medicine Drug Testing Collection Policies & Procedures

The following instructions will be available to each collector and donor. All the specimens **MUST** be collected in strict compliance with these instructions. If you have any questions, please contact the lead nurse or the Medical Review Office.

Designation of Collection site

The collector will use the area or areas defined as the designated collection site. The collection site will provide an enclosure for private urination, a toilet for completion of urination, a source of water for hand washing, and a clean surface for the collector and donor to complete paperwork.

Security

The collector will utilize the following minimum procedures for ensuring against unauthorized access to the collection site and the compromise of the integrity of the collection process:

1. The collection site will be cleaned, searched and secured prior to specimen collections. Once the site has been verified secure, the door will be kept closed at all times when not being used for obtaining urine specimens.
2. The collector will maintain this security during the collection process
3. The collection site will post signs preventing access to all unauthorized personnel during the collection process.

If an alternate site is used, the requirements set forth above must be complied with and maintained. The collection site will maintain security of the collection area from the time the specimen is presented until the sealed mailer is transferred for shipment. The mailer shall be immediately mailed, maintained in a secured storage area or remain under the personal control of the collector until specimens are shipped.

Chain of Custody

Handling and transportation of urine specimens from one authorized individual to place to another shall always be documented through the chain of custody. Every effort will be made to minimize the number of people handling the specimens.

Access Limited to Authorized Personnel

No unauthorized personnel shall be permitted in any part of the designated collection area where urine specimens are collected and stored. Only the collector may handle the specimen prior to its being secured in the mailing container. In order to promote the security of the specimens, avoid distractions to the collector and ensure against any confusion in the identification of specimens, the collector shall only conduct one collection at any given time. For this purpose, the collection process is completed when the urine bottle has been sealed and initialed, the custody and control form has been executed and the employee has departed the collection site.

Privacy & Observed Collections

The collector will be responsible for using procedures for collecting urine specimens which allow the donor privacy during urination, unless there is reason to believe that a particular donor may alter or substitute the specimen to be provided, as further described in this section. For purposes of this plan, the following circumstances are the exclusive grounds constituting reason to believe that the donor may alter or substitute the specimen, thereby requiring an observed collection:

1. The donor presents a urine specimen that falls outside the normal temperature range.
2. The last urine specimen provided by the donor (i.e.: on a previous collection) was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below 20 mg/dl
3. The collector observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (i.e.: substitute urine in plain site, blue dye in specimen etc.)
4. The donor has previously been determined to have used a controlled substance without medical authorization and the collection is being conducted as part of a rehabilitation program. The donor presents to the collection site for a return to duty screen after rehabilitation has been completed or under DOT regulations governing follow-up testing after completing a return to duty collection.

Integrity and Identity of Specimens & Collection Procedures

The collector will take precautions to ensure that the urine specimen will not be adulterated or diluted during the collection process and that the information on the urine container and the chain of custody form can identify the donor from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:

1. To deter the dilution of the specimens, bluing agents shall be placed in the toilet tanks wherever possible so that the water reservoir always remains blue. Where practical, there shall be no other source of water (i.e.: no shower or sink) in the same enclosure where urination occurs. If there is another water source, it shall be effectively secured or monitored to ensure that it is not used as a source for diluting the specimen.
2. When the donor arrives at the collection area, the collector will ensure that the donor is positively identified as the employee selected for testing (i.e.: through presentation of photo identification or by the donor's accompanying supervisor). If the donor's identity cannot be established, the collector shall discontinue with the collection and notify the company contact.
3. If the donor fails to arrive at the designated time, the collector shall note the discrepancy and notify the company contact.
4. The collector shall ask the donor to remove any unnecessary outer garments such as a coat or jacket that might conceal items or substances that could be used to tamper with or adulterate the donor's urine specimen. The collector will have the donor empty pockets for inspection. The collector shall ensure that the donor's personal belongings remain together and secure. The donor may retain his/her wallet. If the belongings are to be secured out of site from the collector, the donor may request a receipt for his/her items.
5. The donor shall be instructed to wash and dry his/her hands prior to the collection.
6. After washing, the donor shall remain in the presence of the collector and shall not have access to any water fountains, faucets, soap dispensers, cleaning agents or any other materials which could be used to adulterate the specimen.

7. The collector shall note any unusual behavior or appearance on the chain of custody.
8. In the exceptional event that an employer-designated collection site is not accessible and there is an immediate requirement for a specimen collection (i.e.: accident investigation), a public restroom may be used according to the following procedure: a collector of the same gender as the donor shall accompany the donor into the public restroom which shall be made secure during the collection process. If possible, a toilet bluing agent shall be placed in the bowl and any accessible toilet tank. The collector will remain in the restroom, but outside the stall until the specimen is collected. If no bluing agent is available to deter specimen dilution, the collector shall instruct the donor not to flush the toilet until the specimen is delivered to the collector. After the collector has possession of the specimen, the donor will be instructed to flush the toilet and to complete the chain of custody with the collector.
9. The donor shall urinate into a collection container or a specimen bottle capable of holding at least 60 ml.
10. If a collection container is used, the collector, in the presence of the donor, pours the urine into two specimen bottles for a split collection. Thirty (30) ml shall be poured into the primary container and at least fifteen (15) shall be poured into the secondary container for the split. If a single specimen bottle is used as a collection container, the collector shall pour 30 ml of urine into a second specimen bottle - to be used as the primary specimen - and retain the remainder (at least 15 ml) in the collection bottle for the split specimen.
11. After the specimen has been provided to the collector, the donor shall be allowed to wash his/her hands.
12. Immediately after the specimen is collected, the collector shall measure the temperature of the urine. The temperature measuring device must accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measurement is critical and in no case shall exceed 4 minutes. The collector will also inspect the specimen to determine its color and to look for signs of contaminates. Any unusual findings shall be noted on the chain of custody.
13. The collector shall place securely on the bottle an identification label which contains the date, the specimen ID number and the donor's initials. The donor shall initial the labels on the specimen bottles for the purpose of certifying that they are the specimens collected from the donor.
14. The collector shall enter all the identifying information required for completion of the chain of custody. The collector shall sign the chain of custody to certify that the collection was accomplished in accordance with the instructions provided.
15. The donor shall be asked to read and sign the statement on the chain of custody certifying that the specimen identified as having been collected from the donor is in fact the donor's and that it has not been tampered or adulterated in any fashion.
16. Both the donor and the collector shall keep the specimen in full view at all times prior to being sealed and labeled. The specimen will be sealed by tamperproof seals over the top and down the sides of each bottle and labeled in the presence of the donor. If the specimen is to be transferred to a second container, the collector shall request that the donor observe the transfer and the placement of the seals.
17. The specimen is now ready for shipment. Both bottles shall be shipped in a single shipping container to the laboratory together with the lab copies of the chain of custody. If the specimen is not immediately prepared for shipment, it shall be appropriately safeguarded during temporary storage.
18. The collector will distribute the various copies of the chain of custody accordingly.

Adulterated, Cold or Shy Bladder Specimens

If the temperature of the specimen is outside the range of 90 - 100 degrees Fahrenheit (32 - 38 degrees Celsius) and the oral body temperature of the donor does not explain or concur with the specimen temperature, there is reason to believe that the donor may have adulterated or substituted the specimen. Another specimen shall be collected under direct observation of the same gender collector or medically trained person, and BOTH specimens shall be forward to the lab for testing. The donor's employer shall review and concur in advance with any decision by the collector to obtain specimen under direct observation based upon these circumstances.

Upon receiving the specimen from the donor, the collector shall determine that it contains at least 45 ml of urine. If the donor is unable such a quantity, the collector shall begin the "Shy Bladder Protocol". The collector shall instruct the donor to drink up to but not exceeding 40 oz of fluids over a period of up to 3 hours... The original insufficient specimen shall be discarded and with each next attempt, a new sealed collection bottle will be used. If after the allotted time and fluids, the donor is still unable to provide an adequate specimen, the insufficient specimen is again discarded, the testing discontinued and the designated company contact notified of the situation. The MRO shall perform a medical evaluation to develop pertinent information concerning whether the donor's inability to provide a specimen is genuine (medical) or constitutes a refusal to test. Upon completion of the evaluation, the MRO shall his/her conclusions to the employer in writing.

Release of Information

When specified, the donor may be required to sign a consent/release form authorizing the collection of the specimen, analysis of the specimen for the designated controlled substances and the results released to the employer. The donor may not be required to waive liability with respect to negligence on the part of any person participating in the collection, handling or analysis of the specimen or to indemnify any person for the negligence of other personnel.

Direct Observation Collections Information

A drug screen collection may be done under direct observation only in very specific circumstances. A direct observation collection must be conducted by a collector of the same sex as the donor. In all cases, the collector should annotate in the remarks section that the collection was a direct observation collection.

Required* Observation:** The DOT regulations ***require an immediate second collection under direct observation in the following circumstances:

1. The donor has provided a specimen that falls outside the acceptable temperature range and then *refuses* to provide measurement of body temperature, or the donor's body temperature varies by 2°F or more from the temperature of the specimen.

2. The collector observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample (i.e.: substitute or adulterate urine in plain view, blue dye in specimen presented to the collector).

***** *In the above two circumstances, it is the responsibility of the collector to see that the direct observation is done.*

Permitted* Observation:** The DOT regulations ***permit a urine specimen collection to be collected under direct observation under the following circumstances:

1. The last specimen provided by the donor (e.g., on a previous DOT-mandated drug test) was determined by the laboratory to be a dilute sample (specific gravity of less than 1.003 *and* a creatinine concentration below 0.2g/L).

2. The donor had a verified positive result on a previous DOT-mandated drug test and is subject to return to duty or follow-up testing under DOT regulations.

***** *In the above two circumstances, it is the responsibility of the employer to notify the collection site personnel when a direct observation is warranted.*

Breath Alcohol Testing

- ☐ Check patient's picture I.D.
- ☐ Explain test procedure
- ☐ Complete Step 1 of DOT BAT Form
- ☐ Patient completes and signs Step 2 of DOT BAT Form. If patient refuses to sign the form, it is considered a refusal to take the test. Note the refusal in the "Remarks" section.
- ☐ Verify sequential test number on the EBT with the patient and document in Step 3
- ☐ Insert ticket when EBT message states to do so
- ☐ Enter required information into EBT
- ☐ Open sealed mouthpiece in view of the patient and attach to EBT
- ☐ Collect breath sample by instructing the patient to take a deep breath and blow steadily into the mouthpiece of at least 6 seconds or until adequate sample has been obtained
- ☐ Show patient the result displayed on the EBT

If Negative:

- ☐ Date and Sign the certification in Step 3
- ☐ Sign Evidence Ticket
- ☐ Have patient read, sign and date the certification in Step 4. If patient has already given a breath sample but does not want to sign, it is NOT considered a refusal; but you must note that the patient refused to sign in the "Remarks" section.
- ☐ Attach EBT Ticket copies to the designated space on appropriate copies of DOT BAT Form.
- ☐ Distribute copies as follows:

  Copy 1 Employer (Confidential-Phone Call, FAX, Mail or In Person as noted in protocol)
  Copy 2 Employee
  Copy 3 Forward to MRO Office (G1-BH). If done with a SAMHSA drug screen, attach to MRO copy of chain of custody.

If Positive (.02 or greater):

Do confirmation Test as follows:

- ☐ Observe 15 minute waiting period and explain restrictions to activities during this time period
- ☐ If patient has not complied with instructions during the waiting period, not in "Remarks" section
- ☐ Continue with testing procedure
- ☐ Use a new mouthpiece which has been opened in view of the patient
- ☐ Collect breath sample and show patient the result displayed on the EBT
- ☐ Have patient read, sign and date the certification in Step 4. If patient has already given a breath sample but does not want to sign, it is NOT considered a refusal; but you must note that the patient refused to sign in the "Remarks" section
- ☐ Attach EBT Ticket copies to the designated space on appropriate copies of DOT BAT Form
- ☐ Distribute copies as follows:

  Copy 1 Employer (Confidential-Phone Call, FAX, Mail or In Person as noted in protocol)
  Copy 2 Employee
  Copy 3 Forward to MRO Office (G1-BH). If done with a SAMHSA drug screen, attach to MRO copy of chain of custody.

- ☐ Ensure IMMEDIATE transmission of results to employer to allow employer to prevent the employee from performing safety-sensitive function.

ATTACHMENT B

MRO Office Procedure

- Lab reports are transmitted to the MRO Office each morning
- Results are placed in company folder awaiting the receipt of the MRO copy of the Chain of Custody from the collection site
- When the MRO copy is received within 24-48 hours, it is matched by Social Security # and Specimen ID # to the result in company file

If test is negative:

- Result is reported to the confidential company contact by the MRO Coordinator either by phone, secure voicemail or secure fax line
- A result letter is generated and mailed to the company for their records

If the test is positive:

- MRO copy of chain of custody, lab result print-out, Certified Scientist copy of chain of custody, positive letter, and MRO routing slip are faxed to the MRO to begin the review process. The originals are hand- delivered by courier.
- The Medical Review Officer (MRO) makes contact with the donor and conducts a personal interview
- Based on the information supplied by the donor, the MRO either <u>overturns</u> the positive result (by verifying a prescription or other medical explanation), or <u>verifies</u> the positive result.
- If a verified negative, the MRO Office Coordinator calls the result to the company contact and mails a negative letter for the company's files
- If a verified positive, the Medical Review Officer calls the company contact with the result and can explain options and procedures if necessary
- As of June 13, 2002 the MRO will also contact the Department of Licensing to report the positive result for FHWA personnel.
- Positive letter sent to company.

ATTACHMENT C

City of Kirkland
DONOR NOTIFICATION OF SCHEDULED DRUG TEST

Donor ID:
Donor Name:
Test Date:
Work Location:
Occupation/Job Title:
Collection Site:

Your name has been selected by a computerized program of random selection. This selection requires you to complete a urine drug test only. Your selection does not imply that your employer has a specific cause to suspect you of using illegal drugs and/or alcohol. Nonetheless, the DOT Anti-drug and Alcohol regulations and/or your employer's company drug screen policy require that the random specimens be collected.

You will be required to provide a 45 ml (1 & ½ oz) split urine specimen in the privacy of a stall. If you are unable to provide a specimen of sufficient quantity, you will be given up to three hours waiting period and required to drink up to 40 oz. of fluid. If you are unable to provide a urine specimen within three yours, your employer will be contacted to arrange for a medical evaluation by the Medical Review Officer (MRO). If the MRO determines there is no medical explanation for the inability to provide the specimen/sample, you will be deemed to have refused to submit to a required test.

If you refuse to provide the urine specimen, substitute the urine of another person, adulterate the samples, or fail the test, you will be removed from your safety sensitive duties and be subject to consequences as specified in your employer's Drug and Alcohol Testing Policy.

Present the following at the collection location:

1. Driver's License or other picture identification
2. Copy of this notification letter

This notice will be retained in your confidential drug and alcohol testing file, together with the Medical Review Officer's final determination of the drug test and/or alcohol results.

Please sign below to acknowledge the receipt of this notice.

Donor Signature: _____ **Date/Time:** _____

ATTACHMENT D

Impaired Behavior Incident Report Form

Use this checklist to describe the observed behavior that causes you to believe the employee's job performance is impaired. Provide additional information in each comment section as necessary. You do not need to write in complete sentences. Attach this form to the Testing Consent form. This checklist is to be kept confidential and should be placed in the employee's drug and alcohol testing file.

Name of Employee: _____

Location of employee while impaired: _____

Time impairment first observed: _____am/pm How long did you observe: _____

Name of other witnesses: _____

Did anyone complain to you about the employee's impaired behavior: If so, who: _____

Checklist of Possible Behaviors

- ☐ Physical mannerism hanged or unusual (staggering, gestures, posture)
- ☐ Alcohol on breath
- ☐ Excessive fatigue
- ☐ Out-of-control displays of emotion
- ☐ Unusual fear
- ☐ Memory problems (difficulty recalling instructions, data, procedures)
- ☐ Engaged in verbal or physical abusiveness
- ☐ Excessive swearing or hand/foot tremor
- ☐ Responsible for serious safety or security violation
- ☐ Caused or involved in serious accident or near miss
- ☐ Demanding, rigid, inflexible behavior(s)
- ☐ Clearly refused to do assigned work (when mixed with other behaviors)
- ☐ Made significant errors (when mixed with other behaviors)
- ☐ Behavior which disrupted workflow (when mixed with other behaviors)
- ☐ Complaints by co-workers or subordinates

Describe Incident:

_____

_____

_____

Comments or Statements by Employee Indicating Possible Impairment:

_____

_____

_____

Employee's Explanation for Impairment:

_____

_____

_____

Supervisor/Witness Signature _____

Time _____ Date _____

ATTACHMENT E

Drug/Alcohol Testing
Request Form

_____
Agency

_____ (____)_____
Contact Person

_____
Name and Place Where Samples are to be Collected

_____
Address City State Zip

Test Required
(Check One)

		Drug & Alcohol				Post Accident			Follow-Up Testing
		DOT covered employee				Reasonable Cause			Return to Duty
		Other (specify) _____							

Test Required
(Check One)

		Pre-employment				Post Accident			Follow-Up Testing
		Random				Reasonable Cause			Return to Duty
		Other (specify) _____							

Name and Social Security Number of those to be tested (please print)		
Name		**Social Security Number**

ATTACHMENT F

Drug/Alcohol Testing
Consent Form

Date: _____

Employee Name: _____

Name of Supervisor
Requesting Exam: _____

Name of Supervisor
Accompanying Employee: _____

Medical Consent: I consent to the collection of breath/urine samples by an authorized breath alcohol technician and/or laboratory staff to determine the presence of alcohol and/or drugs, if any.

Authorization to Release Information: I authorize said laboratory to release only that medical information obtained during this testing procedure which pertains directly and specifically to the CDL requirements to _____
_____
Name of Agency

I understand that my alteration of this consent form; refusal to consent or cooperate fully with the collection of breath/urine samples; my tampering with any such samples; or my refusal to authorize release information constitutes insubordination, violates the drug and alcohol testing policy, and may be grounds for termination.

I also understand that a positive result on these tests is grounds for disciplinary action.

Employee Signature: _____ Date: _____

Supervisor Signature: _____ Date: _____

Supervisor Printed Name: _____

Council Meeting: 08/07/2012
Agenda: Other Business
Item #: 8. h. (1).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Dave Snider, P.E., Capital Projects Manager
Ray Steiger, P.E., Public Works Director

Date: July 26, 2012

Subject: PARK LANE CORRIDOR ENHANCEMENTS – PROJECT UPDATE

RECOMMENDATION:

It is recommended that City Council receives an update on the Park Lane Corridor Enhancements Project, including a recent notification of an award of grant funding. It is also recommended that City Council authorize staff to renew public outreach efforts.

BACKGROUND DISCUSSION:

A study to establish the scope of Park Lane enhancements was first funded in 2008 as a part of the 2008-2013 Capital Improvement Program (CIP). The Study was the initial step in developing an overall strategy for addressing various issues along the Park Lane corridor, between Lake Street and 3rd Street South.

The primary drivers for the Study were the condition of the existing sidewalks along Park Lane, where significant mature tree roots were lifting sidewalk panels, together with other aging and deteriorating infrastructure such as pavement, curbs, lighting, and the surface water conveyance systems that are all reaching the end of their respective design lives. Additionally, the redevelopment of the Kirkland Transit Center, the replacement of King County Department of Natural Resources' (KCDNR) sanitary sewer lift station at 3rd Street South and Park Lane, and the anticipated redevelopment of the Antique Mall property provided an incentive to pursue an updated vision for the Park Lane corridor.

A key goal of the Study was to explore and develop a community embraced concept for enhancements along Park Lane (Attachment A); another goal was to identify various funding alternatives to accomplish the vision for the Corridor. Both goals were achieved and City Council adopted the preferred "Festival Street" concept for Park Lane at their regular meeting of February 2, 2010.

Study Chronology

The Park Lane Project was the subject of an extensive and robust public outreach process starting in the summer of 2008. A complete history of the public process and video of the public tour is available from the City Website at the following link: Park Lane Enhancements Project. A general overview of the public process and timeframe is as follows:

Early Summer 2008
City hired a design consultant to assist staff in working with adjacent property owners, businesses, and interested citizens in creating a community vision for the future of Park Lane.

August 2008
A survey was mailed to all property and business owners along Park Lane and to other key stakeholders to obtain baseline information regarding attitudes and perceptions of Park Lane, as it looked at the time and what various aspirations were for what it could become in the future.

September 2008
Stakeholders convened to discuss the new Downtown Transit Center and to create a shared vision for the Corridor. Stakeholders participated in a design charrette to learn how Park Lane was first created through a Local Improvement District in 1974 followed by the development of concepts that could then be circulated for public comment. Three design concepts emerged from the stakeholders' long term vision for Park Lane. Concurrent with the development of the design concepts a detailed tree inventory of all trees along Park Lane was prepared.

October/November 2008
The stakeholders' three design concepts were presented to the public in a number of public meetings and venues. The information was put online along with forms for public comment. Over one hundred comments regarding the concepts were collected with the preferred concept being that of a "Festival Street". Under this design concept, the pedestrian, parking and roadway surfaces are all at the same level with pedestrian-only areas delineated through the use of textures, colors and/or physical objects such as decorative pavement, bollards and rain gardens. As a festival street, Park Lane, when closed for special events, would become a large pedestrian friendly plaza while still functioning as a through street and parking area at all other times.

February 2009
The City Council reviewed and endorsed the stakeholders' recommendation of the festival street concept (Attachment B). Design elements of the festival street concept were incorporated into the Kirkland Transit Center, as well as the roadway frontage restoration plans for the reconstruction of KCDNR's Downtown Kirkland Sewer Lift Station.

July 2009
A consultant arborist, the City's Urban Forester, the design consultant and staff met at Park Lane to re-assess trees and refine the festival street concept.

October 2009
The Tree 'report cards' were prepared and attached to 41 trees along Park Lane (see sample as Attachment C). The report cards were part of the ongoing community outreach plan to inform and engage stakeholders and other Park Lane users about the City's design process. The report cards included a "grade" and tree specific information such as species, diameter, comments on vigor, structure, health, and long term viability. On October 27, Stakeholders were invited to tour Park Lane with the City's Urban Forester, the consultant and City staff. During the tour, the tree report cards were explained and trees were compared among each other for purposes

of educating the stakeholders on tree health/structure/vigor. Trees with diseases were identified and signs of the disease were explained in detail by the City's Urban Forester.

The tour also provided the opportunity to discuss and explain the process of sidewalk buckling due to tree roots. Further, the proposed locations for surface water run-off collection and treatment using a new product known as Silva Cell (Attachment D) were shown on the tour. At the conclusion of the tour, stakeholders, consultants, and staff reconvened to review the preferred design option and discuss the proposed Phase I (discussed below) implementation plan.

January 2010

Staff presented a summary of the *Park Lane Study* to the Parking Advisory Board and to the Transportation Commission. Both groups supported the implementation of Phase I and the Festival Street concept. The Transportation Commission, however, recommended that the design development consider, among other issues, looking carefully at the amount of rain gardens being proposed and their correlation with parking operations, outdoor seating, and pedestrian movements along Park Lane.

Phase I

The Phase I improvements were complete in May of 2012 and included the installation of approximately 4,000 sf of Terrewalk panels (sidewalk panels made of recycled rubber and plastic) at various locations along the Corridor where the existing concrete sidewalk had buckled due to tree root uplifting.

Terrewalk Panel Install

Phase I also included the removal and replacement of two trees together with the installation of Silva Cell units to help prevent future sidewalk buckling. Silva Cell units are subterranean reinforced plastic frames that are filled with special soils to promote tree root growth. The frames fully support surface loads above while requiring less compaction efforts than conventional tree wells. This allows tree roots to go out and deeper as opposed to coming up towards the surface and adversely impacting sidewalks. This pilot use of Silva Cells for the City has been monitored and appears to be working well for its intended application; additional Silva Cell units will be incorporated into any future Park Lane improvements.

Terrewalk Panel Complete

Concurrent with the implementation of Phase I, the City's consultant continued with the

design of the Park Lane Festival Street concept to a 30% completion stage. The design efforts also brought the design of Park Lane storm system improvements to a 100% complete level, as well as to a 100% complete stage for the street frontage improvements being completed with the on-going KCDNR lift station project.

Funding/Grant Application

The visible attributes of the festival street concept along Park Lane include a barrier–free pedestrian amenity that is intended to support seasonal and annual events in Downtown. As conceived, the improvements will allow multi-modal access for businesses and customers at other times. In addition, the proposed improvements will provide significant surface water improvements in the Central Downtown core.

These proposed surface water improvements include many low impact development stormwater management elements such as tree canopy retention, the use of Silva Cells to support root growth and stormwater treatment, bioretention stormwater gardens, porous pavement, and rain gardens. Currently, there is no stormwater treatment along Park Lane and contamination from hydrocarbon compounds associated with motor vehicles is always present. Through the inclusion of significant stormwater management elements along Park Lane, improvements to water quality immediately upstream of Lake Washington will be accomplished.

To help fund these significant storm water quality/run-off improvements, staff submitted an August 31, 2010 grant application for the Washington State Department of Ecology's (DOE) Storm Water Retrofit and LID Grant Program. In order to ensure that funds are applied to the highest priority needs in the State, DOE staff evaluated and scored all of the project proposals. With all scores compiled a statewide priority list was developed and the Park Lane Pedestrian Enhancements Project application was selected as a top candidate. On May 10, 2012, the City received notice that the Park Lane Project had been selected as a grant recipient through a legislative provision in the 2012 Supplemental Capital Budget.

In order to advance the Grant to the next level, negotiations and a DOE funding agreement is required to be completed by the City before November 1, 2012. To accomplish this, DOE staff is requesting a confirmation letter from the City with a brief project status update and an indication that the City is still interested in moving forward with the Project.

Estimated Project Costs

A Funding Strategy for the Park Lane Corridor Enhancements Project was first presented to City Council at their meeting of February 2, 2010. At that time the Project was estimated to be $2.2M in total costs, including the Phase I work previously completed ($370K) plus the portion that will be built as a part of the KCDNR Lift Station project ($170K); the second phase of the Project is currently listed as "Unfunded" within the Transportation element of the 2011-2016 CIP. In support of the DOE grant application, an updated engineer's estimate was produced along with an updated Funding Strategy Plan placing the current total project cost at closer to $2.4M, including the same Phase I and KCDNR elements listed above.

With the possible receipt of $739K in DOE grant funds, the Project balance remaining to be funded is nearly $1.1M and, as per the current Funding Strategy, staff has identified possible

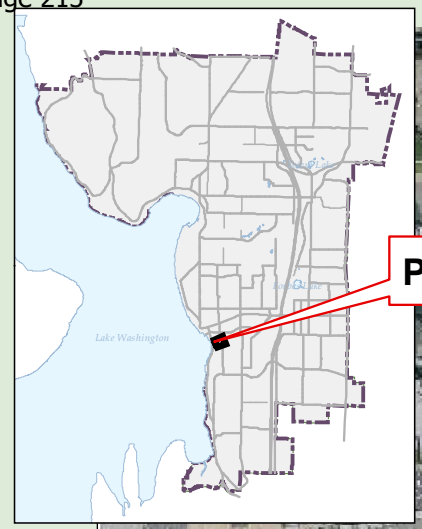
City matching fund sources such as the Annual Overlay Program, surface water reserves, the Annual Sidewalk Program, together with other miscellaneous sources (Attachment E). As a continued part of the Funding Strategy Plan, staff is pursuing other grant opportunities through the Transportation Improvement Board and the 2012 Pedestrian and Bicycle Safety Grant Program.

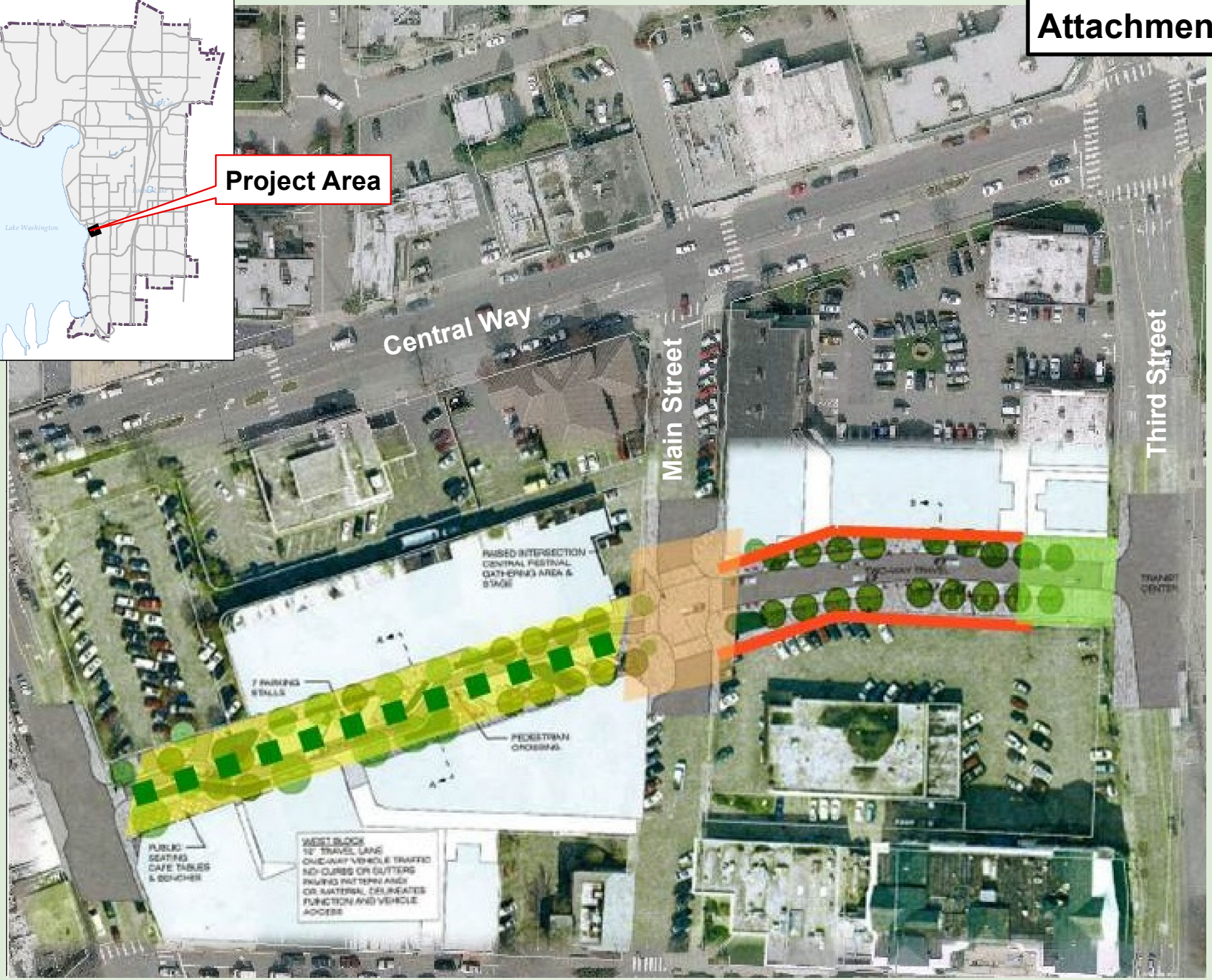
Conclusion and Recommendation

It is recommended that City Council authorize staff to begin a process to re-introduce the Park Lane Festival Street concept to the public, especially to the Park Lane business and property owners, in order to better gauge the level of support for Project implementation. A number of years have passed since the Park Lane Community Visioning process was concluded. As a result, there will be new Park Lane stakeholders who may not be fully up-to-date on the Project and the process that lead to the current design concept. The Park Lane Visioning website has remained active since 2008 with the Project currently listed as "unfunded" in the current CIP. With City Council's approval, staff will begin a new dialogue with the most immediately impacted stakeholders (Park Lane business and property owners) to identify current issues and to determine options for mitigating any future construction impacts. Staff will return to Council in October with results of the renewed public outreach and make a recommendation for completing grant negotiations with the DOE and funding strategies for the remaining $1.1M gap. Staff will also provide the notice of grant information to the Kirkland Transportation Commission, as well as continue to pursue additional grant opportunities and funding options for City Council's future consideration.

Attachments (5)

Attachment A





Flexible Festival Street Concept

PREFERRED CONCEPT | FLEXIBLE FESTIVAL STREET | PLAN AND SECTIONS

ATTACHMENT C

PARK LANE TREE INVENTORY

TREE REPORT CARD

Tree Number: 427
Species: Armstrong Red Maple
Diameter: 8.4”

A

Grade Definition:

A(Retain) B(Retain/Monitor) C(Monitor) F(Remove/Replace)

Tree Criteria:

- Vigor: Good
- Structure: Good
- Health : Very Good
- Impact on other trees/infrastructure: sidewalk/curb
- Long term viability: Very Good
- Notes: 4x4 cutout

Working to restore, enhance and protect the City of Kirkland’s Tree Assets

---

Tour of Park Lane Trees with City Urban Forester

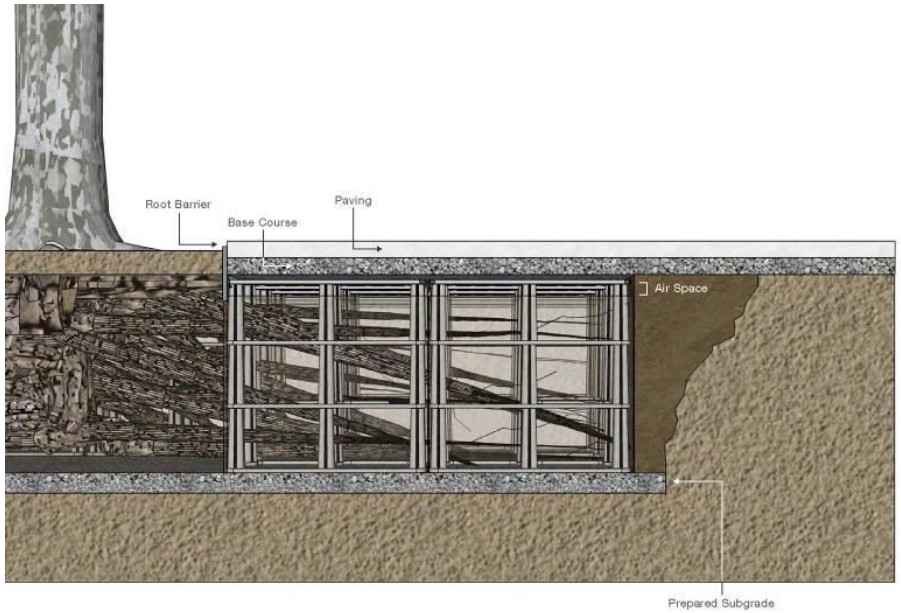
Tuesday October 27th (8:30 am – 9:15 am); Meet at Park Lane and Lake Street

Phase I Implementation Plan

9:15 am – 10:15 am; Zeek’s Pizza (124 Park Lane)

For more information, contact Kari Page 425-587-3011 kpage@ci.kirkland.wa.us

Phase 1 – Silva Cell Units



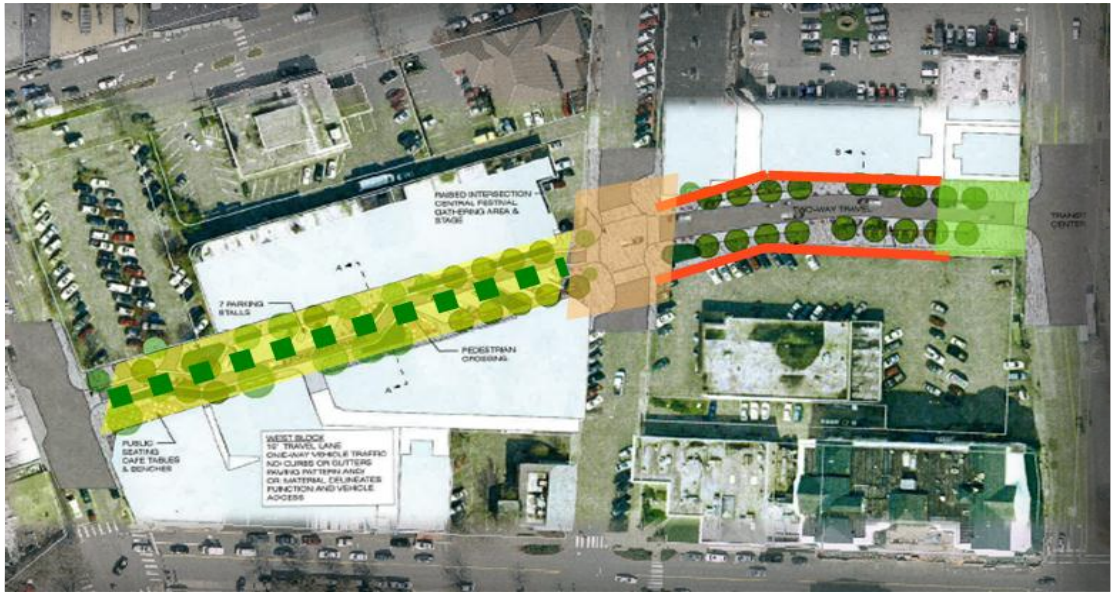
Silva cell units act as “suspended pavement”. The soil within the units requires less compaction, providing more void space for roots to grow.

Proposed Park Lane Pedestrian Corridor Funding Strategy

ATTACHMENT E

7/26/2012

PHASE	DESCRIPTION	Frontage (linear feet)	Total Estimate (2009)	Design (**)	Construction	Funding source
1	Replacement of damaged infrastructure (Terrewalk rubber walkway panels, Silva Cell unitsroot pruning, conduit)	various	$ 370,000	2009	2010 (Complete)	$312K Transportation CIP $58K Surface Water
2	King County DNR pump station street frontage Improvements	150	$ 170,000	2009	2012 (ongoing)	Design funding is included in Phase 1. Construction will be completed by KCDNR; Park Lane crosswalk along west side of 3rd Street was constructed with Downtown Transit Center.
3	Festival Street Implementation: Installation of porous concrete sideways, new roadway, street furniture, patterned concrete, storm drainage and rain gardens.	800	$ 1,106,746	2010 (30%)	TBD	$739,000 DOE Grant Overlay Program Sidewalk Program Surface Water Program Centennial Program $16K donated benches 2012 Pedestrian and Bicycle Safety Grant (Submitted July 2012) TIB (To be submitted August 2012)
4	Festival Street Implementation: Raised intersection at Main Street and Park Lane.	100	$ 140,400	TBD	TBD	$739,000 DOE Grant Overlay Program Sidewalk Program Surface Water Program Centennial Program $16K donated benches 2012 Pedestrian and Bicycle Safety Grant (Submitted July 2012) TIB (To be submitted August 2012)
5 S	Antique Mall Redevelopment right of way improvements per Festival Street Concept	275	$ 313,775	TBD	TBD	Same as above with redevelopment participation a possibility
5 N	Kirkland Square Redevelopment right of way improvements per Festival Street Concept	275	$ 313,775	TBD	TBD	Same as above with redevelopment participation a possibility
	TOTAL	**1600**	**$ 2,414,696**			



Council Meeting: 08/07/2012
Agenda: Other Business
Item #: 8. h. (2).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Ray Steiger, P.E., Public Works Director

Date: July 27, 2012

Subject: JANUARY 2012 SNOW EVENT DEBRIEF

RECOMMENDATION:

It is recommended that the City Council review staff's assessment of the City's response to the January 2012 snow event, and in addition, approve the one time use of $57,500 fleet maintenance replacement reserves to equip the scheduled 2012 annexation related 10-yard dump truck with snow removal equipment and purchase three ceramic blades for existing Kirkland plows.

BACKGROUND DISCUSSION:

The entire Puget Sound experienced a significant snow and ice event between Saturday, January 14th and Friday, January 20th, 2012. Agencies responded differently based on their circumstances and available resources. Kirkland maintenance and operations staff worked six straight days during the event utilizing two well-coordinated 12 hour shifts that employed approximately 40 public works employees and multiple parks staff. Staff utilized all of the City's snow removal equipment: five dump trucks (three with plows and sanders; two hauling sand), a grader, and three pick up plows almost continuously during the storm. Police and Fire vehicles were chained and while there were some challenges (spin outs, vehicles stuck in snow), all emergency services were operational during the event. In addition to keeping vital City facilities and emergency routes cleared, chemical de-icing and tons of sand were applied to many of the City's streets. Excellent communication and coordination with the City's solid waste hauler, Waste Management, allowed customers to either maintain garbage service or return to normal service quickly after the event. Proactive community outreach and targeted snow removal during the storm allowed the City to remain virtually flood-free as the freezing temperatures and snow changed over to rain and inundated the public drainage systems; final clean-up of the event was just completed in July with removal of the remaining sand from the City storm system. The City met its priority objectives during the event, but also has definite room for improvement.

The event

Snow and ice accumulation between January 14th and January 20th officially totaled 7.6 inches as recorded at the Northwest Weather Station at Sand Point. Many areas in Kirkland received significantly more or less than the Sand Point accumulation – Bridle Trails neighborhood reported up to 11 inches in places. Four record low temperatures during the week combined with repeated

accumulations and rapid warming at the end of the event lead to a situation not experienced since late 2008.

Beginning Sunday, January 15, with the initial large snow fall, Public Works staff began working 12-hour shifts; two full crews were employed. Mechanics were on hand to put chains on all vehicles and equipment was readied. During the event, Parks staff provided snow removal at the fire stations and other City buildings. All told Public Works spent approximately $100,000 on labor, equipment, and materials during the event; ongoing removal of sand from the storm drainage system would continue until July; this response was significantly above historic norms due to the duration of the event (Figure 1).

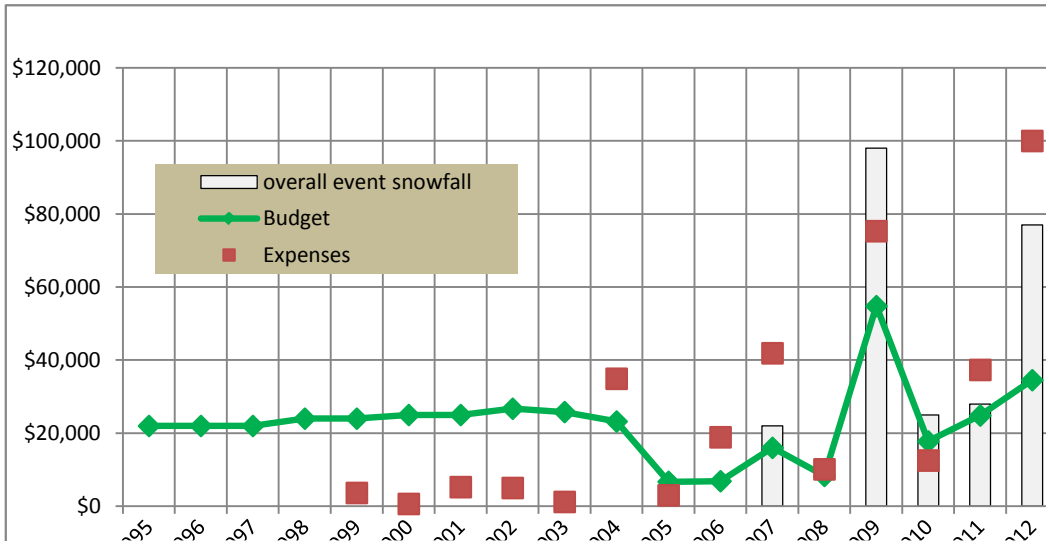


Figure 1. Historic snow removal budget Kirkland Public Works

The feedback

There were a number of phone calls, emails, and letters to the editor regarding the City's response and sometimes the perceived lack of response. Due to the Monday holiday, impacts of the event early in the week were minimal, however as many got back to work and other surrounding agencies began to implement their approaches, Kirkland citizens noticed distinct differences between Kirkland streets and others outside of the City. These observations often drew sharp criticism. Comparisons of Redmond, Kenmore, and even the former King County approach to snow response were abundant and dramatic. One of the challenges was the annexation brought 100 more miles of roads to the City in July, 2011, and stretched available equipment, as no new snow removal equipment was added to the City inventory for annexation due to budget constraints. (An additional 10-yard dump truck and plow is now scheduled for purchase in 2012 and a 5-yard dump truck is also planned but not yet scheduled.) In all more than 120 individual emails/phone calls related to the snow event were fielded by City Staff. The content was diverse both in the nature of the email/call and the geographic locations **(Attachment 1).** Even along routes that are designated as Priority 1 snow routes, many reported that no plows had been seen and many said that even if plows had been through, the snow and ice remained on the road. Throughout the event information was gathered, and resources were allocated as effectively as possible.

Priority 1 snow routes are established and posted on the City website. These longstanding priorities were established working with Metro Transit, Evergreen Hospital, and the City's emergency responders. Many steep grades are historically closed due to potential safety issues,

and busy intersections are treated with sand. The City adopted previous priority routes of King County when annexation of the JFK neighborhoods was completed. Beginning in 2010 with the purchase of anti-icing equipment, Kirkland began pre-treating roads if ice was anticipated. This was done leading up to the January event. Once Priority routes have been treated, depending on schedule, staffing availability, and anticipated future snowfall/freezing, other routes are addressed. In this particular event, due to the recurring nature of snow fall on different days, there was no opportunity to move to the non-priority routes; the Priority routes required continual attention. This inability to get to neighborhood streets was the source of many complaints but the City was able to keep all Priority 1 routes open.

Post Storm

After the storm the City Manager asked the Public Works Department to coordinate a comprehensive "storm debrief" to review how all departments performed during the event and to identify "lessons learned" and any potential changes to policy, procedure or equipment. Kirkland staff also reviewed the various approaches taken by other agencies to individual snow events. Both the City of Seattle and the City of Redmond made significant financial investments in their snow response in the wake of the 2008 storm event. Faced with declining budgets, after the 2008 event Kirkland made incremental changes involving minimal new capital investments. The City purchased two truck mounted de-icing components and materials to prepare a brine de-icing agent (approximately $.70 per gallon to distribute), and purchased three plows that can be mounted to small pick-ups. The total investment was approximately $43,000. Redmond invested approximately $100,000 as a result of the 2008 event.

A key element of other agencies has also been the utilization of chemically enhanced de-ice agent. The ongoing cost for the agent is approximately $2.70 per gallon and requires storage and mixing facilities that are not currently available at the City of Kirkland maintenance center. Storage facilities are approximately $25,000 per unit, and at least two units would be required. In the event they were purchased, storage space is limited at the maintenance center, and there would be an impact to other activities/parking so alternative storage locations would be necessary. The chemical agent, "Calcium Chloride with Boost" (CCB), was well used by agencies (including Redmond) and allowed their subsequent plow operations to get down to the pavement much quicker than Kirkland's approach. The City of Redmond also invested in ceramic fitted plow blades, and Kirkland lacks those components. Kirkland's current rubber blade "tips" wear out frequently, which is why one key recommendation is to replace the tips with ceramic fitted blades at an added cost of approximately $1,000 to $1,500 per unit.

Kirkland Staff has looked at the options of additional investments and the history of storm events. The trade-off is always cost versus the likelihood of an event. Although Redmond's approach to snow response appropriately received favorable results from their citizens, Kirkland's current anti-icing approach is less expensive, has served Kirkland well during most events, and was sufficient to keep Priority 1 routes clear during this event. The addition of equipment to address the additional road inventory will provide better coverage of the new City. With incremental additions to the equipment and by continuing to use the less costly brine solution, most snow events that Kirkland has experienced can be addressed with less long term overall cost.

Staff recommendations

Considering historical information, pre-established budgets and procedures, and available resources, a number of recommendations have been suggested with the storm response to

enhance operations and service to the community. Specific recommendations to improve service to the community are as follows:

- Equip the scheduled 2012 10-yard dump truck with plowing equipment and advanced sand delivery system (i.e. pre-wetting capability; approximately $53,000); consider upgrades to others when replaced;
- Replace 2-3 plow blade "tips" per year with ceramic product using existing street fund funding (approximately $2-3K annually after initial purchase);
- Eliminate tandem plowing which has been the past practice. By splitting the plows one lane can be opened in both directions on Priority 1 and Priority 2 streets much faster. Center turn lanes will not be addressed until this is accomplished;
- The three 5-yard dump truck/plows should be dispersed to the north, central, and south neighborhoods. Smaller pick-up plows will focus on Downtown with the less nimble grader;
- Establish key/consistent message that will be delivered by all staff to the public during the event;
- Proactively use new Kirkland "Twitter" feed for macro updates of plow/deicing/sanding operations;
- Continue to evaluate acquiring equipment and materials required to employ chemically enhanced deicing (CCB) beyond what is currently owned (approximately $60,000), but not purchase them at this time given the other investments that will be made;
- Explore contracting other public/private plowing resources to supplement the City forces during predicted events.

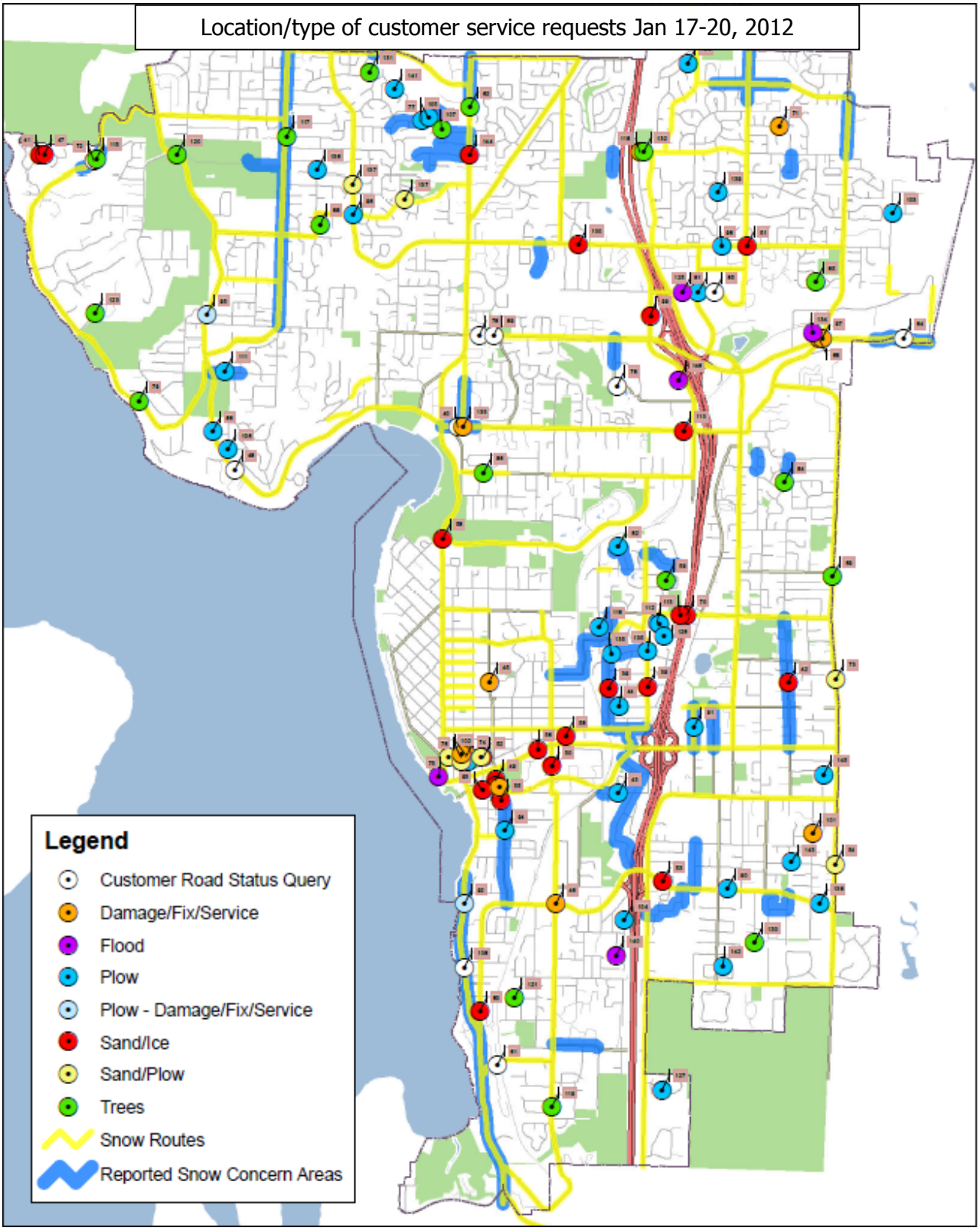
The above recommendations are those that will be most noticed by the Community and are in addition to the changes that are proposed to the City's internal operations to improve efficiencies and resource availability. Staff recommendations for internal operation changes are as follows:

- Reinstitute 8-hour (rather than 12 hour) shifts for operations and maintenance; current two person operating crews will be modified accordingly;
- One manager will be on duty each shift and provide ½ hour overlap for transition communication;
- Each operational period will be defined at the beginning of the shift including equipment objectives, staff assignments, and priorities, it will be distributed to phone duty staff, Director, and community outreach coordinator;
- One mechanic will be on duty for all shifts.

Council Input Needed

After the Council receives the snow storm debrief, staff is seeking direction from the Council on whether the Council concurs with the staff equipment recommendations (dump truck plow, plow tips, etc) or desires to see further investments in de-icing equipment and other snow response equipment.

Attachment 1



ATTACHMENT 2

FISCAL NOTE

CITY OF KIRKLAND

Source of Request

Ray Steiger, Public Works Director

Description of Request

Request for funding of $57,500 from the Equipment Rental replacement reserve to purchase snow removal equipment.

Legality/City Policy Basis

Fiscal Impact

One-time use of $57,500 from the Equipment Rental Replacement Reserve. This reserve is able to fully fund this request.

Recommended Funding Source(s)

	Description	2012 Est End Balance	Prior Auth. 2011-12 Uses	Prior Auth. 2011-12 Additions	Amount This Request	Revised 2012 End Balance	2012 Target
Reserve	Equipment Rental Repl. Rsv.	8,047,063	0	0	57,500	7,989,563	N/A
	No 2011-12 Prior Authorized Uses						
Revenue/Exp Savings							
Other Source							

Other Information

Prepared By	Neil Kruse, Senior Financial Analyst	Date	August 2, 2012

CITY OF KIRKLAND
Department of Finance and Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kathi Anderson, City Clerk

Date: July 19, 2012

Subject: Salary Commission Resignation

RECOMMENDATION:
Council acknowledges the resignation of Salary Commission member Tina McDade effective July 9, 2012, and approves the attached correspondence thanking her for her service.

BACKGROUND DISCUSSION:
Ms. McDade cites additional commitments that will no longer allow her to participate on the Salary Commission and so she is resigning from the remainder of her term. A recruitment to fill this position has begun.

From: Tina McDade [mailto:TinaM@McKinstry.com]
Sent: Monday, July 09, 2012 9:46 AM
To: Kathi Anderson
Cc: Tina McDade; Thomas McDade; Tina McDade/WA
Subject: Salary Commission

Ms. Anderson,

While it has been my pleasure to serve on the salary commission for the past few years, this is my notice that I am resigning from the commission effective immediately. Unfortunately, other commitments and my work schedule no longer allow me to effectively participate on the commission.

If you have any questions or concerns, please feel free to contact me.

Thank you.

Tina McDade, BSEE, MBA, PMP
Reporting Analyst
d 206.832.8130 | m 425.444.9061 | f 206.268.9670

D R A F T

July 18, 2012

Tina McDade
12908 N.E. 72nd Street
Kirkland, WA 98033

Dear Tina:

We have regretfully received your letter of resignation from the Salary Commission.

The City Council appreciates your contributions to the Commission, and we thank you for volunteering your time and talent to serve our community.

Best wishes in your current and future endeavors.

Sincerely,
Kirkland City Council

by Joan McBride
Mayor

Council Meeting: 08/07/2012
Agenda: Other Business
Item #: 8. h. (4).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Katy Coleman, Development Engineering Analyst
Ray Steiger, P.E., Public Works Director

Date: July 16, 2012

Subject: RESOLUTION TO RELINQUISH THE CITY'S INTEREST IN A PORTION OF UNOPENED RIGHT-OF-WAY

RECOMMENDATION:

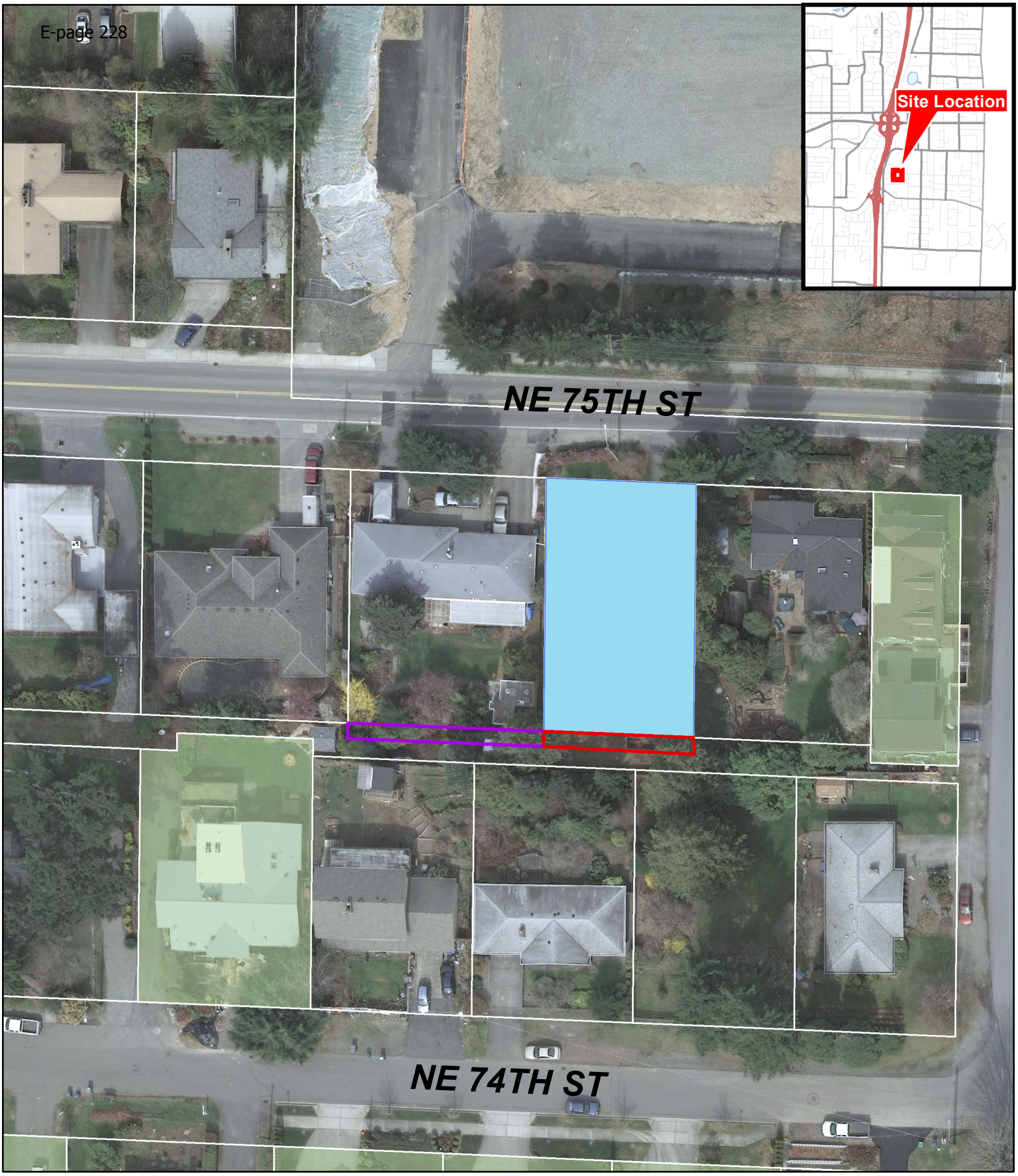
It is recommended that the City Council adopt the enclosed Resolution relinquishing interest, except for a utility easement, in a portion of unopened alley being identified as the north 7.5 feet of the unopened alley abutting the south boundary of the following described property: The east 5 feet of Lot 9, and all of Lots 10 and 11, Block 12, Kirkland Steelworks Addition to Kirkland, according to the plat thereof recorded in Volume 6 of Plats, page 25, records of King County, Washington.

BACKGROUND DISCUSSION:

The unopened portion of the alley abutting the property of 11829 NE 75th Street (Attachment 1) was originally platted and dedicated in 1890 as Kirkland Steelworks Addition to Kirkland. The Five Year Non-User Statute provides that any street or right-of-way platted, dedicated, or deeded prior to March 12, 1904, which was outside City jurisdiction when dedicated and which remains unopened or unimproved for five continuous years is then vacated. The subject right-of-way has not been opened or improved.

Ronald and Theresa Kuehner, the owners of the property abutting this right-of-way, submitted information to the City claiming the right-of-way was subject to the Five Year Non-User Statute (Vacation by Operation of Law), Laws of 1889, Chapter 19, Section 32. After reviewing this information, the City Attorney believes the approval of the enclosed Resolution (Attachment 2) is permissible.

Attachments (2)



Kuehner Non-User Vacation Exhibit
11829 NE 75th St

- Proposed Vacation
- Other Pending Vacation
- Kuehner Property
- Granted Non-User Vacations

CITY OF KIRKLAND WASHINGTON

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Printed June 2012 - Public Works

RESOLUTION R-4933

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE, EXCEPT FOR A UTILITY EASEMENT, IN AN UNOPENED RIGHT-OF-WAY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNERS RONALD T. AND THERESA L. KUEHNER

WHEREAS, the City has received a request to recognize that any rights to the land originally dedicated in 1890 as right-of-way abutting a portion of the Kirkland Steel Works Addition to Kirkland have been vacated by operation of law; and

WHEREAS, the Laws of 1889, Chapter 19, Section 32, provide that any county road which remains unopened for five years after authority is granted for opening the same is vacated by operation of law at that time; and

WHEREAS, the area which is the subject of this request was annexed to the City of Kirkland, with the relevant right-of-way having been unopened; and

WHEREAS, in this context it is in the public interest to resolve this matter by agreement,

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

Section 1. As requested by the property owners Ronald T. and Theresa L. Kuehner, the City Council of the City of Kirkland hereby recognizes that the following described right-of-way has been vacated by operation of law and relinquishes all interest it may have, if any, except for a utility easement, in the portion of right-of-way described as follows:

A portion of unopened alley being identified as the north 7.5 feet of the unopened alley abutting the south boundary of the following described property: The east 5 feet of Lot 9 and all of Lots 10 and 11, Block 12, Kirkland Steel Works Addition to Kirkland, according to the plat thereof recorded in Volume 6 of Plats, page 25, records of King County, Washington.

Section 2. This resolution does not affect any third party rights in the property, if any.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2012

Signed in authentication thereof this _____ day of _____, 2012.

_____
MAYOR

Attest:

_____
City Clerk

Council Meeting: 08/07/2012
Agenda: Other Business
Item #: 8. h. (5).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Katy Coleman, Development Engineering Analyst
Ray Steiger, P.E., Public Works Director

Date: July 18, 2012

Subject: RESOLUTION TO RELINQUISH THE CITY'S INTEREST IN A PORTION OF UNOPENED RIGHT-OF-WAY

RECOMMENDATION:

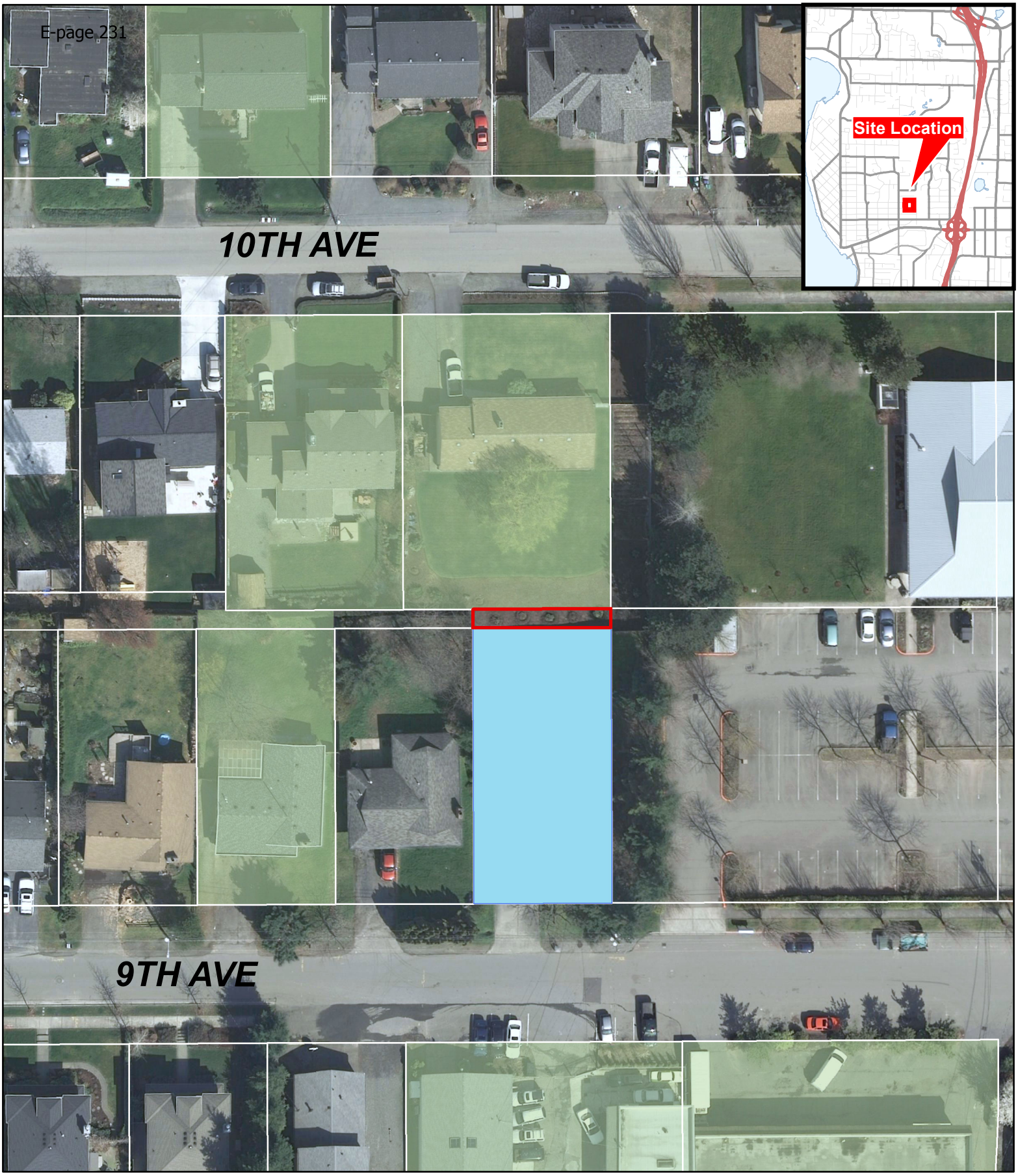
It is recommended that the City Council adopt the enclosed Resolution relinquishing interest, except for a utility easement, in a portion of unopened alley being identified as the south 8 feet of the unopened alley abutting the north boundary of the following described property: Lots 52 and 53, Block 169, Kirkland Addition, according to the plat thereof recorded in Volume 6 of Plats, page 53, records of King County, Washington.

BACKGROUND DISCUSSION:

The unopened portion of the alley abutting the property of 648 9th Avenue (Attachment 1) was originally platted and dedicated in 1890 as Kirkland Addition. The Five Year Non-User Statute provides that any street or right-of-way platted, dedicated, or deeded prior to March 12, 1904, which was outside City jurisdiction when dedicated and which remains unopened or unimproved for five continuous years is then vacated. The subject right-of-way has not been opened or improved.

Kathryn Mizrahi, the owner of the property abutting this right-of-way, submitted information to the City claiming the right-of-way was subject to the Five Year Non-User Statute (Vacation by Operation of Law), Laws of 1889, Chapter 19, Section 32. After reviewing this information, the City Attorney believes the approval of the enclosed Resolution (Attachment 2) is permissible.

Attachments (2)



Mizrahi Non-User Vacation Exhibit
648 9th Avenue

Proposed Vacation

Mizrahi Property

Granted Non-User Vacations

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Printed July 2012 - Public Works

RESOLUTION R-4934

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE, EXCEPT FOR A UTILITY EASEMENT, IN AN UNOPENED RIGHT-OF-WAY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNER KATHRYN MIZRAHI

WHEREAS, the City has received a request to recognize that any rights to the land originally dedicated in 1890 as right-of-way abutting a portion of the Town of Kirkland have been vacated by operation of law; and

WHEREAS, the Laws of 1889, Chapter 19, Section 32, provide that any county road which remains unopened for five years after authority is granted for opening the same is vacated by operation of law at that time; and

WHEREAS, the area which is the subject of this request was annexed to the City of Kirkland, with the relevant right-of-way having been unopened; and

WHEREAS, in this context it is in the public interest to resolve this matter by agreement,

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

Section 1. As requested by the property owner Kathryn Mizrahi, the City Council of the City of Kirkland hereby recognizes that the following described right-of-way has been vacated by operation of law and relinquishes all interest it may have, if any, except for a utility easement, in the portion of right-of-way described as follows:

A portion of unopened alley being identified as the south 8 feet of the unopened alley abutting the north boundary of the following described property: Lots 52 and 53, Block 169, Kirkland Addition, according to the plat thereof recorded in Volume 6 of Plats, page 53, records of King County, Washington.

Section 2. This resolution does not affect any third party rights in the property, if any.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2012

Signed in authentication thereof this _____ day of _____, 2012.

