



CITY OF KIRKLAND

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MEMORANDUM

To: Kurt Triplett, City Manager
From: Eric Shields, Planning Director
Date: November 23, 2010
Subject: DEVELOPMENT CODES

Staff recommends that the Council review development code amendments on three topics during the December 7 study session. The three topics have been following the same schedule and are partially dependent on one another to be completed. The topics are:

Miscellaneous Zoning Code Amendments
Code Enforcement Process Change and Code Consolidation
Kirkland Property Maintenance Code

Miscellaneous Zoning Code Amendments – This project includes Zoning Code amendments on a wide variety of minor, major and procedural topics. Some of the procedural amendments are needed for the Code Enforcement amendments and the Property Maintenance Code amendments. In his memo, Jon Regala has highlighted the amendments that prompted the most discussion by the Planning Commission. The Chair of the Planning Commission will be attending the study session.

Code Enforcement Process Change and Code Consolidation – This project, reviewed once by the Public Safety Committee, proposes a major change in the City's code enforcement process based on the process used in the City of Bellevue. Code Consolidation refers to amendments in the Kirkland Municipal Code that will make the code enforcement procedures in various subject areas the same. Nancy Cox's memo describes the purpose for the project, the differences between the old process and new, and the code amendments that are needed.

Kirkland Property Maintenance Code – This project, which has also been reviewed by the Public Safety Committee, consolidates Kirkland Municipal Code sections that relate to property maintenance and also proposes some new areas for the City to regulate. Tom Phillips' memo highlights in particular the new areas for the Council to consider.

Staff will prepare ordinances for the amendments for the Council's January 4, 2011 meeting based on direction received from the Council at the study session.



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MEMORANDUM

To: Kurt Triplett, City Manager

From: Jon Regala, Senior Planner
Joan Lieberman-Brill, AICP, Senior Planner
Paul Stewart, AICP, Deputy Director
Eric Shields, AICP, Planning Director

Date: November 22, 2010

Subject: MISCELLANEOUS ZONING/MUNICIPAL CODE AMENDMENTS PHASE II
FILE ZON10-00013
STUDY SESSION

I. RECOMMENDATION

Staff recommends that the City Council:

- Consider the Planning Commission's recommendation to approve the proposed miscellaneous code amendments as described in Exhibit A
- Provide direction to staff in drafting an ordinance to be considered for adoption at the City Council's January 4, 2011 meeting

II. CITY COUNCIL REVIEW

The December 7, 2010 study session is the City Council's opportunity to provide direction on any changes to the Planning Commission's recommendation. Staff will then draft an ordinance to be considered by the Council at their January 4, 2011 meeting. Background information on the proposed amendments is outlined in this memorandum.

Also at the Council's December 7th meeting, staff will present an overview of the recommended code amendments. C. Ray Allshouse, Planning Commission Chair, will present the Planning Commission's recommendation. Staff suggests that the Council use the Planning Commission's recommendations summarized in Exhibit A as a guide for discussion.

III. PROJECT BACKGROUND

Planning staff periodically forwards miscellaneous KZC/KMC amendments to the Planning Commission and the Houghton Community Council (HCC) for consideration. 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.

To help facilitate discussion and help organize the proposed amendments, they have been categorized by their policy level implications: *No Policy Changes, Minor Policy, Moderate*

Policy, Major Policy, and Process Related Changes. Due to the relatively minor and non-controversial amendments under the *No Policy Changes, Minor Policy, and Process Related Changes*, the majority of the time in the study sessions and public hearing on this project was spent on items under the *Moderate Policy, Major Policy, and several Process Related Changes*.

Exhibit B contains the list of amendments being recommended for approval. Exhibit C contains the actual changes proposed to the KZC and KMC. This version contains underlines and strikethroughs which depict additions or deletions to existing code language. Topics with an asterisk (*) denote items that are not applicable within Houghton's jurisdiction.

IV. PROCESS

Zoning Code amendments are reviewed through either a Process IV (KZC Chapter 160) or Process IVA (KZC Chapter 161). Kirkland Municipal Code amendments require only City Council approval but have been included in this process. Process IVA is an abbreviated process intended for amendments that promote clarity, eliminate redundancy, or correct inconsistencies. Because some of the current amendments go beyond those purposes, all of the proposed amendments were reviewed using Process IV.

The project started with the Planning Commission conducting a joint study session with the Houghton Community Council on August 12, 2010. Below are links that provide background information on the joint study session and subsequent meetings, including the public hearing.

August 12, 2010 – Planning Commission & HCC Joint Study Session

Staff Memo:

<http://www.ci.kirkland.wa.us/Assets/Planning/Planning+PDFs/Misc+ZCA+PC+08122010+web.pdf>

Audio Minutes:

http://kirkland.granicus.com/MediaPlayer.php?view_id=12&clip_id=1894

September 23, 2010 – Planning Commission Study Session

Staff Memo:

<http://www.ci.kirkland.wa.us/Assets/Planning/Planning+PDFs/Misc+ZCA+PC+09232010.pdf>

Audio Minutes:

http://kirkland.granicus.com/MediaPlayer.php?view_id=12&clip_id=1914

September 27, 2010 – Houghton Community Council Study Session

Staff Memo:

<http://www.ci.kirkland.wa.us/Assets/Planning/Planning+PDFs/Misc+ZCA+HCC+09272010.pdf>

Audio Minutes:

http://kirkland.granicus.com/MediaPlayer.php?view_id=16&clip_id=1916

November 4, 2010 – Planning Commission Public Hearing

Staff Memo:

<http://www.ci.kirkland.wa.us/Assets/Planning/Planning+PDFs/Misc+ZCA+Phase+II+PC+11042010.pdf>

Audio Minutes:

http://kirkland.granicus.com/MediaPlayer.php?view_id=12&clip_id=1942

Due to the scope and limited public interest in the proposed code amendments, the HCC decided that a public hearing before the HCC was not needed. However, at the Planning

Commission public hearing, the HCC Chair, Rick Whitney and HCC member John Kappler were in attendance and provided the HCC's recommendation on several topics that the HCC wanted to weigh in on. These topics include fences height/setback requirements along arterials, windows signs, and reducing noise standards for outdoor mechanical units.

V. PLANNING COMMISSION RECOMMENDATION

At its public hearing, the Planning Commission recommended that the code amendments proposed by staff be approved with revisions decided upon at the public hearing. The Planning Commission's recommendation memo can be found in Exhibit A. In making its recommendation, the Planning Commission considered public comment, the HCC's recommendations, and the criteria found in KZC Section 135.25.

VI. PUBLIC INPUT

Notice of the public hearing was posted on the City's Planning Commission website and was distributed to the Kirkland Neighborhood E-Bulletin, Kirkland Developer's Partnership Forum, King County Historic Preservation Office, CBD 5 property owners, Parking Advisory Board, Houghton Community Council, Chamber of Commerce, and various individuals interested in this project. All written public comment submitted as part of this project has been consolidated in Exhibit D and were considered by the Planning Commission during this process.

VII. KZC 135.25 CRITERIA FOR AMENDING ZONING CODE TEXT

KZC 135.25 establishes the criteria by which changes to the Zoning Code text must be evaluated. These criteria and the relationship of the proposal to them are as follows:

1. *The proposed amendment is consistent with the applicable provisions of the Comprehensive Plan*

The proposed amendments are consistent with the Comprehensive Plan. The proposed amendments are needed to clarify and/or improve upon existing regulations and to fix unintended changes that were made with previous amendments to the KZC. Each proposed amendment has been reviewed to ensure consistency with the Comprehensive Plan. They do not fundamentally change the policies of the City.

2. *The proposed amendment bears a substantial relation to public health, safety, or welfare*

The proposed amendments bear a substantial relation to public health, safety, and welfare. The amendments further clarify existing regulations which are based on the goals and policies of the Comprehensive Plan.

3. *The proposed amendment is in the best interest of the residents of Kirkland*

The proposed amendments are in the best interest to the residents of Kirkland. The amendments seek to clarify and/or improve upon the existing regulations and review processes which were originally created based on balancing the needs of various stakeholder groups and the policies of the Comprehensive Plan. The result of the

changes should create more certainty and predictability in terms of regulations and process for both the residential and development community.

VIII. ENVIRONMENTAL REVIEW

A Draft and Final Environmental Impact Statement (EIS) on the City's Comprehensive Plan 10-year Update was published in 2004. The EIS addressed the 2004 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). According to SEPA rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document.

An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document. The EIS Addendum fulfills the environmental requirements for the proposed changes. An EIS Addendum was issued on October 21, 2010 for the Miscellaneous Zoning Code Amendments – Phase II. A copy of the Addendum is in the official file.

IX. EXHIBITS

- A. Planning Commission Recommendation dated November 22, 2010
- B. List of Proposed Amendments
- C. Proposed Amendments (contains proposed code changes)
- D. Public Comment



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MEMORANDUM

To: Kirkland City Council

From: Kirkland Planning Commission - C. Ray Allshouse, Chair

Date: November 22, 2010

Subject: Planning Commission Recommendation
Miscellaneous Code Amendments Phase II
File ZON10-00013

I. RECOMMENDATION

The Planning Commission is pleased to forward our recommendation of approval of the amendments associated with the Phase II 2010 Miscellaneous Code Amendment project. The amendments recommended for approval can be found in Exhibit C of the staff memo to the City Council. The proposed amendments affect the Kirkland Zoning (KZC) and Municipal Code (KMC) and cover a wide range of topics. The amendments range from fairly simple code language changes that ensure code consistency to more complex issues such as fence setback requirements along arterials.

II. BACKGROUND INFORMATION

The first meeting for this project was a joint study session with the Houghton Community Council held on [August 12, 2010](#). Additional study sessions were held on:

[September 23, 2010](#) – Planning Commission
[September 27, 2010](#) – Houghton Community Council

The public hearing for this project was held on [November 4, 2010](#). At the public hearing, the Planning Commission considered recommendations from the Houghton Community Council as well as public comment. At the hearing, one person offered public testimony in regards to parking related code amendments. The Planning Commission also considered written public comment submitted prior to the hearing that addressed amendments related to parking, Process IIA appeals, and RH 8 retail uses above the ground floor.

Since many of the amendments generated little public comment or controversy, the Commission's discussion focused primarily on the topics in Section III below. Section IV of this memorandum describes amendments recommended by the Planning Commission that should be deferred for review at a future date.

III. DISCUSSION ON RECOMMENDATIONS

A. Ground floor retail/commercial space requirements in Business Districts

Many of the City's commercial/retail zones contain regulations which specify the amount of retail and commercial space that should be located on the ground floor while limiting the amount and type of residential use on the ground floor. The question has come up whether such requirements should apply to non-commercial uses that would typically occupy the entire ground floor such as schools, churches, and government and community facilities.

This issue applies to the former Costco Home property located at 11831 NE 118th Street which is zoned TL 4B. The City is proposing to locate a new public safety building within the existing building. The current regulations require that at least 50% of the ground floor contain the following uses: retail establishments, restaurants, taverns, hotels or motels.

After deliberation, the Planning Commission decided on a narrow approach and recommends that in the TL 4B zone, government facilities should not be required to have a retail/commercial component. However, the Commission wanted to defer a more widespread change to a future study which could involve revisiting the Comprehensive Plan. The Planning Commission concluded that retention of ground floor retail restrictions may be needed and/or adjusted depending on the objectives for development within certain business districts.

B. CBD 5

1. Measuring height

Currently, the maximum height limit in CBD 5 is expressed in terms of stories (3 to 5 stories) rather than feet. The code section that specified the allowed height per story was deleted in 2009 when the City changed the CBD height regulations so that height would be measured in terms of feet rather than stories (Ordinance O-4177). CBD 5 was not included in the 2009 amendments because at the time it was under consideration for Touchstone's (Parkplace) private amendment request. From a regulatory standpoint, this inadvertently left CBD 5 without a codified conversion from stories to feet.

The Planning Commission therefore recommends following the Council's previous direction on measuring height in the CBD by establishing the maximum CBD 5 height limit in terms of feet rather than stories. Applying the same methodology to CBD 5, results in a maximum building height of 67' (ground level retail at 15' plus four levels of office at 13' each).

2. Deleting references to the Comprehensive Plan and Design Regulations

In the CBD 5 zoning chart, the Planning Commission recommends deleting references to the Comprehensive Plan and the Design Regulations. The Planning Commission also recommends updating KZC Plate 34H to include a pedestrian connection identified in the Downtown Master Plan which isn't currently shown in Plate 34H. The reasons for these recommendations are:

- The DRB's authority only extends to the Design Guidelines and not the Design Regulations. Design Regulations apply only to administrative design review permits.
- The Comprehensive Plan is not an appropriate regulatory document and policies contained therein should be codified in the Zoning Code and Design Guidelines.
- At the September 23, 2010 study session, the Planning Commission compared the existing regulations and design guidelines with the CBD 5 Comprehensive Plan policies to determine if any policies need to be codified. The Planning Commission agreed with staff that a pedestrian connection that is shown in the Downtown Master Plan map in the Comprehensive Plan was missing from KZC Plate 34H and should be codified. Otherwise, the Planning Commission determined that no other CBD 5 Comprehensive Plan policies need codifying.

C. CBD 1A & 1B

1. Retail on alleys

Currently in CBD 1A and 1B, retail-oriented uses are required along the street front. The Planning Director adopted Interpretation 09-1 to clarify that the ground floor retail requirement does not apply along alleys and similar service access streets. The Planning Commission agrees with the interpretation and recommends codifying Interpretation 09-1.

2. Parks, Government, and Community Facility uses

Previously, the CBD 1 zone allowed for *Parks, Public Utility, Government, and Community Facility* uses as a street front use. When the CBD 1A and 1B code amendments were adopted by the City Council in March 2009 (Ordinance O-4177), the types of ground floor street front uses were limited by KZC General Regulation 50.10.3 (see above), unintentionally prohibiting these uses. Existing uses (e.g. – Metro pump station, KDA office) would be considered legal non-conforming if such uses existed prior the code change. Currently, the other CBD zones do not preclude these types of uses.

The Planning Commission recommends that *Parks, and Government and Community Facility* uses should be allowed as a street front use in CBD 1A and 1B. The Planning Commission also recommends that as part of the separate discussion on appropriate CBD ground floor uses, the topic on whether or not a *Public Utility* use should be allowed on the ground floor should be included.

D. Fence Heights – KZC Section 115.40

This amendment deals with the issue of 6' tall fences located along arterials and the unpleasant wall-like appearance they create when placed immediately next to the sidewalk. The Planning Commission and the HCC were both agreeable to lowering the maximum fence height immediately abutting principal and minor arterials to 3.5' and that a 6' tall fence should be setback 3' from the property line abutting the arterial. The recommendation of a 3' setback was founded upon a conclusion that such an encroachment on private property is reasonable since it allows for an

effective use of back yards. The proposed standard does not preclude the use of vegetation to help mitigate noise and allow for privacy from the adjoining arterial as a result of a lower fence.

Landscaping would be required within the 3' setback (area between the fence and the property line) to help soften the visual impact of the 6' tall fence from the street. Also at the public hearing, Planning Commission agreed with the HCC in that the setback requirement for the 6' tall fence should be waived if there is an existing landscape strip between the street and sidewalk.

The ability to modify fence standards is not being changed. The modification criteria would allow a homeowner to deviate from the proposed code amendment as necessitated by the size, configuration, topography or location of the subject property as long as there is no detrimental effect to the neighborhood. Also, no changes to the City's sight distance standards are being changed.

Reducing the height of fences abutting arterials to 3.5' is consistent with the height limit for fences along neighborhood access and collector streets although the setback for a taller fence still differs. The required setback for a 6' tall fence along neighborhood access and collector streets is 20'.

E. Parking Modifications Public Comment – KZC Section 105.103

During Phase I of the Miscellaneous KZC Amendment project earlier this year, the City Council adopted changes which removed the Design Review Board as the decision maker on modifications to the number of required parking stalls based on KZC Section 105.103(3)(c). The rationale was that the DRB should only review and decide upon projects based on the City's design guidelines, which do not include parking modifications. This change removed parking modifications from the public review process associated with Design Review but not for cases where an associated zoning permit is required. Based on public comment, the City Council asked the Planning Commission to consider a public notice and comment process for administrative parking modifications as part of the Phase II code amendment review.

At the public hearing, the Planning Commission acknowledged that a proposal to reduce the number of required parking stalls could potentially impact adjoining property owners and generate enough public interest that public notice and comment is appropriate. The Planning Commission determined that public comment could be relevant and that staff would have the ability to consider the merits of such comments prior to making a decision on a modification.

Therefore, the Planning Commission agreed that public notice and an opportunity to provide public comment should be incorporated into the parking modification process and that these changes should be implemented with this code amendment project. This requirement would only apply to projects that are reviewed administratively since zoning permits already have a built-in public notice and comment period process. The Planning Commission's recommendation for public notice follows the procedure set forth for modifications to rooftop appurtenances except that noticing should be provided for residents and owners within 300 feet of the subject property.

F. Window Signs

This topic was added to the miscellaneous Zoning Code project due to recent questions on how window signs should be regulated. Interpretation 86-11 was issued on June 18, 1986 to provide guidance on how to regulate window signs. KZC Sections 100.30 through 100.75 contains fundamental sign regulations which determine sign type, location, and size of permanent signage. The interpretation concluded that "...all types of window signs should continue to be exempted from regulation as permanent signs under KZC 100.30 through 100.75 unless they are permanently affixed to the exterior of the building or they display the name of the business itself...". The Planning Department was recently questioned about the validity of this interpretation and proposed a code amendment to clarify the status of window signs.

The Planning Commission agreed with the HCC on the following points:

- Window signs provide visual interest to the pedestrian
- The City receives minimal complaints on window signs and therefore should not be regulated
- Regulating window signs would be difficult to enforce

Since KZC Chapter 100 – *Signs* contains among other things limitations on prohibited devices and/or signs, it does not make sense to exempt window signs altogether from KZC Chapter 100. Instead, the Planning Commission recommends that windows signs be listed in KZC 100.115 – *Temporary/Special Signs* and that no limitations be placed on size, number, duration of display, and sign area.

G. Reduce Multi-Family Parking Standard in the CBD *

The Zoning Code currently allows the number of required parking stalls to be reduced by an applicant if it can be shown by a parking study that the proposed number of spaces is sufficient to fully serve the use. Through the years a number of multi-family (and mixed-use) projects in the CBD have applied for and received approval to reduce the number of required parking stalls.

Because parking reductions have consistently been approved at similar rates by the City, the Planning Commission recommends codifying the results by creating a new parking standard for CBD multi-family developments: a minimum of 1 parking stall per bedroom and 0.1 guest parking stalls per bedroom. The Planning Commission also recommends that projects should average at least 1.3 parking stalls per unit over the entire development to ensure that predominately 1 bedroom/studio type projects will have enough parking consistent with the parking information reviewed. Information and feedback provided by the City's Transportation Engineer, the Parking Advisory Board, and the public were considered by the Planning Commission prior to making this recommendation.

H. Loosen limitation on retail/restaurant uses above the ground floor in the RH 8 zone

The RH 8 zone prohibits general retail and restaurant uses above the ground floor of a development while office and retail establishments providing entertainment, recreational or cultural activities are allowed above the ground floor. This code

amendment topic was initiated by an RH 8 property owner inquiry seeking to understand the rationale behind the code which would prohibit a 2nd story hair salon business while allow for other limited retail and commercial uses above the ground floor. The amendment proposed by staff would allow personal service type retail uses to be located above the ground floor with conditions. However, after much discussion, the majority of the Planning Commission recommended not making changes to the RH 8 zone and to continue prohibiting general retail and restaurant uses above the ground floor.

