CITY OF KIRKLAND
CITY COUNCIL

James Lauinger, Mayor • Joan McBride, Deputy Mayor • Dave Asher • Mary-Alyce Burleigh
Jessica Greenway • Tom Hodgson • Bob Sternoff • David Ramsay, City Manager

123 Fifth Avenue • Kirkland, Washington 98033-6189 • 425.587.3000 • TTY 425.587.3111 • www.ci.kirkland.wa.us

AGENDA
KIRKLAND CITY COUNCIL MEETING
City Council Chamber
Tuesday, December 15, 2009
7:30 p.m. – Regular Meeting

COUNCIL AGENDA materials are available on the City of Kirkland website www.ci.kirkland.wa.us, at the Public Resource Area at City Hall or at the Kirkland Library on the Friday afternoon prior to the City Council meeting. Information regarding specific agenda topics may also be obtained from the City Clerk's Office on the Friday preceding the Council meeting. You are encouraged to call the City Clerk's Office (587-3190) or the City Manager's Office (587-3001) if you have any questions concerning City Council meetings, City services, or other municipal matters. The City of Kirkland strives to accommodate people with disabilities. Please contact the City Clerk's Office at 587-3190, or for TTY service call 587-3111 (by noon on Monday) if we can be of assistance. If you should experience difficulty hearing the proceedings, please bring this to the attention of the Council by raising your hand.

EXECUTIVE SESSIONS may be held by the City Council to discuss matters where confidentiality is required for the public interest, including buying and selling property, certain personnel issues, and lawsuits. An executive session is the only type of Council meeting permitted by law to be closed to the public and news media

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

1. *CALL TO ORDER*
2. *ROLL CALL*
3. *STUDY SESSION*
4. *EXECUTIVE SESSION*
5. *HONORS AND PROCLAMATIONS*
6. *COMMUNICATIONS*
   a. *Items from the Audience*
   b. *Petitions*
7. *SPECIAL PRESENTATIONS*
8. *CONSENT CALENDAR*
   a. *Approval of Minutes:* December 1, 2009
   b. *Audit of Accounts:*
      Payroll $
      Bills $
   c. *General Correspondence*
   d. *Claims*
      (1) Bill Nelson
      (2) Earl G. Wayman

P - denotes a presentation from staff or consultant

GENERAL CORRESPONDENCE
Letters of a general nature (complaints, requests for service, etc.) are submitted to the Council with a staff recommendation. Letters relating to quasi-judicial matters (including land u se public hearings) are also listed on the agenda. Copies of the letters are placed in the hearing file and then presented to the Council at the time the matter is officially brought to the Council for a decision.

e. Award of Bids

(1) 120th Avenue NE and 73rd Street Water Main Replacement, Freeman Bell LLC, Pacific, WA

f. Acceptance of Public Improvements and Establishing Lien Period

(1) 2009 Water System Improvement Project

(2) Kirkland City Hall Annex Renovation

g. Approval of Agreements

(1) Resolution R-4788, Approving Participation by the City in a Cooperative Purchasing Agreement with the Washington State Department of General Administration's Office of State Procurement and Authorizing the City Manager to Execute Said Agreement on Behalf of the City of Kirkland

(2) Resolution R-4789, Authorizing the City Manager to Execute an Agreement for the Use of Portions of the Dillard Property at 151 3rd Street for Public Pay Parking Purposes

h. Other Items of Business

(1) Next Steps for South Rosehill Water District Building

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

9. PUBLIC HEARINGS

a. School Impact Fees Public Hearing Continuation to January 19, 2010

10. UNFINISHED BUSINESS

a. Resolution R-4792, Approving the Transfer of Control of the Cable Franchisee Verizon Northwest, Inc. to Frontier Communications Corporation and Authorizing the City Manager to Execute a Transfer of Control Agreement

b. Development Incentives for Affordable Housing:

(1) Ordinance No. 4222 and its Summary, Relating to Zoning, Planning, and Land Use, Revising the City's Regulations Regarding Affordable Housing and Development Incentives, Amending Ordinance 3719 as Amended, the Kirkland Zoning Ordinance and Approving a Summary Ordinance for Publication, File No. ZON09-00005

(2) Ordinance No. 4223 and its Summary, Amending Kirkland Municipal Code Chapter 5.88 Regarding the Multifamily Housing Property Tax Exemption

(3) Ordinance No. 4224 and its Summary, Relating to Transportation and Park Impact Fees and Amending Certain Sections of Chapters 27.04 and 27.06 of the Kirkland Municipal Code

P - denotes a presentation from staff or consultant

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

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

(4) Ordinance No. 4225, Relating to Sewer Capital Facility Charges and Amending Certain Sections of Chapters 15.12 of the Kirkland Municipal Code

(5) Resolution R-4790, Stating Its Intent to Designate Residential Targeted Areas Under Chapter 84.14 RCW and Providing Notice of a Public Hearing Pursuant to RCW 84.14.040

c. Tree Regulation Amendments:

(1) Ordinance No. 4226 and its Summary, Relating to Zoning and Land Use, Amending City Regulations Relating to Trees, Amending Ordinance 3719 as Amended, the Kirkland Zoning Ordinance and Approving a Summary Ordinance for Publication, File No. ZON08-00016

(2) Ordinance No. 4227 and its Summary, Amending Chapter 19.36 of the Kirkland Municipal Code Regarding Street Trees and Trees on City Property

(3) Ordinance No. 4228 and its Summary, Relating to Fees Charged by the Department of Planning and Community Development, Establishing New Fees for Certain Tree Related Permits and Reflecting the Current Published Annual Change in the Seattle Consumer Price Index for Wage Earners and Clerical Workers

d. Annexation:

(1) Resolution R-4791, Expressing the Council's Intent to Accept the Annexation of Certain Territory Referred to as the Finn Hill, Kingsgate and North Juanita Annexation Area Without the Assumption of Voter-Approved Indebtedness

(2) Ordinance No. 4229 and its Summary, Annexing Certain Territory Referred to as the Finn Hill, Kingsgate and North Juanita Annexation Area; Providing that the Property in the Annexation Area be Assessed and Taxed at the Same Rate and on the Same Basis as Other Property Within the City of Kirkland, but Without the Assumption of Voter-Approved Indebtedness; Adopting Zoning Regulations; and Fixing the Effective Date of the Annexation

e. Ordinance No. 4230, Establishing the Amount of Property Taxes to be Levied for the Year 2010, the Second Year of the City of Kirkland's 2009-2010 Fiscal Biennium and Repealing Ordinance 4216

f. 2009-2010 Mid-Biennial Budget Adjustment:

(1) Ordinance No. 4231, Amending the Biennial Budget for 2009-2010

(2) Resolution R-4793, Authorizing the Transfer of Funds from the Contingency Reserve Fund to the General Fund to Pay Firefighter Overtime Costs in 2009

P - denotes a presentation from staff or consultant

g. Shoreline Master Program

h. Kenyon Disend Contract Amendment

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

11. NEW BUSINESS

12. REPORTS

a. City Council

(1) Regional Issues

b. City Manager

(1) Calendar Update

13. ANNOUNCEMENTS

14. ADJOURNMENT

P - denotes a presentation from staff or consultant

KIRKLAND CITY COUNCIL REGULAR MEETING MINUTES
December 01, 2009

1. CALL TO ORDER

2. ROLL CALL

ROLL CALL:
Members Present: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.
Members Absent: None.

3. STUDY SESSION

a. 2009-2010 Mid-Biennial Budget Update

Joining Councilmembers for this discussion in addition to City Manager Dave Ramsay were Director of Finance and Administration Tracey Dunlap, Acting Financial Planning Manager Sri Krishnan and City Attorney Robin Jenkinson. Also contributing to the discussion were Director of Fire and Building Fire Chief Kevin Nalder, Director of Planning and Community Development Eric Shields, and Information Technology Chief Information Officer Brenda Cooper.

4. EXECUTIVE SESSION

a. To Discuss Labor Negotiations

5. HONORS AND PROCLAMATIONS

None.

6. COMMUNICATIONS

a. Items from the Audience

Jim Tosti
Bob Style
Johanna Palmer
David Hoffman
Jon Pascal

Karen Levenson
Chip Kimball
Forest Miller
Tim Olson
Scott Brady
Joe Coakley
Jane Hague
Jim Lloyd
Katherine Winder
Mark Nelson
John Cunningham
Todd Woosley

b. Petitions

None.

Mayor Lauinger recognized leaders and members of Scout Troop 615 from Holy Family Church in Kirkland in the audience.

7. SPECIAL PRESENTATIONS

a. Eastside Month of Concern for the Hungry

Parks and Community Services Deputy Director Carrie Hite recognized neighborhood organizers Cindy Bienz and Janet Pruitt, who were presented with certificates of appreciation. Walmart representative Bill Wertz was thanked for the corporate contribution. Mr. Wertz also presented the Hopelink organization with a $50,000 donation, which was accepted by Marilyn Mason Plunkett, and a $25,000 donation to the Emergency Feeding Program, accepted by Executive Director Arthur Lee.

8. CONSENT CALENDAR

a. Approval of Minutes

(1) November 17, 2009

(2) November 18, 2009

(3) November 23, 2009

b. Audit of Accounts:
Payroll $1,932,824.09
Bills $ 871,804.28
run # 871 check #'s 513180 - 513189

run # 872 check #’s 531214 - 513346
run # 873 check #’s 531347 - 513431

c. General Correspondence

(1) Darla Holterman, Regarding Metro Route 265

(2) Vicki Hurley, Regarding Animal Care and Control Services

d. Claims

(1) Remy Kooistra

e. Award of Bids

None.

f. Acceptance of Public Improvements and Establishing Lien Period

None.

g. Approval of Agreements

None.

h. Other Items of Business

(1) Ordinance No. 4217 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PARKING FINES AND AMENDING CHAPTER 12.45 OF THE KIRKLAND MUNICIPAL CODE."

This item was pulled from the Consent Calendar and considered separately.

Motion to Approve Ordinance No. 4217 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO PARKING FINES AND AMENDING CHAPTER 12.45 OF THE KIRKLAND MUNICIPAL CODE."
Moved by Deputy Mayor Joan McBride, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 6-1
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, and Councilmember Tom Hodgson.

No: Councilmember Bob Sternoff.

(2) Ordinance No. 4218, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING CHAPTER 21.06 OF THE KIRKLAND MUNICIPAL CODE (KMC) RELATING TO THE EXPIRATION OF BUILDING AND LAND SURFACE MODIFICATION PERMITS."

Motion to Approve the Consent Calendar.
Moved by Councilmember Mary-Alyce Burleigh, seconded by Deputy Mayor Joan McBride
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

Motion to reconsider the vote on the Consent Calendar.
Moved by Councilmember Mary-Alyce Burleigh, seconded by Councilmember Bob Sternoff
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

Motion to Approve the Consent Calendar with the exception of item 8.h.(1).
Moved by Councilmember Dave Asher, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

9. PUBLIC HEARINGS

a. Ordinance No. 4219 and its Summary, Relating to Land Use and Zoning, Providing Interim Official Controls Regarding Land Use Permit Extensions File No. MIS09-00022, and Approving a Summary for Publication

Mayor Lauinger opened the public hearing. Development Review Manager Nancy Cox reviewed the proposed interim ordinance.
Testimony was provided by:
David Hoffman
Joe Coakley

Todd Woosley
No further testimony was offered and the Mayor closed the hearing.

Motion to Approve Ordinance No. 4219 and its Summary, entitled "AN INTERIM ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND USE AND ZONING, PROVIDING INTERIM OFFICIAL CONTROLS REGARDING LAND USE PERMIT EXTENSIONS FILE NO. MIS09-00022, AND APPROVING A SUMMARY FOR PUBLICATION."
Moved by Councilmember Dave Asher, seconded by Councilmember Jessica Greenway
Vote: Motion carried 6-1
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, and Councilmember Bob Sternoff.
No: Councilmember Tom Hodgson.

Council recessed for a short break at 9 p.m.

10. UNFINISHED BUSINESS

a. Shoreline Master Program

Planning and Community Development Deputy Director Paul Stewart reviewed the process and next steps for the proposed Program. Watershed Company representative Amy Summe responded to Council questions and comment.

(1) Resolution R-4786, Approving the Proposed Kirkland Shoreline Master Program Update and the Accompanying Goals and Policies, Environmental Designations, Regulations, Restoration Plan and Cumulative Impacts Analysis, and Directing that the Applicable Shoreline Master Program Update Materials be Provided to the State Department of Ecology for its Review, File ZON06-00017

Motion to Approve Resolution R-4786, entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE PROPOSED KIRKLAND SHORELINE MASTER PROGRAM UPDATE AND THE ACCOMPANYING GOALS AND POLICIES, ENVIRONMENTAL DESIGNATIONS, REGULATIONS, RESTORATION PLAN AND CUMULATIVE IMPACTS ANALYSIS, AND DIRECTING THAT THE APPLICABLE SHORELINE MASTER PROGRAM UPDATE MATERIALS BE PROVIDED TO THE STATE DEPARTMENT OF ECOLOGY FOR ITS REVIEW, FILE ZON06-00017."
Moved by Councilmember Dave Asher, seconded by Deputy Mayor

Joan McBride
Vote: Motion carried 6-1
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, and Councilmember Tom Hodgson.
No: Councilmember Bob Sternoff.

(2) Resolution R-4787, Relating to Zoning, Planning, and Land Use Associated with the Shoreline Master Program Update, File No. ZON06-00017

Motion to Approve Resolution R-4787, entitled "AN RESOLUTION OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE ASSOCIATED WITH THE SHORELINE MASTER PROGRAM UPDATE, FILE NO. ZON06-00017."
Moved by Councilmember Dave Asher, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

b. School Impact Fees and Related Impact Fee Amendments

Planning Supervisor Jeremy McMahan provided an overview of the proposed fees and responded to Council questions and comment.

(1) Ordinance No. 4220 and its Summary, Authorizing the Collection of Impact Fees for Schools and Adding Chapter 27.08 to the Kirkland Municipal Code

Motion to Table Ordinance No. 4220 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND AUTHORIZING THE COLLECTION OF IMPACT FEES FOR SCHOOLS AND ADDING CHAPTER 27.08 TO THE KIRKLAND MUNICIPAL CODE to Council's regular meeting on December 15, 2009 in order to conduct a public hearing on the matter.
Moved by Councilmember Dave Asher, seconded by Councilmember Bob Sternoff
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh,

Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

(2) Ordinance No. 4221 and its Summary, Relating to Transportation and Park Impact Fees and Amending Certain Sections of Chapters 27.04 and 27.06 of the Kirkland Municipal Code

Motion to Approve Ordinance No. 4221 and its Summary, entitled "AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION AND PARK IMPACT FEES AND AMENDING CERTAIN SECTIONS OF CHAPTERS 27.04 AND 27.06 OF THE KIRKLAND MUNICIPAL CODE" as amended to reflect retroactive changes to sections 27.04.050.a.1 and 27.06.050.a.1 to January 1, 2009.
Moved by Councilmember Dave Asher, seconded by Councilmember Mary-Alyce Burleigh
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

c. Development Incentives for Affordable Housing

Planning Supervisor Dawn Nelson reviewed the proposed amendments and Planning Commission Chair Andy Held presented an overview of the Commission's recommendations. Arthur Sullivan of ARCH also responded to Council questions. Council directed staff to return with ordinances incorporating their input for consideration at their December 15, 2009 regular meeting.

d. Eastside Corridor Tolling Study Correspondence

Motion to authorize draft correspondence to Craig Stone at the Washington State Department of Transportation.
Moved by Deputy Mayor Joan McBride, seconded by Councilmember Dave Asher
Vote: Motion carried 7-0
Yes: Councilmember Bob Sternoff, Mayor Jim Lauinger, Councilmember Jessica Greenway, Deputy Mayor Joan McBride, Councilmember Mary-Alyce Burleigh, Councilmember Dave Asher, and Councilmember Tom Hodgson.

11. NEW BUSINESS

a. Tree Regulation Amendments

Senior Planner Jon Regala, Urban Forester Deb Powers and Planning Commission Chair Andy Held reviewed the proposed amendments and recommendation and received Council feedback and direction to return with an ordinance for consideration at the December 15, 2009 regular meeting.

12. REPORTS

a. City Council

(1) Regional Issues

Councilmembers shared information regarding the AWC Legislative Committee meeting; Kirkland Downtown Association Christmas Tree Lighting; Lakewood Police Officer shootings; Eastside Mayors meeting and the Kirkland Library Remodel Grand Opening on December 5.

b. City Manager

(1) 2010 Community Survey

Council provided feedback for staff to incorporate and approved moving ahead with the survey.

(2) City of Kirkland Draft 2010 Legislative Agenda

Motion to adopt the City of Kirkland Draft 2010 Legislative Agenda.
Moved by Councilmember Mary-Alyce Burleigh, seconded by Councilmember Dave Asher
Vote: Motion carried 7-0
Yes: Mayor Jim Lauinger, Deputy Mayor Joan McBride, Councilmember Dave Asher, Councilmember Mary-Alyce Burleigh, Councilmember Jessica Greenway, Councilmember Tom Hodgson, and Councilmember Bob Sternoff.

(3) Calendar Update

13. ANNOUNCEMENTS

None.

14. ADJOURNMENT

The Kirkland City Council regular meeting of December 1, 2009 was adjourned at 11:30 p.m.

City Clerk Mayor

Council Meeting: 12/15/2009
Agenda: Claims
Item #: 8. d.

CITY OF KIRKLAND
Department of Finance and Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Kathi Anderson, City Clerk

Date: December 3, 2009

Subject: CLAIM(S) FOR DAMAGES

RECOMMENDATION
It is recommended that the City Council acknowledge receipt of the following Claim(s) for Damages and refer each claim to the proper department (risk management section) for disposition.

POLICY IMPLICATIONS
This is consistent with City policy and procedure and is in accordance with the requirements of state law (RCW 35.31.(040).

BACKGROUND DISCUSSION
The City has received the following Claim(s) for Damages from:

(1) Bill Nelson
138 14th Avenue
Kirkland, WA 98033

Amount: $504.03

Nature of Claim: Claimant states damage to a sprinkler system pipe resulted from maintenance work done by the City.

(2) Earl G. Wayman
9908 183rd Court NE
Redmond, WA 98052

Amount: $226.42

Nature of Claim: Claimant states damage to vehicle resulted from running over a pothole.