_____
MAYOR

Attest:

_____
City Clerk

Council Meeting: 08/07/2012
Agenda: Other Business
Item #: 8. h. (6).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Katy Coleman, Development Engineering Analyst
Ray Steiger, P.E., Public Works Director

Date: July 16, 2012

Subject: RESOLUTION TO RELINQUISH THE CITY'S INTEREST IN A PORTION OF UNOPENED RIGHT-OF-WAY

RECOMMENDATION:

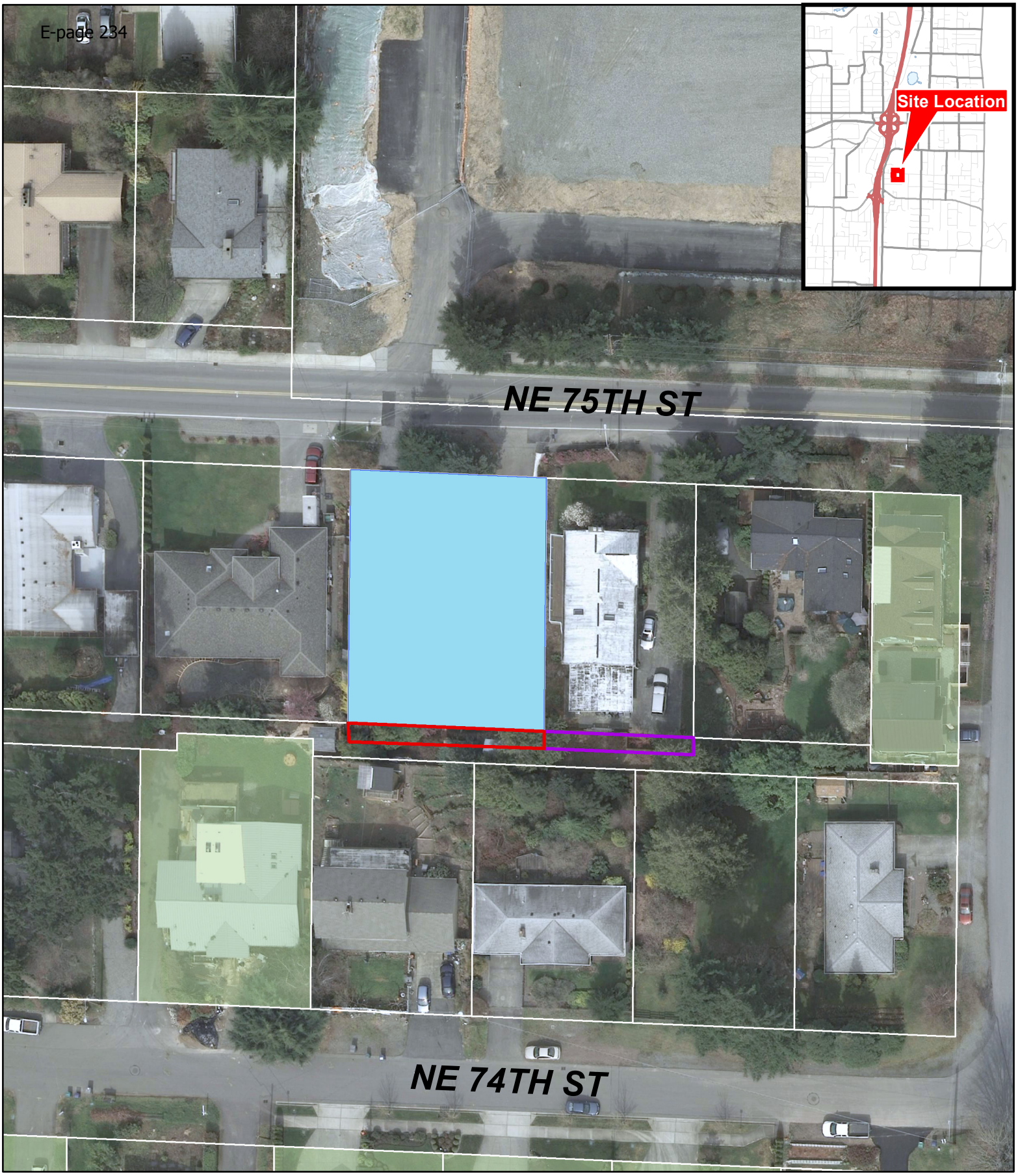
It is recommended that the City Council adopt the enclosed Resolution relinquishing interest, except for a utility easement, in a portion of unopened alley being identified as the north 7.5 feet of the unopened alley abutting the south boundary of the following described property: Lots 7, 8, and 9, Block 12 of Kirkland Steel Works Addition to Kirkland, according to the plat thereof recorded in Volume 6 of Plats, page 25, records of King County, Washington; Except the east 5 feet of said Lot 9.

BACKGROUND DISCUSSION:

The unopened portion of the alley abutting the property of 11823 NE 75th St (Attachment 1) was originally platted and dedicated in 1890 as Kirkland Steel Works Addition to Kirkland. The Five Year Non-User Statute provides that any street or right-of-way platted, dedicated, or deeded prior to March 12, 1904, which was outside City jurisdiction when dedicated and which remains unopened or unimproved for five continuous years is then vacated. The subject right-of-way has not been opened or improved.

Eugene Sheasley and Laura Seitz, the owners of the property abutting this right-of-way, submitted information to the City claiming the right-of-way was subject to the Five Year Non-User Statute (Vacation by Operation of Law), Laws of 1889, Chapter 19, Section 32. After reviewing this information, the City Attorney believes the approval of the enclosed Resolution (Attachment 2) is permissible.

Attachments (2)



Sheasley/Seitz Non-User Vacation Exhibit
11823 NE 75th St

- Proposed Vacation
- Other Pending Vacation
- Sheasley/Seitz Property
- Granted Non-User Vacations

CITY OF KIRKLAND WASHINGTON

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Printed July 2012 - Public Works

RESOLUTION R-4935

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELINQUISHING ANY INTEREST THE CITY MAY HAVE, EXCEPT FOR A UTILITY EASEMENT, IN AN UNOPENED RIGHT-OF-WAY AS DESCRIBED HEREIN AND REQUESTED BY PROPERTY OWNERS EUGENE B. SHEASLEY AND LAURA J. SEITZ

WHEREAS, the City has received a request to recognize that any rights to the land originally dedicated in 1890 as right-of-way abutting a portion of the Kirkland Steel Works Addition to Kirkland have been vacated by operation of law; and

WHEREAS, the Laws of 1889, Chapter 19, Section 32, provide that any county road which remains unopened for five years after authority is granted for opening the same is vacated by operation of law at that time; and

WHEREAS, the area which is the subject of this request was annexed to the City of Kirkland, with the relevant right-of-way having been unopened; and

WHEREAS, in this context it is in the public interest to resolve this matter by agreement,

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

Section 1. As requested by the property owners Eugene Sheasley and Laura Seitz, the City Council of the City of Kirkland hereby recognizes that the following described right-of-way has been vacated by operation of law and relinquishes all interest it may have, if any, except for a utility easement, in the portion of right-of-way described as follows:

A portion of unopened alley being identified as the north 7.5 feet of the unopened alley abutting the south boundary of the following described property: Lots 7, 8, and 9, Block 12 of Kirkland Steel Works Addition to Kirkland, according to the plat thereof recorded in Volume 6 of Plats, page 25, records of King County, Washington; Except the east 5 feet of said Lot 9.

Section 2. This resolution does not affect any third party rights in the property, if any.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2012

Signed in authentication thereof this _____ day of _____, 2012.

_____
MAYOR

Attest:

_____
City Clerk

Council Meeting: 08/07/2012
Agenda: Other Business
Item #: 8. h. (7).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tim Llewellyn, Fleet Supervisor
Donna Burris, Internal Services Manager
Ray Steiger, Public Works Director

Date: July 24, 2012

Subject: SURPLUS AND DONATION OF EQUIPMENT RENTAL VEHICLE

RECOMMENDATION:

It is recommended that the City Council approve the surplusing of the Equipment Rental vehicle identified in this memo, and its donation to the Kirkland Boys and Girls Club.

BACKGROUND DISCUSSION:

The surplusing of vehicles which have been replaced with new vehicles, is consistent with the City's Equipment Rental Replacement Schedule Policy. The following vehicle has been replaced by a new vehicle, and if approved by City Council, will be donated to the Kirkland Boys and Girls Club.

Fleet #	Year	Make	VIN/Serial Number	License #	Mileage
S95-02	1995	Ford E350 Club Wagon	1FBHE31H5SHB34506	16980D	48,998

For clarification purposes, S95-02 is a 1995 Ford E350 Club Wagon which was used by the Police – Crime Prevention Division. It exceeded its anticipated useful life of 8 years by 9 additional years.

S95-02 has an estimated auction value of $1,750.00 as determined by the NADA (National Automobile Dealers Association) Official Used Car Guide's "Clean Loan" value. The auction proceeds from the sale of S95-02 are not needed to assist in funding its replacement vehicle.

Police Chief Eric Olsen has proposed that S95-02 be donated to the Kirkland Boys and Girls Club in accordance with the KMC Chapter 3.86, The Sale and Disposal of Surplus Personal Property. The Human Services section of the Parks and Community Services is in accordance with this donation proposal.

Cc: Eric Olsen, Chief of Police
Jennifer Schroder, Parks and Community Services Director

Council Meeting: 08/07/2012
Agenda: Other Business
Item #: 8. h. (8).

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Barry Scott, Purchasing Agent

Date: July 26, 2012

Subject: REPORT ON PROCUREMENT ACTIVITIES FOR COUNCIL MEETING OF AUGUST 7, 2012

This report is provided to apprise the Council of recent and upcoming procurement activities where the cost is estimated or known to be in excess of $50,000. The "Process" column on the table indicates the process being used to determine the award of the contract.

The City's major procurement activities initiated since the last report, dated July 5, 2012, are as follows:

	Project	Process	Estimate/Price	Status
1.	John Deere Tractor with boom mower	Cooperative Purchase	$125,938.97.	Ordered using WA State Contract with Tiger Equipment (Case Power & Equipment as local distributor).
2.	Lakeview Elementary Pedestrian Improvements	Invitation for Bids	$184,825.00.	Advertised on 7/2 with bids due on 7/24.

Please contact me if you have any questions regarding this report.

Council Meeting: 08/07/2012
Agenda: Unfinished Business
Item #: 10. a.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Aaron McDonald, P.E., Project Engineer
David Godfrey, P.E., Transportation Manager
David Snider, P.E., Capital Project Manager
Ray Steiger, P.E., Public Works Director

Date: July 31, 2012

Subject: CROSS KIRKLAND CORRIDOR – APPROVE PROGRAM

RECOMMENDATION:

It is recommended that City Council:

- Authorizes rail removal in preparation for an interim trail;
- Approves funding, beginning in 2012, for the Cross Kirkland Corridor (CKC) rail removal and interim trail;
- Authorizes design and construction of an interim trail;
- Approve a draft Master Plan scope of work;
- Selects a preferred funding option for the Master Plan

BACKGROUND DISCUSSION:

The CKC was acquired by the City in April, 2012, after a process that included public outreach, pre-purchase due diligence, and negotiations with the Port of Seattle, the former owner of the corridor. In April, 2011, City Council adopted an interest statement developed by the Transportation Commission **(Attachment A)** that detailed specific interests to be achieved as the corridor was developed. On March 6, 2012, the Council also asked the Transportation Commission, in coordination with the Park Board, to develop recommendations on the Corridor development, public outreach and master planning processes.

The development strategy currently proposed for the CKC by the Transportation Commission is two-phased: the initial phase is rail removal along with design and construction of an interim trail to allow broad public use of the CKC. For the first phase, staff has evaluated the costs of removing the existing rails and constructing an interim gravel path. The second phase is implementation of a CKC Master Plan to determine the ultimate vision and development of the Corridor for both trail and transit. To support this second phase, the Transportation Commission and Park Board developed a draft scope of work **(Attachment B)** and a cost estimate for a master planning process.

Together, rail removal, the interim trail and completing the Master Plan will support the City Council's goals of Balanced Transportation, Sustainable Infrastructure and Parks Open Spaces and Recreational Services.

Further these actions will meet several of the interests identified in the *Interest Statement* including:

- Serve transportation needs of Kirkland
- Actively use the corridor in the near future
- Maintain the corridor in good condition

Finally, these actions help meet the Goals of the City's Active Transportation Plan, specifically Goal G1 which calls for development of the Cross Kirkland Corridor.

At their July 26 meeting, the Transportation Commission reviewed and unanimously reaffirmed their support for rail removal and construction of an interim trail at this time. They also unanimously reaffirmed approval of the Master Plan scope. The Commission feels that given the interests of the City and the need to spend grant funds in a timely manner it is appropriate to move forward with rail removal and trail design/construction while or before the Master Plan is prepared.

1. INTERIM TRAIL DEVELOPMENT:

RAIL REMOVAL

The rail removal phase will remove all existing rails, cross-ties, road/trail crossing slabs, and will include grading of the surface for trail construction. This work will also include paving of the streets (9 crossing locations) where the rails are to be removed. This work will be put out to bid and it is currently likely that the rail salvage value will offset the cost of rail removal, or possibly result in a credit depending on the scrap market prices and demand for used material at the time of removal. The current cost estimate includes a substantial contingency to cover the risk of low scrap prices or low demand for used materials.

While at least one rail removal contracting firm has a yard in the Puget Sound area, many rail removal contractors work on a nationwide basis. This means that there is generally a 3 month period between request for bids and the date when the bids are to be returned to the City. This extra period allows for firms to inspect facilities and schedule their work in order to offer the best price to the City. WSDOT work at NE 116th Street and I-405 is currently blocking the tracks as crews work on the NE 116th Street bridge over the rails. This work is scheduled to be completed at the end of the year. That need for the longer bid time and the WSDOT work both suggest rail removal should begin in early 2013.

At meetings where the Transportation Commission has discussed rail removal, several citizens have expressed a need to reconsider removing the rails. Common perceptions about leaving the rails in place include: the current facilities could support current or future rail traffic, upgrading the rails would be easier if existing rails are in place, the rails might serve as a redundant line for the Burlington Northern Santa Fe (BNSF) mainline and, if removed, the rails will never be reconstructed and therefore the corridor will never again support rail traffic.

While listening carefully to these concerns, the Transportation Commission has unanimously supported rail removal for the following reasons:

- Over the past 3 years since the BNSF has sold the corridor to the Port, no rail operation has come forward with a viable plan to use the rails either now or in the future. The existing rails are not adequate for anything but very low speed operations.
- While it may be true that new rail could be installed somewhat more easily with existing rail, it is unlikely that new rail would be built in the next 20 years, so this benefit has limited value. It is also unclear whether or not any new rail would be constructed on the exact alignment of the existing rail, or if double track would be installed.
- Apparently BNSF saw limited value in the corridor as a back-up to its mainline or it would not have sold the eastside line. Also, the Wilburton tunnel has been removed from I-405. Without a connection across I-405, the corridor is not a redundant link.
- It is unlikely that having the existing rail in the corridor would be the key factor in getting new rail at some point.
- Removal of the rail would greatly benefit maintenance of the corridor and the surface water facilities that are located adjacent to it. The Public Works Department has recently purchased a used pickup truck that's equipped to run on both streets and rails, but it has limited usefulness compared to operating mowers and other types of maintenance equipment the City already has in its fleet on the rail-less corridor. There are also a number of surface water maintenance concerns that will also be easier to address after rails are removed. **Attachment C** is a map showing examples of culverts needing maintenance.
- Removing the rails makes the corridor much more useable to citizens.
- If the rails are removed, the railbed is available for construction of an interim trail with limited work outside the railbed.
- Grant funding already secured for removing rails and constructing an interim trail requires that the funds be spent by the end of 2014. In order to meet those deadlines, it's necessary to begin the rail removal and interim work as soon as possible.

CITY OF SNOHOMISH INPUT

On July 31, 2012, Council received a letter from the Mayor of the City of Snohomish, written on behalf of the Snohomish City Council. **(Attachment D)** The letter urges the Kirkland Council to consider several points before proceeding with rail removal on the CKC.

Many of the points made in the Snohomish letter are similar to reasons previously heard by the Transportation Commission and others for keeping the rails in place as described above. These include: the Iowa Pacific Railroad may want to operate excursion service, the corridor is subject to future freight operations through rail banking, maintenance of a trail could be more difficult than maintenance of the existing tracks, construction could have environmental impacts and that there would be a number of benefits to having light rail operate on the corridor and connect to regional destinations.

The Cross Kirkland Corridor is a rail-banked corridor. Often when a rail corridor is sold and rail-banked, the selling railroad retains the freight reactivation rights for the line. GNP or its successors may hold those rights for the portion of the rail corridor between Snohomish and Woodinville. They do not hold reactivation rights for the CKC; those rights are held by King County. Therefore, even before a railroad could petition the Federal Surface Transportation Board ("STB") to approve freight service, King County would have to consent or transfer the

reactivation rights to a railroad. If the freight railroad were successful in petitioning the Surface Transportation Board, the cost of upgrading the corridor for freight use would have to be borne by the railroad seeking to operate on the line.

Excursion rail is not within the jurisdiction of the STB. Therefore, an excursion operation would not be able to operate in the corridor without approval from the City of Kirkland. Conversations between the City of Kirkland and the Iowa Pacific railroad indicate that the railroad would be reluctant to invest in the improvements necessary to make the existing rail line serviceable for excursion use, but would be interested in providing such services if Kirkland would rehabilitate and maintain the line. Kirkland currently has no budget for rail replacement and enhancement and the costs to upgrade the line would likely far exceed any potential tax revenue to Kirkland from an excursion train.

Prior to purchase of the corridor, the City completed a Phase I Environmental review following industry standards. Based on that report, there is no reason to believe that there will be environmental concerns with rail removal or construction of an interim gravel trail of the type suggested by the City of Snohomish letter.

As discussed above, when the Council approved the Interest Statement it adopted a multimodal vision for the corridor. In the future, Sound Transit or other transit operator may wish to use all or a portion of the corridor for transit. Based on Sound Transit's current planning, any light rail use of the corridor is a consideration that will take place 20 or more years in the future. Sound Transit's selection of the corridor for light rail would not be based on the presence of the existing rails but rather on the location and functionality of the rail corridor property and its ability to meet the needs of light rail transit as compared to other possible alignments.

INTERIM TRAIL DESIGN AND CONSTRUCTION

The interim trail will be a gravel surfaced facility matching the width of the existing rail bed (8 to 10-feet wide) that can be used by walkers, wide-tire bikes, and other uses compatible with this type of surface. It will provide an all-weather, crushed gravel path similar to the East Lake Sammamish Trail. Geo-synthetic fabric will be used to retain the gravel where needed. Fences will be installed to serve various purposes. Split rail style fences will keep users from sensitive areas and chain link fence will be used in limited applications to protect users from steep slopes or other hazards and other wooden fencing will be used to prohibit vehicle access to the corridor. Safety improvements such as signs, markings, islands and flashing beacons, as appropriate, will be made at grade crossings and it is possible to make an ADA compliant interim trail through careful specification of materials and proper construction.

Design and construction of a gravel interim trail was unanimously approved by the Transportation Commission.

PAVING THE TRAIL

A paved trail continues to be evaluated and a fully paved regional trail along the entire CKC is the ultimate goal of the City. However the cost of a similar width paved trail is at least three times the cost of the gravel trail within the current scope. The interim trail is nearly fully funded by the state grant and the PSRC money. Currently there is no identified money to pave the trail. Should the proposed park levy pass, the City would be able to consider paving certain portions of the trail in phases. There are several policy and logistical challenges to paving the

trail in the short term. First, in order to simplify the need for drainage improvements, the trail must be confined to the width of the current railbed, which is primarily 8 feet in width. Given the two-way pedestrian and bicycle traffic that will be on the facility, paving a trail of this width can be problematic because of the higher bicycle speeds that would be supported by a paved trail. Once constructed, a paved trail is also more difficult to move both for cost and public perception. The ultimate vision of multi-modal use requires that the final paved trail be constructed to the left or the right of the center line of the CKC to allow enough room for transit use. An interim trail would be less expensive to move and keeps all future options open, including paving over the interim trail. A paved trail is more expensive, will take longer to complete and is more "permanent" in the mind of the public and therefore can often be difficult and costly to move.

FUNDING AND SCHEDULE:

The cost estimate for rail removal and interim trail construction is $3.6 million. Two grant funding sources have been secured for funding rail removal and interim trail construction, and a third grant application, through the State Pedestrian and Bicycle Safety Program, is under consideration. Table 1 is a summary of the current funding scenario for the Project. The secured Federal CMAQ grant (lines 2 and 3 in Table 1) includes a required match. The State Ped/Bike Grant (lines 5 and 6 in Table 1) will require a match if the grant is awarded.

Table 1 Corridor Funding

LINE	SOURCE	AMOUNT	STATUS
1	Direct State Appropriation	$2,000,000	Secured
2	Federal CMAQ Grant	$1,070,000	Secured
3	Local Match for CMAQ Recommended source: Surface Water Reserves	$203,000	Available with Council Approval
4	**SUBTOTAL**	**$3,273,000**	
5	State Ped/Bike Grant	$450,000	Under consideration, funding determined by 2013 legislature
6	Local Match for State Ped/Bike Grant Future recommended source: REET Reserves	$50,000	Available with Council Approval
7	**SUBTOTAL**	**$450,000**	
8	**Total**	**$3,773,000**	

A preliminary project schedule (Figure 1) was developed for use by the Transportation Commission as they discussed their recommendations to the Council. This schedule envisions various components of the development process occurring now, with some elements running concurrently with each other (an example would be rail removal occurring while planning and design for interim trail construction is underway).

Figure 1 Preliminary Schedule

Work Item	Calendar Quarter						
	Q3 2012	Q4 2012	Q1 2013	Q2 2013	Q3 2013	Q4 2013	Q1 2014
Rail Removal Environmental, design, bidding							
Rail Removal construction							
Trail environmental							
Trail design							
Trail Construction							

2. MASTER PLAN

On March 6, 2012, City Council confirmed that the Transportation Commission should move forward with development of a Corridor Master Plan Scope and cost estimate. The Commission conferred with the Park Board on the scope; the Commission chair met with the Park Board at the Board's April and May meetings.

The Commission purposefully looked at the balance between prescriptiveness within the scope and giving the experts freedom to help propose the best course of action for various tasks. Currently, the balance is away from a prescriptive scope, while still insuring that the City's interests are achieved. The Draft Scope is Attachment B.

The basic elements of the scope of work are as follows:

- Understand the corridor – form a comprehensive understanding of the physical nature of the corridor including mapping of critical areas such as streams, wetlands, and slopes.
- Public process – A complete public process allowing for comment and approval by stakeholders will be a major element throughout the Master Plan development.
- Goals/Vision – Building on the approved Corridor Interest Statement, a vision and goals statement will be prepared to guide and evaluate other parts of the Master Plan.
- Design Guidelines and principles – These guidelines and principles will help translate the vision and goals into physical design. Examples of elements covered in the guidelines could include lighting, spacing of certain amenities, how art will be integrated throughout the corridor, etc.
- Develop alternatives – In this task, near-term, mid-term and long-term corridor alternatives will be developed. Each alternative will have different cross sections and amenity packages. Illustrations will be created to highlight the features of each alternative.
- Cost estimating -- Design, construction and maintenance costs will be calculated for each of the alternatives in the development of alternatives task.
- Alternative selection – The result of this task will be a preferred alternative for each time period -- short, mid and long-term. This will be done using the work developed in other tasks, in particular, determining how various alternatives meet the goals and vision. This task will be a key focus of public process.
- Implementation Plan – An implementation plan will identify likely funding and phasing scenarios for design and construction of preferred alternatives over time.

The Draft Master Plan will be assembled from the component reports prepared after each task and will be subject to a thorough public process and review by City Council at a Council Study Session. A Final Plan will be prepared based on the comments received on the Draft Master Plan and submitted for approval by City Council.

A team of consultants from various disciplines would be hired to fulfill the scope of work. During meetings with the Transportation Commission and Park Board, a process for selecting a consultant team was discussed. It was anticipated that staff would request and review a number of proposals from which staff would select two or three final teams for interviews. A member of the Park Board and a member of the Transportation Commission would serve with staff on an interview group to select the final consultant team. Before being undertaken, this process will be reviewed in more detail with Council.

New information may become available during the rail removal, interim trail construction and other processes that may take place between now and when funding is confirmed for the Master Plan. Before beginning the Request for Proposal process, the draft scope should be revised based on any such new information.

It's estimated that the cost of preparing the Master Plan is between $300,000 and $500,000. This figure is based on informal discussions with professionals who have recent experience preparing similar documents. The Master Plan process would likely take 18 to 24 months to complete.

Several options for securing funding to complete the Master Plan were evaluated:

1. Repurpose existing grant funding: Under this option, funding secured from existing grants would be used to fund the Master Plan and grant funds be replaced with funds from another source such as the Kirkland Park Levy. This option is not viable due to restrictions on the scope of services for the grant already received; those grants do not allow expenditure of funds on general planning.

2. Obtain grants specifically for funding the Master Plan: Staff is continually looking for grant funding opportunities for corridor improvements including funding for the Master Plan. It's possible that such grant funding will be found but not likely because the majority of grant programs do not fund planning studies.

3. General funds: Given the 2013-2014 budget outlook, it is not likely that general funds will be available to fund the Master Plan. A Service Package could be prepared to request funding, however, the budget process will not be complete until the end of 2012, which could delay the schedule.

4. Transportation CIP: At this time the draft Transportation CIP, as reviewed by Council, does not include funding for the Master Plan. Funding for the Master Plan would require reprioritization of funded projects that are funded by General revenues, since REET and impact fee revenues are not available for general planning purposes.

5. King County Parks Levy: Kirkland receives funding each year from the King County Park Levy. There may be limited portions of the Master Plan work that could be funded by these funds. However, specific guidelines from the County on how King County Parks Levy funds can be used may limit the degree to which these funds for general planning.

6. Kirkland Park Levy funding: This may be the most likely source of funding. If a ballot measure passes this fall, funds generated for non-maintenance purposes could be used to fund the Master Plan.

Staff recommends options 5 and 6 as the method for funding the Master Plan. If the Kirkland Park Levy is not successful or the King County Levy funds cannot fund the entire cost, staff will bring specific proposals for Options 3 and 4 to Council for consideration as part of the Budget and/or CIP processes.

3. Conclusion

Staff requests City Council's authorization to commence with rail removal. Staff further requests Council's authorization of funding in order to immediately begin rail removal and trail design/construction and permitting efforts. The City portion of funding needed for work efforts in 2012 leading to the construction of an interim trail in 2013 is $203,000, with funding available from Surface Water Reserves **(Fiscal Note Attachment E)**. Surface Water Reserves are used initially because of the improved access to surface water facilities needing repair that will be provided through rail removal and interim trail development.

Staff also requests approval of the Draft Master Plan Scope of work and using Park Levy funding as the source of funding Master Plan completion as appropriate.

ATTACHMENT A

City of Kirkland
Eastside Rail Corridor Interest Statement

Adopted by the Kirkland City Council April 19, 2011

Introduction

In December 2009, the Port of Seattle purchased the Woodinville subdivision from the BNSF Railroad. The Eastside Rail Corridor, stretching between Snohomish and Renton via Kirkland, thereby became a publicly-owned corridor. The City of Kirkland has long been interested in the corridor as a potential facility for bicycle and pedestrian transportation, having identified the Cross Kirkland Trail[1] project more than 15 years ago.

With the corridor coming into public ownership, the City Council directed the Transportation Commission to conduct public outreach, then identify and document the City's interests in the corridor. This Interest Statement is the product of that work.

Outreach elements included gathering comments at the Wednesday Market, fielding three on-line surveys, meeting with Boards, Commissions and neighborhood groups, walking the corridor, and receiving testimony at Transportation Commission meetings. The 2009 Final Eastside Commuter Rail Feasibility Study[2] prepared by Sound Transit and PSRC also served as a reference.

This Interest Statement is not a proposal or a recommendation per se. Rather, it is intended to guide evaluation of proposals for corridor development. Proposals that satisfy more of the interests would rank more highly than proposals that satisfy fewer of the interests. The conclusions at the end of this document describe the type of corridor development that is likely to be practical and meet the City's interests given current information.

Interests

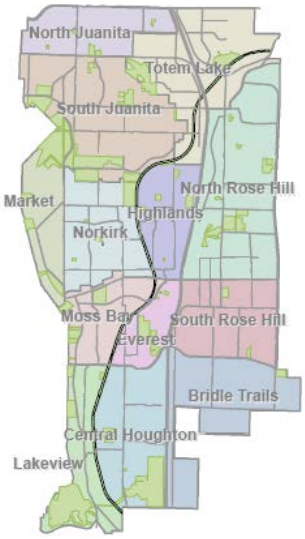
Serve Transportation needs of Kirkland

Transportation on the corridor should be integrated with and support the City's transportation goals[3] to provide travel options within Kirkland and to points outside Kirkland. This implies an interest in how and when the corridor is developed in other cities as well.

Keep the corridor in public ownership

The region has determined[4] that the public interest is served by public ownership of the corridor, and the City of Kirkland supports this position. Keeping the corridor in public ownership may require the City to purchase its portion of the right-of-way, and Kirkland's ownership may help the City meet other interests as well.

The Eastside Rail Corridor (black line) touches many neighborhoods and parks in Kirkland



A section of the right-of-way in the Highlands neighborhood

Source: City of Kirkland

Council Goal concerning Balanced Transportation:

Kirkland values an integrated multi-modal system of transportation choices.
Council Goal: To reduce reliance on single occupancy vehicles. (September 2009)

Actively use the corridor in the near future

Because the corridor is a valuable asset that could be used to transport people, allowing it to remain unused or undeveloped has a high opportunity cost. The longer it is not used, the more resistance may be encountered toward any particular use.

Maintain the corridor in good condition

The corridor should be maintained to protect its value and the value of adjacent properties. Proper operation of drainage facilities, prevention of encroachment, and the preservation of structures and crossings are examples of ongoing maintenance needs.

Contribute to economic sustainability

Development of the corridor should be done in a cost-effective manner and should consider the short- and long-term costs of construction, maintenance, and operation. Development should support current and future plans for economic and neighborhood development.

Connect Totem Lake

Because of the corridor's proximity to the Totem Lake Urban Center[5], it has the potential to help connect Totem Lake to the rest of the city and the region.

Protect neighborhood feel and atmosphere

Development of the corridor should allow for access across and along the corridor and not create barriers within or between neighborhoods. Residential neighborhoods should be protected from any excessive noise and safety impacts caused by corridor uses. Development of any trailheads, transit stations and/or parking locations should consider and minimize impacts to neighborhoods. The corridor is adjacent to several parks, schools and other amenities. These facilities should be protected appropriately as the corridor is developed.

Plan for a multi-use facility

In the long term, transit, pedestrians and cyclists should be able to simultaneously travel safely and efficiently in the corridor. Planning or implementing one transportation mode must not foreclose future corridor use by another mode. Additionally, underground utilities that currently use and will continue to use the corridor[6] must be considered. Freight operations may be considered along the corridor, but there does not appear to be much commercial interest in freight rail service within Kirkland.

The existing corridor contains many drainage facilities that require regular maintenance.

Source: City of Kirkland

The Burke-Gilman trail in Seattle is on an abandoned railroad right-of-way.

Source: King County

This area in the Houghton neighborhood contains wetlands.

Source: City of Kirkland

A shared rail and trail facility

Source: Marin County Bicycle Coalition

Serve the transportation needs of pedestrians and bicyclists

A bicycle and pedestrian transportation facility should allow all-weather, day and night use. It should be sized to allow simultaneous safe passage for both pedestrians and bicyclists of all skill levels. Its development should include protection of existing connections and include new connections to the City's streets and trails. The Active Transportation Plan[7] has a list of such connections.

Design Transit to efficiently move people

Successful transit systems must have certain characteristics. Service should be frequent, available most of the day, operate between desirable destinations, be easily accessible by potential riders and offer reasonable travel speeds. The best choice of transit technology may vary, with one system best in the shorter term and another better in the longer term. The viability of transit in the corridor should be compared to other options.[8]

Plan any transit use in close consultation with the City of Kirkland.

Locating transit stations and associated parking and feeder bus connections has major short- and long-term impacts on the surrounding neighborhoods and on the transportation network. A process to determine station locations should include extensive work with neighborhood groups, appropriate Boards and Commissions, and the City Council.

Consider grade-crossing delay and safety

Crossings must provide a reasonable level of safety and convenience for both users of the corridor and for street traffic. Design of the corridor should consider the potential time delays and safety concerns for all users of the corridor and facilities that intersect it.

Disclose and mitigate environmental impacts

Develop the corridor in a way that meets the City's goals for environmental sustainability. Prior to any development of the corridor, a complete environmental review should be conducted to identify and disclose impacts and to propose mitigations for those impacts. Noise, air quality, surface water and sensitive areas are topics that typically require analysis in an environmental review.

These photos illustrate different types of transit. How they might help meet Kirkland's interests on the corridor would depend on a number of factors.

Heavy rail: Sound Transit Sounder

Source: Railpictures.net Image © PNWRailfan

Electric Light Rail: Sound Transit Link

Source: lisatown.com

Diesel multiple unit: DMU in service in Australia

Source: thetransportpolitic.com

Bus Rapid Transit: Community Transit Swift

Source: blogs.seattleweekly.com

Conclusions

By its nature, an interest statement does not establish specific positions on issues. Instead it describes interests, which could be met in a variety of ways. The purpose of these conclusions is to demonstrate how the interests described above could be met, to varying degrees, by a range of development options.

Ultimately, the City's interests would be met by implementing a welcoming, transportation-oriented facility for pedestrians and bicyclists, coupled with a high-capacity transit system that connects Kirkland to the region.

The main focus for development of the corridor in the short term should be on a trail. A paved, accessible, bicycle and pedestrian trail would be far less expensive than a high-capacity rail or bus system and would require a less extensive planning process than would a transit option. However, it is important that trail planning be done with rail compatibility --that would meet Kirkland's interests-- as the long-term goal.

Due to its poor physical condition, the current infrastructure in the corridor is not capable of supporting rail traffic that would offer a viable transportation option. If rail were to be located on the corridor, a safe, fully-featured, high-capacity rail system – similar to Link Light Rail—is perhaps the ideal option. A high-capacity rail system would require a great deal of careful planning to meet Kirkland's interests.

Because of its high cost and Sound Transit timing, it is not likely that regional rail transit would be in operation before 2030. Moreover, the Eastside Rail Corridor may not be the best alignment for such a route. In the shorter term, there may be less expensive corridor transit options that could be developed, such as bus rapid transit linking the South Kirkland Park & Ride and Totem Lake.

While freight operations may be part of a future rail corridor, there does not appear to be much current commercial interest in freight rail service within the city. It is difficult to conceive of freight rail operations that would meet many of Kirkland's interests.

The Eastside Rail Corridor is a transportation facility that represents enormous opportunity for the City of Kirkland and the region. Kirkland is fortunate to have such a facility within its boundaries and should strive to see that its interests are met during development of the corridor.

City of Kirkland Transportation Commission
The City of Kirkland Transportation Commission is made up of seven members appointed by the City Council to four-year terms. The Commission meets every month to make recommendations on transportation policy to the City Council. Visit the Commission webpage where you can join the Transportation Commission List-Serve and automatically receive e-mail updates on the Commission's activities.

Commission members:
Donald Samdahl, Chair
Joel Pfundt, Vice Chair
Morgan Hopper
Tom Neir
Thomas Pendergrass
Sandeep Singhal
Michael Snow
Carl Wilson

Summary of interests

- ***Serve transportation needs of Kirkland***
- ***Keep the corridor in public ownership***
- ***Actively use the corridor in the near future***
- ***Maintain the corridor in good condition***
- ***Contribute to economic sustainability***
- ***Connect Totem Lake***
- ***Protect neighborhood feel and atmosphere***
- ***Plan for a multi-use facility***
- ***Serve the transportation needs of pedestrians and bicyclists***
- ***Design transit service to efficiently move people***
- ***Plan any transit use in close consultation with the City of Kirkland***
- ***Consider grade crossing delay and safety***
- ***Disclose and mitigate environmental impacts***

[1] The Cross Kirkland Trail was originally envisioned as a trail that would operate beside what was at the time an active railroad corridor.
[2] 2009 Final PSRC and Sound Transit BNSF Eastside Commuter Rail Feasibility Study, 2009 Puget Sound Regional Council http://www.psrc.org/transportation/bnsf
[3] City of Kirkland Council Goals. http://www.ci.kirkland.wa.us/Assets/City+Council+Goals.pdf
[4] *BNSF Corridor Preservation Study, Final Report* May, 2007 Puget Sound Regional Council. Page 7. http://www.psrc.org/assets/3176/_07-20_BNSFfinalreport.pdf
[5] In cooperation with member cities, Puget Sound Regional Council has designated a number of Urban Centers where regional growth is to be targeted. Totem Lake is the only Urban Center in Kirkland. Downtown Bellevue, downtown Redmond and Overlake are examples of other nearby Urban Centers.
[6] Puget Sound Energy and Cascade Water Alliance are examples of current and potential users respectively.
[7] *More People, More Places, More Often, an Active Transportation Plan* City of Kirkland, March 2009. Page 100. http://www.ci.kirkland.wa.us/depart/Public_Works/Transportation___Streets/Active_Transportation_Plan.htm
[8] Ridership on existing King County Metro routes could be a reasonable benchmark. The proposed Bus Rapid Transit (BRT) System on I-405 could also be compared.

ATTACHMENT B

Draft Cross Kirkland Corridor Master Plan Scope of Work
June 26, 2012

Purpose

On April 13, 2012, the City of Kirkland purchased the Cross Kirkland Corridor, 5.75 miles of the former Burlington Northern Santa Fe (BNSF) rail line in Kirkland. A Master Plan is needed to help collect, develop, understand and put into context a number of facts, ideas and opinions about the Corridor. The resulting plan will be a practical reference and guide which charts the course of facility development into the future.

Background

Almost 20 years ago Kirkland began to pursue the Cross Kirkland Trail. This project was set aside after it became clear that the BNSF Railway was not interested in partnering on a rail/trail concept. King County undertook purchase of the entire "Woodinville Subdivision" rail line from Renton to Snohomish in 2005 when the BNSF signaled its interest in selling the corridor. In 2009 several entities including King County, the Port of Seattle, PSE, and the City of Redmond entered into a Memorandum of Understanding (MOU) which resulted in the Port of Seattle owning the corridor, with the intent that other entities would purchase various interests for various portions of the property.

Given the terms of the 2009 MOU, Kirkland anticipated a regional process to discuss how the Eastside Rail corridor should be developed. In preparation for such a process an set of interests was developed. In April of 2011 the Interest Statement was approved by the City Council. This interest statement clearly lays out a vision for a multi-modal transportation facility.
By 2011, full consummation of the MOU had not been completed; notably the County had not purchased the corridor in Kirkland. Subsequently, the City of Kirkland successfully negotiated with the Port to purchase a 5.75 mile long section of the Corridor in Kirkland. The purchase was completed on April 13, 2012.

Scope of Work

General comments

All products should be presented in web, electronic and hard copy formats and will be made available to the public. It is anticipated that the products of certain tasks will be chapters or appendices in the final report and should be formatted appropriately. The following tasks are not necessarily consecutive; some may happen together or some tasks may be completed before tasks with lower numbers.

Task 1 Project Management

Provide regular updates on progress. Develop and maintain a schedule and progress made toward key events. Implement project management techniques to insure progress toward completion within schedule and budget.

Product: Schedules and updates as appropriate and monthly at a minimum.

Task 2 Understanding the corridor

Collect and evaluate existing information and gather additional information as needed to form a comprehensive understanding of the physical nature of the corridor. A partial list of existing information available from the City includes:

A. Corridor survey data:
   1. Record of survey
   2. Refined topographic data in Autocad format
   3. 3D laser scanning data
   4. 360º photos viewable with free proprietary browser plug-in
B. Phase 1 Environmental report following ASTM standards, completed March 19, 2012.
C. Railroad valuation maps
D. GIS data including city owned utility data, sensitive areas, trail crossings

Identify and map critical areas including streams, wetlands, and slopes which will impact development of the Corridor. Determine the locations of private utilities as appropriate.
Understanding the current and planned land use context adjoining the corridor for purposes of determining how the corridor can support those land uses
Product: Memo describing critical issues for corridor development such as narrow corridor width, sensitive areas, surface water features, etc

Task 3 Design and carry out Public process

Develop a public process plan that will allow meaningful input throughout the Master Plan process. Public process will be required development of the vision and goals, prior to the development of alternatives, to vet the alternatives and identify the preferred alternatives, to review the Draft Master Plan, and to review the Final Master Plan. At a minimum, the following groups (listed in no particular order) will require briefing and involvement in the process:

City Council	Transportation Commission
Park Board	Advocacy groups
Sound Transit	Neighborhood Associations
Adjacent property owners	Groups representing business interests
Neighboring cities	King County agencies including Metro and Parks

The various groups will be involved to varying extents and at different points in the process. Public process should be designed using International Association for Public Participation methods. A robust web based comment method for products of various tasks should be included in the public process. It is important that all relevant documents are available to the public throughout the development of the Plan.
Product: A memo describing a Plan and schedule for Public Process in all other Tasks, including an explanation of the principles that underlie the selected processes.

Task 4 Goals/vision
Using the Interest Statement as a starting point, and considering Council Goals, Comprehensive Plan Goals and Active Transportation Plan Goals, a vision and a set of goals for corridor development will be prepared. These will be used as guidance for the rest of the process and serve as a key touchstone for developing and evaluating alternatives. The development of the goals and vision will be a key focus of public process.
Product: A document that summarizes the vision and goals for the corridor.

Task 5 Design guidelines and principles.
Develop a set of guidelines and principles that can be used by designers as the corridor is developed. These guidelines and principles will help translate the vision and goals into a physical design. Examples might include spacing of certain amenities, integration of art, trail head designs, fencing guidelines, lighting guidelines, dynamic envelopes of transit, etc. This task is not meant to develop a complete list of guidelines, but rather to identify the main elements that will put constraints on alternatives.
Product: A document that summarizes the guidelines and principles.

Task 6 Develop potential alternatives
Based on the results of Tasks 4 and 5, alternative development plans will be prepared for three time periods; 1 to 5 years, 5 to 10 years and beyond 10 years. For each time period, two alternates will be developed. It is expected that the alternatives will have less detail the farther they are in the future. The alternatives will encompass different cross sections and different packages of amenity elements. Access points and implications for land use changes will also be evaluated. Environmental process implications will be developed for each alternative. The selection of the alternatives will be a key focus of public process.
Product: Memorandum describing a set of trail/transit cross-sections, documentation of the selection process and a review of why the selected options were chosen. Also includes draft illustrations of proposed sections.

Task 7 Develop cost estimates for various cross sections
Prepare a cost estimate including design, construction and maintenance costs for each of the alternatives developed in Task 6. This work will include identifying uniform sections of the corridor and finding representative unit costs for each section and each alternative. Any additional costs such as boardwalks, bridges, signals, crossing improvements, etc. should also be added to the estimate.
Product: Memorandum describing costs, and methods used to establish the costs.

Task 8 Alternative selection
Based upon information developed in previous Tasks, select preferred alternatives for each time period. The selection of the preferred alternatives will be a key focus of public process.

Product: Memorandum describing the preferred alternatives, documentation of the selection process and a review of why the selected options were chosen.

Task 9 Implementation Plan

Prepare a plan that identifies likely funding and phasing scenarios for design and construction of preferred alternatives over time. An initial plan for development should be described. An important element in this work will be examining how various transit modes are likely to be implemented in the corridor. The implementation plan should identify significant constraints, obstacles and risks to various alternatives.

Product: Memorandum describing funding and phasing.

Task 10 Draft Plan

The draft plan will summarize of the work completed in Tasks 1 through 8 in a single document. A thorough public review will include a review by the City Council at a study session.

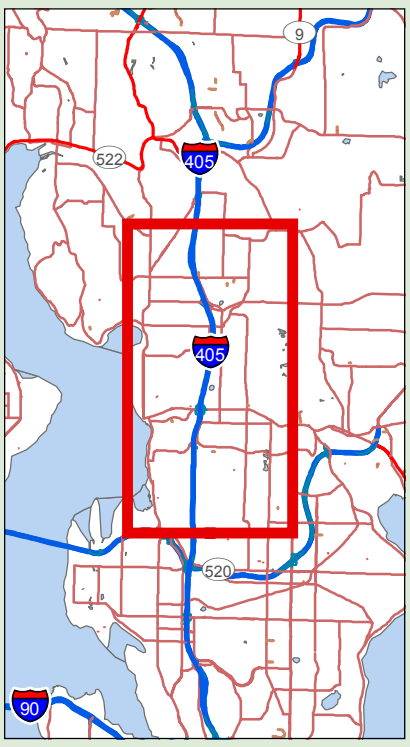
Product: A draft document with high quality presentation and graphic elements.

Task 11 Final Plan

Based on the comments and recommendations on the Draft Plan, prepare a Final Plan.

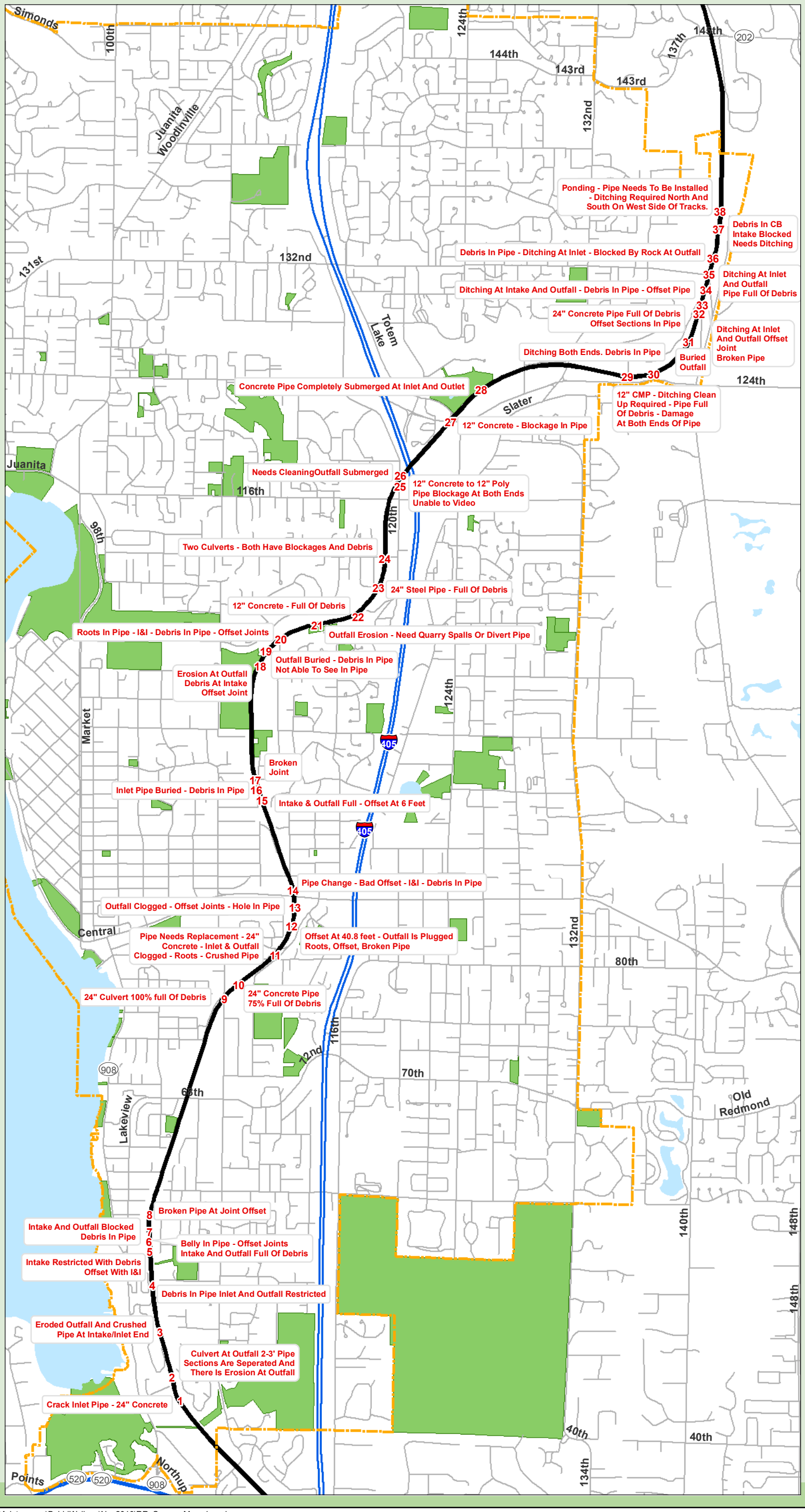
Product: A final document, to be adopted by Transportation Commission, Park Board and City Council. The final plan shall be presented in electronic and web-based versions, with limited hard copies.

Railroad ROW Culvert Locations



Vicinity Map

0 10,000 20,000 30,000
Feet



0 1,200 2,400 3,600
Feet

Produced by the City of Kirkland.
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No warranties of any sort, including but not limited to accuracy, fitness or merchantability, accompany this product.

-Print Date: 12/6/2010

-Location: \\SRV-GISF01\Vol1\PW\Mxds\SurfaceWater\Maintenance\BobbiWallace\Nov2010\RR_Survey_Map_1.mxd

CITY OF SNOHOMISH

Founded 1859, Incorporated 1890

116 UNION AVENUE SNOHOMISH, WASHINGTON 98290 TEL (360) 568-3115 FAX (360) 568-1375

RECEIVED
JUL 31 2012
CITY OF KIRKLAND
CITY MANAGER'S OFFICE

July 30, 2012

Mayor Joan McBride and City Council
City of Kirkland
123 Fifth Avenue
Kirkland, WA 98033-6189

Dear Mayor McBride and City Council Members:

The City of Kirkland is facing one of those truly historic decisions that will affect your City for generations, not to mention the economic engines of our two counties, King and Snohomish.

On behalf of the Snohomish City Council, I thank you for this opportunity to provide input on the Kirkland City Council's anticipated actions related to your Cross-Town Corridor property.

The Corridor is a central section of the 30-mile Eastside Rail Corridor running between the City of Snohomish and Renton. We applaud Kirkland for its vision in purchasing the corridor within its city limits from the Port of Seattle, as has the City of Redmond. Our city bought the segment just north of the Port of Seattle purchase, buying it directly from BNSF in 2009. We spent years investigating and negotiating this acquisition. Snohomish County previously purchased the approximately 30-mile-long segment extending north from our city limits from BNSF as well.

It has come to our attention that your City Council will consider actions to authorize the removal of the railroad tracks along the Cross-Town Corridor. Our recent discussions with a possible new operator of the line, Iowa Pacific Holdings, give us some hope for future excursion and commuter rail use of this valuable corridor.

We urge you to acquire direct answers to the issues described below, detailing the effect that removal of these tracks would have on your community's well-being.

Cross-Town Corridor Issues:

1. The Cross-Town Corridor property is owned by Kirkland, but the federal government has placed what is, in effect, a permanent transportation easement that permits rail interests to forcibly reinstate rail use on the corridor and not reimburse the City for any capital investments the City has made to the property (such rights are currently preserved under federal railbank law). The rights under this "easement" are held by the third party operator of the corridor, currently the bankrupt GNP Railway. The rights will endure past the bankruptcy and will be transferred to another rail operator. The outcome of the rail operator bankruptcy proceedings is approaching completion; Kirkland should not rush to invest public funds into the corridor which might be lost, and more importantly to

Kirkland, city staff resources should not be diverted at this time from projects with more reliable outcomes. A master plan completed without the results of the third-party rail operator will be incomplete and subject to costly revision.

2. Safety and maintenance concerns of the rails are no different than when BNSF or the Port held the properties. Has the corridor logged significant police or other emergency activity since the City's purchase? Have there been reports of injuries? Maintenance required for a gravel trail, new fencing, signage and street crossings will be significantly more than any current maintenance activities.

3. Construction activities to remove the tracks and grade the rail bed's super-elevated curves to place gravel trail surfacing and related drainage work are likely to create substantial amounts of airborne dust with potential toxic properties after 100 years of diesel and coal fuel use on the corridor. Soil surveys (EPA Phase I and II Site Assessments) should be conducted as an initial, stand-alone step and prior to costly investment in further master planning.

4. The current rail class rating of the tracks was selected by BNSF Railway to reduce inspection frequency and limit expenses. The Cross-town Corridor rail alignment was surveyed and constructed to higher standards and can support higher speeds than currently authorized.

5. The I-405 freeway at NE 85th regularly approaches gridlock conditions now and this will only get worse without an alternative for Everett-to-Bellevue/Renton commuters. The state has taken the position that there will be no new highway lane miles constructed in this area as part of efforts to reduce air pollution.

6. While a large number of Kirkland residents may not currently commute to Everett, employment opportunities do change over time and may make commuter rail services highly desirable to your residents in the future. Everett residents certainly commute to Bellevue and their vehicles help to create the congestion on I-405 through Kirkland, impacting your residents' mobility and commute times.

7. Tolling proposed for this stretch of I-405 would impact Kirkland residents, both by paying the toll and dealing with surface congestion as drivers avoid I-405 for local commutes to Bellevue and Redmond. Proposed parking charges at Park & Ride lots will also impact Kirkland residents.

8. Kirkland residents travel to other Eastside locations, Sea-Tac International Airport and downtown Seattle. Transit rail on the Cross-Town Corridor would provide a convenient, car-free option for Kirkland residents to connect to an East Link light rail station in Bellevue and from there to Seattle, the airport, regional rail and ferry travel, and the growing public transportation network.

9. An alternative that makes available to Kirkland residents the ability to walk to a cross-town passenger rail from home-and avoid I-405 altogether-would significantly benefit Kirkland's continued status as a highly-desirable place to live.

10. Buses are affected by the same I-405 gridlock that slows the SOV commuter. Trains offer far more reliable travel times than buses or cars.

11. Trains that reduce traffic congestion are likely to be more green (fewer carbon emissions) than buses operating in the same corridor due to the number of passengers accommodated by rail and with rail's new cleaner fuel options.

12. While it is true that the destruction of the Wilburton Tunnel severed the original rail connection to Renton, WSDOT's design for the widening of I-405, in consultation with GNP Railway, provided for the ability to rebuild this connection.

As public officials, you continually plan for the future as well as current needs. While taking your next steps concerning this transportation corridor, please move with your usual thoughtfulness and vision for Kirkland's future well-being, and delay taking action either to remove the rails or initiate a master plan prior to conclusion of the current GNP Railway bankruptcy proceedings, and the possibility of another rail operator that could provide a viable connection to all of our cities along this corridor.

Kirkland has much to gain and little to lose by a temporary delay.

Best regards,

Karen Guzak
Mayor

c: City Council

ATTACHMENT E

FISCAL NOTE

CITY OF KIRKLAND

Source of Request

Ray Steiger, Public Works Director

Description of Request

Request for funding of $203,000 for the Cross Kirkland Corridor project from the Surface Water Construction Reserve to provide local match funding for a federal CMAQ grant.

Legality/City Policy Basis

Fiscal Impact

One-time use of $203,000 from the Surface Water Construction Reserve. This reserve is able to fully fund this request.

Recommended Funding Source(s)

	Description	2012 Est End Balance	Prior Auth. 2011-12 Uses	Prior Auth. 2011-12 Additions	Amount This Request	Revised 2012 End Balance	2012 Target
Reserve	Surface Water Construction	3,376,431	368,000	0	203,000	2,805,431	N/A
	2011-12 Prior Authorized Use of this reserve: $218,000 for Totem Lake Flooding and $150,000 for Billy Creek Ravine Stabilization.						
Revenue/Exp Savings							
Other Source							

Other Information

Prepared By	Neil Kruse, Senior Financial Analyst	Date	August 1, 2012

Council Meeting: 08/07/2012
Agenda: Unfinished Business
Item #: 10. b.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Tami White, Parking Coordinator
David Godfrey, P.E., Transportation Engineering Manager
Ray Steiger, P.E., Public Works Director

Date: July 26, 2012

Subject: Downtown Parking Changes – Prohibiting Employee Parking in City-owned lots

RECOMMENDATION:

It is recommended that Council approves the attached ordinance making amendments to provisions of the Kirkland Municipal Code 12.45 in order to prohibit employee parking in the Marina Park and Lake and Central parking lots.

BACKGROUND DISCUSSION:

On April 17, 2012, based on recommendations from the Parking Advisory Board (PAB), the City Council recommended prohibiting employees from parking in the Marina Park and Lake and Central lots. This action was intended to free up parking for customers in the two lots.

The Downtown Employee Parking Ordinance 3634 was enacted in May, 1998, for the purpose of supporting the City's Park Smart program, and it has been modified several times in the intervening years. In 2010, in response to City staffing reductions, the Park Smart program was eliminated. Employers and employees were no longer required to report their license plate numbers in order to receive their business license, and employee parking conflicts began to reemerge in the downtown pay lots. Although the City still issues free parking passes to those employees that wish to park in the Peter Kirk Garage, many employees returned to lots closer to their places of employment, potentially forcing patrons, park users, and downtown visitors to find parking elsewhere.

The current proposed set of changes will prohibit a person employed within the Central Business District from parking from 9:00AM to 9:00PM at the Marina Park or the Lake & Central lots, as well as any stall not marked "permit parking" in the parking garage located at the corner of Kirkland Avenue and Third Street. Table 1 highlights the changes to Ordinance 3634, and a strike out version of the ordinance is included as Attachment 1.

The intention of the new ordinance is to allow citation of employees who repeatedly violate the updated ordinance. The Police Department's existing license plate reader is capable of storing lists of license plates and can be programmed to identify patterns of parked vehicles and citations can be issued based on the information. In implementing the roll-out of the updated ordinance, an outreach and informational period will be undertaken by the City. After full implementation, a warning will be given for the first violation and information provided to the potential violator.

Figure 1. Example warning

This vehicle has been observed by Parking Enforcement as having parked in this lot on a frequent basis during business hours and has been identified as a possible employee-owned vehicle.

As of (date), a downtown "employee", defined as a person who is a business owner or an employee, contractor, consultant, temporary worker or volunteer, is prohibited from parking at the Marina Park and at the Lake & Central parking lots between the hours of 9:00 AM – 9:00 PM in accordance with the KMC 12.45.250.

Please contact the Parking Enforcement Officer at 425.587.3490 if you are not a downtown employee and believe this warning has been given in error. If you do not respond to this warning and your vehicle is found parked in either the Marina Park or Lake & Central parking lots you will be issued a $35 citation with subsequent fines of $50 to $75.

Thank you for your cooperation.

Kirkland Police Department

After the potential violator contacts the parking enforcement officer, a determination will be made to whether or not the person is an employee. If found not to be an employee, the license plate will be removed from the frequency list. The Police Department will have a standard operating procedure in place which addresses the frequency with which a vehicle must be seen in order to be in violation. A draft of this procedure is Attachment 2. The draft states that three violations in a seven day period will result in the initial warning. Once a warning is giving, a citation will occur each time that vehicle is found parking in the lots between 9AM and 9PM.

Table 1. Summary of ordinance changes

Item	Existing Ordinance	Proposed Change
Definitions 12.45.010	"employee" engaged for wages, credit or other consideration, or as a volunteer for a business or nonprofit entity	Includes all previous language, and "temporary workers, contractors and consultants" "Performing his or her duties": being present at a place of the person's employment during its normal hours of operation.
Employee parking prohibited	11:00 AM to 5:00 AM the following day	9:00 AM to 9:00 PM
CBD where employees who work within any part of the central business district are restricted	Kirkland Zoning Code designates as CBD-1, CBD-2, CBD-3 or CBD-8	All CBD areas remain. Calling out Marina Park and Lake & Central lots will remain. CBD-1, has changed to CBD-1A and 1B.
Penalties imposed	Within twelve consecutive months: First violation: $35.00 Second violation: $50.00 Third violation: $75.00 Fourth violation: $125.00	Within twelve consecutive months: First violation: warning Second violation: $35.00 Third violation: $50.00 Fourth violation: $75.00

Figure 2. Marina Park and Lake-Central lots

Figure 2. Downtown zones. Employees working in these zones may not park in the Marina or Lake and Central lots.

Outreach

Outreach efforts are being planned to inform employees of the changes to the parking regulations and enforcement. The plan will inform downtown business owners and employees of the coming changes. Changes will include signage posted in the two city owned parking lots.

Information will be distributed through City's News Release, City Web Pages, KDA and Chamber of Commerce, and notifications to all downtown businesses and to the Court. A draft outreach message is included as Attachment 3.

STANDARD OPERATING PROCEDURE
TRF-021
Central Business District Employee Parking Enforcement

References: KMC 12.45.010, 12.45.250

I. Purpose
II. Identifying Central Business District Employees/Vehicles
III. Issuing of One Time Warning Notice
IV. Use of License Plate Reader (LPR) to Maintain Database

I. PURPOSE

A. To establish a procedure to be used by KPD's Parking Enforcement Officers (PEO's) for identifying employees working in the Downtown Central Business District and the vehicles they drive to work. To also create a Database of these identified Employee vehicles in the LPR system for future parking violation warnings and/or citations.

II. Identifying Central Business District Employees/Vehicles

A. PEO's will rely on their daily observations and input from other citizens to determine who they believe is a Central Business District Employee and which vehicle they are driving or normally drive to work.
B. PEO's will keep track of employee vehicles they have identified in a hand written notebook or computer spreadsheet. They will also enter each identified license plate number into the LPR system.

III. Issuing of one time Warning Notice

A. PEO's will monitor the identified Central Business Employee vehicles and note how many times they are parked downtown in violation of KMC 12.45.250.
B. If an identified vehicle is parked in violation of the KMC three (3) times within a seven (7) day period, the vehicle will be issued a onetime warning notice of the violation with information regarding future violations (fines) and how to contact a PEO at the Police Department.

IV. Use of License Plate Reader (LPR) to Maintain Database

A. PEO's will enter the license plate information of identified Central Business District Employees Vehicles, after the warning notice was given, into the LPR system for future monitoring of these vehicles and potential violations.

B. The LPR system will also be used to find repeat violators of this Parking Ordinance.

C. Mitigation by a registered owner of an identified vehicle that they are "not" a Central Business District Employee must be done prior to or after the issuance of the parking warning, but prior to the issuance of a parking civil infraction.

References: KMC 12.45.010 and 12.45.250 are attached.

"DRAFT"

Attachment 2

DOWNTOWN BUSINESS
EMPLOYEE PARKING AVAILABLE
AT MUNICIPAL GARAGE

Beginning August 27, 2012, Employee parking prohibited at Lakeshore/Marina Plaza and Lake-Central Lots from 9 a.m. to 9 p.m.
(except Sundays and holidays)

Thank you downtown businesses for encouraging your employees to comply with the City's parking regulations. An estimated 80 parking lot stalls are being occupied by employees and business owners daily; this represents nearly one-half of available public stalls in the these lots.

Employees are encouraged to obtain a free parking permit from the City to park free at the Municipal Garage located by the Kirkland Library.

As a downtown business you value customer parking and requiring your employees to keep those spaces free benefits you and your customers. Promote alternative ways for employees to get to work like transit, carpooling, or biking.

As a downtown business employee[1], you'll appreciate free parking and not being cited by the Police Department for a parking violation. A first violation is a warning with subsequent violations escalating from $35 to $50 and $75. (Kirkland Municipal Code 12.45.250)

Thank you businesses and employees for your cooperation.
Kirkland Police Department

Employee parking permits available at Kirkland Public Works Department, City Hall, 123 5th Avenue

For additional information, please visit www.kirklandwa.gov/parking or contact Tami White, Parking Coordinator at TWhite@kirklandwa.gov or 425-587-3871[1]Definition of employee: any person who is a business owner or an employee, contractor, consultant, temporary worker or volunteer of a business or nonprofit entity within the central business district.

ORDINANCE O-4366

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO DOWNTOWN EMPLOYEE PARKING FINES AND AMENDING CHAPTER 12.45 OF THE KIRKLAND MUNICIPAL CODE.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Section 12.45.010 of the Kirkland Municipal Code is amended to read as follows:

12.45.010 Definitions.

For the purpose of this chapter:

(1) "Central Business District" means the combination of areas which the city of Kirkland Zoning Code designates as CBD-1A, CBD-1B, CBD-2, CBD-3 or CBD-8.

(2) "Central Business District Employee" means: (a) a person who is engaged for wages, credit or other consideration, or as a volunteer, for a business or nonprofit entity within the Central Business District, including temporary workers, contractors, and consultants; or (b) an employer of persons who work at a location within the Central Business District; or (c) a principal/owner of a business premises within the Central Business District.

(3) "Employee-restricted parking areas" shall mean all parking spaces within the Lake and Central parking lot or the Marina Park parking lot that are not municipal permit parking spaces and any stall not marked "permit parking" in the parking garage located at the corner of Kirkland Avenue and Third Street.

(~~1~~ 4) "Municipal permit or garage parking" is parking or standing of motor vehicles on property owned, leased or operated by the city requiring the obtaining of permits, depositing of ~~currency in a coin-box~~money or use of a credit or other payment card, or compliance with pavement designations for the privilege to park at that location and is subject to restrictions as enacted by the city.

(~~2~~ 5) "Operator" means every person who is in actual physical control of a vehicle as herein defined, upon a public street or highway of the city.

(~~3~~ 6) "Overnight parking" means the parking of a vehicle in one spot continuously for a period exceeding six hours at any time during the hours from ten p.m. of the day designated to eight a.m. of the following day.

(~~4~~ 7) "Parking payment device" means any device used to aid in management and control of the parking of vehicles on city streets or other rights-of-way, including pay stations.

(~~5~~ 8) "Parking pay station" means any electronic device placed or erected adjacent to a parking space which, after deposit of money or use of a credit or other payment card, dispenses a proof of payment receipt to be displayed on the vehicle.

(9) "Performing his or her duties" means being present at a place of the person's employment anytime between the hours of nine a.m. and nine p.m.

(~~6~~ 10) "Person" means every natural person, firm, partnership, corporation, association or organization.

(~~7~~ 11) "Street" or "public street" includes all public ways, streets, highways and off-street parking facilities owned or maintained by the city.

(~~8~~ 12) To Park (or Stand) a Vehicle. There is a prima facie presumption that the registered owner of a violator vehicle was the person who parked such vehicle.

(~~9~~ 13) "Vehicle" means every device capable of being moved upon a public highway and in, upon, or by which any person, or property, shall or may be transported or drawn upon any public highway excepting devices moved by human power.

Section 2. Section 12.45.260 of the Kirkland Municipal Code is hereby deleted.

Section 3. Section 12.45.250 of the Kirkland Municipal Code is amended to read as follows:

12.45.250 Downtown employee parking prohibited.

(a) It is a civil infraction for ~~an~~ Central Business District ~~-e~~ Employee to park a vehicle within the ~~hereinafter defined area~~ employee – restricted parking areas, described in subsection (d) of this section, while such person is performing his or her duties as defined herein.~~where employee parking is prohibited from the hours of eleven a.m. to five a.m. the following day, except as authorized by the city manager or designee pursuant to written policies which shall be consistently applied.~~

~~(1) Subject to the foregoing authority of the city manager or designee and subject to the prohibition of subsection (d) of this section, employees may request a permit which allows them to park within the hereinafter defined prohibited parking area on their days off, which permit must match the license plate of the vehicle on which it is displayed and be visibly displayed in a window of the vehicle but shall only be used on such days off.~~

~~(2) In addition to any other fines incurred under this section, displaying this permit while the employee is at their place of employment or is at the premises within the central business district as to which they are an employer or an owner, whether the employee is working or not, will result in the imposition of a one-hundred-dollar fine; second and all subsequent violations within a consecutive twelve-month period will result in the imposition of a two-hundred-dollar fine.~~

(b) The provisions of this Section shall be effective from the hours of nine a.m. to nine p.m., except Sundays and holidays. ~~For purposes of this section and Section 12.45.260, "central business district" means the combination of areas which the city of Kirkland Zoning Code designates as CBD-1, CBD-2, CBD-3 or CBD-8.~~

~~(c) For purposes of this section and Section 12.45.260, "employee" includes being: (1) engaged for wages, credit or other consideration, or as a volunteer, for a business or nonprofit entity within the central business district; or (2) an employer of persons who work at a location within the central business district; or (3) an owner of a business premises within the central business district.~~

(~~d~~c) The prohibition of this ~~s~~ Section shall apply whenever the Central Business District ~~e~~ Employee~~,~~ is at their place of employment within the ~~c~~Central ~~b~~Business ~~d~~District anytime between the hours of ~~eleven~~nine a.m. and ~~five a.m.~~nine p.m. ~~the following day.~~

(~~e~~d) The Employee-restricted parking areas where Central Business District ~~e~~ Employee parking is prohibited include~~s~~ any portion of the following:

(1) Lake and Central ~~Street~~ parking lot;

(2) Marina Park parking lot; or

(3) Any stall not marked "permit parking" in the parking garage located at the corner of Kirkland Avenue and Third Street.~~Central Way from its western end (the 10 block) easterly to its intersection with Third Street;~~

~~(4) Lake Street from its northern end southerly to its intersection with Fifth Avenue South;~~

~~(5) Kirkland Avenue from its western end (the 10 block) easterly through its 400 block to the point where Kirkland Way branches off from Kirkland Avenue;~~

~~(6) Main Street in its entirety;~~

~~(7) Park Lane in its entirety;~~

~~(8) First Street between Central Way and Fourth Avenue;~~

~~(9) Third Street between Central Way and Kirkland Avenue;~~

~~(10) State Street between Kirkland Avenue and Second Avenue South and any other portion of State Street where parking is restricted to either two hours or four hours;~~

~~(11) Second Avenue South, from Lake Street to Second Street South;~~

~~(12) Lake Avenue West in its entirety;~~

~~(13) CBD-1 and CBD-2. Employee parking is prohibited along all public alleys, streets, or other public parking spaces within the area which the city of Kirkland Zoning Code designates as CBD-1 or CBD-2;~~

~~(14) The upper level of the parking garage located at the corner of Kirkland Avenue and Third Street.~~

(~~f~~e) For imposition of the penalties provided in this section, there is a prima facie presumption that the registered owner of the violator vehicle at the time of the violation was the person who parked such vehicle. ~~In addition, there is also a prima facie presumption that the employee who has been reported to the city as having control of a certain vehicle is the person who parked such vehicle in violation of this section.~~

(~~g~~f) For any violation of this section, the following penalties shall be imposed:

(1) First violation within any twelve consecutive months: ~~thirty-five dollars~~ warning;

(2) Second violation within any twelve consecutive months: ~~fifty~~ thirty –five dollars;

(3) Third violation within any twelve consecutive months: ~~seventy-five~~ fifty dollars;

(4) Fourth violation and each succeeding violation within any twelve consecutive months: ~~one hundred twenty-five~~ seventy-five dollars.

Section 4. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 5. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2012.

Signed in authentication thereof this _____ day of _____, 2012.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4366

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO DOWNTOWN EMPLOYEE PARKING FINES AND AMENDING CHAPTER 12.45 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Amends Kirkland Municipal Code (KMC) Section 12.45.020 relating to downtown employee parking definitions.

SECTION 2. Deletes KMC Section 12.45.260.

SECTION 3. Amends KMC Section 12.45.250 relating to where downtown employee parking is prohibited.

SECTION 4. Provides a severability clause for the ordinance.

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

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2012.

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

_____
City Clerk

Council Meeting: 08/07/2012
Agenda: New Business
Item #: 11. a.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Kelli Jones, Surface Water Utility Engineer
Jenny Gaus, P.E., Surface Water Engineering Supervisor
Ray Steiger, P.E., Public Works Director

Date: July 26, 2012

Subject: Adoption of Kirkland Municipal Code (KMC) updates to comply with the National Floodplain Insurance Program (NFIP)

RECOMMENDATION:

It is recommended that Council adopt the attached ordinance relating to flood damage prevention, KMC Title 21.56, in order to remain in compliance with the NFIP and the Federal Endangered Species Act (ESA).

BACKGROUND DISCUSSION:

Kirkland has only a small amount of land that lies within the FEMA-mapped 100-year floodplain. There are a total of 35 tax parcels that contain floodplain area, of which 17 are currently owned by the City as open space within park land (Attachment A). The City is a member of the NFIP, and thus all properties in Kirkland qualify for reduced flood insurance rates as a result of that membership.

The NFIP was created in 1968 as a way to offer flood damage assistance in exchange for regulated development within FEMA mapped floodplains. This program focuses on public health, safety, and welfare by protecting all new and substantially improved buildings. It has proven to reduce flood damage by 80% for buildings not designed to meet the development standards for construction within floodplains. At the time it was created, NFIP was focused solely on flood damage-reduction without consideration of the impacts on aquatic habitat. Listing of Chinook salmon as a threatened species under the 1999 ESA has required a review of NFIP policies and requirements with regards to aquatic habitat.

A study was conducted by the National Marine Fisheries Services (NMFS) on how floodplain development affects aquatic habitat. NMFS issued a Biological Opinion that required changes to the NFIP in order to meet the requirements of the ESA as well as protect buildings from flood damage. To remain in compliance with the NFIP, cities and counties now need to update their regulations to meet the requirements of the Biological Opinion. Other than the option of prohibiting all development within the FEMA mapped floodplain and floodways, FEMA offered

three options in order for agencies to be compliant with the Biological Opinion, and agencies were required to submit their option selection by September 22, 2011. The options were as follows:

Option 1: Adopt the Model Ordinance prepared by FEMA.