The Planning Commission decided that even though it is confusing that the code allows entertainment, recreational or cultural activity uses but not other retail uses; performance standards to analyze impacts should be the basis for any exception. The Planning Commission acknowledged that staffs' recommendation to allow a limited list of personal service uses is an option; but it still begs the question of what other uses not listed in the RH 8 zone have comparable impacts and therefore should be allowed. Respect for and protection of the privacy of nearby residents from the adjoining commercial corridor was a major theme embodied in the neighborhood plan and follow-up zoning/design guideline implementation process, completed in 2006.

The existing Rose Hill Business District policy is to allow only uses that have limited noise, light and glare, odor and traffic impacts. It is incumbent upon the city to provide a defensible method of measuring impacts. Without specific and measurable performance standards it is difficult to compare various retail uses and come up with a defensible reason for allowing some but not other uses above the ground floor. The Planning Commission recognizes that the necessary research is beyond the scope of this project.

IV. ITEMS RECOMMENDED TO BE DEFERRED

Several of the amendments/topics presented at the initial joint study session were recommended by the Planning Commission to be deferred to a future code amendment project. The amendments/topics are listed below followed by a brief summary of the Planning Commission's recommendation.

A. Update school and daycare references to State regulations

This is a minor update which would correct the City's reference to the State's regulations for schools and daycares. However, since this amendment involves updating the majority of KZC use zones charts at a considerable expense, the Planning Commission recommends deferring this amendment until other changes are made to the use zone charts to save on publishing costs.

B. Ground floor retail/commercial space requirements in Business Districts

As mentioned in Section III.A, the Planning Commission recommends deferring the decision of a widespread change to the ground floor retail/commercial requirements for the various business districts to a future study. Such a study could involve revisiting the Comprehensive Plan and the need for additional background information. The Planning Commission concluded that retention or a variation of the existing ground floor retail restrictions may be needed depending on the objectives for development within particular business districts.

C. Remove public utility use as a street front use in all CBD zones

As mentioned in Section III.C.2, removing *Public Utility* uses in the CBD should be included as part of the broader discussion/project to determine appropriate street front uses in the CBD.

D. Allow schools and other uses school type uses such as dance, music, and martial arts studios in LIT zones

The Planning Commission recommends deferring this topic as part of the 2012-2014 Comprehensive Plan update since a more in-depth review of light industrial zones would be needed. The Planning Commission would need to revisit the previous industrial land study, review data on vacancy trends, and consider industrial zones on an area wide basis.

E. Reduce residential noise standards

The City has had problems in dealing with noise issues especially in regards to outdoor HVAC or heat pump units which generate too much noise. Staff has had difficulty in resolving these complaints since they do not have the expertise and/or resources to deal with these issues. The Planning Commission and HCC asserted that the existing noise standards should not be reduced but are agreeable to pursuing a standard noise reducing barrier. Therefore, the Planning Commission recommends deferring this topic until such time there are resources in developing a standard noise barrier.

F. Process IIA Appeals

Earlier this year, the City Council adopted changes which removed them from hearing Design Review Board appeals. The reasons for doing so would result in:

- More professional and timely decisions insuring fairness and consistency
- Separation of policy-making from quasi-judicial functions
- Improved compliance with legal requirements, including due process, appearance of fairness, and record preparation
- Removal of quasi-judicial decision making from the political arena

As part of this code amendment project, the Planning Commission explored whether or not to recommend removing the City Council from hearing Process IIA appeals for the reasons described above. Process IIA appeals would go directly to King County Superior Court. The Planning Commission decided that since this topic does not directly involve them, the discussion on this topic and final decision should be with the City Council. However, the Planning Commission offers the following thoughts.

The Planning Commission recognized that some Process IIA permits have some level of subjectivity while some are very straightforward and leave little room for discretion. The Planning Commission recommends that as part of a future project, staff should provide an analysis of all Process IIA permits and their associated review criteria. Based on this information, the Planning Commission would then be able to determine which Process IIA permits contain a level of discretion which could rise to the level of a City Council appeal review. Having such project appeals heard locally could be appropriate for the Council due to the local knowledge of the neighborhoods. More straightforward Process IIA permit appeals could then properly go straight to Superior Court.

PROPOSED KZC/KMC AMENDMENTS

* Not subject to HCC review

NO POLICY CHANGES

1. KZC - Multiple Zones. Use term "maximum horizontal façade" in all zones where the standard appears.
2. KMC 22.32.50*. Title 22 Subdivisions. Fix KMC 22.32.050 to reference KZC 110.60.7 instead of KZC 110.60.9.
3. KMC 22.4.30.b.1*. Title 22 Subdivisions. Correct typographical error - change the word "non-residential" to "no residential" to be consistent with RCW 58.17.040(5).
4. KZC 60.10. Chapter 60 – PLA1. Eliminate outdated references to KZC 95.25 and replace with original buffer standard.
5. KZC Chapter 112 – Affordable Housing Incentives – Multifamily. Clarify that voluntary use of affordable housing regulations in Chapter 112 is allowed throughout the City where affordable housing is not required.
6. KZC 112.15. Chapter 112 – Affordable Housing Incentives – Multifamily. Clarify the rounding language for affordable housing
7. KZC 115.07. Chapter 115 – Miscellaneous Use Development and Performance Standards. Reference ADU height restrictions in 115.08
8. KZC 115.8. Chapter 115 – Miscellaneous Use Development and Performance Standards. Fix height discrepancy between different single family zoning designations in regards to ADU's.
9. KZC 115.08. Chapter 115 – Miscellaneous Use Development and Performance Standards. Move the last sentence to be the third sentence and add at the end "which may further limit its size."
10. KZC 115.95.1.b. Chapter 115 – Miscellaneous Use Development and Performance Standards. Delete this section since it refers to WAC 173-70 for watercraft noise standards which no longer exists. KMC already addresses this issue.
11. KZC 60.185.4*. Chapter 60 – PLA17. Delete vague stream/wetland regulation since it is regulated by KZC Chapter 90.
12. KZC - Multiple Zones*. Allow electronic readerboard signs for fire stations in the annexation area.
13. KZC 10.45.5*. Chapter 10 – Legal Effect/Applicability. Revise vesting date for short plats and subdivisions in the annexation area.
14. KZC 15.10 & KZC 18.10 – Allow existing schools to remain if not located on a collector or arterial.

MINOR POLICY CHANGES

1. KZC 48.15.190 and various KZC commercial zones. Provide consistent landscape buffer standard for outdoor auto repair uses.

2. KZC Chapter 50* – CBD-1A & 1B. Retail use requirement does not apply to ground floor along alleys and service access streets. Codify Interpretation 09-1.
3. KZC Chapter 50* – CBD-1A & 1B. Allow back parks, government facilities, community facilities as ground floor use.
4. KZC Multiple Zones. Consider adding affordable housing element requirement to three zones with density limits (PLA 6G, BC1, and BC2) that were not considered during recent amendments.
5. KZC Chapter 112 – Affordable Housing Incentives – Multifamily. Clarify whether projects undergoing a subdivision to create detached units on individual lots in multifamily and commercial zones are required to provide affordable housing.
6. KZC – Multiple Zones. Clarify that minimum lot size provisions in the subdivision regulations for developments do not apply to affordable housing projects that have a bonus density.
7. KZC 117.65.8. Chapter 117 – Personal Wireless Service Facilities. Revise to allow antennas on historic sites & clarify 'design requirements'.

MODERATE POLICY CHANGES

1. KZC 50.33*. Chapter 50 – CBD 5. Specify height limit in terms of number of feet.
2. KZC 50.34.3*. Chapter 50 – CBD-5. General Reg. 3 - Delete references to Comp Plan and Design Regulations.
3. KZC 115.40. Chapter 115 – Miscellaneous Use Development and Performance Standards. Consider lowering fence heights along arterials. Taller fences may be allowed based on certain standards.
4. KZC 117.65.7.c*. Chapter 117 – Personal Wireless Service Facilities. Allow antennas to be placed at railings at base of water tower roof.
5. KZC Section 55.31.4 *- Exempt government facility uses from the 50% ground floor retail requirement.
6. KZC 105.103. Chapter 105 – Parking Areas, Vehicle and Pedestrian Access, and Related Improvements. Add a public notice and comment period to modification requests to reduce the number of required parking stalls.
7. KZC 100.15. Chapter 100 – Signs. Codify Interpretation 86-11 so that they are not subject to standard sign regulations.

MAJOR POLICY CHANGES

1. KZC 50 Chapter 50* – Central Business District (CBD) Zones. Change CBD parking requirement for multi-family to one stall per bedroom.

PROCESS CHANGES

1. Minor text edit to KZC 150.85
2. Make Hearing Examiner appeal notice provisions consistent between various code sections

3. Update review timing for co-location of wireless facilities to be consistent with FCC ruling (WT Docket No. 08-165)
4. Allow administrative variances within HCC jurisdiction
5. Remove Process III – KZC Chapter 155
6. Fix code references for variance process notification

2010 MISCELLANEOUS CODE AMENDMENTS PHASE II

* - Not subject to Houghton Community Council review

I. NO POLICY CHANGES

- A. Clarify how horizontal façade is measured by using the defined term “maximum horizontal façade” as applicable. The proposed change is to subsection (b) of various code sections.

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 Façade horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone~~ shall not exceed 50 feet in width.*

Affected Kirkland Zoning Code (KZC) sections are:

KZC 20.08.3.b	KZC 55.65.2.b
KZC 25.08.3.b	KZC 55.73.2.b
KZC 27.08.2.b	KZC 55.97.3.b
KZC 30.25.050 Spec. Reg. 1.b	KZC 60.12.040 - .060 Spec. Reg. 2.b
KZC 35.27.2.b	KZC 60.12.070 Spec. Reg. 1.b
KZC 40.08.2.b	KZC 60.27.080 Spec. Reg. 1.b
KZC 45.08.2.b	KZC 60.87.130 Spec. Reg. 3.b
KZC 47.08.2.b	KZC 60.55.3.b
KZC 48.10.2.b	KZC 60.60.3.b
KZC 49.10.2.b	KZC 60.70.3.b
KZC 51.08.3.b	KZC 60.80.3.b
KZC 51.18.2.b	KZC 60.90.3.b
KZC 51.30.2.b	KZC 60.95.3.b
KZC 53.52.2.b	KZC 60.100.3.b
KZC 53.57.2.b	KZC 60.110.3.b
KZC 53.82.2.b	KZC 60.130.3.b
KZC 54.08.2.b	KZC 60.174.3.b
KZC 54.16.2.b	KZC 60.185.3.a.2.b
KZC 54.20.2.b	KZC 60.190.3.b

A similar change is shown below for code sections with slightly different language:

If any portion of a structure is adjoining a low density use within PLA 5A, 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 Façade horizontal length of any facade of that portion of the structure which is~~ within 100 feet of the lot containing a low density use within PLA 5A shall not exceed 75 feet.*

The affected KZC sections are:

KZC 60.30.3.b KZC 60.35.3.b KZC 60.40.3.b	KZC 60.45.3.b KZC 60.50.3.b
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B. Fixes Incorrect Code Reference in Kirkland Municipal Code (KMC) Section 22.32.050*:

KMC 22.32.050 Undergrounding of transmission lines—Required.

The applicant shall comply with the utility lines and appurtenances requirements of the zoning code, Section 110.60.79.

C. Correct Typographical Error in KMC Section 22.04.30(b)(1)*

KMC Section 22.04.30(b)(1). Eligible Developments. The following types of development are subject to the provisions of this section:

(b)(1) A division for the purpose of lease when ~~nonresidential no residential~~ structures other than mobile homes or travel trailers are permitted to be placed upon the land;...

D. Fix Incorrect References to Landscape Buffers – PLA 1 KZC Section 60.12

KZC Section 60.12.010 Special Regulation

d. A 30-foot-wide landscape buffer planted as follows: ~~pursuant to the requirements of KZC 95.25(2)~~

1) Two rows of trees planted eight feet on center along the entire length of the buffer. No more than 50 percent of the required trees may be deciduous. At the time of planting, deciduous trees must be at least two inches in diameter as measured using the standards of the American Association of Nurserymen; and coniferous trees must be at least five feet in height.

2) Shrubs, 18 inches high, planted to attain coverage of at least 60 percent of the buffer area within two years.

3) The buffer shall be provided around the campus perimeter, except along 108th Ave. NE, 114th Ave. NE, I-405, and between on-campus duplex housing and adjacent single-family sites or I-405. The buffer shall incorporate all existing significant trees and vegetation. Where fencing is proposed, it shall be wood, unless alternative fencing is requested in writing by the adjacent neighbor and agreed to by the applicant.

e. A 15-foot-wide landscape buffer planted pursuant to the requirements of subsection d (1) and (2) above KZC 95.25(2) shall be provided between on-campus duplex housing and adjacent single-family sites. The buffer shall incorporate all existing significant trees and vegetation.

E. Clarify Application Rounding Language for Affordable Housing

Combine KZC Sections 112.15.4 and 5 to avoid confusion as to when affordable housing is required.

KZC Section 112.15

4. *Rounding and Alternative Compliance – In all zones, the number of affordable housing units required is determined by rounding up to the next whole number of units if the fraction of the whole number is at least 0.66.*
- ~~5. *Alternative Compliance* – KZC 112.30 establishes methods for alternative compliance, including payment in lieu of construction for portions of required affordable housing units that are less than 0.66 units.~~

F. Clarify that Voluntary Affordable Housing is allowed where Affordable Housing is not required.

The proposed changes clarify that affordable housing incentives can be utilized in zones that affordable housing is not required.

KZC 112.15.1 ~~Minimum Requirement Applicability~~ –

- a. Minimum Requirement. All developments creating four or more new ~~detached, attached or stacked~~ dwelling units in commercial, high density residential, medium density and office zones shall provide at least 10 percent of the units as affordable housing units and comply with the provisions of this chapter as established in the General Regulations for the Use Zone or the Special Regulations in the Use Zone Chart for the specific use. This subsection is not effective within the disapproval jurisdiction of the Houghton Community Council.*
- b. Voluntary Use. All other provisions of this chapter are ~~applicable~~ available for use within the disapproval jurisdiction of the Houghton Community Council and in developments where the minimum requirement does not apply.*

G. Clarify Density Bonus for Affordable Housing Units

KZC 112.25.2 Density Bonus – An applicant may propose more than two bonus units for every affordable housing unit or a density bonus exceeding 25 percent of the number of units allowed in the underlying zone of the subject property. However, in no event may a project receive a bonus that would result in a number of bonus units that exceeds 50 percent of the number of units allowed in the underlying zone of the subject property. Such a request shall be reviewed and decided upon by the Planning Director. The decision of the Planning Director in approving or denying a modification under this subsection may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110.

H. Delete Outdated Reference to State Watercraft Noise Standards

Washington Administrative Code 173-70 no longer exists. The proposed amendment deletes the outdated reference.

KZC Section 115.95 Noise Regulations

1. *Maximum Environmental Noise Levels*
 - a. *State Standard Adopted – The City of Kirkland adopts by reference the maximum environmental noise levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC.*

- ~~b. Watercraft Noise Performance Standards — The City of Kirkland adopts by reference the Watercraft Noise Performance Standards established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-70 WAC.~~
- ~~c. Availability — These regulations are available for inspection and copying in the Planning Department during regular business hours.~~

I. Clarify Height and Size of Detached Accessory Dwelling Units (ADU's)

The following changes clarify the height and size limitations for ADU's in KZC Sections 115.07 and .08:

KZC 115.07(4) Scale - Detached accessory dwelling units shall not exceed 800 square feet of gross floor area. The gross floor area shall not include area with less than five feet of ceiling height, as measured between the finished floor and the supporting members for the roof. When calculating the square footage of the ADU (see KZC 5.10.340, definition of "gross floor area"), covered exterior elements such as decks and porches will not be included; provided, the total size of all such covered exterior elements does not exceed 200 square feet. See KZC Section 115.08 for additional size and height limitations.

KZC 115.08 Accessory Structure (Detached Dwelling Unit Uses Only) - Structures, to be used as a tool shed, greenhouse, private garage, accessory dwelling unit, barn or similar use are permitted. The total size of all such structures may not exceed the gross floor area of 1,200 square feet plus 10 percent of the lot area that exceeds 7,200 square feet. An accessory structure which contains an accessory dwelling unit must also comply with KZC 115.07 which may further limit its size.

The gross floor area shall not include area with less than five feet of ceiling height, as measured between the finished floor and the supporting members for the roof. The height (roof peak elevation) of an accessory structure may not exceed the maximum height allowed by the underlying zone or 15 feet above the existing height (roof peak elevation) of the primary residence ~~or 25 feet above average building elevation, whichever is less. An accessory structure which contains an accessory dwelling unit must also comply with KZC 115.07.~~

J. Delete Vague Stream/Wetland Regulation in PLA 17 *

The following regulation is being deleted because it is not clear and since KZC Chapter 90 contains the City's stream and wetland regulations.

~~KZC Section 60.185-4: During and after construction, substantial setbacks and protective measures should be provided around streams and wetlands (does not apply to Detached Dwelling Unit and Family Day-Care Home uses).~~

~~54.~~ No change to text.

~~65.~~ No change to text.

K. Electronic Readerboard Signs for Fire Stations in the Annexation Area *

Existing regulations for electronic readerboard signs for fire stations are being extended into the annexation area. The following language is being added to KZC Sections 18.10.080(4) (RSA zone) and 40.10.170(2) (BNA zone).

One pedestal sign with a readerboard having electronic programming is allowed at a fire station 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 City 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. except during emergencies;
- h. It is located to have the least impact on surrounding residential properties.

If it is determined that the electronic readerboard constitutes a traffic hazard for any reason, the Planning Director may impose additional conditions.

L. Annexation vesting

These changes fixes what was unintentionally broad vesting language in paragraph 4 by being more specific about the Council's intent.

KZC 10.45 Annexed Property

3. *Short plats and subdivisions that have been approved by King County but not recorded prior to annexation shall be recorded within the time period provided for under King County subdivision regulations in effect at the time of the approval of the short plat or subdivision. Notwithstanding the foregoing, initial development of ~~the dwelling units on~~ individual lots in the short plat or subdivision shall be governed by the King County zoning regulations in effect at the time of annexation for a period of five years after the date of annexation unless the City finds that a change in conditions creates a serious threat to the public health or safety. After five years, the current zoning regulations shall apply.*
4. *Initial development of dwelling units on ~~individual~~ lots in short plats and subdivisions that have been approved and recorded by King County ~~and recorded prior subsequent to June 1, 2006 annexation~~ shall be governed by the King County zoning regulations in effect at the time of annexation for a period of five years after the date of annexation unless the City finds that a change in conditions creates a serious threat to the public health or safety. After five years, the current zoning regulations shall apply.*

M. Change to RS and RSA Zoning in regards to Schools

15.10.030.2.c - 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).

18.10.030.1.c - 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 (does not apply to existing school sites).

II. MINOR POLICY CHANGES

A. Make Outdoor Vehicle/Boat Sales, Service/Repair Buffer Standards Consistent between zones

BC, BC1, BC2 – KZC 45.10.020.1: Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC 95.45 Chapter 105 KZC. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.

BCX – KZC 47.10.020.4: 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.

LIT – KZC 48.15.190.1: Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC 95.40 through 95.45, landscaping regulations. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.