Council Meeting: 12/15/2009
Agenda: Award of Bids
Item #: 8. e. (1).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3809
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: December 3, 2009

Subject: 120TH AVE NE & NE 73RD ST WATER MAIN REPLACEMENT – AWARD CONTRACT

RECOMMENDATION:

It is recommended that Council award the 120th Avenue NE & NE 73rd Street project to Freeman Bell LLC of Pacific, WA for the amount of $267,855.62. In addition, it is recommended that $90,000 of the project funds be transferred into the annual street preservation program to provide for the half-street overlay that will be required by the watermain project.

BACKGROUND AND DISCUSSION:

The 120th Avenue NE & NE 73rd Street Water Main Replacement project replaces approximately 2,100 lineal feet of Asbestos Cement (AC) water main with 8" ductile iron pipe (Attachment A). The existing AC water main is susceptible to breaks and is not capable of providing adequate fire flow. The replacement of individual water service lines and fire hydrant connections along the project alignment is also included in the work.

With an engineer's estimate of $412,000, staff first advertised for contractor bids on October 28, 2009, followed by a bid opening on November 12, 2009. Due to the current economic conditions, there continues to be a high numbers of bidders for projects. This project had twenty-nine contractor bids with total bid prices ranging from $267,856 to $428,312 and an average bid equal to $311,033. The ten lowest bids and engineers estimates are as follows:

Contractor	Total Bid
Freeman Bell, LLC	**$ 267,855.62**
Laser Underground & Earthworks Inc.	$268,095.75
B&B Utilities & Excavating, LLC	$272,819.25
T Barger Dirtworks	$273,312.00
Mosbrucker Excavating, Inc.	$273,476.25
Kar-Vel Construction	$289,332.84
Titan Earthwork	$295,437.24
Archer Construction, Inc.	$297,433.76
VJM Construction Co., Inc.	$302,269.28
Aurora Engineering, Inc.	$ 305,346.23
Engineers Estimate	***$412,043.03***

The high number of bidders and close bid prices indicate the construction market has continued to stay highly competitive. A historical construction cost comparison shows that costs are now as low as those of

five years ago (Attachment C), accordingly, the low bid falls well under the current construction budget and provides for a significant project contingency (Attachment B). With Council approval, construction will begin in January, 2010 with substantial completion expected in March, 2010.

In order to allow construction to proceed during this (cold and wet) time of the year, it is recommended that the asphalt paving associated with the project restoration be deferred to a dryer season and completed with the City's street preservation program. $90,000 funding for the paving is recommended to be transferred from the watermain project to the street preservation program.

Attachments (3)

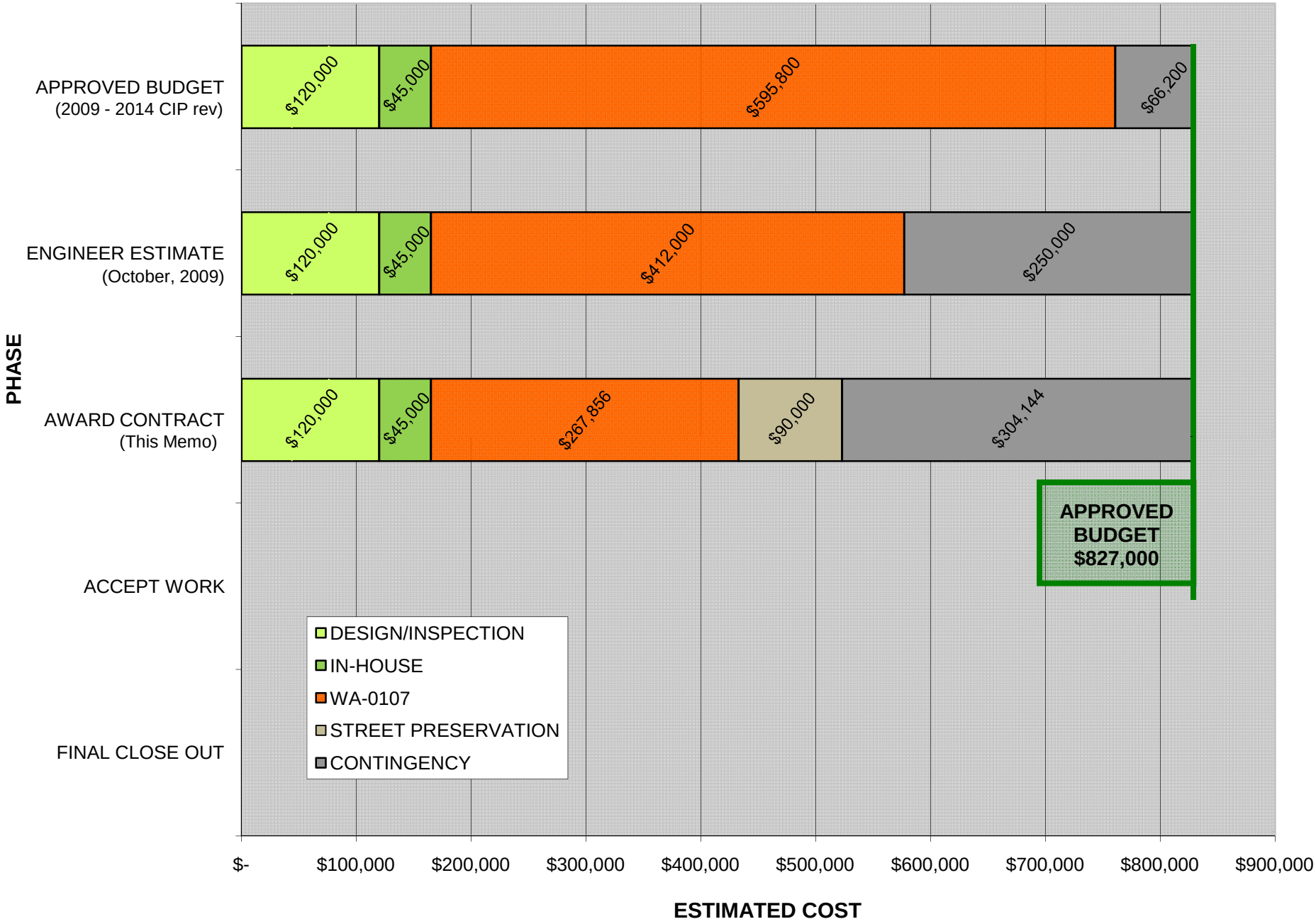
Site Map

120th Avenue NE & NE 73rd Street Water Main Replacement
WA-0107

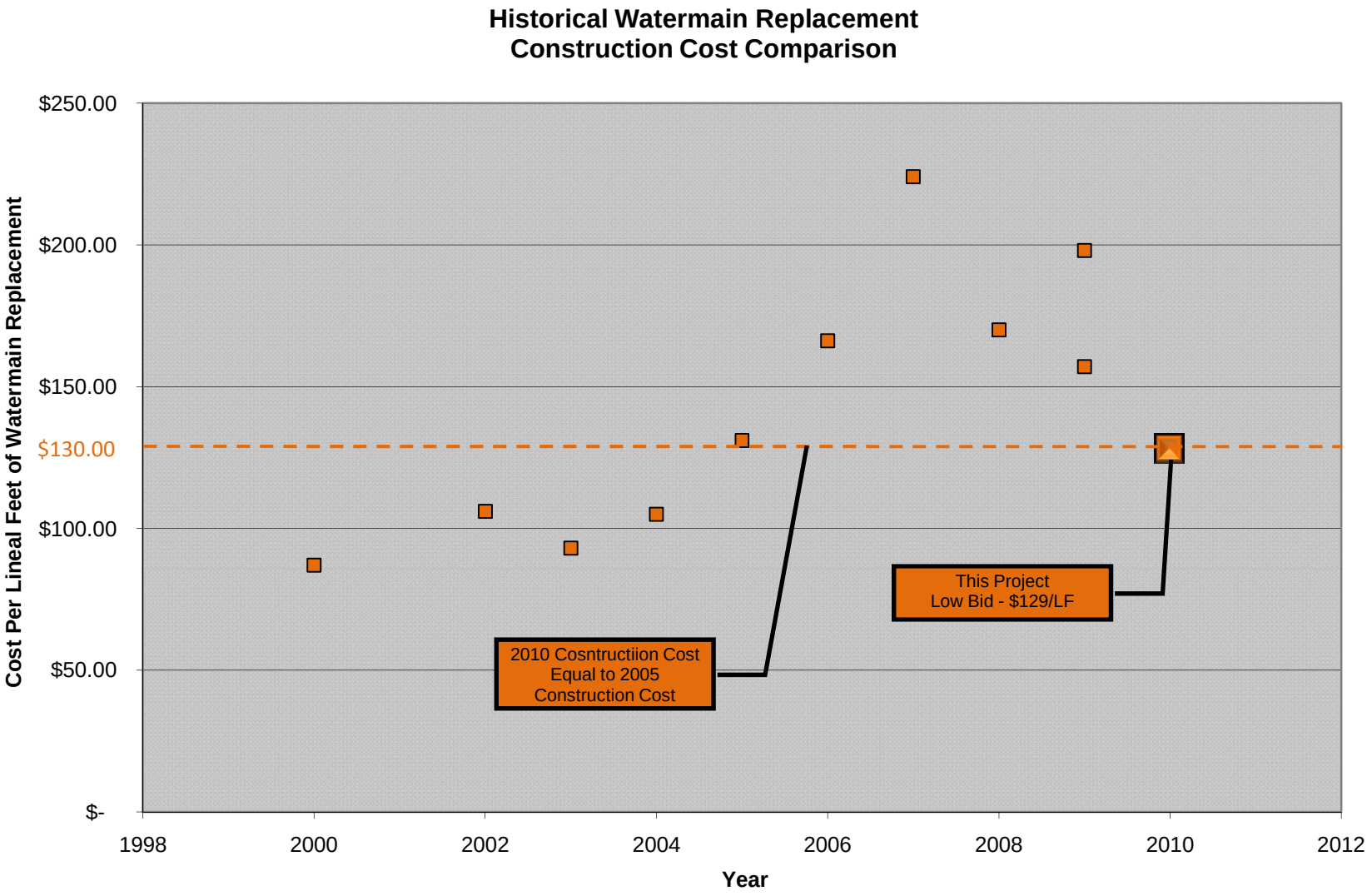
Attachment A

120th Avenue NE / NE 73rd Street Water Main Replacement (WA-0107)

Project Budget Report



Attachment B



Attachment C

Council Meeting: 12/15/2009
Agenda: Establishing Lien Period
Item #: 8. f. (1).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3809
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
Ray Steiger, P.E., Capital Projects Manager

Date: November 19, 2009

Subject: 2009 WATER SYSTEM IMPROVEMENT PROJECT -- ACCEPT WORK

RECOMMENDATION:

It is recommended that the City Council accept the 2009 Water System Improvement Project as constructed by D&G Backhoe, Inc. of Lake Stevens, WA and establish the required 45-day lien period. In addition, it is recommended that $136,000 of the project funds be transferred into the annual street preservation program to provide for the street overlay that will be required by the watermain improvements.

BACKGROUND AND DISCUSSION:

The 2009 Water System Improvement Project is made up of three individual projects and consists of a combined total of 2,300 lineal feet of 8-inch and 12-inch ductile iron pipe (Attachment A). Project WA-0142 provided for the connection of an existing "dead-end", 8-inch, waterline located in the alley north of the Heathman Hotel to an existing waterline on Main Street. This work will help to reduce impacts during the 3rd Street watermain project being constructed concurrent with the Downtown Transit Center. Both project WA-0141 and project WA-0117 provided for the replacement of aging Asbestos Cement (AC) water main that was susceptible to breaks and incapable of meeting the anticipated fire flow requirements

At their regular meeting on June 16, 2009, Council awarded the contract for this project to D&G Backhoe in the amount of $345,317; work began June 23, 2009, and was complete on August 7, 2009. Total payments to the Contractor equal $334,139 - $11,178 below the contract amount.

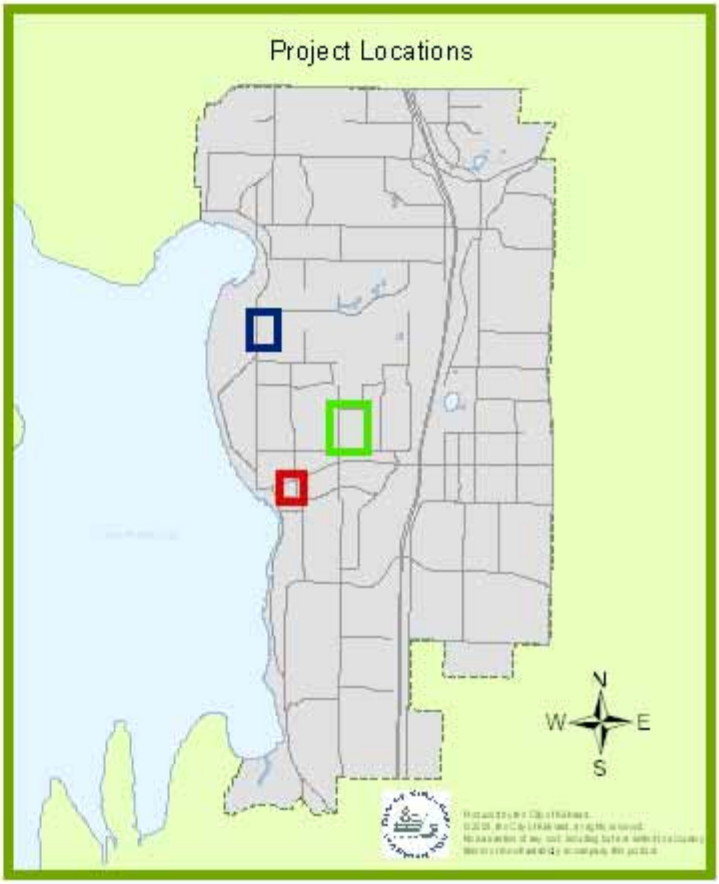
At the June meeting, Staff reported to Council that both project WA-0142 and WA-0117 were funded partially in 2009 and in 2010. Historically, watermain projects are designed in one year, and construction follows the next. In this case, due to the availability of consultant services to focus on completing this project, the design was completed in only five months, and in order to take advantage of the extremely competitive construction market, it was recommended to proceed with construction in 2009 also. However, the cost to design and construct the projects in 2009 exceeded the 2009 funding, and Council authorized the use of approximately $128,000 from the water/sewer capital contingency to fully fund and complete the work in 2009.

It is also recommended that $136,000 be transferred from the individual watermain projects to the street preservation program to offset the long term impacts of the watermain construction on the streets. The watermain work included asphalt patches to the specific areas disturbed, however given the condition of the roadway at this time, an overlay was not warranted. Overlay of the impacted streets will be incorporated into the overall annual street preservation program at a future time.

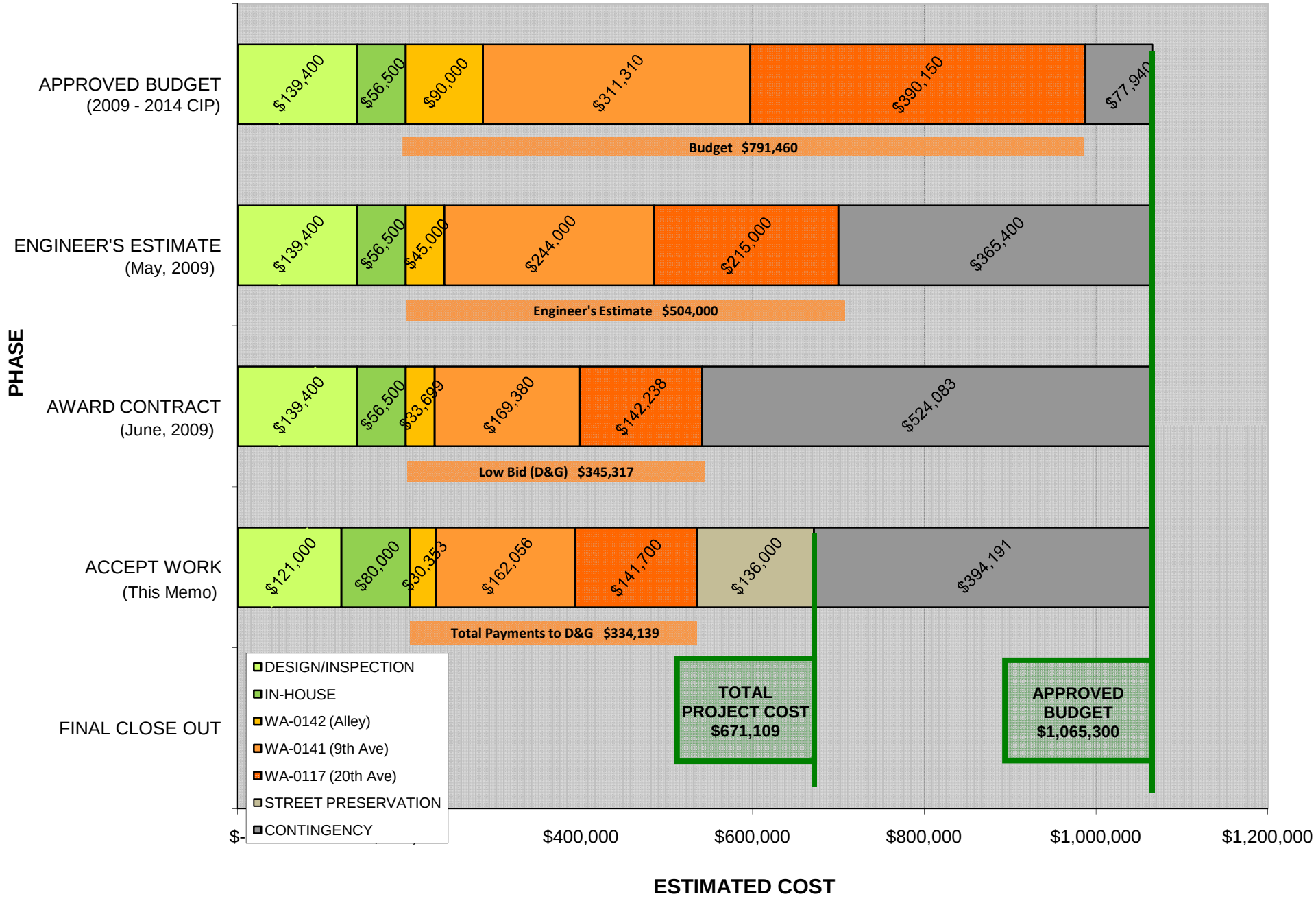
Attachment: (3)