Option 2: Enforce the same requirements in the Biological Opinion through an ordinance, such as zoning or critical areas regulations.

Option 3: Require each development proposed in a FEMA mapped floodplain or floodway to show compliance with the Biological Opinion on a permit by permit basis through a biological assessment report.

Option 1 was developed more for rural settings and is not an appropriate option for an urban environment, such as Kirkland. Option 2 would be the most straight forward option for individual properties owner and will eventually be addressed in the update of the Critical Areas Ordinance of Chapter 90 in the Kirkland Zoning Code (KZC) which is tentatively scheduled for 2015. However, after discussing the City's options with John Graves, Senior NFIP Specialist from the FEMA Region X office located in Bothell, WA, he indicated that Option 3 would be most appropriate for the City. Given the few number of parcels in Kirkland that contain FEMA mapped floodplains and floodways, and the City's plan to update its Critical Areas Ordinance by 2015, Option 3 was recommended.

In order to comply with the September 22, 2011, FEMA deadline, staff provided FEMA with a letter dated September 12, 2011, indicating that forthcoming amendments to KMC Title 21.56 would be proposed to the City Council, and the amendments would implement Option 3. A biological assessment would be required for each development in the FEMA mapped area in order to determine impact to aquatic habitat.

On December 28, 2011, a letter along with an aerial photo of their property and fact sheets about the changes, were mailed to each of the 18 private property owners of property located in the FEMA mapped areas (recall that 17 of the 35 total properties are owned by the City). The information was to inform them of the new FEMA regulations should they want to develop in the floodplain or floodway on their property (Attachment B). A second letter was sent out on June 7, 2012, to notify the property owners of when the KMC changes would be presented to Council and to encourage them to provide comments so that the City could address any concerns prior to the Council meeting (Attachment C). And in addition, a web page has been created that provides information on the new FEMA regulations, Option 3, and a copy of the draft ordinance. To date, no comments have been received by the City.

Summary of Code Changes

To meet Option 3, minor changes are proposed to the KMC to address and implement the new FEMA regulations. Along the same lines, the Department of Ecology (DOE) has also submitted to the City a checklist to update the Flood Damage Prevention section located within the KMC. To comply with both FEMA and DOE, the following is a summary of the changes that are proposed to the KMC:

1) Addition of language to require any development within the FEMA mapped floodplain or floodway to provide a Biological Assessment to ensure that their project is in compliance with the Biological Opinion.
2) Addition of new definitions, such as breakaway wall, elevated building, new manufactured home park or subdivision, and substantial damage to clarify content in the ordinance.
3) Addition of text to clarify regulations, such as specifying lowest floor elevations allowed, when permanent foundations are required for manufactured homes, record keeping, and spelling / tense changes.

Please refer to the Ordinance with this memo for the full redlined changes to Title KMC 21.56. In many cases, existing City code requirements in Chapters 83 and 90 KZC for limiting development within the critical areas of wetland and streams already restrict development in the floodplain, such that the new FEMA regulations would be met.

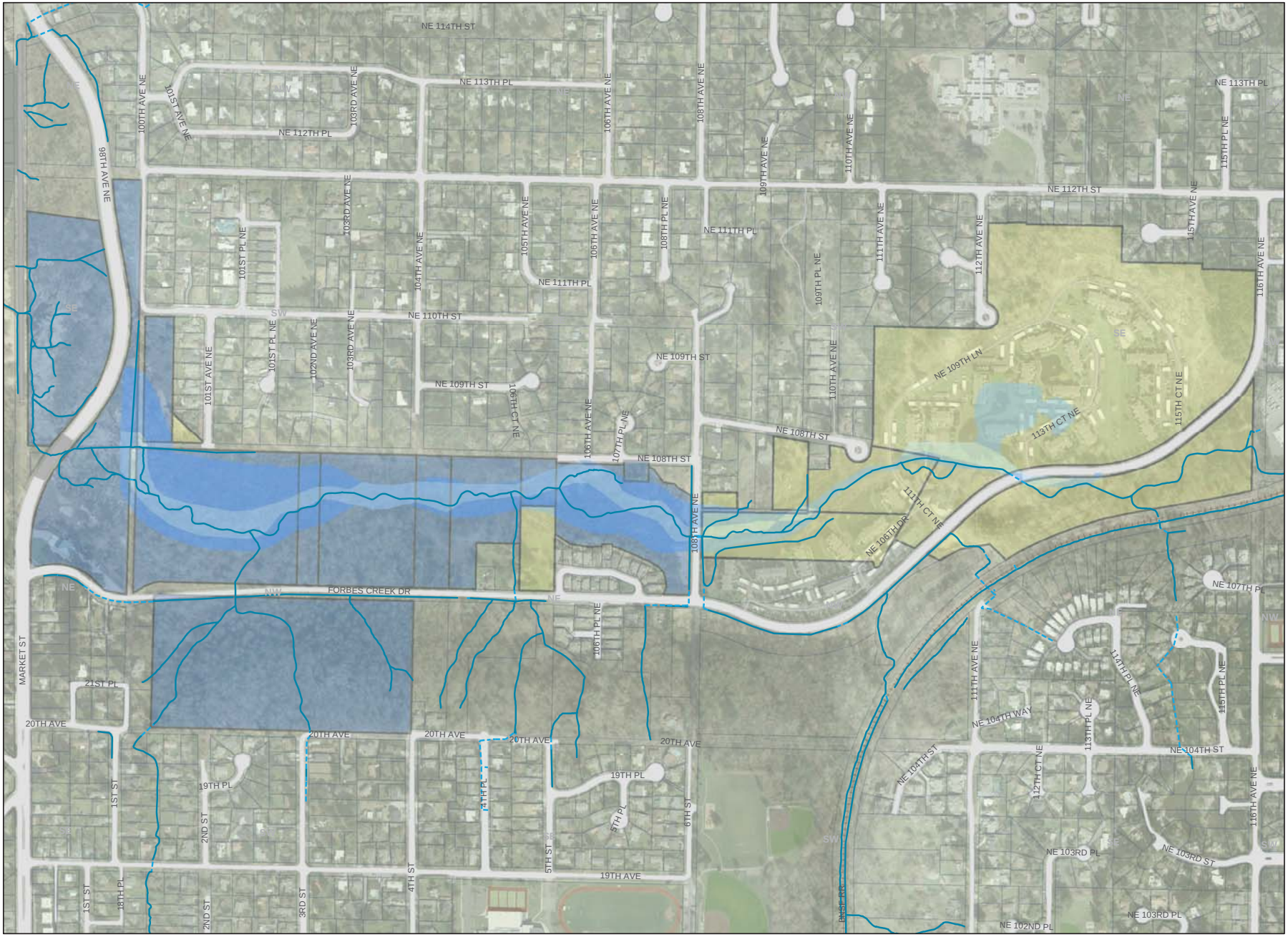
Next Steps

With updates to the KMC, the City will remain in compliance with the NFIP and remain a part of the program to assist with any occurrences to flood damaged properties. DOE has already completed a courtesy review of the proposed KMC updates, and their comments have been addressed in the Ordinance. Pending adoption of the Ordinance by the Kirkland City Council, DOE will require a final review of the KMC to ensure that their comments have been addressed.

Attachments (3)

Forbes Creek - Floodplain

Floodway
100-Year Floodplain



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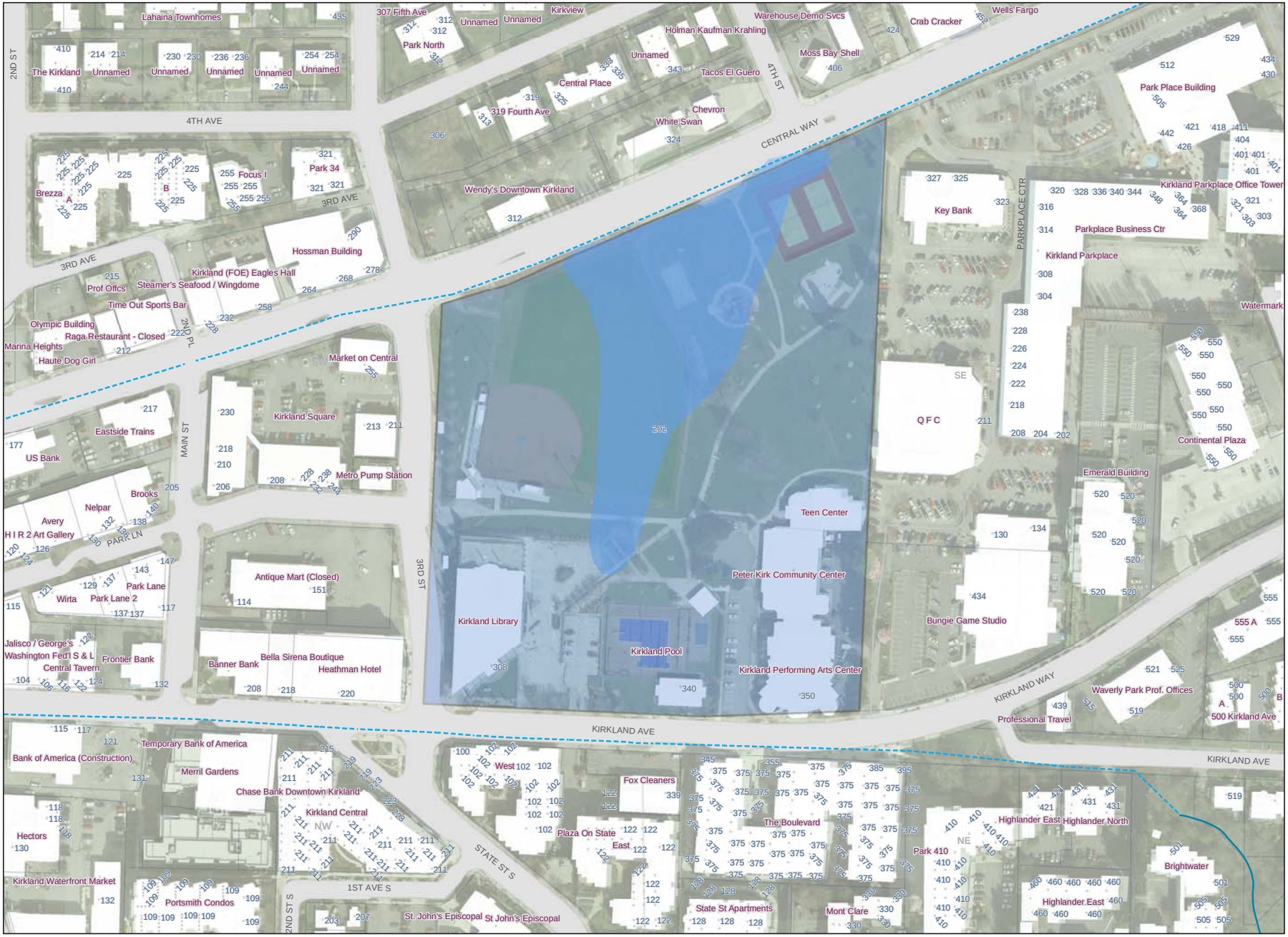
Author:
Name:
Date Saved: never never

Path:

Peter Kirk - Floodplain

Floodway
100-Year Floodplain



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Date Saved: never never

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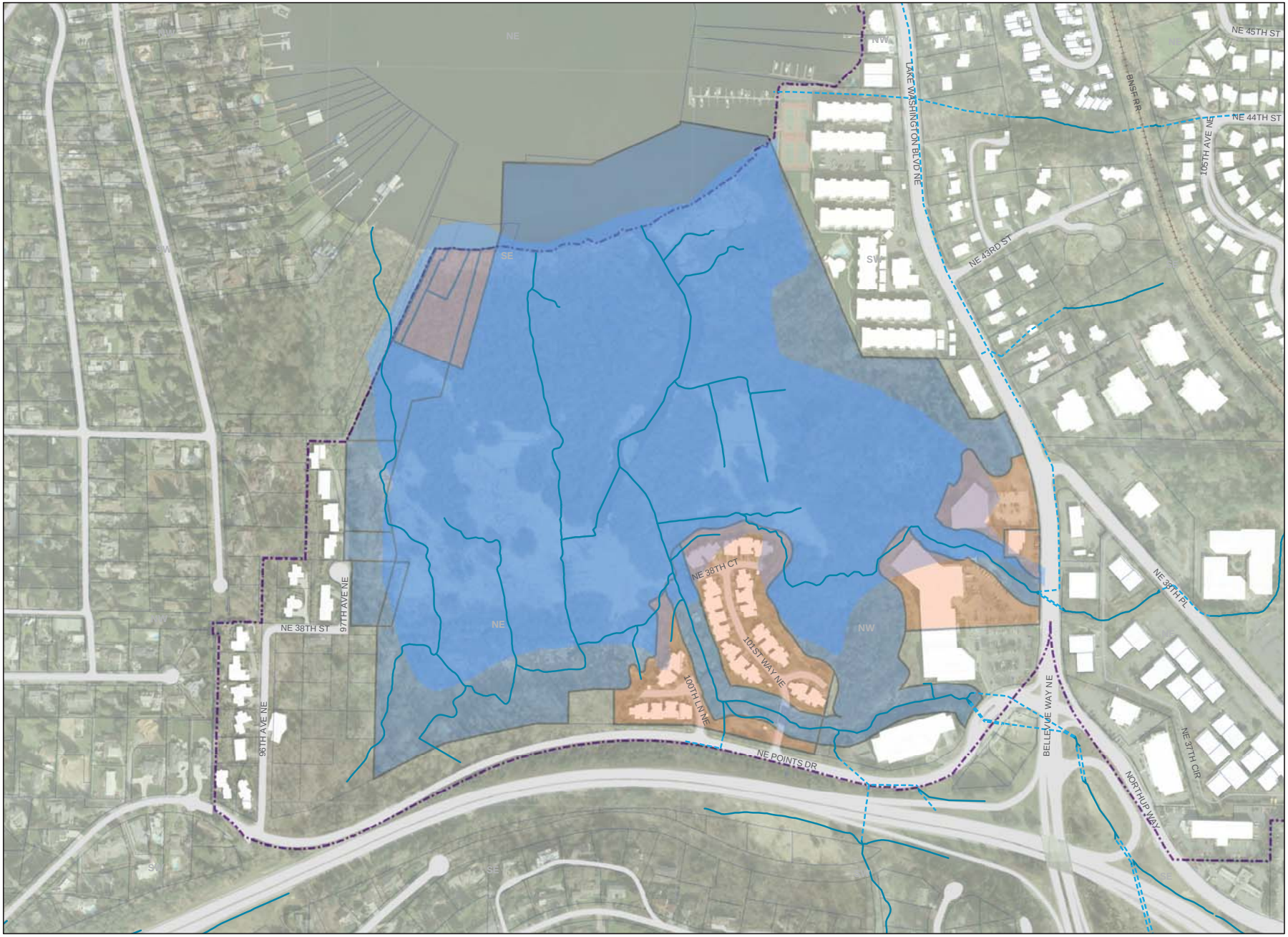
Yarrow Bay - Floodplain

Floodway
100-Year Floodplain



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Date Saved: never never

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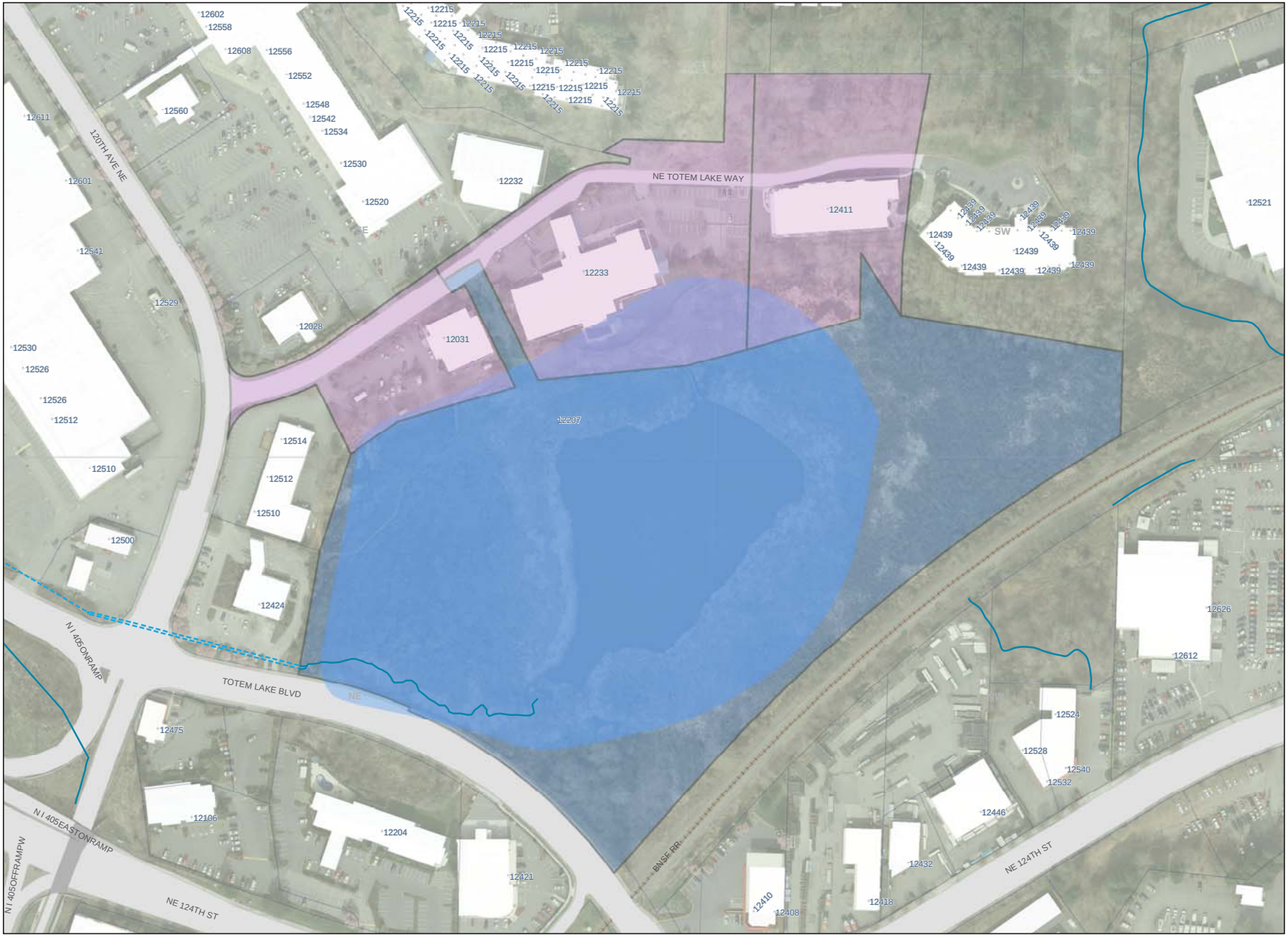
Totem Lake - Floodplain

Floodway
100-Year Floodplain



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Author:
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Date Saved: never never

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December 28, 2011

123 Fifth Avenue

Kirkland, Washington

98033-6189

Lauren and Barbara Simonds
10807 101st Ave NE
Kirkland, WA 98033
Parcel #: 3758900187

RE: Property within a Special Flood Hazard Area

Dear Property Owner:

The purpose of this letter is to inform you of the Federal Emergency Management Agency's (FEMA) new requirements that apply to properties that have FEMA floodplain areas located on them. Our records indicate that your property has a FEMA floodplain area identified on it as shown in the attached aerial photo. These new requirements apply *only if you decide to apply for a permit* from the City of Kirkland to develop or redevelop your property *or if you wish to make any other changes* within the floodplain. No action is required on your part at this time if you do not plan to make any changes.

The FEMA regulation change is a result of the listing of Chinook salmon as a threatened species under the Federal Endangered Species Act (ESA) which took place in 1999. The National Marine Fisheries Services (NMFS), which is responsible for implementation of the ESA, has found that the previous FEMA requirements have had an adverse impact on the salmon's habitat, and updates were necessary. Development in floodplains prior to the new FEMA regulations were determined to create a disconnection between existing streams and their floodplain and in turn lead to destruction of the natural vegetation. Research has found that there is a direct correlation between the disconnection of floodplains and the declining salmon runs. The new FEMA requirements will continue to reduce flooding of properties but will also help to reduce impacts to floodplains in order to preserve those that are remaining. For more information on the importance of floodplains, please see the attached fact sheet -- *The Importance of Healthy Floodplains to Puget Sound Salmon*.

FEMA has provided the City of Kirkland and other local jurisdictions with three options to comply with these new requirements:

- Option 1 requires adoption of a model ordinance; the City has determined that this is not the most appropriate option for an urban environment such as in Kirkland.
- Option 2 necessitates that the City amend its Critical Area Ordinance (CAO) for wetlands and streams (Chapter 90 of the Kirkland Zoning Code) and potentially make other amendments. This option is the most straight forward approach for individual property owners since the environmental regulations would be in place City-wide. Option 2 would eliminate the need for each individual property owner to provide evaluation of their proposals using a biological assessment on a site by site basis (which are the requirements of Option 3).
- Option 3 requires an individual biological assessment for property owner activities.

For more information on the three available FEMA options, see attached sheet, *The Biological Opinion.*

The best time to make amendments to the CAO under Option 2 is when the City conducts the comprehensive update of its CAO. Incorporation of the new FEMA requirements has been added to

the City's CAO amendment work program however is not anticipated to be completed until 2015. Until that time, Option 3 will be adopted and requires that a property owner prepare a biological assessment if any development or change is proposed in the floodplain area.

Under Option 3, the City must still make minor changes to the Kirkland Municipal Code in order to address and implement the new regulations. Staff estimates that these changes will be presented to the Kirkland City Council in the first quarter of 2012, and a second notification regarding these requirements will be sent to you to inform you of the date and time of this meeting. In the event that you anticipate future development or permit action on your property affected by these requirements, you are encouraged to participate in the discussions or to provide feedback to the City Council regarding the issue.

Please consider that if you undertake actions to the portion of your property that lies within a FEMA mapped floodplain prior to the City's implementation of Option 2, approximately 2015, you will be required to prepare a biological assessment to determine if your project will harm or threaten the endangered species located within your floodplain. Detailed guidelines for what must be included in the biological assessment can be found at the FEMA website:

http://www.fema.gov/pdf/about/regions/regionx/draft_%20habitat_assessment_guide_april2011.pdf

In many cases, existing City code requirements for limiting development within the critical areas of wetland and streams may already restrict development in the floodplain, and the new FEMA regulations would be met with no biological assessment being needed. Kirkland's Zoning Code Chapters 83 and 90 contain the regulations for wetlands and streams.

If you have questions or concerns regarding the information in this letter, please contact Teresa Swan at (425) 587-3258 or tswan@kirklandwa.gov.

Sincerely,

DEPARTMENT OF PUBLIC WORKS

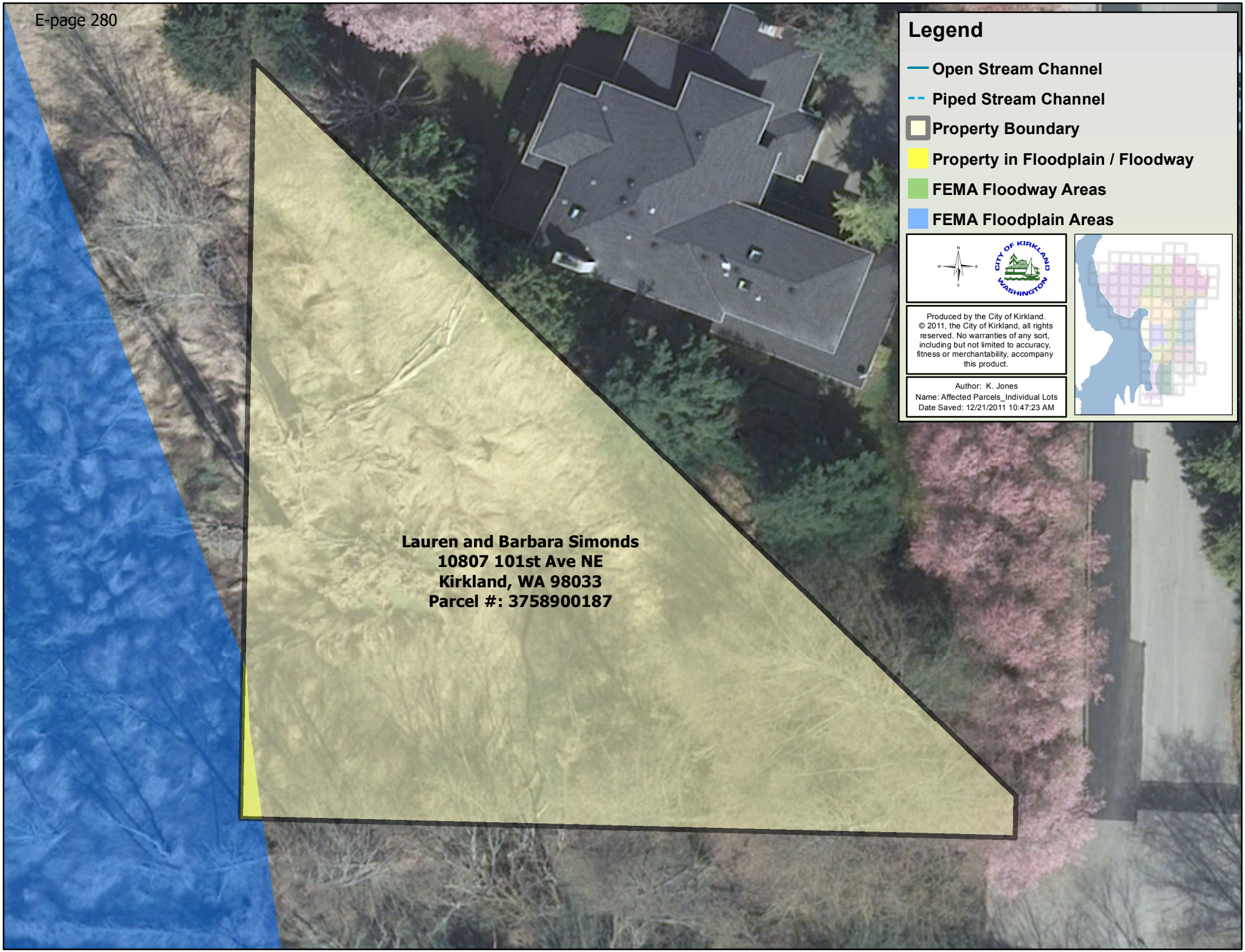
Ray Steiger, P.E.
Public Works Director

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

Eric Shields
Planning Director

Attachments:

- Aerial of properties within floodplain (blue hatch is public property)
- Fact Sheet: *The Importance of Healthy Floodplains to Puget Sound Salmon*
- Fact Sheet: *The Biological Opinion*



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Science, Service, Stewardship

January 2011

NOAA FISHERIES SERVICE

The Importance of Healthy Floodplains to Puget Sound Salmon

How do floodplains contribute to healthy salmon runs?

Floodplains are vital to the health and viability of Pacific salmon runs because they provide important habitat during the freshwater phase of the salmon life cycle.

In particular, healthy floodplains contribute to the biological processes necessary for salmon survival by:

- Inundating and creating access to spawning and rearing habitat during high flow seasons;
- Allowing large woody debris to accumulate for ecologically sound, complex habitat;
- Providing off-channel areas with high abundance of food;
- Allowing younger, smaller salmon into areas where there are fewer predators;
- Providing refuge for juvenile salmon to avoid high flow volume and velocities, allowing them to rear as long as necessary and conserve energy for their entry to the ocean;
- Providing coarse beds of sediment through which flow passes, which filters nutrients and other chemicals to maintain high water quality; and
- Providing an expanded area for depositing and storing excess sediment, particularly fine sediment. This reduces the effects of turbidity on fish.

Additionally, the water storage and recharge function of floodplains ensures a source of cold water in summer months. Water seeps into the groundwater table during floods, recharging wetlands, off-channel areas, and shallow aquifers. In turn, these areas release water to the stream during the summer months. Without this recharge, flows are typically lower and water is warmer. Finally, the groundwater storage/recharge process reduces the likelihood of high-energy flood events that can scour away salmon nests during the winter months.

For information on Puget Sound fish recovery efforts:

www.psp.wa.gov/

For information on floodplain management and the Endangered Species Act, visit FEMA's website at:

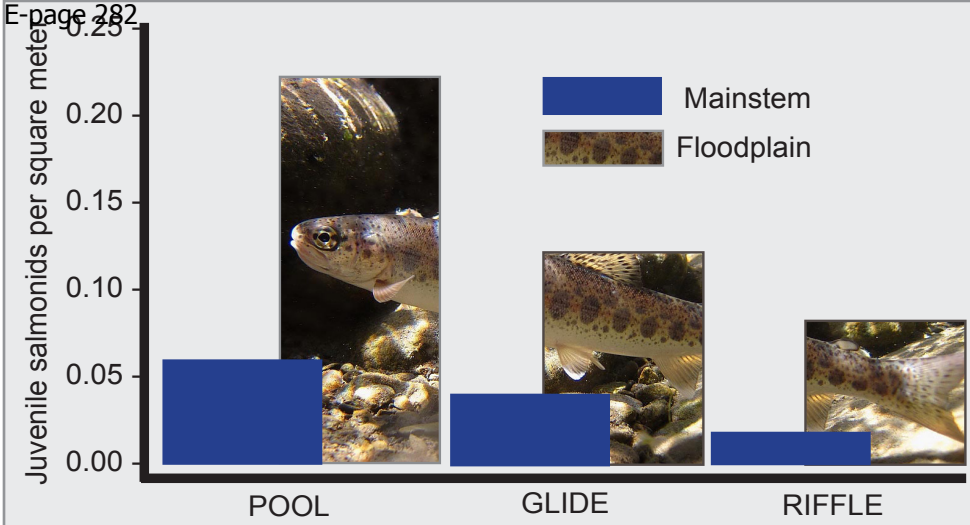
www.fema.gov/about/regions/regionx/nfipesa.shtm

Floodplain near the Olympic Mountains

What does the best available science tell us about floodplains and their relationship to salmon?

Connectivity

Floodplain connectivity, forage, and natural cover in the form of undercut banks and backwaters are important for the long-term productivity of salmon populations. When rivers are connected to floodplains, floodwaters and channel migration are able to disperse and develop channels away from the mainstem. This off-channel habitat provides important refuge for young salmon.



In the lower Elwha River, juvenile salmon used floodplain habitat (pools, glides and riffles) more than mainstem habitats to grow.[1]

Rearing Habitat

Coho salmon in particular rely heavily on floodplain habitat for rearing. Juvenile coho show strong preference for pools and woody debris cover in the summer months and for side-channel and pond habitats in the winter months. But other salmon species also depend on functioning floodplain habitat. Chum salmon, for example, rely primarily on floodplain areas for spawning. Chinook juveniles use the floodplain for rearing when it is inundated.

How does development impact floodplains?

Large portions of floodplains no longer function in their natural form because they have been restructured to meet urban and agricultural needs. Development affects floodplain by disconnecting river channels from their floodplain and by destroying natural riparian upland and wetland vegetation.

There is a direct relationship between this loss of floodplain function and trends in declining salmon runs. In particular, altering the natural processes that allow habitat to form and recover from disturbances such as floods, landslides, and droughts has the following effects on salmon:

- Elimination of off-channel habitats and refuge areas;
- Increased flow velocity during flood events;
- Increased severity and frequency of peak and low flows;
- Reduced subsurface flows and groundwater contributions to the river;
- Simplified habitat complexity, due to loss of large woody debris, meanders, and side channels; and
- Reduced shade that helps to regulate water temperatures.

When viewing these effects on a regional scale, the relationship between floodplains and salmon production is pronounced. For instance, roughly 73 percent of the wetland vegetation in major deltas of Puget Sound rivers have been lost in the last 100 years. This loss of functioning habitat directly correlates to the declining status of salmon runs. However, it is one factor among many. Loss of functioning habitat in conjunction with disconnected mainstem and tributary habitat due to dam operations, unsustainable harvest practices, and hatchery operations have all contributed to the listing of Pacific salmon under the Endangered Species Act (ESA).

How do functioning floodplains contribute to ecosystem health?

Currently, salmon listed under the Endangered Species Act in Puget Sound include Puget Sound Chinook salmon, Puget Sound steelhead and Hood Canal chum salmon. Functioning floodplains allow for effective habitat formation—providing refuge to salmon, increasing their energy reserves, and protecting the reproductive processes necessary for salmon recovery. To achieve recovery objectives, like adequate population distribution and genetic diversity, it is important to both preserve and restore those floodplains used by salmon.

Floodplains not only serve an important role in the freshwater phase of the salmon life cycle, but they contribute to the health of the larger ecosystem as well. Salmon, for instance, is the primary food source for numerous other species.

[1]Pess, G. R., M. L. McHenry, T. J. Beechie, and J. Davies. 2008. Biological impacts of the Elwha River dams and potential salmonid responses to dam removal. Northwest Science 82 (Special Issue):72-90. *Photo: John McMillan*

Functioning floodplains are part of healthy ecosystems

During high water episodes, floodplains provide a vast low-water-velocity area where suspended particles fall out of the water column and are deposited. These materials are a result of higher water velocity upstream which scours the channels, cleaning the gravels and cobbles and reducing their width:depth ratio. The resulting clean gravel and cobbles are a better environment to aerate salmon eggs, to provide cover for juveniles and invertebrate forage species. The deeper, narrower stream is an ideal habitat for growing salmon and reduces solar heating. Not coincidentally, this process also contributes to excellent soil quality on the floodplains. Those superb soils support complex vegetation development.

The Biological Opinion

A background on how floodplain development can affect habitat is included in Appendix C of the NFIP ESA Model Ordinance. On September 22, 2008, the National Marine Fisheries Service (NMFS) issued a Biological Opinion that required changes to the implementation of the National Flood Insurance Program in order to meet the requirements of the Endangered Species Act (ESA) in the Puget Sound watershed.

FEMA offers two ways to meet this ESA requirement:

1. Prohibit all development in the floodway and other areas as specified by the RPA.
2. Enact regulations that allow development that meet the criteria specified in the Biological Opinion by either:
    a. Adopting the Model Ordinance, or
    b. Enforcing the same requirements in other ordinances, such as the growth management, zoning, or critical areas regulations.

If a community chooses not to enact regulations under the two options described above, then a third option of showing compliance with ESA on a permit by permit basis will be required. This will typically involve requiring applicants for floodplain development permits to develop in the Special Flood Hazard Area to submit permit applications to the National Marine Fisheries Service. If option 3 is chosen, NFIP communities must ensure that permit applicants have demonstrated compliance with ESA before issuing a floodplain development permit.

Option 2 is generally preferred by most communities. Option 2.b. may be an easier route for those cities and counties that have critical area and shoreline management regulations. For those communities, this checklist can be used to identify if they need to amend their existing regulations to meet the Biological Opinion's criteria. If the checklist shows that additional regulations need to be adopted, language from the noted section in the Model Ordinance can be used.

It should be noted that the NFIP regulations (44 CFR 60.3(a) (2)) require participating communities "to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law." Under options 2.a. and b, NFIP communities must ensure that permit applicants meet the criteria established in the Biological Opinion. If option 3 is chosen, NFIP communities must ensure that permit applicants have consulted with NMFS and received approval before issuing a floodplain development permit when necessary.

June 7th, 2012

123 Fifth Avenue

Kirkland, Washington

98033-6189

Pathfinder Chelsea Courte Condominiums LLC
Attn: Manager
12411 NE Totem Lake Way
Kirkland, WA 98034
Parcel #: 8663270025

RE: Property within a Special Flood Hazard Area

Dear Property Owner:

You are receiving this letter because our records show that property you own contains a floodplain that is affected by new requirements of the Federal Emergency Management Agency (FEMA).

A letter was sent to you on December 28th, 2011 informing you that the City will be modifying the Kirkland Municipal Code (KMC) in order to address and implement FEMA's new requirements that apply to properties that have FEMA floodplain areas located on them. Along the same lines, the Department of Ecology (DOE) has also submitted to the City a checklist to update the Flood Damage Prevention section located within the KMC. To comply with both FEMA and the DOE, here is a summary of the proposed changes:

1) Addition of language to require the property owner or proponent of any development or activity within the FEMA mapped floodplain or floodway to provide a Biological Assessment to ensure that their project is in compliance with the National Flood Insurance Program's Biological Opinion.
2) Addition of new definitions
3) Revisions to existing text to clarify the new regulations

The following link contains the draft ordinance that will be presented to the Kirkland City Council on August 7th, 2012 (http://www.kirklandwa.gov/depart/Planning/Code_Updates/FEMA.htm). If you wish to have a copy sent to you, contact Teresa Swan at the contact number below. City Council meetings are open to the public and begin at 7:30pm in the Council Chambers at Kirkland City Hall located at 123 5th Ave. The City Council may adopt the ordinance at that meeting or at a subsequent meeting.

Amendments to the KMC do not require a public hearing. However, if you have any questions, comments or concerns on the draft ordinance, please contact Teresa Swan at (425) 587-3258 or tswan@kirklandwa.gov by June 29th, 2012. We will respond to any concerns you may have and forward them to the City Council along with staff's response as part of the staff memo for the amendments.

You may also comment in person on the draft ordinance by attending the City Council meeting and signing up to speak at the beginning of the meeting under the agenda item of "Comments from the Audience." Each speaker is limited to three minutes.

Sincerely,

DEPARTMENT OF PUBLIC WORKS

Ray Steiger, P.E.
Public Works Director

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

Eric Shields
Planning Director

ORDINANCE O-4367

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO FLOOD DAMAGE PREVENTION AND AMENDING CHAPTER 21.56 OF THE KIRKLAND MUNICIPAL CODE, FILE CAM12-00694.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code ("KMC") 21.56.020 is hereby amended to read as follows:

21.56.020 Definitions.
Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.
(1) "Appeal" means a request for a review of the building official's interpretation of any provision of this chapter or a request for a variance.
(2) "Area of shallow flooding" means a designated AO or AH zone on the flood insurance rate map (FIRM). ~~The~~ AO Zones have base flood depths that range from one to three feet above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow. ~~and~~ AH ~~indicates~~ zones have ponding, as shown with standard base flood elevations.
(3) "Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.
(4) "Base flood" means the flood having a one percent chance of being equaled ~~equalled~~ or exceeded in any given year. Also referred to as the "one-hundred-year flood." ~~Designation~~ Designated on ~~maps~~ FIRMs by ~~always includes~~ the letters A or V.
(5) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
(6) "Breakaway wall" means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation systems.
(~~6~~7) "Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations and installations which produce, use or store hazardous materials or hazardous waste.
(~~7~~8) "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or material located within the area of special flood hazard.
(9) "Elevated building" means for insurance purposes, a non-basement building that has its lowest elevated floor raised above

ground level by foundation walls, shear walls, post, piers pilings, or columns.

(~~8~~10) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(A) The overflow of inland or tidal waters; and/or

(B) The unusual and rapid accumulation of runoff of surface waters from any source.

(~~9~~11) "Flood insurance rate map (FIRM)" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

(~~10~~12) "Flood insurance study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the FIRM~~the flood boundary-floodway map~~, and the water surface elevation of the base flood.

(~~11~~13) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

(~~12~~14) "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage~~,~~ in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this chapter found at Section 21.56.090(1)(B).

(~~13~~15) "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

(~~14~~16) "Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(~~15~~17) "New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

(18) "New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

(~~16~~19) "Recreational vehicle" means a vehicle:

(A) Built on a single chassis;

(B) Four hundred square feet or less when measured at the largest horizontal projection;

(C) Designed to be self-propelled or permanently towable by a light duty truck; and

(D) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational camping, travel or seasonal use.

(~~17~~20) "Start of construction" includes substantial improvement, and means the date the building permit was issued; provided, the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The "actual start" means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the "actual start" of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(~~18~~21) "Structure" means a walled and roofed building including a gas or liquid storage tank that is primarily above ground.

(22) "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent of the market value of the structure before the damage occurred.

(~~19~~23) "Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

(A) Before the improvement or repair is started; or

(B) If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term ~~does not, however, include either~~ excludes:

(i) Any project for improvement of a structure to ~~comply with~~ correct existing state or local health, sanitary, or safety code specifications which ~~are solely~~ have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(ii) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

~~(20) "Water dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.~~

(~~21~~24) "Variance" means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.

(25) "Water dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

Section 2. KMC 21.56.030 is hereby amended to read as follows:

21.56.030 Basis for establishing the areas of special flood hazard.
The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for ~~the City of Kirkland~~King County, Washington and Incorporated Areas" dated September 30, 1993, having an effective date of May 16, 1995, and any revisions thereto with accompanying flood insurance maps is adopted by reference and declared to be a part of this chapter. The flood insurance study and the FIRM are ~~is~~ on file at City Hall, 123 Fifth Avenue, Kirkland, WA 98033.

Section 3. KMC 21.56.035 is hereby amended to read as follows:

21.56.035 Penalties for noncompliance.
No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. ~~Any person who violates this chapter or fails to comply with any of its requirements shall be guilty of a simple crime and subject to the penalties provided therefor in Section 1.04.010(C) of this code.~~ Each day of violation shall constitute a separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 4. KMC 21.56.055 is hereby amended to read as follows:

21.56.055 Development permit required.
A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 21.56.030. The permit shall be for all structures including manufactured homes, as set forth in the definitions, Section 21.56.020, and for all development including fill and other activities, also as set forth in the definitions. The applicant shall also submit a habitat assessment in compliance with "FEMA's Floodplain Habitat Assessment and Mitigation: Regional Guidance Manual" when developing within the special flood hazard area. The applicant shall either: (a) fund a habitat assessment prepared by the City's consultant; or (b) submit a habitat assessment prepared by a qualified professional approved by the City and fund a review of this assessment by the City's consultant.

Section 5. KMC 21.56.070 is hereby amended to read as follows:

21.56.070 Duties and responsibilities of the building official.
Duties of the building official shall include, but not be limited to:
(1) Permit Review.

(A) Review all development permits to determine that the permit requirements of this chapter have been satisfied;
(B) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required;
(C) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 21.56.095(1) are met.
(2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 21.56.030, the building official shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 21.56.090 and 21.56.095.
(3) Information to Be Obtained and Maintained.
(A) Where base flood elevation data is provided through the flood insurance study, FIRM, or required as in subsection (2) of this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
(B) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the flood insurance study, FIRM, or as required as in subsection (2) of this section:
(i) ~~Verify and record the actual elevation (in relation to mean sea level),~~Obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed; and
(ii) Maintain the floodproofing certifications required in Section 21.56.060(3);
(C) Maintain for public inspection all records pertaining to the provisions of this chapter.
(4) Alteration of Watercourses.
(A) Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
(B) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
(5) Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 21.56.075.

Section 6. KMC 21.56.085 is hereby amended to read as follows:

21.56.085 Provisions for flood hazard reduction—General standards.
In all areas of special flood hazards, the following standards are required:

(1) Anchoring.
(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
(B) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (For more detailed information, refer to guidebook FEMA-85 "Manufactured Home Installation in Flood Hazard Areas.")
(2) Construction Materials and Methods.
(A) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
(B) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
(C) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
(3) Utilities.
(A) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
(B) Water wells shall be located on high ground that is not in the floodway (FEMA endorses the more restrictive WAC floodway standard identified in WAC 173-160-171).
(~~B~~C) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters.
(~~C~~D) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
(4) Subdivision Proposals.
(A) All subdivision proposals shall be consistent with the need to minimize flood damage.
(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
(C) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
(D) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).
(5) Review of Building Permits. Where elevation data is not available either through the flood insurance study or from another authoritative source (Section 21.56.070(2)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

Section 7. KMC 21.56.090 is hereby amended to read as follows:

21.56.090 Provisions for flood hazard reduction—Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Sections 21.56.030 or 21.56.070(2), the following provisions are required:

(1) Residential Construction.

(A) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above base flood elevation.

(B) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

(2) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(A) Be floodproofed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(B) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(C) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural designs, specifications and plans. Such certification shall be provided to the official as set forth in Section 21.56.070(3)(B);

(D) Nonresidential structures that are elevated, and not ~~floodproof~~floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(B) of this section;

(E) Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to ~~one foot above~~ the base flood level will be rated as one foot below ~~that level~~).

(3) Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the ~~base floodplain~~Special Flood Hazard Area (SFHA)(100–year floodplain). Construction of new critical facilities shall be permissible within the ~~base floodplain~~SFHA if no feasible alternative site is available. Critical facilities constructed within the ~~base floodplain~~ SFHA shall have the lowest floor elevated ~~to~~ three feet ~~or more~~ above the level of the base flood elevation at the site or to the height of the 500-year flood,

whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base ~~floodplain~~ flood elevation shall be provided to all critical facilities to the extent possible.

(4) Manufactured Homes.

(A) All manufactured homes to be placed or substantially improved within zones A1—30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is one foot or more above the base flood elevation; and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement in accordance with the provisions of Section 21.56.085 (1)(B). This applies to manufactured homes:

(i) Outside of a manufactured home park or subdivision;

(ii) In a new manufactured home park or subdivision;

(iii) In an expansion to an existing manufactured home park or subdivision; or

(iv) In an existing manufactured home park or subdivision on a site which a manufactured home has incurred "substantial damage" as a result of a flood.

(B) Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the above manufactured home provisions shall be elevated so that either:

(i) The lowest flood of the manufactured home is elevated one foot or more above the base flood elevation; or

(ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(5) Recreational vehicles placed on sites are required to either:

(A) Be on the site for fewer than one hundred eighty consecutive days; or

(B) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(C) Meet the requirements of subsection (4) of this section.

Section 8. KMC 21.56.095 is hereby amended to read as follows:

21.56.095 Floodways.

Located within areas of special flood hazard established in Section 21.56.030 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

(1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that encroachments

shall not result in any increase in flood levels during the occurrence of the base flood discharge.
(2) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 21.56.085 through 21.56.105.
(3) Construction or reconstruction of residential structures is prohibited within designated floodways, except for (~~A~~i) repairs, reconstruction or improvements to a structure which do not increase the ground floor area;~~,~~ and (~~B~~ii) repairs, reconstruction or improvements to a structure, the cost of which does not exceed fifty percent of the market value of the structure, either (~~i~~A) before the repair, reconstruction or improvement is started or (~~ii~~B) if the structure has been damaged and is being restored before the damage occurred. ~~Work done on structures to comply with existing health, sanitary or safety codes,~~Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or to structures identified as historic places, may ~~not be included~~ be excluded in the fifty percent of market value limitation.

Section 9. KMC 21.56.105 is hereby amended to read as follows:

21.56.105 Standards for shallow flooding areas (AO zones).
Shallow flooding areas appear on FIRMs as AO zones with depth designations. The base flood depths in these zones range from one to three feet where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. In these areas, the following provisions apply:
(1) New construction and substantial improvements of residential structures and manufactured homes within AO zones shall have the lowest floor (including basement) elevated above the highest adjacent grade of the ~~building site~~ structure, one foot or more~~, to or~~ above the depth number specified on the FIRM (at least two feet above the highest adjacent grade if no depth number is specified).
(2) New construction and substantial improvements of nonresidential structures within AO zones shall either:
(A) Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, ~~to or above the depth number specified on the FIRM~~ one foot or more above the depth number specified on the FIRM (at least two feet if no depth number is specified); or
(B) Together with existing ~~attendant~~ utility and sanitary facilities, be completely floodproofed to or above that level ~~one foot above the depth number specified on the FIRM~~ so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as in Section 21.56.090(2)(C).
(3) Require adequate drainage paths around structure on slopes to guide floodwaters around and away from proposed structures.

(4) Recreational vehicles placed on sites within AO zones on the community's FIRM are required to either:
(A) Be on the site for fewer than one hundred eighty consecutive days; or
(B) Be fully licensed and ready for highway use, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
(C) Meet the requirements of subsections (1) and (3) of this section and the anchoring requirements for manufactured homes in Section 21.56.085(1)(B).

Section 10. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 11. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2012.

Signed in authentication thereof this _____ day of _____, 2012.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4367

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO FLOOD DAMAGE PREVENTION AND AMENDING CHAPTER 21.56 OF THE KIRKLAND MUNICIPAL CODE, FILE CAM12-00694.

SECTION 1. Amends Kirkland Municipal Code (KMC) Section 21.56.020 relating to flood damage prevention definitions.

SECTION 2. Amends KMC Section 21.56.030 relating to the basis for establishing areas of special flood hazard.

SECTION 3. Amends KMC Section 21.56.035 relating to the penalties for noncompliance.

SECTION 4. Amends KMC Section 21.56.055 relating to development permit requirements.

SECTION 5. Amends KMC Section 21.56.070 relating to duties and responsibilities of the building official.

SECTION 6. Amends KMC Section 21.56.085 relating to general standards for flood hazard reduction.

SECTION 7. Amends KMC Section 21.56.090 relating to specific standards for flood hazard reduction.

SECTION 8. Amends KMC Section 21.56.095 relating to floodways.

SECTION 9. Amends KMC Section 21.56.105 relating to standards for shallow flooding areas.

SECTION 10. Provides a severability clause for the ordinance.

SECTION 11. Authorizes publication of the ordinance by summary pursuant to KMC Section 1.08.017 and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2012.

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

_____
City Clerk

Council Meeting: 08/07/2012
Agenda: New Business
Item #: 11. b.

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Dave Snider, P.E., Capital Projects Manager
Ray Steiger, P.E., Public Works Director

Date: July 26, 2012

Subject: NE 120TH STREET EXTENSION PROJECT -- AUTHORIZE CONDEMNATION

RECOMMENDATION:

It is recommended that City Council approve the attached ordinance authorizing staff to proceed with acquisition of right-of-way and associated property rights through eminent domain (condemnation) for parcels along the NE 120th Street Extension project limits.

BACKGROUND DISCUSSION:

The NE 120th Street Extension Project will result in a new public roadway between 124th Avenue NE and Slater Avenue NE. The Project is designed to improve multi-modal mobility as well as provide emergency vehicle access and congestion mitigation in the Totem Lake Neighborhood. The planned improvements for the new roadway include a 3-lane street section, bicycle lanes, planter strips and five-foot concrete sidewalks. The Project also includes a new Intelligent Transportation System (ITS) signal at 124th Avenue NE and ITS signal modifications to the existing signal at Slater Avenue NE, new street lights and significant surface water quality enhancements (Attachment A).

In 2010, the Project's design was used as a University of Washington College of Civil Engineering pilot project and is eligible for a Greenroads™ Certification throughout final design and construction phases. The Greenroads Foundation is a non-profit, third-party entity established in summer 2010 to manage certification reviews for roadway projects using a proprietary rating system. Greenroads™ is a collection of sustainability best practices, called "credits," that relate to roadway design and construction. The Greenroads™ score is then used as an indicator of sustainability for the roadway and the process provides a holistic way of considering a roadway's design and construction implementation. Ultimately, the goal of the program is to reduce impacts on the environment and improve life-cycle costs through the implementation of low impact designs (LID), energy efficient and low light polluting lighting fixtures, and through the use recycled materials in road base and pavements.

Schedule

To complete the Project in a timely manner, and to remain in compliance with two separate Project grants awarded to the City (a Federal Surface Transportation Program (STP) grant for $2,502,640 and a Transportation Improvement Board Urban Arterial Program (UAP) grant for $800,000) and to meet current CIP scheduling, staff is intending to advertise for contractor bids during the 4th quarter of 2012; construction would then begin in the 1st quarter of 2013. The currently outstanding elements for the Project include finalizing the design, completing the environmental documentation, and the right-of-way acquisition process (including design modifications/agreements, if any, through on-going right-of-way negotiations). The environmental documentation and engineering plan revisions are scheduled to be completed by the end of September 2012.

Right-of-Way Acquisition

The Project requires the acquisition of right-of-way and/or temporary construction easements affecting four parcels (Attachment B). Staff and the City's right-of-way consulting firm, Certified Land Services Corporation, following the City's Right-of-Way Procedures, as updated in January of this year (R-4908 – Attachment C), have expeditiously worked on all issues related to the negotiations with the individual property owners; settlements with two of the four separate property owners have been completed. The City does not yet have signed agreements with two remaining property owners and, as time is of the essence for meeting the terms of two existing Project grants, staff is recommending the use of a Condemnation Ordinance to help facilitate the acquisitions should negotiations reach an impasse. For a chronology of contacts and property negotiation meetings with the affected property owners, please see Attachment B.

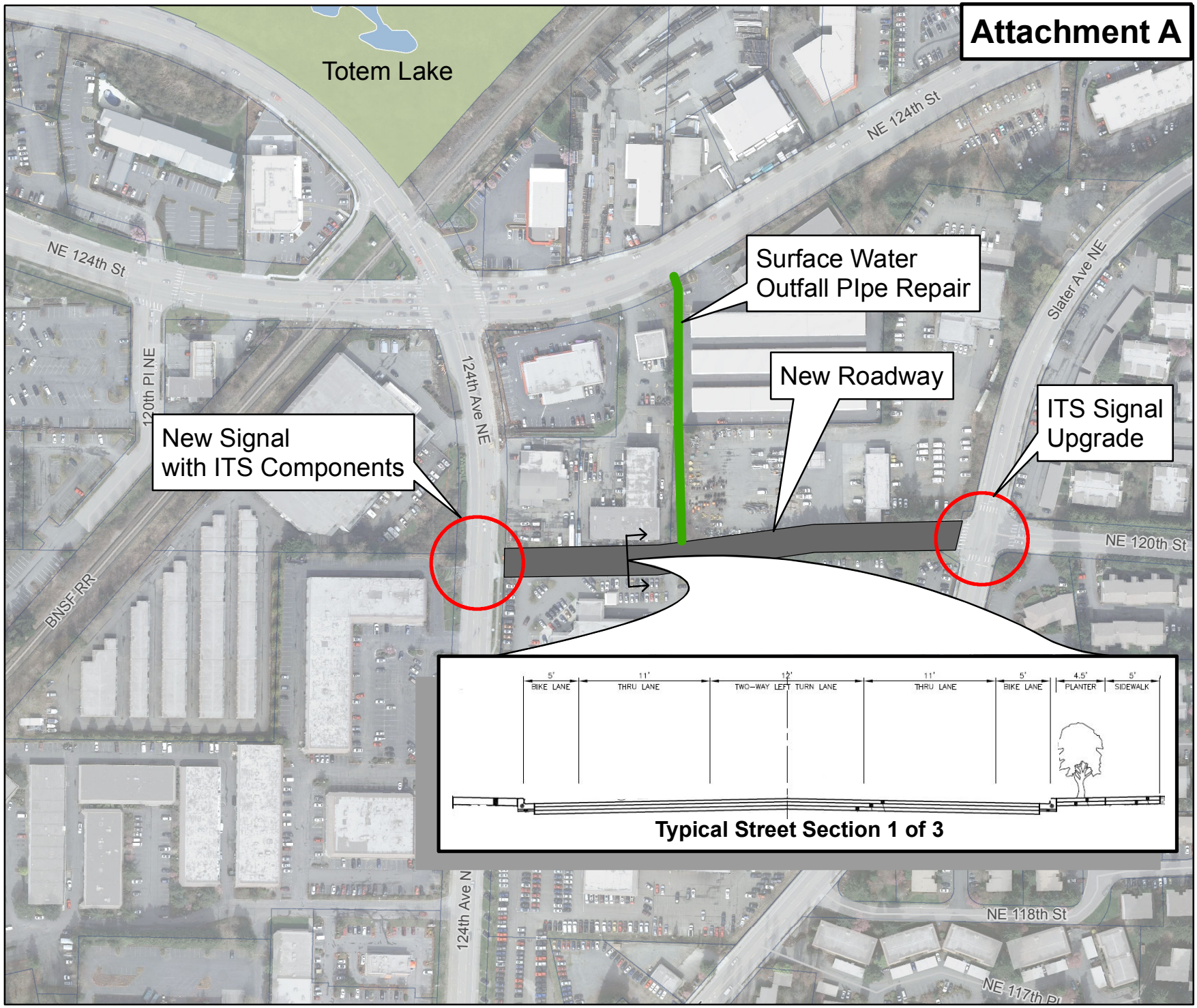
The Revised Code of Washington (RCW 8.12) authorizes and empowers cities to acquire land and property rights for public improvements through a process known as eminent domain. This authority is granted to public agencies as a means and method to allow progress for those improvements deemed to be in the best public interest. The statute was written to prevent unreasonable demands and/or delays being placed on public agencies while also insuring property owners receive a fair market value for the sale of their property. The passing of this Ordinance by City Council does not require condemnation proceedings through the courts. It will, however, enable the City to move towards beginning the Project's construction in the event an impasse is reached with one or both of the two identified property owners. A best case scenario will be for staff to resolve the right-of-way acquisition without undertaking a condemnation action. Staff has worked closely with the City Attorney's Office in preparing the attached Ordinance in order to comply with the requirements of the eminent domain process.

In order to meet the Project's key completion dates, having the Condemnation Ordinance in place will allow a judicial process to be scheduled, as it can take several months for that process to reach a completion, should it be required for one or both of the remaining parcels (Attachment D). As in the past when City Council has approved the use of eminent domain on other parcels, staff and the City's right-of-way consultant remain committed to exhausting all possible means of coordination and negotiation with the affected property owners prior to starting an eminent domain action.

Attachments (4)

Area Map

Attachment A



0 50 100 150 200 Feet

0 0.01 0.02 0.03 0.04 Miles

CITY OF KIRKLAND WASHINGTON

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Vicinity Map
NE 120th Street Roadway Extension

Property Rights Status Table

Attachment B

NE 120th Street Extension Project

PARCEL #	TAX PARCEL NO	PROPERTY OWNER/NAME	PROPERTY ADDRESS	DATE OFFER	OFFER AMOUNT	SETTLEMENT AMOUNT	COMMENTS
112	2826059046	S & I of WA, LLC (common reference: Infiniti of Kirkland)	11932 124th Ave NE	1/12/2012	$641,600		Attorney Ken Davidson recently hired by S & I to facilitate acquisition process.
113	2826059177	Colin W & Nerlyna M. Radford	12350 124th Ave NE	1/12/2012	$264,700	$264,700	
114	2826059163	Totem Lake 1, LLC (common reference: Doug Waddell)	12427 NE 124th St	1/12/2012	$222,200	$240,000	
115	2826059181	Frontier Communications	12055 Slater Ave NE	1/30/2012	$1,062,000		Frontier to submit counter offer to address driveway/gate/security needs.
				total	$2,190,500	$504,700	

112 Property Negotiation Log

1-12-12 Met with Mr. David Hannah and presented City's offer verbally and in writing. Provided owner with a copy of the appraisal used to set Just Compensation. Mr. Hannah confirmed he would be main contact for the property and relay information to vested owners.

1-23-12 By email, Certified Land clarified that the compensation amount is not necessary the replacement value but the value in place or what is considered salvage value for the items taken within the fee area.

1-27-12 Met with Perteet (design consultant), and Mr. Hannah on site to discuss the project. Mr. Hannah expressed concerns about access requested Certified Land contact Mr. Rick Grimes of Freiheit & Ho (Infiniti's architect).

1-30-12 Phone call with Mr. Grimes to discuss project. Mr. Grimes to follow up with Mr. Hannah.

2-27-12 Meeting at City Hall with David Hannah, the owner, Rick Grimes and Nancy Chang, Freight & Ho architects, Rob Jammerman, development engineering manager for Public Works department, Jeremy McMahan, Planning supervisor for City of Kirkland, Jesse Thomsen, PE Perteet, Regina Raichart, PM CERTIFIED Land services, and Sonja Kraus to discuss offer. Discussed owners concerns of impacts to site from taking.

3-16-12 Meeting at Infinity with Dave Hannah, Rick Grimes and his assistant, Infinity Parts Manager, Rod Steitzer and Regina. Discussed impacts to property and their proposal that the service bays need to be relocated. Regina requested cost estimates and justification because this concept is based on property not owned by Infinity being a big element in the site "before" configuration.

4-13-12 meeting at Infinity. Attendees were Dennis (parts manager) and Dave Hannah of Infinity, Rick and Nancy of Freiheit (architects), Dan and Spencer of SB Deacon Construction, Rod S from the City, Jesse Thompson of Perteet and Regina. Ownership group presented service bay relocation plan and schedule with costs for counter offer. Requested specific counter offer in writing.

4-26-12 email from Rick Grimes outlining requested "soft costs" to be added to SD Deacons cost estimates for service bay relocation. Response that we needed a formal counter offer. Multiple calls and emails asking for clarification of verbal counter offer. No definitive answer received.

6-6-12 Letter and call with Dave Hanna regarding composition of ownership and requesting LLC docs. Rec'd LLC docs, but pending litigation and directive granting Mr. Hannah sole authority to convey property unclear.

6-12-12 Call with owner attorney Ken Davidson requesting meeting. Multiple calls setting up meeting for 7-2 with City Attorney and Infinity.

6-26-12 EM to Oskar Rey with complete summary of issues and maps to help prep hi for meeting on 7-2.

7-2-12 Meeting with Ken Davidson Rick Grimes, Oskar Rey, Rob Jammerman, and Rod Steitzer. Discussed survey of existing storm system and vehicle service entrance.

115 Property Negotiation Log

1/23/12 contacted sight manager Leo Church & Dean Christiansen and Kelly Stewart, Transaction manager 203-614-5217, [Connecticut] to discuss project. Follow up email was received by Mary Anne Kolb, property acquisition contact.

2-22-12 Perteet and Sonja met on site with Frontier to discuss the project with their operations folks, Dean Christianson and others.

3-6-12 contacted Dean Christiansen to coordinate required soil sample work; access denied.

3-8-12 Kelly Stewart called Rod Steitzer and stating Frontier encouraged by the project and willing to move forward. Certified Land contacted Mary Anne Kolb requesting all information processed through Certified Land.

3-9-12 Mary Ann Kolb emailed requesting a couple of weeks for internal review. Facilities crews are concerned about trucks access without a traffic signal for their driveway. We discussed additional signal would likely impede the traffic flow for a traffic grid concurrency project and add significant cost.

4-10-12 requested status update from Mary Ann Kolb. Email from Kelley at Frontier requesting traffic analysis.

4-11-12 Mary Ann Kolb stating City drawings do not address the issue of red light timing and their ability to access their site from 120th. City stated they don't anticipate a queuing problem however; there is a "no turn on red light" policy for the signals. Mary Anne Kolb stated Frontier can't move forward until the question of red light timing and queuing is addressed.

4-12-12 Frontier reqeusted a storm pipe replace the ditch area with no additional easement cost. City agreed, this would be a storm water control improvement.

5-29-12 City provided traffic analysis to Frontier.

6-5-12 requested status update. None received.

6-8-12 Frontier requested help to understand the traffic analysis.

6-11-12 Rod met Frontier on-site to review traffic analysis and Slater traffic island request.

6-12-12 Frontier stated that they will provide Certified with agreements.

6-20-12 Frontier submitted conditional agreement to traffic analysis and requested time to review compensation cost for access gate.

7-2-12 Frontier denied request for City access for soil samples.

7-20-12 Frontier submitted counter offer with an additional $152,116 requested settlement for installing a temporary gate. City's appraisal included $68,000 for damages; cost difference is $84,116.

Council Meeting: 01/17/2012
Agenda: Other Business
Item #: 8. h. (4).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.kirklandwa.gov

Attachment C

MEMORANDUM

To: Kurt Triplett, City Manager

From: Dave Snider, P.E., Capital Projects Manager
Ray Steiger, P.E., Public Works Director

Date: January 5, 2012

Subject: UPDATE THE CITY RIGHT-OF-WAY ACQUISITION PROCEDURES

RECOMMENDATION:

It is recommended that City Council adopt the attached Resolution that updates the City's Right-of-Way Acquisition Procedures. It is further recommended that City Council authorize the City Manager to sign the attached Washington State Department of Transportation (WSDOT) Conformance Agreement.

BACKGROUND DISCUSSION:

For Kirkland projects to be eligible for federal funding the City must agree to conform to State and the Federal Highway Administration (FHWA) right-of-way acquisition procedures; such procedures are regulated under Chapter 8.26 RCW, WAC 468-100, WSDOT LAG Manual (M36-6), and Right-of-Way Manual (M26-01).

The City Right-of-Way Procedures were last updated on March 20, 2001 (Resolution 4286). Since that time the organizational structure of the Public Works Department, and the regulatory requirements of right-of-way acquisition have changed. Adoption of the updated procedures ensures compliance with the current regulations and protects the City's interest in securing federal funding.

The following must occur in order for the procedures to be approved by WSDOT:

- The City Manager signs the WSDOT Conformance Agreement stating the city's compliance with WSDOT Right-of-Way procedures (Attachment A).
- The City identifies the Public Works Director as responsible for administering the Process (Attachment A – Section 1).
- The City provides a list of personnel qualified for City's Right-of-Way Process (Attachment B).
- Establish a Waiver of Appraisal Process (Attachment C).
- Establish a policy for administrative settlements including the approving authority and process (Resolution Exhibit A).

With adoption of the Resolution and signing of the conformance agreement, staff will submit all documentation to the Washington State Department of Transportation for approval.

Attachments (4)

Right-of-Way Procedures Conformance Agreement

Attachment C

AGENCY: CITY OF KIRKLAND

The City of Kirkland ("AGENCY"), desiring to acquire Real Property in accordance with the state Uniform Relocation Assistance and Real Property Acquisition Act (Ch. 8.26 RCW) and state regulations (Ch. 468-100 WAC) and applicable federal regulations hereby adopts the following procedures to implement the above statutes and Washington Administrative Code. The Public Works Department ("DEPARTMENT") of the AGENCY is responsible for the real property acquisition and relocation activities on projects administered by the AGENCY. To fulfill the above requirements the DEPARTMENT will acquire right-of-way in accordance with the policies set forth in the Washington State Department of Transportation Right of Way Manual (M 26-01) and Local Agency Guidelines manual (M 36-6). The AGENCY has the following expertise and personnel capabilities to accomplish these functions:

1. Include the following as they relate to the AGENCY's request.
    a. List the functions below for which the agency has qualified staff and the responsible position. Attach a list of the individuals on the AGENCY staff who currently fill those positions and a brief summary of their qualifications. This list will need to be updated whenever staffing changes occur. An AGENCY will be approved to acquire based upon staff qualifications.
        (1) PROGRAM ADMINISTRATION
            Public Works Director with support from Project Engineer(s)
        (2) APPRAISAL
            WSDOT R/W Office or Approved Consultant
        (3) APPRAISAL REVIEW
            WSDOT R/W Office or Approved Consultant
        (4) ACQUISITION
            WSDOT R/W Office or Approved Consultant
        (5) RELOCATION
            WSDOT R/W Office or Approved Consultant
        (6) PROPERTY MANAGEMENT
            Public Works Director with support from Project Engineer(s)
    b. Any functions for which the Agency does not have staff will be contracted for with WSDOT, another local agency with approved procedures or an outside contractor. An AGENCY that proposes to use outside contractors for any of the above functions will need to work closely with the WSDOT Local Agency Coordinator and Highways and Local Programs to ensure all requirements are met. When the AGENCY proposes to have a staff person negotiate who is not experienced in negotiation for FHWA funded projects the Coordinator must be given a reasonable opportunity to review all offers and supporting data before they are presented to the property owners.
    c. An AGENCY wishing to take advantage of an Appraisal Waiver process on properties valued at $25,000 or less should make their proposed waiver process a part of these procedures. The process outlined in LAG manual appendix 25.176 has already been approved. The AGENCY may submit a process different than that shown and it will be reviewed and approved if it provides sufficient information to determine value.
    d. Attach a copy of the Agency's administrative settlement policy showing the approving authority(s) and the process involved in making administrative settlements.

Attachment C

2. All projects shall be available for review by the FHWA and the state at any time and all project documents shall be retained and available for inspection during the plan development, right-of-way and construction stages and for a three year period following acceptance of the projects by WSDOT.

3. Approval of the AGENCY's procedures by WSDOT may be rescinded at any time the Agency is found to no longer have qualified staff or is found to be in non-compliance with the regulations. The rescission may be applied to all or part of the functions approved.

_____ _____

Kurt Triplett, City Manager Date

WASHINGTON STATE DEPARTMENT OF TRANSPORTATION

Approved by: _____ _____

Real Estate Services Date

Right-of-Way Procedures Qualified Personnel

Attachment C

AGENCY: CITY OF KIRKLAND

The following personnel are qualified for the AGENCY's Right-of-Way Program Administration and Property Management in accordance with their identified job title responsibilities and as required by the WSDOT LAG manual.

Title	Personnel	Qualifications
PUBLIC WORKS DIRECTOR	Ray Steiger, P.E.	22 years experience that includes managing and directing all aspects of Public Works capital improvements construction and administration.
CAPITAL PROJECTS MANAGER	Dave Snider, P.E.	21 years experience that includes administration and management of municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Don Anderson, P.E.	8 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Andrea Dasovich, P.E.	5 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Gina Hortillosa, P.E.	10 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Noel Hupprich, P.E.	8 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Aaron McDonald, P.E.	3 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Denise Pirolo, P.E.	8 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.
PROJECT ENGINEER	Rod Steitzer, P.E.	8 years experience in managing municipal construction and other capital improvement projects from the conceptual planning phase to contract closeout.

Right-of-Way Procedures Waiver of Appraisal

Attachment C

AGENCY: CITY OF KIRKLAND

The City of Kirkland ("AGENCY"), desiring to acquire Real Property according to 23 CFR, Part 635, Subpart C and State Directives A and desiring to take advantage of the $25,000.00 appraisal waiver process approved by the Federal Highway Administration for Washington State, hereby agrees to follow the procedures approved for the Washington State Department of Transportation as follows:

Rules

A. The City of Kirkland ("AGENCY") may elect to waive the requirement for an appraisal if the acquisition is simple and the compensation estimate indicated on the Project Funding Estimate (PFE) is $25,000.00 or less including cost to cure items.
B. The Agency must make the property owner(s) aware that an appraisal has not been done on the property and one will be completed if they desire.
C. Special care should be taken in the preparation of the waiver. As no review is mandated, the preparer needs to assure that the compensation is fair and that all the calculations are correct.

Procedures

A. An administrative Offer Summary (AOS) is prepared using data from the PFE.
B. The AOS is submitted to the Public Works Director for approval.
C. The Public Works Director signs the AOS authorizing a first offer to the property owner(s).

BY:

Ray Steiger, P.E.
City of Kirkland
Public Works Director

APPROVED:

Real Estate Services
Washington State
Department of Transportation

Council Meeting: 01/17/2012
Agenda: Other Business
Item #: 8. h. (4).

Attachment C

RESOLUTION R-4908

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND ADOPTING RIGHT-OF-WAY ACQUISITION AND RELOCATION POLICIES AND PROCEDURES.

WHEREAS, on March 20, 2001 the City Council passed Resolution No. 4286 which adopted City Right-of-Way Acquisition and Relocation Policies and Procedures; and,

WHEREAS, those policies and procedures need to be updated to accurately reflect and comply with Chapter 8.26 RCW, Chapter 468-100 WAC, and other current applicable regulations; and

WHEREAS, for City projects to be eligible for federal funding on any part of the project, the project's right-of-way must be acquired in accordance with the WSDOT Local Agency Guidelines (M36-6 and the WSDOT Right-of-Way Manual (M26-01); and

WHEREAS, it appears desirable and in the best interest of the City that the new policies and procedures be adopted;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The Right-of-Way and Procedures adopted under Resolution 4286 are replaced by new Right-of-Way Policies and Procedures that are hereby adopted by the City of Kirkland as set forth in Exhibit A which by this reference is incorporated herein.