JBD 1 – KZC 52.12.020.4: 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. ~~also the section in Chapter 115 entitled "Outdoor Use, Activity and Storage" for additional regulations.~~

JBD 1 - KZC 52.12.030.3: Outdoor boat parking and storage areas must be buffered as required for a parking area ~~per design regulations,~~ in KZC 95.45. See ~~also~~ KZC 115.105, Outdoor Use, Activity and Storage, for further additional regulations.

JBD 2 – KZC 52.17.020.4: 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. ~~also the section in Chapter 115 entitled "Outdoor Use, Activity and Storage" for additional regulations.~~

JBD 2 – KZC 52.17.030.3: *Outdoor boat parking and storage areas must be buffered as required for a parking area ~~per design regulations, in~~ KZC 95.45. See ~~also~~ KZC 115.105, Outdoor Use, Activity and Storage, for ~~further~~ additional regulations.*

JBD 4 – KZC 52.27.010.3: *Outdoor boat parking and storage areas must be buffered as required for a parking area ~~per design regulations, in~~ KZC 95.45. See ~~also~~ KZC 115.105, Outdoor Use, Activity and Storage, for ~~further~~ additional regulations.*

JBD 5 – KZC 52.32.010.3: *Outdoor boat parking and storage areas must be buffered as required for a parking area ~~per design regulations, in~~ KZC 95.45. See ~~also~~ KZC 115.105, Outdoor Use, Activity and Storage, for ~~further~~ additional regulations.*

RH 1A – KZC 53.06.020.3: *Outdoor vehicle parking or storage must be buffered as required for a parking area inSee ~~KZC 95.40 through~~ 95.45. See ~~KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.~~—required landscaping, for further regulations.*

RH 2A, 2B, 2C – KZC 53.24.020.3: *Outdoor vehicle parking or storage must be buffered as required for a parking area inSee ~~KZC 95.40 through~~ 95.45. See ~~KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.~~—required landscaping, for further regulations.*

RH 3 – KZC 53.34.030.3: *Outdoor vehicle parking or storage must be buffered as required for a parking area inSee ~~KZC 95.40 through~~ 95.45. See ~~KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.~~—required landscaping, for further regulations.*

RH 5A, 5B – KZC 53.54.020.6: *Outdoor vehicle parking or storage must be buffered as required for a parking area inSee ~~KZC 95.40 through~~ 95.45. See ~~KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.~~—required landscaping, for further regulations.*

NRH 1A – KZC 54.06.070.5: *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 ~~also~~ KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.*

NRH 1B – KZC 54.12.050.5: *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 ~~also~~ KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.*

NRH 4 – KZC 54.30.020.2: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for ~~further~~ additional regulations.*

TL 4A, 4B, 4C – KZC 55.33.030.1: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for ~~further~~ additional regulations.*

TL 5 – KZC 55.39.030: *2. Outdoor vehicle or boat 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.*

TL 6A, 6B – KZC 55.45.020.2: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for ~~further~~ additional regulations.*

TL 7 – KZC 55.51.180.1: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for ~~further~~ additional regulations.*

TL 9A – KZC 55.61.180.1: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC ~~95.40 through~~ 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for additional, ~~landscaping~~ regulations.*

TL 10C – KZC 55.81.130.2: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for ~~further~~additional regulations.*

TL 10E – KZC 55.93.110: *Landscape Category EA*

KZC 55.93.110.1: *Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~Chapter 105~~ KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for ~~further~~additional regulations.*

B. CBD 1A & 1B KZC Chapter 50 – Ground Floor Retail Requirements *

Codifies Interpretation 09-1 and allows back *Parks, Government, and Community Facility* uses as a street front use.

KZC 50.10.3 *The street level floor of all buildings shall be limited to one or more of the following uses: Retail; Restaurant or Tavern; Banking and Related Financial Services; ~~and~~ Entertainment, Cultural and/or Recreational Facility, Parks, Government Facility, or Community Facility use. The required uses shall have a minimum depth of 20 feet and an average depth of at least 30 feet (as measured from the face of the building on the abutting right-of-way, not including alleys and similar service access streets). Buildings proposed and built after April 1, 2009, and buildings that existed prior to April 1, 2009, which are at least 10 feet below the maximum height of structure, shall have a minimum depth of 10 feet and an average depth of at least 20 feet containing the required uses listed above.*

C. Affordable Housing – Also Require in the PLA 6G, BC 1 and 2 Zones

PLA 6G:

KZC 60.85.2 - 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.

23. No Change to Text

34. No Change to Text

45. No Change to Text

56. No Change to Text

BC1 and BC 2:

KZC 45.08.4 – In BC 1 and BC 2 zones, 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. See Chapter 112 KZC for additional affordable housing incentives and requirements.

45. No Change to Text

56. No Change to Text

67. No Change to Text

D. Affordable Housing – Clarify Requirement for all housing types in Multi-Family and Commercial Zones & Revise Minimum Lot Size Provision

Developments creating four or more new ~~detached, attached or stacked~~ 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.

This change will be made to KZC General Regulation #2 of the following sections:

<u>Section</u>	<u>Zone</u>
20.08	RM 1.8, 2.4, 3.6, 5.0
25.08	PR 1.8, 2.4, 3.6, 5.0
30.10	WD I
30.30	WD III
60.15	PLA 2
60.20	PLA 3A
60.25	PLA 3B
60.30	PLA 5A
60.35	PLA 5B
60.40	PLA 5C
60.45	PLA 5D
60.50	PLA 5E
60.55	PLA 6A
60.60	PLA 6B
60.70	PLA 6D
60.80	PLA 6F
60.90	PLA 6H
60.95	PLA 6I
60.100	PLA 6J

60.105	PLA 6K
60.110	PLA 7A, 7B, 7C
60.130	PLA 9
60.170	PLA 15A
60.175	PLA 15B
60.185	PLA 17
60.190	PLA 17A
52.20	JBD 3
52.25	JBD 4
52.30	JBD 5
52.39	JBD 6
51.08	MSC 1, MSC 4
54.34	NRH 5
54.40	NRH 6
55.97	TL 11
53.22	RH 2C
53.42	RH 4

E. Wireless Facilities KZC Chapter 117 – Historic

KZC 117.65.8. The proposed amendments clarify the review of PWSF at historic locations

~~*Historic or Landmark Locations – No antennas shall be permitted on property designated as a historic resource or community landmark as identified in the Comprehensive Plan, unless such antennas have been approved in accordance with design requirements pertaining to historic structures.*~~

Designated Historic Community Landmarks–

a) Applications for PWSF on buildings, structures, or objects designated in Table CC-1 List A and B located in the Historic Resources section of the Community Character Element in the Comprehensive Plan shall be subject to the provisions of this chapter. The City shall notify the King County Historic Preservation Office in order to provide an opportunity for comments and recommendation on the application. The recommendation will be considered when making a decision on the application.

Applications for PWSF towers on properties designated in Table CC-1 only as historic sites, shall be reviewed subject to the provisions of this chapter and pursuant to the notification and consideration requirements in Subsection 8(a). Other PWSF applications on designated site-only properties are subject to the provisions of this chapter but do not require the notification and consideration requirements in Subsection 8(a).

III. MODERATE POLICY CHANGES

A. CBD 5 *

Specify height in feet. Delete references to comp plan. Revise's Plate 34h to add a pedestrian connection identified in the Downtown Master Plan. See chart and revised Plate 34h on the following pages.

50.33 User Guide.

The charts in KZC 50.35 contain the basic zoning regulations that apply in the CBD 5 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 50.34



Section 50.34 – 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. No portion of a structure above the elevation of Kirkland Way as measured at the midpoint of the frontage of the subject property on Kirkland Way may exceed the following:
 - a. Within 20 feet of Kirkland Way, 2 stories;
 - b. Within 40 feet of Kirkland Way, 4 stories;
 - c. Within 50 feet of Kirkland Way, 5 stories.
- ~~3. Buildings exceeding two stories above average building elevation shall demonstrate compliance with the design regulations of Chapter 02 KZC and the provisions of the Downtown Plan Chapter of the Comprehensive Plan. The City will use Design Review (D.R.) to determine compliance.~~
- 3.** The minimum required yard abutting Peter Kirk Park is 10 feet. The required front yard is 0 feet for those portions of buildings with continuous retail or restaurant uses at street level. Kirkland Way shall be considered a pedestrian-oriented street if the front yard is less than 20 feet.
- 4.** No portion of a structure within 100 feet of Peter Kirk Park shall exceed three stories above average building elevation.
- 5.** 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 (does not apply to Public Park uses).
- ~~7. The entire zone must be physically integrated both in site and building design. Also, site design must include installation of pedestrian linkages consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan, between public sidewalks and building entrances, and between walkways on the subject property and existing or planned walkways on abutting properties (does not apply to Public Utility, Government Facility or Community Facility and Public Park uses).~~

Section 50.35

Zone
CBD-5

USE ZONE CHART

67'

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

Section 50.35	USE REGULATIONS	MINIMUMS		MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)				
		Required Review Process	Lot Size	REQUIRED YARDS (See Ch. 115)						Lot Coverage	Height of Structure		
				Front	Side							Rear	
.010	Restaurant or Tavern	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	8 to 5 stories above average building elevation.	D See Spec. Reg. 1.	E	One per each 125 sq. ft. of gross floor area.	<ol style="list-style-type: none"> Landscape Category B is required if the subject property is adjacent to 6th Street or Kirkland Avenue. For restaurants with drive-in or drive-through facilities: <ol style="list-style-type: none"> One outdoor waste receptacle shall be provided for every eight parking stalls. 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. Landscape Category A shall apply if the subject property is adjacent to 6th Street or Kirkland Avenue. 	
.030	Entertainment, Cultural and/or Recreational Facility							See KZC 50.60 and 105.25.	D See Spec. Reg. 2.			<ol style="list-style-type: none"> The parking requirements for hotel or motel use do not include parking requirements for ancillary meetings and convention facilities. Additional parking requirements for ancillary uses shall be determined on a case-by-case basis. Landscape Category B is required if the subject property is adjacent to 6th Street or Kirkland Avenue. 	
.040	Hotel or Motel							One per each room. See Special Reg. 1.					
.050	Any Retail Establishment, other than those specifically listed, limited, or prohibited in the zone, selling goods, or providing services including banking and related financial services							One per each 350 sq. ft. of gross floor area.	D See Spec. Reg. 4.				<ol style="list-style-type: none"> The following uses are not permitted in this zone: <ol style="list-style-type: none"> Vehicle service stations. The sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. Access for drive-through facilities must be approved by the Public Works Department. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: <ol style="list-style-type: none"> The assembled or manufactured goods are directly related to and dependent upon this use and are available for purchase and removal from the premises. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. Landscape Category B is required if subject property is adjacent to 6th Street or Kirkland Avenue.

Section 50.35

Zone
CBD-5

USE ZONE CHART

67'

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

Section 50.35	USE	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	Private Lodge or Club		D.R., Chapter 142 KZC.	20'	0'	0'	80%	3 to 5 stories above average building elevation.	D See Spec. Reg. 1.	B	See KZC 105.25.	1. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.
.070	Office Use							D See Spec. Reg. 3.			One per each 350 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on premises may be permitted as part of an office use if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this office use; and b. The outward appearance and impacts of this office use with ancillary assembly and manufacturing activities must be no different from other office uses. 2. The following regulations apply to veterinary office 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 D.R. and building permit applications. d. A veterinary office is not permitted if the subject property contains dwelling units. 3. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.
.080	Church							D See Spec. Reg. 2.			One per every four people based on maximum occupancy of any area of worship.	1. No parking is required for daycare or school ancillary to the use. 2. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.

Section 50.35

Zone
CBD-5

USE ZONE CHART

67'

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

Section 50.35	USE REGULATIONS	Required Review Process	MINIMUMS			MAXIMUMS			Special Regulations (See also General Regulations)			
			Lot Size	REQUIRED YARDS (See Ch. 115)		Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)		Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	
				Front	Side							Rear
.090	School, Day-Care Center, or Mini-School or Day-Care Center	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	3 to 5 stories above average building elevation.	D	B	See KZC 105.25.	<ol style="list-style-type: none"> A six-foot-high fence is required along all property lines adjacent to outside play areas. Structured play areas must be setback from all property lines by at least five feet. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 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. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.100	Assisted Living Facility See Spec. Reg. 4.								D See Spec. Reg. 3.	A	1.7 per independent unit. 1 per assisted living unit.	<ol style="list-style-type: none"> A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standard shall apply to the nursing home portion of the facility: <ol style="list-style-type: none"> One parking stall shall be provided for each bed. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue. This use only allowed: <ol style="list-style-type: none"> On properties with frontage on Second Avenue. Within 170 feet of Peter Kirk Park provided that the gross floor area of this use does not exceed 12.5% of the total gross floor area for the subject property.
.110	Stacked or Attached Dwelling Units								D See Special Reg. 1.		1.7 per unit.	<ol style="list-style-type: none"> Landscape Category C is required if the subject property to adjacent to 6th Street or Kirkland Avenue. This use only allowed: <ol style="list-style-type: none"> On properties with frontage on Second Avenue. Within 170 feet of Peter Kirk Park provided that the gross floor area of this use does not exceed 12.5% of the total gross floor area for the subject property.

Section 50.35

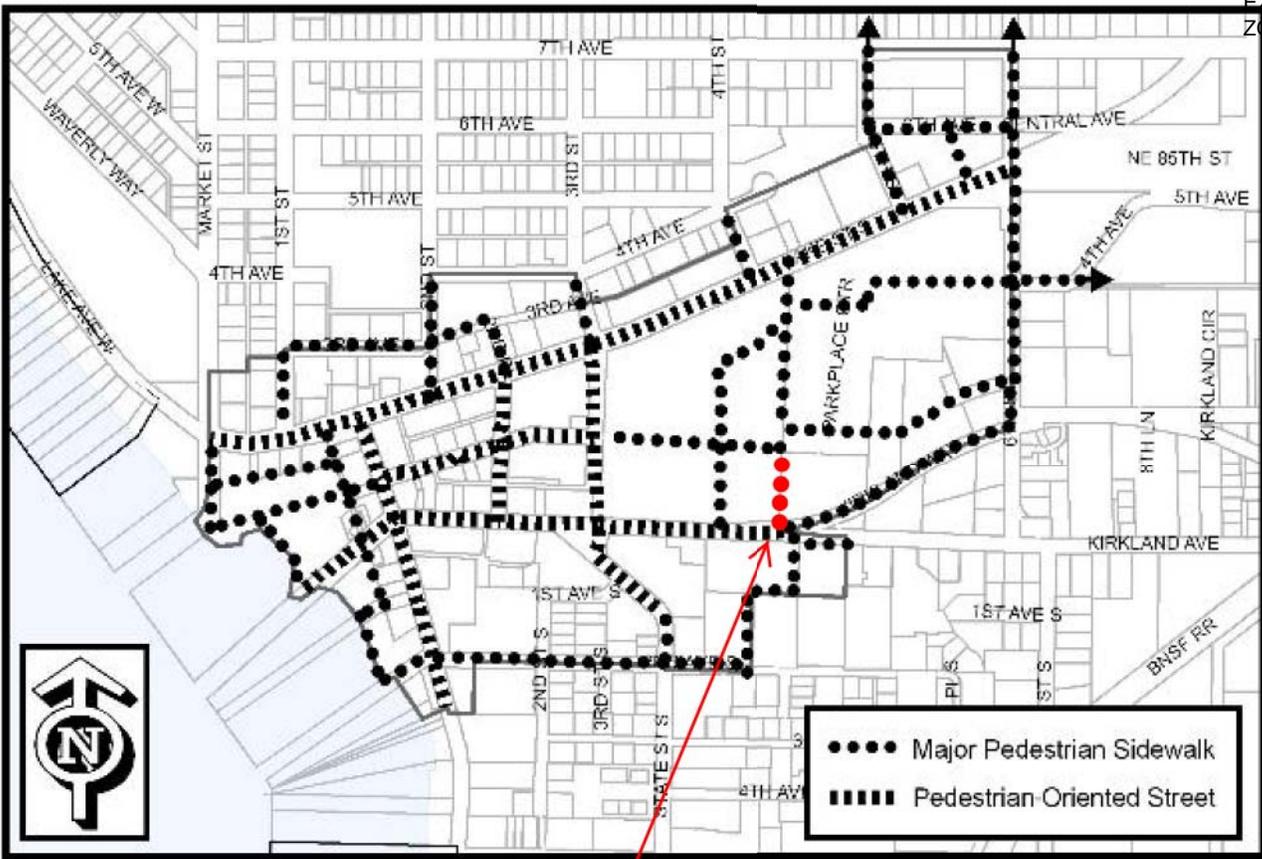
**Zone
CBD-5**

USE ZONE CHART

67'

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

Section 50.35	USE ↑	REGULATIONS ↑	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
.120	Public Utility, Government Facility, or Community Facility		None	20'	0'	0'	80%	3 to 6 stories above average building elevation.	D See Special Reg. 1.	B	See KZC 105.25.	1. Landscape Category C is required if the subject property is adjacent to 6th Street or Kirkland Avenue. 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. 2. Site design must include installation of pedestrian linkages consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan, between public sidewalks and building entrances, and between walkways on the subject property and existing or planned walkways on abutting properties.
.130	Public Park		Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.									



New Connection

**KZC CHAPTER 180
PLATE 34H**

B. Fence Heights

The proposed change requires a setback and landscaping for fences along arterials.

KZC 115.40.1. General

a. Fences not over six feet in height may be anywhere on the subject property except:

- 1) A fence may not be within 15 feet of any street curb, or the edge of the street pavement, if no curb exists; or*
- 2) If the applicant can show with a survey, or other reasonable means, the location of his/her property line, the fence can be placed on the property line regardless of the distance from a street curb or the edge of the pavement.*
- 3) A fence may not violate the provisions of KZC 115.135.*
- 4) A detached dwelling unit abutting a neighborhood access or collector street may not have a fence over 3.5 feet in height within the required front yard.*

On corner lots with two required front yards, this restriction shall apply only within the front yard adjacent to the front facade of the structure.

5) A detached dwelling unit may not have a fence over 3.5 feet in height within 3 feet of the property line abutting a principal or minor arterial except where the abutting arterial contains an improved landscape strip between the street and sidewalk. The area between the fence and property line shall be planted with vegetation and maintained by the property owner.

56) No fence may be placed within a high waterline setback yard or within any portion of a north or south property line yard which is coincident with the high waterline setback yard.

C. Wireless Antennas on Water Reservoirs *

KZC Section 117.65.7.g. Antennas, including flush-mounted panel or directional antennas, may be attached to an existing conforming mechanical equipment enclosure or stair or elevator penthouse or similar rooftop appurtenance which projects above the roof of the building, but may not project any higher than the enclosure. Antennas may also be allowed on safety railings located at the roofline of a water reservoir provided that the antennas do not extend above the safety railing.

D. Government Facilities in the TL 4B Zone *

KZC Section 55.31.4. - At least 50 percent of the total gross floor area located on the ground floor area of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels except for structures containing a government facility use in the TL 4B zone. These uses shall be oriented to a major pedestrian sidewalk, a through-block pedestrian pathway or an internal pathway (see also Chapter 105 KZC).

E. Public Comment for Parking Modifications – KZC 105.103

Addition of public notice and comment process for parking modifications.

KZC 105.103.3.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 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 calendar days.