Site Map

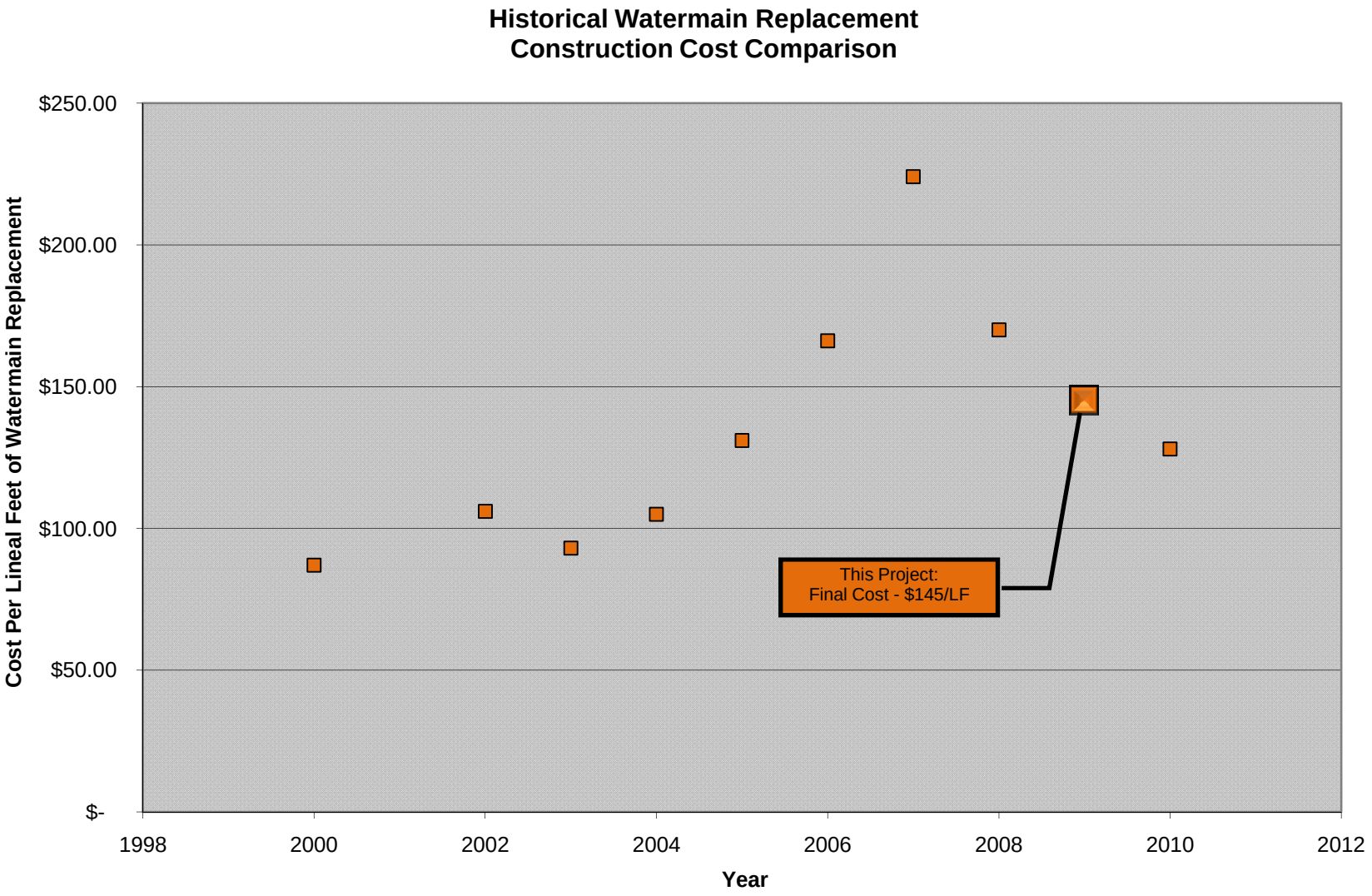
2009 Water System Improvements Project
WA-0142 WA-0141 WA-0117



2009 Water System Improvements
(WA-0142, WA-0141, WA-0117)
Project Budget Report



Attachment B



Attachment C

CITY OF KIRKLAND
City Manager's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3001
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Marilynne Beard, Assistant City Manager
David Snider, PE, Capital Projects Supervisor

Date: December 3, 2009

Subject: City Hall Annex Renovation

RECOMMENDATION:

It is recommended that City Council accept the work on the Kirkland City Hall Annex Renovation Project, as completed by Pattison General Contractor, Redmond, WA, and establish the statutory lien period.

BACKGROUND DISCUSSION:

The Kirkland City Hall Annex (Annex) is located at the northeast corner of the intersection of 1st Street and 3rd Avenue, on the southwest corner of the block occupied by the Kirkland City Hall (Attachment A). Formerly leased to Hopelink, the building became vacant in 2007. A decision was made to renovate the building due to its historic significance and to use the building to relieve overcrowding in the current City Hall facility. When City Council approved the project, they directed staff to preserve and/or restore the historic elements of the building, to incorporate public art and to apply green building practices to the project. The renovation of the Annex provided 6,000 square feet for staff office space and now currently houses nineteen staff (Public Works CIP Group upstairs (12 staff) and the Police Traffic Division downstairs (7 staff).

HISTORY
The Annex was originally built in 1923 by E. L. Sessions, a local undertaker, to house his mortuary business. The Sessions Mortuary, as it was known, also included a five-room apartment as a dwelling for the Sessions family.

The Sessions Funeral Home is cited in various reference documents for its local significance as an early 20th century institution in Kirkland. Designed and built in a Craftsman style, it fit well within its original residential setting while contrasting with the design of other funeral homes of that time. Changes to the building's interior had reduced its historic significance somewhat, with the exception of the original public space on the north side of the first floor. The building's exterior retained many of its original character-defining features, particularly on the primary west facade. The building's rehabilitation also preserved and restored some of the original features that had been modified over the years.

PROGRAM
The space programming for the building was an iterative process with the Public Works CIP Group and Police Traffic Division ending up being the current occupants. The long term plan for the building includes a greater public use with meeting, conferencing and social gathering spaces. Consequently, the rehabilitation design took into account the future use of the building for assembly functions. The offices in the Annex were created primarily in open rooms subdivided by systems furniture. A few small private offices and/or conference rooms were provided to carry on group meetings and work requiring greater focus and/or privacy.

LEADERSHIP IN ENERGY AND ENVIRONMENTAL DESIGN (LEED)
The design and construction process resulted in the establishment of upgrades to structural, mechanical, electrical and lighting systems. The project is also a demonstration project for the City combining preservation and sustainability.

ART
The Cultural Council was established in 2002 to promote strategic planning and development for arts, culture and heritage. For the Annex, an artist selection process was held and a screen wall mural was commissioned (entitled "Gateway" and is located on the southern end of the front porch).

CONSTRUCTION
Council awarded the construction contract to Pattison General Contractor on September 2, 2008 in the amount of $1,235,562.60 and a notice to proceed was issued to the contractor on September 14th; the Project was substantially complete on July 22, 2009. The total amount paid to the contractor for the work was $1,422,700.38, including three change orders totaling $ $186,607.29; CO#1, $156,339.41, was approved by Council at their regular meeting of February 2, 2009 and came as a result of numerous structural building deficiencies encountered during early construction activities; CO#2, $16,172.64, was primarily for lighting changes necessitated by manufacturing problems encountered after construction began leading to the use a of different fixtures; and CO#3, $11,873.37, was for miscellaneous changes and upgrades including staining the interior doors (in lieu of paint), roof gutter modifications, adding underlayment over the existing fir floors where new cork floor tiles were specified, a handrail welding modification required in order to comply with the current building code and a sales tax change (9% to 9.5%) mid-way though the contract.

PROJECT CLOSE-OUT
The original CIP project budget for the Annex was $1,800,000. At their regular meeting of February 2, 2009, Council approved a budget increase of $176,327 by authorizing the transfer of unspent Annex Life-cycle funds which resulted in a new total project budget of $1,976,327 (Attachment B). To date, the total project expenditures are approaching $1,975,000 with a few invoices still outstanding; surplus funds, if any, will be returned to the appropriate funding source.

Attachment A

Vicinity Map

0 6,100 12,200 18,300
Feet

Map Legend

- Building Footprint
- Tax Parcel Boundary
- Street Centerline
- Pavement Edge

0 20 40 60
Feet

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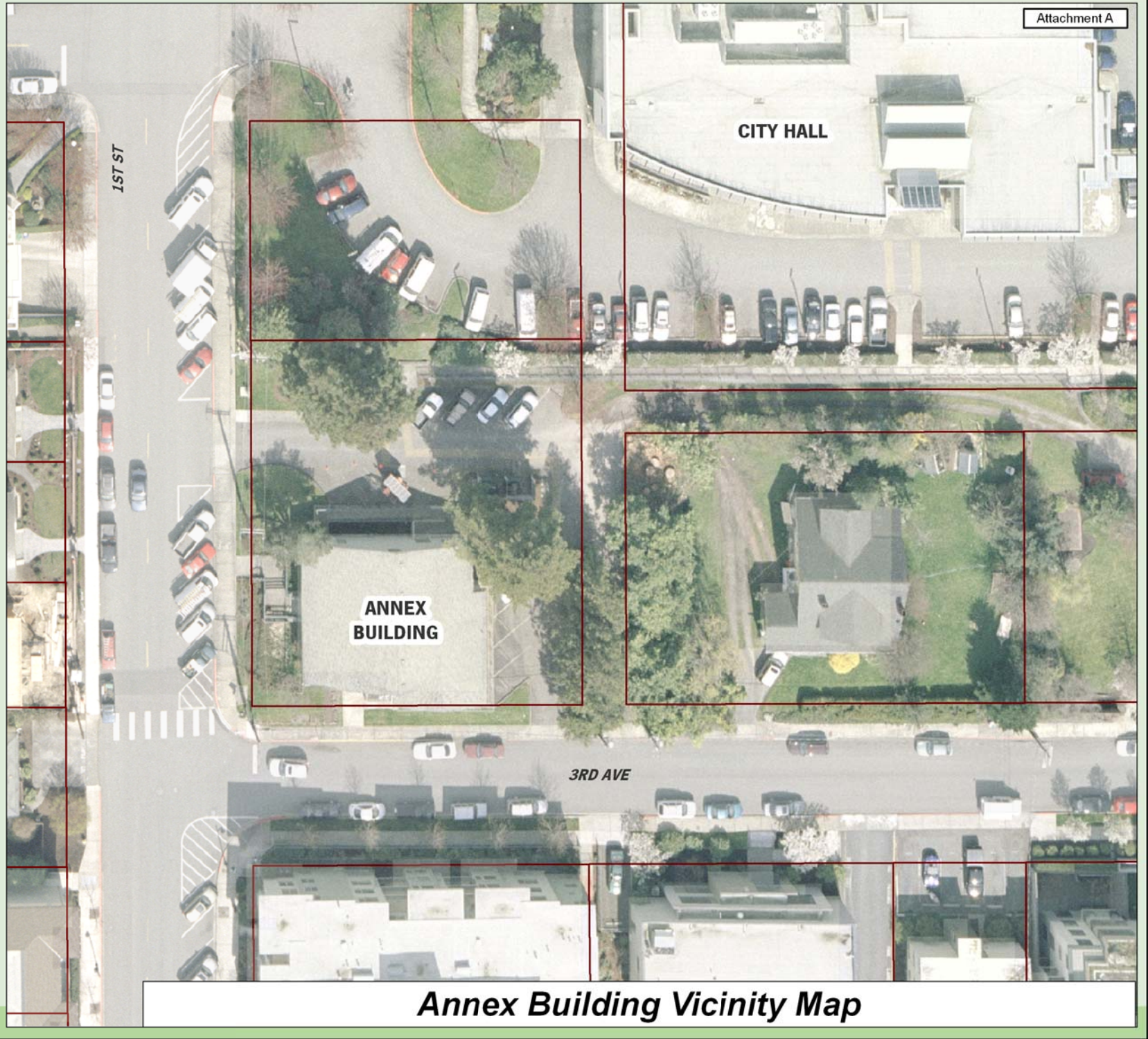
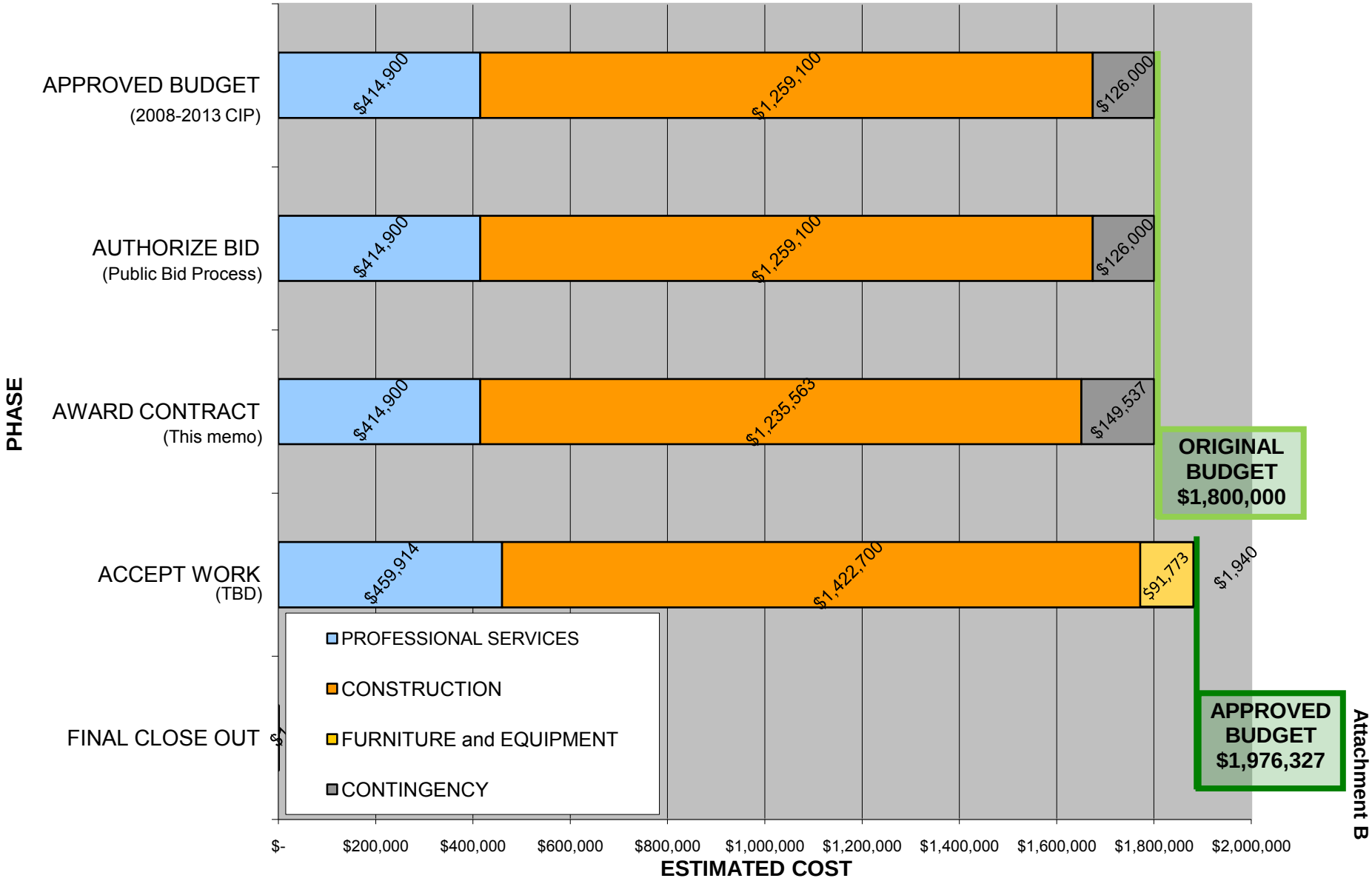


Annex Building Vicinity Map

PROJECT BUDGET REPORT

KIRKLAND CITY HALL RENOVATION PROJECT



Attachment B

CITY OF KIRKLAND
Department of Finance and Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Tracey Dunlap, Director of Finance & Administration
Barry Scott, Purchasing Agent

Date: December 3, 2009

Subject: STATE INTERGOVERNMENTAL COOPERATIVE PURCHASING AGREEMENT

RECOMMENDATION:

That the City Council authorize the City Manager to execute a new Intergovernmental Purchasing Agreement with the State of Washington's Department of General Administration.

BACKGROUND AND DISCUSSION:

The City of Kirkland has participated in the Washington State Purchasing Cooperative for over twenty years. The purchasing cooperative provides the City with access to over three hundred (300) contracts. The City of Kirkland is one of over seven hundred (700) members of the purchasing cooperative.

Since joining the cooperative, the City has relied on the use of these competitively bid contracts for the purchase of a wide variety of goods and services including light vehicles, heavy equipment, furniture, office equipment, janitorial services, tools and safety supplies.

Every two years, the Department of General Administration (GA) reviews information provided by the State Auditor's office to determine the City's annual operating expenditures and bases the fee charged to the City for the next two year period on that figure. The GA has determined that the City's operating expenditures in 2008 were $102,172,297. As this amount falls between $90,000,000 and $150,000,000 on the GA fee schedule, our total fee for 2010 and 2011 will be $8,000 and our quarterly payments to the GA will be $1,000. (The total fee for the period of 2008-2009 was $6,000.)

RESOLUTION R-4788

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING PARTICIPATION BY THE CITY IN A COOPERATIVE PURCHASING AGREEMENT WITH THE WASHINGTON STATE DEPARTMENT OF GENERAL ADMINISTRATION'S OFFICE OF STATE PROCUREMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT ON BEHALF OF THE CITY OF KIRKLAND.

WHEREAS, the City of Kirkland and Washington State Department of General Administration seek to enter into an updated intergovernmental cooperative purchasing agreement enabling the City of Kirkland to continue to purchase goods and services through the Office of State Procurement's purchase contracts; and

WHEREAS, the City Council has determined it to be in the best interest of the City of Kirkland to enter into such an interlocal cooperative purchasing agreement; and

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. Participation by the City of Kirkland in the Intergovernmental Cooperative Purchasing Agreement attached to the original of this resolution as Exhibit A and by this reference incorporated herein is approved. The Kirkland City Manager is hereby authorized to execute said agreement on behalf of the City of Kirkland.