Section 2. The City agrees to conform to the WSDOT Right-of-Way Procedures as required for those projects that contain any portion of federal funding.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2012.

Signed in authentication thereof this ____ day of _____, 2012.

_____
MAYOR

Attest:

_____
City Clerk

R-4908
Exhibit A

Attachment C

CITY OF KIRKLAND
RIGHT-OF-WAY ACQUISITION
AND RELOCATION ASSISTANCE PROCEDURES

I. CERTIFICATION AND SCOPE

The City of Kirkland certifies that it will comply with Chapter 8.26 RCW and WAC 468-100 in connection with the acquisition or real property, and relocation of persons displaced by its program or project.

For a project to be eligible for federal funding on any part of the project, the project's right-of-way must be acquired in accordance with the Washington State Department of Transportation (WSDOT) Local Agency Guidelines (LAG) Manual. For those projects the City of Kirkland will acquire right-of-way in accordance with the policies set forth in the WSDOT Right of Way Manual (M 26-01) and Local Agency Guidelines manual (M 36-6).

II. PERSONNEL

The City of Kirkland Public Works Department is responsible for real property acquisition and relocation activities on Public Works projects administered by the City. The Public Works Director (or designee) shall administer all aspects of right-of-way acquisition and relocation assistance on Public Works projects. This includes administration of appraisals, appraisal review, acquisition, relocation, and administrative settlements.

III. ADMINISTRATIVE SETTLEMENTS

The fair market value of any real property and relocation of persons resulting from right-of-way acquisition shall be determined by the required appraisal and appraisal review process and shall be the basis for the Just Compensation offer made on behalf of the City.

If during acquisition an agreement to purchase cannot be reached based on the original Just Compensation offer, the following parameters will serve as a guideline for an administrative settlement.

a. The Public Works Director is authorized to offer and approve for each individual parcel an administrative settlement up to $25,000 in excess of the amount of the Just Compensation offer.
b. The Public Works Director must submit administrative settlements in excess of the approval authority amount to the City Manager for review and approval.
c. The Public Works Director may submit proposed administrative settlements to the City Council for concurrence, even if such proposed settlement is within the Public Works Director's approval authority.

If a settlement cannot be reached within these guidelines, alternatives including condemnation will be discussed and considered by the City Council.

R-4908
Exhibit A

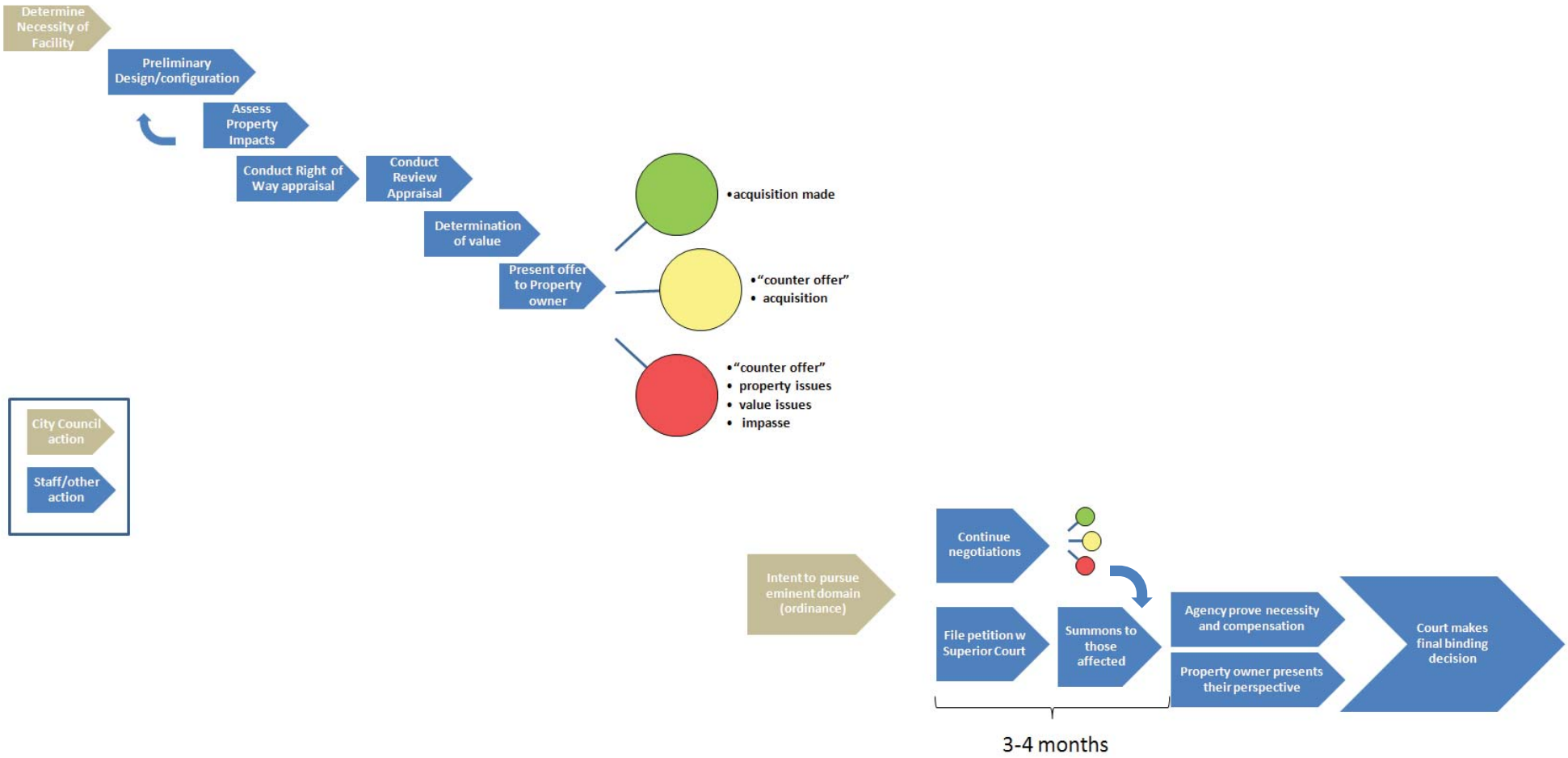
Attachment C

IV. APPRAISAL WAIVER PROCESS

In certain cases where the acquisition is uncomplicated the City of Kirkland may desire to take advantage of the $25,000 appraisal waiver process as outlined in the WSDOT LAG Manual. In such cases the City will comply with the procedures approved by the Federal Highway Administration for Washington State.

ATTACHMENT D

Property Acquisition for Public Improvements



ORDINANCE O-4368

AN ORDINANCE OF THE CITY OF KIRKLAND AUTHORIZING AND PROVIDING FOR THE ACQUISITION OF INTERESTS IN LAND FOR THE PURPOSE OF CONSTRUCTION OF THE NE 120TH STREET ROADWAY EXTENSION PROJECT WITHIN THE CITY OF KIRKLAND, PROVIDING FOR THE COST OF PROPERTY ACQUISITION AND AUTHORIZING THE INITIATION OF APPROPRIATE EMINENT DOMAIN PROCEEDINGS IN THE MANNER PROVIDED FOR BY LAW.

WHEREAS, the NE 120th Street Roadway Extension Project ("Project") is an approved and funded project in the City's Capital Improvement Program ("CIP"); and

WHEREAS, the Project improvements are necessary to improve multimodal mobility and provide emergency vehicle access and congestion mitigation in the Totem Lake Neighborhood; and

WHEREAS, the City Council finds that the public health, safety, necessity, and convenience require construction of the Project and acquisition of the property described in this Ordinance; and

WHEREAS, the City has provided notice to affected property owners of this final action authorizing condemnation pursuant to RCW 8.25.290.

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

Section 1. The lands and property rights within the City of Kirkland, King County, Washington, described in Exhibit A attached to this Ordinance and which descriptions are hereby incorporated by reference, necessary for public road purposes, are hereby condemned, appropriated and taken for such public purposes, subject to the making or paying of just compensation to the owners thereof in the manner provided by law.

Section 2. The Project is fully-funded and the expense of acquiring said property rights shall be paid for from the appropriate funding source within the city's portion of general current revenue for each CIP project.

Section 3. The City Attorney is authorized and directed to begin and prosecute legal proceedings in the manner provided by the law to purchase, condemn, take, appropriate, and otherwise acquire the lands and other property rights and privileges necessary to carry out the purposes of this Ordinance.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication

pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in regular, open meeting this _____ day of _____, 2012.

Signed in authentication thereof this _____ day of _____, 2012.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PERTEET, INC.
PROJECT NO. 27043.000
January 12, 2012

Frontier full parcel legal description

EXHIBIT A

Lot A, City of Kirkland Lot Line Adjustment Number LLA-04-00011, recorded under Recording Number 20041216900011, said lot line adjustment being a portion of the Northwest Quarter of the Southeast Quarter of Section 28, Township 26 North, Range 5 East, W.M., in King County, Washington.

PERTEET, INC.
PROJECT NO. 27043.000
January 12, 2012

Frontier – Right of Way to be acquired by City

EXHIBIT B

That portion of Lot A, City of Kirkland Lot Line Adjustment Number LLA-04-00011, recorded under Recording Number 20041216900011, said lot line adjustment being a portion of the Northwest Quarter of the Southeast Quarter of Section 28, Township 26 North, Range 5 East, W.M., in King County, Washington, described as follows:

Beginning at the Southwest corner of said boundary which bears South 89°09'12" West from the Southeast corner of said boundary;
Thence North 01°43'56" East, along said boundary, a distance of 20.34 feet to a non-tangent curve to the left having a radius of 468.00 feet, the radius point of which bears North 05°10'19" West;
Thence Easterly along said curve through a central angle of 2°48'47" and an arc distance of 22.98 feet;
Thence North 82°00'54" East a distance of 83.06 feet;
Thence South 07°59'06" East a distance of 4.00 feet;
Thence North 82°00'54" East a distance of 84.54 feet to a curve to the right having a radius of 528.00 feet;
Thence along said curve through a central angle of 5°29'28" and an arc distance of 50.60 feet;
Thence North 87°30'22" East a distance of 263.40 feet to the Westerly margin of Slater Avenue Northeast;
Thence South 13°06'54" West, along said Westerly margin, a distance of 52.47 feet to the Southerly line of said boundary;
Thence South 89°09'12" West, along said boundary, a distance of 491.64 feet to the Point of Beginning.

Containing 19,868 square feet, more or less.

January 12, 2012

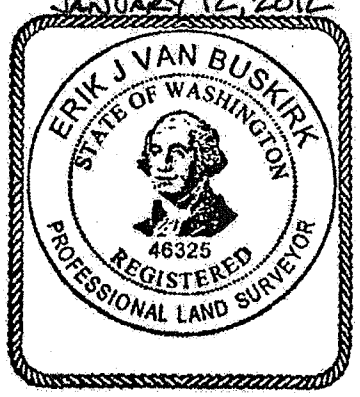
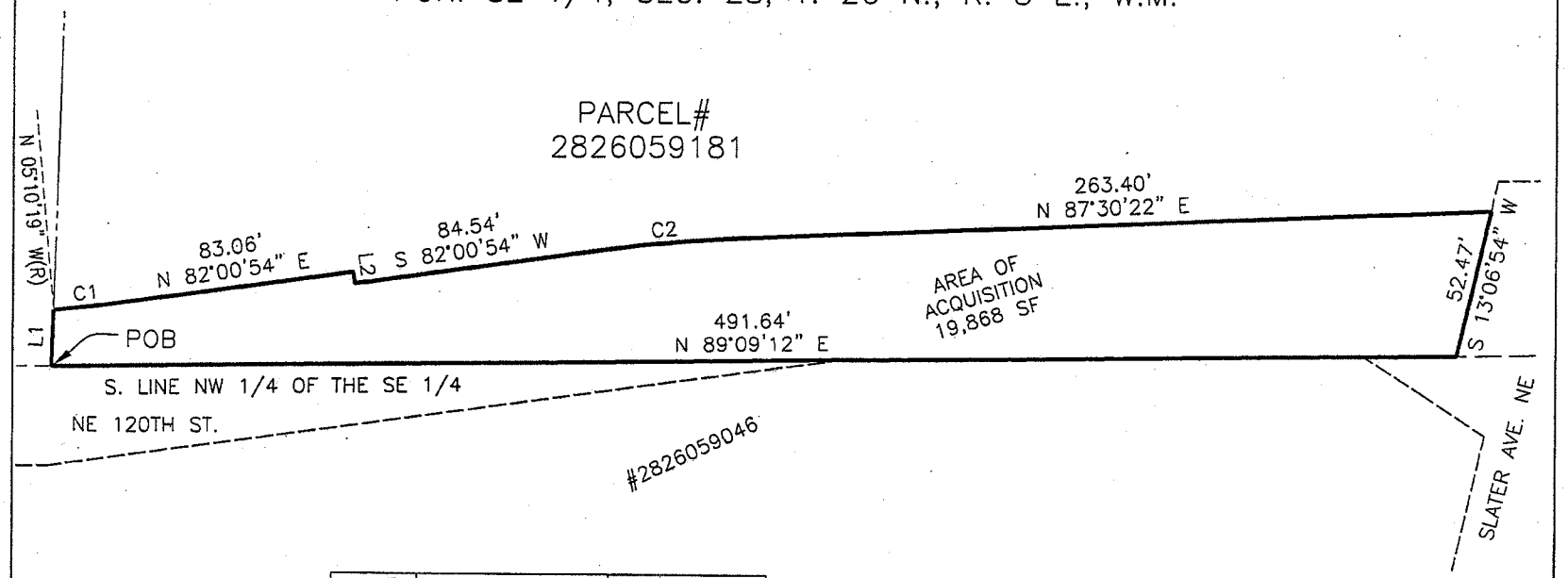


EXHIBIT C

POR. SE 1/4, SEC. 28, T. 26 N., R. 5 E., W.M.



LINE	BEARING	DISTANCE
L1	N 01°43'56" E	20.34'
L2	S 07°59'06" E	4.00'

CURVE	RADIUS	DELTA ANGLE	LENGTH
C1	468.00'	02°48'47"	22.98'
C2	528.00'	05°29'28"	50.60'

PROJECT PARCEL NO.
282605-9181
TOTAL AREA (SF±)
X
FEE ACQUISITION 19,868
X
REMAINDER (SF±)
X
EASEMENT (SF±)
X

LEGEND:
SF..... SQUARE FEET
(R).... RADIAL
POB... POINT OF BEGINNING

N

60 30 0 60
SCALE IN FEET

EXHIBIT MAP of
TAX LOT PARCEL NO. 282605-9181
CITY OF KIRKLAND

For: Kirkland, City of

DATE: January 12, 2012 Sheet 1 of 1

Perteet Inc.
425-252-7700 | 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

PERTEET, INC.
PROJECT NO. 27043.000
January 10, 2012

Frontier East Temporary Construction Easement

EXHIBIT "B"

That portion of Lot A, City of Kirkland Lot Line Adjustment Number LLA-04-00011, recorded under Recording Number 20041216900011, said lot line adjustment being a portion of the Northwest Quarter of the Southeast Quarter of Section 28, Township 26 North, Range 5 East, W.M., in King County, Washington, described as follows:

Commencing at the Southeast corner of said boundary which bears North 89°09'12" East from the Southwest corner of said boundary;
Thence North 13°06'54" East, along said boundary, a distance of 52.47 feet to the Point of Beginning;
Thence South 87°30'22" West a distance of 138.95 feet;
Thence North 02°29'38" West a distance of 10.00 feet;
Thence North 87°30'22" East a distance of 23.09 feet;
Thence North 02°29'38" West a distance of 40.00 feet;
Thence North 87°30'22" East a distance of 146.24 feet to the Easterly line of said boundary;
Thence South 12°59'55" West, along said boundary, a distance of 41.50 feet;
Thence South 88°53'43" West, along said boundary, a distance of 16.40 feet;
Thence South 13°06'54" West, along said boundary, a distance of 10.81 feet to the Point of Beginning.

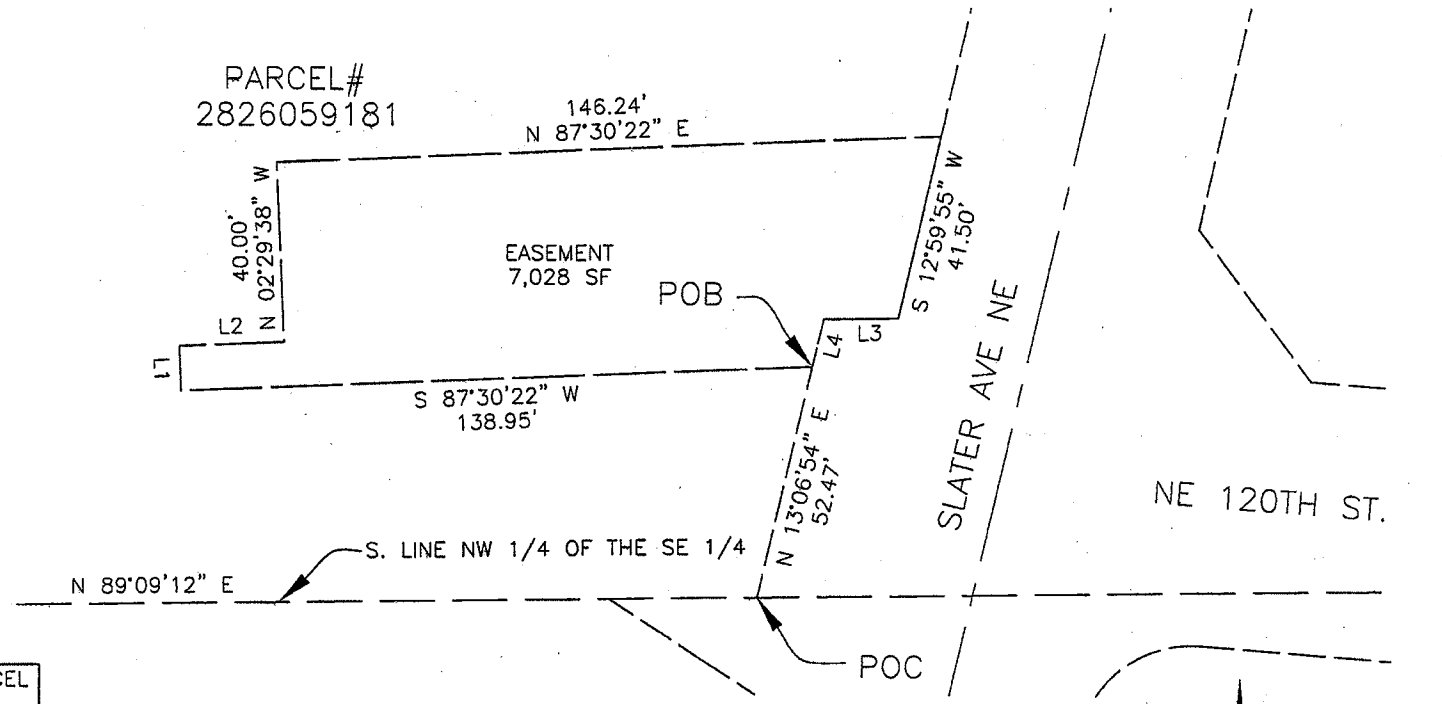
Containing 7,028 square feet, more or less.

January 10, 2012

ERIK J VAN BUSKIRK
STATE OF WASHINGTON
46325
REGISTERED
PROFESSIONAL LAND SURVEYOR

EXHIBIT C

POR. SE 1/4, SEC. 28, T. 26 N., R. 5 E., W.M.



PROJECT PARCEL NO.
282605-9181
TOTAL AREA (SF±)
X
FEE ACQUISITION (SF±)
X
REMAINDER (SF±)
X
EASEMENT (SF±)
7,028

LINE	BEARING	DISTANCE
L1	N 02°29'38" W	10.00'
L2	N 87°30'22" E	23.09'
L3	S 88°53'43" W	16.40'
L4	S 13°06'54" W	10.81'

LEGEND:
SF..... SQUARE FEET
(R).... RADIAL
POB... POINT OF BEGINNING
POC... POINT OF COMMENCEMENT

N

40 20 0 40
SCALE IN FEET

EXHIBIT MAP of
TAX LOT PARCEL NO. 282605-9181
CITY OF KIRKLAND

For: Kirkland, City of

DATE: January 10, 2012 Sheet 1 of 1

Perteet Inc.
425-252-7700 | 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

PERTEET, INC.
PROJECT NO. 27043.000
April 16, 2012

Frontier-West Temporary Construction Easement

EXHIBIT "B"

That portion of Lot A, City of Kirkland Lot Line Adjustment Number LLA-04-00011, recorded under Recording Number 20041216900011, said Lot being a portion of the Northwest Quarter of the Southeast Quarter of Section 28, Township 26 North, Range 5 East, W.M., in King County, Washington, described as follows:

Commencing at the Southwest corner of said Lot A which bears South 89°09'12" West from the Southeast corner of said Lot;
Thence North 01°43'56" East, along the Westerly boundary of said Lot, a distance of 100.93 feet;
Thence North 82°00'54" East a distance of 30.44 feet to the Point of Beginning;

Thence North 82°00'54" East a distance of 71.99 feet;
Thence South 07°59'06" East a distance of 74.00 feet;
Thence North 82°00'54" East a distance of 74.54 feet to a tangent curve to the right having a radius of 538.00 feet;
Thence along the arc of said curve through a central angle of 5°29'28" and an arc distance of 51.56 feet;
Thence North 87°30'22" East a distance of 83.16 feet;
Thence South 00°14'53" West a distance of 10.01 feet;
Thence South 87°30'22" West a distance of 82.68 feet to a tangent curve to the left having a radius of 528.00 feet;
Thence along the arc of said curve through a central angle of 5°29'28" and an arc distance of 50.60 feet;
Thence South 82°00'54" West a distance of 84.54 feet;
Thence North 07°59'06" West a distance of 4.00 feet;
Thence South 82°00'54" West a distance of 75.69 feet to a point which lies 30.00 feet Easterly of the Westerly boundary of said Lot A;
Thence North 01°43'56" East, parallel with the Westerly boundary of said Lot, a distance of 81.16 feet to the Point of Beginning.

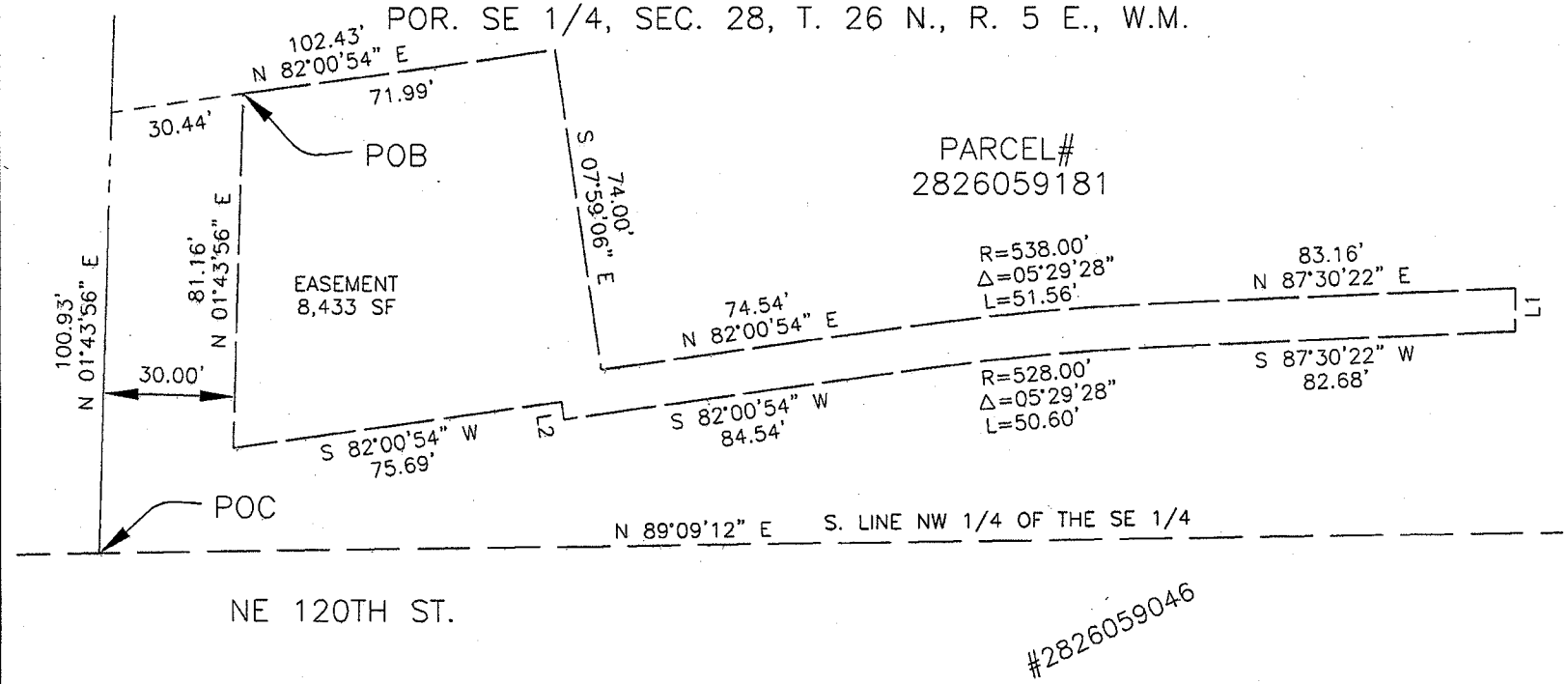
Containing 8,433 square feet, more or less.

APRIL 16, 2012

ERIK J VAN BUSKIRK
STATE OF WASHINGTON
46325
REGISTERED
PROFESSIONAL LAND SURVEYOR

EXHIBIT C

POR. SE 1/4, SEC. 28, T. 26 N., R. 5 E., W.M.



LINE	BEARING	DISTANCE
L1	S 00°14'53" W	10.01'
L2	N 07°59'06" W	4.00'

LEGEND:
SF..... SQUARE FEET
(R).... RADIAL
POB... POINT OF BEGINNING
POC... POINT OF COMMENCEMENT

N

40 20 0 40
SCALE IN FEET

PROJECT PARCEL NO.	EXHIBIT MAP of TAX LOT PARCEL NO. 282605-9181 CITY OF KIRKLAND
282605-9181	For: Kirkland, City of
EASEMENT (SF±)	DATE: April 16, 2012 Sheet 1 of 1
8,433	

Perteet Inc.
425-252-7700 | 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

PERTEET, INC.
PROJECT NO. 27043.000
January 12, 2012

Infiniti Parcel - Full legal description

EXHIBIT A

The North 3.5 acres of that portion of the Southwest Quarter of the Southeast Quarter of Section 28, Township 26 North, Range 5 East, W.M., in King County, Washington, lying West of County Road No. 970 (Slater Avenue Northeast, being 60 feet in width);

TOGETHER WITH that portion of the Southwest Quarter of the Southeast Quarter of said Section 28, described as follows:

Beginning at the intersection of the Northwesterly margin of County Road No. 970 (Slater Avenue Northeast) and the South line of the North 3.5 acres of said subdivision;
Thence South 89°05'54" West, along the South line of said North 3.5 acres to the West line of said subdivision;
Thence Southerly along the West line 20.7 feet;
Thence South 88°34'56" East to the Westerly margin of County Road No. 970 (Slater Avenue Northeast);
Thence Northeasterly along said Westerly margin to the Point of Beginning;

EXCEPT that portion thereof lying Westerly of the Easterly boundary of 124th Avenue Northeast, and its Southerly extension, as conveyed by deed recorded under Recording Number 7101070324;

AND EXCEPT any portion thereof lying Southerly of the boundary line established in King County Superior Court Cause Numbers 718510 and 719479, and as described as follows:

Beginning at the intersection of the South line of the North 3.5 acres of that portion of said Southwest Quarter of the Southeast Quarter of said Section 28 lying Westerly of County Road No. 970, and the Westerly margin of said County Road No. 970;
Thence Westerly along said South line to the West line of said subdivision;
Thence Southerly along said West line 20.7 feet to the TRUE POINT OF BEGINNING of said boundary line;
Thence Easterly 100 feet to a point which is 23.24 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 27.30 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 31.90 feet Southerly, measured at right angles, from said South line;
Thence easterly 100 feet to a point which is 35.60 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 39.40 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 43.50 feet Southerly, measured at right angles, from said South line;

Thence Easterly 100 feet to a point which is 46.40 feet Southerly, measured at right angles, from said South line;
Thence Easterly 59 feet to a point which is 49.10 feet Southerly, measured at right angles, from said South line;
Thence continuing on the same course to the Westerly margin of said County Road No. 970 and the terminus of said boundary line.

AND EXCEPT that portion conveyed to the City of Kirkland for road purposes by deed recorded under Recording Number 20020502002012;

AND EXCEPT that portion conveyed to the City of Kirkland for road purposes by deed recorded under Recording Number 20070919002477 (said deed being a correction of deeds recorded under Recording Numbers 20070419001940 and 20070718001655).

PERTEET, INC.
PROJECT NO. 27043.000
January 12, 2012

Infiniti - Right of way to be acquired by City

EXHIBIT B

That portion of the North 3.5 acres of that portion of the Southwest Quarter of the Southeast Quarter of Section 28, Township 26 North, Range 5 East, W.M., in King County, Washington, lying West of County Road No. 970 (Slater Avenue Northeast, being 60 feet in width);

TOGETHER WITH that portion of the Southwest Quarter of the Southeast Quarter of said Section 28, described as follows:

Beginning at the intersection of the Northwesterly margin of County Road No. 970 (Slater Avenue Northeast) and the South line of the North 3.5 acres of said subdivision;
Thence South 89°05'54" West, along the South line of said North 3.5 acres to the West line of said subdivision;
Thence Southerly along the West line 20.7 feet;
Thence South 88°34'56" East to the Westerly margin of County Road No. 970 (Slater Avenue Northeast);
Thence Northeasterly along said Westerly margin to the Point of Beginning;

EXCEPT that portion thereof lying Westerly of the Easterly boundary of 124th Avenue Northeast, and its Southerly extension, as conveyed by deed recorded under Recording Number 7101070324;

AND EXCEPT any portion thereof lying Southerly of the boundary line established in King County Superior Court Cause Numbers 718510 and 719479, and as described as follows:

Beginning at the intersection of the South line of the North 3.5 acres of that portion of said Southwest Quarter of the Southeast Quarter of said Section 28 lying Westerly of County Road No. 970, and the Westerly margin of said County Road No. 970;
Thence Westerly along said South line to the West line of said subdivision;
Thence Southerly along said West line 20.7 feet to the TRUE POINT OF BEGINNING of said boundary line;
Thence Easterly 100 feet to a point which is 23.24 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 27.30 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 31.90 feet Southerly, measured at right angles, from said South line;
Thence easterly 100 feet to a point which is 35.60 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 39.40 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 43.50 feet Southerly, measured at right angles, from said South line;

Thence Easterly 100 feet to a point which is 46.40 feet Southerly, measured at right angles, from said South line;
Thence Easterly 59 feet to a point which is 49.10 feet Southerly, measured at right angles, from said South line;
Thence continuing on the same course to the Westerly margin of said County Road No. 970 and the terminus of said boundary line.

AND EXCEPT that portion conveyed to the City of Kirkland for road purposes by deed recorded under Recording Number 20020502002012;

AND EXCEPT that portion conveyed to the City of Kirkland for road purposes by deed recorded under Recording Number 20070919002477 (said deed being a correction of deeds recorded under Recording Numbers 20070419001940 and 20070718001655).

More particularly described as follows:

Beginning at the Southwest corner of said boundary;
Thence North 02°26'52" East, along said boundary, a distance of 171.31 feet to the Northwest corner of said boundary;
Thence North 89°09'13" East, along said boundary, a distance of 286.26 feet;
Thence North 82°01'06" East, along said boundary, a distance of 281.90 feet;
thence North 89°09'12" East a distance of 181.36 feet to the Westerly margin of Slater Avenue Northeast;
Thence South 56°52'39" East, along said margin, a distance of 17.86 feet;
Thence South 87°30'22" West a distance of 231.30 feet to a curve to the left having a radius of 468.00 feet;
Thence along said curve through a central angle of 5°29'27" and an arc distance of 44.85 feet;
Thence South 82°00'54" West a distance of 200.79 feet;
Thence South 89°09'13" West a distance of 263.67 feet;
Thence South 43°16'11" West a distance of 31.96 feet;
Thence South 02°26'52" West a distance of 138.39 feet to the Southerly line of said boundary;
Thence North 89°23'03" West, along the Southerly line of said boundary a distance of 3.00 feet to the Point of Beginning.

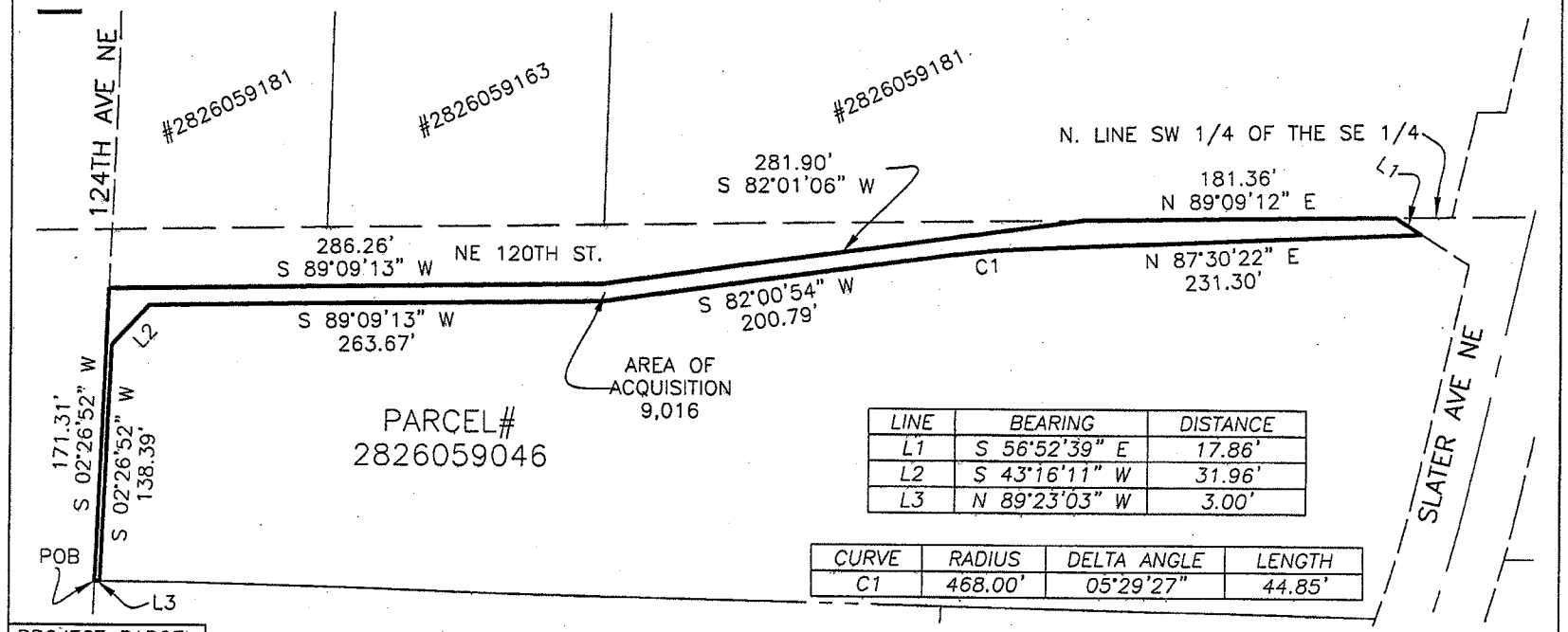
Containing 9,016 square feet, more or less.

JANUARY 12, 2012

ERIK J VAN BUSKIRK
STATE OF WASHINGTON
46325
REGISTERED
PROFESSIONAL LAND SURVEYOR

EXHIBIT C

POR. SE 1/4, SEC. 28, T. 26 N., R. 5 E., W.M.



LINE	BEARING	DISTANCE
L1	S 56°52'39" E	17.86'
L2	S 43°16'11" W	31.96'
L3	N 89°23'03" W	3.00'

CURVE	RADIUS	DELTA ANGLE	LENGTH
C1	468.00'	05°29'27"	44.85'

PROJECT PARCEL NO.
282605-9046
TOTAL AREA (SF±)
X
FEE ACQUISITION (SF±)
9,016
REMAINDER (SF±)
X
EASEMENT (SF±)
X

LEGEND:
SF..... SQUARE FEET
(R).... RADIAL
POB... POINT OF BEGINNING

N

100 50 0 100
SCALE IN FEET

EXHIBIT MAP of
TAX LOT PARCEL NO. 282605-9046
CITY OF KIRKLAND

For: Kirkland, City of

DATE: January 12, 2012 Sheet 1 of 1

Perteet Inc.
425-252-7700 | 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

PERTEET, INC.
PROJECT NO. 27043.000
January 10, 2012

Infiniti – Wall Easement

EXHIBIT "B"

That portion of the North 3.5 acres of that portion of the Southwest Quarter of the Southeast Quarter of Section 28, Township 26 North, Range 5 East, W.M., in King County, Washington, lying West of County Road No. 970 (Slater Avenue Northeast, being 60 feet in width);

TOGETHER WITH that portion of the Southwest Quarter of the Southeast Quarter of said Section 28, described as follows:

Beginning at the intersection of the Northwesterly margin of County Road No. 970 (Slater Avenue Northeast) and the South line of the North 3.5 acres of said subdivision;
Thence South 89°05'54" West, along the South line of said North 3.5 acres to the West line of said subdivision;
Thence Southerly along the West line 20.7 feet;
Thence South 88°34'56" East to the Westerly margin of County Road No. 970 (Slater Avenue Northeast);
Thence Northeasterly along said Westerly margin to the Point of Beginning;

EXCEPT that portion thereof lying Westerly of the Easterly boundary of 124th Avenue Northeast, and its Southerly extension, as conveyed by deed recorded under Recording Number 7101070324;

AND EXCEPT any portion thereof lying Southerly of the boundary line established in King County Superior Court Cause Numbers 718510 and 719479, and as described as follows:

Beginning at the intersection of the South line of the North 3.5 acres of that portion of said Southwest Quarter of the Southeast Quarter of said Section 28 lying Westerly of County Road No. 970, and the Westerly margin of said County Road No. 970;
Thence Westerly along said South line to the West line of said subdivision;
Thence Southerly along said West line 20.7 feet to the TRUE POINT OF BEGINNING of said boundary line;
Thence Easterly 100 feet to a point which is 23.24 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 27.30 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 31.90 feet Southerly, measured at right angles, from said South line;

Thence easterly 100 feet to a point which is 35.60 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 39.40 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 43.50 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 46.40 feet Southerly, measured at right angles, from said South line;
Thence Easterly 59 feet to a point which is 49.10 feet Southerly, measured at right angles, from said South line;
Thence continuing on the same course to the Westerly margin of said County Road No. 970 and the terminus of said boundary line.

AND EXCEPT that portion conveyed to the City of Kirkland for road purposes by deed recorded under Recording Number 20020502002012;

AND EXCEPT that portion conveyed to the City of Kirkland for road purposes by deed recorded under Recording Number 20070919002477 (said deed being a correction of deeds recorded under Recording Numbers 20070419001940 and 20070718001655).

Described as follows:

Commencing at the center of said Section 28;
Thence South 01°43'36" West, along the centerline of said section 28, a distance of 1347.21 feet to the North line of the Southwest Quarter of the Southeast Quarter of said Section 28;
Thence North 89°09'12" East, along said North line, a distance of 797.92 feet to the to the most Northerly Northeast corner of said boundary;
Thence South 56°52'39" East, along said boundary, a distance of 17.86 feet to the Point of Beginning;

Thence continuing South 56°52'39" East, along said boundary, a distance of 6.87 feet;
Thence South 87°30'22" West a distance of 236.88 feet to a tangent curve to the left having a radius of 464.00 feet;
Thence along said curve through a central angle of 05°29'28", and an arc distance of 44.47 feet;
Thence South 82°00'54" West a distance of 168.32 feet to a non-tangent curve to the right having a radius of 536.00 feet, the radius point of which bears North 07°54'30" West;
Thence along said curve through a central angle of 07°03'43", and an arc distance of 66.06 feet;
Thence South 89°09'13" West a distance of 228.79 feet;
Thence South 43°16'11" West a distance of 28.78 feet;
Thence South 02°26'52" West a distance of 101.15 feet;
Thence North 87°33'08" West a distance of 4.00 feet;
Thence North 02°26'52" East a distance of 102.64 feet;
Thence North 43°16'11" East a distance of 31.96 feet;

Thence North 89°09'13" East a distance of 263.67 feet;
Thence North 82°00'54" East a distance of 200.79 feet to a tangent curve to the right having a radius of 468.00 feet;
Thence along said curve through a central angle of 05°29'27", and an arc distance of 44.85 feet;
Thence North 87°30'22" East a distance of 231.30 feet to the Point of Beginning.

Containing 3,476 square feet, more or less.

JANUARY 10, 2012

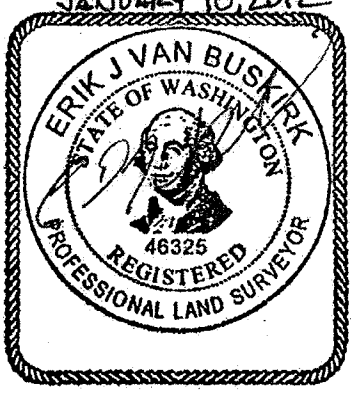
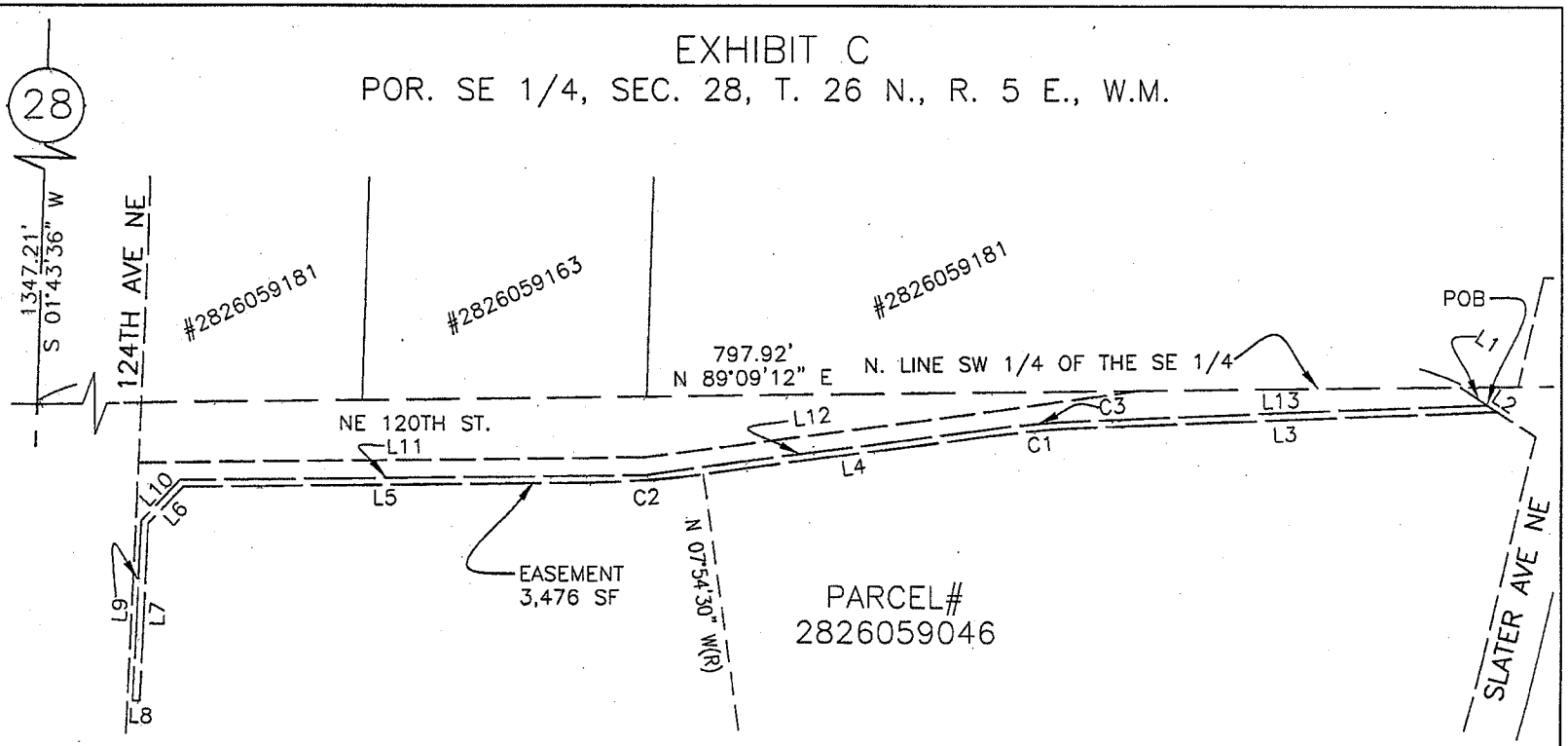


EXHIBIT C

POR. SE 1/4, SEC. 28, T. 26 N., R. 5 E., W.M.



PROJECT PARCEL NO.
282605-9046
TOTAL AREA (SF±)
X
FEE ACQUISITION (SF±)
X
REMAINDER (SF±)
X
EASEMENT (SF±)
3,476

EXHIBIT MAP of
TAX LOT PARCEL NO. 282605-9046
CITY OF KIRKLAND

For: Kirkland, City of

DATE: January 10, 2012 Sheet 1 of 2

LEGEND:
SF..... SQUARE FEET
(R).... RADIAL
POB... POINT OF BEGINNING

Perteet Inc.
425-252-7700 | 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

100 50 0 100
SCALE IN FEET

EXHIBIT C

POR. SE 1/4, SEC. 28, T. 26 N., R. 5 E., W.M.

LINE	BEARING	DISTANCE
L1	S 56°52'39" E	17.86'
L2	S 56°52'39" E	6.87'
L3	S 87°30'22" W	236.88'
L4	S 82°00'54" W	168.32'
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CURVE	RADIUS	DELTA ANGLE	LENGTH
C1	464.00'	05°29'28"	44.47'
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PROJECT PARCEL NO.
282605-9046
TOTAL AREA (SF±)
X
FEE ACQUISITION (SF±)
X
REMAINDER (SF±)
X
EASEMENT (SF±)
3,476

EXHIBIT MAP of
TAX LOT PARCEL NO. 282605-9046
CITY OF KIRKLAND

For: Kirkland, City of

DATE: January 10, 2012 Sheet 2 of 2

Perteet Inc.
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2707 Colby Avenue, Suite 900
Everett, Washington 98201

PERTEET, INC.
PROJECT NO. 27043.000
January 10, 2012

Infiniti – Temporary Construction Easement

EXHIBIT "B"

That portion of the North 3.5 acres of that portion of the Southwest Quarter of the Southeast Quarter of Section 28, Township 26 North, Range 5 East, W.M., in King County, Washington, lying West of County Road No. 970 (Slater Avenue Northeast, being 60 feet in width);

TOGETHER WITH that portion of the Southwest Quarter of the Southeast Quarter of said Section 28, described as follows:

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Thence Southerly along the West line 20.7 feet;
Thence South 88°34'56" East to the Westerly margin of County Road No. 970 (Slater Avenue Northeast);
Thence Northeasterly along said Westerly margin to the Point of Beginning;

EXCEPT that portion thereof lying Westerly of the Easterly boundary of 124th Avenue Northeast, and its Southerly extension, as conveyed by deed recorded under Recording Number 7101070324;

AND EXCEPT any portion thereof lying Southerly of the boundary line established in King County Superior Court Cause Numbers 718510 and 719479, and as described as follows:

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Thence Westerly along said South line to the West line of said subdivision;
Thence Southerly along said West line 20.7 feet to the TRUE POINT OF BEGINNING of said boundary line;
Thence Easterly 100 feet to a point which is 23.24 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 27.30 feet Southerly, measured at right angles, from said South line;
Thence Easterly 100 feet to a point which is 31.90 feet Southerly, measured at right angles, from said South line;

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Thence Easterly 100 feet to a point which is 39.40 feet Southerly, measured at right angles, from said South line;
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Thence Easterly 100 feet to a point which is 46.40 feet Southerly, measured at right angles, from said South line;
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Thence North 89°09'12" East, along said North line, a distance of 797.92 feet to the to most Northerly Northeast corner of said boundary;
Thence South 56°52'39" East, along said boundary, a distance of 24.73 feet to the Point of Beginning;
Thence continuing South 56°52'39" East, along said boundary, a distance of 17.17 feet;
Thence South 87°30'22" West a distance of 250.84 feet to a tangent curve to the left having a radius of 454.00 feet;
Thence along said curve through a central angle of 05°29'28", and an arc distance of 43.51 feet;
Thence South 82°00'54" West a distance of 144.54 feet;
Thence South 07°59'06" East a distance of 16.00 feet;
Thence South 82°00'55" West a distance of 23.81 feet to a non-tangent curve to the right having a radius of 562.00 feet, the radius point of which bears North 07°54'30" West;
Thence along said curve through a central angle of 06°26'26", and an arc distance of 63.17 feet;
Thence North 01°31'42" West a distance of 20.00 feet;
Thence South 89°08'44" West a distance of 232.11 feet;
Thence South 43°16'11" West a distance of 33.18 feet;
Thence North 02°26'52" East a distance of 9.18 feet;
Thence North 43°16'11" East a distance of 28.78 feet;

Thence North 89°09'13" East a distance of 228.79 feet to a tangent curve to the left having a radius of 536.00 feet;
Thence along said curve through a central angle of 07°03'43", and an arc distance of 66.06 feet;
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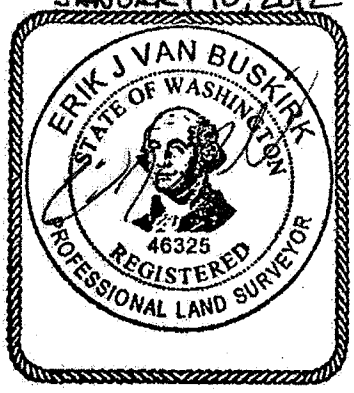
Thence North 87°30'22" East a distance of 236.88 feet to the Point of Beginning.

Containing 8,130 square feet, more or less.

JANUARY 10, 2012



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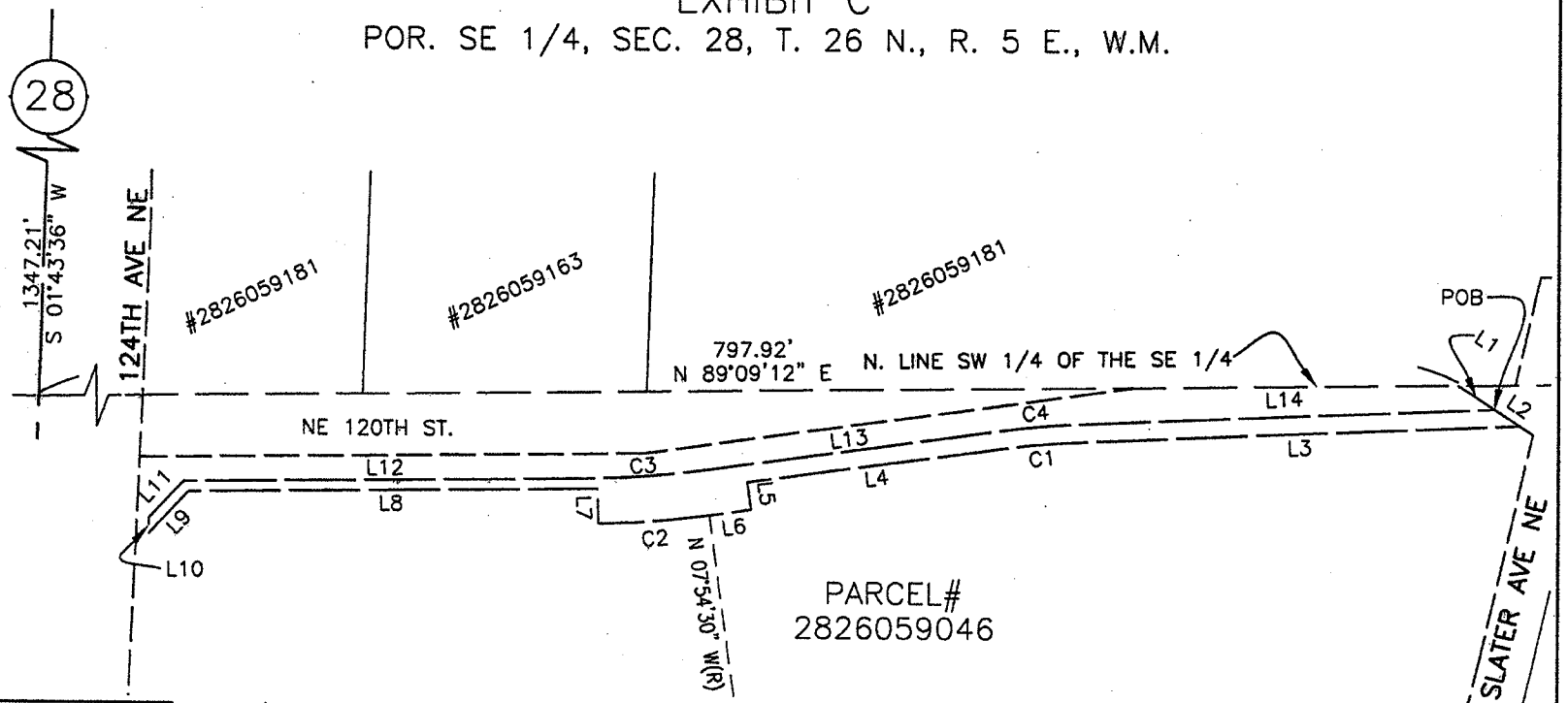

PROJECT PARCEL NO.
282605-9046
TOTAL AREA (SF±)
X
FEE ACQUISITION (SF±)
X
REMAINDER (SF±)
X
EASEMENT (SF±)
8,130

EXHIBIT MAP of
TAX LOT PARCEL NO. 282605-9046
CITY OF KIRKLAND

For: Kirkland, City of

DATE: January 10, 2012 Sheet 1 of 2

LEGEND:
SF..... SQUARE FEET
(R).... RADIAL
POB... POINT OF BEGINNING

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100 50 0 100
SCALE IN FEET

EXHIBIT C

POR. SE 1/4, SEC. 28, T. 26 N., R. 5 E., W.M.

LINE	BEARING	DISTANCE
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L2	S 56°52'39" E	17.17'
L3	S 87°30'22" W	250.84'
L4	S 82°00'54" W	144.54'
L5	S 07°59'06" E	16.00'
L6	S 82°00'55" W	23.81'
L7	N 01°31'42" W	20.00'
L8	S 89°08'44" W	232.11'
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L11	N 43°16'11" E	28.78'
L12	N 89°09'13" E	228.79'
L13	N 82°00'54" E	168.32'
L14	N 87°30'22" E	236.88'

CURVE	RADIUS	DELTA ANGLE	LENGTH
C1	454.00'	05°29'28"	43.51'
C2	562.00'	06°26'26"	63.17'
C3	536.00'	07°03'43"	66.06'
C4	464.00'	05°29'28"	44.47'

PROJECT PARCEL NO.
282605-9046
TOTAL AREA (SF±)
X
FEE ACQUISITION (SF±)
X
REMAINDER (SF±)
X
EASEMENT (SF±)
5,320

EXHIBIT MAP of
TAX LOT PARCEL NO. 282605-9046
CITY OF KIRKLAND

For: Kirkland, City of

DATE: January 10, 2012 Sheet 2 of 2

Perteet Inc.
425-252-7700 I 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

PUBLICATION SUMMARY
OF ORDINANCE O-4368

AN ORDINANCE OF THE CITY OF KIRKLAND AUTHORIZING AND PROVIDING FOR THE ACQUISITION OF INTERESTS IN LAND FOR THE PURPOSE OF CONSTRUCTION OF THE NE 120TH STREET ROADWAY EXTENSION PROJECT WITHIN THE CITY OF KIRKLAND, PROVIDING FOR THE COST OF PROPERTY ACQUISITION AND AUTHORIZING THE INITIATION OF APPROPRIATE EMINENT DOMAIN PROCEEDINGS IN THE MANNER PROVIDED FOR BY LAW.

SECTION 1. Authorizes condemnation of property necessary for the NE 120th Street Roadway Extension Project ("Project").

SECTION 2. Provides that the Project is fully funded and that the expense of acquiring the property shall be paid for from the appropriate funding source within the city's portion of general current revenue for each CIP project.

SECTION 3. Authorizes the City Attorney to initiate condemnation proceedings to acquire the property necessary for the Project.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2012.

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

_____
City Clerk

Council Meeting: 08/07/2012
Agenda: New Business
Item #: 11. c.

CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033
425.587-3225 - www.kirklandwa.gov

MEMORANDUM

To: Kurt Triplett, City Manager

From: Joan Lieberman-Brill, AICP, Senior Planner
Nancy Cox, AICP, Development Manager
Jeremy McMahan, AICP, Planning Supervisor
Eric Shields, AICP, Planning Director

Date: July 26, 2012

Subject: Miscellaneous Zoning and Municipal Code Amendments – Council Action (File ZON12-00002)

RECOMMENDATION

Adopt the enclosed Ordinances consistent with the recommendations of the Planning Commission and Houghton Community Council. The ordinances address different topics that were considered in the 2012 code amendment project:

- Zoning code amendments allowing replacement of some nonconforming personal wireless service facilities (PWSF, i.e. cell antennae);
- Municipal code and zoning code amendments regarding the keeping of animals, including fowl;
- Zoning code amendments regulating activities near hazardous liquid pipelines; and
- A variety of other zoning code and municipal code amendments.

The PWSF, fowl and hazardous liquid pipeline ordinances are written to take effect five days after ordinance publication. The other ordinance would have an effective date of November 1 to allow ample time for dissemination of information to the public and for builders to adjust their plans.

Following City Council action, the amendments applicable in Houghton will be considered by the Houghton Community Council at its August 27, 2012 meeting.

BACKGROUND DISCUSSION

All amendments are included as exhibits to the ordinances.

Planning staff periodically forwards miscellaneous KZC/KMC amendments to the Planning Commission (PC) and the Houghton Community Council (HCC) for consideration using the Process IV review process. The City Council considers approval of the amendments after the PC and HCC hold public hearing on the proposal and the PC prepares a recommendation to the City Council.

The amendments are selected from an on-going list of issues, code interpretations, requests

from the public, requests from City Council, and needs identified by staff. The current roster of proposed amendments is Attachment 1 to this memorandum. Those amendments within the jurisdiction of the HCC are indicated with an asterisk.

The roster is organized into three categories of policy implications: *No Policy Changes, Minor Policy, and Moderate Policy Changes.* Due to the relatively minor and non-controversial amendments under the *No Policy Changes, and Minor Policy, Changes*, the majority of the time in the study sessions and public hearing on this project were spent on items under the *Moderate Policy Changes*. These include:

- Backyard chickens/ fowl
- FAR exemptions for stairwells and vaulted space
- Setbacks for 2nd stories above garages on alleys
- Hazardous liquid pipelines
- Residential Suites (also known as single room occupancy residential facilities or SRO)
- Personal wireless service facilities
- Zoning permit lapse of approval and subdivision time limits
- Electronic readerboards at junior high/middle schools
- Non-conforming density

At the Council's August 7 meeting, staff will present an overview of the recommended code amendments. Mike Miller, Planning Commission Chair, will present the Planning Commission's recommendation. Staff suggests that the Council use the PC recommendations summarized in Exhibit A as a guide for discussion. Those proposed amendments that were the subject of discussion at the public hearing will be the focus of the staff presentation.

A more detailed summary of the proposed amendments is available in the joint June 14 public hearing Memorandum Part 1 and 2 and additional information presented at the hearing.

The project started with study sessions with the PC and HCC in January 2012. Links to staff memorandums, minutes, and audio recordings for all PC and HCC meetings associated with the amendments are provided below:

- January 12 study (PC) audio, minutes and staff memorandum
- January 23 study (HCC) audio, minutes and staff memorandum
- February 27 study HCC audio, minutes and staff memorandum
- March 8 study (PC) audio, minutes and staff memorandum
- April 23 study HCC audio, minutes and staff memorandum
- April 26 study (PC) audio, minutes and staff memorandum
- May 10 study (PC) audio, minutes and staff memorandum
- June 14 joint public hearing (PC and HCC) audio, minutes and staff staff memorandum.
- June 25 deliberation (HCC) audio, minutes and staff memorandum
- July 12 continued deliberation (PC) audio, minutes and staff memorandum

PC / HCC JOINT PUBLIC HEARING

After the June 14 joint public hearing was closed, the PC began deliberating on the amendments. The Commission continued the meeting to July 12, to complete deliberation on the remaining amendments and consider the recommendation of the HCC prior to making a

recommendation to City Council. The HCC left at the close of the public hearing and met again on June 25 to deliberate and make its recommendation. Both bodies considered the public comment provided during the hearing and up to the July 5 extended public comment period. The decisional criteria found in KZC Section 135.25 were also considered.

HOUGHTON COMMUNITY COUNCIL RECOMMENDATION

The HCC concurred with the proposed amendments but suggested two changes:

1) For regulations clarifying the calculation of Floor Area Ratio (FAR) to account for stairwells and vaulted space, the HCC recommended changes to eliminate/ reduce the potential loss of floor area by including a 100 square foot floor area credit; and

2) For regulations specifying a setback for the second stories above garages on alleys, the HCC recommended that the second story be setback the same distance as the garage (as originally recommended by staff), rather than stepping back from the alley as initially recommended by the PC.

Although the HCC preliminarily concurred with the version of the chicken regulations presented at its June 25 meeting (later slightly revised by the PC), they reserved the option to veto the regulations if, after considering other jurisdictions' experiences with complaints about chickens, they find that the regulations would result in unacceptable impacts to neighbors. They also indicated that they may request a limit to the size of chicken tractors (mobile structures housing chickens that move around anywhere on the subject property to allow grazing).

PLANNING COMMISSION RECOMMENDATION

On July 12, the PC recommended approval of the code amendments with the changes to the FAR and garage setback regulations recommended by the HCC. However, the PC recommended that adoption of the Residential Suites amendments be postponed pending a short period of time for additional public process. The PC recommendation is Exhibit A to this memorandum.

EXPERIENCE OF OTHER JURISDICTIONS WITH KEEPING OF CHICKENS:

In response to the request of the HCC, staff has researched the following jurisdictions experiences with complaints regarding backyard chickens. Attachment 2 is a picture and description of the size of a chicken tractor. Seattle Tilth notes that the typical size of the mobile coop is 4 ft. x 8 ft. (32 sq. ft.).

Redmond adopted 2011; one complaint; the property owner was not aware of the compliance code; the only enforcement action needed was to notify the owner of the compliance code and educate him about the regulations.

Seattle adopted 1976, most recently amended in 2012. Two or three complaints are received per month mainly regarding keeping of roosters, which are prohibited in Seattle. About 95% are resolved through voluntarily compliance.

Bellevue adopted 1984, most recently amended in 2009. No complaints regarding noise. Only a couple complaints have been made. Complaints handled by mediation. No violation enforcement because Bellevue only enforces upon amplified noise complaints. The enforcement officer was not able to research the cases.

Lynnwood adopted 2012 no complaints.

Shoreline adopted in 1999, most recently amended in 2006. 21 complaints over 13 years, all resolved through voluntary compliance.

Bothell last revised 2010, No complaints.

Kirkland revised fowl regulations prior to JFK annexation in 2011, to allow 3 chickens on lots smaller than 35,000 sq. ft. in low density RSA zones in JFK only. Four total complaints regarding chickens have been received to date; three in the annexation area and one in pre annexation Kirkland. In JFK, two were noise complaints about individual roosters and the third was an odor complaint. One noise complaint received in winter 2012, has been resolved through voluntary compliance. The other was received in July and is in the process of voluntary compliance. The third was an odor complaint also in JFK, received in July and resolved through voluntary compliance. The complaint in pre annexation Kirkland was also resolved voluntarily about two years ago, and involved a free ranging chicken off the subject property.

PUBLIC INPUT

Notice of the public hearing was posted on the City's website and distributed to the Chamber of Commerce, and various individuals interested in this project. In addition, announcement of the hearing was sent to the Kirkland Neighborhood E-Bulletin, Kirkland Developer's Partnership Forum, and the Miscellaneous Zoning and Municipal Code Amendment Project List Serv. A notification letter was sent to all property owners and residents within 170 feet of the Olympic Pipeline. Background information was available on the project website. All written public comment submitted as part of this project has been consolidated in Exhibit B and was considered by the Planning Commission and Houghton Community Council during this process.

At the public hearing oral testimony was taken on the following proposed amendments:

Chickens/ fowl – Seven people testified about a previous iteration of the proposed amendment that was considered at the public hearing. All were supportive of liberalizing the current rules, but suggested changes to simplify them. Comments included the following:

- increase the minimum number of chickens on small lots to more than two,
- pen and coop standards should be simplified because too much specificity could result in unintended consequences (such as injury to the chicken and that best management practices are better than inflexible specifications which are not practical),
- existing chickens would be made non-conforming in the JFK neighborhoods where they had been allowed without problems,
- there is no reason to require a minimum lot size because setbacks will be self-regulating,
- An allowance for existing chickens to remain should be considered to avoid them from becoming nonconforming, and avoid a compliance and enforcement problem.

Based on the PC direction, the final language in the proposed ordinance addresses these concerns.

Hazardous liquid pipelines – Four people testified. Comments included wanting information about the exact location of the pipeline, and that the required setbacks would be a taking of private property. Two people requested clarification that detached dwelling units would not be subject to the 500 foot setback for "high consequence" land uses. The proposed ordinance explicitly states that single family development is not a high consequence land use.

Residential Suites – Three people testified about the proposed amendment. One individual expressed support, but encouraged the Commission to take more time and get more public involvement. She suggested changes to ensure that the transportation management program has teeth and to ensure adequate guest parking. Two speakers addressed the details on the use and provided background on Redmond projects in terms of who the residents are and how the communities are managed.

2nd stories over garages on alleys – One person testified about a previous iteration of the proposed amendment that was considered at the public hearing. He objected to the proposal and noted that rules should not penalize a second story garage since a garage without a second story could be built up to 25 ft. high without an increased setback, and either structure would have the same impact. The final language in the proposed ordinance was changed to allow the 2nd story to be setback the same as a garage without a second story.

Floor Area Ratio calculation –Two people testified about a previous iteration of the proposed amendment that was considered at the public hearing. One objected because it would affect the value of the property to delete 100 square feet from the home. The other objected to the current method of measuring FAR as floor area and suggested that it should be measured as volume. The final language in the proposed ordinance keeps the 100 sq. ft. exemption.

Personal Wireless Service Facilities – At the public hearing, the Assistant City Attorney addressed the implication of a new federal law regarding upgrading PWSF on towers (monopoles) and responded to Planning Commissioner's questions. The new law requires that local governments approve a request to modify an eligible existing wireless facility if it does not substantially change the physical dimensions of the facility. An AT&T representative spoke in support of the proposed amendments noting that it is reasonable to not allow new platforms on a tower but the City should allow antennas to be replaced or added on an existing platform. The final language in the proposed ordinance reflects this concept. Although there was no testimony at the hearing about proposed code language allowing replacement of antenna or equipment on non-conforming PWSF such as tall utility poles or rooftop antenna, the representative of ATT had commented at previous PC study sessions.

SEPA COMPLIANCE

State Environmental Policy Act (SEPA) materials may be viewed by following this link to the joint PC/HCC June 14 public hearing staff memorandum.

Attachments
1. Amendment roster
2. Chicken tractor pictures

Exhibits
A. Planning Commission recommendation dated July 26, 2012
B. Public Comment

cc: ZON12-00002
Mail List

Attachment 1

Roster of Miscellaneous Zoning Code and Municipal Code Amendments
*Asterisk notes that these are in the HCC jurisdiction.

NO POLICY CHANGES

These proposed amendments result in no changes to current policy but intend to clarify and fix inconsistencies within the code.

***Code Enforcement - KMC Title 1 Section 1.12.050.(d).(6)**
Purpose: Correct the reference regarding who gets the Hearing Examiner notice of decision after the required public hearing addressing a civil violation.

Single Family Residential RSA 4 and 6 zones Minimum Lot Size - KZC Chapter 18 Section 18.10.010
Purpose: After the approval of the Green Code Project amendments (O-4351) on April 3, 2012, a mistake was discovered in Special Regulation 2 that would allow minimum lot sizes in the RSA 4 and RSA 6 zones to be smaller than was intended. The proposed change will reverse the lot size to that which was in effect prior to the Green Code amendment.

***Trees and Landscaping - KZC Chapter 95 Section 95.23.5.e.1**
Purpose: Correct the reference in subsection 5.e, which refers to the Tree Removal Allowances not associated with development activity, when seeking to cut trees on private property.

Totem Lake 9B - KZC Chapter 55 Section 55.64.010
Purpose: Add the density limitation of 5,000 square feet per dwelling unit for this zone, which was inadvertently missed with the adoption of Ordinance 4158 in 2008. This ordinance implemented the Gordon Hart private amendment request through codification of the TL 9A and 9B zones and established a 5,000 sq. ft. minimum lot size for the TL 9B zone. This minimum lot size is equivalent to the density being codified. In all multifamily zones, a special regulation expresses density as minimum lot area per dwelling unit and this amendment does just that.

***Parking Modification - KZC Chapter 105 Section 105.103.3.c**
Purpose: /correct the code reference for decreasing the number of parking spaces. No change in criteria or process is proposed.

***Process I - KZC Chapter 145 Section 145.22.2.a.**
Purpose: This amendment clarifies that state and federal agencies with jurisdiction must receive a Notice of Application for Process I development proposals.

***Delete reference to Process III - KZC Chapter 152 Section 152.10.**
Purpose: Clean up an outdated reference. Process III (KZC Chapter 155) was deleted from the code in 2011 by Ordinance 4286.

***Delete reference to WAC Title 388, requiring School, Daycare Center, or Mini-School, Mini Day-Care to be subject to requirements of WA State- Various use zone charts already being amended (Chapters 18, 40, 45. 47, 48, 52, 53, 55, and 60)**
Purpose: Delete a special regulation that references an incorrect section of the Washington Administrative Code (WAC) that is not necessary because State law requires compliance regardless of Kirkland's reference to it. The deletion will include all charts that are being amended with this round of Code amendments.

MINOR POLICY CHANGES

The proposed amendments do not clarify existing regulations, but instead change them. However, they are generally not considered significant policy issues.

***Waterfront Districts (WD) I, II and III - KZC Chapter 30 Sections 30.10,20 and 30.**
Purpose: This amendment would add a new general regulation to all three Waterfront District zones to address required rear yard setbacks.

***Required Yards related to a 2nd Story above Garage Rear Yard Setback Encroachment - KZC Chapter 115 Section 115.115.3.o**
Purpose: This code amendment would clarify whether or not a second story above a detached garage, which utilizes an alley for primary vehicular access, may encroach into the rear yard setback.

***Vehicles, Boats and Trailers – Size in Residential Zones Limited - KZC Chapter 115 Section 115.150**
Purpose: Codify current practice allowing oversized vehicle/boat/trailer to be stored in legally constructed fully enclosed structure.