F. Window Signs

Add a definition for a window sign to KZC 5.10.992: *Window Sign – A sign located inside a window and visible from the exterior of a building.*

Clarify that window signs do not require a permit in KZC 100.25.1.b:

b. A permit must be obtained from the Department of Planning and Community Development in order to display any sign for which a permit is not required by subsection (1)(a) of this section, except for real estate on-site (other than for dwelling units), real estate off-site, construction, temporary commercial, integral, private notice, instructional, private advertising, window signs, private traffic direction and off-site directional signs. Change in the temporary message on a reader board or electronic message center is also excluded from this permit requirement.

Codifies Interpretation 86-11 which exempts windows signs from KZC Chapter 100 by adding window signs to KZC 100.115.A.

Type of Sign	Maximum Number of Signs	Maximum Sign Area	Permitted Location	Permitted Duration of Display
<u><i>Window Sign</i></u>	<u><i>No maximum</i></u>	<u><i>No limitation</i></u>	<u><i>Subject property</i></u>	<u><i>No limitation</i></u>

IV. MAJOR POLICY CHANGES

A. Reduced Multi Family Parking Standards in the CBD *

KZC 50.60.2 (CBD 1, 2, and 8) Number of Spaces

To the extent that subsections (3) and (4) of this section require that uses in the CBD 1, 2, and 8 Zones provide parking, the following establishes the number of spaces required:

- a. Residential uses must provide ~~1.7 a minimum of one parking spaces stall per for each dwelling unit bedroom and an average of at least 1.3 parking stalls per unit shall be provided for each development. In addition, guest parking shall be provided at a rate of 0.1 stalls per bedroom or studio unit with a minimum of two guest parking stalls provided per development. and~~ One parking space is required for each assisted living unit.

The same regulation is also being added to the following CBD use zone charts as a special regulation (except for sentence regarding assisted living units since it is under a separate use listing): CBD 3, 4, 5, 5A, 6, & 7.

V. PROCESS CHANGES

A. Minor text edit to KZC 150.85 *

KZC 150.85 Notice of Consideration of the Appeal

1. Contents – The Planning Official shall prepare a notice of the appeal containing the following:
 - a. The file number and a brief ~~verbal~~ written description of the matter being appealed.

B. Hearing Examiner Appeal Notice *

These changes make the appeal hearing notice timing consistent between various Hearing Examiner appeal types and the standard Process I and IIA appeals.

95.55.10.e - The office of the Hearing Examiner shall give notice of the hearing to the appellants at least ~~7~~14 calendar days prior to the hearing.

170.40.5.d(1) - The office of the Hearing Examiner shall give notice of the hearing before the Hearing Examiner to the appellant ~~7~~14 calendar days before such hearing.

117.95.1 - An applicant may appeal a Planning Official decision to the Hearing Examiner. A written notice of appeal shall be filed with the Planning Department within 14 days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least ~~7~~14 days prior to the hearing.

115.07.11.c - Appeals. An applicant may appeal to the Hearing Examiner the decision of the Planning Official in denying a request to construct an accessory dwelling unit. A written notice of appeal shall be filed with the Planning Department within 14 calendar days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The City shall give notice of the hearing to the applicant at least ~~7~~14 calendar days prior to the hearing.

C. Review Timing for Co-Location of Wireless Facilities

Codifies FCC declaratory ruling (WT Docket No. 08-165).

117.50 Application Requirements

1. *The City shall act within 90 days for co-location of wireless facilities and 150 days for all other wireless facilities applications a reasonable period of time on a which are complete applications submitted pursuant to this chapter, taking into account the nature and scope of the request. Any decision to deny such a request shall be in writing and supported by substantial evidence contained in a written record. When an application is filed for co-location of wireless facilities and the application is to be processed pursuant to Process IIB, the City shall attempt to meet the applicable 90 day processing and decision timeframe. However, in some cases it may not be possible to fully process and decide a Process IIB co-location application within 90 days. In such cases, the City and the applicant shall agree to extend the 90 day processing and decision period, but only to the extent necessary to fully process and decide the application.*

D. HCC Administrative Variances

Allows administrative variances in HCC jurisdiction.

120.12 Expansion or Modification of an Existing Structure

~~*The following section is not effective within the disapproval jurisdiction of the Houghton Community Council.*~~

If the expansion or modification of an existing structure requires a variance under this chapter, the Planning Director may approve such expansion or modification without requiring the variance process if all of the following criteria are met:

1. *The request complies with the criteria in KZC 120.20; and*
2. *The gross floor area of the structure is expanded by less than five percent; and*
3. *The Planning Director determines that the change or alteration will not have significantly more or different impact on the surrounding area than does the present development.*

E. Eliminate KZC Chapter 155

Process III is no longer an applicable process within the City. The entire chapter is being deleted.

F. Correct Code reference for variance process notification

120.10 Process for Deciding Upon a Proposed Variance

The following subsection is not effective within the disapproval jurisdiction of the Houghton Community Council:

1. *The City will use Process IIA, described in Chapter 150 KZC, to review and decide upon an application for a variance except as to property located within an RS, RSA or RSX Zone or for a detached dwelling unit in any zone. For variance applications as to property located within an RS, RSA or RSX Zone or for a detached dwelling unit in any zone, the City will use Process I described in Chapter 145 KZC; provided, however, that while the content of the notice shall be per KZC 145.22(1), the distribution of the notice shall be per KZC 150.~~3022~~(2).*

The following subsection is effective only within the disapproval jurisdiction of the Houghton Community Council:

2. *The City will use Process IIA, described in Chapter 150 KZC, to review and decide upon an application for a variance except as to property located within an RS, RSA or RSX Zone. For variance applications as to property located within an RS, RSA or RSX Zone, the City will use Process I described in Chapter 145 KZC; provided, however, that while the content of the notice shall be per KZC 145.22(1), the distribution of the notice shall be per KZC 150.~~3022~~(2).*

RECEIVED

OCT 26 2010

AM _____ PM
PLANNING DEPARTMENT
BY _____

Margaret Carnegie
11259 126th Ave. N.E.
Kirkland, WA 98033

October 20, 2010

Dear Mayor McBride & Council Members,

Thank you for your work for Kirkland. It must be very difficult at times. However, in my opinion, that is what you agreed to when you took on the job.. A current example is 35.KZC 150.105, process 11A. I believe it would be outrageous to remove the city council as the hearing body for appeals. That is an important part of the council's duties. And it would also add more expense for any citizen trying to challenge anything. I do hope you will rethink this proposal and continue to hear appeals. If you are not willing to do the hard work or make the tough decisions, then city council is not the job for you.

I also believe single family residents living in the RH 8 zoning area deserve the right to have their privacy protected and shouldn't have to be subjected to the noise or visual invasion that could result with the allowance of restaurants on second floors. The nearby residents deserve to have the current rules honored. How would you feel about having that second floor restaurant on the property next to you? Citizens of North and South Rose Hill donated much time and thought in order to protect their fellow citizens' living conditions and deserve to have their work honored as well as their citizens' life styles protected.

Thank you for your consideration of these issues.

Sincerely,



Margaret Carnegie

Jon Regala

From: Bea L. Nahon CPA [Bea.Nahon@nahoncpa.com]
Sent: Wednesday, November 03, 2010 4:55 PM
To: Jon Regala
Subject: Public Hearing File ZON10-00013
Attachments: parking counts comparison.xls

Follow Up Flag: Follow up
Flag Status: Flagged

Thank you for the opportunity to offer comments regarding the proposed Phase II Kirkland Zoning Code amendments.

Page 12, Section VI, Item B2, CBD 5 – KZC Section 50.34(3) Delete references to the Comprehensive Plan

One of the premises of this proposed change – that the Comp Plan is not a regulatory document and that “legally, courts have held that where there is a conflict between a zoning code and a comprehensive plan, the zoning code governs” – needs context before the Planning Commission can opine on this proposed change.

In order for a city’s zoning code to take precedence over the comp plan requires a limited set of circumstances. Quoting from the MRSC’s website at <http://www.mrsc.org/subjects/planning/compplan.aspx> with emphasis added:

The GMA establishes the primacy of the comprehensive plan. The comprehensive plan is the starting point for any planning process and the centerpiece of local planning. **Development regulations (zoning, subdivision, and other controls) must be consistent with comprehensive plans** (see separate page on [development regulations](#)). State agencies are required to comply with comprehensive plans and development regulations of jurisdictions planning under the GMA.

Further from the MRSC’s website at <http://www.mrsc.org/subjects/planning/devregpg.aspx> again with emphasis added:

In communities that are planning under the Growth Management Act (GMA), development regulations are required to be consistent with adopted comprehensive plans (see Comprehensive Planning and Growth Management in General). **However, if the local jurisdiction has not yet adopted regulations to implement the plan, the existing zoning apparently will control over the new comprehensive plan, if there is a conflict.** Citizens of Mount Vernon v. City of Mount Vernon, 133 Wn. 2d 861 (1997)

I sent an inquiry to Jon Regala to ask what legal cases were being referred to in tonight’s packet, and he contacted a member of the City’s legal staff (Oskar Rey) who provided the following

The following passage is a quote from *Lakeside Industries v. Thurston County*, 119 Wash.App. 886, 894-895, 83 P.3d 433, 437 (2004):

Generally, a specific zoning ordinance will prevail over an inconsistent comprehensive plan. *Weyerhaeuser v. Pierce County*, 124 Wash.2d 26, 43, 873 P.2d 498 (1994) (citing *Cougar Mountain Assoc. v. King County*, 111 Wash.2d 742, 757, 765 P.2d 264 (1988)). Because a comprehensive plan is a guide and not a document designed for making specific land use decisions, conflicts concerning a proposed use are resolved in favor of the more specific regulations. *Citizens for Mount Vernon v. City of Mount Vernon*, 133 Wash.2d 861, 873, 947 P.2d 1208 (1997). Thus, to the extent the

comprehensive plan prohibits a use that the zoning code permits, the use is permitted. *Weyerhaeuser*, 124 Wash.2d at 43, 873 P.2d 498

Our zoning code must be consistent with our comprehensive plan. Accordingly, it is only in those atypical situations, such as described by the MRSC and the City's attorney, where the zoning code would trump.

The Planning Commission should also be aware of the provision in the Kirkland Municipal Code which provides as follows (with emphasis added):

20.04.120 Consistency.

The foundation for project review shall be the city's comprehensive plan and development regulations. The city's review of a project permit application will include determination as to whether the proposed project is consistent with applicable regulations or comprehensive plan. The determination of consistency shall be based on review of the applicable development regulations, or in the absence of a relevant development regulation, upon the comprehensive plan. The city's review will emphasize existing requirements and adopted standards, with the use of supplemental authority as specified by Chapter 43.21C RCW to the extent that existing requirements do not adequately address a project's specific probable adverse environmental impacts. (Ord. 3529 § 1 (part), 1996)

To sum, while our zoning codes must be consistent with our Comp Plan, the City may still need to use its Comp Plan should a relevant development regulation not exist. I assume, if this provision is ratified, that this responsibility would lie with staff, rather than the DRB.

Page 17, Section VI, Item G – Parking Modifications Public Comment – KZC Section 105.103

I am urging the Planning Commission to recommend a codified process for notification and public comment when parking modifications are requested.

I have previously submitted comments to the City Council which is in your packet as Attachment 9. A majority of the Council favored adding this to this current zoning review process and I sincerely hope you will reconsider the point of view as expressed by some Commissioners at the joint meeting with the HCC.

I am hopefully not reiterating that which is already in Attachment 9 and instead will focus on what seems to be the sticking points, namely that modifications are granted based on technical aspects, and secondly, that the public is presumed not capable of providing information that is relevant in a technical capacity.

First – and please refer to attachment 9 for the specifics from the Code – in order to have a parking modification granted, there must be a parking and utilization study, but the statute does not provide that such a study – even if valid (and not otherwise manipulated, as referenced by the Planning Commission during your joint meeting with the HCC) – will then automatically be granted. The Planning Official has the discretion to deny or reduce the requested modification.

More relevant – and frankly, most frustrating to me – is the presumption that citizens are simply not capable of providing relevant comment. Should irrelevant comment be provided, the Planning Official is capable of recognizing it and treating it accordingly. However, to assume that citizens are not capable of providing input “on par with the technical nature of the information provided and analyzed” is dismissive and inappropriate.

As an example - when the 101 Kirkland project was under Design Review, the applicant submitted its proposal with only 0.75 parking spaces per unit, based on the premise that it was going to be a housing development for residents who were age 62 and older, complete with a supporting study. At that time, parking modifications were in the purview of the DRB and so citizens were able to see that this request for a modification had been submitted. That citizen input included technical data (driving and vehicle ownership trends of senior citizens from academic studies) as well as relevant non-technical data (that there was no guarantee or covenant that

this property would always be occupied by the over-age-62 population). At the last DRB meeting for this project, it was announced that the applicant would change their proposal from 0.75 per unit to 1.0 per bedroom. Did the public comment have a constructive influence on that change or would the City have insisted on this change no matter what? Perhaps it was some of both. But here's the final part of the story – this project is about to open its doors and it will not be an over-age-62 property, instead it will be available to residents of all ages. Had this property been approved at 0.75 per unit, as was supported by the data provided by the applicant, we would now have a project with insufficient parking.

There is one other item which the Planning Commission needs to take into account in making its decision on this issue, namely the other changes which are being proposed for parking. I anticipate, based on the City's history and the recommendations of the PAB, that the Commission and the Council will approve a reduction of the current multi-family parking requirement of 1.7 spaces per unit, and in its place, institute a provision reducing the minimum required number of spaces to 1 per bedroom. Since it appears that the lowest stall-per-bedroom ratio that the City has approved (as per attachment 12) is 0.95 per unit, it is likely that the number of modification requests will decrease. That said, should there be an applicant who wishes to provide less than the new standard, I think that neighbors are especially deserving of knowing in advance of final approval that this has been proposed so that they can not only be aware, but can offer input into the process.

I think that the suggested process, akin to what is done for appurtenances, is a worthy suggestion and I would support that recommendation if so approved by the Commission.

Page 20, Section VII, Item A – Reduce Multi-Family Parking Standard in the CBD

I am supportive of the change of the parking requirement from 1.7 per unit to 1.0 per bedroom, provided that a floor is also enacted as part of this revision, such as was suggested during your last meeting regarding this topic.

I have attached an excel worksheet which recaps the data from attachments 12 and 13 of your packet and which includes the percentage of spaces that were occupied during the times when the City staff counted the occupied stalls (which, by the way, as of this writing, we do not know whether a specific count occurred at 5AM when spaces would be largely occupied or later in the day after residents would have left for the day). We see that these properties were approved at or near the current code amount of 1.7 per unit, and for the property with the lowest average bedroom count (Plaza on State) that had this property been approved at 1 per bedroom, the occupancy rate would have been far more than the count, because the property would have had only 117 parking spaces instead of 146.

One of the problems with attachment 13, besides not knowing what time the counts occurred on a per-property basis, is that the properties were all approved at 1.7 per unit or more. None of these properties were approved at 1 per bedroom, so to utilize them as examples of how "1 per bedroom" might or might not succeed, is flawed.

Instead, I would look to attachment 12, which indicates that when the City did grant a modification to 1 per bedroom (the shaded lines) the number of spaces per unit ranged from a low of 1.28 per unit to a high of 1.59 per unit. I have omitted Luna Sol from the range because it is an outlier at 1.1 per unit and moreover, has shared parking with commercial space which has not been factored into the computation of 1.1 per unit (i.e. the # of spaces per unit would be higher if the use of shared parking were factored in).

Accordingly, I encourage the Planning Commission to recommend that if the City changes its minimum standard to 1 per bedroom, that the requirement also include a floor (i.e. "but no less than") of 1.3 per unit or the like.

One final item in this category – specifically, the proposal to include a cap of 2.0 spaces per unit ("a maximum of two parking stalls per unit is allowed." I'm not aware of empirical data which supports this recommendation for multi-family properties in Kirkland nor am I aware of any other comparable limits in place that exist for multi-family projects, such as a cap on the number of bedrooms, bathrooms, windows, etc. I am, however, aware of multi-family properties in Kirkland which do have more than 2.0 spaces per unit and I can attest that those

spaces are utilized. It seems to me that if a developer is willing to provide this type of amenity and considers it financially viable, they should be allowed to do so.

Finally, although it is not referenced in the current packet, should the Commission wish to revisit the prior suggestion by the PAB that irrespective of the number of parking spots which exist, that there be a cap on the number of spaces which can be sold per unit (previously suggested as a cap of 1 per unit), I will reiterate that our experience in managing multi-family properties indicates that this is a very unwise idea that – when we have had situations where the number of spaces sold were limited for whatever reason with spaces left open for future allocation or guerilla parking tactics - leads to strife and arguments within residential communities. At your last meeting, you wisely decided not to entertain this and I hope that this particular item will not resurface.

Thank you for your attention to these comments.

Best regards,

Bea Nahon

Postal mailing address:

PO Box 3209, Kirkland WA 98083-3209

We are moving! Effective 11/1/10, our Executive suite address is:

5400 Carillon Point

Kirkland, WA 98033

(425) 828-4747

(425) 696-0032 my direct fax

(425) 696-4109 office fax

All deliveries, express mail or any items requiring signature should be sent to the Carillon Point address

All standard US mail should be sent to our PO Box.



Please consider the environment before printing this e-mail or attachments.

Location	Date	Owner Parking Spaces **	# of spaces occupied	Occupancy %	Number of Units	Number of Bedrooms*	Average # Bedrooms* per unit	If approved at 1 per bedroom, Occupancy %	Spaces per unit
Waterview	4/27/2006	82	57	69.5%	48	79	1.65	72.2%	1.708333
Brezza	4/27/2006	127	88	69.3%	75	124	1.65	71.0%	1.693333
Portsmith	4/27/2006	260	181	69.6%	153	263	1.72	68.8%	1.699346
Plaza on State	4/27/2006	146	108	74.0%	81	117	1.44	92.3%	1.802469
Tiara De Lago	7/27/2006	28	22	78.6%	13	26	2.00	84.6%	2.153846
Waterview	7/27/2006	82	51	62.2%	48	79	1.65	64.6%	1.708333
Brezza	7/27/2006	127	92	72.4%	75	124	1.65	74.2%	1.693333
Portsmith	7/27/2006	260	163	62.7%	153	263	1.72	62.0%	1.699346
Plaza on State	7/27/2006	146	90	61.6%	81	117	1.44	76.9%	1.802469

* Number of bedrooms is capped at 2 per unit, i.e. a 3-bedroom unit would only be tallied as 2 bedrooms
 ** Not including guest spaces

Source of data: Attachments 12 & 13
 November 4 Planning Commission packet



CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager

From: Eric Shields, AICP, Planning Director
Nancy Cox, AICP, Development Review Manager

Date: November 23, 2010

Subject: **Code Enforcement Process and Code Consolidation Project,
File ZON10-00013**

RECOMMENDATION

Staff recommends that the Council conduct a study session on the proposed Kirkland Zoning Code (KZC) and Municipal Code (KMC) amendments needed to implement a new code enforcement process and consolidate code enforcement provisions in the KMC. Staff requests feedback on these changes from the Council so that ordinances can be prepared for the January 4, 2011 City Council meeting.

BACKGROUND DISCUSSION

- I. Review Process
- II. Purpose
- III. Scope
 - Code Enforcement Process Change
 - KMC Consolidation

I. Review Process

Staff attended a City Council Public Safety Committee meeting in June, 2010 in order to inform the committee about the project and get initial direction. The Public Safety Committee endorsed work on the proposed code enforcement process and KMC code consolidation at that time.

This project is intermingled with two other projects: 1) the Miscellaneous Zoning Code Phase 2 project, and 2) the proposed Kirkland Property Maintenance Code. All of these projects are part of the December 7 Study Session and will come back in ordinance form in January.