Passed by majority vote of the Kirkland City Council in open meeting this 15th day of December, 2009.

Signed in authentication thereof this ____ day of _____, 2009.

_____
MAYOR

ATTEST:

_____
City Clerk

State of Washington
DEPARTMENT OF GENERAL ADMINISTRATION
Office of State Procurement
Rm. 201 General Administration Building, P.O. Box 41017
Olympia, Washington 98504-1017
(360) 902-7400 http://www.ga.wa.gov

STATE OF WASHINGTON
INTERGOVERNMENTAL
AGREEMENT FOR
STATE PURCHASING COOPERATIVE

Pursuant to Chapter 43.19 RCW, Chapter 39.34 RCW and WAC 236-49-060, the State of Washington, Department of General Administration, Office of State Procurement, ("Office of State Procurement" or "OSP"), and **CITY OF KIRKLAND** ("Cooperative Member") agree to enter into this Intergovernmental Agreement ("Agreement"), for the purpose of the Cooperative Member participating in the State Purchasing Cooperative Program ("Cooperative") under the following terms and conditions:

1) Washington State political subdivisions (e.g. local governments and school districts) and public benefit nonprofit corporations are eligible for membership in the Cooperative and must be subject to audit by Washington State Auditor's Office (SAO). Offices, departments, divisions, or other sub-units ("subdivisions") within Washington State political subdivisions and public benefit nonprofit corporations may join the Cooperative. However, the subdivision's membership fee will be assessed at the rate of the associated Washington State political subdivision or public benefit nonprofit corporations. Washington state agencies and their subdivisions are automatically Cooperative Members and do not need to apply for membership or pay a membership fee.

2) The Office of State Procurement is required to recover the costs of administering the State Purchasing Cooperative Program from Cooperative Members. The Membership Fee Schedule below sets forth the fee structure for Cooperative Members, which are not Washington State agencies. The Membership Fee Schedule is based on the Cooperative Member's total expenditures, less debt service and inter-fund transfers, as reported in the Cooperative Member's last audited financial statement.

3) The term of this Agreement and Cooperative membership is January 1, 2010 through December 31, 2011. This Agreement may be canceled in writing by either party. However; if the Cooperative Member has used state contracts during the current membership period; the Cooperative Member remains liable to pay any unpaid balance of the membership fee for the entire term. Fees are not based on the level of contract usage. Refunds will not be given to members due to lack of contract usage.

4) The Office of the Superintendent of Public Instruction (OSPI) financial reporting information will be used to verify fee amounts for public school districts, and Educational Service Districts. (ESD's).

5) Any Cooperative Member not reported in the OSPI or State Auditor's financial reporting information, must submit a copy of its most recent audited financial statements to OSP upon request. When a Cooperative Member does not have audited financial statements, the Cooperative Member shall provide internal budgets or financial statements. Once membership fees are verified through such authoritative sources, OSP will issue **quarterly invoices** for remittance due and payable within 30 days of receipt or due date shown on invoice whichever is sooner. After initial verification and at the beginning of each calendar quarter thereafter, invoices will be sent via electronic mail to the contact listed below.

6) This executed Agreement entitles the Cooperative Member access to state contracts for goods and services as viewed on www.ga.wa.gov. Cooperative Members may only access Western States Contracting Alliance (WSCA) contracts where Washington is the lead state, or has a signed a participating addendum (PA). Cooperative Members are not authorized to enter into separate WSCA participating addenda with vendors. Cooperative Members are also entitled to use Oregon Purchasing Contracts,

7) If a Washington State political subdivision or public benefit nonprofit corporation or a subdivision thereof that is not a current Cooperative Member is found to have used a state contract, WSCA contract, or Oregon Purchasing Contract; that Washington State political subdivision or public benefit nonprofit corporation shall be liable for payment of a full year membership fee. Failure to pay such fee may be reported to the State Auditor's Office and result in audit findings against the entity.

8) The Office of State Procurement, in contracting on behalf of the State of Washington for the purchase of goods and services according to the laws and regulations governing such purchases, agrees to also contract on behalf of the Cooperative Member, to the extent permitted by law. The Cooperative Member accepts responsibility for compliance with any additional laws and regulations applicable to the Cooperative Member.

9) The Office of State Procurement agrees to comply with its statutory requirements regarding notice for bids or proposals for goods or services subject to this Agreement, and will either: a) post the bid or solicitation notice on a web site established and maintained by OSP for the purposes of posting public notice of bid or proposal solicitations, or b) provide an access link on the State of Washington's web portal to the notice.

10) When the Office of the State Procurement has entered into a contractual agreement for the purchase of goods or services on behalf of Cooperative Member, the Cooperative Member may purchase goods and services covered by the contract on the same terms and conditions as the State of Washington, except that the contractor has the right to modify payment terms based on its credit assessment of the Cooperative Member. Purchases by the Cooperative Member may be made by a purchase order issued by the Cooperative Member to the contractor. The Cooperative Member is solely responsible for payment for any goods and services it purchases under contracts pursuant to this Agreement or services it purchases directly from OSP. The Cooperative Member agrees to be responsible for limited contract monitoring related to their use of these contracts.

11) The Cooperative Member reserves the right to contract independently for the purchase of any particular class of goods or services, with or without notice being given to OSP.

12) In the event that either the Office of the State Procurement or the Cooperative Member is abolished, this Agreement shall continue in operation as to any entity succeeding to the powers and duties of the abolished party, except as canceled or modified by operation of law.

13) The Cooperative Member agrees to use only those OSP, WSCA, or Oregon Purchasing contracts authorized under the terms of this Agreement and to comply with those contracts' terms and conditions. The Cooperative Member further agrees that all purchases from OSP, WSCA, or Oregon Purchasing contracts will be made only for the direct use of the Cooperative Member's programs and no purchases will be made on behalf of or for the use of other entities or jurisdictions.

14) It is not the intention of the parties, nor shall this Agreement be interpreted, to create a separate legal entity for the performance of this Agreement. Instead, the Office of State Procurement shall be responsible for administering this Agreement.

15) In accordance with RCW 39.34.040; the Cooperative Member shall be responsible for filing the executed copy of this Agreement with its county auditor's office, or filed in such manner as required by law, to meet public disclosure requirements. This may include listing on the Cooperative Member's internet site or any other electronically retrievable public source.

16) By its signature below, the Office of State Procurement confirms it approves of this Agreement as required by RCW 39.34.050 and it is authorized to enter into this Agreement pursuant to RCW 39.34.030 and RCW 39.34.080. Similarly, by its signature below, the Cooperative Member confirms it is authorized to enter into this Agreement pursuant to RCW 39.34.030 and RCW 39.34.080.

17) PAYMENT and NOTICES: Payment shall be made to OSP at the address provided below. Further, any notice, demand or other communication required or permitted to be given under this Agreement shall be made to the parties at the addresses provided below. The Cooperative Member agrees to pay the membership fee as a part of this Agreement. Late payments may be subject to statutory interest and collection related costs. First time Cooperative Members joining after June 30th may have their fee prorated, if the member has not previously accessed state contracts. Pro-rated fees will be based on 6-month intervals, January – June, June – December.

Mail the signed Agreement and payment to: State of Washington, OSP PAF-Non/Prof Fund: 422 04 20 000214, Room 303 General Administration Bldg., P.O. Box 41008, Olympia, WA 98504-1008

Cooperative Member contact information:

Contact Person to whom contract documents and related communications are to be mailed or faxed.

Cooperative Member Agency Name: City of Kirkland

Agency Federal TIN #: 91-6001255

Contact Name: Barry L. Scott, C.P.M., Purchasing Agent

Address: 123 5th Avenue

City, St. Zip Kirkland, WA 98033

Phone Number: 425-587-3123 Fax Number: 425-587-3110

Email Address: bscott@ci.kirkland.wa.us

Secondary Contact: Name: Sheila Sigmond, CPPB, Buyer

Email: ssigmond@ci.kirkland.wa.us

Two-Year Membership Fee Schedule

Note: Total expenditures listed below are minus of debt service and inter-fund transfers

Annual expenditures of more than	Annual expenditures of less than	Two-Year Membership Fee	Verified Fee Level
$0.00	$3,000,000	$400	
$3,000,001	$7,500,000	$1,000	
$7,500,001	$30,000,000	$2,000	
$30,000,001	$68,000,000	$4,000	
$68,000,001	$90,000,000	$6,000	
$90,000,001	$150,000,000	$8,000	
$150,000,001	and over	$10,000	

According to the most recent authoritative information; **KIRKLAND CITY OF**, your annual operating expenditures were **$102,172,297** making your two-year fee **$8000**.

The undersigned has read, understands and agrees to the terms and conditions of this Agreement, certifies that he/she is the Authorized Signatory for the Cooperative Member, and certifies under penalty of perjury under the laws of Washington State that the verified expenditure in the Membership Fee Schedule above is true and correct.

Cooperative Member Authorized Signature:

Signature: _____ Date Signed: _____

Print Name: David Ramsay Title: City Manager

Address (if not the same as above): _____

Phone Number(s): 425-587-3007

FOR OSP USE ONLY (Completed by OSP, this page will be returned to you in executed copy)
Approved as to form: AAG Date: 10/16/2009 (signature on file)

Your assigned Co-op member number is _____. Please provide this number to vendors when ordering from contracts or communicating with OSP.

OSP AUTHORIZED SIGNATURE

_____ Verification Used: _____
Name Title Date

Council Meeting: 12/15/2009
Agenda: Approval of Agreements
Item #: 8. g. (2).

CITY OF KIRKLAND
Public Works Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3000
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Daryl Grigsby, Public Works Director
David Godfrey, Transportation Engineering Manager

Date: December 3, 2009

Subject: Dillard Property Parking Agreement

RECOMMENDATION**:**

It is recommended the City Council approve a resolution authorizing the City Manager to enter into a agreement with Ms. Marilyn Dillard in order to lease the Dillard property, previous site of the Antique Mall, for use as public parking.

BACKGROUND:

In order to provide more parking from which the public can benefit, discussions have been ongoing for most of 2009 concerning lease of public parking at the Dillard property located at 151 3rd Street. The Finance Committee and the Parking Advisory Board have been involved throughout the process. We now believe that an agreement which is acceptable to all parties has been developed. Attachment A contains more details about the agreement which is summarized below.

Current plans call for restriping and signing the lot to provide 93 parking stalls. Initially 30 stalls will be available for monthly lease and the remainder will operate as pay parking. Monthly lease rates will be determined jointly by the City and the property owner. Pay parking will be enforced from 9:00 AM – 9:00 PM Monday-Saturday and the rate will be $1.00 per hour. The lot will be open to all users, including downtown employees and construction workers.

The start-up costs are approximately $25,000 and can be funded by the available balance in the Off-Street Parking Fund. The costs include clean-up of the parking lot, striping, signage, and purchase of two pay stations. Completion of this work is scheduled to be complete in 6 to 8 weeks. The lease stalls may be able to open before the pay stalls are ready to open.

Payments from the City to the owner will be based on revenue received net of credit card charges and any applicable taxes. The owner will receive the first $1200 of net revenue per stall per year, paid monthly. The owner will not be guaranteed any revenue nor will any payments be made prior to the City receiving revenue.

Terms of the parking agreement are for three years and either party may terminate the agreement at any time by giving sixty (60) days written notice to the other party.

The Parking Advisory Board will report to Council with an analysis of operations of the lot on a regular basis with the first report coming six months after the lot becomes operational. The report will include a formal evaluation of parking occupancy, length of stay, costs and revenue.

Attachment A Dillard Property Parking Agreement Summary

This summary explains some highlights of the agreement, with emphasis on how payments are calculated. There is information in the agreement that is not covered here. Throughout this summary, net revenue refers to revenue net of credit card expenses and any applicable taxes.

General

1) There are an estimated 93 total stalls available from which revenue can be derived. (see figure 1) The five handicapped accessible stalls cannot be charged hourly rates or leased.

2) Agreement is for 3 years, and either party can terminate with 60 day notice.

3) The lot will be operated to maximize revenue while keeping occupancy of the paid stalls at 85% and occupancy of the leased stalls at 100%. Changes such as the number of stalls assigned for leasing, pricing and hours of operation may be made from time to time to meet these goals, but as few changes as possible will be made and they will be made no more than quarterly. Such changes will be agreed to by the City and Ms. Dillard.

4) The City does not guarantee any amount of revenue to Ms. Dillard nor will the City make any payments in advance of receiving revenue.

5) Revenue available for payment to Ms. Dillard will be net of any credit card charges the City may incur and any applicable taxes.

6) The City will furnish the pay stations, signing, striping and other work necessary to operate the lot. The cost of this work is estimated at $25,000 and will be paid from the Off-Street Parking Fund. The City will provide normal maintenance to the lot during the term of the lease.

7) At its discretion, the city will provide appropriate wayfinding signs to provide direction to the lot

8) Enforcement will be provided by the City with existing city enforcement resources.

9) Ms. Dillard may make stalls available for the use of a future tenant. These stalls will be removed from revenue service.

Leased stalls

1) Initially, 30 stalls will be available for monthly leasing. The City will manage the leasing; collect lease payments, issue permits, etc. Those who lease stalls will not be guaranteed a certain stall, but will have access to a pool of stalls signed Monthly Permit Only or other similar wording. Only people who have paid for leases will be able to legally use the leased stalls.

2) Payments from net revenue obtained from leased stalls will be made to Ms. Dillard no later than the 15th day of the month following the month during which revenue was received.

3) Monthly lease prices, the number of hours a day that leased stalls are available to lease holders and the number of stalls available for leasing may vary based on demand may be changed from time to time but not more than quarterly. Decisions on these items will be made jointly between Ms. Dillard and the City of Kirkland. (See General 3) above).

4) With joint approval from the City and Ms. Dillard, the leased stalls may be opened as soon as they are prepared for operation. This may be in advance of when the pay stalls are ready for operation.

5) Based on revenue from the leased stalls less credit card fees from the leased stalls, Ms. Dillard will receive up to $1200/per year per leased stall, paid monthly. The revenue received from the pay stalls has no bearing on the amounts of payments from leased stall revenue.

6) If the monthly per stall net lease revenue is equal to or less than $100/month, Ms. Dillard will receive all the net revenue from the leased stalls. This would be true even if:

   i) The number of leased stalls increased or decreased throughout the year.

   ii) The lease price varied but stayed at or under $100/month.

   iii) The occupancy of the stalls reserved for leasing changed

Examples

Scenario 1: The net revenue from the stalls was $80/month, and 30 stalls were rented for an entire year.
Payments: Ms. Dillard receives $80 x 30 stalls =$2400 paid monthly, for a total of $28,800 per year.

Scenario 2: Thirty stalls were available for leasing for the entire year. All 30 leased at a net amount of $70/month January through May then 20 stalls were leased at a net amount of $80 June through August and then 25 stalls were leased at a net amount of $75 September through December.

Payments: the payments would be:

Period	Net Revenue	Monthly Payment
January through May	30 stalls x $70/stall/month = $2100	$2100
June through August	20 stalls x $80/stall/month = $1600	$1600
September through December	25 stalls x $75/stall/month = $1875	$1875

7) If the net per stall net revenue exceeds $100/month, then some of the revenue may stay with the city. This is only true if the cumulative monthly per stall payments to Ms. Dillard have exceeded $1200/year.

Example

Scenario 3: For an entire year, all thirty stalls available for leasing are leased and per stall net revenue is $110/month.
Payments: Ms. Dillard would receive monthly payments of $110/stall x 30 stalls = $3,300. These payments would continue until the $1200/stall /year maximum had been met After 10 months, Ms. Dillard would have received $3,300 x 10 = $33,000. For the 11th month, she would receive only $3000 because that would make the cumulative payments for the year equal $36,000 which is the annual maximum for 30 stalls (30 stalls x $100/stall/month x 12 month/year = $36,000). The City would retain $300 from the 11th month and all $3,300 from the 12th month.

8) If the number of leased stalls changes during the year, the maximum cumulative payment is determined by prorating the number of stalls available during the year. The per stall cumulative annual maximum is still $1,200.

Examples

Scenario 4: 30 stalls were available for leasing for the period January through June. During this time, only 20 stalls were leased and the net monthly revenue from each stall was $115. During the period June through December the parking arrangements were changed and only 20 spots were available for leasing. All 20 stalls were still leased at a net revenue of $115 per stall.
Payments: The maximum annual amount to be paid to Ms. Dillard would be $100/stall x 12 months x (30 stalls x 6 months+ 20 stalls x 6 months) ÷ 12 months = $30,000. Ms. Dillard would receive monthly payments of $115/stall x 20 stalls =$2300. Even after 12 months, Ms. Dillard would have received only $2300/month x 12 months =$27,600. Because this is less than the $100/stall/month maximum of $30,000 in this case, no revenue would remain with the city.

Scenario 5: 20 stalls were available for leasing for the period January through March. During this time, all 20 stalls were leased and the net monthly revenue from each stall was $100. During the period April through December the parking arrangements were changed and 30 spots were now available for leasing. All 30 stalls were still leased at a net revenue of $125 per stall.
Payments: The maximum annual amount to be paid to Ms. Dillard would be $100/stall x 12 months x (20 stalls x 3 months+ 30 stalls x 9 months) ÷ 12 stall-months = $33,000. For the first three months, Ms. Dillard would receive monthly payments of $100/stall x 20 stalls =$2000. For the next seven months, Ms. Dillard would received $125/month x 30 stalls =$3,750. After 10 months the cumulative total Ms. Dillard would have received is 3 months x $2000 + 7 months x $3,750 = $32,000. In the 11th month, she would receive $1,000. This would make the total payments reach the maximum for this scenario of $33,000 per year. The rest of the revenue from the 11th month and all the revenue from the 12th month would remain with the city.

Pay Stalls

1) Electronic pay stations will be used to manage payments. These machines will be similar to those operated in other city lots. They will accept credit cards and coins. There will be 2 pay stations at the lot.

2) Initial rates will be $1/hour and pay parking will be enforced from 9:00 AM to 9:00 PM. Parking will be free on Sundays and Holidays There will be no maximum stay during pay operation. Existing city laws prohibit overnight parking.

3) Hourly rates, the number of hours a day for which pay stalls are charged and the number of stalls available for pay parking may vary based on demand. Decisions on these items will be made jointly between Ms. Dillard and the City of Kirkland.

4) Payments from pay stall revenues will be made to Ms. Dillard no later than the 30th day of the month following the month during which revenue was received.