***Front Yard Setback Flexibility in Low Density Residential Zones - KZC Chapters 5, Section 5.10.326.5 Chapter 15, Section 15.10.010, Chapter 17 Section 7.10.010, and Chapter 18 Section 18.10.010,**
Purpose: This code amendment would give some setback relief when a parcel has two opposite front yard setbacks.

MODERATE POLICY CHANGES

These are considered more substantive changes to existing regulations.

***Entertainment, cultural and recreation uses in various zones - KZC Chapter 5 Section 5.10.140, .153, and new definition .279 and various use zone charts (Chapters 40, 45 47, 48, 52, 53, 55, 60)**
Purpose: This amendment would provide consistency in terminology used for entertainment, cultural and recreation uses in various zones. It would change the definition for "Commercial Recreation Area And Use" to eliminate the distinction between "for profit" and "not for profit" that has plays no role in the suitability of the use to a particular location; provide a new definition for "Entertainment, Cultural and /or Recreational Facility"; change the definition of "

Community Facility to eliminate reference to several uses that are more appropriate in another use listing, and repeal the definition for "Athletic Instructional Facility."

***Floor Area Ratio (FAR) Exemptions - KZC Chapter 115 Section 115.42**
Purpose: This amendment would clarify whether stairwells should be exempt from FAR calculations, and if so, to what extent. It would also consider options to simplify FAR and cut down on review time.

***PLA 16 Miscellaneous Regulations Animals in Residential Zones, Large Domestic Animals, Horses Section 115.20.2.c. and .4 and Equestrian Regulations - KZC Chapter 60 Sections 60.180 and 182.010**
Purpose: The amendments eliminate redundancy between existing PLA 16 zone horse regulations, which apply only there, and Miscellaneous Large Domestic Animals regulations regarding horses, which apply citywide. The amendments also clarify which horse keeping requirements apply specifically to the Kirkland Hunt Club, a master plan development in the PLA 16 zone. In addition, animal regulations now shown in a hard to read chart have been integrated into the text of Section 115.20.

*** Miscellaneous Regulations Animals in Residential Zones, Small Domestic Animals, Chickens - KZC Chapter 115 Section 115.20.2.b. and 4 and KMC Title 8 Chapter 8.08 Fowl**
Purpose: The amendments are proposed to expand the residential zones in which chickens are allowed, determine the maximum number of chickens, and standards for their keeping (setbacks, prohibition on roosters, etc.).

***Application of Small Lot and Historic Residence Subdivision Regulations throughout the City - KMC Title 22 Chapter 22.28.042 and .048 Lots-Small Lot Single Family and Historic Preservation Subdivisions; and KZC Chapter 115 Section 115.07.8 Assessory Dwelling Units, Chapter 75 Section 75.55 and .65 Historic Landmark Overlay Zone and Historic Residence Designation**
Purpose: Apply small lot and historic subdivision regulations city-wide. The small lot regulations now apply only in the Norkirk, Market, Lakeview and Central Houghton Neighborhoods. Historic designation regulations currently apply only in Market and Norkirk.

***Extension of Land Use Permit Approvals during the Economic Recession – KZC 113.45, 117.100, 142.55, 145.115, 150.135, and KMC 22.16.010,00 22.16.130, 22.20.370**
Purpose: To either codify or discontinue the interim regulations that have been in place since 2009 that allow the City to approve requests for land use permit extensions. Staff will be presenting options to the City Council's Economic Development Committee (EDC) at the end of February and will report back with a recommended direction.

***Non-Conforming Density- Special Provisions for Continued Uses – Limitations on Maintaining, Repairing and Remodeling Structures with Nonconforming Density- KZC Chapter 162 Section 162.60**
Purpose: Provide more flexibility to repair, maintain and remodel structures with nonconforming density without having to bring the density into conformance.

New Hazardous Liquid Pipeline Zoning Code Amendments addressing the Olympic Pipeline now within Kirkland's jurisdiction - KZC new Chapter 118 and existing Chapter 55 Section 55.49 TL7 use zone chart and Chapter 5 Definitions
Purpose: Draft new KZC regulations addressing hazardous liquid pipelines, and refer to them in the Totem Lake 7 zone, where the pipeline is located.

Delete Heron Habitat Protection Area in Finn Hill Annexation Area – KZC Chapter 90 – Section 90.127
Purpose: Delete Section 90.127 and Plate 39 which refer to Heron Habitat Protection Area regulations and map that was carried over from the County regulations upon annexation. The deletion of Section 90.127 and Plate 39 were inadvertently omitted from Ordinance 4303 dated June 7, 2011, to implement clarification of the City's Shoreline Master Program. Both the City and King County agree that there is no evidence of heron habitat, which would have been the basis for the County's regulation.

***Application of Electronic Readerboard Sign Regulations at all High Schools and Junior High/Middle Schools in all Single Family Residential RS, RSX, RSA Zones – KZC Chapters 15, 17, and 18 Sections 15.10.030, 17.10.030, 18.10.030, and 56.20.120**
Purpose: Determine if electronic readerboard signs may be located at all high schools and junior/middle schools in Kirkland. The regulations already apply at Juanita and Lake Washington High Schools.

***Personal Wireless Service Facilities –Flexibility to change non-conforming PWSF – KZC Chapter 117 Sections 117.15, 117.20, 117.80, 117.105.**
Purpose: Determine whether the code should be amended to allow some non-conforming PWSF to be modified.

New Single Room Occupancy (SRO) Regulations KZC
Purpose: Add a new permitted use to appropriate zones, allowing SRO developments.

Common size:

It all depends on the number of chickens, but 4′ * 8′ is considered a common size; this size is suitable up to 3 chickens. Obviously, the bigger the size the better for chickens. Length may vary from 6′ to 11′ depending on the owner's preference for portability.

Exhibit A

CITY OF KIRKLAND
PLANNING AND COMMUNITY DEVELOPMENT DEPARTMENT
123 FIFTH AVENUE, KIRKLAND, WA 98033 425.587.3225
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MEMORANDUM

Date: **July 26, 2012**

To: **Kirkland City Council**

From: **Mike Miller, Chair, Kirkland Planning Commission**

Subject: **Planning Commission Recommendation to adopt the Miscellaneous Zoning Code (KZC) and Municipal Code (KMC) Amendments (File ZON2-00002)**

Introduction

We are pleased to submit the recommended Zoning (KZC) and Municipal Code (KMC) Amendments for consideration by the City Council. This effort culminates the work started in January, to clarify, correct, and change these development codes, by addressing various issues identified by the public, the City Council and city staff.

All amendments are included as exhibits to the ordinances.

Issues

The project includes miscellaneous amendments that are listed in the roster as Attachment 1 to the staff transmittal memorandum. Of those, the following issues required the most time for the PC to sort through and are discussed in this memorandum. An asterisk (*) identifies those within the HCC jurisdiction.

New Fowl regulations *
Floor area ratio (FAR) exemptions for stairwells/vaulted area *
Second story garage setbacks from alleys *
New hazardous liquid pipeline regulations
Non-conforming personal wireless services facilities (PWSF)*
Extensions of land use permit approvals*
Electronic readerboards at junior high/ middle schools*
New Residential Suites regulations (SRO)*
Non-Conforming density*

Fowl Regulations*

The PC discussed this subject in great detail. The final recommendation represents a departure from the way fowl are now regulated, by liberalizing the rules and making them generally consistent throughout the City, but recognizing JFK should be treated differently to address those who now have more chickens than the new regulations would allow. During the study sessions and public hearing the PC became more comfortable with less rather than more regulation, and came to a consensus on the maximum number of chickens allowed. After the HCC had completed its review, the PC added one additional provision to grandfather existing roosters in the JFK neighborhoods, outside Houghton's jurisdiction.

Background: The backyard agriculture movement has gained momentum throughout the region as evidenced by the recent adoption or updating of chicken regulations in various nearby communities. Several Kirkland residents requested that the City consider liberalizing existing rules addressing the keeping of chickens, written in the 1980's. They expressed frustration about the prohibition on keeping chickens on the majority of lots within the city, due to the current lot size minimum of at least 35,000 square feet in pre-annexation Kirkland.

Chickens are currently regulated as fowl under the Small Domestic Animals category in section 115.20 KZC Animals in Residential Zones. Small Domestic Animals are: more than 3 dogs, cats, rabbits, more than 4 dogs and cats combined, and all fowl. Currently, the city prohibits small domestic animals on lots less than 35,000 sq. ft. except in the JFK neighborhoods, where 3 female chickens are allowed on any size lot. (Household Pets, including up to 3 cats or dogs are allowed on all lots within the city.) On lots of at least 35,000 sq. ft. a maximum of 20 fowl, including roosters, plus 1 per additional 500 sq. ft. of lot area are allowed. .

The PC's goal was to provide as much consistency throughout the City as possible by balancing the current zoning rules for the entire city with the more liberal standards that existed in the JFK neighborhoods prior to annexation, where up to 1000 chickens were allowed (1 chicken per 2 sq. ft. of structure to house the chicken, up to 2,000 sq. ft.). While we consider that standard extreme and have no interest in promoting hobby farms, we are concerned that residents in King County may have become accustomed to less regulation. We endeavored to craft rules that do not penalize existing chicken owners for practices permitted prior to annexation, while minimizing potential negative impacts to neighbors.

We reviewed neighboring jurisdiction's regulations, examined information from Seattle Tilth, and heard from backyard chicken advocates and individuals concerned about the potential impacts of liberalizing regulations on fowl. We kept in mind the adage that if it isn't broken, don't fix it when considering whether the more lenient King County regulations should apply.

The PC initially considered more detailed coop and run specifications, but eventually concluded prescriptive standards are not necessary. In other jurisdictions, complaints typically have been resolved through voluntary compliance. We also learned that there are resources in the community that are interested in educating people regarding best practices. The Kirkland Coalition of Backyard Agriculture is one such group. Therefore there is no compelling reason to regulate structures housing chickens or their potential impacts more stringently than other small

domestic animals. The same concerns arise about noise, odor and pests regardless of the type of small domestic animals or from household pets for that matter (e.g. household pets include up to 3 dogs).

In the end, we recommend allowing up to 3 fowl, including chickens, on all low density residential lots (rather than only in JFK) plus 1 additional for each additional 1,000 sq. ft. of lot area in excess of 5000 sq. ft., up to a maximum of 20. For lots of at least 35,000 sq. ft. we recommend that the existing rule remain to allow 20 fowl plus an additional chicken for each additional 500 sq. ft. of lot area. Regarding roosters, we considered a citywide map that indicated roughly 690 lots with at least 35,000 sq. ft. (3.2% out of the total number of parcels in low density areas shown on the map) to inform our decision. We recommend roosters continue to be allowed only on these larger lots, except that in JFK existing roosters may remain, regardless of lot size. The Commission was persuaded by many in the community to rely on common sense and self-regulation as is now the case, to prevent potential adverse impacts.

The recommended amendments are contained in Attachment 1 to this memorandum. In addition to the Zoning amendments, a Municipal Code amendment deletes a section that now address fowl that is no longer necessary and is not consistent with the proposed amendment.

Floor Area Ratio (FAR) Exemptions for Stairwells/Vaulted Area *

The final PC recommendation concurs with the HCC recommendation. The amendment prescribes a 100 square foot exemption for a stairwell regardless of its individual footprint in lieu of the current requirement to calculate the actual area of the stairwell. The amendment simplifies the calculation while addressing the objection that two developers expressed about eliminating this exemption entirely. The proposed code KZC language also clarifies how to measure foyers with ceilings higher than 16 feet, that FAR is measured by levels rather than floors, and that carports are included in FAR.

Background: This proposal was initiated by staff to speed up and simplify FAR calculations by clarifying whether stairwells are exempt from this calculation. The intent of FAR is to reduce the perceived mass of the home and does this by limiting the size as a percent of lot area. Currently each detached dwelling unit requires an individual calculation of the gross floor area of a home, and allows several elements to be subtracted (exempted) from the total area. A portion of a stairwell and a portion of a vaulted space (foyer) are among those elements that are exempt from this calculation. The problem is that during building permit review every stairwell must be individually measured to determine the exact square footage that is eligible for exemption, which adds to the review time and complexity of such permits. Another problem is that stairwells do technically add to the mass of a house since they are additional floor area, so exempting even a portion of them is counter to the purpose behind FAR. Staff provided information on the minimum square footage required to meet the uniform building code in order to illustrate that allowing more area to be exempt on a case by case basis can be greater than necessary.

The recommended amendment is Attachment 2 to this memorandum.

Second story garage required rear yard setbacks*

The PC and HCC concurred with the staff recommendation to allow second story garages that take alley access to be set back the same distance as the garage from the rear property line. The KZC is currently silent on this. Staff showed photographs of sites in the city where these now exist, and both advisory bodies discussed several options. The PC expressed some concerns about the perception of mass with a zero setback from an alley, which is allowed when the garage has side alley access. After hearing from builders and architects and considering the recommendation of the HCC, the PC agreed that a zero rear yard is sufficient because the alley itself provides a 16' separation from the property line of the home on the opposite side of the alley. We also acknowledged that requiring a setback for the second story would be inconsistent with current regulations that allow a single story garage with a high ceiling to have a zero setback and be a disincentive to develop detached ADU's.

The recommended amendment is Attachment 3 to this memorandum.

New Hazardous Liquid Pipeline regulations

The recommended amendment was the culmination of much review and discussion. A new chapter of the KZC will address hazardous liquid pipelines, in Kirkland's case the Olympic/ British Petroleum Pipeline. The new chapter includes rules to reduce the risk of an accident as a result of construction activity near the pipeline and the risk to various land uses located near them. The regulations address setbacks for "high consequence land uses" that involve high-density on-site populations that are more difficult to evacuate and land uses that serve critical "lifeline" or emergency functions. Setback for other uses, setback modifications, and notification requirements are addressed. The amendments also require development plans to show the location of the pipeline and the applicant to notify the pipeline operator of their proposals. Many of these rules are based on the State model ordinance developed by the Municipal Resource Services Center (MRSC), and the final recommendation was reviewed by the same experts, who offered no revisions to it.

Background: As a result of annexation a portion of the Olympic pipeline is now located within Kirkland's jurisdiction. The PC learned about the risks associated with a liquid fuel pipeline accident and the importance of having regulations governing land use development near them. The greatest risk of an accident occurs when development activity takes place too near the pipeline. These regulations intend to minimize risk. While interstate pipeline facilities are regulated by the Federal Office of Pipeline Safety, and the State Utilities and Transportation Commission acts as their agent, it is the City's responsibility to regulate land use near the pipelines. The City received a pass-through grant from the Pipeline Safety Trust originating from the US department of Transportation, Pipeline and Hazardous Material Safety Administration, to help defray the cost to research and draft these pipeline safety regulations. Staff coordinated with the Fire and Building and Public Works Departments while developing these regulations. During the course of this process, staff provided information about how King County and other jurisdictions regulate the pipeline. The operator and Municipal Resource Services Center (MRSC) expert on this subject made presentations to the PC, and staff worked with these experts to develop the regulations.

The recommended amendment is Attachment 4 to this memorandum.

Non-conforming Personal Wireless Services Facilities (PWSF)*

The PC concurred with the staff recommendation and HCC to allow legal, non-conforming PWSF facilities to be upgraded without bringing the facilities into complete conformance with existing regulations. Staff showed photographs of sites in the city having antenna projecting above rooflines or antenna on tall utility poles as examples. The PC expressed some concern about the aesthetics of towers or monopoles with antenna projecting on platforms or arms. There are several of these in the new neighborhoods that were approved by King County. During the public hearing the Assistant City Attorney described the new federal law which limits the City's ability to deny changes to towers. After learning about the implications of the new law, the PC understands and concurs with the amendments.

Background: AT&T and other carriers are upgrading their facilities to provide better and faster service for their customers. In response to requests to speed up permit processing, staff proposed code amendments that simplify the regulations for non-conforming facilities. No changes are proposed for new facility requests meaning all new facilities will have to comply with the existing code.

The recommended amendment is Attachment 6 to this memorandum.

Extension of Land Use Permit Approvals*

The PC had few questions about this proposal. Staff noted that the Economic Development Committee encouraged the amendments to: 1) codify the interim regulations that have been in place during the economic recession and, 2) consider Engrossed House Bill (EHB) 2152 when preparing the regulations. The length of the Lapse of Approval for zoning permits is proposed to be based on the date of issuance similar to the construction of the EHB. The time limits for final plat submittal as proposed will be consistent with the EHB. The proposed code amendments in the KZC and KMC also make the codes more internally consistent and delete some duplicated sections.

The recommended amendments are Attachments 7 and 8 to this memorandum.

Electronic Readerboards at Junior High Schools*

The HCC recommended that each school site should only be allowed one readerboard even if it contains more than one school and expressed a concern about potential traffic hazards. The PC agreed with these ideas and further recommended that the regulations should apply to private schools as well as public. The final proposed language addresses all of these issues.

Background: The staff, students and parents at Finn Hill Junior High were the instigators of this code amendment (in a good way). They are very proud of their new school and are anxious to have a new sign that will improve communication between their school, families and community. The LWSD then submitted a letter requesting that all junior (now middle) schools

be allowed an electronic readerboard similar to those approved for Lake Washington and Juanita High Schools.

The recommended amendment is Attachment 9 to this memorandum.

New Residential Suite (SRO) regulations*

The Planning Commission is enthusiastic about the potential that this use holds to help diversify Kirkland's housing stock and provide a market based solution to affordable housing choices. However, because these amendments were a late addition to the current package of code amendments, the Commission does not feel that adequate public outreach or Planning Commission consideration has occurred. The fear is that if the amendments are rushed through without adequate consideration, the community reaction may be negative and the true potential may be jeopardized. If we are provided with additional time to get the word out and thoughtfully address potential impacts, we are confident that the concept will be more successful over the long term. We estimate that we could have a considered recommendation to City Council by early October.

Background: Robert Pantley requested an amendment to consider the unique parking requirements for SRO housing. The Council discussed this at the joint meeting with the Planning Commission on April 3rd. Consideration of a code amendment was added to the Planning Work Program and draft amendments were included with this package of minor and moderate amendments. They were first introduced at the joint public hearing on June 14.

SRO's and similar housing types go by many names in different jurisdictions (residential hotels, rooming/boarding house, apodments, congregate housing, residential mini-suites, etc.). The basic concept falls somewhere between a hotel use and a dwelling unit use where individual rooms are rented with limited amenities in the room and additional amenities are shared between rooms. The individual units are very small and the trip generation and parking demand are typically lower than conventional multi-family developments. The individual units do not fit the definition of a dwelling unit because of the shared facilities and they do not fit the definition of a hotel because the units are not intended for transient use.

Attachment 5 contains staff's draft regulations for this use. Due to the limited amenities within these developments and the suggested lower parking requirement, staff recommended that the use only be included in zones within a ¼ mile walk distance of a transit center and with the availability of nearby shops and services to reduce dependence on automobiles. In addition, staff recommended limiting the use to zones that do not have residential density limits. As a result, only CBD 1, 2, 3, 4, 7, and 8 and TL 1A, TL 1B, and TL 2 were considered for inclusion at this time as the zones that meet the identified locational criteria. All of those zones have existing design guidelines and Design Board Review in place, so no new design provisions are necessary to accommodate the use.

Mr. Pantley encouraged consideration of this use as a highly sustainable development pattern with regulations to promote sustainability. Sustainability can occur at many levels including minimizing dependence on automobiles and including green building as a core component of the use. Similar to recent codes for TOD at the South Kirkland Park and Ride and the for

Parkplace redevelopment, the codes for this use have been drafted to advance sustainability measures. The draft code includes a requirement for managed parking that will require a transportation management program to ensure that the parking is adequate and auto dependence is reduced and aggressive green building requirements to reduce the overall environmental footprint of the development.

Non-Conforming Density*

During the recent review of the Central Houghton and Lakeview Neighborhood Plans, the PC and HCC discussed how best to address numerous properties developed at residential densities greater than allowed by the current zoning. The Commission and Council had received comments from a number of residents of nonconforming condominiums expressing concerns about zoning regulations limiting repair, maintenance and remodeling without bringing density into conformance. At that time, it was agreed to review the regulations as part of the next package of code amendments. The revised regulations entirely eliminate the limits on the value of improvements, remove the requirement to maintain at least 75% of the existing density and generally simplify the code. The remaining restrictions are that density may not be increased and there may be no change in the configuration of exterior walls.

The recommended amendment is Attachment 10 to this memorandum.

Decisional Criteria

The decisional criteria found in KZC Section 135.25 were considered when making this recommendation, and can be viewed by following this link to the to the joint PC/HCC June 14 public hearing staff memorandum.

Public Participation

The Planning Commission held four study sessions to review the amendments leading up to the June 14 joint public hearing. The Houghton Community Council held 3. The extra PC meeting was to consider hazardous liquid pipeline regulations that are outside of the HCC jurisdiction. At the study sessions the primary topics that the public commented on were the backyard chicken amendment, personal wireless services facilities amendment (Ken Lyons, representing AT&T) and electronic readerboards (Sheri Sanders, representing Lake WA School District).

At the joint hearing with the HCC, 18 people spoke regarding the proposed amendments, a majority of them regarding the backyard chickens and the hazardous liquid pipeline amendments; six on each subject. There were a range of comments about the proposed chicken regulations with people weighing in to support or oppose the iteration being considered. Comments focused on the pros and cons of allowing roosters, how prescriptive the regulations ought to be regarding pen and coop specifications, and maximum number of chickens on lots based on lot size. The pipeline comments were mixed, with people requesting more information about the pipeline, what precautions the operator, BP/Olympic, has in place to minimize the risk of an accident, setbacks and modifications to setbacks, and several requests for clarification that single family homes where the elderly or handicapped live, are not regulated as "high consequence uses, subject to 500 foot setbacks.

One person spoke about the SRO amendment after a presentation on the topic by Robert Pantley and an associate. The proponent of the PWSF amendment, AT&T representative Ken Lyons, provided information on the operators need for the wireless amendment.

A total of 25 letters/emails were received prior to or at the hearing. The topics covered were chickens, pipeline regulations, non-conforming density, Personal Wireless Facilities Services, and Residential Suites regulations.

The public comment period was extended to July 5 to receive additional comment. Two comments were received. A letter from Kathy Weber gave a recap of her understanding of the June 14 Planning Commission public hearing deliberations on backyard chickens. Another letter by Ken Lyons stated support of the Personal Wireless Facilities Services amendment as revised and presented at the PC July 12 deliberation continuance meeting.

Attachments

1. Chicken amendment
2. FAR amendment
3. 2nd story garage amendment
4. Hazardous liquid pipeline regulations
5. Residential Suites regulations (SRO)
6. PWSF amendment
7. Zoning permit Lapse of Approval amendments (KZC)
8. Subdivision time limit amendments (KMC)
9. Electronic readerboards amendment
10. Non-conforming density amendment

Cc: ZON12-00002
Mail list

115.20.2. b. Small Domestic Animals

1. The following animals will be regulated as small domestic animals:

   a. More than three (3) dogs per dwelling unit.
   b. More than three (3) cats per dwelling unit.
   c. More than a total of four (4) dogs and cats per dwelling unit.
   d. More than four (4) rabbits per dwelling unit.
   e. Fowl

2. Permitted locations: Low density zones.

3. Required Review Process: None

4. Maximum Number of Adult Animals Per ~~Dwelling Unit~~ Lot:

~~20 per 35,000 sq. ft. of lot area and 1 per each additional 500 sq. ft. of lot area. Maximum of 3 fowl on lots less than 35,000 sq. ft. in RSA zones~~.

   a. On lots with an area of less than 35,000 sq. ft.:

      1) Three (3) Fowl, regardless of lot size
      2) One (1) additional chicken for each 1000 sq. ft. of lot area above 5,000 sq. ft., up to a maximum of 20 chickens,
      3) Roosters are prohibited except for those in RSA zones existing prior to August 15, 2012.

   b. On lots with an area of 35,000 sq. ft. or more: 20, plus 1 additional for each 500 sq. ft. of lot area above 35,000 sq. ft~~;~~

~~Minimum Lot Size~~:

~~35,000 sq. ft. per dwelling unit. No minimum lot size for fowl in RSA zones~~

5. Minimum Setback:

~~Structures and pens used to house animals must be at least 40' from each property line, except structures and pens used to house 3 fowl or less must be at least 10' from each property line~~

   a. Structures shall not be located in required yards except as allowed by KZC 115.115 and except for the following:
      1) Mobile structures (chicken tractors) may be anywhere within a fenced yard.

      2) Structures may be located within five feet of any property line provided that the property adjacent to the proposed location of the structure is either:
         i. Occupied primarily by a non-residential use such as a church, school or park; or
         ii. A permanently dedicated easement or tract that is at least 10 feet in width.
   b. Structures larger than 100 square feet shall be at least 40 feet from each property line

6. Special Regulations
   a. Must provide a suitable structure or pen to house the animals.
   b. Must maintain structures and pens in a clean condition;
   c. Fowl may forage or roam freely anywhere within a fenced yard, but adequate measures must be taken to provide safety for the fowl and prevent them from straying onto adjacent property.

~~The City may limit the number of animals allowed to less than the maximum :considering:~~

~~Proximity to dwelling units both on and off the subject property; and~~

~~Lot size and isolation; and~~

~~Compatibility with surrounding uses; and~~

~~Potential noise impacts.~~

~~The applicant must provide a suitable structure or pen to house the animals, and must maintain that structure or pen in a clean condition.~~

~~Roosters are prohibited on lots containing less than 35,000 sq. ft.~~

115.42 Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones and Attached Dwelling Units in PLA 3C

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones and attached dwelling units in PLA 3C~~,~~ shall include the entire area within the exterior walls for each level of the structure. It shall also include the area of all carports, measured as the area of the carport roof. It ~~does~~ shall not include the following:

   a. Attic area with less than five (5) feet of ceiling height, as measured between the finished floor and the supporting members for the roof.
   b. Floor area with a ceiling height less than six (6) feet above finished grade. The ceiling height will be measured to the top of the structural members for the floor above. The finished grade will be measured along the outside perimeter of the building (see Plate 23).
   c. On lots less than 8,500 square feet, the first 500 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC 115.30 for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R. For purposes of this section, “behind” means located behind an imaginary plane drawn at the back of the main structure at the farthest point from, and parallel to, the street or access easement serving the residence.
   d. On lots greater than or equal to 8,500 square feet, the first 800 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC 115.30 for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R.
   e. Uncovered and covered decks, porches, and walkways.
   f. One hundred square feet if the dwelling unit has an internal stair case and/or an area with a ceiling height greater than 16 feet.

2. Floor area with a ceiling height greater than 16 feet shall be calculated at twice the actual floor area toward allowable F.A.R. The ceiling height for these areas will be measured to the top of the structural members for the floor above or, if there is no floor above, to the bottom of the structural members for the roof.

~~2. Floor area with a ceiling height greater than 16 feet shall be calculated as follows:~~

   ~~a. The first 100 square feet of such floor area, in aggregate, shall be calculated only once toward allowable F.A.R.;~~
   ~~b. Floor area in excess of the first 100 square feet shall be calculated at twice the actual floor area toward allowable F.A.R.~~

~~3.~~3.~~2.~~ *This section is not effective within the disapproval jurisdiction of the Houghton Community Council, except for those lots in PLA 3C that are less than 7,200 square feet or lots that have less than the minimum lot size created through the small lot provisions of KMC 22.28.042, subdivisions.*

115.115 Required Yards

1. General – *(No Change)*

2. Exceptions and Limitations in Some Zones – *(No Change)*

3. Structures and Improvements – No improvement or structure may be in a required yard except as follows:

   a. - n. *(No Change)*.

   o. In low density residential zones:

      1) Detached garages, including second story uses, utilizing an alley for their primary vehicular access may be located within five (5) feet of the rear property line, if:

         a) Garage doors will not extend over the property line when open; and

         b) The garage complies with KZC 115.135, which regulates sight distance at intersections, and~~.~~

         c) The portion of the structure that is located within the required rear yard is no higher than the maximum height allowed in the underlying zone.

      2) Detached garages, including second story uses, utilizing an alley for their primary vehicular access may extend to the rear property line, if:

         a) The lot is 50 feet wide at the rear property line on the alley;

         b) The garage has side access with garage doors that are perpendicular to the alley;

         c) The garage eaves do not extend over the property line; and

         d) The garage complies with KZC 115.135, which regulates sight distance at intersections.

         e) The portion of the structure that is located within the required rear yard is no higher than the maximum height allowed in the underlying zone.

      3) Garages without alley access may be located within five (5) feet of the rear property line; provided, that:

         a) The portion of the structure that is located within the required rear yard is no taller than 15 feet above average building elevation; and

         b) The rear yard does not abut an access easement that is regulated as a rear property line.

   p. HVAC and similar types of mechanical equipment may be placed no closer than five (5) feet to a side or rear property line, and shall not be located within a required front yard; provided, that such equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC and similar types of mechanical equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95.

Sections:
5.05 User Guide (No change)
5.10. Definitions

5.10.~~350~~ 346 Ground-Mounted Sign
– All of the following: pole signs, pedestal signs and monument signs.

5.10. 347 Hazardous Liquid Pipeline:
- As defined by RCW 81.88.040, Hazardous liquid means: (a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 in effect March 1, 1998; and (b) carbon dioxide. Pipeline, pipeline system, or hazardous liquid pipeline mean all parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. Pipeline or pipeline system does not include process or transfer pipelines.

5.10. 348 Hazardous Liquid Pipeline Corridor
- The pipeline corridor in which the pipelines and facilities of a hazardous liquid pipeline operator are located, including public rights-of-way and easements over and through public or private property

5.10. 358 High Consequence Land Use
- A land use that if located in the vicinity of a hazardous liquid pipeline represents an unusually high risk in the event of a pipeline failure due to characteristics of the inhabitants or functions of the use. High consequence land uses include:

(1) Land uses that involve a high-density on-site population that are more difficult to evacuate. These uses include:

- schools (through grade 12),
- hospitals, clinics, and other facilities primarily for use by the elderly or handicapped, other than those within single family residences.
- stadiums or arenas,
- day care centers, and does not extend to family day care or adult family homes.

(2) Land uses that serve critical "lifeline" or emergency functions, such as fire and police facilities, utilities providing regional service, or water supplies if exposed to a significant risk that will curtail its lifeline function for a critical period of time.

(3) Uses with similar characteristics as determined by the Planning Official.

118 Hazardous Liquid Pipelines (new chapter)

118.010 Purpose
118.020 Applicability
118.030 Development Notice
118.040 Development Application and Submittal Requirements
118.050 Setback Requirements
118.060 Requirements for Land Use Compatibility
118.070 Variances

118.010 Purpose

The purpose of this section is to:

A. Help prevent and minimize unnecessary risk to the public health, safety, and welfare due to hazardous liquid pipelines;

B. Minimize the likelihood of accidental damage to hazardous liquid pipelines;

C. Avoid exposing land uses with either high on-site populations that are difficult to evacuate or that provide emergency response functions to risk of injury or damage in the event of a pipeline failure;

D. Help reduce adverse impacts in the event of a pipeline failure;

E. Supplement existing federal and state regulations related to hazardous liquid pipeline corridor management; and

F. Improve communication between property owners and pipeline operators to minimize the risk of inadvertent damage to hazardous liquid pipelines and to provide guidance to property owners about minimizing further risk through site design or construction.

The provisions of this section are intended to protect the health, safety and welfare of the general public and are not intended to protect any particular individual, class of individuals, or organization.

118.020 Applicability

The provisions of this chapter shall apply to all development activity, landfilling, excavation and construction on properties within 150 feet of any hazardous liquid pipeline corridor, as defined in KZC 5.10.348. This chapter does not apply to the conduct of pipeline operators. The conduct of pipeline operators is regulated by the Federal Pipeline Safety Act, 49 U.S.C. § 60101, et seq., and the Washington State Pipeline Safety Act, RCW 81.88. Pipelines within public rights-of-way are also regulated by the terms and conditions of franchise agreements between the City and pipeline operators. Modifications to existing structures are exempt from this

chapter if they do not involve landfilling, excavation or high consequence land uses, as defined in KZC 5.10.358.

118.030 Development Notice

Prior to conducting any development activity, landfilling, excavation, or construction located within 150 feet of a hazardous liquid pipeline corridor identified on the official City of Kirkland Olympic Pipeline Map, the applicant shall provide notification to the pipeline operator using a form provided by the City.

118.040 Development Permit Application Submittal Requirements

For all activities requiring a development permit:

A. The applicant shall show the hazardous pipeline corridor and applicable setbacks on site plans, subdivisions and short subdivisions for proposed development on properties to which this chapter applies.

B. The applicant shall provide verification that the pipeline operator has received and reviewed the development notice required in section 115.52.030. All comments provided by the operator shall be submitted or the operator shall confirm in writing that the operator has no comments.

118.050 Setback Requirements

A. Hazardous Liquid Pipeline Corridor: No landfilling or excavation and no construction or expansion of structures is allowed within the corridor other than those authorized by the pipeline operator.

B. Areas Adjacent to the Hazardous Liquid Transmission Pipeline Corridor.

    1. All development activity, landfilling, excavation and construction shall be setback a minimum of 25 feet from the edge of the corridor.

    2. The Planning Official may expand the setback when necessary to meet the purpose of this section due to site-specific conditions, such as proposed major land surface modification or proximity of the pipeline.

    3. The Planning Official may reduce the setback due to site-specific conditions and an applicant's demonstration that the purpose of this section will be met. Factors to be considered shall include but are not limited to:

        a. Pipeline location as determined using the pipeline operator's normal locating procedures; and

        b. Type of construction proposed.

    4. If the Planning Official reduces the setback from the corridor, the following applies:

a. The setback shall be a minimum of 30 feet from the nearest edge of the pipeline.

b. The setback shall be measured from the nearest edge of the hazardous liquid pipeline.

c. The location of the pipeline and the reduced setback shall be shown on all approved site plans and subdivisions.

C. Exemptions: Streets, utilities, trails and similar uses shall be exempt from subsections B1 and 2 above, provided that the pipeline operator shall be notified prior to landfilling, excavation or construction.

D. Emergency Work: In the event of any emergency in which a pipeline breaks, is damaged, or is otherwise in such a condition as to immediately endanger the life, health, safety, or property of any person, the pipeline operator shall not be required to comply with this chapter or obtain permits prior to taking corrective action. The pipeline operator shall, however, .call 911 immediately upon learning of the emergency.

E. Setback Protection: Setbacks shall be identified and protected during construction by placement of a temporary barricade and on-site notices. Barricades and on-site notices are subject to review by the Planning Official.

118.060 Requirements for Land Use Compatibility

A. High Consequence Land Uses.

1. New high consequence land uses, as defined in KZC 5.10.358, proposed to be located within 500 feet of a hazardous liquid pipeline corridor are prohibited.

2. Proposed expansions to existing high consequence land uses located within 500 feet of a corridor shall be reviewed by the Planning Official to ensure that they are designed to avoid increasing the level of risk in the event of a pipeline failure, and where feasible, reduce the risk compared to the existing development. Potential techniques to minimize risk include but are not limited to:

a. Site design features, such as maintaining or increasing the distance between occupied structures, or structures that provide critical lifeline functions, and the pipeline and anticipated flow paths for leaking hazardous materials.

b. Building features, which do not result in a significant increase in on-site population or which expedite evacuation.

c. Technological features which provide accelerated notice of a pipeline failure to high consequence land uses to facilitate evacuation or which help avoid damage in the event of a failure of the pipeline.

d. Operational features, such as emergency plans and education programs developed in consultation with the Fire Department including:

1) The level of emergency planning and procedures appropriate for the proposed development. Based on the nature, occupancy, or location of a proposed development, the Fire Department may require emergency plans and procedures for any occupancy classifications.

2) Plans and programs for occupants and employees concerning pipeline safety, such as what to be aware of and how to respond in the event of a problem and drills,

3) Emergency plans and procedures shall be consistent with the Kirkland Fire Code and shall be approved by the Fire Department.

B. Location: Prior to commencing any development activity, landfilling, excavation or construction on properties that abut a corridor, notification shall be given through the one-call locator service prior to commencement of any of the permitted work.

118.070 Variances:

Relief from the setback requirements of this chapter shall be in accordance with the standards and procedures found in KZC 120 - Variances. The City shall provide written notice of the variance proposal to the pipeline operator and any comments provided shall be incorporated into the findings of the decision.

55.47 User Guide.

The charts in KZC 55.51 contain the basic zoning regulations that apply in the TL 7 zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.49

Zone TL 7

Section 55.49 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
2. A Hazardous Liquid Pipeline extends through the TL 7 zone. Refer to KZC 118 for regulations pertaining to properties near Hazardous Liquid Pipelines.

~~2~~.3 Any development activities requiring Design Review approval pursuant to KZC 142.15 in this zone shall be reviewed administratively (ADR), pursuant to KZC 142.25.

~~3~~.4 Access for drive-through facilities must be approved by the Public Works Official. See Chapter 105 KZC for requirements.

~~4~~.5 Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

5.10.778 Residential Suites

- A structure containing single room living units with a minimum floor area of 120 square feet and maximum floor area of 350 square feet offered on a monthly basis or longer where residents share bathroom and/or kitchen facilities. "Residential Suites" does not include dwelling units, assisted living facility, bed and breakfast house, convalescent center, nursing home, facility housing individuals who are incarcerated as the result of a conviction or other court order, or secure community transition facility.

Note - The Use "Residential Suites" is added to the following Use Zone Charts subject to the regulations noted. Generally, the regulations parallel those for Attached and Stacked Dwelling Units, with the exception of parking requirements and special regulations.

50.12.085 (CBD 1A, 1B)
Use: Residential Suites
Required Review Process: D.R. Chapter 142 KZC
Lot Size: None
Required Yards:
Front: 0'
Side: 0'
Rear: 0'
Lot Coverage: 100%
Height of Structure: CBD 1A – 45' above each abutting right-of-way. CBD 1B – 55' above each abutting right-of-way.
Landscape Category: D
Sign Category: A
Required Parking Spaces: .5 per bed plus 1 per on-site employee. See KZC 50.60. See Spec. Reg. 2 & 3.
Special Regulations:

1. Development shall be designed, built and certified to achieve or exceed one or more of the following green building standards: Built Green 5 star certified, LEED Gold certified, or Living Building Challenge certified.
2. The property owner shall prepare a Transportation Management Plan (TMP) for review and approval by the City and recording with King County. At a minimum, the TMP shall include the following requirements:
   a. Charge for on-site parking for tenants who have cars.
   b. Bus pass subsidies for tenants who don't have cars.
   c. Lease provisions and monitoring requirements for the property owner to ensure that tenants are not parking off-site to avoid parking charges.
   d. Adequate bicycle parking to meet anticipated demand.
   e. Biennial survey of residents documenting transportation choices.

3. After one year of project occupancy, the Planning Official may allow a decrease in the required number of spaces if the number of spaces proposed is documented by an adequate and thorough parking demand and utilization study of the property. The study shall be prepared by a licensed transportation engineer or other qualified professional, and shall analyze the operational characteristics of the use which justify a parking reduction. The scope of the study shall be proposed by the transportation engineer and approved by the City traffic engineer. The study shall provide at least two (2) days of data for morning, afternoon and evening hours, or as otherwise approved or required by the City traffic engineer.

50.17.095 (CBD 2)

Use: Residential Suites. See Spec. Reg 2.
Required Review Process: D.R. Chapter 142 KZC
Lot Size: None
Required Yards:
Front: 0′
Side: 0′
Rear: 0′
Lot Coverage: 100%
Height of Structure: 28' above the abutting right-of-way measured at the midpoint of the frontage of the subject property on each right-of-way.
Landscape Category: D
Sign Category: A
Required Parking Spaces: .5 per bed plus 1 per on-site employee. See KZC 50.60. See Spec. Reg. 4 & 5.
Special Regulations:

1. The following provisions, which supersede any conflicting provisions of this chapter, apply only if the subject property is within 200 feet of or includes a portion of Lake Washington:
   a. Chapter 83 KZC contains regulations regarding shoreline setbacks and public pedestrian walkways.
   b. No structure, other than moorage structures, may be waterward of the ordinary high water mark. For regulations regarding moorages, see the moorage listings in this zone and Chapter 83 KZC.
2. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.

3. Development shall be designed, built and certified to achieve or exceed one or more of the following green building standards: Built Green 5 star certified, LEED Gold certified, or Living Building Challenge certified.
4. The property owner shall prepare a Transportation Management Plan (TMP) for review and approval by the City and recording with King County. At a minimum, the TMP shall include the following requirements:
   a. Charge for on-site parking for tenants who have cars.
   b. Bus pass subsidies for tenants who don't have cars.
   c. Lease provisions and monitoring requirements for the property owner to ensure that tenants are not parking off-site to avoid parking charges.
   d. Adequate bicycle parking to meet anticipated demand.
   e. Biennial survey of residents documenting transportation choices.
5. After one year of project occupancy, the Planning Official may allow a decrease in the required number of spaces if the number of spaces proposed is documented by an adequate and thorough parking demand and utilization study of the property. The study shall be prepared by a licensed transportation engineer or other qualified professional, and shall analyze the operational characteristics of the use which justify a parking reduction. The scope of the study shall be proposed by the transportation engineer and approved by the City traffic engineer. The study shall provide at least two (2) days of data for morning, afternoon and evening hours, or as otherwise approved or required by the City traffic engineer.

50.27.075 (CBD 3)

Use: Residential Suites. See Spec. Reg. 1.
Required Review Process: D.R. Chapter 142 KZC
Lot Size: None
Required Yards:
Front: 20' See Spec. Reg. 2
Side: 0'
Rear: 0'
Lot Coverage: 80%
Height of Structure: 41' above average building elevation.
Landscape Category: D
Sign Category: A
Required Parking Spaces: .5 per bed plus 1 per on-site employee. See Spec. Reg. 4 & 5.
Special Regulations:

1. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant

and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.

2. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.
3. Development shall be designed, built and certified to achieve or exceed one or more of the following green building standards: Built Green 5 star certified, LEED Gold certified, or Living Building Challenge certified.
4. The property owner shall prepare a Transportation Management Plan (TMP) for review and approval by the City and recording with King County. At a minimum, the TMP shall include the following requirements:
    a. Charge for on-site parking for tenants who have cars.
    b. Bus pass subsidies for tenants who don't have cars.
    c. Lease provisions and monitoring requirements for the property owner to ensure that tenants are not parking off-site to avoid parking charges.
    d. Adequate bicycle parking to meet anticipated demand.
    e. Biennial survey of residents documenting transportation choices.
5. After one year of project occupancy, the Planning Official may allow a decrease in the required number of spaces if the number of spaces proposed is documented by an adequate and thorough parking demand and utilization study of the property. The study shall be prepared by a licensed transportation engineer or other qualified professional, and shall analyze the operational characteristics of the use which justify a parking reduction. The scope of the study shall be proposed by the transportation engineer and approved by the City traffic engineer. The study shall provide at least two (2) days of data for morning, afternoon and evening hours, or as otherwise approved or required by the City traffic engineer.

50.32.085 (CBD 4)

Use: Residential Suites.
Required Review Process: D.R. Chapter 142 KZC
Lot Size: None
Required Yards:
    Front: 10'
    Side: 0'
    Rear: 0'
Lot Coverage: 100%
Height of Structure: 54' above average building elevation.
Landscape Category: D See Spec. Reg. 1
Sign Category: A
Required Parking Spaces: .5 per bed plus 1 per on-site employee. See Spec. Reg. 3 & 4.
Special Regulations:

1. Landscape Category C is required if subject property is adjacent to Planned Area 6C.
2. Development shall be designed, built and certified to achieve or exceed one or more of the following green building standards: Built Green 5 star certified, LEED Gold certified, or Living Building Challenge certified.
3. The property owner shall prepare a Transportation Management Plan (TMP) for review and approval by the City and recording with King County. At a minimum, the TMP shall include the following requirements:
   a. Charge for on-site parking for tenants who have cars.
   b. Bus pass subsidies for tenants who don't have cars.
   c. Lease provisions and monitoring requirements for the property owner to ensure that tenants are not parking off-site to avoid parking charges.
   d. Adequate bicycle parking to meet anticipated demand.
   e. Biennial survey of residents documenting transportation choices.
4. After one year of project occupancy, the Planning Official may allow a decrease in the required number of spaces if the number of spaces proposed is documented by an adequate and thorough parking demand and utilization study of the property. The study shall be prepared by a licensed transportation engineer or other qualified professional, and shall analyze the operational characteristics of the use which justify a parking reduction. The scope of the study shall be proposed by the transportation engineer and approved by the City traffic engineer. The study shall provide at least two (2) days of data for morning, afternoon and evening hours, or as otherwise approved or required by the City traffic engineer.

50.47.125 (CBD 7)

Use: Residential Suites. See Spec. Reg. 1.
Required Review Process: D.R. Chapter 142 KZC
Lot Size: None
Required Yards:
Front: 20'
Side: 0'
Rear: 0'
Lot Coverage: 80%
Height of Structure: 41' above average building elevation.
Landscape Category: D
Sign Category: A
Required Parking Spaces: .5 per bed plus 1 per on-site employee. See Spec. Reg. 3 & 4.
Special Regulations:

1. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed

configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.

2. Development shall be designed, built and certified to achieve or exceed one or more of the following green building standards: Built Green 5 star certified, LEED Gold certified, or Living Building Challenge certified.
3. The property owner shall prepare a Transportation Management Plan (TMP) for review and approval by the City and recording with King County. At a minimum, the TMP shall include the following requirements:
   a. Charge for on-site parking for tenants who have cars.
   b. Bus pass subsidies for tenants who don't have cars.
   c. Lease provisions and monitoring requirements for the property owner to ensure that tenants are not parking off-site to avoid parking charges.
   d. Adequate bicycle parking to meet anticipated demand.
   e. Biennial survey of residents documenting transportation choices.
4. After one year of project occupancy, the Planning Official may allow a decrease in the required number of spaces if the number of spaces proposed is documented by an adequate and thorough parking demand and utilization study of the property. The study shall be prepared by a licensed transportation engineer or other qualified professional, and shall analyze the operational characteristics of the use which justify a parking reduction. The scope of the study shall be proposed by the transportation engineer and approved by the City traffic engineer. The study shall provide at least two (2) days of data for morning, afternoon and evening hours, or as otherwise approved or required by the City traffic engineer.

50.52.115 (CBD 8)

Use: Residential Suites
Required Review Process: D.R. Chapter 142 KZC
Lot Size: None
Required Yards:
Front: 10' See Spec. Reg. 3.
Side: 0'
Rear: 0'
Lot Coverage: 100%
Height of Structure: 30 feet above the elevation of 3rd Avenue or 4th Avenue as measured at the projected midpoint of the frontage of the subject property on the nearest applicable right-of-way.
Landscape Category: D
Sign Category: A
Required Parking Spaces: .5 per bed plus 1 per on-site employee. See Spec. Reg. 5 & 6.
Special Regulations:

1. This use is not permitted on the street level floor adjacent to Central Way.
2. If the subject property abuts Third Avenue between First Street and Second Street, or Fourth Avenue, the site and buildings must be designed to provide residential character and scale adjacent to Third Avenue and Fourth Avenue.
3. Ground floor porches and similar entry features may encroach into the front yard, provided the total horizontal dimension of such elements may not exceed 25 percent of the length of the facade of the structure.
4. Development shall be designed, built and certified to achieve or exceed one or more of the following green building standards: Built Green 5 star certified, LEED Gold certified, or Living Building Challenge certified.
5. The property owner shall prepare a Transportation Management Plan (TMP) for review and approval by the City and recording with King County. At a minimum, the TMP shall include the following requirements:
   a. Charge for on-site parking for tenants who have cars.
   b. Bus pass subsidies for tenants who don't have cars.
   c. Lease provisions and monitoring requirements for the property owner to ensure that tenants are not parking off-site to avoid parking charges.
   d. Adequate bicycle parking to meet anticipated demand.
   e. Biennial survey of residents documenting transportation choices.
6. After one year of project occupancy, the Planning Official may allow a decrease in the required number of spaces if the number of spaces proposed is documented by an adequate and thorough parking demand and utilization study of the property. The study shall be prepared by a licensed transportation engineer or other qualified professional, and shall analyze the operational characteristics of the use which justify a parking reduction. The scope of the study shall be proposed by the transportation engineer and approved by the City traffic engineer. The study shall provide at least two (2) days of data for morning, afternoon and evening hours, or as otherwise approved or required by the City traffic engineer.

55.09.040 (TL 1A)

Use: Attached or Stacked Dwelling Units or Residential Suites

Special Regulations:

7. Residential Suites development shall be designed, built and certified to achieve or exceed one or more of the following green building standards: Built Green 5 star certified, LEED Gold certified, or Living Building Challenge certified.

55.15.020 (TL 1B)

Use: Development Containing Both Office Use and Attached or Stacked Dwelling Units or Residential Suites

Special Regulations:

8. Residential Suites development shall be designed, built and certified to achieve or exceed one or more of the following green building standards: Built Green 5 star certified, LEED Gold certified, or Living Building Challenge certified.

55.15.050 (TL 1B)

Use: Attached or Stacked Dwelling Units or Residential Suites

Special Regulations:

9. Residential Suites development shall be designed, built and certified to achieve or exceed one or more of the following green building standards: Built Green 5 star certified, LEED Gold certified, or Living Building Challenge certified.

55.21.060 (TL 2)

Use: Attached or Stacked Dwelling Units or Residential Suites

Special Regulations:

3. Residential Suites development shall be designed, built and certified to achieve or exceed one or more of the following green building standards: Built Green 5 star certified, LEED Gold certified, or Living Building Challenge certified.

KZC CHAPTER 117 PERSONAL WIRELESS SERVICE FACILITIES AMENDMENTS

117.15 Definitions

3. "Approved PWSF~~antenna or tower~~" shall mean any personal wireless service facility (PWSF) that has received all required permits. ~~for the installation, maintenance, and reconfiguration of the facility.~~

~~8. "Existing structure" shall mean, but is not limited to, any existing building, utility pole, water reservoir, other support structure, and structures accessory thereto.~~

~~13. "Replacement structure shall mean a structure that replaces or is intended to replace an existing structure of a similar design and similar primary purpose, to enable the installation of or additional PWSF on that structure. If a "replacement structure" meets the definition of "tower," it shall be regulated as a new tower.~~

(Definitions to be renumbered accordingly)

117.20 Applicability

1. New ~~Antennas and Towers~~ PWSF – All new ~~antennas and towers~~ PWSF shall comply with this chapter unless the applicant had a vested application to site said PWSF under a prior version of this chapter, or unless specifically exempted by KZC 117.25. See also 2.c. of this section.

2. Approved ~~Antennas and Towers~~ PWSF ~~– Reconfiguration of or additions to an approved antenna or tower is permitted as noted in this chapter. Reconfiguration of or additions to an antenna or tower that was not approved are not allowed unless the entire facility obtains approval as a new facility through the appropriate review process.~~

~~3. Existing Antennas and Towers~~

   a. The use~~age~~ of ~~existing antennas and towers~~ approved PWSF shall be allowed to continue ~~as they exist as of the effective date of this chapter~~. Routine maintenance and repair ~~reconfiguration~~ of PWSF ~~antennas~~ shall be permitted ~~on such existing antennas and towers, subject to the limitations below~~. Activity not included in routine maintenance and repair requires compliance with this chapter except as stated in 2.b and 2.c of this section.

   b. ~~Any reconfiguration pursuant to subsection (3)(a) of this section that increases the height or number of antennas shall be treated and processed as a new facility.~~ PWSF ~~Existing antennas that conform to the provisions of this chapter~~ may be replaced by new PWSF ~~antennas,~~ if such new PWSF ~~antennas~~ are approved as a minor modification pursuant to KZC 117.105. However, the replacement of an existing tower, whether that tower conforms or does not conform to the provisions of this chapter, shall be treated and processed as a new facility.

   c. New antenna may be added to existing platforms or arms that are appended to approved towers if such new antenna are approved as a minor modification pursuant to KZC 117.105. However, new platforms or arms on approved towers will require compliance with this chapter.

   ~~d. The replacement of existing antennas that do not conform to the provisions of this chapter shall be treated and processed as a new facility.~~

   ~~e. The replacement of an existing tower, whether that tower conforms or does not conform to the provisions of this chapter, shall be treated and processed as a new facility.~~

~~4. Equipment Structures~~

~~a. The usage of existing equipment structures shall be allowed to continue as it exists as of the effective date of this chapter. Routine maintenance, reconfiguration of, or additions to equipment structures shall be permitted, subject to the limitations below.~~

~~b. Existing equipment structures may be replaced, and new equipment structures may be added to an approved antenna and/or tower; provided, that the new equipment structures conform with the provisions of this chapter, and are approved as a minor modification pursuant to KZC 117.105.~~

~~c. Reconfiguration or addition of equipment structures that increases the size of the equipment structure enclosure shall be treated and processed as a new facility.~~

3. Not Approved PWSF – Any PWSF for which there is no record of a permit must be removed or receive a permit to comply with this chapter.

~~4. Equipment Structures~~

~~a. The usage of existing equipment structures shall be allowed to continue as it exists as of the effective date of this chapter. Routine maintenance, reconfiguration of, or additions to equipment structures shall be permitted, subject to the limitations below.~~

~~b. Existing equipment structures may be replaced, and new equipment structures may be added to an approved antenna and/or tower; provided, that the new equipment structures conform with the provisions of this chapter, and are approved as a minor modification pursuant to KZC 117.105.~~

~~c. Reconfiguration or addition of equipment structures that increases the size of the equipment structure enclosure shall be treated and processed as a new facility.~~

4~~5~~. Other Wireless Communication Facilities – All of the provisions of this chapter, which address personal wireless services and PWSF, shall also be deemed to cover other wireless communications facilities (and, in particular, but without limitation, television, satellite radio, global positioning systems (GPS), and AM/FM radio towers not covered by KZC 115.60.c) to the maximum extent allowed by law.

117.35 Permit Required

In all instances, a permit must be obtained from the City before any PWSF may be constructed on any public or private land or right-of-way, including I-405~~,~~ and SR 520~~, and the Burlington Northern Railroad right-of-way within the City limits~~.

117.80 Departures from Chapter Provisions

Provisions of this chapter shall not be subject to variances described in Chapter 120 KZC. However, through Process IIB, Chapter 152 KZC, the City may consider departures from chapter provisions for new PWSF, except for the following:

1. The 40-foot height limit for personal wireless service towers in residential zones; and/or

2. The 15-foot limit for antennas projecting above an existing or replacement utility pole or electrical distribution or transmission conductor in residential zones.

117.105 Complete Compliance Required

1. General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of all prior approvals in order to do everything authorized by that approval.

2. Exception – Subsequent or Minor Modification – The Planning Official may approve a subsequent or minor modification to the permit ~~approved~~ for the PWSF if:

   a. The modification is minor and will not substantially change the PWSF; ~~proposed facility;~~ and

   b.~~c~~ ~~The proposed modification will comply with the provisions of this chapter in effect at the time of the modification request; and~~ There will not be any substantial changes in the impacts on the neighborhood or the City as a result of the change.

   Any modification, other than as specified in subsection (2) of this section, must be reviewed and decided upon as a new PWSF ~~approval~~ under this chapter.

PROPOSED LANGUAGE FOR LAND USE PERMIT EXTENSIONS

KZC Chapter 113 - Cottage, Carriage and Two/Three Unit Homes

113.45 Review Process

1. Approval Process – Cottage Housing Development

~~c. 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 one year 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 three 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.~~

~~d. Extensions~~

~~The applicant may apply for a one-time extension, of up to one year, of the time limits under subsection (1)(c) of this section. The application for the extension must be submitted by letter prior to the expiration of the applicable time limit under subsection (1)(c) of this section. The letter of application must be submitted to the Planning Department and, along with any other supplemental documentation, must demonstrate that the applicant is making substantial progress toward developing the subject property consistent with the Process I approval and that circumstances beyond his/her control prevent compliance with the applicable time limit under subsection (1)(c) of this section.~~

2. Approval Process – Carriage Unit and Two/Three-Unit Home Development

~~c. The lapse of approval and extension provisions in subsections (1)(c) and (1)(d) of this section also apply to carriage unit and two/three-unit home development approved under either Process I or Process IIA.~~

KZC Chapter 117 - Personal Wireless Service Facilities

117.100 Lapse of Approval

For Planning Official decisions required by this chapter and issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 117.95, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the development activity or other actions. For Planning Official decisions required by this chapter and issued on or after January 1, 2015, ~~T~~the applicant must begin construction or submit to the City a complete building permit application for the development activity or other actions approved under this chapter within

~~one (1)~~ five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 117.95, the running of the ~~one (1)~~ five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the development activity or other actions.

(*new paragraph break)* For Planning Official decisions issued on or before December 31, 2014, the applicant must substantially complete construction for the development or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter or the decision becomes void. For Planning Official decisions issued on or after January 1, 2015, ~~T~~the applicant must substantially complete construction for the development or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within ~~two (2)~~ seven (7) years after the final approval on the matter, or the decision becomes void.

(*new paragraph break)* For development activity or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

Refer to the Lapse of Approval requirements for all other review processes required by this chapter,

KZC Chapter 125 - Planned Unit Development

~~125.80 Lapse of the Approved PUD~~

~~1. Increased Time – City Council may, by the ordinance approving the final PUD or by the resolution or ordinance approving the preliminary PUD, extend the time limits of KZC 152.115 for that PUD. Otherwise, within four years after the final decision of the City of Kirkland approving the preliminary PUD the applicant must have obtained approval of the final PUD and submitted a complete building permit for the PUD or the lapse provisions of KZC 152.115 will apply.~~

~~2. Effect on Land Use if PUD Lapses – If an approved PUD lapses under the time limits of KZC 152.115, or subsection (1) of this section, any development on the subject property must comply with all applicable laws of the City as if the PUD had not been granted.~~

KZC Chapter 142 – Design Review

142.55 Lapse of Approval for Design Review Board Decisions

~~1. General – Unless otherwise specified in the decision granting D.B.R. 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 D.B.R. approval within one (1) year after the final decision granting the D.B.R. approval or that decision becomes void. The applicant must substantially complete construction consistent with the D.R. approval and complete all conditions listed in the D.B.R. approval decision within three (3) years after the final decision on the D.B.R. approval or the decision becomes void. "Final decision" means the final decision of the Planning Official or Design Review Board.~~

~~2. Extensions~~

~~a. Application – The applicant may apply for a one-time extension, of up to one (1) year, of the time limits under subsection (1) of this section. The application for the extension must be submitted by letter prior to the expiration of the applicable time limit under subsection (1) of this section. The letter of application must be submitted to the Planning Department and, along with any other supplemental documentation, must demonstrate that the applicant is making substantial progress toward developing the subject property consistent with the D.B.R. approval and that circumstances beyond his/her control prevent compliance with the applicable time limit under subsection (1) of this section.~~

~~b. Fee – The applicant shall include with the letter of request the fee as established by ordinance.~~

~~c. Review Process – An application for a time extension will be reviewed by the Planning Official.~~

~~3. Appeals~~

~~a. Who Can Appeal – Any person who is aggrieved by a time extension or denial of a time extension under this section may appeal that determination.~~

~~b. How To Appeal – The applicant must file a letter of appeal within 14 days of the approval or denial of the time extension indicating how the determination affects his/her property and presenting any relevant arguments or information on the correctness of the determination. The applicant shall include the appeal fee as established by ordinance.~~

~~c. Applicable Procedures – All appeals of decisions under this section will be reviewed and decided upon using Process IIA, described in Chapter 150 KZC.~~

For final approvals under this chapter issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void.

For final approvals under this chapter issued on or before December 31, 2014, the applicant must substantially complete construction for the development activity, use of land or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within seven (7) years after the final approval on the matter, or the decision becomes void.

For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

KZC Chapter 145 – Process I

145.115 Lapse of Approval

For final approvals under this chapter issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 145.110, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. For final approval under this chapter issued on or after January 1, 2015, ~~T~~the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within ~~four (4)~~ five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 145.110, the running of the ~~four (4)~~ five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.

(*new paragraph break)* For final approvals under this chapter issued on or before December 31, 2014, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, ~~T~~the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within ~~six~~ seven (7) years after the final approval on the matter, or the decision becomes void.

(*new paragraph break)* For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

KZC Chapter 150 – Process IIA

150.135 Lapse of Approval

For final approvals under this chapter issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 150.130, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. For final approval under this chapter issued on or after January 1, 2015,~~T~~the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within ~~four~~ five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 150.130, the running of the ~~four~~ five (5) years is tolled for any period of time during which a

court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.

(*new paragraph break)* For final approvals under this chapter issued on or before December 31, 2014, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, ~~T~~the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within ~~six~~ seven (7) years after the final approval on the matter, or the decision becomes void.

(*new paragraph break)* For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

KZC Chapter 152 - Process IIB

152.115 Lapse of Approval

For final approvals under this chapter issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 152.110, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. For final approval under this chapter issued on or after January 1, 2015, ~~T~~the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within ~~four~~ five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 152.110, the running of the ~~four~~ five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.

(*new paragraph break)* For final approvals under this chapter issued on or before December 31, 2014, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, ~~T~~the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within ~~six~~ seven (7) years after the final approval on the matter, or the decision becomes void.

(*new paragraph break)* For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

KMC Title 22 Subdivisions

Chapter 22.16 Final Plat Procedure

22.16.010 Final Plat - Submittal – Time limits

A Final Plat shall be submitted to the City Council within seven (7) years of the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five (5) years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015. Any Final Plat not submitted within the time limits set forth in RCW 58.17.140 shall be void.

22.16.130 Plat documents—Recordation with county—When.

After the plat documents are signed, they will be transmitted to the city clerk's office for recording with the appropriate offices in King County. Unless specifically extended in the decision on the plat, the plat must be submitted to the city for recording with King County within six (6) months ~~four years~~ of the date of approval ~~of the preliminary plat~~ or the decision becomes void; provided, however, that in the event judicial review is initiated per Section 22.16.110, the running of the six (6) months ~~four years~~ is tolled for any period of time during which a court order in said judicial review proceeding prohibits the recording of the plat.~~; and provided further, that an approval which would otherwise become void after July 6, 1994, under a provision which is now being amended by the ordinance codified in this section, shall only become void if it would still do so under all amendments made by Ordinance 3421*.~~ (Ord. 3705 § 2 (part), 1999)

Code reviser's note: Ord. 3421* was repealed by Ord. 3433*.

Chapter 22.20 Short Subdivisions

22.20.370 Short plat documents—Recordation—Time limit.

After the short plat documents are signed, they will be transmitted to the city clerk's office for recording with the applicable office in King County. For short plats approved on or before December 31, 2014, the short plat must be recorded with King County within seven (7) years of the date of approval or the decision becomes void; provided, however, that in the event judicial review is initiated, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the recording of the short plat. For short plats approved on or after January 1, 2015, ~~T~~the short plat must be recorded with King County within ~~four~~ five (5) of the date of approval or the decision becomes void; provided, however, that, in the event judicial review is initiated, the running of the ~~four~~ five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the recording of the short plat.~~; and provided further, that an approval which would otherwise become void after July 6, 1994, under a provision which is now being amended by the ordinance codified in this section, shall only become void if it would still do so under all amendments made by Ordinance 3421*.~~ (Ord. 3705 § 2 (part), 1999)

Code reviser's note: Ord. 3421* was repealed by Ord. 3433*.

Proposed Language for Electronic Readerboards
KZC Use Zone Charts 15.10.030, 17.10.030, 18.10.030 and 56.20

,

Electrical signs shall be permitted at Junior High/Middle Schools and High Schools. One pedestal sign with a readerboard having electronic programming is allowed per site only if:

a. It is a pedestal sign (see Plate 12) having a maximum of 40 square feet of sign area per sign face;

b. The electronic readerboard is no more than 50 percent of the sign area;

c. Moving graphics and text or video are not part of the sign;

d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way;

e. The electronic readerboard displays messages regarding public service announcements or school events only;

f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness;

g. The electronic readerboard is turned off between 10:00 p.m. and 6:00 a.m.;

h. The school is located on a collector or arterial street.

The City shall review and approve the location of the sign on the site. The sign shall be located to have the least impact on surrounding residential properties. If it is determined that a proposed electronic readerboard would constitute~~s~~ a traffic hazard the Planning Director may impose restrictions or deny the readerboard.

Zone RS

USE ZONE CHART

	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS									
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.030	School or Day-Care Center	See Spec. Reg. 10.	As established on the Zoning Map. See Spec. Reg. 1.	If this use can accommodate 50 or more students or children, then: 50′ 50′ on each side 50′ If this use can accommodate 13 to 49 students or children, then: 20′ 20′ on each side 20′			70%	25′ above average building elevation. See Spec. Reg. 12.	D	B See Spec. Reg. 8.	See KZC 105.25.	1. Minimum lot size is as follows: a. In RS 35 zones, the minimum lot size is 35,000 square feet. b. In RS 12.5 zones, the minimum lot size is 12,500 square feet. c. In RS 8.5 zones, the minimum lot size is 8,500 square feet. d. In RS 7.2 zones, the minimum lot size is 7,200 square feet. e. In RS 6.3 zones, the minimum lot size is 6,300 square feet. f. In RS 5.0 zones, the minimum lot size is 5,000 square feet. 2. May locate on the subject property only if: a. It will not be materially detrimental to the character of the neighborhood in which it is located. b. Site and building design minimizes adverse impacts on surrounding residential neighborhoods. c. The property is served by a collector or arterial street (does not apply to existing school sites). 3. A six-foot-high fence along the side and rear property lines is required only along the property lines adjacent to the outside play areas. 4. Hours of operation and maximum number of attendees at one (1) time may be limited to reduce impacts on nearby residential uses. 5. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 6. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 7. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 8. Electrical signs shall not be permitted. 9. May include accessory living facilities for staff persons. 10. The required review process is as follows: a. If the subject property, including all contiguous property owned by the applicant and held by others for future use by the applicant, is less than five acres, the required review process is Process IIA, Chapter 150 KZC; provided, however, that within the jurisdiction of the Houghton Municipal Corporation, the required review process is Process IIB, Chapter 152 KZC. REGULATIONS CONTINUED ON NEXT PAGE

Replace language in #8 with proposed language

Section 17.10	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.030	School or Day-Care Center (continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE 3. May locate on the subject property only if: a. It will not be materially detrimental to the character of the neighborhood in which it is located; or b. Site and building design minimizes adverse impacts on surrounding residential neighborhoods. c. The property is served by a collector or arterial street. 4. A six-foot-high fence along the side and rear property lines is required only along the property lines adjacent to the outside play areas. 5. Hours of operation and maximum number of attendees at one time may be limited to reduce impacts on nearby residential uses. 6. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 7. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 8. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 9. Electrical signs shall not be permitted except at Lake Washington and Juanita High Schools. One pedestal sign with a readerboard having electronic programming is allowed at each high school only if: a. It is a pedestal sign (see Plate 12) having a maximum of 40 square feet of sign area per sign face; b. The electronic readerboard is no more than 50 percent of the sign area; c. Moving graphics and text or video are not part of the sign; d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way; e. The electronic readerboard displays messages regarding public service announcements or school events only; f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness; REGULATIONS CONTINUED ON NEXT PAGE

Replace language in #9 with proposed language

Zone RSA

USE ZONE CHART

Section 18.10	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.030	School or Day-Care Center (continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE 8. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 9. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 10. For school use, structure height may be increased, up to 35 feet, if: a. The school can accommodate 200 or more students; and b. The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by one foot for each additional one foot of structure height; and c. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan. d. The increased height will not result in a structure that is incompatible with surrounding uses or improvements. 11. May include accessory living facilities for staff persons. 12. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 13. Electrical signs shall not be permitted.
.040	Mini-School or Mini-Day-Care Center See Spec. Regs. 1 and 2.	Process I, Chapter 145 KZC.	As established on the Zoning Map. See Spec. Reg. 3.	20'	5' but 2 side yards must equal at least 15'.	10'	50%, except 30% for RSA 1 zone. See Gen. Reg. 3. See Gen. Reg. 4 for Holmes Point overlay zone.	30' above average building elevation.	E See Gen. Regs. 3 and 4.	B See Spec. Reg. 9.	See KZC 105.25.	1. May locate on the subject property if: a. It will not be materially detrimental to the character of the neighborhood in which it is located. b. Site design must minimize adverse impacts on surrounding residential neighborhoods. 2. This use is not permitted on properties within the jurisdiction of the Shoreline Management Act. See Chapter 83 KZC. 3. Minimum lot size is as follows: a. In RSA 1 zone, newly platted lots shall be clustered and configured in a manner to provide generally equal sized lots outside of the required open space area. b. In RSA 4 zones, the minimum lot size is 7,600 square feet. c. In RSA 6 zones, the minimum lot size is 5,100 square feet. d. In RSA 8 zones, the minimum lot size is 3,800 square feet. REGULATIONS CONTINUED ON NEXT PAGE

Replace language in #13 with proposed language

Zone YBD 2, YBD 3

USE ZONE CHART

Section 56.20	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.080	Private Lodge or Club	D.R., Chapter 142 KZC	None	0' adjacent to NE 38th Place and Northup Way. Otherwise, 20'.	0'	0'	80%	In YBD 2, 55' above average building elevation. In YBD 3, 60' above average building elevation.	C	B	1 per each 300 sq. ft. of gross floor area	
.090	Hospital Facility								B		See KZC 105.25.	
.100	Public Utility								A			
.110	Church								C		1 for every 4 people based on maximum occupant load of any area of worship. See Spec. Reg. 2.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to the use.
.120	School or Day-Care Center								D		See KZC 105.25.	1. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 2. Structured play areas must be set back from all property lines by five feet. 3. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 4. May include accessory living facilities for staff persons.
.130	Mini-School or Mini-Day-Care								E			
.140	Government Facility Community Facility								C See Spec. Reg. 1.			1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.150	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

Add #5 with proposed language

162.~~60~~35.12 ~~Special Provisions for Continued Uses –~~ Nonconforming Density

The provisions of this section set forth when, and under what circumstances, residential property with nonconforming density may continue in existence or be rebuilt or redeveloped. An existing lawful use of a residential structure which became nonconforming as to density ~~either as a result of amendatory Ordinance No. 2347 or due to other zoning changes implemented to bring about conformity with the Comprehensive Plan~~ shall be allowed to continue in existence, or be remodeled, repaired or maintained subject to the conditions listed below. ~~Redevelopment or rebuilding may not occur unless the structure is destroyed by fire or other casualty (see subsection (4) of this section).~~

1. The provisions of this section apply only to multifamily structures in areas designated by the ~~Comprehensive Plan~~ Zoning Code for multifamily use.

~~2. Any change in use shall conform to the Comprehensive Plan and zoning regulations in effect at the time such change is made~~.

~~3. Any change in density shall comply with the provisions of this section.~~

~~4~~2. Ordinary repairs and maintenance may be carried out consistent with the provisions of this chapter; ~~provided, that there shall be~~ with no limitation on the amount or cost of such repairs and maintenance.

~~5~~3. Remodeling may be carried out consistent with the provisions of this chapter; provided, that ~~within any 24-month period, the value of all improvements may not exceed 50 percent of either the assessed valuation of the existing structure based on the King County assessed valuation of the structure, or the value of the existing building as determined by the most current Building Standards as published by the International Conference of Building Officials, whichever is greater. If there is no King County assessment for the structure to be remodeled, the most current Building Standards as published by the International Conference of Building Officials shall be used to determine valuation~~ there is no change to the configuration of exterior walls.