The Planning Commission and Houghton Community Council have reviewed the Zoning Code amendments needed for this project during several study sessions and a public hearing on November 4 (Process IV). There were no public comments on the proposal. Neither the Planning Commission nor the Houghton Community Council had substantive comments; the remarks they made were supportive. A summary of the KZC changes related to this project is in Attachment 1.

II. Purpose

This project proposes changes that solve some due process concerns with our existing code enforcement system. The City Attorney has been integral in the preparation of the proposed changes because of these concerns (see Section III). The proposal to consolidate the processes for enforcing multiple codes into one process also comes from staff. Confusion over the correct process to follow and the inefficiencies this creates has been a problem for some time. It seemed opportune to review code consolidation at the same time as the new process. The result will be an efficient system for code enforcement that is more predictable for the staff and public.

III. Scope

Code Enforcement Process Change

There are some legal issues with the current code enforcement process in Chapter 170 of the KZC. These will be described through an explanation of the current process. It is diagrammed (simplified) in the flow chart found in Attachment 2, page 1. Please refer to the flow chart along with the following:

Box 1 – A violation occurs.

Box 2 - The City receives a complaint either from the City's website, in hard copy, or by email. Once received, the Code Enforcement Officer (CEO) determines that a violation exists, sets up a case (assigning to the appropriate City department) and begins investigation. *Note: as the curving arrow indicates, a complaint is not always necessary (for health safety or environmental degradation issues).*

Box 3 - Staff contacts the violator to explain the violation and request cooperation to resolve the issue immediately.

Box 4 - If successful, the case is closed.

Box 5 – If not resolved, then a Notice of Violation (NOV) is

issued. A NOV describes the violation, and sets forth the remedy, deadline and penalty for non-compliance. The fines cannot actually be paid until Box 9.

Box 6 – If the violator cooperates and complies with the terms of the NOV, then the case is closed.

Box 7 - If not resolved, a Notice of Civil Infraction is issued. The Civil Infraction sets forth the remedy, fine and the appeal period. One due process issue relates to the length of the appeal period (seven days). A longer appeal period is preferable to ensure violators have enough time to decide on a course of action.

Box 8 – If the violator cooperates and complies with the terms of the Civil Infraction, then the case is closed.

Box 9 - If an appeal is not filed within seven days, fines start accruing. This is another shortcoming of the existing system. Legally, it is preferable for there to be a hearing on the merits of the case before establishing fines.

Box 10 - If an appeal is timely filed, then an appeal hearing is held. The Hearing Examiner makes a written decision within 8 days.

Box 11 – If the Hearing Examiner finds for the appellant, then the case is either closed or further action can be taken as appropriate.

Box 12 – If the violation is established, then the Hearing Examiner can determine penalties and corrective action.

Another issue with our current system is that recent case law calls into question the City's ability to impose ongoing fines without additional opportunities to be heard. There have been cases where fines continue to increase at \$100 per day without communication from the violator (this issue can apply to Box 9 or 12).

Besides the due process concerns, staff has concerns with the length of time it takes to use the two step process (Notice of Violation and Notice of Civil Infraction). In some cases, a violation can be on-going for quite some time before fines are applied or resolution is achieved.

For these reasons, staff researched other cities' codes for a new process. Staff settled on Bellevue's code to use as a model and basis for a proposed process. Please refer to Attachment 2, page 2 along with the following:

Box 1 – A violation occurs.

Box 2 - The City receives a complaint either from the City's website, in hard copy, or from an email. Once received, the Code Enforcement Officer (CEO) determines that a violation exists, sets up a case (assigning to the appropriate City department) and begins investigation. *Note: as the curving arrow indicates, a complaint is not always necessary (for health safety or environmental degradation issues).*

Box 3 - Staff contacts the violator to explain the violation and request cooperation to resolve the issue immediately.

Box 4 - If successful, the case is closed.

Box 5 – If the violation isn't resolved the next step is to propose and sign a Voluntary Agreement between the City and the violator. The Voluntary Agreement is a written document that describes the violation and how it should be remedied that is signed by the violator and the City. This is an affirmative step in acknowledging the complaint and reaching an agreement about how and when to comply. *Note: as the curving arrow indicates, under certain circumstances, it is possible to skip the Voluntary Agreement step and go directly from Box 3 to Box 9 – Issue Notice of Civil Violation & Set Hearing.*

Box 6 – If signed, then the Voluntary Correction Agreement is in force.

Box 7 – If the violation is resolved according to the terms of the Voluntary Agreement, then the case can be closed. According to Bellevue staff, the vast majority of cases are resolved at this point. The Voluntary Agreement is well documented, encourages cooperation, and potentially resolves violations faster than the existing process.

Box 8 - If the violator does not follow through with the steps in the Voluntary Agreement, then the City can pursue fines. With this proposed system, there is no due process concern because as a result of the agreement the party has signed and acknowledged awareness of the potential for fines. Also, according to a provision in the Voluntary Agreement, they have also waived the right to appeal.

Box 9 - If the party does not opt for the Voluntary Agreement then the City could issue a Notice of Civil Violation. This Notice represents a major change because it establishes a Hearing Examiner hearing date thereby bypassing the current process deficiency of requiring the filing of an appeal in order to have a hearing. The date for the hearing will be set several weeks out giving time for resolution in advance.

Box 10 - If the party complies within 48 hours of the hearing, then the hearing will be cancelled and the case closed.

Box 11 - If not, the hearing is held.

Box 12 – If a violation is established, the hearing examiner can determine penalties, and corrective action. Appeals would be to court.

Box 13 – If the violation is not established, then the case would be closed.

Staff is proposing to delete portions of KZC Chapter 170 that describe the existing process, and add Chapter 1.12 to the KMC describing the proposed process (see Attachment 3).

KMC Consolidation

Staff is proposing to consolidate enforcement provisions in various sections of the KMC. Consolidation means to delete existing enforcement provisions and

refer to the proposed process in KMC Chapter 1.12. Six sections that have been identified are:

- 11.24.060 Enforcement of nuisance regulations
- 15.52.140 Surface water management – enforcement, violations and penalties
- 19.04.010 Obstructions in the right-of-way
- 19.36 Penalties for violations – street trees and trees on city property*
- 21.06.595 Construction Administrative Code – notice of violation
- 29.36.030 Land Surface Modification - enforcement

In addition, staff proposes that a new chapter, Chapter 21.41 Property Maintenance Code, reference the enforcement provisions in KMC 1.12.

* Tree enforcement

During the recent KZC amendments to Chapter 95 - Tree Management and Required Landscaping, it was identified that the tree enforcement provisions would be updated as part of this project. Questions about the amounts of fines and differences in the enforcement of public and private trees were also noted. Staff is proposing a single process for both public and private trees using the process proposed in KMC Chapter 1.12. Accordingly, portions of KZC Chapter 95 and KMC Chapter 19.36 are proposed to be deleted.

ATTACHMENTS

- 1 Summary of proposed KZC Amendments Existing Code Enforcement
- 2 Process Flow Chart (KZC Chapter 170)
Proposed Code Enforcement Process Flow Chart (KMC Chapter 1.12)
- 3 KMC 1.12 Code Enforcement (proposed)

Kirkland Zoning Code Amendments Related to the Reorganization of Code Enforcement Provisions

Changes are proposed to the following sections of the KZC in order to implement a new code enforcement process in the city. Amendments pertaining to the new code enforcement process and related amendments to the KMC solve some due process concerns with the existing code enforcement system; consolidate the processes for enforcing multiple codes into one process; and combine existing property maintenance provisions under one chapter.

1. Change to Table of Contents to show a new title for Chapter 170.

Chapter 170 is the existing Code Enforcement chapter. A new chapter is proposed for the KMC 1.12 to replace the portions of Chapter 170 related to enforcement. Chapter 170 would be renamed "Code Administration" and contain the remaining text.

2. Edits to Chapter 95 Table of Contents - Enforcement and Penalties is moving to KMC 1.12 Code Enforcement. Edit 95.21 and 95.55 to refer the reader to KMC 1.12 Code Enforcement. Delete remainder of 95.55.

Public and private tree enforcement will be included in KMC 1.12. Therefore, portions of Chapter 95 related to public and private tree enforcement may be deleted. References to KMC 1.12 should be made in Chapter 95 where appropriate.

3. Edit 115.65 Home Occupations regulation to reference KMC 1.12 Code Enforcement.

This section about Home Occupations references Chapter 170 and should be changed to reference KMC 1.12.

4. Edit 117.125 to reference KMC 1.12 Code Enforcement.

This section in the Personal Wireless Facilities chapter references Chapter 170 and should be changed to reference KMC 1.12.

5. Edit 141.80 to reference KMC 1.12 Code Enforcement.

This section in the Shoreline Administration chapter should reference KMC 1.12

6. Edit 162.20 to refer to KMC 1.12 Code Enforcement, and 162.25 to refer to the Property Maintenance Code in the KMC and KMC 1.12 Code Enforcement.

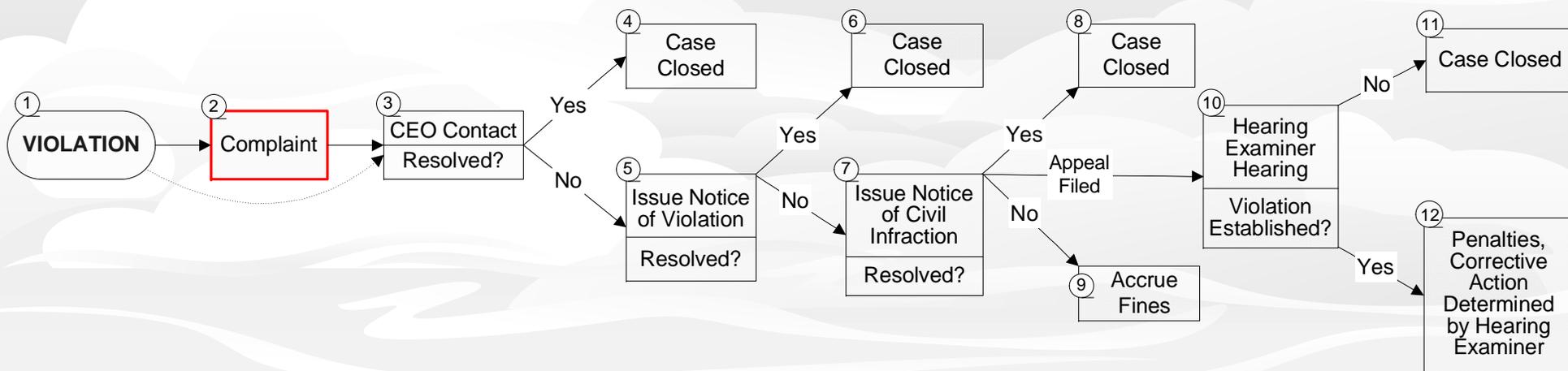
Edits are needed to refer the reader to the appropriate sections in the KMC.

7. Revise Chapter 170 to delete the code enforcement provisions. Rename the Chapter to Code Administration.

Edits to Chapter 170 are needed to delete the portions that will be covered in the KMC and to rename the chapter as it will no longer address the code enforcement process.

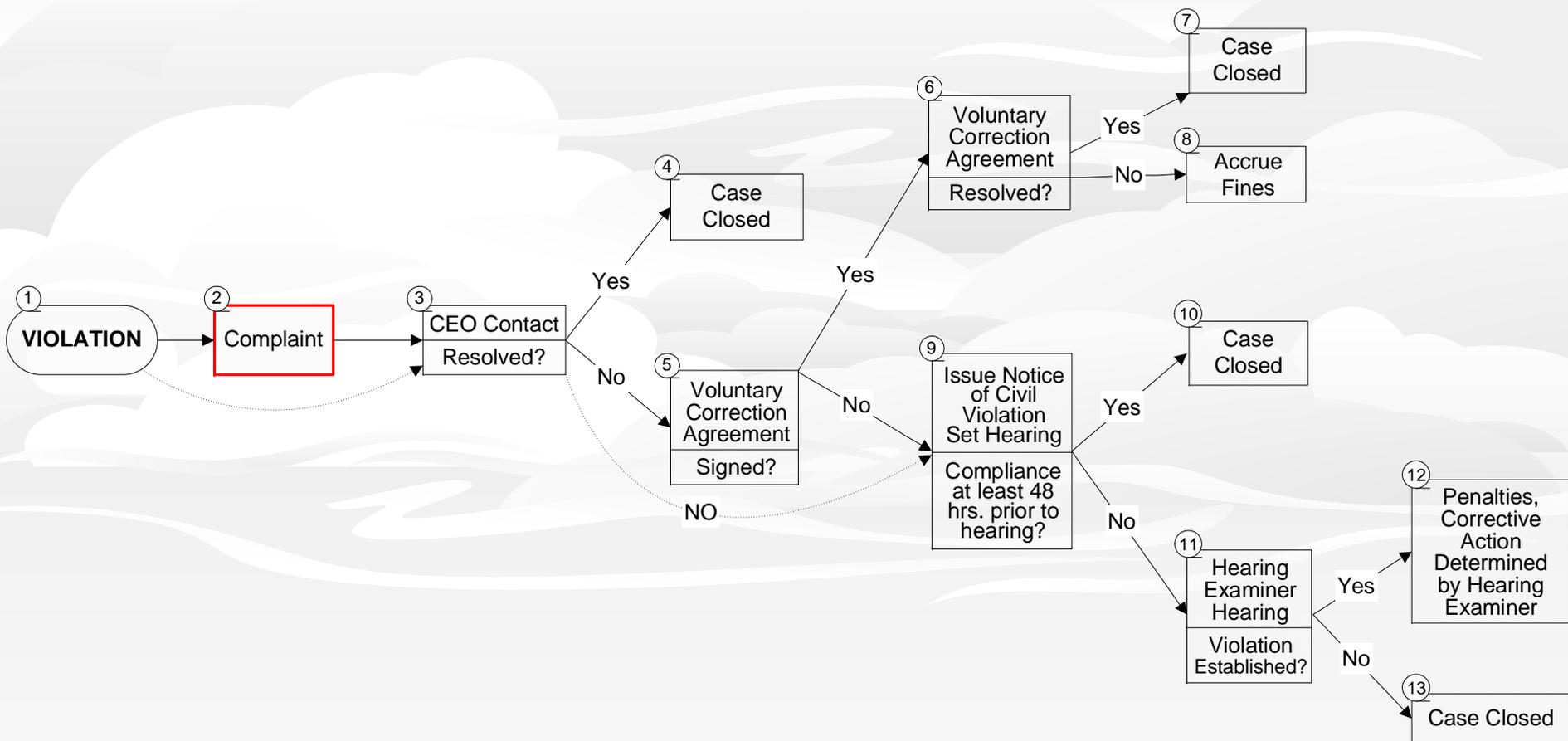
Existing Code Enforcement Process

Kirkland Zoning Code Chapter 170



Proposed Code Enforcement Process

Kirkland Municipal Code Chapter 1.12



CHAPTER 1.12
CODE ENFORCEMENT
[November 23, 2010 Draft]

1.12.010 Purpose

The purpose of this chapter is to establish an efficient system to enforce the regulations of the city, to provide an opportunity for a prompt hearing and decision on alleged violations of these regulations, and to establish monetary penalties for violations.

1.12.020 Definitions.

As used in this chapter, unless a different meaning is plainly required:

- A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a civil violation by such means, in such a manner and to such an extent as the applicable department director determines is necessary in the interest of the general health, safety and welfare of the community.
- B. "Act" means doing or performing something.
- C. "Applicable department director" means the director of the department or his or her designee.
- D. "Civil violation" means a violation for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation. Traffic infractions issued pursuant to KMC Title 11 are specifically excluded from the application of this chapter.
- E. "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any structure or the alteration or use of any land above, at or below ground or water level, and all acts governed by a city regulation.
- F. "Emergency" means a situation which in the opinion of the applicable department director requires immediate action to prevent or eliminate an immediate threat to the health or safety of persons or property.
- G. "Hearing examiner" means the Kirkland hearing examiner and the office thereof established pursuant to Chapter 3.34 of this Code.
- H. "Omission" means a failure to act.
- I. "Person" means any individual, firm, association, partnership, corporation or any entity, public or private.

- J. "Person responsible for the violation" means any person who is required by the applicable regulation to comply therewith, or who commits any act or omission which is a civil violation or causes or permits a civil violation to occur or remain upon property in the city, and includes but is not limited to owner(s), lessor(s), tenant(s), or other person(s) entitled to control, use and/or occupy property where a civil violation occurs. For violations of the City sign regulations, this definition includes, but is not limited to, sign installers/posters, sign owners, and any other persons who cause or participate in the placement of a sign in a manner that constitutes a civil violation. For violations of City tree regulations, this definition includes any person who caused or participated in the removal of a tree in a manner that constitutes a civil violation.
- K. "Regulation" means and includes the following, as they now exist or are hereafter amended:
1. KMC Title 23 (Kirkland Zoning Code);
 2. KMC Title 21 Building and Construction (including codes adopted by reference);
 3. KMC Chapter 15.52 (Surface Water Management)
 4. KMC Title 29 (Land Surface Modifications)
 5. KMC Chapter 19.04 (Obstructing Streets and Sidewalks)
 6. KMC Chapter 11.76 (Junk Vehicles)
 7. KMC Chapter 11.24 (Nuisance)
 10. The terms and conditions of any permit or approval issued by the city, or any concomitant agreement with the city.
- L. "Repeat violation" means a violation of the same regulation in any location by the same person for which voluntary compliance previously has been sought within two years or a notice of civil violation has been issued within two years.
- M. "Violation" means an act or omission contrary to a city development regulation including an act or omission at the same or different location by the same person and including a condition resulting from such act or omission.

1.12.030 Voluntary correction.

- A. Applicability. This section applies whenever the applicable department director determines that a violation of a regulation has occurred or is occurring.
- B. General. The applicable department director shall make a reasonable attempt to secure voluntary correction by contacting the person

responsible for the violation where possible, explaining the violation and requesting correction.

C. Issuance of Voluntary Correction Agreement. A voluntary correction agreement may be entered into between the person responsible for the violation and the city, acting through the applicable department director.

1. Content. The voluntary correction agreement is a contract between the city and the person responsible for the violation under which such person agrees to abate the violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

- a. The name and address of the person responsible for the violation; and
- b. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
- c. A description of the violation and a reference to the provision(s) of the city ordinance or regulation which has been violated; and
- d. The necessary corrective action to be taken, and a date or time by which correction must be completed; and
- e. An agreement by the person responsible for the violation that the city may abate the violation and recover its costs and expenses and assess a monetary penalty pursuant to this chapter from the person responsible for the violation if terms of the voluntary correction agreement are not met; and
- f. An agreement that by entering into the voluntary correction agreement the person responsible for the violation waives the right to an administrative appeal of the violation and/or the required corrective action.

2. Right to a Hearing Waived. The person responsible for the violation waives the right to an administrative appeal of the violation and the required corrective action upon entering into a voluntary correction agreement.

3. Extension – Modification. An extension of the time limit for correction or a modification of the required corrective action may be granted by the applicable department director if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances render correction under the original conditions unattainable.

4. Abatement by the City. The city may abate the violation in accordance with KMC 1.18.060 if the terms of the voluntary correction agreement are not met.

5. Collection of Costs. If the terms of the voluntary correction agreement are not met the person responsible for the violation shall be assessed a monetary penalty commencing on the date set for correction and thereafter, in accordance with KMC 1.12.040, plus all costs and expenses of abatement, as set forth in KMC 1.12.060.