5) Based on revenue from the pay stalls less credit card fees from the pay stalls, Ms. Dillard will receive up to $1200/per year per pay stall, paid monthly. The revenue received from the leased stalls has no bearing on the amounts of payments from pay stall revenue.

6) If the stalls are operated 12 hrs/day, for 300 days (assuming no revenue on Sundays and Holidays) at $1/hour with an average credit card charge of 13%, and applicable taxes of 9% an average occupancy of 43% would be necessary to generate a net per stall revenue of $1200 per year.
$1200/{(12 hrs/day x 300 days/year x $1/hr)x 0.78}= 43%.

Examples

Scenario 6: Consider the revenue example below

Month	No. of pay stalls	Net Revenue/per stall
January	63	$60
February	63	$80
March	63	$70
April	63	$80
May	63	$75
June	63	$90
July	63	$100
August	63	$150
September	63	$90
October	63	$80
November	63	$70
December	63	$90

Payments: Ms. Dillard receives various amounts each month, depending on the net revenue from the pay stalls as shown below.

Month	Pay stalls	Net Revenue per stall	Monthly payment	Cumulative monthly payments
January	63	$60	63 x $60 = $3,780	$3,780
February	63	$80	63 x $80 = $5,040	$8,820
March	63	$70	63 x $70 = $4,410	$13,230
April	63	$80	63 x $80 = $5,040	$18,270
May	63	$75	63 x $75 = $4,725	$22,995
June	63	$90	63 x $90 = $5,670	$28,665
July	63	$100	63 x $100 = $6,300	$34,965
August	63	$150	63 x $150 = $9,450	$44,415
September	63	$90	63 x $90 = $5,670	$50,085
October	63	$80	63 x $80 = $5,040	$55,125
November	63	$70	63 x $70 = $4,410	$59,535
December	63	$90	63 x $90 = $5,670	$65,205

In this case, the annual maximum cumulative payments is 63 stalls x $1,200/stall per year = $75,600. This maximum is not met, so the City gets no revenue.

Scenario 7: Consider the revenue example below

Month	No. of pay stalls	Net Revenue/per stall
January	63	$80
February	63	$90
March	63	$100
April	63	$110
May	63	$120
June	63	$100
July	63	$130
August	63	$150
September	63	$125
October	63	$90
November	63	$90
December	63	$100

Payments: Ms. Dillard receives various amounts each month, depending on the net revenue from the pay stalls as shown below.

Month	Pay stalls	Net Revenue per stall	Monthly payment	Cumulative monthly payments
January	63	$80	63 x $80 = $5,040	$5,040
February	63	$90	63 x $90 = $5,670	$10,710
March	63	$100	63 x $100 = $6,300	$17,010
April	63	$110	63 x $110 = $6,930	$23,940
May	63	$120	63 x $120 = $7,560	$31,500
June	63	$100	63 x $100 = $6,300	$37,800
July	63	$130	63 x $130 = $8,190	$45,990
August	63	$150	63 x $150 = $9,450	$55,440
September	63	$125	63 x $125 = $7,875	$63,315
October	63	$90	63 x $90 = $5,670	$68,985
November	63	$90	63 x $90 = $5,670	$74,655
December	63	$100	63 x $100 = $6,300	$80,955

In this case, the annual maximum cumulative payments is 63 stalls x $1,200/stall per year = $75,600. This amount is met in December. In December, Ms. Dillard would receive $945 ($75,600 - $74,655 = $945) to bring the cumulative payments to $75,600. The City would receive the remainder of the December revenue.

7) If the number of pay stalls changes during the year, the maximum cumulative payment is determined by prorating the number of stalls available during the year. The per stall cumulative annual maximum is still $1,200. Calculations similar to those in the examples under Leased Stalls scenarios 4 and 5 above would be used to calculate the total cumulative annual maximum payment.

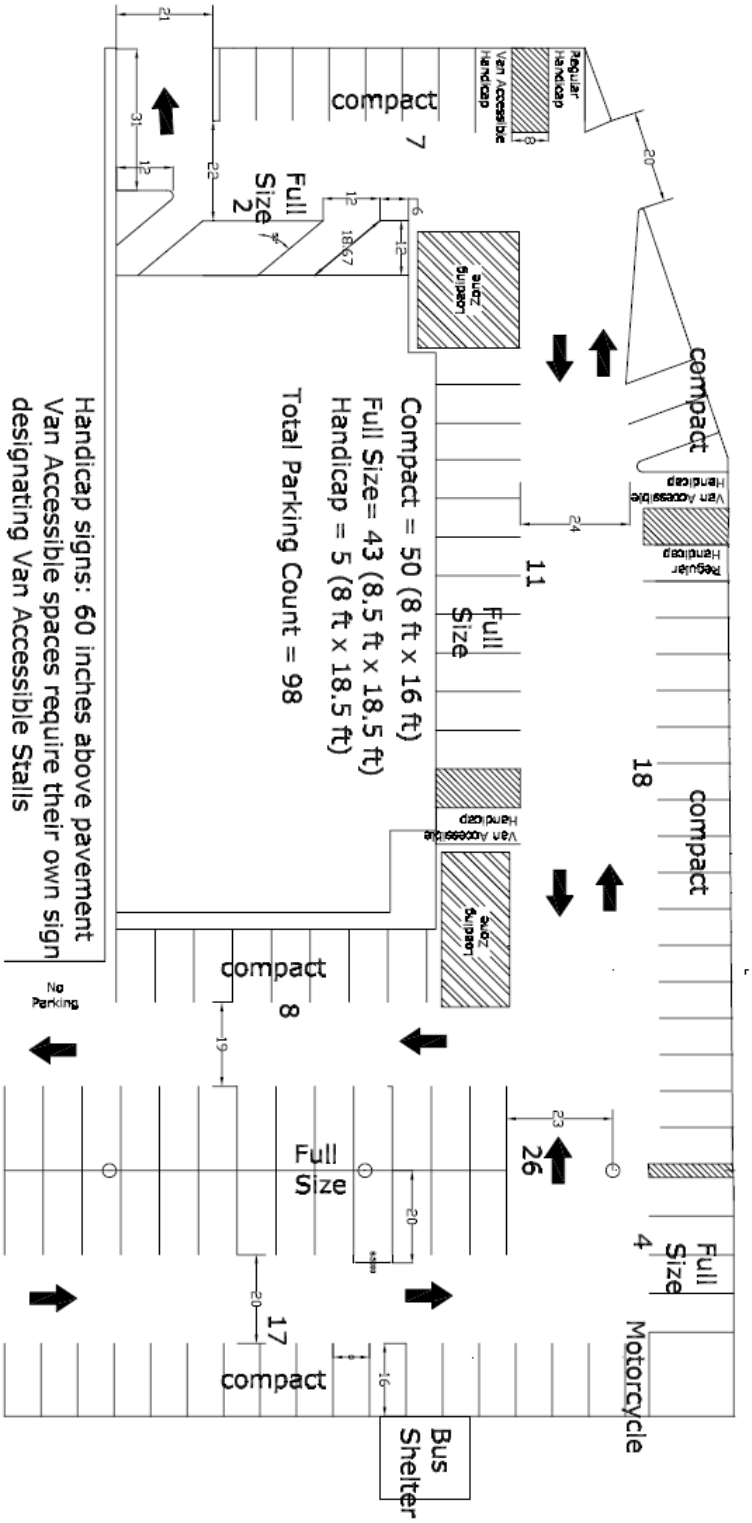


Figure 1 Proposed striping plan

RESOLUTION R-4789

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR THE USE OF PORTIONS OF THE DILLARD PROPERTY AT 151 3RD STREET FOR PUBLIC PAY PARKING PURPOSES.

WHEREAS, the City of Kirkland is interested in securing additional public off-street parking to benefit commerce, activities visitors and employees in downtown Kirkland; and

WHEREAS, the owner of the former Antique Mall site at 151 3rd Street in Kirkland is interested in making portions of her property available for such public purposes; and

WHEREAS, the City of Kirkland and the property owner desire to enter into a parking agreement to provide the City with the use of a portion of the property for public pay parking.

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Manager is hereby authorized and directed to execute on behalf of the City a parking agreement substantially similar to the Agreement attached as Exhibit A.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this ____ day of _____, 2009.

_____
MAYOR

Attest:

_____
City Clerk

Exhibit A
PARKING AGREEMENT

This PARKING AGREEMENT (this "Agreement"), is made and entered into on this _____ day of December, 2009, between Adrienne Alexandra LLC., a Washington limited liability company (herein referred to as "Owner") and the City of Kirkland, a municipal corporation of the State of Washington (herein referred to as "City).

WITNESSETH

WHEREAS, City is interested in securing additional off-street parking for business, activities and employees in downtown Kirkland; and

WHEREAS, Owner is interested in making portions of her property located at the Antique Mall site at 113 3rd Street in Kirkland, Washington (the "Property") available for such purposes; and

WHEREAS, Owner and City desire to enter into a parking agreement to provide City the use of up to 99 parking stalls at Owner's Property;

NOW THEREFORE, the parties agree as follows:

1. Description.

Owner hereby agrees for the term of this Agreement and subject to the conditions and provisions hereinafter set forth, to allow City the use of up to 99 parking stalls and the drive thru areas, (herein called the "Parking Lot") as shown on Attachment A. City accepts the Parking Lot in its "AS IS" condition as of the date of this Agreement, and Owner shall have no obligations to make any improvements or changes thereto, or the balance of the Property. City acknowledges this Agreement is a license to use only a portion of the Property, and that Owner shall retain the use of the building constructed thereon (the "Building") which is not the subject of this Agreement. City shall not create a nuisance, or in any way utilize the Parking Lot in such a way as to interfere with Owner's use of the Building or any parking stalls utilized by Owner after exercise of Owner's termination rights pursuant to Section 2 below. Any such interference shall be a breach under this Agreement. This Agreement does not constitute a lease or an easement for the benefit of City.

2. Term.

The term of this Agreement shall commence on January 1, 2010, and shall expire December 31, 2013. Owner shall use commercially reasonable efforts to remove the fencing from the Parking Lot as soon as is reasonably possible after the commencement date. Either party may terminate all or a portion of this Agreement at any time by giving sixty (60) days written notice to the other party.

3. Use and Management of the Parking Lot.

City shall use, manage and operate the Parking Lot for vehicular parking and for no other purpose and the City's use will be 24 hours a day, 7 days a week. Subject to Force Majeure, as defined below, the City will, at is expense, clean and prepare the Parking Lot for striping, stripe all of the 99 Stalls located in the Parking Lot, install the pay stations, install the signage required in Section 6 below, and will make the Parking Lot operational for use by the public on or before March 1, 2010. Owner shall be responsible for any restriping necessitated by Owner's exercise of the termination provision in Section 2 above. "Force Majeure", as used herein, shall mean war, inclement weather, natural catastrophe, contractor availability, civil disturbance, or any similar cause beyond the reasonable control of City.

Initially 93 of the 99 Stalls shall be charged on a daily/hourly basis (the "Daily Stalls") with payment made through two (2) pay stations located within the Parking Lot at mutually agreeable locations. The parties acknowledge that 6 of the parking stalls will not have any revenue as the City does not charge for the use of five (5) handicapped stalls or the one (1) motorcycle stall.

Upon mutual agreement by both parties, a portion of the Daily Stalls may be designated as monthly parking stalls (the "Monthly Stalls"). Monthly Stalls will be licensed to monthly parkers on an unassigned basis, City will designate an area within the Parking Lot for monthly parking, and City will issue monthly parking permits.

City, at its expense, will maintain normal and regular trash, debris, snow, ice and leaf removal from the Parking Lot. City shall ensure that their use of the 99 Stalls will not block any driveway, access point or drive lane located adjacent to the 99 Stalls, without approval of Owner. While using the 99 Stalls, City shall comply with all applicable federal, state and local laws, ordinances and regulations governing such use.

4. Rate.

City shall pay to Owner a monthly Daily Stall Fee (the "Daily Stall Fee"). The Daily Stall Fee shall be equal to the amount of monthly revenues resulting from use of the Daily Stalls, less any sums paid by City to third parties for the ability to accept credit cards in parking pay stations and any applicable existing taxes (the "Daily Stall Net Revenue"), up to an amount equal to $100.00 multiplied by 93 Stalls (or the total number of Daily Stalls available to the City, should Owner exercise its termination rights pursuant to Section 2 above) (the "Maximum Daily Stall Fee"). Notwithstanding the foregoing, while no monthly Daily Stall Fee shall exceed the Maximum Daily Stall Fee, to the extent a Maximum Daily Stall Fee is not paid in any given month, the unpaid portion of that Maximum Daily Stall Fee shall be added to the amount available for payment in the next succeeding month's Maximum Daily Stall Fee, with such additional amount available for payment in each subsequent month until fully paid. [For example, if the Parking Lot is operational on March 1, 2010, the Maximum Daily Stall Fee for March,

2010 will be $9,300. Should Daily Stall Net Revenues in March, 2010 equal $8,300; the Maximum Daily Stall Fee for April, 2011 shall be $10,300. Should Daily Stall Net Revenues in April, 2010 equal $8,300; the Maximum Daily Stall Fee for May 2011 shall be $11,300.] The City shall retain the amount, if any, by which the Daily Stall Net Revenue exceeds the Maximum Daily Stall Fee.

City shall pay to Owner a monthly Monthly Stall Fee (the "Monthly Stall Fee"). The Monthly Stall Fee shall be equal to the amount of monthly revenues resulting from use of the Monthly Stalls, less any applicable existing taxes (the "Monthly Stall Net Revenue"), up to an amount equal to $100.00 multiplied by the number of Monthly Stalls (the "Maximum Monthly Stall Fee"). In no event shall the City charge less than $110 per month for any Monthly Stall. Notwithstanding the foregoing, while no Monthly Stall Fee shall exceed the Maximum Monthly Stall Fee, to the extent a Maximum Monthly Stall Fee is not paid in any given month, the unpaid portion of that Maximum Monthly Stall Fee shall be added to the amount available for payment in the next succeeding month's Maximum Monthly Stall Fee, with such additional amount available for payment in each subsequent month until fully disbursed. [For example, should the City and Owner designate 10 Monthly Stalls; the Maximum Monthly Stall Fee shall be $1,000. Should Monthly Stall Net Revenues in March, 2011 equal $900; the Maximum Monthly Stall Fee for April, 2011 shall be $1,100. Should Monthly Stall Net Revenues in April, 2011 equal $900; the Maximum Monthly Stall Fee for May 2011 shall be $1,200. In this example, the Daily Stalls would then be reduced to 83 Stalls in calculating the Daily Stalls Maximum Fee in those months.] City shall retain the amount, if any, by which the Monthly Stall Net Revenue exceeds the Maximum Monthly Stall Fee.

5. Payments.

For Daily Stalls, City agrees to pay Owner, without invoice, at 2053 Minor Ave. E., Seattle, WA 98102, or such other person or entity as directed in writing by Owner, the Daily Stall Fee payable on or before the thirtieth day following the month for which payment is due. All past due Daily Stall Fee payments shall be assessed a $100 late payment charge and the late payment charge and outstanding Daily Stall Fees shall accrue interest at 12% per annum. Failure to pay the Daily Stall Fee by the 35th day following the month for which payment is due shall be a breach under this Agreement.

For Monthly Stalls, City agrees to pay Owner, as above, except that the Monthly Stall Fee shall be payable on or before the fifteenth day following the month for which payment is due. Failure to pay the Monthly Stall Fee by the 20th day following the month for which payment is due shall be a breach under this Agreement.

6. Signage.

City, at its expense, shall install and maintain public parking signage at location(s) to be mutually agreed by both parties. Owner shall responsible for any relocation of signage necessitated by Owner's exercise of the termination provision in Section 2.

7. Assignment. It is agreed that this Agreement is personal to the City, and that City may not assign its rights under this Agreement to any other party without the prior written consent of Owner, which consent may be withheld in Owner's sole discretion.

8. Enforcement.

City reserves the right to determine and enforce applicable parking restrictions and to have any vehicle towed from the 99 Stalls that does not comply with parking restrictions, handicap permit, or display the monthly parking permit, if applicable.

9. Hold Harmless Agreement.

Owner shall not be liable to City for injury to any person, or for the loss of or damage to any property (including, but not limited to, the property of City) occurring in or about the 99 Stalls (or however many parking stalls the City is then using in the Parking Lot), the Parking Lot, or the Property from any cause whatsoever, unless caused by the sole negligence of Owner. City hereby releases, and agrees to indemnify, defend and hold Owner and the Other Users harmless from, any and all loss, claims, injuries, charges, liabilities, obligations, penalties, causes of action, liens, damages, costs and expenses (including attorneys' fees and costs) claimed, charged, incurred or arising from City's use of the 99 Stalls (or however many parking stalls the City is then using in the Parking Lot), the Parking Lot or the Property, unless caused by the sole negligence of Owner. City shall defend Owner and the Other Users from the same at City's expense by counsel reasonably satisfactory to both Owner and the Other Users. This Section shall survive any termination or expiration of this Agreement. City shall give prompt notice to Owner in the case of casualty or accidents on or about the 99 Stalls (or however many parking stalls the City is then using in the Parking Lot), the Parking Lot, or the Property.

10. Insurance.

City shall maintain liability coverage via City's membership in the Washington Cities Insurance Authority, a municipal insurance pool, for liabilities contractually assumed by City in this Agreement, and, arising out of the activities pertaining to this Agreement.

By requiring such liability coverage, Owner shall not be deemed to, or construed to, have assessed the risks that may be applicable to City in this Agreement. City shall assess its own risks and, if it deems appropriate and or/prudent, maintain greater limits or broader coverage than is herein specified.

Coverage shall be at least as broad as Commercial General Liability with a limit of not less than: $2,000,000 combined single limit per occurrence, $3,000,000 aggregate. The coverage agreement shall include, but not be limited to coverage for premises and operations, contractual liability (including specifically liability assumed herein), and

Employers Liability or "Stop-Gap" coverage.

To the extent of City's negligence as herein assumed, City's liability coverage shall be primary coverage as respects Owner, its officers, officials, employees, and agents. Any insurance and/or self-insurance maintained by Owner, its officers, officials, employees, and agents shall not contribute with City's coverage or benefit City in any way.

Coverage shall not be suspended, voided, canceled, materially reduced in coverage or in limits except by the reduction of the applicable aggregate limit by claims paid, until thirty (30) days prior written notice to the Owner.

City shall furnish Owner with Evidence of Coverage, evidencing general liability coverage, to be received and accepted by Owner prior to the commencement of activities associated with this Agreement.