The density within the remodeled ~~density~~ structure is no greater than ~~must be at least 75 percent of that~~ contained in the original structure. ~~The major exterior dimensions of the structure shall not exceed the major exterior dimensions of the previous structure. Except as noted in this subsection and subsection (7) of this section, this provision shall not reduce any requirements of the zoning, building, or fire codes in effect when the structure is remodeled~~.

~~6~~4. Residential property with nonconforming density shall not be subject to the provisions of this chapter relating to destruction by fire or other casualty. In the event a residential structure that is nonconforming as to density is destroyed to any extent by fire or other casualty, the structure may be rebuilt as a residential structure; provided, however, that the number of dwelling units, gross floor area of the structure, and major exterior dimensions of the structure shall not exceed the same dimensions or standards of the previous structure. This subsection shall not reduce any requirements of the zoning,

building, or fire codes in effect when the structure is rebuilt. The property owner shall also have the option of rebuilding the structure at a reduced density, as described in subsection (5) of this section. The provisions of this subsection shall only be available if an application for a building permit is filed within 12 months of fire or other casualty and construction is commenced and completed in conformance with the provisions of the building code then in effect.

7. ~~Should the number of parking stalls provided on-site be insufficient to meet zoning regulations in effect at the time of remodeling, this deficiency shall be allowed to remain with the remodel; provided, that the number of stalls may not be reduced from the number of stalls on-site with the original structure. Any surplus of parking stalls above those required by the zoning regulations in effect at the time of remodeling may be eliminated~~.

8. ~~The owner of a continued use nonconforming as to density may request the issuance of a "certificate of continued use" which shall identify the property, existing use, density and site characteristics for which the certificate is issued and which shall include the provisions of this chapter.~~

162.35.~~12~~13. Any Other Nonconformance

If any nonconformance exists on the subject property, other than as specifically listed in the prior subsections of this section, these must be brought into conformance if:

a. The applicant is making any alteration or change or doing any other work in a consecutive 12-month period to an improvement that is nonconforming or houses, supports or is supported by the nonconformance, and the cost of the alteration, change or other work exceeds 50 percent of the replacement cost of that improvement; or

b. The use on the subject property is changed and this code establishes more stringent or different standards or requirements for the nonconforming aspect of the new use than this code establishes for the former use.

The following is correspondence received for the HCC February 27, 2012 meeting

February 27, 2012

City of Kirkland
Planning Department
Attn: Nancy Cox, Development Review Manager
123 Fifth Avenue
Kirkland, WA 98033

VIA EMAIL AND HAND DELIVERY

RE: Amendments to KZC Chapter 117 – Personal Wireless Service Facilities (PWSF)
Kirkland Planning Commission, Houghton Community Council
AT&T LTE 4G Overlay Project

Dear Nancy:

Thank you for alerting me to the upcoming discussions with the Kirkland Planning Commission and Houghton Community Council regarding potential changes to the nonconforming requirements that would apply to AT&T's existing wireless facilities in the city. We appreciate this opportunity to comment on and express support for potential code changes that would allow AT&T to more quickly and sensibly upgrade its facilities to provide the latest wireless technologies that Kirkland residents enjoy.

In the past four years, demand for data provided by AT&T has grown exponentially, by 8,000%, prompting AT&T to invest heavily in new generations of technology to keep up. AT&T is in the process of upgrading all of its Kirkland facilities to the latest wireless broadband technology – LTE (also known as a 4G network), which will eventually be capable of 125 Mb/s. By way of comparison, LTE connections will be capable of approximately ten times the current speed of most home cable internet connections of Kirkland residents.

The impact of the upgrading all of AT&T's facilities in Kirkland is fairly modest. Existing sites (ranging from rooftop, utility pole, and monopole facilities) would generally require one antenna per sector to be added/replaced (up to three antennas per site) as well as the addition of a new small equipment cabinet inside existing compound. The change in the visual impact of each site would range from being unnoticeable (where antennas are replaced) to very minor (a few antennas added).

The major issues we have found with Kirkland's wireless code relate to nonconforming requirements that preclude AT&T from upgrading to new technologies on many existing sites without significant compromises. The way the Code is written today, some existing antennas cannot be replaced with a new antennas, even if they were identical, without requiring a new permit. The replacement antennas would be subject to new design requirements, even if they were legally permitted in Kirkland or predecessor jurisdictions. These changes range from having

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to lower height, which can lead to an overall loss of coverage, changing the configuration of antennas, which can lead to a significant loss in system efficiency, and in some case, make sites unable to function at all, leading to construction of more facilities to be built to make up the loss. Keep in mind that the visual impact of these minor upgrades is very small to begin with. These wireless facilities already exist and already contribute to the character of the neighborhoods in which they are located.

Overall, the nonconforming requirements are very costly, very time consuming, and don't make sense given the modest level in which the facilities are being modified.

It is important to note that Kirkland's nonconforming requirements for wireless facilities appear to be inconsistent with recent federal legislation (Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, see attached) regarding upgrades/modifications to wireless facilities. The statute says, "local government may not deny, and shall approve any eligible facilities request for a modification… that does not substantially change the physical dimensions of such tower and base station." The modification is defined as the replacement, removal, and addition of antennas/equipment. Even before this recent legislation, there was a question whether Kirkland's nonconforming requirements for wireless facilities were legal, and more practically, enforceable.

Regardless, there are good, practical reasons for the City to change these requirements. With such a large population of technology workers and businesses in and around Kirkland, it is important that new wireless technologies be deployed quickly to support the pace of innovation created by these workers and industries. The City of Kirkland is important to AT&T – we would like to work constructively with the City on regulations that allow for facilities to be upgraded quickly, and do not substantially increase impacts on the community.

We appreciate this opportunity to comment. If you have any questions, feel free to contact me at (206) 227-0020 or at ken.lyons@wirelesscounsel.com.

Sincerely,

Ken Lyons
Jurisdictional Relations Director, PNW, LTE

cc: Peter Gonzales, AT&T Mobility
Rich Busch, Busch Law Firm, PLLC
File

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The following is correspondence received for the April 23, 2012 HCC meeting

From: Paul Stewart
To: Joan Lieberman-Brill
Subject: FW: follow up from meeting Feb 27, 2012 on chicken policy
Date: Wednesday, March 07, 2012 10:39:04 AM
Attachments: 03062012 chickens.docx

-----Original Message-----
From: Kathy Weber [mailto:kirklandweber@me.com]
Sent: Tuesday, March 06, 2012 7:45 PM
To: Houghton Council
Cc: Nancy Cox
Subject: follow up from meeting Feb 27, 2012 on chicken policy

To the members of the Houghton Community Council-- After further discussion and research on some of the issues you raised in your meeting Feburary 27, I wanted to respond further, by forwarding you this letter I have addressed to the Planning Commission in advance of their meeting Thursday March 8. Thank you for the work you do on behalf of Kirkland!

Kathy Weber

The following is correspondence received for the April 26, 2012 PC meeting

Exhibit B

To: Planning Commission members
From: Kathy Weber
March 6, 2012

Chickens policy and code amendments—There are many residents in addition to myself who are enthusiastic about backyard chickens, but are not attending public meetings on the subject. Unfortunately, several families were confused about the existing chicken policies and already own chickens with lots legally "too small". Others have decided to enjoy their backyard chickens quietly in hopes that the policies would one day be revised.

I want to express my views on the decisions you are discussing on March 8, 2012, as well as respond to the concerns of several Houghton Community Council members from the meeting on February 27, 2012. Please see my letter dated March 6, 2011 in your meeting packet materials, and I will not repeat myself.

(1) **Lot size** question: anyone with a single family home should be able to raise chickens in their backyard if they have the desire and the room to do so. If residents have a relatively larger lot for a relatively larger coop they should be able to raise more chickens. Seattle says everyone can have six chickens. Redmond specifically states how many chickens one can own based on the zoning area, from 4-10. Shoreline sensibly states that chickens must have 200 cu ft each in their coop, and regulates the maximum coop size. I begin to like Shoreline's approach. Currently, Kirkland residents with over 35,000 sq ft lots may own up to 20 chickens, and I favor keeping current rules for these residents with large lots who may already own chickens.
(2) **Setback** question: it makes sense to me to require setbacks from property lines with other neighbors similarly to a garden shed or dog house.
(3) **Coop cleanliness**: people who wish to raise chickens are likely to take good care of them. We are willing (Kirkland Coalition for Backyard Agriculture members) to sponsor community building educational forums for residents interested in best practices, after new policies are in place. It is difficult to regulate cleanliness.
(4) **Lot size for roosters**: Seattle says "no roosters"; Redmond says "no roosters"; Shoreline "discourages roosters", but allows them; Kirkland allows roosters on lot sizes in excess of 35,000 sq ft; If it is not broken, don't fix it. There are passionate opinions on roosters. Ok with me if we must prohibit roosters on lot sizes under 35,000 sq ft, but I don't favor making new, more restrictive rules for lot sizes over 35,000 sq ft. We live in a civil society and we all hear some noises from each other: freeway traffic, lawn mowers, dogs. On the occasion that a chick is mis-sexed when it arrives from the hatchery, it will make a good dinner or can be adopted out by the time it matures enough to crow.

(continued)

Concerns I heard expressed at Houghton Community Council meeting—

(5) **Rodents**: we all have seen or heard of rats in Kirkland. They have no doubt lived among us for generations. Keeping feed bins closed, airtight, and coops clean are a great deterrant (source: Seattle Tilth). In addition, Redmond requires that coops prohibit points of uncontrolled access to coops larger to than ½ inch. Together, these ideas sound sensible.

(6) **Noise**: Mature roosters will crow in the morning, and throughout the day. I loved the rooster in my neighborhood that lived here when I moved to Kirkland 12 years ago, but some did not. We will have to decide our policy on roosters. Hens will make some clucking sounds, particularly in the act of laying an egg, approximately one per day per mature hen. In addition, you may hear them briefly, if they are disturbed by a stranger. There are silent at night because they are sleeping. This is no more intrusive than a ball game, a lawn mower, or a neighbor's outdoor dinner.

(7) Salmonella **risk from purchased eggs**: It is not economically viable to have a profitable business from a few backyard chickens, so rules regarding eggs bought or sold seem a non-issue. It is unlikely that this will be attempted. Existing regs are silent on the potential issues of "eggs for sale". It can stay that way. Any of us must be prudent when extra lettuce or apples are shared between neighbors or when we buy local produce at our farmer's markets. We cannot regulate common sense.

Exhibit B

206.838.9100 MAIN PHONE
206.838.9101 MAIN FAX

Two Union Square
601 Union St, Suite 4950
Seattle, WA 98101

SOCIUSLAWGROUP PLLC

Brian E. Lawler
206.838.9136
blawler@sociuslaw.com

April 26, 2012

BY ELECTRONIC MAIL

City Council Members
City Planning Commission
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

Re: 2012 Misc. Zoning Code Amendments – Study Session
Non-Conforming Density Properties – Chapter 162 Section 162.60
Regulations beyond "density" restrictions – incompatibility with adjacent BN-Residential Markets

Dear Council Members and Planning Commissioners:

On behalf of my clients, I write you today regarding proposed Kirkland zoning code changes to non-conforming density regulations. The current zoning code amendments for non-conforming densities apply to most of the property owners who have been involved in the BN-Residential Market review. On behalf of my clients, I wish to express support for some of the proposed changes, but to also draw attention to some remaining areas, which seem to unintentionally disfavor, or needlessly restrict the owners of surrounding properties and thus creating more of an inequity of treatment between the BN-Residential Market and neighbors in RM zones.

Historically, all land south of the centerline of 7th Ave. S. (approximately downtown) and north of the centerline of NE 63rd St. experienced a dramatic reduction in development potential due to specific, problematic vehicular ingress and egress along Lake St. S./Lake Washington Blvd NE. This also avoided creation of greater "cut through traffic" on neighborhood streets like 10th Ave. S. This down zone was for all of the land within the area described in Resolution 2639. A copy is available upon request. Through a legal settlement in 1979, the non-conformance created was due to density concerns only. The existing condominiums and apartments were generally built at 20-30% lot coverage even though the RM properties allow a footprint that can cover 60% of the lot.

The 1977 down zone did not address or aim to reduce the allowable lot coverage in the RM zone in contrast to the Comprehensive Plan changes that did require alterations to zoning text in order to restrict size and scale of the two areas identified as Residential Market - Commercial. We advocate restricting lot coverage in the Residential Market commercial zone as a means of managing bulk and scale. This was the work assigned to the Planning Department by Ordinance in 1995 which, to date, has not been modified to the extent that it implements the Comp Plan.

We do object to the entire current planning effort. Several areas of the proposed change to non-conforming densities are very positive. For example, we are pleased to learn that staff recommends removing financial barriers that have kept some owners from repairing, remodeling, or replacing existing structures. There are several structures along Lake St. S./ Lake Washington Boulevard that have been rotting due to inability to work within the constraints that are in place. Also, previous interpretations of what was "repair" and what was "remodeling" were inconsistent. Removing the cost barrier in the new text should be positive for both property owners and the city. Improved properties bring higher tax dollars to Kirkland.

We are also pleased that the City planners have now recognized that where condominium ownership exists, it is not practical to require future development at reduced density. An example of this being that it would be impossible to determine which owners would get to keep their units and which would be displaced. Similarly, a requirement that some of the rebuilt units must be "affordable" would leave the homeowners associations in the helpless position of determining whose units were rebuilt as market rate units and who would reconstruct theirs as affordable dwellings.

However, on the other side of the equation, are those areas of the proposed zoning code changes that limit future development size, scale, etc. These do not appear to be the reason for the historical density restriction. The property owners question why remodel, or redevelopment, would be restricted to the 20%-30% lot coverage footprint that each currently occupies. Development standards currently in place allow a maximum of 60% lot coverage. Further exacerbating this problem for properties around the BN-Residential Market is that the commercial property has not yet had a reduced lot coverage implemented and can currently be built to 80% lot coverage (a four-fold difference in footprint and an even greater difference in overall volume/size of building). It bears repeating that they have been arguing that a "Very Small Building Center" cannot be achieved with 80% lot coverage and is not compatible or integrated into a neighborhood where the lot coverage maximum is 60%. You can imagine the further disparity if buildings are held to 20%-30% coverage as currently exists.

Another consideration is the combination or property aggregation of BN-Residential Market lots, which would further separate the look and feel and compatibility with surrounding RM properties which must keep their current footprints and are precluded from lot aggregation with their own lot line adjustments. The end result should not be even greater "monster buildings" in the Residential Markets properties, adjacent to the more highly restricted, much smaller, RM buildings.

Exhibit B

My clients have an additional concern about a newly proposed regulation which would suddenly require a minimum density for these properties alone. The proposal seems to be new to Kirkland and unique to these properties as it requires a floor of 75% of the existing number of units during any redevelopment. This restricts the choices available to property owners. For a building that was built with 24 dwelling units and now zoned for a maximum of 12 units, this would impose an artificial floor of 18 units, which is six units higher than the up to 12 units allowed under RM 3.6 zoning. It is anticipated that most would not want to reduce density, but there may be situations where 24 little rental apartments could be rebuilt as 12 or 14 nice apartments or condos. It is hard to predict the variability and seems a bit over-reaching in regulations if a rebuild has a minimum density as suggested.

My clients would encourage a more simplified non-conforming policy. It would allow for maintaining the non-conforming density no matter the repair, remodel or redevelopment. No increase in non-conforming density would be allowed except that a bonus would be allowed only if they were affordable units. Thus a non-conforming condominium of 24 units could become 27 units if the 3 additional helped the city meet its affordability targets.

In summary, there is support for provisions that would allow buildings to be remodeled/repaired with greater ease and that would protect individual condominium owners from having to "draw straws" to see who is compromised by Kirkland regulations.

There is opposition to restrictions on lot coverage and the idea of a minimum density percentage. Opposition is heightened where maintenance of current building footprint creates potential for greater size and scale difference between RM properties and whatever results in lot coverage for BN-Residential Market.

Our final inquiry and comment today relates to the sufficiency of legal notice of the proposed changes to Comp Plan and non-conforming densities. As these changes could have significant impact on some property owners, are we to assume that they have received meaningful notice that these amendments are being considered?

Thank you for your continued hard work to achieve zoning that implements the Residential Market - Commercial as approved by Ordinance in 1995 and on numerous occasions since. Additionally thank you for your careful consideration of the changes suggested for Non-conforming Densities.

Sincerely,

Brian E. Lawler

cc: L. Triplett, City Manager (Email Only)
R. Jenkinson, City Attorney (Email Only)

BACKYARD CHICKEN POLICY UPDATE CONSENSUS April 24, 2012
It is great that we are finally finding coming together on the details of friendlier policies regarding backyard chickens. You have reviewed Kirkland's current policies and those of many neighboring cities. We have discussed at length the desire for more of our City residents to legally raise backyard chickens.

1--HOW MANY chickens on HOW BIG LOT?

KEEP IT THE SAME: All lots exceeding 35,000 sq ft (0.8A) may have 20 chickens (includes ducks). They may have 1 additional bird for every 500 sq ft in excess OF 35,000 sq ft..

ADOPT NEW RULES: Maximum 8 chickens on smaller lots (as Seattle does). When the lot is larger than 10,000 sq ft, 1 additional chicken is permiited for each additional 1000 sq ft.

Note: Do not need minimum lot size because practical aspects of placing a pen will govern. This is a reasonable number of chickens for anyone to have a successful backyard agriculture experience in any neighborhood of Kirkland. The Seattle policies have worked well in an area with more density than many Kirkland neighborhoods. Adopt Seattle policy for lots smaller than 35,000 sq ft.

2—PERMIT OR APPLICATION PROCESS?

KEEP IT THE SAME: No, neither.

Note: Let's spend our time on more important things. Staff is lean and this is unnecessary. Just enough government, rather than too much government, eh?

3—SHOULD ROOSTERS BE ALLOWED?

KEEP IT THE SAME: Only on lots exceeding 35,000 sq feet as they are now. Roosters are prohibited on lots smaller than 35,000 sq ft.

Note: They keep a flock healthier, chickens happier, and are more aggressive at fending off predators. People who have legal roosters on very large lots now should not be penalized by our efforts to expand the property rights and backyard agriculture opportunity for those with lots under 35,000 sq ft. If there is ever an issue we have noise ordinances that will govern any complaint.

4—SETBACKS?

KEEP IT THE SAME: Rules regarding garden structures now say that setback

from neighboring property line should be 5' on the side and 20' at the front. Keep this.

ADOPT NEW RULES: Chicken coop structures must be 10' from dwelling unit on adjacent lot (like Seattle). Advocates for backyard chickens like the idea of measuring distance from neighbor's dwelling, not simply the property line (like Seattle does)

Note: This is both respectful of next door neighbors and is reasonable for residents wishing to have backyard chickens. The setbacks should be comparable to Seattle and to the original King County ordinances governing our annexed areas as stated.

5—COOP CONCERNS: DESIGN, CLEANLINESS, CONSTRUCTION

KEEP IT THE SAME: Must provide a suitable structure or pen to house the animals and must maintain it in a clean condition.

Note: There are best practices in coop design and construction and resources are available for those who want to learn. We do not need to mandate additional details re construction methods, size, or height. There will be personal design choices, and we hope to include some Kirkland coops on the backyard coop tour sponsored by Seattle Tilth. There are best practices for food storage and coop design to keep pests and predators away, and they should remain "best practices" rather than rules.

FOOTNOTE: These are enough rules. Government has bigger things to grapple with. Residents motivated to keep chickens are generally a considerate and responsible group. Any additional rules have unintended consequences. They may penalize our new citizens of the annexed areas in ways that are not at all welcoming. Many in the newly annexed area have modeled the success of backyard chickens without incidents for decades. This is a time to come together with a common purpose. It is reasonable to adopt all of these rules now. It is not reasonable to "go part way" and say we can revisit this later as the process of reviewing and creating policy change in Kirkland is tedious and slow. We have been dialoguing for nearly two years and we aren't yet done. This, summary, however, seems to summarize the growing consensus.

Let us encourage more citizens to enjoy the community fun and fresh healthy food benefits of back yard agriculture!

Kathy Weber
Kirkland Coalition for Backyard Agriculture

From: Paul Stewart
To: Joan Lieberman-Brill
Subject: FW: Comments on chicken raising in Kirkland (Chapter 115 Section 115.20.4 "Chickens")
Date: Thursday, April 26, 2012 8:43:15 AM

From: Neil Kauffman [mailto:neil@neilk.org]
Sent: Wednesday, April 25, 2012 7:12 PM
To: Planning Commissioners
Subject: Comments on chicken raising in Kirkland (Chapter 115 Section 115.20.4 "Chickens")

Hello,

I'm writing in favor of reducing the lot requirements for owning chickens in Kirkland. I unfortunately cannot attend the April 26th meeting so I wanted to give my thoughts in writing.

I grew up in Wisconsin and have owned chickens and other animals for much of my life. I feel the current lot size requirements for owning chickens don't reflect the reality of what chickens humanely require.

- Any size single-family lot is large enough to raise several chickens. A small 20 sq foot coop with a 100 sq foot run is plenty of space for 4 chickens to raised healthily and happily.
- As a comparison, the United Egg Producers current cage sizing recommendation is 67 to 86 sq inches per bird (according to Wikipedia.) While no backyard chicken enthusiast would subject their pets to such confinement it shows the tiny space in which chickens are routinely raised in factory egg farms.
- Chickens can easily be contained to a single lot to allow them to "free range" or forage for food. Fencing requirements for free ranging chickens is a fair condition of ownership as a neighbor's vegetable garden would quickly become a buffet.
- Chickens are omnivores; they will happily kill and eat mice or rats. Rodents are seldom a problem around a coop. Bugs are also a tasty treat and chickens naturally keep them in check.
- Chickens are a quiet pet (excluding roosters). They only make noise (beyond a soft "clucking") when excited or when laying an egg. However, they only lay eggs in the daylight hours (generally late morning/noon.) Chickens are quiet throughout the night.
- Odor from chicken coops is directly proportional to the lack of upkeep. Existing health and safety rules should be sufficient to deter unsanitary conditions. Again, most backyard chicken enthusiasts wouldn't keep their pets in squalid conditions.

I hope the planning commission will vote to reduce the lot requirements based on the above observations.

Thank you,

Neil Kauffman

12627 NE 87th PL
Kirkland, WA 98033

From: Joan Lieberman-Brill
To: Caryn Saban
Subject: FW: kirkland chicken policy
Date: Thursday, March 08, 2012 10:37:46 AM

Please put at each Planning Commissioner's place at the dais for tonight's meeting on Misc. Zoning Code Amendments.

-----Original Message-----
From: Linda Hedges [mailto:linda.s.hedges@gmail.com]
Sent: Thursday, March 08, 2012 8:59 AM
To: Planning Commissioners
Subject: kirkland chicken policy

Hello,

My name is Linda Hedges and I live in Kirkland at 10815 NE 60th St. I understand that chicken housing policy is being discussed today and simply wanted to express my support for allowing chickens freely on small lots. A friend of mine has a couple chickens in their small back yard on Mercer Island and the chickens are a part of the family. The children play with the chickens, see them as pets, and the eggs are delicious. The chickens are clean and easy to take care of.

Thanks!
Linda Hedges

From: Paul Stewart
To: Joan Lieberman-Brill
Subject: FW: Kirkland"s Chicken Policy
Date: Thursday, April 26, 2012 8:40:50 AM

From: Nancy Kartes [mailto:nkartes@frontier.com]
Sent: Wednesday, April 25, 2012 9:51 PM
To: Planning Commissioners
Subject: Kirkland's Chicken Policy

Dear Planning Commissioners,

Just over a year ago, I was pleased to speak to you in favor of broadening Kirkland's backyard chicken policy to allow chickens on small lots. I am delighted that you are moving forward in your consideration of this issue, and I appreciate the City staff's research into the regulations of neighboring cities. I have also read and support Kathy Weber's BACKYARD CHICKEN POLICY UPDATE CONSENSUS document dated April 24, 2012.

A well-managed backyard flock is a great source of nutritious eggs; natural weed and insect pest control; and organic fertilizer for backyard veggies. Property owners should be as free to own and care for chickens as they are to own and care for pets.

Thank you for your consideration.

Nancy Kartes

Kirkland Coalition for Backyard Agriculture

From: Jeremy McMahan
To: Joan Lieberman-Brill; Paul Stewart
Subject: FW: Planning Commission Discussion - Nonconforming DENSITIES
Date: Thursday, April 26, 2012 1:36:30 PM

-----Original Message-----
From: uwkkg@aol.com [mailto:uwkkg@aol.com]
Sent: Thursday, April 26, 2012 9:58 AM
To: Jay Arnold; Mike Miller; C Ray Allshouse; Andrew Held; Jon Pascal; Glenn Peterson; Byron Katsuyama; Eric Shields; Jeremy McMahan; Kurt Triplett; Janet Jonson; Robin Jenkinson
Cc: uwkkg@aol.com; neighboringproperties@gmail.com
Subject: Planning Commission Discussion - Nonconforming DENSITIES

Dear Commissioners:
For tonights meeting, I write on behalf of many of us who currently have "non-conforming" density due to the 1977 downzone.

We appreciate the fact that you have been listening to our concerns about restrictions on ability to repair, remodel and the fact that sometimes it can be confusing as to what is a repair or remodel. Removing these financial constraints altogether, as suggested, should be helpful to property owners and beneficial to overall better repair of buildings in the city (and more tax dollars) Win - Win - Win !!!

Similarly, it appears that you've heard the logical argument that where there are condos, it is impossible to assign certain owners to vacate their units or step forward and have their unit chosen as only rebuildable as "affordable" while others rebuild at market rate.

I would ask that you consider other provisions of the proposal that we contend need changing. The concern was density and not lot coverage (since almost all of the condominiums along LWB/Lake St are built at 20-30% lot coverage - less than half of the allowed 60%). Can anyone provide an explanation why future repairs/remodeling would need to remain at such a low lot coverage? Why couldn't folks decide to build something smaller... or bigger? Are we going to start telling all property owners that they cannot put additions onto their homes or rebuild their residence any bigger than what it is currently?

Also, if owners need to keep to the same building footprint, they are therefore not allowed any lot consolidation. I'm not sure if that is wanted or desired, but it is being argued against by citizens re: BN Residential Markets. We hope that you will not allow that for the BN-Res Mkt, but if you do, please don't restrict surrounding properties from being treated the same. Consolidation would never happen if units must keep their current (unconsolidated) footprint.

We are also concerned about something that could easily be overlooked.
It appears that a new policy is being introduced where any redevelopment could not be done unless it is at least 75% of the current density. Wow, this is getting confusing... Units built to a density of 24 are now under zoning that permits 1-12 dwellings per unit. Then you require a minimum of 18 dwellings per unit if rebuilt.
This conflicts with the density cap of 12 dwellings per acre. Also, some of the developments are very small units and would like to rebuild at a lower number and only slightly larger - that is their vision. Why do we all of a sudden put a density floor on just certain properties.
If we are going to do this, perhaps it should be city-wide. Moreover, it seems like an over-reaching regulation... to us.

Simple answer we think is that you let non-conforming densities exist and keep their density no matter the repair, rebuild or reconstruction but that the density couldn't become any MORE non-conforming. For the benefit of achieving the city's affordability target you might add in an incentive that additional density would only be allowed if it was all "affordable" at the rate of 10% of the units. We would suggest that you leave off the footprint requirement, the two walls that cannot ever be taken down (to foolishly ensure that it's a remodel and not a new building), and the floor density provisions.

Thanks for your past thoughtful consideration of costs to repair and condominium ownership. We truly appreciate your careful and deliberate work. We look forward to your deliberation on these other matters tonight - We are in your hands.

Thank you.

Karen Levenson

The following is correspondence received for the May 10, 2012 PC meeting

From: uwkkg@aol.com
To: Eric Shields; eknobler@sociuslaw.com
Cc: Joan Lieberman-Brill
Subject: Re: Regulations on nonconforming density
Date: Thursday, May 10, 2012 2:14:48 PM

Hi Eric:
While we are cleaning up this language, it would seem a good time to review whether what the language restricts is actually aiming at the right target.... or if it is just hampering something that might not be intended.

For instance, you say below that the proposed amendments would allow different exterior dimensions going forward. That seems reasonable because I think that some of the restriction on dimension related to one certain type of non-conformance (perhaps development of property on the shoreline)... It would however not seem to makee sense why condos like mine which only has about 20% lot coverage couldn't be built to perhaps 30% lot coverage ... or 40%, 50% or 60% since our RM3.6 zoning allows 60%.

Also regarding the minimum rebuild density, I think this is a great opportunity to ask if this is doing something that we intend, or is it rather unnecessary ... and perhaps hampers some rebuilding.

Thanks for your email.

Karen Levenson

-----Original Message-----
From: Eric Shields <EShields@kirklandwa.gov>
To: 'uwkkg@aol.com' <uwkkg@aol.com>; 'mailto:eknobler@sociuslaw.com' <eknobler@sociuslaw.com>
Cc: Joan Lieberman-Brill <JLiebermanBrill@kirklandwa.gov>
Sent: Thu, May 10, 2012 1:30 pm
Subject: Regulations on nonconforming density

Ms. Levenson and Mr. Lawler, I just read your messages to the Planning Commission regarding the above topic. I thought I would clarify that the language about retaining at least 75% of the existing density is not new – it's in the existing code. However, the proposed amendments would make editorial changes and remove requirements that exterior dimensions must remain unchanged. It's not my intent to negate your concerns about the language, but I just wanted you to know that it's not new. It certainly could be removed if the Commission and Council so decide. Eric Shields. DirectorKirkland Department of Planning & Community Developmenteshields@kirklandwa.gov | 425-587-3226

The following is correspondence received for the June 14, 2012 joint PC/ HCC Public Hearing

E-page 409

7804170310
CHRISTIAN KEVIN K CTC
1025 S 220TH ST
DES MOINES WA 98198

Exhibit B

CITY OF KIRKLAND WASHINGTON

Please Read at meeting

RECEIVED
May 31, 2012
JUN 05 2012
AM PM
PLANNING DEPARTMENT
BY

I Am A disabled Anal cAn not attend the meeting. I Am in FAVOR OF this pipe line because we Need Energy For Jobs And our Stadand of Living

Ken K. Christian

SUBJECT: Announcement of Public Hearing

Dear Interested Citizen,

This letter is to inform you about an upcoming public hearing on proposed land use regulations for development near the BP/Olympic pipelines, which are located near your property or place of business. Prior to annexation, King County regulated land use in or near the Olympic Pipeline corridor. The City of Kirkland now has that responsibility.

BP/Olympic Pipe Line Company operates a 400-mile long petroleum pipeline system from Ferndale, Washington to Portland, Oregon. Two pipelines, 16-inch and 20-inch, pass through the north portion of Kirkland generally along the Puget Sound Energy easement. (See map)

The pipelines are considered "hazardous liquid pipelines" that carry gasoline, diesel, and aviation fuel. These pipelines provide a service transporting petroleum products much more efficiently than by truck. However, if ruptured or damaged, these pipelines can pose a significant risk to public safety and the environment due to the high operating pressure; the highly flammable, explosive, and toxic properties of the transported products; and the potential for fuels and vapor to travel significant distances on the downhill side of the pipelines.

The Federal Office of Pipeline Safety is responsible for regulating these and other interstate pipelines. While the City of Kirkland is precluded from regulating the pipelines, the City's Planning Commission is considering a Zoning Code amendment that would establish City regulations related to land use development near hazardous liquid pipelines. The proposed amendment is intended to:

- Avoid opportunities for accidental damage to the pipelines due to construction equipment and other external forces, by establishing minimum setbacks from the pipeline corridor.
- Reduce risk of injury to people in the event of a pipeline failure by not locating new schools, senior housing, and other "high consequence land uses" near the pipelines.
- Improve communication between property owners and pipeline operators to minimize the risk of inadvertent damage to hazardous liquid pipelines and to provide guidance to property owners about minimizing further risk through site design or construction.

The City's Planning Commission will be holding a joint public hearing with the Houghton Community Council on various amendments to the Kirkland Zoning and Municipal Code on June 14. These will include the proposed Hazardous Liquid Pipeline regulations. You are receiving this announcement because of the proximity of your property to the pipelines and the potential implications to you should you choose to further develop your property.

Opportunities For More Information and to Comment

List Serv: you may sign up to receive e-mails about this miscellaneous zoning and municipal code amendment project at.
http://www.kirklandwa.gov/depart/Planning/Code_Updates/Miscellaneous_Code_Amendments_2012.htm

Staff Report for the Public Hearing: The staff report to the Planning Commission and Houghton Community Council, which includes the proposed new Hazardous Liquid Pipeline regulations, can be viewed at the City's web site after 5:00 on Friday, June 8 at:
http://www.kirklandwa.gov/depart/Planning/Planning_Commission.htm

Public Hearing: The Planning Commission will hold a public hearing on the proposed amendment on June 14, 2012 at 7 pm, in the City Hall Council Chambers located at 123 5th Avenue. You are encouraged to attend and provide public comment on the proposed amendment.

After the Commission has finalized their recommendation the City Council will consider adopting the regulations this summer.

If you have any questions or would like more information, please contact me at 425-587-3254 or jbrill@kirklandwa.gov.

Sincerely,

Joan Lieberman Brill

Joan Lieberman-Brill, AICP
Senior Planner
City of Kirkland Planning Department

Enclosures

From: Eric Shields
To: Joan Lieberman-Brill
Subject: FW: # 2 For Tonight HCC&KPC - SRO - Please forward this email
Date: Thursday, June 14, 2012 4:53:08 PM

Eric Shields

From: Uwkkg@aol.com [mailto:Uwkkg@aol.com]
Sent: Thursday, June 14, 2012 2:51 PM
To: C Ray Allshouse; Jay Arnold; Andrew Held; Byron Katsuyama; Glenn Peterson; Mike Miller; Jon Pascal; Houghton Council; Janet Jonson; Kurt Triplett
Cc: uwkkg@aol.com; neighboringproperties@gmail.com
Subject: # 2 For Tonight HCC&KPC - SRO - Please forward this email

Hello again Commissioners and Community Council Members:

My next comments are with respect to the SRO "Single Resident Occupancy" as proposed by Mr Pantley. This, by the way, is a HCC issue. While it is currently not proposed for HCC areas, we all know that sooner or later someone steps forward and says that Houghton shouldn't have special privileges . The code allows SROs within 1/4 mile of Transit Center and Houghton is about to get a Transit Center. HCC, therefore, must have a voice in this discussion.

I would like to comment on the following items

1) Zoning Codes that spontaneously appear due to "developer need" rather than as Comprehensive Planning. This is flat out irresponsible. It is not "planning" it is knee-jerk capitulating to developers.

2) **Huge changes** in how Kirkland defines residential unit (not having self contained kitchen and other amenities and a huge increase in number of unrelated persons) **should not be processed through as a <u>Moderate Amendment</u>**. This is Huge change in definition of residential unit and likely to be controversial. Minor or moderate code amendments are generally done for things that are non-controversial or will have minor controversy.

SPECIFIC ISSUES:
A) The City Council seemed to ask to have the extra .5 FTE assigned this SRO for further study, yet it seems to be moving forward without that farther study. The concept of 8 residents sharing a kitchen and a building that provides severely reduced parking needs ample time for research - That has not happened. There has been a lack of public outreach on this item (usually this is a sign of something covert or likely not well received).

B) Mr Pantley's experience seems limited to just one or two of these SROs and not over a long period of time. We also have not seen what happens when the owner/management team sells their property. The new owners often do not have the same philosophy as the initial builder/manager.

C) I do not believe that fewer parking spaces and "strict parking management strategies" are effective at reducing America's love affair with cars. In my condo we've had numerous unit owners/renters who start out with one car and the bus. Then they get into a personal-love relationship with someone and that person moves in...with car.... We've had ason come home from serving in the military and move in with Mom.... with car.... And, we have had a grandson loose his job and move in with Grandma... with car. All use their cars to get to jobs that are not on the bus line. All were unexpected additions to our parking lot. In addition to these cars we do allow our unit owners and renters to have guests come by... Not unusual behavior, I'm sure you'll agree.....All these extra cars are parked along the closest nearby neighborhood street.

While the car parking issue is likely relevant in many areas, it will be particularly problematic in Downtown Kirkland CBD. The guests or extra residents will be competing with parking spaces that shoppers and restaurant goers would like.

D) The city council seemed to be asking for a "Pilot" project yet the code as written does not provide for just one "Pilot." It seems to allow as many of these as folks want to build as long as they are within 1/4 mile of transit center. ... So that would allow dozens of these.... and how do we define transit center? Will someone argue for one of these if they are within 1/4 mile of a street served by several bus lines? Wow... we could be the epicenter of SROs!!!

I'll attach the text of my letter to the Editor below. It will hopefully cover some points that I may have missed.

Thanks for taking the time to consider my thoughts as above and those in the Letter to Editor.

Best, Karen Levenson **IS PANTLEY THE NEXT POTALA?**

Why does planning staff, in Kirkland, have conversations with developers and then accommodate them by disregarding the Comprehensive Plan and/or modifying city policies? Why does Kirkland ignore the rules on our books in order to allow developers to move forward? Why doesn't the city reach out to citizens and bring them into the conversation when modifications are requested? Instead citizens only find out about city capitulation after it has happened. No wonder we have continuous public uproar, and with Potala, the legal action.

Why, if we supposedly want to provide for a range of housing in Kirkland, are all the current projects for tiny micro spaces and extreme reduction in city required parking… (e.g. Potala, TOD and now Pantley)???

Doesn't the Growth Management Act require a Comprehensive Planning process wherein citizen participation is actively solicited and the result is something that ensures "coordinated" and "planned" growth across the city? So why does Kirkland act on spontaneous eruptions of "developer need" and allow piecemeal modifications that are incompatible?

The Pantley development proposal is a far cry from anything that is currently allowed by code in the City of Kirkland. Eric Shields, at a recent Planning Commission meeting, stated that there are fundamentally two issues with current code. One being that the city's definition of dwelling unit does not allow for communal like development wherein up to 8 individual bedrooms share a kitchen facility and the definition of "family" as allowed in a dwelling unit greatly surpasses the city's current restriction allowing no more than 5 unrelated occupants.

The other modification that seems determined to move forward is the blessing for greatly reduced parking requirement – only requiring one space per every two units. Where??? At the recent Planning Commission meeting the request was for downtown Kirkland!!! Hello??? With reduced parking??? Mr Pantley claims that they screen tenants and somehow end up with folks that don't have cars. So if that is true, what happens if the resident changes jobs and can no longer get there by bus? Perhaps fall in love and marry someone who has a car? Or even have guests come by? Where are those cars parked?? What if Mr Pantley sells the apartment/condo project to someone else who doesn't screen residents meticulously? We all have seen how overflow parking ends up in our neighborhoods, in front of our house. We don't need more of this. The downtown merchants will also suffer when residents/guests use precious downtown parking stalls.

Those of us who actually live in multifamily have experienced that one car per bedroom is never enough parking. Somehow, those on our commissions and council who live in single family homes think they know better. They've stated that half a space per unit is more than adequate. They've obviously not been HOA president wherein parking issues are a monthly event and annually the attorney gets brought in to arbitrate differences. And this is where one parking space per bedroom is provided and where transit is only a block away!!!

My biggest concern is around PROCESS. This is especially true when established process is circumvented. Things are done in conflict with the city Comprehensive Plan and policies, and in a way that covertly speeds things through. Where is the transparency? This is causing us so much city time and money when we have to sort through our legal defense of such actions.

When the City Council heard Mr Pantley's proposal, they heard that there were code inconsistencies with parking but did not hear about the fact that we have no zone use charts to allow this communal type of housing!!! The second set of code problems was not brought to their attention.

The Council members made comments that they were intrigued by the idea, would like to study this type of housing as part of the work plan, were in favor of looking at the Redmond example and would consider a carefully placed "pilot project." On tape, at 00:49:26 during the 4/3/12 Council Study session, Eric Shields suggested that he might be able to bring this forward in the current set of code amendments. Then on 4/26/12 @ 3:41:00 Mr Shields tells Planning Commission that "The INSTRUCTION from the [City] Council was 'to put it in these code amendments.'" The emphasis on immediately moving this forward, without farther study, and without being limited to a carefully chosen pilot site was not my understanding of Council direction. Perhaps a review of the meeting tape would be helpful.

Why do changes like those proposed by Mr Pantley get considered without going through the process of Private Amendment Request? All other developments asking for modifications seem to wait for this PAR review. Why are Pantley or Potala something different? Is this fair to other developers?

Why is the public as a whole not brought in to consider making a major change in the definition of residential units (to include small, communal units)?

Why are residents not included in the deliberation of dramatic reduction in required parking (size and number of stalls)?

Why does the Notice of the Planning Commission meeting not list this as an item? It is not until you sift through dozens of pages that you come across a discussion of SRO (Single Resident Occupancy)? ? … And likely you've never heard a thing about this before.

VERY IMPORTANT TO NOTE: The code amendment, if it goes through is not for a "pilot" or "test" project as the City Council indicated. It adds a new zoning category and would allow for this in numerous areas. It would not be "a test case."

Come on City of Kirkland… Be fair to us as citizens. Respect the Comprehensive Plan that we worked hard on for years. If changes are needed they should be considered only after broad outreach to the citizens and good dialog and thorough study. Sadly, as I began participating more in city planning, I've felt that the Kirkland way is "catch me if you can." Even if you do catch me, you may not have caught me within the 60 day timeframe required for an appeal, or you may not have been involved earlier and aren't therefore a recognized "party of record." This is really a disrespectful and inappropriate way to treat the citizens who pay their taxes and employ you. Something needs to change.

Karen Levenson (Other public replies are below)

Showing 5 comments

Larry Kilbride:

Very well put.. It sems to be more and more (all about the money) If it can be presented by the builders ,who by the way know ALL the Council Members,know when ALL the meetings are and simply put it on their schedules-- then changes can be made WITHOUT public input..
Makes you wonder WHO pays the Council ??

MKelly:
This is, and has long been, a pattern in Kirkland as far back as I started taking notice as a new realtor some 23 years ago. A respected Kirkland realtor colleague of mine recently told me that he stopped going to Council meetings because "everything is predetermined in private meetings" before public hearings and Council vote. That appearing before Council is a waste of time and energy, essentially a dog and pony show for the benefit of legal documentation. This is a very frustrating and helpless feeling that the "process" inflicts upon it's own citizens. It kills the spirit.

I was surprised (not shocked) of hearing that former Councilman Pantley's proposal already had support. The "process" has long been very muddy, heavily weighted in developers favor with little regard for the concerns of citizens, neigbhorhoods or the permanent impact some of these decisions will have on the future of Kirkland. There is a right way and a wrong way to achieve the goal of high density in appropriate areas. It starts with a transparent process.

Very well written letter Karen. Your quote sums it up. "Sadly, as I began participating more in city planning, I've felt that the Kirkland way is "catch me if you can." Even if you do catch me, you may not have caught me within the 60 day timeframe required for an appeal, or you may not have been involved earlier and aren't therefore a recognized "party of record."

Recall.4.from.KCC:
The comment I like most is that something has to change. Either at the upcoming election or before. There are 4 changes needed.

Recall.4.from.KCC:
Who has already expressed interest in running?... And when??

Chuck Pilcher:
I wonder if Mr. Pantley saw how well the end-run around the Comp Plan seems to be working for the Potala developer and simply saw an opportunity. I don't even like saying this, but It sure appears that our City's plans and processes have lost the respect of Kirkland's leaders

From: Joan Lieberman-Brill
To: Houghton Council
Subject: FW: Backyard Agriculture
Date: Wednesday, June 13, 2012 6:01:19 PM

This email was received regarding the proposed chicken amendment, which will be considered at the public hearing June 14.

-----Original Message-----
From: Eric Shields
Sent: Wednesday, June 13, 2012 3:45 PM
To: Joan Lieberman-Brill
Subject: FW: Backyard Agriculture

Eric Shields

-----Original Message-----
From: Terri Butler [mailto:terri.butler@me.com]
Sent: Wednesday, June 13, 2012 3:42 PM
To: Planning Commissioners
Subject: Backyard Agriculture

City Council,

I am a Houghton resident with large gardens in the front and back of our house. I have been following the chicken policy discussion and want to let you know of my support. While I don't anticipate raising chickens myself, I work in several neighborhoods in Seattle where chickens are common and have only been a life-enriching addition to the communities.

As the Executive Director of Sustainable Seattle I fully support the enhancement of our "grow local" culture. Thank you for working with Kirkland residents who would like to raise chickens to form policy that will encourage more people to join the green movement.

Sincerely,

Terri Butler

From: Joan Lieberman-Brill
To: Houghton Council
Subject: FW: chickens residing in homes less than 5000 sq ft
Date: Wednesday, June 13, 2012 5:59:51 PM

This email was received regarding the proposed chicken amendment, which will be considered at the public hearing June 14. .

-----Original Message-----
From: Eric Shields
Sent: Tuesday, June 12, 2012 9:26 AM
To: Joan Lieberman-Brill
Subject: FW: chickens residing in homes less than 5000 sq ft

-----Original Message-----
From: Barbara Ries [mailto:wash.wholesalers@comcast.net]
Sent: Monday, June 11, 2012 10:54 PM
To: Planning Commissioners
Cc: georgine foster
Subject: chickens residing in homes less than 5000 sq ft

How do you think you would like it if all your neighbors had chickens clucking all the time.....i have to say this is one of your most hair brained ideas ever. We no longer live on farmland in Kirkland or Houghton. It's bad enough that you want to change the zoning now you want to have chickens as residents as well.

I think this is an awful idea in every sense of the word. What would ever possess you to pursue an issue so stupid. Have you nothing more important to deal with??? Instead of dealing w/our terrible congestion you up zoning and now chickens. I hope they'll use the orange flags when crossing the street.....

Your city council, city planner etc ought to consider resigning @ once.

From: Joan Lieberman-Brill
To: Houghton Council
Subject: FW: chickens
Date: Wednesday, June 13, 2012 6:01:40 PM

This email was received regarding the proposed chicken amendment, which will be considered at the public hearing June 14.

From: Eric Shields
Sent: Tuesday, June 12, 2012 4:40 PM
To: Joan Lieberman-Brill
Subject: FW: chickens

Eric Shields

From: kathilucia@comcast.net [mailto:kathilucia@comcast.net]
Sent: Tuesday, June 12, 2012 3:35 PM
To: Planning Commissioners
Subject: chickens

I am in favor of allowing backyard chickens in Kirkland but NOT ROOSTERS as they are too noisy. I do think some research should be done on what other nearby cities do and how they regulate this. I live on Finn Hill.

Kathi Lucia

From: Eric Shields
To: Joan Lieberman-Brill
Subject: FW: For Tonight HCC & KPC - NonConforming Density - Please forward
Date: Thursday, June 14, 2012 1:56:05 PM

Eric Shields

From: Uwkkg@aol.com [mailto:Uwkkg@aol.com]
Sent: Thursday, June 14, 2012 1:51 PM
To: C Ray Allshouse; Jay Arnold; Andrew Held; Byron Katsuyama; Glenn Peterson; Mike Miller; Jon Pascal; Houghton Council; Janet Jonson; Kurt Triplett
Cc: uwkkg@aol.com; neighboringproperties@gmail.com
Subject: For Tonight HCC & KPC - NonConforming Density - Please forward

Good Afternoon Commissioners and Community Council members:

Unfortunately my schedule has just become muddied and I will not be able to join you and present testimony tonight. I therefore submit some "food for thought" which is the opinion that I and some other neighbors share regarding two items on tonight's agenda. In this email I'll address my first set of comments. they are about the Non-conforming Density language changes.

Non-Conforming Density
I would ask that we try and regulate only what we aim to regulate and not throw in "other" restrictions that are unrelated.

Other restrictions may be laudable ... and we may want to look at them citywide, or within certain broader geographies, but they should not just be imposed upon a thin ribbon of homes along Lake Washington Boulevard. They should only be part of the Non-conforming density language if they support the goal of reducing ingress and egress.

History: Density reduced from 24/acre to 12/acre
Reason: Traffic ingress and egress issues

Request # 1: Remove restrictions that would prohibit repair and/or replacement. A falling down building in disrepair doesn't do anything to reduce the number of cars that ingress or egress LWB. Repairs are good for the condo owners, for the look and feel of LWB, for stimulating the economy and for generating more property taxes.

Request # 2: Remove restrictions on lot coverage and the ability to change the footprint of a building. Most of the condos on LWB are built minimally at 20-30% lot coverage even though by zoning they are allowed 60% lot coverage. We don't have this second layer of more restrictive lot coverage (beyond the underlying zoning) anywhere else in the city to my knowledge so the question is fairness.

You will still be maintaining a limit on the number of units so presumably the same number of residents and thus cars.

Worst case... perhaps state that parking may not increase, or number of rooms per unit may not be increased. Otherwise, limiting lot coverage when the issue is traffic ingress and egress seems unrelated.

Of course, if a property has non-conforming density AND non-conforming lot coverage then the second restriction would make sense.

Request # 3: There should not be a lower density limit in addition to the upper limit. That is too restrictive and is not done anywhere else.

Here's a made up example: "Rundown Condominium" is 9 owners 3 levels of 3 units. As the building needs extensive repair, fire code and earthquake upgrades, etc, the rebuild will be quite pricey. The 3 units are owned by elderly, fixed income residents who decide the cost to rebuild is too much for them ... and besides Merrill Gardens has been calling. These 3 sell their shares in the condo to the remaining 6 owners who want to build only 6 units slightly larger (3 stories of 2 or 2 stories of 3). Here's the problem... the code says they have to rebuild @ at least 75% density so 7 need to be built. Why? How is this going to increase ingress and egress to LWB? They are likely going to reduce the number of occupants on the property and car trips.

Goal: Reduce ingress and egress to LWB - A decrease in density actually helps decrease ingress/egress
So what does the "floor" on density accomplish? If you think of GMA, we would prefer to not lose density close to CBD, transit centers, etc. This idea of a "floor" on density is likely not a bad idea but it has nothing to do with the goal. It therefore is unfair to tie this into the text about non conforming densities. A better solution would be to remove this from the non-conforming density discussion and look at it as a GMA issue. It is really not the responsibility of a small "ribbon" of properties along LWB to saddle with the burden of GMA and maintaining density. If Kirkland wants to begin putting "floor" on rebuild density it should be done in a broader context... e.g. all properties within 1/2 mile of CBD may not reduce density below current "as built" by less than 75%.... Just make sure you are not throwing in restrictions that have nothing to do with the ingress and egress goals of the down zone.

Thanks for your consideration.
PS. Please note that these non-conforming properties are next door neighbors to Potala LLC where they are proposing 80% lot coverage and unlimited density. You know that I am not advocating that but I point out the huge chasm.

Karen Levenson

From: Joan Lieberman-Brill
To: Planning Commissioners; Houghton Council
Subject: FW: urban chickens
Date: Wednesday, June 13, 2012 6:02:08 PM

This email was received regarding the proposed chicken amendment, which will be considered at the public hearing June 14.

-----Original Message-----
From: Linda Hedges [mailto:linda.s.hedges@gmail.com]
Sent: Sunday, June 10, 2012 8:59 PM
To: Joan Lieberman-Brill
Subject: urban chickens

Dear Ms. Lieberman-Brill,

Thank you for updating the policy for chickens in the Kirkland area. I am writing in support of backyard chickens. I live in Houghton and have friends on Mercer Island and in Kirkland with chickens. I believe that urban agriculture and farming improve sustainability and livability of the Kirkland area. I do not believe that chickens pose a health risk, cause noise, odors, or attract rodents.

Chickens become family pets while providing fresh healthy eggs to their owners (and neighbors). I support the ownership of more chickens and roosters in urban areas with larger lots sizes.

Thank you for your time,
Linda Hedges
10815 NE 60th St
Kirkland, WA 98033
425 822 8789

Exhibit B

From: Joan Lieberman-Brill
To: Houghton Council; Planning Commissioners
Subject: FW: Yarrow Hill Resident
Date: Wednesday, June 13, 2012 6:00:54 PM

This email was received regarding the proposed chicken amendment, which will be considered at the public hearing June 14.

From: Londa Narmita [mailto:londa2@hotmail.com]
Sent: Monday, June 11, 2012 8:38 PM
To: Joan Lieberman-Brill
Subject: Yarrow Hill Resident

We are residents at Yarrow Hill, and are very much against the raising of chickens in our area. We do not need the problems of odors, rats, raccoons etc. Why even make this a consideration? Kirkland is a well kept, clean area. Don't we want to keep it that way?

From: Uwkkg@aol.com
To: ktriplett@kirlandwa.gov
Cc: Robin Jenkinson; Joan Lieberman-Brill; Eric Shields; uwkkg@aol.com; neighboringproperties@gmail.com
Subject: Fwd: Kirkland Neighborhood News: Public invited to joint Houghton Community ...
Date: Tuesday, May 29, 2012 4:03:42 PM

Hi Kurt:

This question (and comments) are for you. And I hope you can provide some clarity.

I fear we are headed in the same direction as Potala with the Pantley proposal for SRO. It seems to be moving forward without proper procedure and being rushed forward improperly... let me explain...

I listened in to the study session with council wherein they were asked if they wanted to put it on their work program for future study. Mostly all of them (possibly all) seemed interested in further study and there was information on the request for decreased or zero parking. Yes, they agreed to have this be part of the work program for the year and assign some of the extra FTE in the planning department to this evaluation.

Then, barely a week or two later, I see a presentation to Planning Commission indicating that SRO IS being included as a zoning amendment. Mr. Pantley made a presentation to the Planning commission and Eric Shields seemed to indicate that Council was very interested in this (I'll go back and get the exact wording but it seemed that he was indicating they were interested MOVING FORWARD with the concept wherein, my understanding was that they were interested IN STUDYING). There is a big difference between moving forward and merely studying something.

Did I miss something? How did we go from being interested in having this on the upcoming years work program to having it included as a current proposed amendment?

Eric Shields mentioned that two things would have to happen 1) Change in allowed parking and 2) a brand new type of zoning to allow for this type of residence (doesn't fit current definitions or zoning.

Both of these are HUGE issues particularly since I heard (FOR THE FIRST TIME) that one of the two areas this is being proposed is for CBD (the other being Totem Lake).

How in the world is this already in the works as an amendment? How in the world is this considered a MODERATE amendment (IT IS HUGE AND CONTROVERSIAL)?

Also as an FYI, the cover sheet that talks about proposed amendments does not indicate SRO is one of the items to be considered at the meeting, so most folks would not know. Only those who open the meeting packet for some other item would see that SRO is included. If this is being considered, please make sure to properly note this on the cover letter as well as the attachment.

Kurt, I've watched the movement of items from City Council to Planning Commission and back during the past 15 months. Most of the problems that we run into are due to things being misrepresented (intentionally or unintentionally) when they change venue. We currently have one such issue surrounding the Potala project. That is the subject of a future communication.

For now, can you provide some clarity on the SRO and how it got to the point that it is on the zoning amendment schedule already? If I've missed something in the process I'd love to back and review.

Thanks,
Karen Levenson

The next question

From: kirkland@service.govdelivery.com
To: uwkkg@aol.com
Sent: 5/29/2012 6:32:38 P.M. Eastern Daylight Time
Subj: Kirkland Neighborhood News: Public invited to joint Houghton Community Council & Planning Commission hearing

Tuesday, May 29, 2012

Public Invited to Kirkland's Houghton Community Council and Planning Commission Joint Hearing on Proposed Zoning & Municipal Code Amendments

You are receiving this email because you have been identified as a stakeholder who may be interested in proposed amendments to the City of Kirkland's Zoning and Municipal Codes (Project ZON-12-00002). You are encouraged to attend a joint public hearing on June 14, 2012 to provide public comment on various proposed City wide miscellaneous amendments to the Zoning and Municipal Codes.

At the public hearing the Planning Commission and Houghton Community Council will take public testimony on the draft amendments and make a recommendation to the City Council. The following list highlights some of the issues being considered (*Follow the link above for the complete list of amendments*) :

- Minor Floor Area Ratio Exemptions (e.g. stairwells and vaulted areas)
- Second Story Above-Garage Setbacks
- Backyard Chickens
- Non-Conforming density standards governing repair and rebuilding
- Standards for development adjacent to Hazardous Liquid Pipelines (Olympic Pipeline)
- Allowing Electronic Readerboard Signs at High Schools and Jr./Middle Schools
- Allowing Historic and Small Lot Subdivisions citywide
- Personal Wireless Facilities (minor modifications on cell towers)

The joint Houghton Community Council and the Planning Commission public hearing is scheduled for Thursday, June 14, 2012. The public hearing begins at 7 p.m. in the Kirkland City Hall Council Chambers, at 123 5th Avenue. The meeting is open to the public. The staff memo and agenda for the public hearing will be available on the City of Kirkland's web site prior to the meeting:

- Visit the Houghton Community Council webpage after Friday, June 8 after 5 p.m.
- Visit the Planning Commission webpage after Friday, June 8 after 5 p.m.

If you would like to receive updates via email, subscribe to the "Miscellaneous Zoning & Municipal Code Amendments" electronic bulletin List Serv. For more information, contact Joan Lieberman-Brill, Kirkland Planning Department at 425-587-3254 or jbrill@kirklandwa.gov

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City of Kirkland - Neighborhood Services
123 5th Ave
Kirkland, WA, 98033
(425) 587-3011
e-mail the Neighborhood Services Coordinator at: kpage@kirklandwa.gov

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Update your subscriptions, modify your password or e-mail address, or stop subscriptions at any time on your Subscriber Preferences Page. You will need to use your e-mail address to log in. If you have questions or problems with the subscription service, please contact support@govdelivery.com.

This service is provided to you at no charge by the City of Kirkland.

This email was sent to uwkkg@aol.com using GovDelivery, on behalf of the City of Kirkland · 123 Fifth Avenue · Kirkland, WA 98033 · 425-587-3000

From: Joan Lieberman-Brill
To: Joan Lieberman-Brill
Subject: letter
Date: Tuesday, July 24, 2012 12:54:25 PM

From: jkerick@comcast.net [jkerick@comcast.net]
Sent: Monday, June 11, 2012 4:56 PM
To: Houghton Council
Subject: Chickens

I, too, have been chuckling (and maybe even clucking a bit) about the issue of backyard chicken raising because it didn't seem to be a serious possibility that chickens might come to Kirkland. If Kirkland planners and lawmakers are seriously considering this issue, I would ask you to contact nearby communities that have put in place chicken raising regulations to learn what has worked and what problems may have developed. It is much easier to address problems during the formation of regulations than to correct them after the coop door has been closed. It will be said that the roosters won't crow and chicken manure won't smell, but things just don't work that way. You must plan for just those issues.

In closing, please remember this: Eggs: good. Roosters greeting the dawn: V. bad.

Best regards,

Kay Erickson

Lakeview Neighborhood

Kirkland

From: marshrc1@frontier.com
To: Joan Lieberman-Brill; Planning Commissioners
Subject: No Chickens
Date: Thursday, June 14, 2012 4:47:44 PM

Re: 2012 Miscellaneous Zoning Code Amendments
We live in Yarrow Hill, just above the newly re-zoned area east of Lake Washington Blvd. We are appalled that the planning commission is actually considering allowing chickens on 5000 sq. ft. lots. Even farms that raise chickens keep the coups a good distance from their homes due to the odor, noise, and attracting other animals such as coyotes (which we have seen in the area on occasion). Would the commissioners want to live next to chicken coups? Farmers keep chicken coups a distance from their homes, that is why chickens should be in the farming area and not a residential area. We strongly oppose having chickens in our neighborhood.
Roger and Cathy Marsh

From: Fairbanks, Randy
To: Planning Commissioners; Joan Lieberman-Brill
Cc: eilers.shanna@gmail.com; Fairbanks, Judi
Subject: Proposed Pipeline Regulations
Date: Thursday, June 14, 2012 4:36:12 PM

Dear Planning Commissioners and Joan Lieberman-Brill,

We had planned to attend tonight's hearing, but it turns up we have a conflict that can't be changed. However, I would like to voice my opposition to the proposed new pipeline regulations. My wife and I live at 13521 NE 129th Place and have for 33 years under King County regulations. During those 3+ decades, neither we nor our neighbors, have ever had an issue with the pipeline (which is buried 3 to 4 ft below the ground surface) or Olympic Pipeline Company. Now, as soon as the City of Kirkland takes over, there is a "problem that needs correcting" (and I voted for annexation). Based on my reading of the proposed regulations, they will reduce our property value by about $100,000, or possibly more. Our property value represents a significant portion of our retirement. We respectfully request that you modify the regulations so that they incorporate a setback of a 10 ft from the edge of the corridor. With the other regulations regarding notifications, signage, and barricades in place, a 10 ft setback would be more than sufficient to provide protection.

Thank you,
Randy and Judi Fairbanks
13521 NE 129th Place
Kirkland, WA 98034

Randy Fairbanks | **Vice President, Forestry & Natural Resources**
Direct: 425.482.7814 | Fax: 425.482.7641 | Cell: 425.785.6419
randy.fairbanks@tetratech.com

Tetra Tech | **Sciences**
19803 North Creek Parkway | Bothell, WA 98011 | www.tetratech.com

PLEASE NOTE: This message, including any attachments, may include confidential and/or inside information. Any distribution or use of this communication by anyone other than the intended recipient is strictly prohibited and may be unlawful. If you are not the intended recipient, please notify the sender by replying to this message and then delete it from your system.

Think Green - Not every email needs to be printed.

The following is correspondence received for the June 25, 2012 HCC deliberation meeting

From: Kathy Weber
To: Houghton Council
Subject: Post public hearing chicken comments
Date: Monday, June 25, 2012 1:23:20 PM

To the members of the Houghton Community Council:

We listened with interest to the entire public hearing and deliberations of the Planning Commission. We are pleased with what they have decided to recommend re backyard chickens. We hope the the members of HCC see benefit in keeping the policy consistent across Kirkland. This is beneficial to residents who can find one set of policies without numerous exceptions. It makes it easier for people to "follow the rules". As I recall the large map showing lots over 35,000 sq ft had very few parcels in Houghton.

As I heard it, The others have agreed to the following and hope you will too:
Anyone can have 3 chickens.
Anyone with lot over 5000 sq ft may have additional 1 per 1000 sq ft, up to 20.
Anyone with lot over 35,000 sq ft may have additional 1 per 500 sq ft.
Roosters are only permitted on existing lots exceeding 35,000 sq ft.
(not sure if they will allow existing legal roosters on smaller lots in JFK to live out their lives legally)
Coop requirements are to be substantially simplified to say that they will be suitable and kept in a cleanly manner.
Setback requirements will be similar to any garden shed.
These can be consistent across town and are simple to understand!

I realize that some HCC members seemed to be concerned about coops being too near a neighbor's house. I believe that those motivated to keep chickens are generally courteous, and will make thoughtful decisions about coop placement.

Looking forward to legal backyard chickens in Kirkland and fresh eggs!

Kathy Weber
Email: kirklandweber@me.com
Cell: (425) 984-4499

The following is correspondence received for the July 12, 2012 PC deliberation meeting

From: Nancy Cox
To: "Ken Lyons"
Cc: Joan Lieberman-Brill
Subject: RE: Planning Commission Meeting - Thursday, July 12, 2012 at 7:00 pm
Date: Tuesday, July 10, 2012 8:54:50 AM

Ken,

Your email came in before the public comment period was closed (July 5). I will add this to the information handed out on Thursday. If you want to bring a picture or drawing to illustrate the PC might allow it to be shown.

Nancy

From: Ken Lyons [mailto:ken.lyons@wirelesscounsel.com]
Sent: Thursday, July 05, 2012 9:49 AM
To: Nancy Cox
Subject: FW: Planning Commission Meeting - Thursday, July 12, 2012 at 7:00 pm

Hi Nancy:

I went through the new language. I think it will be fine and it addresses the major issue that the Planning Commission was concerned about. As you have seen on some of our applications, we have to use short "T-arms" where we have more than 3 antennas at the same elevation on a tower/pole. I believe the clause for allowing this with proper RF justification has been preserved. Please correct me if I'm wrong.

Hope you had a nice 4th of July.

Best,

Ken Lyons
Jurisdictional Relations Director, PNW, LTE

Busch Law Firm PLLC
(206) 227-0020 mobile
(425) 483-1070 fax
ken.lyons@wirelesscounsel.com

From: Caryn Saban <CSaban@kirklandwa.gov>
Subject: Planning Commission Meeting - Thursday, July 12, 2012 at 7:00 pm

Agenda Item:

1. 2012 Miscellaneous Zoning Code Amendments, File No. ZON12-00002

The Agenda and Meeting Packet are available here.

Caryn Saban
City of Kirkland
Planning & Community Development
425-587-3234
csaban@kirklandwa.gov

Please don't print this e-mail unless you really need to. Reduce, Reuse, Recycle

From: Kathy Weber
To: Houghton Council
Subject: Post public hearing chicken comments
Date: Monday, June 25, 2012 1:23:20 PM

To the members of the Houghton Community Council:

We listened with interest to the entire public hearing and deliberations of the Planning Commission. We are pleased with what they have decided to recommend re backyard chickens. We hope the the members of HCC see benefit in keeping the policy consistent across Kirkland. This is beneficial to residents who can find one set of policies without numerous exceptions. It makes it easier for people to "follow the rules". As I recall the large map showing lots over 35,000 sq ft had very few parcels in Houghton.

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I realize that some HCC members seemed to be concerned about coops being too near a neighbor's house. I believe that those motivated to keep chickens are generally courteous, and will make thoughtful decisions about coop placement.

Looking forward to legal backyard chickens in Kirkland and fresh eggs!

Kathy Weber
Email: kirklandweber@me.com
Cell: (425) 984-4499

ORDINANCE O-4369

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING CHAPTER 117 PERSONAL WIRELESS SERVICE FACILITIES OF THE KIRKLAND ZONING ORDINANCE 3719 AS AMENDED; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION , FILE NO. ZON12-00002.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, and certain sections of the text of the Kirkland Municipal Code, as amended all as set forth in that certain report and recommendation of the Planning Commission dated July 26, 2012 and bearing Kirkland Department of Planning and Community Development File No.ZON12-00002; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission and Houghton Community Council , following notice thereof as required by RCW 35A.63.070, on June 14, 2012, held a joint public hearing, on the amendment proposals and considered the comments received at said hearing; and

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

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission.

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

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, as set forth in Attachment A attached to this ordinance and incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the

disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 4. Except as provided in Section 3, this ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 5. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2012.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 2012.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

ATTACHMENT A
FILE NO. ZON12-00002
2012 MISCELLANEOUS CODE AMENDMENTS
KIRKLAND ZONING CODE (KZC)
*- Subject to Houghton Community Council review

How to read this document:

- New text is underlined
- Existing text to be deleted is covered by a ~~strike-through~~
- ***Italicized*** text identifies the amendment topic

** Chapter 117 Personal Wireless Service Facilities*

117.15 Definitions

3. "Approved PWSF ~~antenna or tower~~" shall mean any personal wireless service facility (PWSF) that has received all required permits. ~~for the installation, maintenance, and reconfiguration of the facility.~~

~~8. "Existing structure" shall mean, but is not limited to, any existing building, utility pole, water reservoir, other support structure, and structures accessory thereto.~~

~~13. "Replacement structure shall mean a structure that replaces or is intended to replace an existing structure of a similar design and similar primary purpose, to enable the installation of or additional PWSF on that structure. If a "replacement structure" meets the definition of "tower," it shall be regulated as a new tower.~~

(Definitions to be renumbered accordingly)

117.20 Applicability

1. New ~~Antennas and Towers~~ PWSF – All new ~~antennas and towers~~ PWSF shall comply with this chapter unless the applicant had a vested application to site said PWSF under a prior version of this chapter, or unless specifically exempted by KZC 117.25. See also 2.c. of this section.

2. Approved ~~Antennas and Towers~~ PWSF ~~– Reconfiguration of or additions to an approved antenna or tower is permitted as noted in this chapter. Reconfiguration of or additions to an antenna or tower that was not approved are not allowed unless the entire facility obtains approval as a new facility through the appropriate review process.~~

~~3. Existing Antennas and Towers~~

   a. The use~~age~~ of ~~existing antennas and towers~~ approved PWSF shall be allowed to continue ~~as they exist as of the effective date of this chapter~~. Routine maintenance and repair ~~reconfiguration~~ of PWSF ~~antennas~~ shall be permitted ~~on such existing antennas and towers, subject to the limitations below~~. Activity not included in routine maintenance and repair requires compliance with this chapter except as stated in 2.b and 2.c of this section.

b. ~~Any reconfiguration pursuant to subsection (3)(a) of this section that increases the height or number of antennas shall be treated and processed as a new facility.~~ PWSF ~~Existing antennas that conform to the provisions of this chapter~~ may be replaced by new PWSF ~~antennas,~~ if such new PWSF ~~antennas~~ are approved as a minor modification pursuant to KZC 117.105. However, the replacement of an existing tower, whether that tower conforms or does not conform to the provisions of this chapter, shall be treated and processed as a new facility.

c. New antenna may be added to existing platforms or arms that are appended to approved towers if such new antenna are approved as a minor modification pursuant to KZC 117.105. However, new platforms or arms on approved towers will require compliance with this chapter.

~~d. The replacement of existing antennas that do not conform to the provisions of this chapter shall be treated and processed as a new facility.~~

~~e. The replacement of an existing tower, whether that tower conforms or does not conform to the provisions of this chapter, shall be treated and processed as a new facility.~~

~~4. Equipment Structures~~

~~a. The usage of existing equipment structures shall be allowed to continue as it exists as of the effective date of this chapter. Routine maintenance, reconfiguration of, or additions to equipment structures shall be permitted, subject to the limitations below.~~

~~b. Existing equipment structures may be replaced, and new equipment structures may be added to an approved antenna and/or tower; provided, that the new equipment structures conform with the provisions of this chapter, and are approved as a minor modification pursuant to KZC 117.105.~~

~~c. Reconfiguration or addition of equipment structures that increases the size of the equipment structure enclosure shall be treated and processed as a new facility.~~

3. Not Approved PWSF – Any PWSF for which there is no record of a permit must be removed or receive a permit to comply with this chapter.

~~4. Equipment Structures~~

~~a. The usage of existing equipment structures shall be allowed to continue as it exists as of the effective date of this chapter. Routine maintenance, reconfiguration of, or additions to equipment structures shall be permitted, subject to the limitations below.~~

~~b. Existing equipment structures may be replaced, and new equipment structures may be added to an approved antenna and/or tower; provided, that the new equipment structures conform with the provisions of this chapter, and are approved as a minor modification pursuant to KZC 117.105.~~

~~c. Reconfiguration or addition of equipment structures that increases the size of the equipment structure enclosure shall be treated and processed as a new facility.~~

4~~5~~. Other Wireless Communication Facilities – All of the provisions of this chapter, which address personal wireless services and PWSF, shall also be deemed to cover other wireless communications facilities (and, in particular, but without limitation, television,

satellite radio, global positioning systems (GPS), and AM/FM radio towers not covered by KZC 115.60.c) to the maximum extent allowed by law.

117.35 Permit Required

In all instances, a permit must be obtained from the City before any PWSF may be constructed on any public or private land or right-of-way, including I-405~~,~~ and SR 520~~, and the Burlington Northern Railroad right-of-way within the City limits~~.

117.80 Departures from Chapter Provisions

Provisions of this chapter shall not be subject to variances described in Chapter 120 KZC. However, through Process IIB, Chapter 152 KZC, the City may consider departures from chapter provisions for new PWSF, except for the following:

1. The 40-foot height limit for personal wireless service towers in residential zones; and/or

2. The 15-foot limit for antennas projecting above an existing or replacement utility pole or electrical distribution or transmission conductor in residential zones.