1.12.040 Notice of civil violation.

A. Issuance.

1. When the applicable department director determines that a violation has occurred or is occurring, and is unable to secure voluntary correction, pursuant to KMC 1.12.030, the applicable department director may issue a notice of civil violation to the person responsible for the violation.

2. The applicable department director may issue a notice of civil violation without having attempted to secure voluntary correction as provided in KMC 1.12.030 under the following circumstances:

- a. When an emergency exists;
- b. When a repeat violation occurs;
- c. When the violation creates a situation or condition which cannot be corrected;
- d. When the person knows or reasonably should have known that the action is in violation of a city regulation.

B. Content. The notice of civil violation shall include the following:

1. The name and address of the person responsible for that violation; and
2. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
3. A description of the violation and a reference to the provision(s) of the city regulation which has been violated; and
4. The required corrective action and a date and time by which the correction must be completed after which the city may abate the unlawful condition in accordance with KMC 1.12.060 and the hearing examiner's order; and

5. The date, time and location of a hearing before the hearing examiner which will be at least 10 days from the date the notice of civil violation is issued; and

6. A statement indicating that 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 48 hours prior to the hearing; except, that this statement need not be included where the violation constitutes a repeat violation or the violation creates a situation or condition which cannot be corrected; and

7. A statement that the costs and expenses of abatement incurred by the city pursuant to KMC 1.12.060 and a monetary penalty in an amount per day for each violation as specified in subsection (E) of this section may be assessed against the person to whom the notice of civil violation is directed as specified and ordered by the hearing examiner.

C. Service of Notice. The applicable department director shall serve the notice of civil violation upon the person to whom it is directed, either personally or by mailing a copy of the notice of civil violation to such person at their last known address. If the person to whom it is directed cannot after due diligence be personally served within King County and if an address for mailed service cannot after due diligence be ascertained, notice shall be served by posting a copy of the notice of civil violation conspicuously on the affected property or structure. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if by posting the facts showing that due diligence was used in attempting to serve the person personally or by mail.

D. Extension. No extension of the time specified in the notice of civil violation for correction of the violation may be granted, except by order of the hearing examiner.

E. Monetary Penalty.

1. The monetary penalty for each violation per day or portion thereof shall be as follows, with adjustments as allowed pursuant to subsection (E)(2) of this section for repeat violations:

- a. First day of each violation, \$100.00;
- b. Second day of each violation, \$200.00;
- c. Third day of each violation, \$300.00;
- d. Fourth day of each violation, \$400.00;

e. Each additional day of each violation beyond four days, \$500.00 per day.

2. Effect of Repeat Violations. The hearing examiner may double the monetary penalty schedule if the violation was a repeat violation. In determining the amount of the monetary penalty for repeat violations, the hearing examiner shall consider the factors set forth in KMC 1.12.050(D)(4).

F. Continued Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve the person to whom the notice of civil violation was issued of the duty to correct the violation.

G. Collection of Monetary Penalty.

1. The monetary penalty constitutes a personal obligation of the person to whom the notice of civil violation is directed. Any monetary penalty assessed must be paid to the city within 10 calendar days from the date of mailing of the hearing examiner's decision or a notice from the city that penalties are due.

2. The city attorney or his/her designee is authorized to take appropriate action to collect the monetary penalty. The City may contract with a collection agency for this purpose.

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 10 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 48 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 KMC 1.12.050(D)(3);
- 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 KMC 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 KMC 1.12.040.

6. Notice of Decision. The hearing examiner shall mail a copy of the decision to the appellant and to the applicable department director within 10 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 21 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.

1.12.060 Abatement by the city.

A. The city may abate a condition which was caused by or continues to be a civil violation when:

1. The terms of voluntary correction agreement pursuant to KMC 1.12.030 have not been met; or

2. A notice of civil violation has been issued pursuant to KMC 1.12.040 and a hearing has been held pursuant to KMC 1.12.050 and the required correction has not been completed by the date specified in the hearing examiner's order; or

3. The condition is subject to summary abatement as provided for in subsection B of this Section.

B. Summary Abatement. Whenever any violation of a regulation causes a condition the continued existence of which constitutes an immediate and emergent threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it shall be given to the person responsible for the violation as soon as reasonably possible after the abatement.

- C. Authorized Action by the City. Using any lawful means, the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition.
- D. Recovery of Costs and Expenses. The costs, including incidental expenses, of correcting the violation shall be billed to the person responsible for the violation and/or the owner, lessor, tenant or other person entitled to control, use and/or occupy the property and shall become due and payable to the city at the permit center within 10 calendar days. The term "incidental expenses" includes but shall not be limited to personnel costs, both direct and indirect, including attorney's fees; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual expenses and costs of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing.
- E. Interference. No person shall obstruct, impede, or interfere with the city or its agents, or with any person who owns, or holds any interest or estate in any property, in performing any tasks necessary to correct the violation.

1.12.070 Stop work orders and orders to cease and desist.

- A. Issuance of Order. Whenever the applicable department director finds any activity is being conducted or work being performed without a permit or in a manner contrary either to the provisions of the Kirkland Zoning Code or Kirkland Municipal Code, including any of the technical codes adopted by reference in KMC Chapter 21, the applicable department director is authorized to issue a stop work order or order to cease and desist. The order shall be in writing and shall be given to the owner or occupant of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order or order to cease and desist, the cited work or activity shall immediately cease. The order shall state the reason for the order, and the conditions under which the cited work or activity will be permitted to resume.
- B. Fees and Penalties. The applicable department director is authorized to assess a special investigation fee for the issuance of a stop work order or order to cease and desist based on the costs to the City of investigation and enforcement of the order. Any person who shall continue any work or activity on the property after having been served with a stop work order or order to cease and desist (except such work as that person is directed to perform to remove a violation or unsafe condition) shall be subject to penalties as provided under this Chapter and as otherwise prescribed by law. A stop work order or order to cease activity may be appealed in the same manner and pursuant to the same provisions as a Notice of Civil Violation under this Chapter.

1.12.080 Entry to buildings and premises – Warrants.

Whenever necessary to make an inspection to determine whether a civil violation has occurred or is occurring, or to enforce any provision of the Kirkland Zoning Code or Kirkland Municipal Code, or regulation issued thereunder, violation of which is a civil violation under this chapter, the applicable department director or his designee may enter any building or premises at any reasonable time, provided if such building or premises is occupied he shall first present credentials and demand entry; and if such building or premises is not occupied, he shall first make a reasonable effort to locate the owner or other person having charge of the building or premises and demand entry. If such entry is refused, or the owner or other person having charge of the building or premises cannot be located, the applicable department director or his designee shall have recourse to every remedy provided by law to secure entry, including recourse to the district or superior court for issuance of a warrant authorizing such entry and inspection.

1.12.090 Additional enforcement procedures.

The provisions of this chapter are not exclusive, and may be used in addition to other enforcement provisions authorized by the Kirkland Municipal Code except as precluded by law.

1.12.100 Special provisions relating to enforcement of tree regulations.

A. General Requirements. This Section applies to all tree in the City, including private property trees, public property trees and street trees. Enforcement shall be conducted in accordance with procedures set forth in this Chapter. Special enforcement provisions related to tree conservation are set forth in this Section.

B. Authority. It shall be the duty of the applicable department director to administer the provisions of this Section.

C. Cease and Desist. The applicable department director may issue a notice to cease and desist using the procedure set forth in this Chapter if he or she finds that a violation of this code has occurred. Continued illegal tree activity following issuance of a cease and desist from the City for the tree activity shall result in fines of \$1,000 per day of continued activity.

D. Stop Work Order. If a violation of Chapter 95 of the Kirkland Zoning Code or an approved Tree Retention Plan occurs on property on which work is taking place pursuant to a City of Kirkland development or building permit, the Building Official may suspend some or all of the work as appropriate through issuance of a stop work order. The Building Official shall remove the stop work order when the City determines that the violation has been corrected or when the City has reached an agreement with the violator

regarding rectification of the violation. Any stop work order issued under this section may be appealed using the procedures set forth in this Chapter.

E. Civil Penalty for Violations of the Tree Code.

1. A person who fails to comply with the requirements of Kirkland Zoning Code Chapter 95 or the terms of a permit issued thereunder, who undertakes an activity regulated by this chapter without obtaining a permit, or fails to comply with a cease and desist or stop work order issued under this chapter shall also be subject to a civil penalty as set forth in the following Table. Each unlawfully removed or damaged tree shall constitute a separate violation.

2. Any person who aids or abets in the violation shall be considered to have committed a violation for purposes of the civil penalty.

3. The amount of the penalty shall be assessed in accordance with Table 95.55.1. The applicable department director may elect not to seek penalties if the he or she determines that the circumstances do not warrant imposition of civil penalties in addition to restoration.

Types of Violations	Allowable Fines per Violation
1. Removal of tree(s) approved to be removed, but prior to final tree plan approval or issuance of a City tree removal permit	\$100.00 per tree
2. Removal or damage of tree(s) that are or would be shown to be retained on an approved tree plan or any other violation of approved tree protection plan	\$1,000 per tree
3. Removal of tree(s) without applying for or obtaining a required City permit	\$1,000 per tree

F. Tree Restoration.

1. Violators of Kirkland Zoning Code Chapter 95 or of a permit issued thereunder shall be responsible for restoring unlawfully damaged areas in conformance with a restoration plan approved by the applicable department director. The restoration plan shall provide for repair of any environmental and property damage and restoration of the site. The goal of the restoration plan shall be a site condition that, to the greatest extent practical, equals the site condition that would have existed in the absence of the violation. In cases where the violator intentionally or knowingly violated this chapter or has committed previous violations of this chapter, restoration costs may be

based on the City-appraised tree value of the subject trees in which the violation occurred, utilizing the industry standard trunk formula method in the current edition of Guide for Plant Appraisal. If diameter of removed tree is unknown, determination of the diameter size shall be made by the applicable department director by comparing size of stump and species to similar trees in similar growing conditions. The amount of costs above the approved restoration plan will be paid into the City forestry account.

2. Restoration Plan Standards. The restoration plan shall be in accordance to the following standards:

a) The number of trees required to be planted is equal to the number of tree credits of illegally removed trees according to Kirkland Zoning Code Table 95.33.1.

b) The minimum size for a tree planted for restoration is 12-foot-tall conifer and three-inch caliper deciduous or broadleaf evergreen tree. The City may approve smaller restoration tree sizes at a higher restoration ratio, provided the site has capacity for the additional trees and the results of restoration at a higher restoration ratio is as good or better than at the normal ratio. The smallest allowable alternatives to the normal restoration requirements shall be two eight-foot conifers for one 12-foot conifer or two two-inch caliper deciduous for one three-inch caliper deciduous tree.

c) In the event the violators cannot restore the unlawfully removed or damaged trees, the violators shall make payment to the City forestry account. Unless otherwise determined to base the restoration costs on appraised value, the amount paid will be the City's unit cost for a restoration tree multiplied by the number of outstanding tree credits. The City's unit cost is based on the current market cost of purchase, installation and three-year maintenance for a minimum-sized tree for restoration.

d) The restoration plan shall include a maintenance plan and an agreement or security to ensure survival and maintenance of restoration trees for a three-year period unless the violation was on a site with an approved tree plan, in which case the maintenance period is five years.

G. Failure to Restore or Pay Fines.

1. Prohibition of Further Approvals. The City shall not approve any application for a subdivision or any other development permit or approval, or issue a certificate of occupancy for property on which a violation of this chapter has occurred until the violation is cured by restoration or other means accepted by the applicable department director and by payment of any penalty imposed for the violation.

2. Fines. A property owner or occupant who fails to restore or otherwise cure property on which a violation of this chapter has occurred shall be assessed a fine of \$100.00 per day for each day that restoration is incomplete. Prior to assessing fines under this subsection, the City shall issue

a written notice to the property owner or that restoration has not been completed. The notice shall include the following information: (1) a description of the nature of the violation; (2) a description of what actions are required to bring the property into compliance; and (3) a date by which compliance shall be required (the "compliance date"). The compliance date shall be no less than 30 days from the date the notice is served on the property owner or occupant. If the property owner or occupant does not, in the determination of the City, bring the property into compliance by the compliance date, then the City may issue an order imposing \$100.00 per day fines at any time after the compliance date.

1.12.110 Special provisions relating to enforcement of nuisance regulations

A. Upon the discovery of a public nuisance that does not constitute an immediate threat to the public health, welfare or safety (including but not limited to a violation of KMC Chapter 11.24, the applicable department director shall issue an order of abatement to the appropriate responsible parties identifying the nuisance and applicable code section violated, imposing a civil fine of not more than five thousand dollars and the date by which it must be paid, ordering a method of abatement, the date by which abatement must be accomplished, and containing notice of any right of appeal.

B. In case of a failure to abate or to appeal, the applicable department director shall notify the appropriate responsible parties that the city will abate the nuisance, the date abatement will occur, and that the city will assess the cost of abatement and any fine levied jointly and severally against the responsible parties, the subject property or both; provided, that in cases of immediate necessity as determined by the applicable department director, prior notification under this subsection may be dispensed with and the applicable department director shall provide the notice after the abatement has occurred. Such notice shall state the date the abatement occurred, the amount due the city for costs incurred in abating the nuisance, and any fines levied.

C. An order of abatement or any notice required herein shall be served upon the appropriate responsible parties as determined by the applicable department director in the manner set forth in KMC Section 1.12.040.

D. A person may appeal an order of abatement by filing a written notice of appeal with the Department of Planning and Community Development within ten (10) calendar days from the date of service of the notice. Except as otherwise provided in this Section, the appeal hearing shall be held in the manner set forth in KMC Section 1.12.050.

1. The hearing examiner may sustain the order and fine, modify the order and fine or dismiss the order and fine; provided, that whenever the order is sustained or modified, the hearing examiner shall establish a new date for abatement or affirm the original date. When appropriate, the hearing

examiner may also require that the appellant post a bond to secure performance of the abatement by the appellant.

2. A sustained or modified abatement order shall also provide that in the event the appellant does not abate the nuisance by the date provided in the order, the applicable department director may abate the nuisance in any reasonable manner without further notice and that any costs and fines may be satisfied by the sale of any property obtained by the abatement or collected directly from the appellant or other responsible parties previously notified of the order of abatement.

E. Notwithstanding the foregoing, the applicable department director may summarily abate a public nuisance on private property without prior notice using the procedures set forth in Section [11.24.050](#) whenever it is of such character as to constitute an imminent threat to the public health, welfare or safety.

F. At the applicable department director's discretion, the costs of abatement and fines shall be a lien against and collected from the sale of the property constituting the nuisance, the responsible parties, who shall be jointly and severally liable for the costs, or both. The city shall maintain an account of all costs incurred in performing an abatement. In addition to other powers given in this chapter to collect abatement costs, the city attorney may bring suit for recovery of the costs of any abatement in any court of competent jurisdiction, in the name of the city, against the subject property or the responsible parties.



CITY OF KIRKLAND

Fire & Building Department

123 Fifth Avenue, Kirkland, WA 98033 425.587.3000

www.ci.kirkland.wa.us

MEMORANDUM

To: Kurt Triplett, City Manager
Kevin Nalder, Director of Fire and Building

From: Tom Phillips, Building Services Manager

Date: November 21, 2010

Subject: Kirkland Property Maintenance Code Adoption

The City currently regulates the maintenance of houses and other buildings through the Uniform Housing Code (UHC) and the Uniform Code for the Abatement of Dangerous Buildings (UCADB). These codes were last published in 1997 and have been superseded by the International Property Maintenance Code (IPMC). The main difference between the IPMC and the two Uniform codes is that the IPMC also regulates the exterior property as well as the buildings. Kirkland currently regulates some exterior property issues such as garbage, rodents and junk vehicles, but the IPMC goes further. As part of our other efforts to consolidate code enforcement, staff recommends that the Council adopt an amended version of the 2009 IPMC, to be called the Kirkland Property Maintenance Code (KPMC).

This issue was initially discussed at the June 17, 2010 Public Safety Committee meeting. At that meeting, staff presented options for the code adoption. After discussion of the various options, the Committee members asked staff to prepare a recommended version of the KPMC for their review. A draft copy of the KPMC was prepared and given to the Committee members at the October 21st Public Safety Committee meeting for their review and comments.

In the attached draft KPMC, the highlighted yellow portions are areas that are not currently regulated by the City but are recommended by staff. Below is a list of the highlighted areas.

- 21.41.108.1.6** Drug houses to be secured from entry and utilities disconnected.
- 21.41.108.2.2** Describes what materials to use when securing a building.
- 21.41.301.3** Vacant land and structures to be maintained in a clean and safe condition.
- 21.41.302.1** Exterior property to be maintained in a clean and safe condition (same as above).
- 21.41.302.2** Prohibits the accumulation of stagnant water.
- 21.41.302.3** Sidewalks and driveways to kept in good repair and free from hazards.
- 21.41.302.4.1** Limits weeds and grass to 18 inches in height.
- 21.41.302.8** Prohibits inoperable vehicles to be stored outside and prohibits major repairs of vehicles outside.

- 21.41.302.9** Prohibits defacement of property. We currently prohibit graffiti but not other forms of defacement.
- 21.41.304.2** All exterior surfaces of a building to be protected with paint or other protective surface. Decks and fences have been excluded from this requirement in this draft.
- 21.41.304.9** Overhangs, awnings and other projections from buildings must be maintained properly.
- 21.41.304.11** Chimneys and similar structures must have their exposed surfaces protected from the elements.
- 21.41.304.15** Exterior doors to be maintained in good condition.
- 21.41.305.3** Interior surfaces such as doors, walls and windows must be maintained in a good and sanitary condition.
- 21.41.305.4** Interior stairs and walking surfaces to be kept in good repair.
- 21.41.305.6** Interior doors must fit and operate properly.
- 21.41.309** All structures must be kept free from insect and rodent infestation. We currently regulate rodents but not insects.
- 21.41.404.4.3** Every bedroom must have access to a bathroom without passing through another bedroom.
- 21.41.503.1** The exit from a building must not require passage through a bathroom.
- 21.41.503.1** Bathrooms in hotels and dormitories must be accessible from the sleeping rooms without traversing more than one flight of stairs.

Because the KPMC addresses some regulations already in the Kirkland Zoning and Municipal codes, those regulations have been consolidated into the KPMC. To avoid conflicts, those existing regulations are proposed to be repealed by two companion Ordinances that amend the Zoning and Municipal codes. Those regulations affected are listed below.