11. Surrender.

Upon termination of this Agreement, City shall at its sole cost and expense remove any and all fencing; materials, equipment or other items stored or left on the 99 Stalls (or however many parking stalls the City is then using in the Parking Lot) and shall return said stalls to Owner in the same or better condition they were in on the commencement date of this Agreement. Further, City shall be responsible for repairing and or replacing, if necessary any damage to the 99 Stalls (or however many parking stalls the City is then using in the Parking Lot), the Parking Lot, or the Property.

12. Defaults.

Neither party shall be deemed to be in Default under this Agreement unless the other party provides it with a written notice of a specific breach thereof, and unless the failure to comply with any monetary obligation is not cured within ten (10) days after such notice or the failure to comply with any nonmonetary obligation is not cured within thirty (30) days after such notice.

13. Waiver of Breach.

No waiver of any breach of any covenant or condition herein contained shall operate as a waiver of any subsequent breach of the same or any other covenant or condition.

14. Notices.

All notices, demands, and requests to be given by either party to the other shall be in writing. All notices, demands and requests by City to Owner shall be sent by United States registered or certified mail, postage prepaid, addressed to Marilyn Dillard, 2053 Minor Avenue E, Seattle, WA 98102, or at such other place as Owner may from time to time designate by notice to City. All notices, demands, and requests by Owner shall be sent by United States registered or certified mail, postage prepaid address to

City at City of Kirkland, Parking Coordinator, City Hall, 123 Fifth Avenue, Kirkland, WA 98033-6189, or at such other place as City may from time to time designate by notice to Owner.

15. Interpretation and Venue.

Washington law shall govern the interpretation of this Agreement. King County shall be the venue of any mediation, arbitration, or lawsuit arising out of this Agreement.

16. Time of Performance. Time is of the essence in the performance of each obligation set forth in this Agreement.

17. Successors. The covenants and conditions herein contained shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns.

18. Counterparts. This Agreement may be executed in counterparts, each of which shall be considered an original and but one and the same contract.

19. Severability.

If one or more clauses of this Agreement is found to be unenforceable, illegal, or contrary to public policy, the Agreement will remain in full force and effect except for the clauses that are unenforceable, illegal or contrary to public policy.

20. Legal Expenses.

If any litigation in connection with this Agreement (including an injunction, assertion of any counterclaim or cross-claim instituted by a party hereto or by others), the substantially prevailing party shall recover the costs and expenses, including reasonable attorneys' fees, which it incurred in connection with such proceeding, including those on any appeal therefrom.

21. Entire Agreement.

This Agreement constitutes the complete and final agreement of the parties, replaces and supersedes all oral and/or written proposals and agreements heretofore made on the subject matter, and may be modified only by a writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto have executed this document as of the day and year first above written.

CITY OF KIRKLAND

By:_____
David Ramsay
City Manager

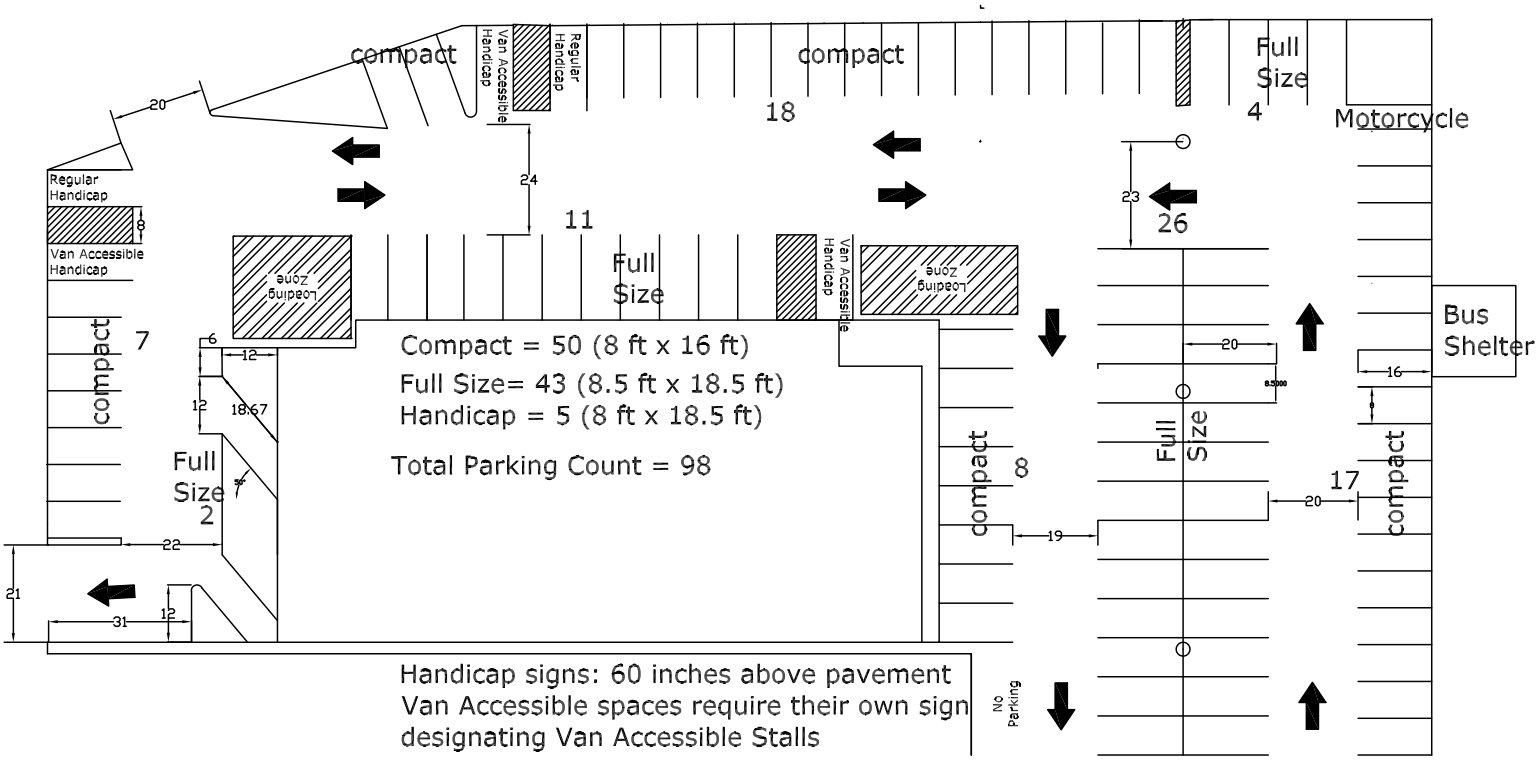
ADRIENNE ALEXANDRA LLC

By:_____
Marilyn D. Dillard
Manager

APPROVED AS TO FORM:

_____
Kirkland City Attorney

R-4789
Attachment A



Council Meeting: 12/15/2009
Agenda: Other Business
Item #: 8. h. (1).

CITY OF KIRKLAND
Department of Public Works
123 Fifth Avenue, Kirkland, WA 98033 425.587.3800
www.ci.kirkland.wa.us

MEMORANDUM

To: Dave Ramsay, City Manager

From: Donna Burris, Internal Services Division Manager
Greg Neumann, Water Division Manager
Daryl Grigsby, Public Works Director

Date: November 24, 2009

Subject: NEXT STEPS FOR SOUTH ROSEHILL WATER DISTRICT BUILDING

RECOMMENDATION
It is recommended that the Joint Board moves forward with the demolition of the South Rosehill Water District Building (approved by the Finance Committee on October 27).

BACKGROUND DISCUSSION
In 1994, the Cities of Redmond, Bellevue, and Kirkland assumed joint ownership (Joint Board) of the Rosehill Water District. As part of this assumption, the Water Utilities of Redmond and Kirkland also became the owners of the South Rosehill Water District Building located on the South Rosehill Reservoir (water tank) site (13013 NE 65th St.). This building served as the District's Operations and Maintenance facility and also housed office staff.

As part of the conditions of the joint ownership, Kirkland was charged with the physical upkeep and maintenance of the South Rosehill Water District Building with Redmond sharing in costs for repair. Conversely, any revenues from lease agreements would also be shared of which Kirkland has 66% interest to Redmond's 34%.

Since 1994, various tenants have occupied this building with Hopelink being the most recent. Before Hopelink became a tenant, numerous discussions by the Joint Board took place to determine next steps for the building. During a meeting held on April 28, 2005, the Joint Board determined the building should be demolished because of the condition of the building, and security concerns for the reservoir and the pump house due to evidence of unauthorized access over the chain-link fence and barbed wire. Plans to move forward with this decision were put on hold to accommodate the Hopelink lease. Hopelink's lease ended on August 15th of this year. The building is currently vacant and this presents an optimal opportunity to determine the next steps.

As Kirkland looks towards long-term needs with possible annexation on the horizon, this property has been reviewed as potential property to accommodate City of Kirkland staff. Options to lease or purchase the building are examined below.

LEASING THE BUILDING

In today's market, if the building was leased, the average rent for this property would be approximately $3,500 per month with the tenant paying all operating expenses (excluding repair of the roof, foundation, and building exterior). The income approach calculation for the Joint Board would be as follows:

$42,000 Gross Income per year
-$ 2,100 (Less 5% vacancy)
$39,900 Effective Gross Income
$5,000 Miscellaneous Expenses
$34,900 Net Operating Income (NOI)

It has not been the intention or desire of the Joint Board to continue as a "landlord" of the facility. A replacement fund was not established for major repairs or upgrades, thus the concern that future lease revenues would not be able to cover future costs. The roof is in need of replacement, the building is on a septic system, and the plumbing, electrical, etc. is 39 years old (the building was constructed in 1970). The Joint Board would need to invest approximately $105,000 prior to putting the property on the market for lease. This would be the minimum amount of work necessary to have the building ready for leasing. With a $34,900 NOI, the Joint Board would have a negative return on investment (ROI) for three years. The following is a list of the building's immediate needs:

a.) Roof replacement costs -	$25,000
b.) HVAC system replacement costs -	$20,000
c.) Connection to the sewer system -	$20,000
d.) Paint, carpet, other flooring -	$20,000
e.) Gutters -	$10,000
f.) Lighting -	$10,000

If Kirkland decides to pursue the option to lease the space for annexation, we would be required to pay the Joint Board market rate plus all operating costs. Set-up cost, if we lease, is about $56,000, which includes signage, computer hardware, fiber connection, fire alarm panel installation, and furniture. Minimal annual maintenance costs are estimated to be approximately $55,000 excluding salaries/wages for Facilities staff and ground maintenance.

CITY PURCHASES BUILDING

On October 6, 2009, staff obtained a professional opinion from Ryan Dunham Real Estate as to the value of the property. Based on assessment of comparable property in the area, they estimate the 4,104 square foot building is valued at $750,000 "as-is" with needed repairs performed and paid at the new owner's expense. However, the building does not sit on a separate legal lot and the property would need to be subdivided or a ground lease agreement created in order for the Joint Board to sell the property. Subdividing the property is not feasible due to the proximity of the building to the reservoir and pump house which cannot accommodate the required setbacks.

Downsides to pursuing this space for any annexation needs are as follows:

1) The building is located at the opposite end of the annexation area and is therefore not central to the layout of the city.
2) The only logical use for this space would be to staff it with the Water Division as they do not have any added responsibilities as a result of annexation.

3) The neighbors will not allow any type of maintenance use due to noise concerns.

The Department of Health (DOH) and the Department of Homeland Security have also expressed security concerns which are detailed in the Vulnerability Assessment Plan performed in June 2004. An excerpt from the assessment regarding the South Rosehill site is as follows:

The South Rose Hill Reservoir is a partially wooded site with mature trees. The site shows significant evidence of unauthorized access over the chain-link fence and barbed wire. There is additional damage to the barbed wire from downed branches and overgrown vegetation. A conduit for a perimeter detection system is on the fence, but damaged in many places from past intrusions and downed trees. The conduits on the sides of the tanks are generally well covered, although there are some exposed conduits. This site is clearly visible from the main street and is surrounded by various densities of residential housing. Rolling gates are unlocked and open to the site during normal business hours. There is a motion detector below the tank ladder, but it can be easily bypassed with a standard ladder. Additional security features would include the following:

- *Actively maintained barbed wire and chain link fences.*
- *Upgraded locks on gates, hatches, and vaults.*
- *Adequate perimeter alarm system.*
- *Hatch and vault alarms.*
- *Upgraded perimeter and motion detection.*
- *Video surveillance.*

The cost to upgrade the security to meet the DOH's requirements is $454,175. Any purchase or lease of this building will preclude the ability for the Joint Board to secure the water reservoir as required especially if the building remains open to the public during normal business hours. In addition, the Cities of Redmond and Bellevue have expressed concern that Kirkland has been unable to assure the safety of the water to their customers.

<u>DEMOLISH THE BUILDING</u>
Due to the age of the building, the cost of upgrades, the need for better security of the reservoir and the pump house, the undesirable location if utilized for annexation, and the limited type of occupants that can be housed in this facility (neighborhood concerns), staff recommends that the South Rosehill Water District Building be demolished. Redmond is in agreement with demolishing the building (see attached). On October 27, the Finance Committee reviewed all options and approved the building's demolition as the preferred next step.

In addition to security upgrades, the cost associated with the demolition would be approximately $20,000 and an additional $10,000 to install new fencing. These costs would be incurred by the Utilities of the Joint Board.

Upon demolition, the Joint Board will continue to maintain the site to keep the area from becoming a weed patch and a blight on the neighborhood.

Staff respectfully asks that you consider the demolition option. Please direct any questions to Donna Burris (x3931) or Greg Neumann (x3910).

ATTACHMENT

Attachment 1

CityofRedmond
WASHINGTON

November 20, 2009

City of Kirkland
123 Fifth Avenue
Kirkland WA 98033

ATTENTION: Donna Burris

SUBJECT: Demolition of the South Rose Hill Building

Please consider this letter Redmond's reaffirmation with the planned demolition of the South Rose Hill building.

The Rose Hill Water District was assumed in 1997 by Bellevue, Kirkland and Redmond. With the division of Rose Hill assets, the South Rose Hill building and tank site became a jointly-owned facility with Kirkland. All jointly-owned facilities are governed by a Joint Board that consists of a representative from each city.

Currently the building stands next to the tank and is unoccupied. At a Joint Board meeting held November 4, 2004, it was determined that the building should be torn down. The minutes from that meeting clearly state that the Joint Board unanimously approved demolishing the building.

Redmond continues to believe that the building is no longer serviceable and would need significant repairs to continue to be used. Also, continued use of the building raises concerns about security at the site.

Sincerely,

John Marchione
Mayor

cc: file

Council Meeting: 12/15/2009
Agenda: Public Hearings
Item #: 9. a.

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

MEMORANDUM

To: David Ramsay, City Manager

From: Eric Shields, Planning Director
Jeremy McMahan, Planning Supervisor

Date: December 3, 2009

Subject: Request to Collect School Impact Fees, File No. MIS09-00016

RECOMMENDATION

Continue the public hearing to consider adoption of school impact fees to the January 19th City Council meeting.

BACKGROUND DISCUSSION

On December 1, 2009, the City Council considered a draft ordinance for school impact fees. After initial discussion, the Council tabled the ordinance and scheduled a public hearing for December 15th to receive additional community input. Subsequently, the School District recognized a meeting conflict because they were previously scheduled to attend the Redmond City Council meeting on December 15th for consideration of impact fees.

Attachments:

1. LWSD request for continuance

cc: Forrest Miller, LWSD Director of Facilities and Transportation
Denise Stiffarm, K&L Gates LLP

From: Kimball, Chip [mailto:CKimball@lwsd.org]
Sent: Thursday, December 03, 2009 12:07 PM
To: David Ramsay
Cc: Miller, Forrest
Subject: Impact Fee hearing

Hi Dave,

I understand that the City Council voted on Tuesday to delay taking action on the proposed school impact fee ordinance in order to allow the City to hold a public hearing on December 15, 2009. Unfortunately, the District has a previously scheduled obligation that same evening with the City of Redmond to discuss impact fees. This means that District staff necessary to provide important testimony will be at the Redmond meeting that evening. Because of the importance of this issue to the District, and the need for the City to have the District's participation in this process, we are requesting that the City of Kirkland reschedule the December 15th public hearing to another date. We understand that the rescheduled date may need to occur after the new year due to the holidays. We believe that the district's participation in this process is important Please let me know as soon as possible if you think this adjustment can be accommodated.

Thank you for your assistance. Chip

_____
Dr. Chip Kimball, Superintendent
Lake Washington School District
(425) 702-3257
ckimball@lwsd.org
www.lwsd.org

CITY OF KIRKLAND
Information Technology Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3050
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Brenda Cooper, Chief Information Officer;
Janice Perry, Multimedia Communications Manager

Date: December 4, 2009

Subject: Staff Report Recommending Approval of Verizon Application for Transfer of Control of Verizon Northwest, Inc. to Frontier Communications Corporation

RECOMMENDED ACTION

It is recommended that the City Council adopt the attached resolution:

(1) APPROVING the transfer of control of the cable franchisee, Verizon Northwest Inc., from Verizon Communications, Inc. to Frontier Communications Corporation, subject to the terms and conditions in the "Transfer of Control Agreement" (**Attachment A to the Resolution**); and

(2) AUTHORIZING the City Manager to execute the Transfer of Control Agreement on behalf of the City which sets forth the terms under which the City is willing to grant its consent to the change of ownership and control of the Verizon Northwest Inc.

BACKGROUND

The issue before City Council is whether the City should approve the proposed transfer of control of the cable franchisee, Verizon Northwest Inc. ("Franchisee"), from Verizon Communications Inc. ("Verizon") to Frontier Communications Corporation ("Frontier") under the terms and conditions that Staff has negotiated with the companies which are set out in the proposed Transfer of Control Agreement ("Transfer Agreement").

Franchise Agreement

Verizon Northwest Inc. (the Franchisee) has provided local telephone service to residents of the City for many years. It entered the local cable television market only in November 2008, after the City granted a 10 year cable franchise and entered into a Franchise Agreement with the Franchisee. The Franchisee currently offers its Verizon FiOS TV service in competition to Comcast and satellite providers.