117.105 Complete Compliance Required

1. General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of all prior approvals in order to do everything authorized by that approval.

2. Exception – Subsequent or Minor Modification – The Planning Official may approve a subsequent or minor modification to the permit ~~approved~~ for the PWSF if:

   a. The modification is minor and will not substantially change the PWSF; ~~proposed facility;~~ and

   b.~~c~~ ~~The proposed modification will comply with the provisions of this chapter in effect at the time of the modification request; and~~ There will not be any substantial changes in the impacts on the neighborhood or the City as a result of the change.

   Any modification, other than as specified in subsection (2) of this section, must be reviewed and decided upon as a new PWSF ~~approval~~ under this chapter.

PUBLICATION SUMMARY
OF ORDINANCE O-4369

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING CHAPTER 117 PERSONAL WIRELESS SERVICE FACILITIES OF THE KIRKLAND ZONING ORDINANCE 3719 AS AMENDED; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION , FILE NO. ZON12-00002.

SECTION 1. Amends Kirkland Zoning Ordinance 3719 Chapter 117 relating to personal wireless service facilities.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Provides that the ordinance is subject to the disapproval jurisdiction of the Houghton Community Council.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Kirkland Municipal Code 1.08.017 and establishes the effective date as five days after publication of summary.

SECTION 5. Establishes certification by City Clerk and notification of King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ____ day of _____, 2012.

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

_____
City Clerk

ORDINANCE O-4370

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: SECTIONS 60.180, 60.182 AND 115.20 RELATING TO ANIMALS IN RESIDENTIAL ZONES; AND REPEALING KIRKLAND MUNICIPAL CODE CHAPTER 8.08 RELATING TO FOWL AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON12-00002.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, and certain sections of the text of the Kirkland Municipal Code, as amended, all as set forth in that certain report and recommendation of the Planning Commission dated July 26, 2012 and bearing Kirkland Department of Planning and Community Development File No. ZON12-00002; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission and Houghton Community Council, following notice thereof as required by RCW 35A.63.070, on June 14, 2012, held a joint public hearing, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a final determination of nonsignificance, including supporting environmental documents, issued by the responsible official pursuant to WAC 197-11-340 and WAC 197-11-390 a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission.

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

Section 1. Kirkland Municipal Code Chapter 8.08 entitled "Fowl" is hereby repealed.

Section 2. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, as set forth in Attachment A attached to this ordinance and incorporated by reference.

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

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

Section 5. Except as provided in Section 4, this ordinance shall be in full force and effect full force and effect five days from its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

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

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2012.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 2012.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

ATTACHMENT A
FILE NO. ZON12-00002
2012 MISCELLANEOUS CODE AMENDMENTS
KIRKLAND ZONING CODE
***- Subject to Houghton Community Council review**

How to read this document:

- New text is underlined
- Existing text to be deleted is covered by a ~~strike through~~
- *Italicized text identifies the amendment topic*
- Amendments are listed in code section order to the extent possible

**Proposed Language For Animals in Residential Zones Section 115.20 and PLA16*

KZC CHAPTER 115 - MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

115.20 Animals in Residential Zones

1. General –This section establishes special regulations that govern the keeping of animals as an accessory use, in zones where a dwelling unit is permitted.

~~2. Types of Animals – Animals will be regulated according to the following categories:~~
~~a. Household Pets – The following animals will be regulated as household pets:~~
~~1) Three (3) dogs or less per dwelling unit.~~
~~2) Three (3) cats or less per dwelling unit.~~
~~3) A total of four (4) dogs and cats per dwelling unit.~~
~~4) Four (4) rabbits or less per dwelling unit.~~
~~5) Gerbils.~~
~~6) Guinea pigs.~~
~~7) Hamsters.~~
~~8) Mice.~~
~~9) Cage birds.~~
~~10) Nonvenomous reptiles and amphibians.~~
~~11) Other animals normally associated with a dwelling unit, and which are generally housed within the dwelling unit.~~
~~b. Small Domestic Animals – The following animals will be regulated as small domestic animals:~~
~~1) More than three (3) dogs per dwelling unit.~~
~~2) More than three (3) cats per dwelling unit.~~
~~3) More than a total of four (4) dogs and cats per dwelling unit.~~
~~4) More than four (4) rabbits per dwelling unit.~~
~~5) Fowl.~~
~~c. Large Domestic Animals – The following animals will be regulated as large domestic animals:~~
~~1) Horses.~~
~~2) Cattle.~~

~~3) Sheep.~~
~~4) Pigs.~~
~~5) Goats.~~
~~6) Other grazing or foraging animals.~~
~~d. Bees~~

2. In addition to the maximum number of adult animals permitted, offspring from one (1) female are permitted at any given time until those offspring are able to survive independently.

3. Animal Waste – Measures must be taken to properly dispose of animal waste.

~~3.~~ 4. Other Regulations – Nothing in this section eliminates the need to comply with King County animal control regulations, state law regulating the keeping of animals, and any other ordinance of the City of Kirkland regulating the keeping of animals.

~~4.~~ 5. Minimum Requirements – The applicant shall comply with the following requirements ~~contained within the chart at the end of this section~~ regarding the keeping of animals in any zone where a dwelling unit is permitted.

a. Household Pets -

1. Types – The following animals will be regulated as household pets:

~~1)~~ a. Three (3) dogs or less per dwelling unit.
~~2)~~ b. Three (3) cats or less per dwelling unit.
~~3)~~ c. A total of four (4) dogs and cats per dwelling unit.
~~4)~~ d. Four (4) rabbits or less per dwelling unit.
~~5)~~ e. Gerbils.
~~6)~~ f. Guinea pigs.
~~7)~~ g. Hamsters.
~~8)~~ h. Mice.
~~9)~~ i. Cage birds.
~~10)~~ j. Nonvenomous reptiles and amphibians.
~~11)~~ k. Other animals normally associated with a dwelling unit, and which are generally housed within the dwelling unit.

2. Required Review Process: None

3. Maximum Number of Adult Animals Per Dwelling Unit:

a. Three (3) dogs or less per dwelling unit
b. Three (3) cats or less per dwelling unit.
c. A total of four (4) dogs and cats per dwelling unit
d. Four (4) rabbits or less per dwelling unit.
e. Other: No maximum

4. Minimum Lot Size: None

5. Minimum Setback: Structures and pens must be at least five (5) feet from each property line

6. Special Regulations:

a. Dogs, cats, and rabbits may be housed either inside or outside the dwelling unit.

b. Other household pets must be housed within the dwelling unit. If housed outside of the dwelling unit they will be regulated as small domestic animals.

b. Small Domestic Animals –

1. The following animals will be regulated as small domestic animals:
   ~~1.~~ a. More than three (3) dogs per dwelling unit.
   ~~2.~~ b. More than three (3) cats per dwelling unit.
   ~~3.~~ c. More than a total of four (4) dogs and cats per dwelling unit.
   ~~4.~~ d. More than four (4) rabbits per dwelling unit.
   ~~5.~~ e. Fowl.

2. Permitted locations: Low density zones.

3. Required Review Process: None

4. Maximum Number of Adult Animals Per Lot:

   a. On lots with an area of less than 35,000 sq. ft.:

      1) Three (3) Fowl, regardless of lot size
      2) One (1) additional chicken for each 1000 sq. ft. of lot area above 5,000 sq. ft., up to a maximum of 20 chickens,
      3) Roosters are prohibited except for those in RSA zones existing prior to August 15, 2012.

   b. On lots with an area of 35,000 sq. ft. or more: 20, plus 1 additional for each 500 sq. ft. of lot area above 35,000 sq. ft~~;~~

5. Minimum Setback:

   a. Structures shall not be located in required yards except as allowed by KZC 115.115 and except for the following:
      1) Mobile structures (chicken tractors) may be anywhere within a fenced yard.
      2) Structures may be located within five feet of any property line provided that the property adjacent to the proposed location of the structure is either:
         i. Occupied primarily by a non-residential use such as a church, school or park; or
         ii. A permanently dedicated easement or tract that is at least 10 feet in width.
   b. Structures larger than 100 square feet shall be at least 40 feet from each property line

6. Special Regulations

   a. Must provide a suitable structure or pen to house the animals.
   b. Must maintain structures and pens in a clean condition;
   c. Fowl may forage or roam freely anywhere within a fenced yard, but adequate measures must be taken to provide safety for the fowl and prevent them from straying onto adjacent property.

c. Bees-

1. Required Review Process: None

2. Maximum Number of Bees Per Dwelling Unit:

   a. Lots containing 15,000 sq. ft. or less - maximum two hives.
   b. Lots containing more than 15,000 sq. ft. and less than 35,000 sq. ft. - maximum five hives
   c. Lots containing 35,000 sq. ft. or more - maximum 15 hives

3. Minimum Lot Size: 7,200 sq. ft.

4. Minimum Setback: Hive must be at least 25′ from any property line. See also Special Regulation 5.e..

5. Special Regulations:

   a. Colonies must be in movable frame hives.
   b. Adequate space must be maintained in the hive to prevent overcrowding and swarming.
   c. Colonies must be requeened following any swarming or aggressive behavior.
   d. All colonies must be registered with the Wash. State Dept. of Agriculture, Plant Services Division, 406 General Administration Building, Olympia, WA 98504, prior to April of each year.
   e. Hives may be located closer than 25′ to any property line if:
      1) Situated eight (8) feet or more above adjacent ground level; or
      2) Situated less than six (6) feet above adjacent ground level and behind a solid fence or hedge six (6) feet in height parallel to any property line within 25 feet of the hive and extending at least 20 feet beyond the hive in both directions.
   f. Bees living in trees, buildings, or any other space except in movable frame hives; abandoned colonies or diseased bees shall constitute a public nuisance.

d. Horses

1. Required Review Process:

   a. PLA 16 zone, if part of a recorded master plan: none

   b. All other zones, including in PLA 16 on lots which are not part of a recorded master plan:

      1) On lots 35,000 sq. ft. or greater: none.

      2) On lots less than 35,000 sq. ft. the City may approve up to two (2) horses, using Process I, Chapter 145 KZC, based on the following criteria:
         a) Proximity to dwelling units both on and off the subject property; and
         b) Lot size and isolation; and
         c) Compatibility with surrounding uses; and
         d) Potential noise impacts

2. Maximum Number of Adult Horses:

   a. PLA 16 zone, if part of a recorded master plan: two (2) horses.

b. RS 35 and RSX 35 zones within the Bridle Trails neighborhood north and northeast of Bridle Trails State Park or residential lots in PLA 16 zone which are not part of a recorded master plan:

1) On lots of at least 35,000 sq. ft: two (2) horses per 35,000 sq. ft. of lot area and up to two (2) additional horses may be kept on a residential lot, providing that an additional 3,000 sq. ft. of paddock area is available for each additional horse. (See subsection 5. for minimum paddock standards)

2) On lots less than 35,000 sq. ft. the City may approve up to two (2) horses using Process I, Chapter 145 KZC; pursuant to subsection 1.b. 2) of this section.

c. All other zones:

1) Two (2) horses per 35,000 sq. ft. of lot area and 1 horse per each additional 17,500 sq. ft. of lot area.

2) If lot size is less than 35,000 sq. ft, the City may approve up to two (2) horses using Process I, Chapter 145 KZC; pursuant to subsection 1.b. 2) of this section.

d. In addition to the maximum number of adult horses permitted, offspring from one (1) female are permitted at any given time until those offspring are able to survive independently.

3. Minimum Lot Size

a. PLA 16 zone, if part of a recorded master plan: 26,000 sq. ft.

b. All other zones, including in PLA 16 on lots which are not part of a recorded master plan:

1) 35,000 sq. ft.

2) May be less than 35,000 sq. ft. if approved through Chapter 145 KZC, Process I, pursuant to subsection 1.b. 2) of this section.

4. Barn Size and Setback:

a. The applicant must provide a suitable barn to house the horses, and must maintain it in a clean condition

b. RS 35 and RSX 35 zones within the Bridle Trails neighborhood north and northeast of Bridle Trails State Park or residential lots in PLA 16 zone, which are not part of a recorded master plan:

1) Size: Barns within the designated paddock area may not exceed 1,200 square feet in footprint, excluding covered overhangs, and must be designed solely for housing of animals and storage of tack, feed, shavings or ancillary equipment.

2) Setbacks: Barns to house horses must be a minimum of 40 feet from habitable dwellings, both on and off the subject property.

c. All other zones, including in PLA 16 on lots that are part of a recorded master plan:

1) Size: Barns must not exceed 1,200 sq. ft., plus 10 percent of the lot area that exceeds 7,200 sq. ft. and must meet all other requirements of KZC Section 115.08; Accessory Structure.

2) Setbacks: Barns to house horses must be a minimum of 40 feet from each property line. The Ceity may permit barns to extend into the property line in common with the abutting property; provided that:

a) An abutting property owner files a signed and notarized statement with the City in support of the request; and

b) The barn complies with all other regulations pertaining to setbacks in that zone

~~4.~~5. Paddock Size and Setbacks

a. RS 35 and RSX 35 Zones within the Bridle Trails neighborhood north and northeast of Bridle Trails State Park or residential lots in PLA 16 zone which are not part of a recorded master plan:

1) Size: Each residential lot must contain an area of at least 10,000 permeable square feet for the purpose of accommodating two (2) horses, capable of being used for or easily converted to a paddock area and barn, and meeting the following standards:

a) The paddock must have a minimum width of 40 feet and configured in a contiguous and usable manner to accommodate the feed, storage and manure pile. "Configured in a contiguous and usable manner" shall mean an area, uninterrupted by non-paddock area, having a shape as close to square or rectangular as possible. While the minimum width allowed is 40 feet, the majority of the area must have a width of at least 80 feet.

b) The Planning Official is authorized to approve minor deviations from the required dimensions and/or shape of the paddock area due to pre-existing improvements and/or size, shape, or topography of the property.

2) Setbacks:

a) The paddock areas must be ~~set back~~ five (5) feet from each property line which abuts a school use or a residential zone other than RS 35, RSX 35 or PLA 16, including part of a recorded master plan, otherwise there is no setback.

b) The paddock areas must be ~~set back~~ 10 feet from habitable dwellings and five (5) feet from significant improvements outside the paddock area, such as swimming pools, sports courts, decks and patios, both on and off the subject property.

3) Additional Paddock Requirements

a) The area used or reserved for paddock area must be pervious and exclusive of any structures or improvements (except barns) such as storage sheds, residential units, carports, decks, patios, swimming pools, ponds, sports courts, rockeries, or paving, but may contain easily removed features such as children's play equipment, landscaping, trellises, and flagpoles, as long as such features are not embedded in concrete or otherwise permanently mounted. The area shall not be located over a septic tank, drain field, or reserve drain field. Paddock areas shall not be located on

steep slopes (over 15 percent grade) or in areas regulated under Chapter 90 KZC, Drainage Basins.

b) Direct access to the paddock area must be available to deliver feed and pick up manure from an alley, an easement or an adjacent right-of-way across a side yard of the lot. The access route shall have a minimum unobstructed width of 15 feet and a grade no greater than 12 percent, except that for the first 15 feet in back of the existing or future curb line the grade shall not exceed six (6) percent. Any portion of an access route located within an adjacent equestrian trail easement shall not be paved, but may be surfaced with gravel up to 5/8-inch size.

~~a.~~b. All other zones, including in PLA 16 on lots which are part of a recorded master plan:

1) Size: Each lot must contain an area of at least 14,500 sq. ft. capable of being used as a horse paddock area and configured to meet the following standards:

a) The paddock must be designed in a contiguous and usable manner to accommodate the feed storage and manure pile for two (2) horses. This area must be exclusive of any structures, including storage sheds, barns, residential units and carports.

b) Direct access to this area must be available for trucks to deliver feed and pick up manure from an alley, easement, or an adjacent right-of-way across a side yard of the lot.

2) Setbacks: Paddocks must be a minimum of 20 feet from each property line. The City may permit horse paddocks to extend into the property line in common with the abutting property; provided that:

a) An abutting property owner files a signed and notarized statement with the City in support of the request; and

b) The paddock complies with all other regulations pertaining to setback in that zone.

6. Outdoor Manure Piles:

a. PLA 16 zone: no outdoor manure pile may be placed closer than 65 feet to any adjacent residential structure.

b. All other zones, no outdoor manure pile may be placed closer than a point equidistant to any adjacent residential structure.

f. Large Domestic Animals –

1. The following animals will be regulated as large domestic animals:
~~1) Horses.~~
~~2)~~ a) Cattle.
~~3)~~ b) Sheep.
~~4)~~ c) Pigs.
~~5)~~ d) Goats.
~~6)~~ e) Other grazing or foraging animals.

2. Required Review Process:

a) On lots 35,000 sq. ft and greater; none.

b) If the lot size is less than 35, 000 sq. ft. the city will decide on the permitted number of large domestic animals using Process I, Chapter 145 KZC; based on the following criteria:

1) Proximity to dwelling units both on and off the subject property; and
2) Lot size and isolation; and
3) Compatibility with surrounding uses; and
4) Potential noise impacts

3. Maximum Number of Adult Animals:

a. Two (2) per 35,000 sq. ft. of lot area and one (1) per each additional 17,500 sq. ft. of lot area.

b. In addition to the maximum number of adult animals permitted, offspring from one (1) female are permitted at any given time until those offspring are able to survive independently.

4. Minimum Lot Size

a. 35,000 sq. ft.

b. May be less than 35,000 sq. ft. if approved through Chapter 145 KZC, Process I pursuant to subsection 2.b. of this section.

5. Structures, Barn and Pen Size and Setback:

a. The applicant must provide a suitable barn or pen to house the animals, and must maintain that barn or pen in a clean condition.

b. Size: Barns must not exceed 1,200 sq. ft., plus 10 percent of the lot area that exceeds 7,200 sq. ft. and must meet all other requirements of KZC Section 115.65; Assessory Structure.

c. Setbacks: ~~structures~~ Barns and pens used to house animals must be ~~setback at least~~ a minimum of 40 feet from each property line. The city may permit barns and pens to extend into the property line in common with the abutting property; provided that:

1) An abutting property owner files a signed and notarized statement in support of the request and,

2) The barn or pen complies with all other regulations pertaining to setback in that zone.

6. Roaming and Grazing Areas:

Roaming and grazing areas must be at least 20 feet from each property line. The city may permit barns and pens to extend into the property line in common with the abutting property;

provided that an abutting property owner files a signed and notarized statement in support of the request

7. Outdoor Manure Piles:

a. PLA 16 zone: no outdoor manure pile may be placed closer than 65 feet to any adjacent residential structure.

b. All other zones, no outdoor manure pile may be placed closer than a point equidistant to any adjacent residential structure.

6. Bonds – The City may require a bond under Chapter 175 KZC to ensure that the subject property is maintained in a clean condition.

The following chart will be deleted:

~~YPE OF ANIMAL~~ ⇩	~~REGULATIONS~~ ⇩	~~Required Review Process~~	~~MAXIMUM~~ ~~Number of Adult Animals~~	~~MINIMUMS~~ ~~Lot Size~~	~~Setback~~	~~Special Regulations~~
~~Household Pets~~		~~None~~	~~Per Dwelling Unit~~ ~~Dogs: 3~~ ~~Cats: 3~~ ~~Dogs and Cats: A total of 4 animals~~ ~~Rabbits: 4~~ ~~Other: No maximum~~	~~As required for a dwelling unit in the zone in which the subject property is located.~~	~~Structures and pens must be at least 5' from each property line.~~	~~1. Household pets, excluding dogs, cats, and rabbits, must be housed within the dwelling unit. If housed outside of the dwelling units, household pets, excluding dogs, cats, and rabbits, will be regulated as small domestic animals.~~
~~Small Domestic Animals~~		~~None~~	~~20 per 35,000 sq. ft. of lot area and 1 per each additional 500 sq. ft. of lot area. Maximum of 3 fowl on lots less than 35,000 sq. ft. in RSA zones.~~	~~35,000 sq. ft. per dwelling unit. No minimum lot size for fowl in RSA zones.~~	~~Structures and pens used to house animals must be at least 40' from each property line, except structures and pens used to house 3 fowl or less must be at least 10' from~~	~~1. The City may limit the number of animals allowed to less than the maximum considering:~~ ~~a. Proximity to dwelling units both on and off the subject property; and~~

				~~each property line.~~	~~b. Lot size and isolation; and~~ ~~c. Compatibility with surrounding uses; and~~ ~~d. Potential noise impacts.~~ ~~2. The applicant must provide a suitable structure or pen to house the animals, and must maintain that structure or pen in a clean condition.~~ ~~3. Roosters are prohibited on lots containing less than 35,000 sq. ft.~~

~~**TYPE OF ANIMAL**~~ ⇩	~~**REGULATIONS**~~ ⇩	~~**Required Review Process**~~	~~**MAXIMUM**~~	~~**MINIMUMS**~~		~~**Special Regulations**~~
			~~**Number of Adult Animals**~~	~~**Lot Size**~~	~~**Setback**~~	
~~Large Domestic Animals~~		~~If lot size is less than 35,000 sq. ft., then Process I, Chapter 145 KZC~~ ~~Otherwise none~~	~~2 per 35,000 sq. ft. of lot area and 1 per each additional 17,500 sq. ft. of lot area~~ ~~If lot size is less than 35,000 sq. ft., then only 1 horse~~	~~35,000 sq. ft. per dwelling unit~~ ~~May be less if approved through Chapter 145 KZC, Process I~~	~~Structures and pens used to house animals must be at least 40′ from each property line subject to Special Regulation 1.~~ ~~Roaming, grazing areas and horse paddock areas must~~	~~1. If an abutting property owner files a signed and notarized statement in support of the request, the City may permit areas for roaming or grazing, horse paddock areas and structures or pens to extend into the property line in common with the abutting property; provided, that the structure or pen complies with all other regulations pertaining to setback in that zone.~~

				~~be at least 20′ from each property line, subject to Special Regulation 1.~~	~~2. The City may limit the number of animals allowed to less than the maximum considering:~~ ~~a. Proximity to dwelling units both on and off the subject property; and~~ ~~b. Lot size and isolation; and~~ ~~c. Compatibility with surrounding uses; and~~ ~~d. Potential noise impacts.~~ ~~3. The applicant must provide a suitable structure or pen to house the animals, and must maintain that structure or pen in a clean condition.~~ ~~4. No outdoor manure pile may be placed closer than a point equidistant to any adjacent residential structure.~~ ~~5. For residential lots containing one (1) or more horses other than those regulated below in Special Regulation 6, each lot must contain an area of at least 14,500 sq. ft. capable of being used as a horse paddock area and configured in a contiguous and usable manner to accommodate the feed storage and manure pile for two (2) horses. This area must be exclusive of any~~

					~~structures, including storage sheds, barns, residential units and carports. Direct access to this area must be available for trucks to deliver feed and pick up manure from an alley, easement, or an adjacent right-of-way across a side yard of the lot.~~ ~~6. For residential lots in RS 35 and RSX 35 Zones within the Bridle Trails neighborhood north and northeast of Bridle Trails State Park or residential lots in PLA 16 which are not part of a recorded master plan, the required review process shall be "None," and the maximum number of adult animals and minimum lot size and setback regulations shall not apply. Instead, the following regulations shall apply:~~ ~~a. Up to two (2) additional horses may be kept on a residential lot, providing that an additional 3,000 square feet of paddock area is available for each additional horse.~~ ~~(CONTINUED ON NEXT PAGE)~~
~~Large Domestic Animals (Continued)~~					~~b. Each residential lot must contain an area of at least 10,000 permeable square feet for the purpose of accommodating two (2) horses, capable of being used for or easily converted to a paddock~~

					~~area and barn, having a minimum width of 40 feet and configured in a contiguous and usable manner to accommodate the feed, storage and manure pile. "Configured in a contiguous and usable manner" shall mean an area, uninterrupted by non-paddock area, having a shape as close to square or rectangular as possible. While the minimum width allowed is 40 feet, the majority of the area must have a width of at least 80 feet. The Planning Official is authorized to approve minor deviations from the required dimensions and/or shape of the paddock area due to pre-existing improvements and/or size, shape, or topography of the property.~~ ~~c. The area used or reserved for paddock area must be pervious and exclusive of any structures or improvements (except livestock barns) such as storage sheds, residential units, carports, decks, patios, swimming pools, ponds, sports courts, rockeries, or paving, but may contain easily removed features such as children's play equipment, landscaping, trellises, and flagpoles, as long as such features are not embedded in concrete or otherwise permanently mounted.~~

					~~The area shall not be located over a septic tank, drain field, or reserve drain field. Paddock areas shall not be located on steep slopes (over 15 percent grade) or in areas regulated under Chapter 90 KZC, Drainage Basins.~~ ~~d. Direct access to the paddock area must be available to deliver feed and pick up manure from an alley, an easement or an adjacent right-of-way across a side yard of the lot. The access route shall have a minimum unobstructed width of 15 feet and a grade no greater than 12 percent, except that for the first 15 feet in back of the existing or future curb line the grade shall not exceed six (6) percent. Any portion of an access route located within an adjacent equestrian trail easement shall not be paved, but may be surfaced with gravel up to 5/8-inch size.~~ ~~e. The paddock areas must be set back five (5) feet from each property line which abuts a school use or a residential zone other than RS 35, RSX 35 or PLA 16.~~ ~~(CONTINUED ON NEXT PAGE)~~
~~Large Domestic Animals (Continued)~~					~~f. The paddock areas must be set back 10 feet from habitable dwellings and five (5)~~

					~~feet from significant improvements outside the paddock area, such as swimming pools, sports courts, decks and patios. Livestock barns must be set back 40 feet from habitable dwellings.~~ ~~g. Livestock barns permitted within the designated paddock area may not exceed 1,200 square feet in footprint, excluding covered overhangs, and must be designed solely for housing of animals and storage of tack, feed, shavings or ancillary equipment.~~ ~~h. Special Regulations 2, 3, and 4 also apply to these zones.~~ ~~i. Interpretations of the Zoning Code which directly or indirectly involve application of regulations about horse paddock areas shall be liberally construed in favor of an equestrian character for the neighborhood.~~
~~Bees~~	~~None~~	~~Lots containing 15,000 sq. ft. or less: Maximum of two (2) hives.~~ ~~Lots containing more than 15,000 sq. ft. but less than 35,000 sq. ft.: Maximum of 5 hives.~~	~~7,200 sq. ft.~~	~~Hive must be at least 25' from any property line. See also Special Regulation 5.~~	~~1. Colonies shall be in movable frame hives.~~ ~~2. Adequate space shall be maintained in the hive to prevent overcrowding and swarming.~~ ~~3. Colonies shall be requeened following any swarming or aggressive behavior.~~ ~~4. All colonies shall be registered with the~~

		~~Lots containing 35,000 sq. ft. or more: Maximum of 15 hives.~~			~~Wash. State Dept. of Agriculture, Plant Services Division, 406 General Administration Building, Olympia, WA 98504, prior to April of each year.~~ ~~5. Hives may be located closer than 25′ to any property line if:~~ ~~a. Situated eight (8) feet or more above adjacent ground level; or~~ ~~b. Situated less than six (6) feet above adjacent ground level and behind a solid fence or hedge six (6) feet in height parallel to any property line within 25 feet of the hive and extending at least 20 feet beyond the hive in both directions.~~ ~~6. Bees living in trees, buildings, or any other space except in movable frame hives; abandoned colonies or diseased bees shall constitute a public nuisance.~~
~~In addition to the maximum number of adult animals permitted, offspring from one (1) female are permitted at any given time until those offspring are able to survive independently.~~					

60.179 User Guide.

The charts in KZC 60.182 contain the basic zoning regulations that apply in Planned Area 16, including sub-zones. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 60.180

Zone PLA16

Section 60.180 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.

2. If any portion of a structure is adjoining a detached dwelling unit in a low density zone, then either:
   a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or
   b. The maximum horizontal facade shall not exceed 50 feet.

   See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.
   (Does not apply to Detached Dwelling Unit, Commercial Equestrian Facility, Commercial Recreation Area and Use and Mini-Day-Care Center or Day-Care Home uses).

3. ~~Must provide an improved public equestrian access trail and appropriate public signage. The trail must be located and designed so as to allow for an eventual connection between N.E. 60th Street and the Bridle Trails State and King County Parks (does not apply to Detached Dwelling Unit, Commercial Equestrian Facility, Commercial Recreation Area and Use and Public Parks uses).~~

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Zone PLA16

USE ZONE CHART

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

Section 60.182	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	MINIMUMS: REQUIRED YARDS (See Ch. 115): Side	MINIMUMS: REQUIRED YARDS (See Ch. 115): Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Detached Dwelling Unit	If lot size is less than 35,000 sq. ft., then Process IIB, Chapter 152 KZC. Otherwise, None.	35,000 sq. ft. except as established under Special Regulation ~~7.~~ 5	20′ See Spec. Regs. 3 and ~~9.~~ 7	5′, but 2 side yards must equal at least 15′.	10′	50%	30′ above average building elevation.	E	A	2.0 per dwelling unit.	1. For this use, not more than one dwelling unit may be on each lot, regardless of the size of the lot. 2. Floor Area Ratio (F.A.R.) allowed for the subject property is 20 percent of lot size. See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information. 3. On corner lots with two required front yards, one may be reduced to the average of the front yards for the two adjoining properties fronting the same street as the front yard to be reduced. The applicant may select which front yard will be reduced (see Plate 24). ~~4. Each lot may contain no more than two horses.~~ 4 ~~5.~~ Residential lots must contain a minimum area of 10,000 permeable square feet, which shall comply with ~~Special Regulation 6 for large domestic animals in KZC 115.20(4) (chart).~~ ~~6. On each lot, no outdoor manure pile may be placed closer than 65 feet to any adjacent residential structure.~~ ~~7. This use may have a lot size of less than 35,000 square feet if all of the following standards are met:~~ a. The property must contain at least 16 contiguous acres. ~~b. A Master Plan shall be approved for the entire property.~~ c. The minimum lot size allowed on the property shall be determined and approved as part of the Master Plan. In no case shall the minimum lot size be less than 26,000 square feet. d. A commercial equestrian facility, including an arena, stables and paddock areas, must be provided on the property. The facility must be available to the public and not exclusively for the residences within the Master Plan. The facility must meet requirements and special regulations as established for the use listing in this zone entitled "Commercial Equestrian Facility." e. An improved public equestrian access trail and appropriate public signing must be provided. The trail must be located and designed so as to allow for an eventual connection between N.E. 60th Street and the Bridle Trails State and King County Parks. e. ~~f.~~ A coordinated vehicular and pedestrian circulation system for the property as well as other properties in the vicinity shall be provided as part of the Master Site Plan. REGULATIONS CONTINUED ON NEXT PAGE

KZC 115.20.6.e for keeping of horses.

5. If a Master Plan is approved for the property, this use may have a lot size of less than 35,000 sq. ft. and must meet the following standards:

b. Residential lots must contain a minimum area of 14,500 sq. ft. capable of being used as a horse paddock area, which shall comply with KZC 115.20.6.e for keeping of horses.

Section 60.182 Zone PLA16 **USE ZONE CHART**

Section 60.182	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Detached Dwelling Unit (continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE 6 ~~8.~~ Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 7 ~~9.~~ Garages shall comply with the requirements of KZC 115.43, including required front yard. These requirements are not effective within the disapproval jurisdiction of the Houghton Community Council.

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Section 60.182 Zone PLA16 USE ZONE CHART

Section 60.182	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.020	Commercial Equestrian Facility See Special Regulation 1.	Process IIB	3 acres	20′	20′	20′	80%	See Special Regulation 4.	C	B	See KZC 105.25.	1. This use may include arenas, stables, roaming and grazing areas, club house and ancillary equestrian facilities. 2. This use must comply with KZC 80.30 through 80.45. 3. An improved public equestrian access trail through the subject property and appropriate public signing must be provided. The trail must be located and designed to allow for an eventual connection between N.E. 60th Street and Bridle Trails State and King County Parks. 4. Structures exceeding 25 feet above average building elevation must have the ground floor placed below existing grade to the extent possible and screened by a vegetative earthen berm. 5. Existing natural vegetation must be maintained to the greatest extent possible.
				See Special Regulation 2.								
.030	Commercial Recreation Area and Use See Special Regulation 1.		1 acre	20′	20′	20′		38′ above average building elevation. See Special Regulation 3.				1. This use may include activities such as: indoor and outdoor tennis courts, club house, swimming pool, other sport court games and ancillary commercial recreation activities. 2. Hours of operation may be limited to reduce adverse impacts on a residential neighborhood. 3. Structures exceeding 25 feet above average building elevation must have the ground floor placed below existing grade to the extent possible and screened by a vegetative earthen berm. Structures can be placed at existing grade if the structures are located on lower ground than adjacent properties and if the adjacent properties are developed and do not contain residential use. 4. A 20-foot wide sight-obscuring landscape buffer must be provided along the west and south perimeter of the property. 5. Existing natural vegetation must be maintained to the greatest extent possible. 6. Vehicular and pedestrian circulation to and from the property shall be coordinated with the other properties in the vicinity to the maximum extent possible.

Zone PLA16

USE ZONE CHART

Section 60.182	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.040	Church	Process IIA, Chapter 150 KZC.	35,000 sq. ft.	20′	20′ on each side	20′	70%	30′ above average building elevation.	C	B	1 for every 4 people based on maximum occupancy load of any area of worship. See Special Regulation 1.	1. No parking is required for day-care or school ancillary to the use.
.050	School or Day-Care Center			If this use can accommodate 50 or more students or children, then: 50′ 50′ on each side 50′ If this use can accommodate 13 to 49 students or children, then: 20′ 20′ on each side 20′				30′ above average building elevation. See Spec. Reg. 9.	D		See KZC 105.25.	1. May locate on the subject property only if: a. It will serve the immediate neighborhood in which it is located; or b. It will not be detrimental to the character of the neighborhood in which it is located. 2. A six-foot-high fence is required only along the property lines adjacent to the outside play areas. 3. Hours of operation may be limited to reduce impacts on nearby residential uses. 4. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 5. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading areas on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on any nearby residential uses. 6. May include accessory living facilities for staff persons. 7. The location of parking and passenger loading areas shall be designed to reduce impacts on any nearby residential uses. 8. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 9. For school use, structure height may be increased, up to 35 feet, if: a. The school can accommodate 200 or more students; and b. The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by one foot for each additional one foot of structure height; and c. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan. d. The increased height will not result in a structure that is incompatible with surrounding uses or improvements.

Section 60.182 Zone PLA16 USE ZONE CHART

Section 60.182	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.060	Mini-Day-Care Center	None	35,000 sq. ft.	20′	5′, but 2 side yards must equal at least 15′.	10′	50%	30′ above average building elevation.	E	B	See KZC 105.25.	1. May locate on the subject property only if: a. It will serve the immediate neighborhood in which it is located; or b. It will not be detrimental to the character of the neighborhood in which it is located. 2. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 3. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 4. Structured play areas must be setback from all property lines by five feet. 5. May include accessory living facilities for staff persons. 6. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 7. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 8. The location of parking and passenger loading areas shall be designed to reduce impacts on any nearby residential uses.
.070	Public Utility	Process IIA, Chapter 150 KZC.	None	20′	20′ on each side	20′	70%	30′ above average building elevation.	A			1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.080	Government Facility or Community Facility				10′ on each side	10′			C See Spec. Reg. 1.			
.090	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

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PUBLICATION SUMMARY
OF ORDINANCE O-4370

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: SECTIONS 60.180, 60.182 AND 115.20 RELATING TO ANIMALS IN RESIDENTIAL ZONES; AND REPEALING KIRKLAND MUNICIPAL CODE CHAPTER 8.08 RELATING TO FOWL AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON12-00002.

SECTION 1. Repeals Kirkland Municipal Code Chapter 8.08.

SECTION 2. Amends Kirkland Zoning Ordinance Sections 60.180, 60.182 and 115.20 relating to animals in residential zones.

SECTION 3. Provides a severability clause for the ordinance.

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

SECTION 5. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Kirkland Municipal Code 1.08.017 and establishes the effective date as five days after publication of summary.

SECTION 6. Establishes certification by City Clerk and notification of King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ____ day of _____, 2012.

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

_____
City Clerk

ORDINANCE O-4371

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND ADDING A NEW CHAPTER 118 HAZARDOUS LIQUID PIPELINES; AND AMENDING CHAPTER 5 DEFINITIONS AND CHAPTER 55 TOTEM LAKE ZONE TL7 OF THE KIRKLAND ZONING ORDINANCE 3719 AS AMENDED; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON12-00002.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated July 26, 2012 and bearing Kirkland Department of Planning and Community Development File No.ZON12-00002; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission and Houghton Community Council, following notice thereof as required by RCW 35A.63.070, on June 14, 2012, held a joint public hearing, on the amendment proposals and considered the comments received at said hearing; and

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

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission.

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

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, as set forth in Attachment A attached to this ordinance and incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the

disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 4. Except as provided in Section 3, this ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 5. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2012.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 2012.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

ATTACHMENT A
FILE NO. ZON12-00002
HAZARDOUS LIQUID PIPELINE ZONING CODE AMENDMENTS
KIRKLAND ZONING CODE (KZC)

How to read this document:

- New text is underlined
- Existing text to be deleted is covered by a ~~strike-through~~
- ***Italicized*** text identifies the amendment topic

New Chapter 118 Hazardous Liquid Pipelines

Chapter 118 Hazardous Liquid Pipelines
Sections:

118.010 Purpose
118.020 Applicability
118.030 Development Notice
118.040 Development Application and Submittal Requirements
118.050 Setback Requirements
118.060 Requirements for Land Use Compatibility
118.070 Variances

118.010 Purpose

The purpose of this section is to:

A. Help prevent and minimize unnecessary risk to the public health, safety, and welfare due to hazardous liquid pipelines;

B. Minimize the likelihood of accidental damage to hazardous liquid pipelines;

C. Avoid exposing land uses with either high on-site populations that are difficult to evacuate or that provide emergency response functions to risk of injury or damage in the event of a pipeline failure;

D. Help reduce adverse impacts in the event of a pipeline failure;

E. Supplement existing federal and state regulations related to hazardous liquid pipeline corridor management; and

F. Improve communication between property owners and pipeline operators to minimize the risk of inadvertent damage to hazardous liquid pipelines and to provide guidance to property owners about minimizing further risk through site design or construction.

The provisions of this section are intended to protect the health, safety and welfare of the general public and are not intended to protect any particular individual, class of individuals, or organization.

118.020 Applicability

The provisions of this chapter shall apply to all development activity, landfilling, excavation and construction on properties within 150 feet of any hazardous liquid pipeline corridor, as defined in KZC 5.10.348. This chapter does not apply to the conduct of pipeline operators. The conduct of pipeline operators is regulated by the Federal Pipeline Safety Act, 49 U.S.C. § 60101, et seq., and the Washington State Pipeline Safety Act, RCW 81.88. Pipelines within public rights-of-way are also regulated by the terms and conditions of franchise agreements between the City and pipeline operators. Modifications to existing structures are exempt from this chapter if they do not involve landfilling, excavation or high consequence land uses, as defined in KZC 5.10.358.

118.030 Development Notice

Prior to conducting any development activity, landfilling, excavation, or construction located within 150 feet of a hazardous liquid pipeline corridor identified on the official City of Kirkland Olympic Pipeline Map, the applicant shall provide notification to the pipeline operator using a form provided by the City.

118.040 Development Permit Application Submittal Requirements

For all activities requiring a development permit:

A. The applicant shall show the hazardous pipeline corridor and applicable setbacks on site plans, subdivisions and short subdivisions for proposed development on properties to which this chapter applies.

B. The applicant shall provide verification that the pipeline operator has received and reviewed the development notice required in section 115.52.030. All comments provided by the operator shall be submitted or the operator shall confirm in writing that the operator has no comments.

118.050 Setback Requirements

A. Hazardous Liquid Pipeline Corridor: No landfilling or excavation and no construction or expansion of structures is allowed within the corridor other than those authorized by the pipeline operator.

B. Areas Adjacent to the Hazardous Liquid Transmission Pipeline Corridor.

    1. All development activity, landfilling, excavation and construction shall be setback a minimum of 25 feet from the edge of the corridor.

2. The Planning Official may expand the setback when necessary to meet the purpose of this section due to site-specific conditions, such as proposed major land surface modification or proximity of the pipeline.

3. The Planning Official may reduce the setback due to site-specific conditions and an applicant's demonstration that the purpose of this section will be met. Factors to be considered shall include but are not limited to:

    a. Pipeline location as determined using the pipeline operator's normal locating procedures; and

    b. Type of construction proposed.

4. If the Planning Official reduces the setback from the corridor, the following applies:

    a. The setback shall be a minimum of 30 feet from the nearest edge of the pipeline.

    b. The setback shall be measured from the nearest edge of the hazardous liquid pipeline.

    c. The location of the pipeline and the reduced setback shall be shown on all approved site plans and subdivisions.

C. Exemptions: Streets, utilities, trails and similar uses shall be exempt from subsections B1 and 2 above, provided that the pipeline operator shall be notified prior to landfilling, excavation or construction.

D. Emergency Work: In the event of any emergency in which a pipeline breaks, is damaged, or is otherwise in such a condition as to immediately endanger the life, health, safety, or property of any person, the pipeline operator shall not be required to comply with this chapter or obtain permits prior to taking corrective action. The pipeline operator shall, however, .call 911 immediately upon learning of the emergency.

E. Setback Protection: Setbacks shall be identified and protected during construction by placement of a temporary barricade and on-site notices. Barricades and on-site notices are subject to review by the Planning Official.

118.060 Requirements for Land Use Compatibility

A. High Consequence Land Uses.

1. New high consequence land uses, as defined in KZC 5.10.358, proposed to be located within 500 feet of a hazardous liquid pipeline corridor are prohibited.

2. Proposed expansions to existing high consequence land uses located within 500 feet of a corridor shall be reviewed by the Planning Official to ensure that they are designed to avoid increasing the level of risk in the event of a pipeline failure, and where feasible,

reduce the risk compared to the existing development. Potential techniques to minimize risk include but are not limited to:

a. Site design features, such as maintaining or increasing the distance between occupied structures, or structures that provide critical lifeline functions, and the pipeline and anticipated flow paths for leaking hazardous materials.

b. Building features, which do not result in a significant increase in on-site population or which expedite evacuation.

c. Technological features which provide accelerated notice of a pipeline failure to high consequence land uses to facilitate evacuation or which help avoid damage in the event of a failure of the pipeline.

d. Operational features, such as emergency plans and education programs developed in consultation with the Fire Department including:

   1) The level of emergency planning and procedures appropriate for the proposed development. Based on the nature, occupancy, or location of a proposed development, the Fire Department may require emergency plans and procedures for any occupancy classifications.

   2) Plans and programs for occupants and employees concerning pipeline safety, such as what to be aware of and how to respond in the event of a problem and drills,

   3) Emergency plans and procedures shall be consistent with the Kirkland Fire Code and shall be approved by the Fire Department.

B. Location: Prior to commencing any development activity, landfilling, excavation or construction on properties that abut a corridor, notification shall be given through the one-call locator service prior to commencement of any of the permitted work.

118.070 Variances:

Relief from the setback requirements of this chapter shall be in accordance with the standards and procedures found in KZC 120 - Variances. The City shall provide written notice of the variance proposal to the pipeline operator and any comments provided shall be incorporated into the findings of the decision.

New Chapter 5 Definitions For Hazardous Liquid Pipelines

Chapter 5 Definitions
Section 5.05 User Guide (No change)
Section 5.10 Definitions

5.10. ~~350~~ 346 Ground-Mounted Sign (no change)

5.10. 347 Hazardous Liquid Pipeline:

- As defined by RCW 81.88.040, Hazardous liquid means: (a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 in effect March 1, 1998; and (b) carbon dioxide. Pipeline, pipeline system, or hazardous liquid pipeline mean all parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. Pipeline or pipeline system does not include process or transfer pipelines.

5.10. 348 Hazardous Liquid Pipeline Corridor

- The pipeline corridor in which the pipelines and facilities of a hazardous liquid pipeline operator are located, including public rights-of-way and easements over and through public or private property

5.10. 358 High Consequence Land Use

- A land use that if located in the vicinity of a hazardous liquid pipeline represents an unusually high risk in the event of a pipeline failure due to characteristics of the inhabitants or functions of the use. High consequence land uses include:

(1) Land uses that involve a high-density on-site population that are more difficult to evacuate. These uses include:

- schools (through grade 12),
- hospitals, clinics, and other facilities primarily for use by the elderly or handicapped, other than those within single family residences.
- stadiums or arenas,
- day care centers, and does not extend to family day care or adult family homes.

(2) Land uses that serve critical "lifeline" or emergency functions, such as fire and police facilities, utilities providing regional service, or water supplies if exposed to a significant risk that will curtail its lifeline function for a critical period of time.

(3) Uses with similar characteristics as determined by the Planning Official.

Chapter 55 Zone Totem Lake TL7 Zone

Section 55.49 General Regulations

55.47 User Guide.

The charts in KZC 55.51 contain the basic zoning regulations that apply in the TL 7 zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.49

Zone TL 7

Section 55.49 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
2. A Hazardous Liquid Pipeline extends through the TL 7 zone. Refer to KZC 118 for regulations pertaining to properties near Hazardous Liquid Pipelines.

~~2~~.3 Any development activities requiring Design Review approval pursuant to KZC 142.15 in this zone shall be reviewed administratively (ADR), pursuant to KZC 142.25.

~~3~~.4 Access for drive-through facilities must be approved by the Public Works Official. See Chapter 105 KZC for requirements.

~~4~~.5 Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

PUBLICATION SUMMARY
OF ORDINANCE O-4371

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND ADDING A NEW CHAPTER 118 HAZARDOUS LIQUID PIPELINES; AND AMENDING CHAPTER 5 DEFINITIONS AND CHAPTER 55 TOTEM LAKE ZONE TL7 OF THE KIRKLAND ZONING ORDINANCE 3719 AS AMENDED; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON12-00002.

SECTION 1. Amends Kirkland Zoning Ordinance 3719 by adding a new Chapter 118 relating to hazardous liquid pipelines, amending Chapter 5 relating to definitions and amending Chapter 55 relating to the TL7 Zone.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Provides that the ordinance is subject to the disapproval jurisdiction of the Houghton Community Council.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Kirkland Municipal Code 1.08.017 and establishes the effective date as five days after publication of summary.

SECTION 5. Establishes certification by City Clerk and notification of King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ____ day of _____, 2012.

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

_____
City Clerk

ORDINANCE O-4372

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING THE FOLLOWING CHAPTERS OF THE KIRKLAND ZONING ORDINANCE 3719 AS AMENDED: 5, 15, 17, 18, 30, 40, 45, 47, 48, 52, 53, 55, 56, 60, 75, 90, 95, 105, 113, 115, 117, 125, 142, 145, 150, 152, 162; AMENDING TITLE 1 AND TITLE 22 OF THE KIRKLAND MUNICIPAL CODE; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON12-00002.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, and certain sections of the text of the Kirkland Municipal Code, as amended all as set forth in that certain report and recommendation of the Planning Commission dated July 26, 2012 and bearing Kirkland Department of Planning and Community Development File No.ZON12-00002; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission and Houghton Community Council , following notice thereof as required by RCW 35A.63.070, on June 14, 2012, held a joint public hearing, on the amendment proposals and considered the comments received at said hearing; and

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

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission.

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

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, as set forth in Attachment A attached to this ordinance and incorporated by reference.

Section 2. Municipal Code text amended. The following specified sections of the Kirkland Municipal Code, as set forth in Attachment B attached to this ordinance and incorporated by reference.

Section 3. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts

adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

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

Section 5. Except as provided in Section 4 this ordinance shall be in full force and effect November 1, 2012 after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

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

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2012.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 2012.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

ATTACHMENT A
FILE NO. ZON12-00002
2012 MISCELLANEOUS CODE AMENDMENTS
KIRKLAND ZONING CODE (KZC)
*- Subject to Houghton Community Council review

How to read this document:

- New text is underlined
- Existing text to be deleted is covered by a ~~strike-through~~
- ***Italicized*** text identifies the amendment topic
- Amendments are listed in code section order to the extent possible

A. *Proposed Language For Opposite Front Yard Setback Flexibility *

KZC CHAPTER 5 – DEFINITIONS

5.10 Definitions

5.10.326.5 Front Façade – The face of a building essentially parallel to the street, access easement or tract serving the subject property. The front facade may have multiple planes, including a covered entry porch. On a corner lot, or other lot with two or more front yards, the front facade shall be the facade that includes the main entry.

	USE	REGULATIONS	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	MINIMUMS: REQUIRED YARDS (See Ch. 115): Side	MINIMUMS: REQUIRED YARDS (See Ch. 115): Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Detached Dwelling Unit		None	As established on the Zoning Map. See Spec. Reg. 1.	20′ See Spec. Regs. 3 and 6.	5′, but 2 side yards must equal at least 15 feet.	10′	50% See Spec. Reg. 5.	25′ above average building elevation.	E	A	2.0 per dwelling unit.	1. Minimum lot size per dwelling unit is as follows: a. In RS 35 zones, the minimum lot size is 35,000 square feet. b. In RS 12.5 zones, the minimum lot size is 12,500 square feet. c. In RS 8.5 zones, the minimum lot size is 8,500 square feet. d. In RS 7.2 zones, the minimum lot size is 7,200 square feet. e. In RS 6.3 zones, the minimum lot size is 6,300 square feet. f. In RS 5.0 zones, the minimum lot size is 5,000 square feet. In RS 35, 12.5, 8.5, 7.2, 6.3 and 5.0 zones, not more than one (1) dwelling unit may be on each lot, regardless of the size of each lot. 2. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows: a. In RS 35 zones, F.A.R. is 20 percent of lot size. b. In RS 12.5 zones, F.A.R. is 35 percent of lot size. c. In RS 8.5 zones, F.A.R. is 50 percent of lot size. d. In RS 7.2 zones, F.A.R. is 50 percent of lot size. e. In RS 6.3 zones, F.A.R. is 50 percent of lot size. f. In RS 5.0 zones, F.A.R. is 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the following criteria are met: i. The primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical: 12 feet horizontal; and ii. A setback of at least 7.5 feet is provided along each side yard. This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council. See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information. A reduced F.A.R. may be required pursuant to subdivision design requirements in Chapter 22.28 KMC. 3. On corner lots with two required front yards, one (1) may be reduced to the average of the front yards for the two adjoining properties fronting the same street as the front yard to be reduced. The applicant may select which front yard will be reduced (see Plate 24). ~~4.~~ 5 Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. REGULATIONS CONTINUED ON NEXT PAGE

4. On lots with two front yards that are essentially parallel to one another, only one front yard must be a minimum of 20 feet. The other will be regulated as a rear yard (minimum 10 foot yard). The front yard shall be the yard adjacent to the front facade of the dwelling unit.

Section 15.10 Zone RS **USE ZONE CHART**

	USE	REGULATIONS (.)	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
			Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
					Front	Side	Rear						
.010	Detached Dwelling Unit (continued)												REGULATIONS CONTINUED FROM PREVIOUS PAGE
												6	~~5.~~ Residential lots in RS 35 zones within the Bridle Trails neighborhood north of Bridle Trails State Park must contain a minimum area of 10,000 permeable square feet, which shall comply with Special Regulation 6 for large domestic animals in KZC 115.20(4) (chart).
												7	~~6.~~ Garages shall comply with the requirements of KZC 115.43, including required front yard. These requirements are not effective within the disapproval jurisdiction of the Houghton Community Council.

Zone RSX

USE ZONE CHART

Section 17.10	USE	REGULATIONS	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Detached Dwelling Unit		None	As established on the Zoning Map. See Spec. Reg. 1.	20' See Spec. Reg. 6.	5' each side. See Spec. Reg. 3.	10'	50% See Spec. Reg. 5.	30' above average building elevation.	E	A	2.0 per dwelling unit.	1. Minimum lot size per dwelling unit is as follows: a. In RSX 35 zones, the minimum lot size is 35,000 square feet. b. In RSX 8.5 zones, the minimum lot size is 8,500 square feet. c. In RSX 7.2 zones, the minimum lot size is 7,200 square feet. d. In RSX 5.0 zones, the minimum lot size is 5,000 square feet. In RSX 35, 8.5, 7.2 and 5.0 zones, not more than one dwelling unit may be on each lot, regardless of the size of the lot. 2. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows: a. In RSX 35 zones, F.A.R. is 20 percent of lot size. b. In RSX 12.5 zones, F.A.R. is 35 percent of lot size. c. In RSX 8.5 zones, F.A.R. is 50 percent of lot size. d. In RSX 7.2 zones, F.A.R. is 50 percent of lot size. e. In RSX 5.0 zones, F.A.R. is 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the following criteria are met: i. The primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical: 12 feet horizontal; and ii. A setback of at least 7.5 feet is provided along each side yard. See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information. 3. On corner lots, only one front yard must be a minimum of 20 feet. All other front yards shall be regulated as a side yard (minimum five-foot yard). The applicant may select which front yard shall meet the 20-foot requirement. ~~4.~~ 5 Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. ~~5.~~ 6 Residential lots in RSX zones within the Bridle Trails neighborhood north and northeast of Bridle Trails State Park must contain a minimum area of 10,000 permeable square feet, which shall comply with Special Regulation 6 for large domestic animals in KZC 115.20(4) (chart). ~~6.~~ 7 Garages shall comply with the requirements of KZC 115.43, including required front yard. These requirements are not effective within the disapproval jurisdiction of the Houghton Community Council.

4. On lots with two front yards that are essentially parallel to one another, only one front yard must be a minimum of 20 feet. The other will be regulated as a rear yard (minimum 10 feet). The front yard shall be the yard adjacent to the front facade of the dwelling unit.

Zone RSA

USE ZONE CHART

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

Section 18.10	USE	REGULATIONS	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Detached Dwelling Unit		None	As established on the Zoning Map. See Spec. Regs. 1, 2 and 3.	20' See Spec. Regs. 5 and 6.	5' each side.	10'	50% except 30% for the RSA 1 zone. See Gen. Reg. 3.	30' above average building elevation. See Spec. Reg. 8.	E	A	2.0 per dwelling unit.	1. Maximum units per acre is as follows: a. In RSA 1 zone, the maximum units per acre is one dwelling unit. b. In RSA 4 zones, the maximum units per acre is four dwelling units. c. In RSA 6 zones, the maximum units per acre is six dwelling units. d. In RSA 8 zones, the maximum units per acre is eight dwelling units. In RSA 1, 4, 6 and 8 zones, not more than one dwelling unit may be on each lot, regardless of the size of the lot. 2. Minimum lot size per dwelling unit is as follows: a. In RSA 1 zone, newly platted lots shall be clustered and configured in a manner to provide generally equal sized lots outside of the required open space area. b. In RSA 4 zones, the minimum lot size is 7,600 square feet. c. In RSA 6 zones, the minimum lot size is 5,100 square feet. d. In RSA 8 zones, the minimum lot size is 3,800 square feet. 3. Road dedication and vehicular access easements or tracts may be included in the density calculation, but not in the minimum lot size per dwelling unit. 4. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows: a. In RSA 1 zone, F.A.R. is 20 percent of lot size. b. In RSA 4 zones, F.A.R. is 50 percent of lot size. c. In RSA 6 zones, F.A.R. is 50 percent of lot size. d. In RSA 8 zones, F.A.R. is 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical to 12 feet horizontal. See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information. 5. On corner lots, only one front yard must be a minimum of 20 feet. All other front yards shall be regulated as a side yard (minimum five-foot yard). The applicant may select which front yard shall meet the 20-foot requirement. 7 ~~6.~~ Garages shall comply with the requirements of KZC 115.43, including required front yard. 8 ~~7.~~ Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 9 ~~8.~~ Maximum height of structure for properties located within the Juanita Beach Camps Plat (Volume 32, Page 35 of King County Records) or the Carr's Park Plat (Unrecorded) shall be 35 feet above average building elevation.

6. On lots with two front yards that are essentially parallel to one another, only one front yard must be a minimum of 20 feet. The other will be regulated as a rear yard (minimum 10 foot yard). The front yard shall be the yard adjacent to front facade of the dwelling unit.

B. *Proposed Language For Entertainment, Cultural, and Recreation Uses

KZC CHAPTER 5 – DEFINITIONS

5.10 Definitions

5.10.042 ~~Athletic Instructional Facility – An establishment related to recreational activities that provide instructional classes in gymnastics, swimming and dance, exclusive of athletic clubs or fitness clubs.~~

5.10. 140 Commercial Recreation Area and Use - ~~An area and use operated for profit, with private facilities, equipment and services for recreational purposes~~ A commercial recreational facility, including swimming pools, tennis courts, play~~grounds~~ facilities and/or other similar uses. ~~The use of such an area may be limited to private membership or may be open to the public upon the payment of a fee.~~

5.10.153: Community Facility - A use which serves the public and is generally of a public service, noncommercial nature,~~.~~ ~~S~~such as ~~use shall include~~ food banks, clothing banks, and other nonprofit social service organizations~~; nonprofit recreational facilities; and nonprofit performing arts centers~~.

5.10.279 Entertainment, Cultural and/or Recreational Facility – A facility providing entertainment, cultural and/or recreational services, including but not limited to: theaters, performing arts centers, museums, bowling alleys, swimming pools, tennis courts, play facilities, dance studios and physical fitness facilities.

KZC CHAPTER 48 – LIGHT INDUSTRIAL TECHNOLOGY (LIT) ZONES

48.15 Use Zone Chart

New Section: 48.15. 220 (*Add new use listing - Entertainment, Cultural and / or Recreational Facility*)

Use Regulation: Entertainment, Cultural and / or Recreational Facility

Required Review Process: Within the NE 85th Street Subarea, D.R,. Chapter 142 KZC. Otherwise, none.

Lot Size: None

Required Yards:

Front 20

Side 0

Rear 0

Lot Coverage: 80%

Height of Structure: If adjoining a low density zone other than RSX, then 25' above average Building elevation (does not apply to institutional uses in low density zones). Otherwise, 35' above average

Landscape Category: B

Sign Category: E

Required Parking Spaces: See KZC 105.25

Special Regulations: None

Zone
BC, BC 1, BC 2

USE ZONE CHART

Section 45.10	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.080	Hotel or Motel	None	None	BC: 20' BC 1 and BC 2: 10'	0' See Gen. Regs. 4 and 5.	0' See Gen. Regs. 4 and 5.	80%	See Gen. Regs. 5 and 6.	B	E	1 per each room. See also Spec. Reg. 2.	1. May include ancillary meeting and convention facilities. 2. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirement for these ancillary uses shall be determined on a case-by-case basis.
.090	~~A Retail Establishment providing entertainment, recreational or cultural activities~~										1 per every 4 fixed seats.	
.100	Private Lodge or Club								C	B	1 per each 300 sq. ft. of gross floor area.	
.110	Stacked Dwelling Unit. See Special Regulation 1.		900 square feet per unit in BC 1 and BC 2, other-wise none.	Same as the regulations for the ground floor use. See Spec. Reg. 1.						A	1.7 per unit.	1. This use, with the exception of a lobby, may not be located on the ground floor of a structure. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.
.120	Church		None	BC: 20' BC 1 and BC 2: 10'	0' See Gen. Regs. 4 and 5.	0' See Gen. Regs. 4 and 5.	80%	See Gen. Regs. 5 and 6.	C	B	1 for every four people based on maximum occu-pancy load of any area of wor-ship. See also Special Reg. 2.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to this use.

Entertainment, Cultural and/or Recreational Facility

Zone BCX

USE ZONE CHART

Section 47.10	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.070	Office Use	None	None	20′	0′	0′	80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 30′ above average building elevation.	C	D	If a medical, dental or veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the development permit application. 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
.080	Hotel or Motel								B	E	1 per each room. See also Spec. Reg. 2.	1. May include ancillary meeting and convention facilities. 2. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirement for these ancillary uses shall be determined on a case-by-case basis.
.090	~~A Retail Establishment providing entertainment, recreational or cultural activities~~										1 per every 4 fixed seats.	
.100	Private Lodge or Club								C	B	1 per each 300 sq. ft. of gross floor area.	
.110	Stacked Dwelling Unit. See Special Regulation 1.			Same as the regulations for the ground floor use. See Spec. Reg. 1.						A	1.7 per unit.	1. This use, with the exception of a lobby, may not be located on the ground floor of a structure. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.

Entertainment, Cultural and/or Recreational Facility

Zone
BN, BNA

USE ZONE CHART

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

Section 40.10	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Retail Establishment selling groceries and related items	None	None	BN zone: 20' BNA zone: 10'	10' on each side	10'	80%	If adjoining a low density zone other than RSX or RSA, then 25' above average building elevation. Otherwise, for BN zone, 30' above average building elevation and for BNA zone, 35' above average building elevation.	B	D	1 per each 300 sq. ft. of gross floor area.	1. Except for retail establishments selling groceries and related items in the BNA zone, gross floor area for this use may not exceed 10,000 square feet. 2. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served. 3. A delicatessen, bakery, or other similar use may include, as part of this use, accessory seating if: a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of this use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded.
.020	Retail Establishment selling drugs, books, flowers, liquor, hardware supplies, garden supplies or works of art											
.030	Retail Variety or Department Store											
.040	Retail Establishment providing banking and related financial services											1. Gross floor area for this use may not exceed 10,000 square feet. 2. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served. 3. Ancillary assembly and manufactured goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.
.050	Retail Establishment providing laundry, dry cleaning, barber, beauty or shoe repair services											
.055	~~Retail Establishment providing entertainment, recreational or cultural activities~~ See Spec. Reg. 5.										1 per every 4 fixed seats.	4. For restaurants with drive-in or drive-through facilities, one outdoor waste receptacle shall be provided for every eight parking stalls. 5. ~~Retail Establishment providing entertainment, recreational or cultural activities~~ only allowed in BNA zone.
.060	Restaurant or Tavern										1 per each 100 sq. ft. of gross floor area.	

Entertainment, Cultural and/or Recreational Facility

Entertainment, Cultural and/or Recreational Facilities are

(Revised 4/11)

Section 52.12 Zone JBD-1 USE ZONE CHART

Section 52.12	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.060	~~A Retail Establishment providing entertainment, recreational, or cultural activities~~	D.R., Chapter 142 KZC.	None	0′	0′	0′	80%	30′ above average building elevation.	D	E	See KZC 105.25.	
.070	A Retail Establishment other than those specifically listed in this zone, selling goods or providing services, including banking and related financial services. See Spec. Regs. 1 and 4.								D See Spec. Reg. 3.		1 per each 300 sq ft. of gross floor area.	1. The following uses are not permitted in this zone: a. Retail establishments providing storage services unless accessory to another permitted use. b. Automobile sales and/or rental facilities. c. Outdoor storage of bulk commodities, except in the following circumstances: 1) If the square footage of the storage area is less than 20 percent of the total square footage of the retail structure, or; 2) If the commodities represent growing stock in connection with horticultural nurseries, whether the stock is in open ground, pots, or containers. d. Storage and operation of heavy equipment except normal delivery vehicles associated with retail uses. 2. Drive-in and drive-through facilities are permitted only if these facilities do not compromise the pedestrian orientation of the development. The location and specific design of the facilities required Planning Official approval. 3. Landscape Category B will be required if the use includes drive-through facilities. 4. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.

Entertainment, Cultural and/or Recreational Facility

Zone JBD-2

USE ZONE CHART

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

(Revised 4/11)

Zone JBD-4

USE ZONE CHART

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

Entertainment, Cultural and/or Recreational Facility

Zone JBD-5

USE ZONE CHART

Section 52.32	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Retail Establishment providing boat sales, service, or repair. See Spec. Reg. 1.	D.R., Chapter 142 KZC.	None	0′	0′	0′	80%	26′ above average building elevation.	A	E	See KZC 105.25.	1. Boat rental and used boat sales are allowed as part of this use. 2. Gross floor area for this use may not exceed 10,000 square feet. 3. Storage of parts must be conducted entirely within an enclosed structure. 4. Outdoor boat parking and storage areas must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.
.020	Restaurant or Tavern								C		1 per each 100 sq. ft. of gross floor area.	1. Gross floor area for this use may not exceed 10,000 square feet. 2. Drive-in or drive-through facilities are prohibited.
.040	~~A Retail Establishment providing entertainment, recreational, or cultural activities~~										See KZC 105.25.	1. Gross floor area for this use may not exceed 10,000 square feet.

Entertainment, Cultural and/or Recreational Facility

Zone JBD-6

USE ZONE CHART

Section 52.42	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Restaurant or Tavern. See Spec. Reg. 1.	D.R., Chapter 142 KZC.	None	0′	0′	0′	80%	26′ above average building elevation.	C	E	1 per each 100 sq. ft. of gross floor area.	1. This use is not allowed east of NE 120th Place. 2. Gross floor area for this use may not exceed 10,000 square feet. 3. Drive-in or drive-through facilities are prohibited.
.030	~~A Retail Establishment providing entertainment, recreational, or cultural activities.~~ See Spec. Reg. 1.										See KZC 105.25.	1. This use is not allowed east of NE 120th Place. 2. Gross floor area for this use may not exceed 10,000 square feet.

Entertainment, Cultural and/or Recreational Facility

Section 60.132 Zone PLA9 USE ZONE CHART

Section 60.132	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.050	~~Recreation establishments providing one or more of the following activities:~~ ~~1. golf~~ ~~2. swimming~~ ~~3. tennis or other racquet sports~~ ~~4. handball~~ ~~5. jogging or other exercise~~ ~~6. field sports~~ ~~7. health club or spa facilities~~.	Process IIB, Chapter 152 KZC.	7,200 sq. ft.	20′	10′ on each side	10′	60%	25′ above average building elevation.	B	D	See KZC 105.25.	1. Hours of operation may be limited to reduce impact on residential areas. 2. The area covered by structures, parking, buffers, and other elements of this use may not be used in calculating residential density in the development. 3. The following accessory components are permitted as part of this use: a. Retail sales and rental of sports equipment for activity conducted on the subject property. b. A restaurant encompassing not more than 20 percent of the gross floor area of this use.
.060	Church	Process IIA, Chapter 150 KZC.			20′ on each side	20′	70%		C	B	1 for every 4 people based on maximum occupancy load of any area of worship. See Spec. Reg. 1.	1. No parking is required for day-care or school ancillary to this use.

Entertainment, Cultural and/or Recreational Facility

Section 53.06 — Zone RH 1A — USE ZONE CHART

Section 53.06	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.050	Office Use	D.R., Chapter 142 KZC.	None	10'	0'	0'	80%	67' above average building elevation.	C	D	If a medical, dental or veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
.060	Hotel or Motel								B	E	1 per each room. See also Spec. Reg. 2.	1. May include ancillary meeting and convention facilities. 2. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirements for these ancillary uses shall be determined on a case-by-case basis.
.070	~~A Retail Establishment providing entertainment, recreational or cultural activities~~										See KZC 105.25.	
.080	Attached or Stacked Dwelling Unit								D	A	1.7 per unit.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 2. At least 10 percent of the units provided in new residential developments of four units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives.
090	Private Lodge or Club								C	B	1 per each 300 sq. ft. of gross floor area.	

Entertainment, Cultural and/or Recreational Facility

Section 53.24 — Zone RH 2A, 2B, 2C — USE ZONE CHART

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

Section 53.24	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Vehicle Service Station See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	22,500 sq. ft.	20' See Spec. Reg. 2.	0' See Spec. Reg. 2.	0' See Spec. Reg. 2.	80%	35' above average building elevation.	A	E	See KZC 105.25.	1. This use is permitted only in RH 2A. 2. Gas pump islands must be set back a minimum of 20 feet from all property lines. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. 3. See KZC 95.40 through 95.45, required landscaping, for further regulations.
.020	Automotive Service Center See Spec. Reg. 1.		None	10' adjacent to NE 85th St., otherwise 20′.	0'	0'	In RH 2A and RH 2B: 80% In RH 2C: 70%	In RH 2B: 55' above average building elevation. In RH 2A: 67' above average building elevation.			1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 2.	1. This use is permitted only in RH 2A. 2. Ten percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/ travel trailer use. 3. Parts and tires must be stored entirely within an enclosed structure. 4. Outdoor vehicle parking or storage must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.
.030	Restaurant or Tavern										1 per each 100 sq. ft. of gross floor area.	1. This use is permitted in RH 2B only if developed in conjunction with the RH 2A zone. 2. This use is not permitted in RH 2C. 3. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
.040	~~A Retail Establishment providing entertainment, recreational or cultural activities~~										See KZC 105.25.	1. This use is permitted in RH 2B only if developed in conjunction with the RH 2A zone. 2. This use is not permitted in RH 2C.

Entertainment, Cultural and/or Recreational Facility

Zone RH 3

USE ZONE CHART

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

Entertainment, Cultural and/or Recreational Facility

Section 53.54 — Zone RH 5A, 5B — USE ZONE CHART

Section 53.54	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Vehicle Service Station See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	22,500 sq. ft.	20' See Spec. Reg. 4.	15' See Spec. Reg. 4.	15' See Spec. Reg. 4.	80%	If adjoining an RS or RSX zone, then 30' above average building elevation. Otherwise, 35' above average building elevation.	A	E	See KZC 105.25.	1. This use is permitted only if the subject property abuts NE 85th Street. 2. This use is not permitted in the RH 5B zone. 3. May not be more than two vehicle service stations at any intersection. 4. Gas pump islands must be set back at least 20 feet from all property lines. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. 5. See KZC 95.40 through 95.45, required landscaping, for further regulations.
.020	Automotive Service Center See Spec. Reg. 1.		None	10' adjacent to NE 85th St., otherwise 20'.	0'	15'					1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 4.	1. This use is not permitted in the RH 5B zone. 2. This use specifically excludes a retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, and similar vehicles. 3. No openings (i.e., doors, windows which open, etc.) shall be permitted in any facade of a building adjoining any residential zone. Windows are permitted if they are triple-paned and unable to be opened. 4. Ten percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 5. Parts and tires must be stored entirely within an enclosed structure. 6. Outdoor vehicle parking or storage must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.
.030	~~A Retail Establishment providing entertainment, recreational or cultural activities~~										See KZC 105.25.	
.040	Restaurant or Tavern See Spec. Regs. 1 and 2.										1 per each 100 sq. ft. of gross floor area.	1. Taverns and restaurants with drive-in or drive-through facilities are not permitted uses in an RH 5B zone. 2. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.

Entertainment, Cultural and/or Recreational Facility

Zone RH 7

USE ZONE CHART

Section 53.74	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.030	Office Use	D.R., Chapter 142 KZC.	None	10′ adjacent to NE 85th St., otherwise 20′.	0′	0′	80%	30′ above average building elevation.	A	D	If a medical, dental or veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
.040	Hotel or Motel									E	1 per each room. See also Spec. Reg. 2.	1. May include ancillary meeting and convention facilities. 2. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirement for these ancillary uses shall be determined on a case-by-case basis.
.050	~~A Retail Establishment providing entertainment, recreational or cultural activities~~										See KZC 105.25.	
.060	Private Lodge or Club									B	1 per each 300 sq. ft. of gross floor area.	
.070	Attached or Stacked Dwelling Units									A	1.7 per unit.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.