1. KZC 1.14 (*User Guide*) *Junk and Junk Yards* – no change except refers to KMC 21.41.308 Rubbish, junk and garbage
2. KZC 5.447 *Junk definition* deleted - relocated to KPMC 21.41.201
3. KZC 5.448 *Junkyard definition* deleted – no longer needed, junkyards are not allowed in Kirkland
4. KZC 115.70 *Junk and Junk Yards Prohibited* deleted – regulated by KPMC 21.41.308
5. KMC 9.04 *Rodent Control* deleted – relocated to KPMC 21.41.302.5
6. KMC 9.12 *Control of Vegetation* deleted- relocated to KPMC 21.41.302.4
7. KMC 21.12 *Uniform Housing Code* deleted - provisions now in KPMC
8. KMC 21.39 *Uniform Code for the Abatement of Dangerous Buildings* deleted - provisions now in KPMC

Kirkland Property Maintenance Code Draft 11-16-2010

CHAPTER 1 ADMINISTRATION

Section

21.41.101	General
21.41.102	Applicability
21.41.103	Department of Property Maintenance Inspection
21.41.104	Duties and Powers of the Code Official
21.41.105	Approval
21.41.106	Violations
21.41.107	Notices and Orders
21.41.108	Unsafe Structures and Equipment
21.41.109	Emergency Measures
21.41.110	Demolition
21.41.111	Means of Appeal
21.41.112	Stop Work Order

CHAPTER 2 DEFINITIONS

Section

21.41.201	General
21.41.202	General Definitions

CHAPTER 3 GENERAL REQUIREMENTS

Section

21.41.301	General
21.41.302	Exterior Property Areas
21.41.303	Swimming Pools, Spas and Hot Tubs
21.41.304	Exterior Structure
21.41.305	Interior Structure
21.41.306	Component Serviceability
21.41.307	Handrails and Guardrails
21.41.308	Rubbish and Garbage
21.41.309	Pest Elimination

CHAPTER 4 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

Section

21.41.401	General
21.41.402	Light
21.41.403	Ventilation
21.41.404	Occupancy Limitations

CHAPTER 5 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

Section

21.41.501	General
21.41.502	Required Facilities
21.41.503	Toilet Rooms
21.41.504	Plumbing Systems and Fixtures
21.41.505	Water System
21.41.506	Sanitary Drainage System
21.41.507	Storm Drainage

CHAPTER 6 MECHANICAL AND ELECTRICAL REQUIREMENTS

Section	
21.41.601	General
21.41.602	Heating Facilities
21.41.603	Mechanical Equipment
21.41.604	Electrical Facilities
21.41.605	Electrical Equipment
21.41.606	Elevators, Escalators and Dumbwaiters
21.41.607	Duct Systems

CHAPTER 7 FIRE SAFETY REQUIREMENTS

Section	
21.41.701	General
21.41.702	Means of Egress
21.41.703	Fire-resistance Ratings
21.41.704	Fire Protection Systems

CHAPTER 8 REFERENCED STANDARDS

APPENDIX A BOARDING STANDARD

Section	
21.41.A 101	General
21.41.A102	Materials
21.41.A 103	Installation

CHAPTER 1 SCOPE AND ADMINISTRATION

SECTION 21.41.101: GENERAL

21.41.101.1 Title. These regulations shall be known as the Kirkland *Property Maintenance*, hereinafter referred to as “this code.”

21.41.101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing *premises* and constitute minimum requirements and standards for *premises*, structures, equipment and facilities for light, *ventilation*, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of *owners*, *operators* and *occupants*; the *occupancy* of existing structures and *premises*, and for administration, enforcement and penalties.

21.41.101.3 Intent. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued *occupancy* and maintenance of structures and *premises*. Existing structures and *premises* that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

21.41.101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 21.41.102: APPLICABILITY

21.41.102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

21.41.102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner*, *operator* or *occupant* shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the *owner* or the *owner's* designated agent shall be responsible for the maintenance of buildings, structures and *premises*.

21.41.102.3 Application of other codes. Repairs, additions or alterations to a structure, or changes of *occupancy*, shall be done in accordance with the procedures and provisions of the Kirkland Municipal Code and the Kirkland Zoning Code.

21.41.102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and insanitary.

21.41.102.5 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a *workmanlike* manner and installed in accordance with the manufacturer's installation instructions.

21.41.102.6 Historic buildings. The provisions of this code shall not be mandatory for existing buildings or structures designated as historic buildings, as defined in the International Existing Building Code, when such buildings or structures are judged by the *code official* to be safe and in the public interest of health, safety and welfare.

21.41.102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 8 and considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

21.41.102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the *code official*.

21.41.102.9 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

21.41.102.10 Other laws. The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law.

SECTION 21.41.103: PROPERTY MAINTENANCE INSPECTION

21.41.103.1 General. The code official is hereby authorized and directed to enforce the provisions of this code. The code official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code.

21.41.103.4 Liability. The *code official*, hearing examiner or employee charged with the enforcement of this code, while acting for the jurisdiction, in good faith and without malice in the discharge of the duties required by this code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The *code official* or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this code.

21.41.103.5 Fees. The fees for activities and services performed by the code official in carrying out the responsibilities under this code shall be as adopted by the Kirkland City Council.

21.41.104.2 Inspections. The *code official* is authorized to make all of the required inspections, or accept reports of inspection by *approved* agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such *approved* agency or by the responsible individual. The *code official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

21.41.104.3 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the *code official* has reasonable cause to believe that there exists in a *structure* or upon a *premises* a condition in violation of this code, the *code official* is authorized to enter the *structure* or *premises* at reasonable times to inspect or perform the duties imposed by this code, provided that if such *structure* or *premises* is occupied the *code official* shall present credentials to the *occupant* and request entry. If such *structure* or *premises* is unoccupied, the *code official* shall first make a reasonable effort to locate the *owner* or other person having charge or control of the *structure* or *premises* and request entry. If entry is refused, the *code official* shall have recourse to the remedies provided by law to secure entry.

21.41.104.4 Identification. The *code official* shall carry proper identification when inspecting *structures* or *premises* in the performance of duties under this code.

21.41.104.5 Notices and orders. The *code official* shall issue all necessary notices or orders to ensure compliance with this code.

21.41.104.6 Department records. The *code official* shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

SECTION 21.41.105: APPROVAL

21.41.105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the *code official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* representative, provided the *code official* shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

21.41.105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been *approved*. An alternative material or method of construction shall be *approved* where the *code official* finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety.

21.41.105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

21.41.105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an *approved* agency.

21.41.105.3.2 Test reports. Reports of tests shall be retained by the *code official* for the period required for retention of public records.

21.41.105.4 Used material and equipment. The use of used materials which meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in

good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and *approved* by the *code official*.

21.41.105.5 Approved materials and equipment. Materials, equipment and devices *approved* by the *code official* shall be constructed and installed in accordance with such approval.

21.41.105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from *approved* sources.

SECTION 21.41.106: CODE ENFORCEMENT

21.41.106.1 Enforcement. Enforcement of any violation of this code shall be conducted in accordance with procedures set forth in KMC 1.12.**SECTION 21.41.107: NOTICES AND ORDERS (Condemnation and Demolition)**

21.41.107.1 Notice to person responsible. Whenever the *code official* is required to provide notice per Section 21.41.108.3 or Section 21.41.110.2, notice shall be given in the manner prescribed in Sections 21.41.107.2 and 21.41.107.3 to the person responsible for the violation as specified in this code.

21.41.107.2 Form. Such notice prescribed in Section 21.41.107.1 shall be in accordance with all of the following:

1. Be in writing.
2. Include a description of the real estate sufficient for identification.
3. Include a statement of the violation or violations and why the notice is being issued.
4. Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the *dwelling unit* or structure into compliance with the provisions of this code.
5. Inform the property *owner* of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 21.41.106.3.

21.41.107.3 Method of service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered personally;
2. Sent by certified or first-class mail addressed to the last known address; or
3. If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

21.41.107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the *code official* shall not be mutilated, destroyed or tampered with, or removed without authorization from the *code official*.

21.41.107.5 Penalties. Penalties for noncompliance with orders and notices shall be as set forth in Section 21.41.106.4.

21.41.107.6 Transfer of ownership. It shall be unlawful for the *owner* of any *dwelling unit* or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such *owner* shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

21.41.1107.7 Means of appeal. Any person directly affected by a decision of the *code official* or a notice or order issued under this Section shall have the right to appeal as set forth in KMC 1.12.

SECTION 21.41.108: UNSAFE STRUCTURES AND EQUIPMENT

21.41.108.1 General. When a structure or equipment is found by the *code official* to be unsafe, or when a structure is found unfit for human *occupancy*, or is found unlawful, the code official is authorized to condemn such structure pursuant to the provisions of this code.

21.41.108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the *occupants* of the structure by not providing minimum safeguards to protect or warn *occupants* in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

21.41.108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or *occupants* of the *premises* or structure.

21.41.108.1.3 Structure unfit for human occupancy. A structure is unfit for human *occupancy* whenever the *code official* finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is insanitary, vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the *occupants* of the structure or to the public.

21.41.108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

21.41.108.1.5 Dangerous structure or premises. For the purpose of this code, any structure or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *approved* building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or structure is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their

- danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the *approved* building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
 9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system, or otherwise, is determined by the *code official* to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
 10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the *code official* to be a threat to life or health.
 11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

21.41.108.1.6 Drug Properties and Structures. It is hereby declared that any building, structure and/or associated property wherein or upon which the manufacture, distribution, production or storage of illegal drugs or the precursors to create illegal drugs has taken place in a manner which could endanger the public, such building, structure and/or associated property is not only a dangerous property but is also of a classification of property calling for the special procedures set forth in this section. The *code official* is authorized to abate such dangerous buildings, structures and/or associated properties in accordance with the dangerous building procedures set forth in such code, with the following modifications:

1. Due to public safety hazard in drug-production facilities, the utilities shall be disconnected;
2. Building(s) and structures will be inspected to determine compliance with all city ordinances and codes;
3. Building(s) and any entry gates to the property will be secured against entry.

No reconnection of utilities or re-occupancy of the building(s), structures or property shall be allowed until all violations have been remedied, and all dangerous conditions abated to the satisfaction of the *code official* and a notice of release for re-occupancy has been received from the health department

21.41.108.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and *occupancy*, and is not in danger of structural collapse, the *code official* is authorized to post a placard of condemnation on the *premises* and order the structure closed up so as not to be an attractive nuisance. Upon failure of the *owner* to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

21.41.108.2.1 Authority to disconnect service utilities. The *code official* shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code and the referenced codes and standards set forth in Section 21.41.102.7 in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The *code official* shall notify the serving utility and, whenever possible, the *owner* and *occupant* of the building, structure or service system of the decision to disconnect prior to taking such

action. If not notified prior to disconnection the *owner* or *occupant* of the building structure or service system shall be notified in writing as soon as practical thereafter.

21.41.108.2.2. Standards for securing buildings. To secure a building, all doors, window openings, or other openings on floors accessible from grade shall be closed and locked, or shuttered to prevent third party entry. If openings are damaged so they cannot be secured using normal building amenities, they shall be secured by covering with 7/16 inch minimum thickness structural panel cut to fit over the building opening and secured with #10 wood screws with fender washers. The screws shall penetrate the wood framing by a minimum of 1-1/4 inches and the screws shall be spaced around the perimeter of the opening at no less than 12 inches on center.

21.41.108.3 Notice. Whenever the *code official* has *condemned* a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the *owner* or the person or persons responsible for the structure or equipment in accordance with Section 21.41.107.3. If the notice pertains to equipment, it shall also be placed on the *condemned* equipment. The notice shall be in the form prescribed in Section 21.41.107.2.

21.41.108.4 Placarding. Upon failure of the *owner* or person responsible to comply with the notice provisions within the time given, the *code official* is authorized to post on the *premises* or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the *premises*, operating the equipment or removing the placard.

21.41.108.4.1 Placard removal. The *code official* shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the *code official* shall be subject to the penalties provided by this code.

21.41.108.5 Prohibited occupancy. Any occupied structure *condemned* and placarded by the *code official* shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any *owner* or any person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment shall be liable for the penalties provided by this code.

21.41.108.6 Abatement methods. The *owner*, *operator* or *occupant* of a building, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

21.41.108.7 Record. The *code official* shall have authority to cause a report to be filed on an unsafe condition. The report shall state the *occupancy* of the structure and the nature of the unsafe condition.

SECTION 21.41.109: EMERGENCY MEASURES

21.41.109.1 Imminent danger. When, in the opinion of the *code official*, there is *imminent danger* of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building *occupants* or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the *code official* is hereby authorized and empowered to order and require the *occupants* to vacate the *premises* forthwith. The *code official* is authorized to cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person

to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

21.41.109.2 Temporary safeguards. Notwithstanding other provisions of this code, whenever, in the opinion of the *code official*, there is *imminent danger* due to an unsafe condition, the *code official* is authorized to order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the *code official* deems necessary to meet such emergency.

21.41.109.3 Closing streets. When necessary for public safety, the *code official is authorized to* temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, *public ways* and places adjacent to unsafe structures, and prohibit the same from being utilized.

21.41.109.4 Emergency repairs. For the purposes of this section, the *code official is authorized to* employ the necessary labor and materials to perform the required work as expeditiously as possible.

21.41.109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction is authorized to institute appropriate action against the *owner* of the *premises* where the unsafe structure is or was located for the recovery of such costs.

21.41.109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the hearing examiner, be afforded a hearing as set forth in KMC Chapter 1.12.

SECTION 21.41.110: DEMOLITION

21.41.110.1 General. The *code official is authorized to* order the *owner* of any *premises* upon which is located any structure, which in the *code official* judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the *owner's* option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the *code official is authorized to* order the *owner* to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless *approved* by the building official.

21.41.110.2 Notices and orders. All notices and orders shall comply with Section 21.41.107.

21.41.110.3 Failure to comply. If the *owner* of a *premises* fails to comply with a demolition order within the time prescribed, the *code official is authorized to* cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

21.41.110.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 21.41.112: STOP WORK ORDER

21.41.112.1 Authority. Whenever the *code official* finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the *code official* is authorized to issue a stop work order.

21.41.112.2 Issuance. A stop work order shall be in writing and shall be given to the *owner* of the property, to the *owner's* agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

21.41.112.3 Emergencies. Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

21.41.112.4 Failure to comply. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be deemed guilty of a misdemeanor or civil violation in accordance with KMC 1.12 and the violation shall be deemed a *strict liability offense*.

CHAPTER 2 DEFINITIONS

SECTION 21.41.201: GENERAL

21.41.201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

21.41.201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

21.41.201.3 Terms defined in other codes. Where terms are not defined in this code and are defined in the *International Building Code*, *International Residential Code*, *International Fire Code*, *Kirkland Zoning Code*, *Uniform Plumbing Code*, *International Mechanical Code* or *NFPA 70*, such terms shall have the meanings ascribed to them as stated in those codes.

21.41.201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

21.41.201.5 Parts. Whenever the words "*dwelling unit*," "*dwelling*," "*premises*," "*building*," "*rooming house*," "*rooming unit*," "*housekeeping unit*" or "*story*" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

SECTION 21.41.202: GENERAL DEFINITIONS

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. *Approved by the code official.*

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or *sleeping unit*.

CODE OFFICIAL. The official who is charged with the administration and enforcement of this code or portion of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for *occupancy*.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

[B] DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee *owner(s)* of the property. The *easement* shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the *premises* and on adjoining property under the control of *owners* or *operators* of such *premises*.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Graffiti. Unauthorized markings, visible from premises open to the public, that have been placed upon any property through the use of paint, ink, dye or any other substance capable of marking property.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. *Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas* are not considered *habitable spaces*.

HOUSEKEEPING UNIT. A room or group of rooms forming a single *habitable space* equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

HISTORIC BUILDING. Any building or structure that is listed in the State or National Register of Historic Places; designated as a historic property under local or state designation law or survey; certified as a contributing resource within a National Register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the National or State Register of Historic Places either individually or as a contributing building to a historic district by the State Historic Preservation Officer or the Keeper of the National Register of Historic.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or *premises* of insects, rats, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Junk. Old or scrap copper; brass; rope; rags; batteries; paper; trash; rubber debris; wastes; machinery; scrap wood; junked, dismantled or wrecked automobiles, or parts thereof; iron; steel; and other old or scrap ferrous or nonferrous material.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above *labeled* items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY OR LET. To permit, provide or offer possession or *occupancy* of a dwelling, *dwelling unit*, *rooming unit*, building, premise or structure by a person who is or is not the legal *owner* of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

NEGLECT. The lack of proper maintenance for a building or *structure*.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed *ventilation* and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or *premises* which is let or offered for *occupancy*.

OWNER. Any person, agent, *operator*, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food or water; by other *approved pest elimination* methods.

PREMISES. A lot, plot or parcel of land, *easement* or *public way*, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, *yard* trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a *dwelling unit* are not *sleeping units*.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal *owner* of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

CHAPTER 3 GENERAL REQUIREMENTS

SECTION 21.41.301: GENERAL

21.41.301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and *exterior property*.

21.41.301.2 Responsibility. The *owner* of the *premises* shall maintain the structures and *exterior property* in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy *premises* which are not in a sanitary and safe condition and

which do not comply with the requirements of this chapter. *Occupants* of a *dwelling unit, rooming unit or housekeeping unit* are responsible for keeping in a clean, sanitary and safe condition that part of the *dwelling unit, rooming unit, housekeeping unit or premises* which they occupy and control.

21.41.301.3 Vacant structures and land. All vacant structures and *premises* thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

SECTION 21.41.302: EXTERIOR PROPERTY AREAS

21.41.302.1 Sanitation. All *exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* which such *occupant* occupies or controls in a clean and sanitary condition.

21.41.302.2 Grading and drainage. All *premises* shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: *Approved* retention areas and reservoirs.

21.41.302.3 Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

21.41.302.4 Control of overgrown vegetation. Overgrown vegetation shall comply with 21.41.302.4.1 and 21.41.302.4.2.

21.41.302.4.1 Removal of overhanging vegetation and fire hazards.

(a) The owner of any property in the city shall remove or destroy, in a manner permitted by law, all vegetation or parts thereof that overhang or are growing on any sidewalk or street in a manner that obstructs or impairs the free and full use of the sidewalk or street by the public. Prior authorization is required from the city to the extent pruning or removal of trees is required.

(b) The owner of any property in the city shall remove or destroy, in a manner permitted by law, all vegetation growing or which has grown and died or debris upon property owned or occupied by them that is a fire hazard or a menace to public health, safety or welfare. Such work, when proposed in a critical area or its buffer, requires prior approval from the department of planning and community development. Prior authorization also is required from the city to the extent pruning or removal of trees is required.

21.41.302.4.2 Weeds and grass. All *premises* and *exterior property* shall be maintained free from weeds and grass in excess of 18 inches.

Upon failure to comply with this section, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds or plants growing thereon that are over 18 inches tall, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

21.41.302.5 Duty to keep buildings and premises free of rodents—Right of entry for inspection.

The owner or occupant of real property shall keep all buildings and premises free from rats, mice and other rodents, to the extent reasonably possible, as determined by the building official. A property owner or occupant shall take all necessary measures to ensure that rats, mice or other rodents do not come into contact with food, food products, goods or merchandise. Subject to applicable constitutional and statutory constraints on entry, the building official or his appointed representative shall be permitted access to property or buildings for the purpose of ascertaining the presence of rats, mice and other rodents.

21.41.302.5.1 Duty to eradicate rodent infestation.

If rat, mice or other rodent infestation occurs, a property owner or occupant shall take all necessary measures to eradicate the infestation and prevent future infestation. In addition, the owner or occupant of the property shall perform all eradication measures as reasonably required by the building official. The provisions of this section shall not apply to wetlands, unimproved parks, greenbelts or other unimproved property if the property owner or occupant has not committed any acts or omissions that increase the likelihood of rat, mice or other rodent infestation.