Proposed Sale/Transfer of Control

In May 2009, Verizon and Frontier announced that they had reached a deal for Frontier to acquire Verizon's telephone networks in Arizona, Idaho, Illinois, Indiana, Michigan, Nevada,

North Carolina, Ohio, Oregon, South Carolina, Washington, West Virginia and Wisconsin, and some rural assets in California. The assets being sold include the Franchisee and the telecommunications and cable system serving residents of the City. They do not include any of Verizon's wireless assets or networks. Verizon represents that the proposed sale is consistent with its strategy to divest landline networks in less populous areas. For Frontier, a predominantly rural telephone company, the acquisition has been billed as an opportunity to more than double the size of its operations.

Various aspects of the proposed sale require the prior approval of numerous federal and state regulatory authorities, including the Federal Communications Commission ("FCC") and the Washington Utilities and Transportation Commission ("WUTC"). The FCC has received written submissions from the companies, and other interested parties concerning the proposed transfer of Verizon's federal authorizations and licenses associated with the sale, and is currently considering that evidence. For its part, the WUTC has scheduled an evidentiary hearing on the proposed sale for December 15 to 18, 2009.

Transfer Review Authority of the City

Section 10 of the Franchise Agreement provides that the prior consent of the City is required for a "Transfer of the Franchise" which includes any transaction in which ownership in the Franchisee is transferred, directly or indirectly from one person or group to another person or group so that control of the Franchisee is transferred.

Federal cable law, 47 U.S.C. §537, states that where a franchise requires the franchising authority's approval of a "sale or transfer" of the franchise, there is a 120-day period for review of a transfer application but that period does not begin to run until the applicants submit "such information as is required in accordance with [FCC] regulations and by the franchising authority." The FCC has developed an application form for cable companies to use to submit transfer approval requests to franchising authorities, which is known as FCC Form 394. Section 76.502 of the FCC's Rules states that a franchise authority has 120 days from the date of submission of a completed FCC Form 394, together with all exhibits, and any additional information required by the terms of the franchise or applicable state or local law, to act upon a transfer application. Federal law further provides that if the franchising authority fails to render a final decision on the request within 120 days, the request shall be deemed granted unless the applicant and the franchising authority agree to an extension of time.

Because Verizon's proposed sale of the Franchisee to Frontier involves a "Transfer of the Franchise" (as defined in Section 10 of the Franchise Agreement), the City's prior consent to the proposed transfer of control of the Franchisee is required under the Franchise Agreement and federal cable law, and the City would have 120 days to act from the submission of a completed transfer application.

Transfer Request/Date to Approve or Deny

On June 1, 2009, Verizon submitted to the City a formal application (including an FCC Form 394 and other transaction documents) ("Application") seeking the City's consent to the proposed transfer of control of the Franchisee. While the City and the companies disagree and have reserved their rights as to whether and when a "completed" Application was received, they did agreed to toll the date for City action on the Application twice, most recently to December 31, 2009.

Standard for Review and Review Process

In considering whether to consent to a transfer request, the City examines the legal, financial and technical qualifications of the proposed transferee of control, in this case Frontier, to perform the terms of the deal negotiated with the company that controls the existing franchise holder, in this case Verizon. Per Section 10.1 of the Franchise Agreement, the City's consent "shall not be unreasonably withheld, delayed or conditioned."

Staff engaged outside legal and financial experts to assist with the evaluation of the Application and negotiations on possible transfer conditions with the companies. Specifically, the City retained the law firm Miller & Van Eaton, PLLC, and contributed to the cost of the financial expert (Michael Katz) who was retained by several Oregon jurisdictions to review and report on the proposed sale. Also, Staff was in contact with its counterparts at some other local governments affected by the proposed sale, both in Washington and in Oregon.

As contemplated by the Franchise Agreement, Staff and its advisors examined various issues related to the proposed transfer of control described in the Application. Several information requests were made to the companies, and responses received and evaluated. A nondisclosure agreement was entered into to permit Staff and its advisors to view certain documents and information that the companies believed to be confidential. In addition, Staff met with the companies several times to discuss the potential risks and benefits of the proposed transfer.

Staff Evaluation and Concerns

In reviewing the Application, Staff was particularly concerned about the potential risk to the City that Frontier was less able than Verizon to perform the promises contained in the Franchise Agreement. These risks arose from the apparent differences in the financial and technical qualifications of Frontier as compared to Verizon.

Frontier is a much smaller company than Verizon and it has less experience operating fiber-to-the-home (FTTH) systems. It has no significant experience operating cable television services over an FTTH system. Staff was also concerned that Frontier was primarily a rural telephone service provider and the bulk of the Verizon purchase was of rural telephone systems that did not offer cable television services. This created the potential risk that Frontier's corporate attention and expertise would be directed at maintaining and expanding its telecommunications business rather than maintaining and improving the small number of former Verizon systems offering cable television services Frontier was purchasing.

The core questions that emerged were whether Frontier would have a long term commitment to provide cable television service in the City because of its limited experience, and whether it would choose to exercise the early termination right (walk away provision) that had been included in the Franchise Agreement at Verizon's strong insistence under a specific business context. Section 12.8 of the Franchise Agreement provides a one-time right for the Franchisee to terminate the 10 year Franchise agreement early without penalty, during a 90 day window which opens after the end of the first three years of the franchise (i.e., on November 1, 2011). This right may only be exercised by the Franchisee during the 90 day window if it "does not then in good faith believe it has achieved a commercially reasonable level of Subscriber penetration on its Cable System." (Section 12.8). This type of early termination right is unusual in the cable industry but was a standard condition negotiated by Verizon in many its cable franchises because it was unsure of the ultimate success of its nationally launched FiOS TV

service. Staff was concerned that Frontier might seek to exercise the early termination right shortly after taking over the cable system based on very different commercial considerations.

Transfer of Control Agreement

Staff asked the companies to address these concerns by offering additional binding commitments in a written agreement. Staff has reached agreement with Verizon and Frontier on terms and conditions of the transfer of control which Staff now recommends to the City Council as adequately addressing the additional risks to the City. In summary, these terms and conditions are as follows:

- The Franchisee will establish and maintain a letter of credit in the amount of $40,000 throughout the term of the franchise. This letter of credit will secure the payment of franchise fees and any liquidated damages that may be assessed by the City under Section 12.4 of the Franchise Agreement for violations of the Franchise Agreement.
- If the above described letter of credit is not maintained by the Franchisee, or if the Franchisee's earnings before interest, taxes, depreciation and amortization (EBITDA) less capital expenditures in any fiscal year were to fall below $25 million, a full parental guarantee by Frontier will come into effect and remain in effect for the rest of the franchise term. In order to monitor the EBITDA level, the Chief Financial Officer of the Franchisee will certify compliance annually within 90 days of the close of the Franchisee's fiscal year end. This certification will be accompanied by supporting documentation.
- The potential exercise of the Franchisee's early termination right in Section 12.8 of the Franchise Agreement will be deferred. It will be exercisable for a 90 day window commencing on the later of March 31, 2013 or 2.5 years from the date of closing on the transfer of control.

These conditions have been incorporated into the Transfer Agreement. In addition to the above, the Transfer Agreement also provides for the following:

- The Franchisee will continue to be bound by the Franchise Agreement and be liable for any acts or omissions occurring prior to the closing of the transfer of control transaction.
- The incorporation of two "side letters" previously agreed to by the Franchisee, specifically, (a) Letter from Franchisee to City dated October 29, 2008 (Subject: City of Kirkland Cable Franchise – Expanded Basic Service, Aggregate Subscriber Counts and Intent to Carry TVW); and (b) Letter from Franchisee to City dated October 29, 2008 (Subject: City of Kirkland Cable Franchise – Cooperation in Technology Innovations).

Finally, the Franchisee has provided a separate written commitment to pay the City's out-of-pocket costs incurred in connection with review of the transfer applications, including attorneys' fees, in an amount not to exceed $50,000. The Franchisee has agreed it will not claim this payment as an offset to its franchise fee obligations.

FISCAL IMPACTS

If the City enters into the Transfer Agreement in its present form, the City will receive $50,000 in cash, within 30 days of receipt by the companies of an invoice from the City detailing its out-of-pocket expenses incurred to review the Application. The Council has approved expenditures up to $57,000. We now anticipate total costs will exceed this ceiling and are currently estimated at $65,000, most of which the City has already paid.

If the City does not enter into the Transfer Agreement and instead denies the Application, or simply does not act on the Application, it will not receive this cost reimbursement from the Franchisee. It would also be at risk of bearing the costs of defending itself in litigation initiated by the companies to challenge a denial.

ALTERNATIVES

The City Council could choose to deny the Application. However, as a matter of caution, this would likely lead to prolonged and costly litigation with the companies, with no guarantee of a favorable result for the City.

The City Council could also choose to not act on the Application before the agreed date of December 31, 2009. In this situation, the companies would likely assert that they are entitled to consider their approval request to be "deemed granted" as of December 31, 2009 under federal cable law, 47 U.S.C. §537.

DISCUSSION

Anticipated Benefits of Approval

Staff believes that the Transfer Agreement is fair and will provide numerous protections to the City and its residents. These benefits include:

- Frontier has demonstrated its longer term commitment to serve residents of the City by agreeing to delay the availability of the 90 day early termination window by several additional years, as described above.
- The City will receive the added security of a $40,000 letter of credit from the Franchisee which will be available in case of non-payment or underpayment of franchise fees and to recover liquidated damages for franchise violations.
- As a further security of the Franchisee's performance, the parental guarantee by Frontier will be triggered in certain circumstances described above.
- Frontier has also demonstrated a willingness to abide by the additional commitments made by the Franchisee and Verizon in the side letters with the City.
- The City will receive reimbursement of $50,000 which will cover most of its out-of-pocket costs of reviewing the Application.

Staff believes that with the added protections gained in the Transfer Agreement, Frontier is sufficiently qualified to operate a cable system in the City, and therefore recommends that the Application should be approved.

Anticipated Closing Date

Should the City Council adopt the Resolution approving the Application, the actual closing of the transfer of control transaction will not take place until all requisite approvals are obtained by the companies. As mentioned earlier, the FCC and WUTC approvals are still pending. Other regulatory approvals are also pending. The companies have publicly represented that they anticipate being in a position to complete the closing and transfer the systems to Frontier during the second quarter of 2010. If for any reason the transfer of control does not close as anticipated, the transfer approval will become void, the provisions of the Transfer Agreement

will cease to apply, and the City and Verizon will return to the status quo ante. However, the City will not be obligated to return the $50,000 cost reimbursement.

RESOLUTION R-4792

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND APPROVING THE TRANSFER OF CONTROL OF THE CABLE FRANCHISEE VERIZON NORTHWEST, INC. TO FRONTIER COMMUNICATIONS CORPORATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE A TRANSFER OF CONTROL AGREEMENT.

WHEREAS, Verizon Northwest, Inc. ("Franchisee") currently provides cable services in the City of Kirkland pursuant to a cable Franchise Agreement with the City effective as of November 1, 2008 ("Franchise Agreement") and is currently a wholly owned subsidiary of Verizon Communications, Inc. ("Verizon"); and

WHEREAS, Section 10 of the Franchise Agreement provides that the prior consent of the City is required for a "Transfer of the Franchise" which includes any transaction in which ownership in the Franchisee is transferred, directly or indirectly from one person or group to another person or group so that control of the Franchisee is transferred; and

WHEREAS, on June 1, 2009, Verizon submitted to the City a formal application including an FCC Form 394 and other documents ("Application") seeking the City's consent to the proposed transfer of control of the Franchisee to Frontier Communications Corporation ("Frontier") ("Proposed Transaction"); and

WHEREAS, City staff has reviewed the Application, as well as additional information provided by Verizon and Frontier in response to City staff's requests; and

WHEREAS, City staff has reached a proposed agreement with the Franchisee and Frontier on terms and conditions under which the City would be willing to consent to the Transaction; and

WHEREAS, the proposed terms and conditions are set out in the Transfer of Control Agreement; and

WHEREAS, the Franchisee has agreed in writing to reimburse the City's out-of-pocket transfer review costs up to $50,000; and

WHEREAS City staff believes that the proposed terms and conditions contained in the Transfer Agreement are reasonable, fair and assure the City and its residents of continued full performance of the franchise by the Franchisee after the Transaction.

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Council hereby approves the transfer of control of the Franchisee, Verizon Northwest Inc., from Verizon Communications, Inc. to Frontier Communications Corporation, subject

to the acceptance and execution of the Transfer of Control Agreement within 60 days of the date of this Resolution.

Section 2. The City Manager is hereby authorized and directed to execute on behalf of the City a Transfer of Control Agreement substantially similar to the Agreement attached hereto as Exhibit A.

Section 3. The parties to the Transfer of Control Agreement shall file with the City a fully executed Transfer of Control Agreement within 60 days of passage of this resolution.

Section 4. The failure, refusal or neglect by the Franchisee or, Verizon, or Frontier to comply with Section 3 above shall constitute an abandonment of the rights conferred hereby, and the request for approval of the Transaction shall be deemed denied without further action by the City.

Section 5. If closure of the Transaction is reached on terms which substantially and materially alter the Franchisee's or Frontier's ability to perform the terms of the Transfer Agreement, then the request for approval shall be deemed denied without further action by the City.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this ____ day of _____, 2009.

_____
MAYOR

Attest:

_____
City Clerk

TRANSFER OF CONTROL AGREEMENT

THIS AGREEMENT is made this ___ day of _____, 20___, by and between:

a) The City of Kirkland, a Washington municipal corporation ("City");

b) Verizon Northwest Inc., a Washington corporation and wholly owned subsidiary of Verizon Communications Inc. ("Franchisee") and;

c) Frontier Communications Corporation, a Delaware corporation ("Frontier").

Frontier, and Franchisee, as that term is defined herein, may be referred to collectively herein as "Companies".

RECITALS

WHEREAS, Franchisee currently holds a cable franchise (the "Franchise") from the City subject to the **Cable Franchise Agreement effective as of November 1, 2008** ("Franchise Agreement"); and

WHEREAS, Franchisee and the City have executed (a) Letter from Franchisee to City dated October 29, 2008 (Subject: City of Kirkland Cable Franchise – Expanded Basic Service, Aggregate Subscriber Counts and Intent to Carry TVW) and (b) Letter from Franchisee to City dated October 29, 2008 (Subject: City of Kirkland Cable Franchise – Cooperation in Technology Innovations) (collectively the "Side Letters"). The Side Letters are attached hereto as Exhibit A;

WHEREAS, Franchisee owns a cable system serving most of the geographic areas of the City ("System"); and

WHEREAS, pursuant to a Distribution Agreement by and between Verizon Communications Inc. ("Verizon") and Spinco dated as of May 13, 2009, as amended ("Distribution Agreement"), Verizon: (i) will contribute the stock of Franchisee to New Communications ILEC Holdings Inc. ("ILEC Holdings"), an indirect wholly owned subsidiary

of Verizon; (ii) will contribute the stock of ILEC Holdings to Spinco; and (iii) will distribute the stock of Spinco to Verizon's shareholders, which will continue to indirectly control Franchisee ("Proposed Distribution Transaction"); and

WHEREAS, pursuant to an Agreement and Plan of Merger by and among Verizon, Spinco and Frontier dated as of May 13, 2009, as amended ("Merger Agreement"), immediately after the Proposed Distribution Transaction, Spinco will merge into Frontier and thereby Frontier will acquire from Verizon control of the Franchisee as its indirect wholly owned subsidiary ("Proposed Merger Transaction"); and

WHEREAS, the Companies have represented to the City that the Proposed Distribution Transaction and the Proposed Merger Transaction will occur contemporaneously; and

WHEREAS, Section 10.1 of the Franchise Agreement provides that the prior consent of the City is required for the transfer of control of the Franchisee as contemplated as part of the Proposed Merger Transaction, provided that such consent shall not be unreasonably withheld, delayed or conditioned; and

WHEREAS, on June 1, 2009, as required under federal law and FCC regulations, Verizon and Frontier filed an FCC Form 394 with the City and requested that the City consent to the transfer of control resulting from the Proposed Merger Transaction (the "Transfer Application"); and

WHEREAS, the Franchisee, as that term is defined herein, has agreed to continue to comply with the Franchise Agreement, the Side Letters, and applicable law from and after the completion of the Proposed Merger Transaction; and

WHEREAS, relying on the Companies' representations referred to above, the City is willing to grant its consent to the transfer of control contemplated in the Proposed Merger Transaction, subject to the terms and conditions set forth herein;

NOW, THEREFORE, in consideration for the City's consent to the transfer of control contemplated in the Proposed Merger Transaction and subject to the terms and conditions of this Agreement, THE PARTIES DO HEREBY AGREE as follows:

1. DEFINITION

1.1. For purposes of this Agreement, "Franchisee" shall mean the Washington corporation currently known as Verizon Northwest Inc. which may be renamed by Frontier on or after the date of the closing of the Proposed Merger Transaction.

1.2. Terms contained herein and not defined shall have the same definitions as contained in the Franchise Agreement.

2. TRANSFER OF CONTROL OF FRANCHISE

2.1. Pursuant to Section 10.4 of the Franchise Agreement, and by resolution dated December 15, 2009, (the "Transfer Resolution") the City has consented through the Transfer Resolution to the transfer of control contemplated in the Proposed Merger Transaction as specified in the Transfer Application, in consideration of the terms of this Agreement and conditioned on the acceptance and execution of this Agreement by the Companies.

3. ACCEPTANCE OF FRANCHISE OBLIGATIONS

3.1. From and after the closing of the Proposed Merger Transaction, Franchisee accepts, acknowledges, and agrees that, after the Proposed Merger Transaction, it will continue to be bound by all the commitments, duties, and obligations,

present, continuing and future, of the Franchisee embodied in the Franchise Agreement and this Agreement, and that the Proposed Merger Transaction will not materially alter these obligations, except as expressly stated herein. Except as expressly set forth herein, nothing in this Agreement shall be construed to increase or expand the rights of the City with respect to the Franchise, or Franchisee's provision of cable service pursuant to the terms of the Franchise Agreement. Except as expressly set forth herein, nothing in this Agreement shall be construed to increase or expand the rights of the Franchisee with respect to Franchisee's provision of cable service pursuant to the terms of the Franchise Agreement. Nothing in this Agreement shall be construed to constitute an amendment to the Franchise Agreement, or to amend, alter or modify the Distribution Agreement or the Merger Agreement.