Entertainment, Cultural and/or Recreational Facility

Section 53.84 Zone RH 8 **USE ZONE CHART**

Section 53.84	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Office Use	D.R., Chapter 142 KZC.	None	10′ adjacent to NE 85th St., otherwise 20′.	0′	15′	70%	30′ above average building elevation. See Gen. Regs. 2 and 3.	A	D	If a medical, dental or veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
.020	Restaurant									E	1 per each 100 sq. ft. of gross floor area.	1. May not be located above the ground floor of a structure. 2. Gross floor area for each individual use may not exceed 4,000 sq. ft.
.030	~~A Retail Establishment providing entertainment, recreational or cultural activities~~										See KZC 105.25.	1. Gross floor area for each individual use may not exceed 4,000 sq. ft.
.040	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services.									D	1 per each 300 sq. ft. of gross floor area.	1. The following uses are not permitted in this zone: a. Vehicle service stations. b. Automotive service centers. c. Uses with drive-in facilities or drive-through facilities. d. Retail establishments providing storage services unless accessory to another permitted use. e. A retail establishment involving the sale, service or rental of motor vehicles, sailboats, motor boats, recreation trailers, heavy equipment and similar vehicles; provided, that motorcycle sales, service or rental is permitted if conducted indoors. f. Storage and operation of heavy equipment, except delivery vehicles associated with retail uses. g. Storage of parts unless conducted entirely within an enclosed structure. REGULATIONS CONTINUED ON NEXT PAGE

Entertainment, Cultural and/or Recreational Facility

Section 55.21 Zone TL 2 USE ZONE CHART

Section 55.21	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.020	Any Retail Establishment, Other than Those Specifically Listed in this Zone, Selling Goods or Providing Services Including Banking and Other Financial Services	D.R., Chapter 142 KZC.	Less than 1.5 acres.	0′	0′	0′	80%	30′ above average building elevation.	D See Spec. Reg. 5.	E	1 per 300.	1. Must be developed to be compatible with the approved Conceptual Master Plan for adjacent properties, with respect to signs, parking and pedestrian and vehicular access. 2. Any vehicle service or repair activity must be entirely contained within an enclosed structure, and the orientation of the use and activity must be away from pedestrian circulation routes and spaces. 3. Vehicle sales are permitted only if the vehicles are displayed in an indoor showroom, and the showroom does not occupy more than 10,000 square feet. 4. Location of drive-through facilities must not compromise the pedestrian orientation of the development. The location and specific design of the facilities requires Planning Official approval. 5. Landscape Category B will be required if the use includes drive-through facilities. 6. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 7. The following uses are not permitted in this zone: a. Retail establishments providing storage services unless accessory to another permitted use. b. Outdoor storage of bulk commodities, except in the following circumstances: 1) If the square footage of the storage area is less than five percent of the total square footage of the retail structure; or 2) If the commodities represent growing stock in connection with horticultural nurseries, whether the stock is in open ground, pots, or containers. c. Storage and operation of heavy equipment except normal delivery vehicles associated with retail uses.
.030	Restaurant or Tavern										1 per 100.	
.040	~~A Retail Establishment Providing Entertainment, Recreational, or Cultural Activities~~										See KZC 105.25.	

Entertainment, Cultural and/or Recreational Facility

Zone
TL 4A, 4B, 4C

USE ZONE CHART

Section 55.33	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.080	~~A Retail Establishment providing entertainment, recreational or cultural activities~~	D.R., Chapter 142 KZC	None	20'	0'	0'	80%	35' above average building elevation.	B	E	1 per every 4 fixed seats.	
.090	Private Lodge or Club								C	B	1 per each 300 sq. ft. of gross floor area.	
.100	Development containing attached or stacked dwelling units and offices, restaurants or taverns, or retail uses allowed in this zone.			Same as the regulations for the ground floor use. See Spec. Reg. 1.				TL 4A and TL 4B: 65' above average building elevation. See Spec. Reg. 5. TL 4C: 45' above average building elevation. See Spec. Reg. 5.	D	E	See KZC 105.25.	1. A veterinary office is not permitted in any development containing dwelling units. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 3. No more than 10 percent of the ground floor of a structure may contain residential use. 4. At least 10 percent of the units provided in new residential developments of four units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. 5. The equivalent of the additional gross floor area constructed above 35 feet over ABE must be dedicated to residential use. Residential use may be located anywhere in the building above the ground floor. 6. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
.110	Church			20'	0'	0'	80%	35' above average building elevation.	C	B	1 for every 4 people based on maximum occupancy load of any area of worship. See also Spec. Reg. 2.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to this use.

Entertainment, Cultural and/or Recreational Facility

Section 55.39 Zone TL 5 USE ZONE CHART

Section 55.39	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.090	~~A Retail Establishment providing entertainment, recreational or cultural activities~~	D.R., Chapter 142 KZC.	None	10'	0'	0'	80%	35' above average building elevation. See General Regulation 3.	B	E	1 per every 4 fixed seats.	
.100	Private Lodge or Club								C	B	1 per each 300 sq. ft. of gross floor area.	
.110	Attached or Stacked Dwelling Unit See Spec. Reg. 1.			See Spec. Regs. 1 and 2.						A	1.7 per unit.	1. No more than 10 percent of the ground floor of a structure may contain residential use. 2. At least 10 percent of the units provided in new residential developments of four units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. 3. At least two stories of the building must be dedicated to residential use. 4. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.
.120	Church			10'	0'	0'	80%	35' above average building elevation. See Gen. Reg. 3.	C	B	1 for every 4 people based on maximum occupancy load of any area of worship. See also Special Reg. 2.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to this use.

Entertainment, Cultural and/or Recreational Facility

Section 55.45 Zone TL 6A, 6B USE ZONE CHART

Section 55.45	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.060	Office Use	D.R., Chapter 142 KZC. See Gen. Reg. 6.	None	10'	0'	0'	80%	35' above average building elevation.	C	D	If a medical, dental or veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an acoustical engineer, must be submitted with the development permit application. 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
.070	Hotel or Motel								B	E	1 per each room. See also Spec. Reg. 2.	1. May include ancillary meeting and convention facilities. 2. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirement for these ancillary uses shall be determined on a case-by-case basis.
.080	~~A Retail Establishment providing entertainment, recreational or cultural activities~~										1 per every 4 fixed seats.	
.090	Private Lodge or Club								C	B	1 per each 300 sq. ft. of gross floor area.	

Entertainment, Cultural and/or Recreational Facility

Zone TL 7

USE ZONE CHART

Section 55.51	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.130	A Retail, Variety or Department Store	D.R., Chapter 142 KZC. See Gen. Reg. 2.	None	20′	0′	0′	80%	35′ above average building elevation.	B	E	1 per each 300 sq. ft. of gross floor area.	1. This use must contain at least 75,000 square feet of gross floor area. 2. Outdoor storage for this use must be buffered as established in Chapter 95 for Landscaping Category A. 3. A delicatessen, bakery, or other similar use may include, as part of this use, accessory seating if: a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded. 4. No drive-through or drive-in facilities are permitted.
.140	A multi-use complex or mixed use building containing 7 or more restaurants, taverns, retail establishments, or churches										See KZC 105.25.	1. Outdoor storage for this use must be buffered as established in Chapter 95 KZC for Landscaping Category A. 2. No drive-through or drive-in facilities are permitted. 3. A delicatessen, bakery, or other similar use may include, as part of this use, accessory seating if: a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded. 4. Ancillary assembly and manufactured goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 5. Churches are limited to no more than 15 percent of the gross floor area of the complex.
.150	~~Athletic Instructional Facility~~											
.160	Hotel or Motel										1 per each room. See Spec. Reg. 2.	1. May include meeting and convention facilities. 2. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirement for those ancillary uses shall be determined on a case-by-case basis.

Entertainment, Cultural and/or Recreational Facility

Zone TL 8

USE ZONE CHART

Section 55.57	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS											
.010	Hotel or Motel See Gen. Reg. 2.	D.R., Chapter 142 KZC. See Gen. Reg. 8.	None	10'	5' each side	10'	70%	35' above average building elevation.	B	E	See KZC 105.25.	1. The following uses are not allowed: The sale, service, and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers, vehicle service station, and storage services; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. 2. Ancillary assembly and manufactured goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent on this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 3. Outdoor storage and drive-in or drive-through facilities are not permitted.
.020	~~A Retail Establishment providing entertainment or recreational activity~~											
~~.030~~	~~Athletic, Exercise, or Health Club/ Facility~~ See Gen. Reg. 2.											
.040	Any Retail Establishment, other than those specifically listed in this zone, selling goods or providing services, including banking and related financial services. See Spec. Reg. 1.											
.050	Restaurant or Tavern											

Entertainment, Cultural and/or Recreational Facility

Section 55.81 Zone TL 10C **USE ZONE CHART**

Section 55.81	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.140	Restaurant or Tavern See Spec. Reg. 1.	D.R., Chapter 142 KZC	None	20′	0′	0′	80%	Where adjoining a low density zone, then 30′ above average building elevation. Otherwise 35′ above average building elevation.	B	E	1 per each 100 sq. ft. of gross floor area.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. It is not located in a separate structure from the primary use; c. The use is integrated into the design of the building; d. There is no vehicle drive-in or drive-through.
.150	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										
.160	~~Commercial Recreation Area and Use~~	D.R., Chapter 142 KZC	None	20′	0′	0′	80%	Where adjoining a low density zone, 30′ above average building elevation. Otherwise 35′ above average building elevation.	A	E	See KZC 105.25.	1. The use is permitted only if the property is located between NE 107th Street (extended) and NE 116th Street; and between I-405 and 116th Avenue NE. 2. The use shall be conducted within a wholly enclosed building. 3. The structure containing the use shall have been in existence on June 1, 2004, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space.

Entertainment, Cultural and/or Recreational Facility

Section 55.87 Zone TL 10D **USE ZONE CHART**

Section 55.87	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.150	~~Commercial Recreation Area and Use~~	D.R., Chapter 142 KZC	None	20′	0′	0′	80%	Where adjoining a low density zone, 30′ above average building elevation. Otherwise, 35′ above average building elevation.	A	E	See KZC 105.25.	1. The use is permitted only if the property is located between NE 107th Street (extended) and NE 116th Street; and between I-405 and 116th Avenue NE. 2. The use shall be conducted within a wholly enclosed building. 3. The structure containing the use shall have been in existence on June 1, 2004, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space.
.160	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

Entertainment, Cultural and/or Recreational Facility

Section 55.93 Zone TL 10E **USE ZONE CHART**

Section 55.93	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.130	~~Commercial Recreation Area and Use~~	D.R., Chapter 142 KZC	None	20′	0′	0′	80%	Where adjoining a low density zone, 30′ above average building elevation. Otherwise, 35′ above average building elevation.	A	E	See KZC 105.25.	1. The use is permitted only if the property is located between NE 107th Street (extended) and NE 116th Street; and between I-405 and 116th Avenue NE. 2. The use shall be conducted within a wholly enclosed building. 3. The structure containing the use shall have been in existence on June 1, 2004, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space.
.140	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

Entertainment, Cultural and/or Recreational Facility

C. Proposed Language For Single Family Residential RSA 4 and 6 Zones Minimum Lot Size

KZC CHAPTER 18 – SINGLE FAMILY RESIDENTIAL A (RSA) ZONES

18.10 RSA Use Zone Chart

18.010 Special Regulations

1. (no change)
2. Minimum lot size per dwelling unit is as follows:
   a. In RSA 1 zone, newly platted lots shall be clustered and configured in a manner to provide generally equal sized lots outside of the required open space area.
   b. In RSA 4 zones, the minimum lot size is 7,600 ~~3,800~~ square feet.
   c. In RSA 6 zones, the minimum lot size is 5,100 ~~2,550~~ square feet.
   d. In RSA 8 zones, the minimum lot size is 3,800 square feet.
3. (No Further changes)

D. *Delete Incorrect Reference to WAC Title 388 requiring schools/mini schools, daycare centers/mini day care to be subject to State requirements

~~These uses are subject to the requirements established by the Department of Social and Health Services (WAD Title 388)~~

This change will be made to KZC Special Regulations for the following sections:

Section	Zone
18.030 Special Regulation 12 & .040 Special Regulation 11	RSA
40.10.120 Special Regulation 10 & .130 Special Regulation 7	BN, BNA
45.10. 130 special Regulation 7 & .140 Special Regulation 7	BC, BC1, BC 2
47.10.130 Special Regulation 7 & .140 Special Regulation 7	BCX
48.15.130.Special Regulation 8 & .140 Special Regulation 8	LIT
52.12.140 Spec. Reg. 5 & .150 Special Regulation 6	JBD-1
52.17.130 Spec. Reg. 5 & .140 Special Regulation 5	JBD-2
52.27.110 Spec. Reg. 5 & .120 Special Regulation 5	JBD- 4
52.32.100 Spec. Reg. 5 & .110 Special Regulation 5	JBD-5
52.42.090 Special Regulation 5 & .110 Special Regulation 5	JBD-6
53.06.110 Special Regulation 6	RH 1A
53.24.130 Special Regulation 6	RH 2 A, B
53.34.110 Special Regulation 6	RH 3
53.54.110 Special Regulation 6	RH 5 A, B
53.74.100 Special Regulation 6	RH 7
53.84.080 Special Regulation 6	RH 8

55.21.100 Special Regulation 6	TL 2
55.33.120 Special Regulation 7	TL 4 A, B, C
55.39.130 Special Regulation 7	TL 5
55.45.140 Special Regulation 7	TL 6 A, B
55.51.230 Special Regulation 7	TL 7
55.57.100 Special Regulation 6	TL 8
55.64.040 Special Regulation 7 & .050 Special Regulation 7	TL 9B
55.81.100 Special Regulation 7	TL 10 C
55.87.110 Special Regulation 8	TL 10 D
60.132.070. Special Regulation 8 & .080 Special Regulation 8	PLA 9
60.182.050 Special Regulation 8 & .060 Special Regulation 6	PLA 16

E. *Proposed language for electronic readerboard amendments – insert the following language into KZC Use Zone Charts 15.10.030, 17.10.030, 18.10.030 and 56.20 where indicated.

Electrical signs shall be permitted at Junior High/Middle Schools and High Schools. One pedestal sign with a readerboard having electronic programming is allowed per site only if:

a. It is a pedestal sign (see Plate 12) having a maximum of 40 square feet of sign area per sign face;
b. The electronic readerboard is no more than 50 percent of the sign area;
c. Moving graphics and text or video are not part of the sign;
d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way;
e. The electronic readerboard displays messages regarding public service announcements or school events only;
f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness;
g. The electronic readerboard is turned off between 10:00 p.m. and 6:00 a.m.;
h. The school is located on a collector or arterial street.

The City shall review and approve the location of the sign on the site. The sign shall be located to have the least impact on surrounding residential properties. If it is determined that a proposed electronic readerboard would constitute~~s~~ a traffic hazard the Planning Director may impose restrictions or deny the readerboard.

Zone RS

USE ZONE CHART

	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS									
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.030	School or Day-Care Center	See Spec. Reg. 10.	As established on the Zoning Map. See Spec. Reg. 1.	If this use can accommodate 50 or more students or children, then: 50′ 50′ on each side 50′ If this use can accommodate 13 to 49 students or children, then: 20′ 20′ on each side 20′			70%	25′ above average building elevation. See Spec. Reg. 12.	D	B See Spec. Reg. 8.	See KZC 105.25.	1. Minimum lot size is as follows: a. In RS 35 zones, the minimum lot size is 35,000 square feet. b. In RS 12.5 zones, the minimum lot size is 12,500 square feet. c. In RS 8.5 zones, the minimum lot size is 8,500 square feet. d. In RS 7.2 zones, the minimum lot size is 7,200 square feet. e. In RS 6.3 zones, the minimum lot size is 6,300 square feet. f. In RS 5.0 zones, the minimum lot size is 5,000 square feet. 2. May locate on the subject property only if: a. It will not be materially detrimental to the character of the neighborhood in which it is located. b. Site and building design minimizes adverse impacts on surrounding residential neighborhoods. c. The property is served by a collector or arterial street (does not apply to existing school sites). 3. A six-foot-high fence along the side and rear property lines is required only along the property lines adjacent to the outside play areas. 4. Hours of operation and maximum number of attendees at one (1) time may be limited to reduce impacts on nearby residential uses. 5. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 6. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 7. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 8. Electrical signs shall not be permitted. 9. May include accessory living facilities for staff persons. 10. The required review process is as follows: a. If the subject property, including all contiguous property owned by the applicant and held by others for future use by the applicant, is less than five acres, the required review process is Process IIA, Chapter 150 KZC; provided, however, that within the jurisdiction of the Houghton Municipal Corporation, the required review process is Process IIB, Chapter 152 KZC. REGULATIONS CONTINUED ON NEXT PAGE

Replace language in #8 with proposed language

Zone RSA

USE ZONE CHART

Section 18.10	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.030	School or Day-Care Center (continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE 8. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 9. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 10. For school use, structure height may be increased, up to 35 feet, if: a. The school can accommodate 200 or more students; and b. The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by one foot for each additional one foot of structure height; and c. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan. d. The increased height will not result in a structure that is incompatible with surrounding uses or improvements. 11. May include accessory living facilities for staff persons. 12. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 13. Electrical signs shall not be permitted.
.040	Mini-School or Mini-Day-Care Center See Spec. Regs. 1 and 2.	Process I, Chapter 145 KZC.	As established on the Zoning Map. See Spec. Reg. 3.	20'	5' but 2 side yards must equal at least 15'.	10'	50%, except 30% for RSA 1 zone. See Gen. Reg. 3. See Gen. Reg. 4 for Holmes Point overlay zone.	30' above average building elevation.	E See Gen. Regs. 3 and 4.	B See Spec. Reg. 9.	See KZC 105.25.	1. May locate on the subject property if: a. It will not be materially detrimental to the character of the neighborhood in which it is located. b. Site design must minimize adverse impacts on surrounding residential neighborhoods. 2. This use is not permitted on properties within the jurisdiction of the Shoreline Management Act. See Chapter 83 KZC. 3. Minimum lot size is as follows: a. In RSA 1 zone, newly platted lots shall be clustered and configured in a manner to provide generally equal sized lots outside of the required open space area. b. In RSA 4 zones, the minimum lot size is 7,600 square feet. c. In RSA 6 zones, the minimum lot size is 5,100 square feet. d. In RSA 8 zones, the minimum lot size is 3,800 square feet. REGULATIONS CONTINUED ON NEXT PAGE

Replace language in #13 with proposed language

Section 17.10	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.030	School or Day-Care Center (continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE 3. May locate on the subject property only if: a. It will not be materially detrimental to the character of the neighborhood in which it is located; or b. Site and building design minimizes adverse impacts on surrounding residential neighborhoods. c. The property is served by a collector or arterial street. 4. A six-foot-high fence along the side and rear property lines is required only along the property lines adjacent to the outside play areas. 5. Hours of operation and maximum number of attendees at one time may be limited to reduce impacts on nearby residential uses. 6. Structured play areas must be setback from all property lines as follows: a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 7. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 8. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 9. Electrical signs shall not be permitted except at Lake Washington and Juanita High Schools. One pedestal sign with a readerboard having electronic programming is allowed at each high school only if: a. It is a pedestal sign (see Plate 12) having a maximum of 40 square feet of sign area per sign face; b. The electronic readerboard is no more than 50 percent of the sign area; c. Moving graphics and text or video are not part of the sign; d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way; e. The electronic readerboard displays messages regarding public service announcements or school events only; f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness; REGULATIONS CONTINUED ON NEXT PAGE

Replace language in #9 with proposed language

Zone YBD 2, YBD 3

USE ZONE CHART

Section 56.20	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.080	Private Lodge or Club	D.R., Chapter 142 KZC	None	0' adjacent to NE 38th Place and Northup Way. Otherwise, 20'.	0'	0'	80%	In YBD 2, 55' above average building elevation. In YBD 3, 60' above average building elevation.	C	B	1 per each 300 sq. ft. of gross floor area	
.090	Hospital Facility								B		See KZC 105.25.	
.100	Public Utility								A			
.110	Church								C		1 for every 4 people based on maximum occupant load of any area of worship. See Spec. Reg. 2.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to the use.
.120	School or Day-Care Center								D		See KZC 105.25.	1. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 2. Structured play areas must be set back from all property lines by five feet. 3. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 4. May include accessory living facilities for staff persons.
.130	Mini-School or Mini-Day-Care								E			
.140	Government Facility Community Facility								C See Spec. Reg. 1.			1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.150	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

Add #5 with proposed language

F. *Proposed Language For Rear Yard Setbacks in Waterfront District Zones

30.05 User Guide.

The charts in KZC 30.15 contain the basic zoning regulations that apply in the WD I zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 30.10

Zone WDI

Section 30.10 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.

2. Developments creating four or more new dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. In such cases, the minimum lot size listed in the Use Regulations shall be used to establish the base number of units allowed on the site, but shall not limit the size of individual lots. See Chapter 112 KZC for additional affordable housing incentives and requirements.

3. The required rear yard for each use shall be the same as the required rear yard for the same use in the RM zone, unless otherwise specified in section 30.15.020.5. (does not apply to Public Access Pier, Boardwalk or Public Access Facility; Piers, Docks, Boat Lifts and Canopies Serving Detached Dwelling Unit; Piers, Docks, Boat Lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units; Boat Launch; or Water Taxi)

3. The required 30-foot front yard may be reduced one foot for each one foot of this yard that is developed as a public use area if:
   a. Within 30 feet of the front property line, each portion of a structure is set back from the front property line by a distance greater than or equal to the height of that portion above the front property line; and
   b. Substantially, the entire width of this yard (from north to south property lines) is developed as a public use area; and
   c. The design of the public use area is specifically approved by the City.

   (Does not apply to Public Access Pier, Boardwalk or Public Access Facility; Piers, Docks, Boat Lifts and Canopies Serving Detached Dwelling Unit; Piers, Docks, Boat Lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units; Public Park; Public Utility Uses; Boat Launch; or Water Taxi.)

4. The required 30-foot front yard may be reduced, subject to all of the following conditions:
   a. The existing primary structure does not conform to the minimum shoreline setback standard;
   b. The proposed complete replacement or replacement of portion of the existing primary structure comply with the minimum required shoreline setback established under the provisions of Chapter 83 KZC, or as otherwise approved under the shoreline setback reduction provisions established in KZC 83.380;
   c. The front yard for the complete replacement or the portion of replacement may be reduced one foot for each one foot of the shoreline setback that is increased in dimension from the setback of the existing nonconforming primary structure; provided, that subsection (4)(d) of this section is met; and
   d. Within the front yard, each portion of the replaced or portion of replaced primary structure is set back from the front property line by a distance greater than or equal to the maximum height of that portion above the front property line.

   (Does not apply to Public Access Pier, Boardwalk or Public Access Facility; Piers, Docks, Boat Lifts and Canopies Serving Detached Dwelling Unit; Piers, Docks, Boat Lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units; Public Park; Public Utility Uses; Boat Launch; or Water Taxi).

5. A view corridor must be maintained across 30 percent of the average parcel width. Refer to Chapter 83 KZC for additional details.

6. May not use lands waterward of the ordinary high water mark to determine lot size or to calculate allowable density

7. May also be regulated under the Shoreline Master Program; refer to Chapter 83 KZ

30.19 User Guide.

The charts in KZC 30.25 contain the basic zoning regulations that apply in the WD II zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 30.20

Zone WDII

Section 30.20 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.

2. May not use lands waterward of the ordinary high water mark to determine lot size or to calculate allowable density.

3. The required yard abutting an unopened right-of-way shall be a side property rather than a front property line.

4. The required rear yard for each use shall be the same as the required rear yard for the same use in the RS zone, unless otherwise specified in sections 30.25.010.9 and 30.25.010.10. (does not apply to Piers, Docks, Boat Lifts and Canopies Serving Detached Dwelling Unit;

~~4~~5. May also be regulated under the Shoreline Master Program; refer to Chapter 83 KZC.

~~5~~6. Residential uses abutting Lake Washington may have an associated private shoreline park that is commonly owned and used by residents and guests.

link to Section 30.25 table

Zone WDII

USE ZONE CHART

Section 30.25	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Shoreline Setback	Side Property Line						
.010	Detached Dwelling Unit	None	12,500 sq. ft.	For those properties that conform to the standard shoreline setback requirements established in Chapter 83 KZC, either: a. 10' or b. The average of the existing front yards on the properties abutting the subject property to the north and south. Otherwise, 20'. See Spec. Regs. 3, 6, 7 and 11.	See Chapter 83 KZC.	5', but 2 side yards must equal at least 15' or 5' on each side. See Spec. Reg. 5.	50%	For properties with a minimum of 45' of frontage along Lake Washington, 30' above average building elevation. See Spec. Reg. 12. Otherwise, 25' above average building elevation.	E	A	2.0 per unit.	1. No structure, other than a moorage structure, may be waterward of the ordinary high water mark. For the regulations regarding moorage, see Chapter 83 KZC. 2. For this use, only one dwelling unit may be on each lot regardless of lot size. 3. For properties located south of the Lake Avenue West Street End Park, the required front yard may be decreased to the average of the existing front yards on the properties abutting the subject property to the north and south. ~~4. The dimensions of any required yard, other than as specifically listed, will be determined on a case-by-case basis, unless otherwise specified in this section. The City will use the setback for this use in RS zones as a guide for this use.~~ 4 ~~5.~~ The gross floor area of any floor above the first story at street or vehicular access easement level shall be reduced by a minimum of 15 percent of the floor area of the first story, subject to the following conditions: a. The structure must conform to the standard shoreline setback requirements established in Chapter 83 KZC, or as otherwise approved under the shoreline setback reduction provisions established in KZC 83.380. b. The required floor area reductions shall be incorporated into one or both facades facing the side property lines in order to provide separation between neighboring residences. (See Plate 36.) c. This provision shall not apply to residences that do not contain a ceiling height greater than 16 feet above the street or vehicular access easement level, as measured at the midpoint of the frontage of the subject property on the abutting right-of-way. d. The calculation of gross floor area shall apply the provisions established in KZC 115.42(1). 5 ~~6.~~ On corner lots with two required front yards, one may be reduced to the average of the front yards for the two adjoining properties fronting the same street as the front yard to be reduced. The applicant may select which front yard will be reduced (see Plate 24). REGULATIONS FOR THIS USE CONTINUED ON THE NEXT PAGE

Section 30.25 Zone WDII USE ZONE CHART

Section 30.25	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Shoreline Setback	Side Property Line						
.010	Detached Dwelling Unit (Continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE

6 ~~7.~~ The front required yard provisions shall not apply to public street ends located west of Waverly Way, but the required yard shall be regulated as a side yard.

7 ~~8.~~ Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.

8 ~~9.~~ Garages shall comply with the requirements of KZC 115.43, including required front yard. These requirements are not effective within the disapproval jurisdiction of the Houghton Community Council.

9 ~~10.~~ The required yard along the east side of the vehicular access easements known as 5th Avenue West or Lake Avenue West is zero feet.

10 ~~11.~~ The required yard along the west side of the vehicular access easements known as 5th Avenue West or Lake Avenue West is either five feet or the average of the existing rear yards on the properties abutting the subject property to the north and south. The garage shall be located to comply with the provisions for parking pads contained in KZC 105.47.

11 ~~12.~~ For the increase in height from 25' to 30' above average building elevation, the structure must conform to the standard shoreline setback requirements established in Chapter 83 KZC, or as otherwise approved under the shoreline setback provisions established in KZC 83.380.

12 ~~13.~~ At the northern terminus of the 5th Avenue West vehicular access easement, the average parcel depth shall be measured from the ordinary high water mark to the public pedestrian access easement providing access to Waverly Beach Park.

Zone WDII

USE ZONE CHART

Section 30.25	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	MINIMUMS: REQUIRED YARDS (See Ch. 115): Shoreline Setback	MINIMUMS: REQUIRED YARDS (See Ch. 115): Side Property Line	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.020	Piers, Docks, Boat Lifts and Canopies Serving Detached Dwelling Unit	See Chapter 83 KZC.	None	See Chapter 83 KZC.			–	See Chapter 83 KZC.	See Chapter 83 KZC.	See Chapter 83 KZC.	None	1. Refer to Chapter 83 KZC for additional regulations.
.030	Public Utility	Process IIA, Chapter 150 KZC.		20'	See Chapter 83 KZC.	5', but 2 side yards must equal at least 15'.	70%	25' above average building elevation.	A	B	See KZC 105.25.	1. Site design must minimize adverse impacts on surrounding residential neighborhoods. 2. If any portion of a structure is adjoining a detached dwelling unit in a low density zone, then either: a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or b. The maximum horizontal facade shall not exceed 50 feet. See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for more details. 3. The dimension of any required yard, other than as specifically listed, will be determined on a case-by-case basis. The City will use the setback for this use in RS zones as a guide. 4. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on nearby uses.
.040	Government Facility Community Facility								C See Spec. Reg. 4.			

Section 30.25 Zone WDII USE ZONE CHART

Section 30.25	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Shoreline Setback	Side Property Line						
.050	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										1. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or b. The maximum horizontal facade shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for more details. 2. This use may include a public access pier or boardwalk. See Chapter 83 KZC for regulations regarding these uses.

30.29 User Guide.

The charts in KZC 30.35 contain the basic zoning regulations that apply in the WD III zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 30.30

Zone WDIII

Section 30.30 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.

2. Developments creating four or more new dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. In such cases, the minimum lot size listed in the Use Regulations shall be used to establish the base number of units allowed on the site, but shall not limit the size of individual lots. See Chapter 112 KZC for additional affordable housing incentives and requirements.

3. May not use lands waterward of the ordinary high water mark to determine lot size or to calculate allowable density.

4. The required rear yard for each use shall be the same as the required rear yard for the same use in the RM zone, unless otherwise specified in section 30.35.020.5. (Does not apply to Public Access Pier, Boardwalk, or Public Access Facility; Piers, Docks, Boat Lifts and Canopies Serving Detached Dwelling Unit; Piers, Docks, Boat Lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units; Boat Launch; or Water Taxi).

~~4.~~5 The required 30-foot front yard may be reduced, subject to all of the following conditions:
   a. The existing primary structure does not conform to the minimum shoreline setback standard;
   b. The proposed complete replacement or replacement of portion of the existing primary structure comply with the minimum required shoreline setback established under the provisions of Chapter 83 KZC, or as otherwise approved under the shoreline setback reduction provisions established in KZC 83.380;
   c. The front yard for the complete replacement or the portion of replacement may be reduced one foot for each one foot of the shoreline setback that is increased in dimension from the setback of the existing nonconforming primary structure; provided, that subsection (4)(d) of this regulation is met; and
   d. Within the front yard, each portion of the replaced or portion of replaced primary structure is set back from the front property line by a distance greater than or equal to the maximum height of that portion above the front property line.

   (Does not apply to Public Access Pier, Boardwalk, or Public Access Facility; Piers, Docks, Boat Lifts and Canopies Serving Detached Dwelling Unit; Piers, Docks, Boat Lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units; Public Park; Public Utility Uses; Boat Launch; or Water Taxi).

~~5.~~6 The required 30-foot front yard may be reduced, subject to the following conditions:
   a. The existing primary structure does not conform to the minimum shoreline setback standard;
   b. The front yard may be reduced one foot for each one foot of the shoreline setback that is increased in dimension;
   c. The new or remodeled primary structure must comply with the minimum required shoreline setback established under the provisions of Chapter 83 KZC, or as otherwise approved under the shoreline setback reduction provisions established in KZC 83.380; and
   d. Within 30 feet of the front property line, each portion of a structure is set back from the front property line by a distance greater than or equal to the height of that portion above the front property line.

~~6~~7. May also be regulated under the Shoreline Master Program, Chapter 83 KZC.

link to Section 30.35 table

G. Proposed Language For Totem Lake 9B to clarify the density limitation

Zone TL 9B

USE ZONE CHART

1. Minimum lot area per dwelling unit in TL 9B zone is 5,000 sq. ft.

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

Section 55.64	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Detached Dwelling Units	Process IIA, Chapter 150 KZC	5,000 sq. ft.	20'	5'	10'	60%	30' above average building elevation.	E	A	2.0 per unit.	1. For this use, only one dwelling unit may be on each lot regardless of the size of the lot. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.
.020	Detached, Attached or Stacked Dwelling Units				5' for detached units. For attached or stacked units, 5', but 2 side yards must equal at least 15'. See Spec. Reg. 3.	10' See Spec. Reg. 4.		Detached dwelling units: 30' Attached and/or stacked dwelling units: 50' above average building elevation. See Spec. Reg. 5.	D		1.7 per unit.	2 ~~1.~~ Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 3 ~~2.~~ Chapter 115 KZC contains regulations regarding common recreational space requirements for this use. 4 ~~3.~~ The side yard may be reduced to zero feet if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of five feet. 5 ~~4.~~ The rear yard may be reduced to zero feet if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot. 6 ~~5.~~ For attached and/or stacked dwelling units, at least 10 percent of the units provided in new residential developments of four units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives.
.030	Church		7,200 sq. ft.		20'	20'	70%	30' above average building elevation.	C	B	1 for every 4 people based on maximum occupancy load of worship. See Spec. Reg. 2.	1. The property must be served by a collector or arterial street. 2. No parking is required for day-care or school ancillary to the use.

H. Proposed Deletion of Heron Habitat Protection Area in Finn Hill

KZC CHAPTER 90 – DRAINAGE BASINS

~~90.127 Heron Habitat Protection Areas~~

~~1. Purpose of the Heron Habitat Protection Area – The purpose of the heron habitat protection area designation is to identify and protect areas that provide essential feeding, nesting and roosting habitat for identified great blue heron rookeries. The protection areas contain isolated areas of known heron habitat in the general region surrounding the heron rookery.~~

~~2. The following development standards shall be applied in addition to all applicable buffers and required yards development permits located within a heron habitat protection area designated in Plate 39:~~

~~a. Subdivisions and short subdivisions adjacent to streams or wetlands within the heron habitat protection area shall provide buffers that are 50 feet greater than required pursuant to this chapter along those streams and wetlands to provide habitat for herons. This additional 50-foot buffer shall be planted with dense native plant material to discourage human intrusion into feeding or nesting and roosting areas. Plantings shall be reviewed and approved by the City.~~

~~b. For subdivisions and short subdivisions adjacent to Lake Washington within the heron habitat protection area, the required high waterline yard shall be increased by 50 feet. This additional 50-foot buffer shall be planted with dense native plant material to discourage human intrusion into feeding or nesting and roosting areas. Plantings shall be reviewed and approved by the City.~~

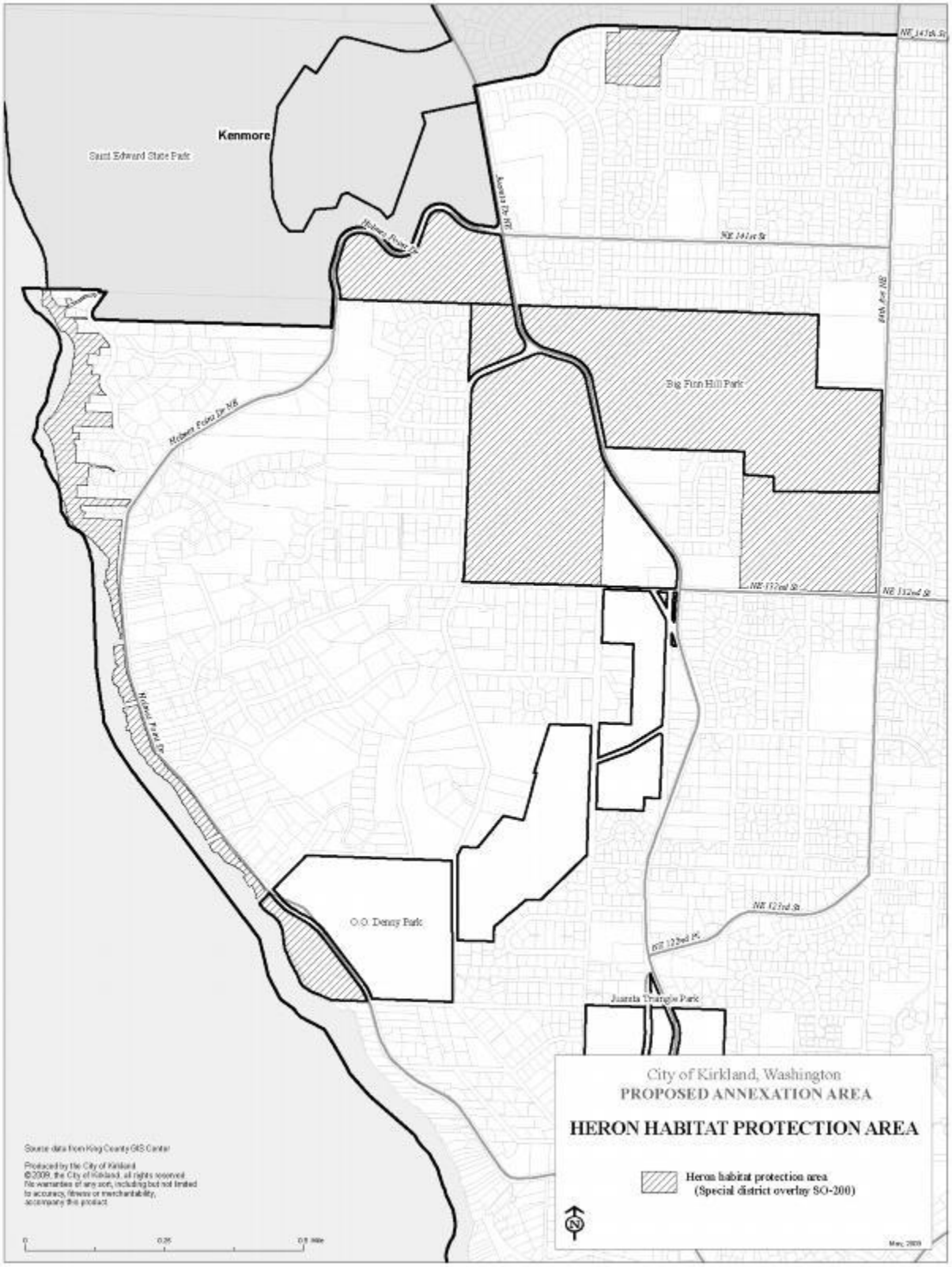
~~c. New docks, piers, bulkheads, and boat ramps constructed within the heron habitat protection area shall mitigate for loss of heron feeding habitat by providing enhanced native vegetation approved by the City adjacent to the development or between the development and the shoreline. Bulkheads shall be buffered from the water's edge by enhanced plantings of native vegetation approved by the City.~~

KZC CHAPTER 180 – PLATES

~~Plate 39 Heron Protection Area~~ (delete plate)

Chapter 180 – PLATES

~~Plate 39 – Heron Habitat Protection~~ ~~Heron Habitat Protection Area~~ (Delete Plate)



I. *Proposed Language For Trees and Landscaping

KZC CHAPTER 95 – TREE MANAGEMENT AND REQUIRED LANDSCAPING

95.23 Tree Removal – Not Associated with Development Activity

95.23.5. Tree Removal Allowances.

a.-d. (No Change)

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 ~~tree removal~~ removal of more than two 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) (No further changes)

J. *Proposed Language For Parking Modifications

KZC CHAPTER 105 – PARKING AREAS, VEHICLE AND PEDESTRIAN ACCESS, AND RELATED IMPROVEMENTS

105.103 Modifications

1. - 2 (No Change)

3. Modifications – A modification to improvement requirements of this chapter may be required or granted if the applicant demonstrates on submitted plans and/or in writing that the following criteria have been met for modifications to the applicable sections:

a. – b. (No Change)

c. For a modification to KZC 105.20 and 105.45, a decrease in the required number of spaces may be granted if the number of spaces proposed is documented by an adequate and thorough parking demand and utilization study to be sufficient to fully serve the use. The study shall be prepared by a licensed transportation engineer or other qualified professional,

and shall analyze the operational characteristics of the proposed use which justify a parking reduction. The scope of the study shall be proposed by the transportation engineer and approved by the City traffic engineer. The study shall provide at least two (2) days of data for morning, afternoon and evening hours, or as otherwise approved or required by the City traffic engineer. Approval of a parking reduction shall be solely at the discretion of the City. A decrease in the minimum required number of spaces may be based in whole or part on the provision of nationally accepted TDM (transportation demand management) measures. Data supporting the effectiveness of the TDM measures shall be provided as part of the parking demand and utilization study and approved by the City traffic engineer.

The Planning Official shall not approve or deny a modification to decrease the number of parking spaces ~~pursuant to subsection (2)(b) of this section~~ without first providing notice of the modification request to the owners and residents of property within 300 feet of the subject property and providing opportunity for comment. The Planning Official shall use mailing labels provided by the applicant, or, at the discretion of the Planning Official, by the City. Said comment period shall not be less than seven (7) calendar days.

K. *Proposed Language For Application of Small Lot And Historic Preservation Subdivisions Throughout City

KZC CHAPTER 115 - MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

115.07 Assessory Dwelling Units

One (1) accessory dwelling unit (ADU) is permitted as subordinate to a single-family dwelling; provided, that the following criteria are met:

1.-7 (no change)

8. ~~Market and Norkirk Neighborhoods~~Small Lot Single-Family and Historic Preservation Subdivisions~~.~~ - ~~Within the Market and Norkirk Neighborhoods, as defined in the Comprehensive Plan, a~~Accessory dwelling units are prohibited on lots smaller than the required minimum lot size approved using the small lot single-family and historic preservation subdivision regulations contained in KMC 22.28.042 and 22.28.048.

9. (No further change)

KZC CHAPTER 75 –HISTORIC LANDMARK OVERLAY ZONE AND HISTORIC RESIDENCE DESIGNATION

75.55 Historic Residence Designation – Intent

~~The Norkirk and Market~~Kirkland Neighborhoods contain many historic houses representing a variety of architectural styles and historic time periods, and providing a record of Kirkland's residential development. The loss of any historic houses in these neighborhoods would constitute an irreparable diminishment of community character. Preventing this loss and protecting community character and historic resources are consistent with and supported by the ~~Community Character Element and by the Norkirk and Market Neighborhood Plans within the~~ Comprehensive Plan. It is in the public interest to

preserve this rich architectural diversity and tangible connections with Kirkland's past. The historic residence designation process provides an opportunity for historic houses in ~~the Market and Norkirk Neighborhoods~~ to be preserved.

A house may be considered for historic residence designation if it retains its overall original form, massing and sufficient original architectural elements to convey its historic character. This could include, for example, a house that has been moved, changes to windows that do not significantly change the original window placement or form, and replacement of siding. Additions and alterations to the historic house will be evaluated on a case-by-case basis.

75.60 (No Change)

75.65 Historic Residence Designation – Who May Apply

The person holding fee title to the subject property ~~in the Market or Norkirk Neighborhoods, as defined in the Comprehensive Plan,~~ may apply to designate a home as an historic residence.

75.70 (no further change)

M. *Proposed Language For Floor Area Ratio (FAR) Exemptions

KZC CHAPTER 115 - MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

115.42 Floor Area Ratio (F.A.R.) calculation for Detached Dwelling Units in Low Density Residential Zones and Attached Dwelling Units in PLA 3c

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones and attached dwelling units in PLA 3C~~,~~ shall include the entire area within the exterior walls for each level of the structure. It shall also include the area of all carports, measured as the area of the carport roof. It ~~does~~ shall not include the following:

   a. Attic area with less than five (5) feet of ceiling height, as measured between the finished floor and the supporting members for the roof.

   b. Floor area with a ceiling height less than six (6) feet above finished grade. The ceiling height will be measured to the top of the structural members for the floor above. The finished grade will be measured along the outside perimeter of the building (see Plate 23).

   c. On lots less than 8,500 square feet, the first 500 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC 115.30 for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R. For purposes of this section, “behind” means located behind an imaginary plane drawn at the back of the main structure at the farthest point from, and parallel to, the street or access easement serving the residence.

   d. On lots greater than or equal to 8,500 square feet, the first 800 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see KZC 115.30 for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R.

   e. Uncovered and covered decks, porches, and walkways.

   f. One hundred square feet if the dwelling unit has an internal stair case and/or an area with a ceiling height greater than 16 feet.

2. Floor area with a ceiling height greater than 16 feet shall be calculated at twice the actual floor area toward allowable F.A.R. The ceiling height for these areas will be measured to the top of the structural members for the floor above or, if there is no floor above, to the bottom of the structural members for the roof.

~~2. Floor area with a ceiling height greater than 16 feet shall be calculated as follows:~~

   ~~a. The first 100 square feet of such floor area, in aggregate, shall be calculated only once toward allowable F.A.R.;~~

~~b. Floor area in excess of the first 100 square feet shall be calculated at twice the actual floor area toward allowable F.A.R.~~

3. *This section is not effective within the disapproval jurisdiction of the Houghton Community Council, except for those lots in PLA 3C that are less than 7,200 square feet or lots that have less than the minimum lot size created through the small lot provisions of KMC 22.28.042, subdivisions.*

N. *Proposed Language For Required Rear Yard For A Second Story Garage With Alley Access

KZC CHAPTER 115 - MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

115.115. Required Yards

1 - 2 – *(No Change)*

3. Structures and Improvements – No improvement or structure may be in a required yard except as follows:

a. - n. *(No Change)*.

o. In low density residential zones:

1) Detached garages, including second story uses, utilizing an alley for their primary vehicular access may be located within five (5) feet of the rear property line, if:

a) Garage doors will not extend over the property line when open; and

b The garage complies with KZC 115.135, which regulates sight distance at intersections, and~~.~~

c) The portion of the structure that is located within the required rear yard is no higher than the maximum height allowed in the underlying zone.

2) Detached garages, including second story uses, utilizing an alley for their primary vehicular access may extend to the rear property line, if:

a) The lot is 50 feet wide at the rear property line on the alley;

b) The garage has side access with garage doors that are perpendicular to the alley;

c) The garage eaves do not extend over the property line; and

d) The garage complies with KZC 115.135, which regulates sight distance at intersections.

e) The portion of the structure that is located within the required rear yard is no higher than the maximum height allowed in the underlying zone.

3) Garages without alley access may be located within five (5) feet of the rear property line; provided, that:

a) The portion of the structure that is located within the required rear yard is no taller than 15 feet above average building elevation; and

b) The rear yard does not abut an access easement that is regulated as a rear property line.

p. (no further change)

O. *Proposed Language For Vehicles, Boats and Trailers - Size in Residential Zones

KZC CHAPTER 115 - MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

115.150 Vehicles, Boats and Trailers - Size in Residential Zones Limited

1. General – Except as specified below, it is a violation of this code to park or store any vehicle, boat or trailer on any lot in a residential zone if that vehicle, boat or trailer, or any combination thereof, is both more than nine (9) feet in height and 22 feet in length, including bumpers and any other elements that are required by federal or state law for the operation of the vehicle, boat or trailer on public roads or waterways.

   Except within the disapproval jurisdiction of the Houghton Community Council, any boat that is 16 feet or longer and has a gunwale which is at least five (5) feet from the ground when the boat is sitting on a boat trailer shall not be parked or stored in a required front yard.

2. Exceptions

   a. A vehicle, boat or trailer of any size may be parked on any lot in the City for not more than 24 hours in any consecutive 7-day period for the exclusive purpose of loading or unloading the vehicle, boat or trailer. Within the disapproval jurisdiction of the Houghton Community Council, the time limitation shall be not more than 48 hours in any consecutive 7-day period.

   b. <u>A vehicle, boat or trailer of any size may be parked and stored on any lot in the City if it is parked in a legally constructed fully enclosed garage meeting all regulations for that zone.</u>

   ~~b~~<u>c</u>. An oversized vehicle, boat or trailer may be parked on a lot in an RSA or RMA zone containing an existing residence if all of the following are met:

      1) Within six (6) months of the effective date of annexation, the owner registers the oversized vehicle, boat or trailer parked on his/her property with the City's Planning Department. The owner shall provide the City with a copy of the State vehicle registration license showing that the person obtaining the registration is the owner of the vehicle, boat or trailer and that the address on the vehicle license is the same as the address where the vehicle, boat or trailer is parked;

      2) The owner of the vehicle, boat or trailer resides on the lot that contains the vehicle;

      3) Within one (1) year of the effective date of annexation, a registered vehicle, boat or trailer under subsection (2)(b)(1) of this section may be replaced with another vehicle,

boat or trailer of the same type and no greater dimensions, provided that the requirements of subsection (2)(b)(1) of this section are met for the replacement vehicle and the replaced vehicle, boat or trailer has been removed from the property;

4) The exception runs with the registered vehicle, boat or trailer parked on a specific lot at the time of annexation and to the owner of the vehicle, boat or trailer who resides on the specific property at the time of annexation.

~~c~~d. The City may, using Process I, described in Chapter 145 KZC, approve a request to park or store a vehicle, boat or trailer of any size on a lot in a residential zone if:

1) The parking or storage of the vehicle, boat or trailer will not be detrimental to the character of the neighborhood; and

2) The property abutting the subject property will not be impacted by the parking or storage; and

3) The placement of the vehicle, boat or trailer will not create a potential fire hazard; and

4) The parking or storage is clearly accessory to a residential use on the subject property and the vehicle, boat or trailer is operated by a resident of the subject property.

The City may impose screening requirements, limit the hours of operation of the vehicle, boat or trailer, and impose other restrictions to eliminate adverse impacts of the parking or storage.

~~The applicable review process is Process IIA, Chapter 150 KZC, until June 1, 2011 (Ordinance 4196).~~

P. *Proposed Language For Land Use Permit Extensions

KZC CHAPTER 113 - COTTAGE, CARRIAGE AND TWO/THREE UNIT HOMES

113.45 Review Process

1. Approval Process – Cottage Housing Development

~~c. 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 one year 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 three 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.~~

~~d. Extensions~~

~~The applicant may apply for a one-time extension, of up to one year, of the time limits under subsection (1)(c) of this section. The application for the extension must be submitted by letter prior to the expiration of the applicable time limit under subsection (1)(c) of this section. The~~

~~letter of application must be submitted to the Planning Department and, along with any other supplemental documentation, must demonstrate that the applicant is making substantial progress toward developing the subject property consistent with the Process I approval and that circumstances beyond his/her control prevent compliance with the applicable time limit under subsection (1)(c) of this section.~~

2. Approval Process – Carriage Unit and Two/Three-Unit Home Development

~~c. The lapse of approval and extension provisions in subsections (1)(c) and (1)(d) of this section also apply to carriage unit and two/three-unit home development approved under either Process I or Process IIA.~~

KZC CHAPTER 117 - PERSONAL WIRELESS SERVICE FACILITIES

117.100 Lapse of Approval

For Planning Official decisions required by this chapter and issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 117.95, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the development activity or other actions. For Planning Official decisions required by this chapter and issued on or after January 1, 2015, ~~T~~the applicant must begin construction or submit to the City a complete building permit application for the development activity or other actions approved under this chapter within ~~one (1)~~ five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 117.95, the running of the ~~one (1)~~ five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the development activity or other actions.

(*new paragraph break)* For Planning Official decisions issued on or before December 31, 2014, the applicant must substantially complete construction for the development or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter or the decision becomes void. For Planning Official decisions issued on or after January 1, 2015, ~~T~~the applicant must substantially complete construction for the development or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within ~~two (2)~~ seven (7) years after the final approval on the matter, or the decision becomes void.

(*new paragraph break)* For development activity or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

Refer to the Lapse of Approval requirements for all other review processes required by this chapter,

KZC CHAPTER 125 - PLANNED UNIT DEVELOPMENT

~~125.80 Lapse of the Approved PUD~~

~~1. Increased Time – City Council may, by the ordinance approving the final PUD or by the resolution or ordinance approving the preliminary PUD, extend the time limits of KZC 152.115 for that PUD. Otherwise, within four years after the final decision of the City of Kirkland approving the~~

~~preliminary PUD the applicant must have obtained approval of the final PUD and submitted a complete building permit for the PUD or the lapse provisions of KZC 152.115 will apply.~~

~~2. Effect on Land Use if PUD Lapses – If an approved PUD lapses under the time limits of KZC 152.115, or subsection (1) of this section, any development on the subject property must comply with all applicable laws of the City as if the PUD had not been granted.~~

KZC CHAPTER 142 – DESIGN REVIEW

142.55 Lapse of Approval for Design Review Board Decisions

~~1. General – Unless otherwise specified in the decision granting D.B.R. 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 D.B.R. approval within one (1) year after the final decision granting the D.B.R. approval or that decision becomes void. The applicant must substantially complete construction consistent with the D.R. approval and complete all conditions listed in the D.B.R. approval decision within three (3) years after the final decision on the D.B.R. approval or the decision becomes void. "Final decision" means the final decision of the Planning Official or Design Review Board.~~

~~2. Extensions~~

~~a. Application – The applicant may apply for a one-time extension, of up to one (1) year, of the time limits under subsection (1) of this section. The application for the extension must be submitted by letter prior to the expiration of the applicable time limit under subsection (1) of this section. The letter of application must be submitted to the Planning Department and, along with any other supplemental documentation, must demonstrate that the applicant is making substantial progress toward developing the subject property consistent with the D.B.R. approval and that circumstances beyond his/her control prevent compliance with the applicable time limit under subsection (1) of this section.~~

~~b. Fee – The applicant shall include with the letter of request the fee as established by ordinance.~~

~~c. Review Process – An application for a time extension will be reviewed by the Planning Official.~~

~~3. Appeals~~

~~a. Who Can Appeal – Any person who is aggrieved by a time extension or denial of a time extension under this section may appeal that determination.~~

~~b. How To Appeal – The applicant must file a letter of appeal within 14 days of the approval or denial of the time extension indicating how the determination affects his/her property and presenting any relevant arguments or information on the correctness of the determination. The applicant shall include the appeal fee as established by ordinance.~~

~~c. Applicable Procedures – All appeals of decisions under this section will be reviewed and decided upon using Process IIA, described in Chapter 150 KZC.~~

For final approvals under this chapter issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development

activity, use of land or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void.

For final approvals under this chapter issued on or before December 31, 2014, the applicant must substantially complete construction for the development activity, use of land or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within seven (7) years after the final approval on the matter, or the decision becomes void.

For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

KZC CHAPTER 145 – PROCESS I

145.115 Lapse of Approval

For final approvals under this chapter issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 145.110, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. For final approval under this chapter issued on or after January 1, 2015, ~~T~~the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within ~~four (4)~~ five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 145.110, the running of the ~~four (4)~~ five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.

(*new paragraph break)* For final approvals under this chapter issued on or before December 31, 2014, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, ~~T~~the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within ~~six~~ seven (7) years after the final approval on the matter, or the decision becomes void.

(*new paragraph break)* For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

KZC CHAPTER 150 – PROCESS IIA

150.135 Lapse of Approval

For final approvals under this chapter issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 150.130, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. For final approval under this chapter issued on or after January 1, 2015,~~T~~the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within ~~four~~ five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 150.130, the running of the ~~four~~ five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.

(*new paragraph break)* For final approvals under this chapter issued on or before December 31, 2014, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, ~~T~~the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within ~~six~~ seven (7) years after the final approval on the matter, or the decision becomes void.

(*new paragraph break)* For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

KZC CHAPTER 152 - PROCESS IIB

152.115 Lapse of Approval

For final approvals under this chapter issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 152.110, the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. For final approval under this chapter issued on or after January 1, 2015, ~~T~~the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within ~~four~~ five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC 152.110, the running of the ~~four~~ five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.

(*new paragraph break)* For final approvals under this chapter issued on or before December 31, 2014, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on

the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, ~~T~~the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within ~~six~~ seven (7) years after the final approval on the matter, or the decision becomes void.

(*new paragraph break)* For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

Q. *Proposed Language For Process I Notice of Application

KZC CHAPTER 145 – PROCESS I

145.22. Notice of Application and Comment Period

1. *(No Change)*

2. Distribution

   a. Not more than 10 calendar days after the Planning Official determines that the application is complete, and at least 18 calendar days prior to the end of the comment period, the Planning Official shall distribute this notice as follows:

      1) The notice, or a summary thereof, will be published in the official newspaper of the City. The published notice does not require a vicinity map.

      2) The notice, or a summary thereof, including a vicinity map, will be posted on each of the official notification boards of the City.

      3) The notice, or a summary thereof, including a vicinity map, will be distributed to the residents of each piece of property adjacent to or directly across the street from the subject property.

      4) The notice will be distributed to each local, state and federal agency that the City knows has jurisdiction over the proposed development activity.

      ~~4)~~5)The notice will be posted on the City's website.

   b. (no further change)

R. *Proposed Deletion of Process III

KZC CHAPTER 152 – PROCESS IIB

Sections:

152.05 (No change)

~~152.10 Proposals Requiring Approval through Process III~~

152.12 – 130 (No change)

~~152.10 Proposals Requiring Approval through Process III~~

~~If the development, use or activity that requires approval through Process IIB is part of a proposal that requires additional approval through Process III, the entire proposal will be decided upon using Process III.~~

S. *Proposed Language For Non-Conforming Density

KZC CHAPTER 162– NONCONFORMANCE

Sections:

163.05- .57 (no change)

~~162.60 Special Provisions for Continued Uses – Density~~

162.65 (no change)

162.35 Certain Nonconformances Specifically Regulated

1- 11 (no change)

162.~~60~~35.12 ~~Special Provisions for Continued Uses –~~ Nonconforming Density

The provisions of this section set forth when, and under what circumstances, residential property with nonconforming density may continue in existence or be rebuilt or redeveloped. An existing lawful use of a residential structure which became nonconforming as to density ~~either as a result of amendatory Ordinance No. 2347 or due to other zoning changes implemented to bring about conformity with the Comprehensive Plan~~ shall be allowed to continue in existence, or be remodeled, repaired or maintained subject to the conditions listed below. ~~Redevelopment or rebuilding may not occur unless the structure is destroyed by fire or other casualty (see subsection (4) of this section).~~

1. The provisions of this section apply only to multifamily structures in areas designated by the ~~Comprehensive Plan~~ Zoning Code for multifamily use.

~~2. Any change in use shall conform to the Comprehensive Plan and zoning regulations in effect at the time such change is made~~.

~~3. Any change in density shall comply with the provisions of this section.~~

~~4~~2. Ordinary repairs and maintenance may be carried out consistent with the provisions of this chapter; ~~provided, that there shall be~~ with no limitation on the amount or cost of such repairs and maintenance.

~~5~~3. Remodeling may be carried out consistent with the provisions of this chapter; provided, that ~~within any 24-month period, the value of all improvements may not exceed 50 percent of either the assessed valuation of the existing structure based on the King County assessed valuation of the~~

~~structure, or the value of the existing building as determined by the most current Building Standards as published by the International Conference of Building Officials, whichever is greater. If there is no King County assessment for the structure to be remodeled, the most current Building Standards as published by the International Conference of Building Officials shall be used to determine valuation~~ there is no change to the configuration of exterior walls.

The density within the remodeled ~~density~~ structure is no greater than ~~must be at least 75 percent of that~~ contained in the original structure. ~~The major exterior dimensions of the structure shall not exceed the major exterior dimensions of the previous structure. Except as noted in this subsection and subsection (7) of this section, this provision shall not reduce any requirements of the zoning, building, or fire codes in effect when the structure is remodeled~~.

~~6~~4. Residential property with nonconforming density shall not be subject to the provisions of this chapter relating to destruction by fire or other casualty. In the event a residential structure that is nonconforming as to density is destroyed to any extent by fire or other casualty, the structure may be rebuilt as a residential structure; provided, however, that the number of dwelling units, gross floor area of the structure, and major exterior dimensions of the structure shall not exceed the same dimensions or standards of the previous structure. This subsection shall not reduce any requirements of the zoning, building, or fire codes in effect when the structure is rebuilt. The property owner shall also have the option of rebuilding the structure at a reduced density, as described in subsection (5) of this section. The provisions of this subsection shall only be available if an application for a building permit is filed within 12 months of fire or other casualty and construction is commenced and completed in conformance with the provisions of the building code then in effect.

~~7. Should the number of parking stalls provided on-site be insufficient to meet zoning regulations in effect at the time of remodeling, this deficiency shall be allowed to remain with the remodel; provided, that the number of stalls may not be reduced from the number of stalls on-site with the original structure. Any surplus of parking stalls above those required by the zoning regulations in effect at the time of remodeling may be eliminated~~.

~~8. The owner of a continued use nonconforming as to density may request the issuance of a "certificate of continued use" which shall identify the property, existing use, density and site characteristics for which the certificate is issued and which shall include the provisions of this chapter.~~

~~162.60 Special Provisions for Continued Uses - Density~~ (Section deleted)

ATTACHMENT B
FILE NO. ZON12-00002
2012 MISCELLANEOUS CODE AMENDMENTS
KIRKLAND MUNCIPAL CODE (KMC)
*- Subject to Houghton Community Council review

KMC Title 1 General Provisions

Chapter 1.12 Code Enforcement

1.12.050 Hearing before the hearing examiner.

(a) Notice. A person to whom a notice of civil violation is issued will be scheduled to appear before the hearing examiner not less than ten calendar days after the notice of civil violation is issued.

(b) Prior Correction of Violation or Payment of Monetary Penalty. Except in the case of a repeat violation or a violation which creates a situation or condition which cannot be corrected, the hearing will be canceled and no monetary penalty will be assessed if the applicable department director approves the completed required corrective action at least forty-eight hours prior to the scheduled hearing.

(c) Procedure. The hearing examiner shall conduct a hearing on the civil violation pursuant to the rules of procedure of the hearing examiner. The applicable department director and the person to whom the notice of civil violation was directed may participate as parties in the hearing and each party may call witnesses. The city shall have the burden of proof to demonstrate by a preponderance of the evidence that a violation has occurred and that the required corrective action, if applicable, is reasonable. The determination of the applicable department director as to the need for the required corrective action shall be accorded substantial weight by the hearing examiner in determining the reasonableness of the required corrective action.

(d) Decision of the Hearing Examiner.

(1) The hearing examiner shall determine whether the city has established by a preponderance of the evidence that a violation has occurred and that the required correction is reasonable and shall affirm, vacate, or modify the city's decisions regarding the alleged violation and/or the required corrective action, with or without written conditions.

(2) The hearing examiner shall issue an order to the person responsible for the violation which contains the following information:

(A) The decision regarding the alleged violation including findings of fact and conclusions based thereon in support of the decision;

(B) The required corrective action;

(C) The date and time by which the correction must be completed;

(D) The monetary penalties assessed based on the criteria in subsection (d)(3) of this section;

(E) The date and time after which the city may proceed with abatement of the unlawful condition if the required correction is not completed.

(3) Assessment of Monetary Penalty. Monetary penalties assessed by the hearing examiner shall be in accordance with the monetary penalty schedule in Section 1.12.040. The hearing examiner shall have the following options in assessing monetary penalties:

(A) Assess monetary penalties beginning on the date the notice of civil violation was issued and thereafter; or

(B) Assess monetary penalties beginning on the correction date set by the applicable department director or an alternate correction date set by the hearing examiner and thereafter; or

(C) Assess no monetary penalties.

(4) Determining Monetary Penalty. In determining the monetary penalty assessment, the hearing examiner shall consider the following factors:

(A) Whether the person responded to staff attempts to contact the person and cooperated with efforts to correct the violation;

(B) Whether the person failed to appear at the hearing;

(C) Whether the violation was a repeat violation;
(D) Whether the person showed due diligence and/or substantial progress in correcting the violation;
(E) Whether a genuine code interpretation issue exists; and
(F) Any other relevant factors.
(5) Effect of Repeat Violations. The hearing examiner shall assess a monetary penalty for each repeat violation as set forth in Section 1.12.040.
(6) Notice of Decision. The hearing examiner shall mail a copy of the decision to the ~~appellant~~ person responsible for the violation and to the applicable department director within ten working days of the hearing.
(e) Failure to Appear. If the person to whom the notice of civil violation was issued fails to appear at the scheduled hearing, the examiner will enter an order finding that the violation appeared and assessing the appropriate monetary penalty. The city will carry out the hearing examiner's order and recover all related expenses, plus the cost of the hearing and any monetary penalty from that person.
(f) Appeal to Superior Court. An appeal of the decision of the hearing examiner must be filed with superior court within twenty-one calendar days from the date the hearing examiner's decision was mailed to the person to whom the notice of civil violation was directed, or is thereafter barred. (Ord. 4280 § 1 (part), 2011)

KMC Title 22 Subdivisions

*Chapter 22.16 Final Plat Procedure

22.16.010 Final Plat - Submittal – Time limits

A Final Plat shall be submitted to the City Council within seven (7) years of the date of preliminary plat approval if the date of preliminary plat approval is on or before December 31, 2014, and within five (5) years of the date of preliminary plat approval if the date of preliminary plat approval is on or after January 1, 2015. Any Final Plat not submitted within the time limits set forth in RCW 58.17.140 shall be void.

22.16.130 Plat documents—Recordation with county—When.

After the plat documents are signed, they will be transmitted to the city clerk's office for recording with the appropriate offices in King County. Unless specifically extended in the decision on the plat, the plat must be submitted to the city for recording with King County within six (6) months ~~four years~~ of the date of approval ~~of the preliminary plat~~ or the decision becomes void; provided, however, that in the event judicial review is initiated per Section 22.16.110, the running of the six (6) months ~~four years~~ is tolled for any period of time during which a court order in said judicial review proceeding prohibits the recording of the plat.~~; and provided further, that an approval which would otherwise become void after July 6, 1994, under a provision which is now being amended by the ordinance codified in this section, shall only become void if it would still do so under all amendments made by Ordinance 3421*.~~ (Ord. 3705 § 2 (part), 1999)

Code reviser's note: Ord. 3421* was repealed by Ord. 3433*.

*Chapter 22.20 Short Subdivisions

22.20.370 Short plat documents—Recordation—Time limit.

After the short plat documents are signed, they will be transmitted to the city clerk's office for recording with the applicable office in King County. For short plats approved on or before December 31, 2014, the short plat must be recorded with King County within seven (7) years of the date of approval or the decision becomes void; provided, however, that in the event judicial review is initiated, the running of the seven (7) years is tolled for any period of time during which a

court order in said judicial review proceeding prohibits the recording of the short plat. For short plats approved on or after January 1, 2015, ~~T~~the short plat must be recorded with King County within ~~four~~ five (5) of the date of approval or the decision becomes void; provided, however, that, in the event judicial review is initiated, the running of the ~~four~~ five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the recording of the short plat.~~; and provided further, that an approval which would otherwise become void after July 6, 1994, under a provision which is now being amended by the ordinance codified in this section, shall only become void if it would still do so under all amendments made by Ordinance 3421*.~~ (Ord. 3705 § 2 (part), 1999)

Code reviser's note: Ord. 3421* was repealed by Ord. 3433*.

*Chapter 22.28 Design Requirements

*22.28.042 Lots—Small lot single-family.

~~In the Central Houghton, Market, Norkirk and Lakeview (except for lots located in the PLA 3C and RS 12.5 zone) neighborhoods, as defined in the comprehensive plan~~Within the RS and RSX 6.3, 7.2 and 8.5 zones, for those subdivisions not subject to the lot size flexibility provisions of Sections 22.28.030 and 22.28.040~~.~~, low Impact development provisions of Section 22.28.041, and historic preservation provisions of Section 22.28.048, the minimum lot area shall be deemed to be met if at least one-half of the lots created contain no less than the minimum lot size required in the zoning district in which the property is located. The remaining lots may contain less than the minimum required lot size; provided~~,~~ that such lots meet the following standards:

(a) Within the RS 6.3, RSX and RS 7.2 zones, the lots shall be at least five thousand square feet.

(b) Within the RSX and RS 8.5 zone, the lots shall be at least six thousand square feet.

(c) The portion of any flag lot that is less than thirty feet wide and used for driveway access to the buildable portion of the lot may not be counted in the lot area.

(d) The floor area ratio (FAR) shall not exceed thirty percent of lot size; provided, that FAR may be increased up to thirty-five percent of the lot size if the following criteria are met:

(1) The primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical to twelve feet horizontal; and

(2) All structures are set back from side property lines by at least seven and one-half feet.

(e) The FAR restriction shall be recorded on the face of the plat.

(f) Accessory dwelling units are prohibited. This restriction shall be recorded on the face of the plat.

(Ord. 4332 § 1(C) (Exh. C), 2011: Ord. 4330 § 1 (Exh. A), 2011: Ord. 4102 § 1(A), 2007)

*22.28.048 Lots—Historic preservation.

~~In the Market and Norkirk neighborhoods, as defined in the comprehensive plan,~~ Within the low density zones listed below in subsections a-d, for those subdivisions not subject to the lot size flexibility provisions of Sections 22.28.030, 22.28.040, low Impact development provisions of Section 22.28.041, and the small lot single-family provisions of Section 22.28.042, the minimum lot area shall be deemed to be met if no more than two lots are created that contain less lot area than the minimum size required in the zoning district in which the property is located, and if an "historic residence" is preserved on one of the lots, pursuant to the process described in Chapter 75 of the Kirkland Zoning Code. The lots containing less than the minimum required lot area shall meet the following standards:

(a) Within the RSA 6, RS 6.3 and RS and RSX 7.2 zones, the lots shall be at least five thousand square feet.

(b) Within the RSA 4, RS 8.5 and RSX 8.5 zones, the lots shall be at least six thousand square feet.

(c) Within the RS 12.5, RSX 12.5 and WDII zones, the lots shall be at least seven thousand two hundred square feet.

(d) Within the RS and RSX 35 zones not located north or northeast of the Bridle Trails State Park, the lots shall be at least fifteen thousand and fifty square feet.

(d) The portion of any flag lot that is less than thirty feet wide, and used for driveway access to the buildable portion of the lot, may not be counted in the lot area.

(e) Accessory dwelling units are prohibited. The restriction shall be recorded on the face of the plat.

Lots containing historic residences shall also meet the following standards:

(f) If a historic residence is destroyed, damaged, relocated, or altered inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Rehabilitation) (Code of Federal Regulations, 36 CFR Part 68), the replacement structure shall be reconstructed in accordance with the criteria established in Section 75.105 of the Kirkland Zoning Code. The replacement restriction shall be recorded on the face of the plat.

(g) As part of subdivision approval, the city may allow the following modifications to regulations in the Kirkland Zoning Code regarding minimum required yards, maximum lot coverage, and floor area ratio on the lot containing the historic residence if the modifications are necessary to accommodate the historic residence.

(1) Required yards may be two feet less than required by the zoning district as shown on the Kirkland zoning map.

(2) Floor area ratio may be five percentage points more than allowed by the zoning district as shown on the Kirkland zoning map.

(3) Lot coverage may be five percentage points more than allowed by the zoning district as shown on the Kirkland zoning map.

(h) At the time of recording the plat, a notice of applicable restrictions for the lot containing the designated historic residence shall be recorded. (Ord. 4102 § 1(B), 2007)

PUBLICATION SUMMARY
OF ORDINANCE O-4372

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING THE FOLLOWING CHAPTERS OF THE KIRKLAND ZONING ORDINANCE 3719 AS AMENDED: 5, 15, 17, 18, 30, 40, 45, 47, 48, 52, 53, 55, 56, 60, 75, 90, 95, 105, 113, 115, 117, 125, 142, 145, 150, 152, 162; AMENDING TITLE 1 AND TITLE 22 OF THE KIRKLAND MUNICIPAL CODE; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON12-00002.

SECTION 1. Amends Chapters 5, 15, 17, 18, 30, 40, 45, 47, 48, 52, 53, 55, 56, 60, 75, 90, 95, 105, 113, 115, 117, 125, 142, 145, 150, 152, and 162 of Kirkland Zoning Ordinance 3719 as amended.

SECTION 2. Amends Title 1 of the Kirkland Municipal Code relating to General Provisions and Title 22 of the Kirkland Municipal Code relating to Subdivisions.

SECTION 3. Provides a severability clause for the ordinance.

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

SECTION 5. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Kirkland Municipal Code 1.08.017 and establishes the effective date as November 1, 2012.

SECTION 6. Establishes certification by City Clerk and notification of King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ____ day of _____, 2012.

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

_____
City Clerk