21.41.302.5.2 Rat baiting.

All applicants for a demolition or a land surface modification permit and those persons undertaking a land clearing project shall initiate a rat baiting program on the project site at least fifteen days prior to the start of demolition, clearing or land surface modification activity. The baiting program must continue at least until the project begins, however, no demolition, clearing or land surface modification work shall commence until all significant rat activity has been abated even if it has been fifteen or more days since the initiation of the rat baiting program, unless approved by the building official. The rat baiting program shall be approved by a qualified pest control agent and be consistent with the Seattle-King County Health Department guidelines and recommendations for rat baiting. The use of any pesticides shall fully comply with WAC 162-28-1380. The building official shall not issue or deliver any demolition or land surface modification permit, nor shall any land clearing begin, until the applicant has filed with the city a copy of the rat baiting program and a declaration, under penalty of perjury, that the requirements of this section have been complied with. The rat baiting program may be terminated at any time, due to the lack of rat activity, upon a written recommendation of the pest control agent or upon approval of the building official, however, the program must be reinstated upon discovery of additional rat activity by the pest control agent or the building official and all work may be required to be stopped until the additional rat activity has been abated as determined in writing by the pest control or upon approval of the building official. At the discretion of the building official, a project unlikely to disturb a nesting place of rats may be exempted from the requirements of this section.

21.41.302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another *tenant*.

21.41.302.7 Accessory structures. All accessory structures, including *detached* garages, fences and walls, shall be maintained structurally sound and in good repair.

21.41.302.8 Motor vehicles. Except as provided for in other regulations, no inoperative motor vehicle shall be parked, kept or stored on any *premises*, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an *approved* spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and *approved* for such purposes.

21.41.302.9 Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti.

It shall be the responsibility of the *owner* to restore said surface to an *approved* state of maintenance and repair.

SECTION 21.41.303: SWIMMING POOLS, SPAS AND HOT TUBS

21.41.303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

21.41.303.2 Enclosures. Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

SECTION 321.41.04: EXTERIOR STRUCTURE

21.41.304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

21.41.304.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The *anchorage* of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of *deterioration* or that are not capable of safely supporting all nominal loads and load effects;
6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not *anchored* to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of *deterioration*, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;
9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of *deterioration* or fatigue, are not properly *anchored* or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including *guards* and handrails, are not structurally sound, not properly *anchored* or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects; or

13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly *anchored*, or that are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

21.41.304.2 Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion.

21.41.304.3 Premises identification. Buildings shall have *approved* address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

Exception: Buildings constructed under the International Residential Code, prior to July 1, 2010 are permitted to have the address number size be a minimum of 3" high.

21.41.304.4 Structural members. All structural members shall be maintained free from *deterioration*, and shall be capable of safely supporting the imposed dead and live loads.

21.41.304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

21.41.304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent *deterioration*.

21.41.304.7 Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or *deterioration* in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged directly onto any other private property, public right of way or in a manner that creates a public nuisance.

21.41.304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

21.41.304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly *anchored* so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

21.41.304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

21.41.304.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather coating materials, such as paint or similar surface treatment.

21.41.304.12 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

21.41.304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

21.41.304.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

21.41.304.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

21.41.304.15 Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to *dwelling units* and *sleeping units* shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 21.41.702.3.

SECTION 21.41.305: INTERIOR STRUCTURE

21.41.305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. *Occupants* shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every *owner* of a structure containing a *rooming house*, *housekeeping units*, a hotel, a dormitory, two or more *dwelling units* or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and *exterior property*.

21.41.305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* or the *International Existing Building Code* as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads and load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including *guards* and handrails, are not structurally sound, not properly *anchored* or are *anchored* with connections not capable of supporting all nominal loads and resisting all load effects;
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly *anchored* or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an *approved* method.
2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

21.41.305.2 Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

21.41.305.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood, mold and other defective surface conditions shall be corrected.

21.41.305.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

21.41.305.5 Handrails and guards. Every handrail and *guard* shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

21.41.305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 21.41.306: COMPONENT SERVICEABILITY

21.41.306.1 General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

21.41.306.1.1 Unsafe conditions. Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the *International Building Code* as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
 - 1.1. Collapse of footing or foundation system;
 - 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;
 - 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
 - 1.4. Inadequate soil as determined by a geotechnical investigation;
 - 1.5. Where the allowable bearing capacity of the soil is in doubt; or
 - 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
2. Concrete that has been subjected to any of the following conditions:
 - 2.1. *Deterioration*;
 - 2.2. *Ultimate deformation*;
 - 2.3. Fractures;
 - 2.4. Fissures;
 - 2.5. Spalling;
 - 2.6. Exposed reinforcement; or
 - 2.7. *Detached*, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
 - 3.1. *Deterioration*;
 - 3.2. Corrosion;
 - 3.3. Elastic deformation;
 - 3.4. *Ultimate deformation*;
 - 3.5. Stress or strain cracks;
 - 3.6. Joint fatigue; or
 - 3.7. *Detached*, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
 - 4.1. *Deterioration*;

- 4.2. *Ultimate deformation*;
- 4.3. Fractures in masonry or mortar joints;
- 4.4. Fissures in masonry or mortar joints;
- 4.5. Spalling;
- 4.6. Exposed reinforcement; or
- 4.7. *Detached*, dislodged or failing connections.
- 5. Steel that has been subjected to any of the following conditions:
 - 5.1. *Deterioration*;
 - 5.2. Elastic deformation;
 - 5.3. *Ultimate deformation*;
 - 5.4. Metal fatigue; or
 - 5.5. *Detached*, dislodged or failing connections.
- 6. Wood that has been subjected to any of the following conditions:
 - 6.1. *Ultimate deformation*;
 - 6.2. *Deterioration*;
 - 6.3. Damage from insects, rodents and other vermin;
 - 6.4. Fire damage beyond charring;
 - 6.5. Significant splits and checks;
 - 6.6. Horizontal shear cracks;
 - 6.7. Vertical shear cracks;
 - 6.8. Inadequate support;
 - 6.9. *Detached*, dislodged or failing connections; or
 - 6.10. Excessive cutting and notching.

Exceptions:

- 1. When substantiated otherwise by an *approved* method.
- 2. Demolition of unsafe conditions shall be permitted when *approved* by the *code official*.

SECTION 21.41.307: HANDRAILS AND GUARDRAILS

21.41.307.1 General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall not be less than 30 inches (762 mm) high or more than 42 inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall not be less than 30 inches (762 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: *Guards and handrails* shall not be required where exempted by the adopted building code.

SECTION 21.41.308: RUBBISH, JUNK AND GARBAGE

21.41.308.1 Accumulation of rubbish, junk or garbage. All *exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish, junk* or garbage.

21.41.308.2 Disposal of rubbish and garbage. Every *occupant* of a structure shall dispose of all *rubbish and garbage* in a clean and sanitary manner by placing such *rubbish and garbage* in *approved* containers as set forth in Chapter 16.08.

21.41.308.2.1 Rubbish storage facilities. The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish and garbage*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish and garbage*.

21.41.308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors and are defined as a public nuisance as set forth in Chapter 11.24.

SECTION 21.41.309: PEST ELIMINATION

21.41.309.1 Infestation. All structures shall be kept free from insect and rodent *infestation*. All structures in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After extermination, proper precautions shall be taken to prevent reinfestation.

21.41.309.2 Owner. The *owner* of any structure shall be responsible for extermination within the structure prior to renting or leasing the structure.

21.41.309.3 Single occupant. The *occupant* of a one-family dwelling or of a single-*tenant* nonresidential structure shall be responsible for extermination on the *premises*.

21.41.309.4 Multiple occupancy. The *owner* of a structure containing two or more *dwelling units*, a multiple *occupancy*, a *rooming house* or a nonresidential structure shall be responsible for extermination in the public or shared areas of the structure and *exterior property*. If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupant* and *owner* shall be responsible for extermination.

21.41.309.5 Occupant. The *occupant* of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the *infestations* are caused by defects in the structure, the *owner* shall be responsible for extermination.

CHAPTER 4 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

SECTION 21.41.401: GENERAL

21.41.401.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, *ventilation* and space for occupying a structure.

21.41.401.2 Responsibility. The *owner* of the structure shall provide and maintain light, *ventilation* and space conditions in compliance with these requirements. A person shall not occupy as *owner-occupant*, or permit another person to occupy, any *premises* that do not comply with the requirements of this chapter.

21.41.401.3 Alternative devices. In lieu of the means for natural light and *ventilation* herein prescribed, artificial light or mechanical *ventilation* complying with the *International Building Code* or *International Residential Code* shall be permitted.

SECTION 21.41.402: LIGHT

21.41.402.1 Habitable spaces. Every *habitable space* shall have at least one window of *approved* size facing directly to the outdoors or to a court. The minimum total glazed area for every *habitable space* shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the

ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The exterior glazing area shall be based on the total floor area being served.

21.41.402.2 Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one- and two family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 foot candle (11 lux) at floors, landings and treads.

21.41.402.3 Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe *occupancy* of the space and utilization of the appliances, equipment and fixtures.

SECTION 21.41.403: VENTILATION

21.41.403.1 Habitable spaces. Every *habitable space* shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 21.41.402.1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The *ventilation* openings to the outdoors shall be based on a total floor area being ventilated.

21.41.403.2 Bathrooms and toilet rooms. Every *bathroom* and *toilet room* shall comply with the *ventilation* requirements for *habitable spaces* as required by Section 21.41.403.1, except that a window shall not be required in such spaces equipped with a mechanical *ventilation* system. Air exhausted by a mechanical *ventilation* system from a *bathroom* or *toilet room* shall discharge to the outdoors and shall not be recirculated.

21.41.403.3 Cooking facilities. Unless *approved* through the certificate of *occupancy*, cooking shall not be permitted in any *rooming unit* or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the *rooming unit* or dormitory unit.

Exceptions:

1. Where specifically *approved* in writing by the *code official*.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

21.41.403.4 Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust *ventilation* system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

21.41.403.5 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Exception: Listed and *labeled* condensing (ductless) clothes dryers.

SECTION 21.41.404: OCCUPANCY LIMITATIONS

21.41.404.1 Privacy. *Dwelling units*, hotel units, *housekeeping units*, *rooming units* and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

21.41.404.2 Minimum room widths. A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counter fronts and appliances or counter fronts and walls.

21.41.404.3 Minimum ceiling heights. *Habitable spaces*, hallways, corridors, laundry areas, *bathrooms*, *toilet rooms* and habitable *basement* areas shall have a clear ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.
2. *Basement* rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

21.41.404.4 Bedroom and living room requirements. Every *bedroom* and living room shall comply with the requirements of Sections 21.41.404.4.1 through 21.41.404.4.5.

21.41.404.4.1 Room area. Every living room shall contain at least 120 square feet (11.2m²) and every *bedroom* shall contain at least 70 square feet (6.5 m²).

21.41.404.4.2 Access from bedrooms. *Bedrooms* shall not constitute the only means of access to other *bedrooms* or *habitable spaces* and shall not serve as the only means of egress from other *habitable spaces*.

Exception: Units that contain fewer than two *bedrooms*.

21.41.404.4.3 Water closet accessibility. Every *bedroom* shall have access to at least one water closet and one lavatory without passing through another *bedroom*. Every *bedroom* in a *dwelling unit* shall have access to at least one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

21.41.404.4.4 Prohibited occupancy. Kitchens and non-habitable spaces shall not be used for sleeping purposes.

21.41.404.4.5 Other requirements. *Bedrooms* shall comply with the applicable provisions of this code including, but not limited to, the light, *ventilation*, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5 of this code; the heating facilities and electrical receptacle requirements of Chapter 6 of this code; and the smoke detector and emergency escape requirements of Chapter 7 of this code.

21.41.404.5 Overcrowding. The number of persons occupying a *dwelling unit* shall not create conditions that, in the opinion of the *code official*, endanger the life, health, safety or welfare of the *occupants*.

21.41.404.6 Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than two *occupants* shall have a clear floor area of not less than 220 square feet (20.4 m²). A unit occupied by three *occupants* shall have a clear floor area of not less than 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.

2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and *ventilation* conforming to this code shall be provided.
3. The unit shall be provided with a separate *bathroom* containing a water closet, lavatory and bathtub or shower.
4. The maximum number of *occupants* shall be three.

21.41.404.7 Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

CHAPTER 5 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

SECTION 21.41.501: GENERAL

21.41.501.1 Scope. The provisions of this chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

21.41.501.2 Responsibility. The *owner* of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any structure or *premises* which does not comply with the requirements of this chapter.

SECTION 21.41.502: REQUIRED FACILITIES

21.41.502.1 Dwelling units. Every *dwelling unit* shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

21.41.502.2 Rooming houses. At least one water closet, lavatory and bathtub or shower shall be supplied for each four *rooming units*.

21.41.502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten *occupants*.

21.41.502.4 Employees' facilities. A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

21.41.502.4.1 Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in *toilet rooms* or *bathrooms*.

21.41.502.5 Public toilet facilities. Public toilet facilities shall be maintained in a safe sanitary and working condition in accordance with the *Chapter 21.24*. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during *occupancy* of the *premises*.

SECTION 21.41.503: TOILET ROOMS

21.41.503.1 Privacy. *Toilet rooms* and *bathrooms* shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared *bathrooms* and *toilet rooms* in a multiple dwelling.

21.41.503.2 Location. *Toilet rooms* and *bathrooms* serving hotel units, *rooming units* or dormitory units or *housekeeping units*, shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

21.41.503.4 Floor surface. In other than *dwelling units*, every *toilet room* floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

SECTION 21.41.504: PLUMBING SYSTEMS AND FIXTURES

21.41.504.1 General. All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

21.41.504.2 Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

21.41.504.3 Plumbing system hazards. Where it is found that a plumbing system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, *deterioration* or damage or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

SECTION 21.41.505: WATER SYSTEM

21.41.505.1 General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an *approved* private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *Chapter 21.24*.

21.41.505.2 Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

21.41.505.3 Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

21.41.505.4 Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C). A gas-burning water heater shall not be located in any *bathroom*, *toilet room*, *bedroom* or other occupied room normally kept closed, unless adequate combustion air is provided. An *approved* combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

SECTION 21.41.506: SANITARY DRAINAGE SYSTEM

21.41.506.1 General. All plumbing fixtures shall be properly connected to either a public sewer system or to an *approved* private sewage disposal system.

21.41.506.2 Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

21.41.506.3 Grease interceptors. Where it has been determined that a grease interceptor is not being maintained and serviced as intended by this code and the manufacturer's instructions, an *approved* interceptor monitoring system shall be provided or a maintenance program shall be established with documentation submitted to the *code official*.

SECTION 21.41.507: STORM DRAINAGE

21.41.507.1 General. Drainage of roofs and paved areas, *yards* and courts, and other open areas on the *premises* shall be discharged in a manner consistent with the requirements of the Kirkland Municipal Code and shall not be discharged in a manner that creates a public nuisance.

21.41.507.2 Private Property Drainage. Drainage from roof, paved areas, yards, or courts shall not be intentionally discharged directly onto any other private property or public Right of Way.

CHAPTER 6 MECHANICAL AND ELECTRICAL REQUIREMENTS

SECTION 21.41.601: GENERAL

21.41.601.1 Scope. The provisions of this chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

21.41.601.2 Responsibility. The *owner* of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* which does not comply with the requirements of this chapter.

SECTION 21.41.602: HEATING FACILITIES

21.41.602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

21.41.602.2 Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

21.41.602.3 Heat supply. Every *owner* and *operator* of any building who rents, leases or lets one or more *dwelling units* or *sleeping units* on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, *bathrooms* and *toilet rooms*.

21.41.602.5 Room temperature measurement. The required room temperatures shall be measured 3 feet (914 mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

SECTION 21.41.603: MECHANICAL EQUIPMENT

21.41.603.1 Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

21.41.603.2 Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an *approved* chimney or vent.

Exception: Fuel-burning equipment and appliances which are *labeled* for unvented operation.

21.41.603.3 Clearances. All required clearances to combustible materials shall be maintained.

21.41.603.4 Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

21.41.603.5 Combustion air. A supply of air for complete combustion of the fuel and for *ventilation* of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

21.41.603.6 Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping there from, shall not be installed unless *labeled* for such purpose and the installation is specifically *approved*.

SECTION 21.41.604: ELECTRICAL FACILITIES

21.41.604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 21.41.605.

21.41.604.2 Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with Chapter 21.70. *Dwelling units* shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

21.41.604.3 Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the *occupants* or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, *deterioration* or damage, or for similar reasons, the *code official* shall require the defects to be corrected to eliminate the hazard.

21.41.604.3.1 Abatement of electrical hazards associated with water exposure. Electrical equipment and wiring, that have been submerged or exposed to water shall comply with the provisions of Chapter 21.70 .

21.41.604.3.2 Abatement of electrical hazards associated with fire exposure. Electrical equipment and wiring that have been submerged or exposed to water shall comply with the provisions of Chapter 21.70.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or *approved* manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

SECTION 21.41.605: ELECTRICAL EQUIPMENT

21.41.605.1 Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and *approved* manner.

21.41.605.2 Receptacles. Every *habitable space* in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every *bathroom* shall contain at least one receptacle. Any new *bathroom* receptacle outlet shall have ground fault circuit interrupter protection.

21.41.605.3 Luminaires. Every public hall, interior stairway, *toilet room*, kitchen, *bathroom*, laundry room, boiler room and furnace room shall contain at least one electric luminaire.

21.41.605.4 Extension Cords. Extension cords shall not be used for permanent wiring. Extension cords shall not extend from one room to another; be placed across a doorway; extend through a wall or partition; or be used in a any area where such cord may be subject to physical damage.

SECTION 21.41.606: ELEVATORS, ESCALATORS AND DUMBWAITERS

21.41.606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter, be available for public inspection in the office of the building *operator* or be posted in a publicly conspicuous location *approved* by the *code official*. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the Washington State Department of Labor and Industries.

21.41.606.2 Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

SECTION 21.41.607: DUCT SYSTEMS

21.41.607.1 General. Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

CHAPTER 7 FIRE SAFETY REQUIREMENTS

SECTION 21.41.701: GENERAL

21.41.701.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for fire safety relating to structures and exterior *premises*, including fire safety facilities and equipment to be provided.

21.41.701.2 Responsibility. The *owner* of the *premises* shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as *owner-occupant* or permit another person to occupy any *premises* that do not comply with the requirements of this chapter.

SECTION 21.41.702: MEANS OF EGRESS

21.41.702.1 General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the *public way*. Means of egress shall comply with Chapter 21.20.

21.41.702.2 Aisles. The required width of aisles in accordance with Chapter 21.20 shall be unobstructed.

21.41.702.3 Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by Chapter 21.08 and Chapter 21.10.

21.41.702.4 Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

SECTION 21.41.703: FIRE-RESISTANCE RATINGS

21.41.703.1 Fire-resistance-rated assemblies. The required fire-resistance-rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

21.41.703.2 Opening protectives. Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

SECTION 21.41.704: FIRE PROTECTION SYSTEMS

21.41.704.1 General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the *International Fire Code*.

21.41.704.1.1 Automatic sprinkler systems. Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

**CHAPTER 8
REFERENCED STANDARDS**

This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section 102.7.

American Society of Mechanical Engineers
Three Park Avenue

ASME New York, NY 10016-5990

Standard Referenced
reference in code
number Title section number

A17.1/CSA B44—2007 Safety Code for Elevators and Escalators
.21.41.606.1

ASTM International
100 Barr Harbor Drive

ASTM

West Conshohocken, PA 19428-2959

Standard Referenced
reference in code

number Title section number

F1346—91 (2003) Performance Specifications for Safety Covers and Labeling Requirements for All Covers
for Swimming Pools, Spas and Hot Tubs21.41.303.2

International Code Council
500 New Jersey Avenue, NW
6th Floor

NFPA

Quincy, MA 02269

Standard Referenced
reference in code

number Title section number

25—08 Inspection, Testing and Maintenance of Water-based Fire Protection Systems 704.1.1

70—08 National Electrical Code , 21.41.201.3,