3.2. The Companies agree that neither the Proposed Merger Transaction nor the City's consent to the transfer of control contemplated in the Proposed Merger Transaction shall in any respect relieve the Franchisee or any of its successors in interest of responsibility for past acts or omissions, known or unknown with respect to provision of cable service pursuant to the Franchise Agreement. From and after closing of the Proposed Merger Transaction, Franchisee agrees that it shall be liable for any such acts and omissions, known and unknown, including liability for any and all previously accrued but unfulfilled obligations to the City under the Franchise Agreement and applicable law, for all purposes. Franchisee agrees that all acts and omissions of Franchisee occurring prior to closing of the Proposed Merger Transaction will continue to be deemed to be those of

Franchisee. The Proposed Merger Transaction shall not restrict or expand the rights of the Franchisee under or related to the Franchise Agreement as compared to those that could have been exercised by the Franchisee prior to the Proposed Merger Transaction.

3.3. From and after the closing of the Proposed Merger Transaction, Frontier and Franchisee shall ensure that all records pertaining to the Franchise and the Franchisee's performance under the Franchise shall continue to be available after the Proposed Merger Transaction in the same way and to the same extent such information was available prior to the Proposed Merger Transaction, consistent with the terms of the Franchise Agreement.

3.4. In addition to the current obligations of the Franchise Agreement, including the obligations contained in Section 12.7 of that Agreement, Franchisee shall, not later than sixty (60) days after the closing of the Proposed Merger Transaction, provide to the City an irrevocable letter of credit (in a commercially reasonable form reasonably acceptable to the Kirkland City Attorney) in the amount of forty Thousand Dollars ($40,000), to secure the payment of franchise fees and any liquidated damages that may be assessed by the City pursuant to the Franchise Agreement. Franchisee shall promptly restore any amounts drawn on the letter of credit and shall maintain the full amount of the letter of credit until the termination of the Franchise Agreement.

3.5. Frontier Communications Corporation shall enter into the Conditional Guaranty Agreement attached hereto as Exhibit B.

4. RESERVATION OF RIGHTS

4.1. To the extent not expressly waived herein, the Companies reserve all rights under Federal, State and Local Law, and the Franchise Agreement.

4.2. The City reserves all rights not expressly granted in this Agreement, including without limitation those specified below.

4.3. The City waives none of its rights with respect to the Franchisee's compliance with the requirements set forth in the Franchise Agreement. At no time will the Companies contend, either directly or indirectly, that the City is barred, by reason of the Proposed Merger Transaction, from considering, or raising claims based on, any defaults of Franchisee, or any failure by Franchisee to comply with the terms and conditions of the Franchise Agreement or with applicable law. The City's consent to the Proposed Merger Transaction shall in no way be deemed a representation by the City that the Franchisee is in compliance with all of its obligations under the Franchise Agreement.

4.4. Neither this Agreement, nor any other action or omission by the City at or before the execution of this Agreement, shall be construed to grant the City's consent to any future transfer of the Franchise, and/or any future change in ownership and/or control of the Franchise, or to mean that the City's consent to any future transaction is not required.

4.5. Any consent given by the City to the Proposed Merger Transaction is made without prejudice to, or waiver of, the City's right to investigate and take into account any lawful considerations during any future franchise renewal or transfer process.

4.6. This Agreement does not affect and shall not be construed to affect the rights under any lawful authority of the City to regulate or authorize, by ordinance, license or otherwise, use of the public rights-of-way for purposes other than for cable service, as that term is defined in the Franchise Agreement.

5. REPRESENTATIONS AND WARRANTIES

5.1. Each of the Companies hereby represents and warrants that at the time of the execution of this Agreement: (a) it is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized; (b) the Franchise Agreement and, assuming due execution hereof by the other parties hereto, this Agreement constitute legal, valid and binding obligations of each Company that is a party to such agreements, enforceable in accordance with their respective terms; and (c) the execution and delivery of, and performance by such Company under this Agreement and the Franchise Agreement and the Side Letters, where applicable, are within such Company's power and authority without the joinder or consent of any other party and have been duly authorized by all requisite corporate action on the part of such Company and are not in contravention of such Company's, charter, bylaws, and/or other organizational documents.

5.2. From and after closing of the Proposed Merger Transaction, Franchisee represents and warrants that the Proposed Merger Transaction will not adversely affect the Franchisee’s ability to meet the requirements of the current Franchise Agreement and the Side Letters.

5.3. From and after closing of the Proposed Merger Transaction, Franchisee represents and warrants that after the Proposed Merger Transaction, Franchisee's financial qualifications will be such as shall enable them to maintain and operate the cable system in the City in accordance with the Franchise Agreement and applicable law.

5.4. From and after closing of the Proposed Merger Transaction, Franchisee represents and warrants that the Proposed Merger Transaction will not reduce the quality of existing system maintenance or repair.

6. ADDITIONAL CONDITION

6.1. Effective as of the closing of the Propose Merger Transaction, Frontier and Franchisee agree that the initial date on which Franchisee may exercise its right in Section 12.8 of the Franchise Agreement is hereby postponed from the end of the three-year period following the Service Date to the later of: (a) 2 ½ years after the closing of the Proposed Merger Transaction; or (b) March 31, 2013.

7. BREACHES

7.1. Any breach of this Agreement subsequent to the closing of the Proposed Merger Transaction shall be separately enforceable from the Franchise Agreement but shall be deemed a breach of the Franchise Agreement and shall be subject to the applicable enforcement provisions of the Franchise Agreement, in addition to any other remedies the parties may have under this Agreement at law or equity.

8. MISCELLANEOUS PROVISIONS

8.1. **Effective Date**: This Agreement shall be effective and binding upon the signatories once it is fully executed, and shall continue in force for the duration of

the Franchise Agreement, provided that, this Agreement shall terminate if the Merger Agreement is terminated pursuant to Article IX of the Merger Agreement.

8.2. **Binding Acceptance**: This Agreement shall bind and benefit the parties hereto and their respective heirs, beneficiaries, administrators, executors, receivers, trustees, successors and assigns, and the promises and obligations herein shall survive the expiration date hereof. Any purported assignment of this Agreement is void without the express written consent of the signatories.

8.3. **Voluntary Agreement**: This Agreement is freely and voluntarily given by each party, without any duress or coercion, and after each party has consulted with its counsel. Each party has carefully and completely read all of the terms and provisions of this Agreement. Neither any of the Companies, nor any of their affiliates, nor the City, will take any action to challenge any provision of this Agreement; nor will they participate with any other person or entity in any such challenge.

8.4. **Severability**: If any term, condition, or provision of this Agreement shall, to any extent, be held to be invalid, preempted, or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.

8.5. **Counterparts**: This Agreement may be executed in several counterparts, each of which when so executed shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all parties shall not have signed the same counterpart.

8.6. **No Waiver**: No waiver of any provision of this Agreement or any breach of this Agreement shall be effective unless such waiver is in writing and signed by the

waiving party and any such waiver shall not be deemed a waiver of any other provision of this Agreement or any other or subsequent breach of this Agreement.

8.7. **Captions and References**: The captions and headings of sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

AGREED TO THIS _____ DAY OF _____, 20___.

CITY OF KIRKLAND,
a municipal corporation of Washington

By: _____
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

VERIZON NORTHWEST INC.

_____
By:
Title:

Dated:_____

FRONTIER COMMUNICATIONS CORPORATION

_____
By:
Title:

Dated:_____

EXHIBIT A

verizon

Verizon Northwest Inc.
1800 41st. St. MC: WA0104OS
Everett, WA 98201

October 29, 2008

Mr. David Ramsay
City Manager
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

Subject: City of Kirkland Verizon Cable Franchise – Cooperation in Technology Innovations

Dear Mr. Ramsay:

Verizon Northwest Inc. ("Verizon") and the City of Kirkland ("City") desire in the future to explore possible ways in which advancements in technology relating to Verizon's Cable System (including PEG functionality) might mutually benefit both the City and its residents, as well as Verizon. Thus, during the term of the Cable Franchise Agreement effective as of November 1, 2008, at the request of either party, Verizon and the City agree to make good faith efforts to meet and discuss such matters periodically as circumstances warrant. Both Verizon and the City understand that such discussions may include a variety of possible scenarios, and that nothing shall require either party to proceed with any scenario. This letter does not create any binding legal obligations by either party but is an expression of the intent and expectations of the parties that they will make good faith efforts to meet as discussed above.

Sincerely,

VERIZON NORTHWEST INC.

By: _____
Tim McCallion, President

CITY OF KIRKLAND

By: _____
David Ramsay, City Manager

Verizon Northwest Inc.
1800 41st. St. MC: WA0104OS
Everett, WA 98201

October 29, 2008

Mr. David Ramsay
City Manager
City of Kirkland
123 5th Avenue
Kirkland, WA 98033

Subject: City of Kirkland Verizon Cable Franchise – Expanded Basic Service, Aggregate Subscriber Counts, and Intent to Carry TVW

Dear Mr. Ramsay:

Subject to the terms and conditions contained within the Cable Franchise Agreement between the City of Kirkland (the "City") and Verizon Northwest Inc. ("Verizon"), dated October 29, 2008, Verizon agrees that it will provide, at no cost, expanded basic Cable Service to the City's two Emergency Operations Centers, which are currently located where listed below, and provide three set top boxes capable of receiving expanded basic service, two of which will be located at City Hall and one at Fire Station 26.

City Hall	Fire Station 26
123 Fifth Avenue	9930 124th Avenue NE
Kirkland, WA 98033	Kirkland, WA 98033

In addition, upon request but with at least thirty (30) days notice, Verizon will provide Franchisee's aggregate FiOS TV customer Subscriber count in the City subject to the confidentiality provisions of Section 8.1 of the Agreement. Aggregate Subscriber numbers shall be as of the end of the prior calendar year and shall be available forty-five (45) days after the end of the prior calendar year.

Furthermore, Verizon acknowledges that the City Council is interested in making state government programming available to its residents. Verizon intends to carry the state government channel (known as TVW) once it is added to its channel line up and agrees to provide 30 days notice to the City before it ceases to carry such programming if such change is within Verizon's control.

VERIZON NORTHWEST INC.

By: _____
Tim McCallion, President

CITY OF KIRKLAND

By: _____
David Ramsay, City Manager

Exhibit B

CONDITIONAL GUARANTY AGREEMENT

THIS AGREEMENT is made this day of _____, 2010, between the Jurisdiction and the Guarantor. For the purpose of this Agreement, the terms "Jurisdiction", "Guarantor" and "Franchisee" have the meanings given in this Agreement below:

WITNESSETH

WHEREAS, the City of Kirkland, Washington (the "Jurisdiction") has negotiated a cable franchise agreement (the "Franchise") with Verizon Northwest Inc. (the "Franchisee"), to operate and maintain a cable television system (the "Cable System"); and,

WHEREAS, Frontier Communications Corporation (the "Guarantor") has proposed to become the ultimate parent company of the Franchisee, and has filed a formal written request seeking approval of the proposed transfer by the Jurisdiction as required by federal law (FCC Form 394); and,

WHEREAS, the Jurisdiction has submitted Requests for Information to the Guarantor and the Franchisee in performance of their review of the Franchisee's legal, financial and technical qualifications to perform its obligations under the Franchise following the proposed transfer, and the Guarantor and the Franchisee have responded to the Jurisdiction's Requests by providing additional information; and

WHEREAS, in response to requests by the Jurisdiction following its review, the Guarantor has agreed to provide this conditional guaranty in order to induce the Jurisdiction to approve the transfer of control of the Franchise and the Franchisee from Verizon Communications Inc. to Frontier Communications Corporation;

NOW, THEREFORE, in consideration of the foregoing, the Guarantor agrees:

1. If either (1) the Franchisee's EBITDA (defined as operating income plus depreciation and amortization) less Capital Expenditures (as defined in accordance with U.S. generally accepted accounting principles (or such other standards which the Securities and Exchange Commission from time to time requires public companies to follow)) falls below $25,000,000 at the end of any fiscal year (it being understood that the calculation of EBITDA, less Capital Expenditures, will be certified under oath annually by Franchisee's Chief Financial Officer in a certificate delivered within 90 days of the fiscal year-end, and which shall include a schedule showing the calculation and shall also have attached financial statements of the Franchisee prepared in accordance with U.S. generally accepted accounting principles (or such other standards which the Securities and Exchange Commission from time to time requires public companies to follow), and including a statement of operations, balance sheet, and

Exhibit B

a statement of cash flows , but not including Management Discussion and Analysis or other notes, which have been audited or reviewed by Franchisee's independent certified public accountants, or which have been certified by the Chief Financial Officer of the Franchisee based on company books and records); however, if audited or reviewed financial statements are readily available for the Franchisee and provided as agreed herein, such statements shall include the audit or review, the audited or reviewed financial statements, and all explanatory materials as have been prepared, but otherwise such explanatory materials need not be provided; or (2) if the Irrevocable Letter of Credit provided by the Franchisee in connection with this transfer of control from Verizon Communications Inc. to Frontier Communications Corporation is not satisfactorily maintained throughout the Franchise term, subject to a grace period of 30 days to restore a Letter of Credit that has expired or otherwise terminated, in the agreed upon amount of $40,000, then Guarantor shall irrevocably comply with paragraphs 2 through 4 below for the remainder of the Franchise term. Otherwise, paragraphs 2 through 4 below shall not be of any effect.

In addition to the annual financial statements provided to the Jurisdiction in accordance with this paragraph, Franchisee will provide contemporaneous written notice to the Jurisdiction of any transactions defined in Franchise Section 10.2 as being exempt from formal review by the Jurisdiction as a transfer of the Franchise under federal law. Franchisee will also annually provide the Jurisdiction with a copy of the public versions of the annual reports that it files with the state utility regulatory agencies in Oregon and Washington.

2. The Guarantor hereby unconditionally guarantees the timely and full performance of any and all obligations of Franchisee contained in the Franchise. In the event Franchisee for any reason fails to perform those obligations, the Guarantor agrees to perform or cause to be performed those obligations on Franchisee’s behalf immediately upon written demand by the Jurisdiction.

3. This guaranty is an absolute, continuing, and unlimited performance guaranty of the Franchise by the Franchisee. The Jurisdiction shall not be obliged to proceed first against the Franchisee or any other person, firm or corporation.

4. The Guarantor waives notice of acceptance of this guaranty and further waives protest, presentment, demand for performance or notice of default to the Guarantor, except the written notice required in paragraph 2 above. The Jurisdiction has no duty beyond the required written notice in paragraph 2 above to advise the Guarantor of any information known to it regarding Franchisee’s performance of its Franchise obligations. This waiver, however, shall not be deemed a waiver of any requirement of the Franchise as to notice to the Franchisee.

Exhibit B

5. The Jurisdiction's failure to require strict performance of the Franchise shall not release the Guarantor from liability under this Agreement.

6. This Agreement, unless terminated, substituted or canceled, as provided herein, shall remain in full force and effect for the duration of the term of the Franchise. This Agreement and the guaranty made hereunder are contingent upon and subject to the closing of the transaction by which control of the Franchisee is transferred to the Guarantor. If control of the Franchisee is subsequently transferred away from the Guarantor with the approval of the Jurisdiction, the guaranty shall terminate at that time.

7. The Guarantor may propose substitution of another Guarantor to perform the obligations of this Agreement. If the Jurisdiction finds the proposed substitute Guarantor reasonably satisfactory, another Guaranty Agreement may be substituted upon mutual agreement of the Jurisdiction and the Guarantor. Such substitution shall not affect liability incurred or accrued under this agreement prior to the effective date of such substitution. Following the Jurisdiction's acceptance of the substitute Guarantor, no claim, suit or action under this Agreement by reason of any default of the Franchisee shall be brought against the original Guarantor unless asserted or commenced within one year after the effective date of such substitution of the Agreement, and only to the extent it relates to a liability incurred or accrued prior to the effective date of the substitution.

8. Any notices given pursuant to this agreement shall be in writing and delivered personally to the following addresses or deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the Guarantor at: Senior Vice President and General Counsel, Frontier Communications Corporation, 3 High Ridge Park, Stamford, Connecticut 06905, and to the Jurisdiction at: Multimedia Communications Manager, City Hall, 123 5th Avenue, Kirkland, WA 98033-6189. Either party may change its address for notices by giving notice of the new address in the manner provided in this paragraph.

9. Definitions: For purposes of this Agreement, the following terms are defined as indicated below:

   (A) Franchisee: Verizon Northwest Inc., or its lawful successors;
   (B) Guarantor: Frontier Communications Corporation;
   (C) Franchise: Cable Franchise Agreement granted by the Jurisdiction to Franchisee, including any conditions of grant, renewal or transfer.

IN WITNESS WHEREOF, the Jurisdiction and Guarantor have entered into this Agreement on the day of _____, 2010.

Exhibit B

Guarantor: Frontier Communications Corporation
By: _____
Title: _____

State of _____)
) ss.
County of_____)

This Agreement was acknowledged before me on the day of _____, 2010, by _____, as a duly authorized officer of Frontier Communications Corporation.

Notary Public for: _____

My Commission Expires: _____

Jurisdiction: City of Kirkland, Washington
By: _____
Title: _____

State of _____)
) ss.
County of_____)

This Agreement was acknowledged before me on the day of _____, 2010, by _____, as a duly authorized representative of the City of Kirkland.

Notary Public for: _____

My Commission Expires: _____

CITY OF KIRKLAND
Department of Planning and Community Development
123 Fifth Avenue, Kirkland, WA 98033 425-587-3225
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Dawn Nelson, Planning Supervisor
Dorian Collins, Senior Planner
Paul Stewart, Deputy Director
Arthur Sullivan, ARCH Program Manager

Date: December 8, 2009

Subject: **ZONING CODE AMENDMENTS FOR DEVELOPMENT INCENTIVES FOR AFFORDABLE HOUSING (FILE ZON09-00005)**

RECOMMENDATION

Staff recommends that the City Council determine whether the proposed amendments making affordable housing requirements mandatory in certain multifamily and mixed use projects should be applied uniformly throughout the City, or whether the mandatory provision should be removed within the jurisdiction of the Houghton Community Council. Following that, staff recommends that the City Council adopt the following Ordinances and Resolution:

- Ordinance O-4222, amending various sections of the Kirkland Zoning Code and incorporating requirements for affordable housing in certain multifamily and mixed use projects; and

- Ordinance O-4223, amending Chapter 5.88 of the Kirkland Municipal Code to make the Multifamily Housing Property Tax Exemption regulations consistent with the proposed amendments to the Kirkland Zoning Code; and

- Ordinance O-4224, amending Chapters 27.04 and 27.06 of the Kirkland Municipal Code to clarify the circumstances under which the City would pay exempted transportation and park impact fees for affordable housing units; and

- Ordinance O-4225, amending Chapter 15.12 of the Kirkland Municipal Code to eliminate the exemption for payment of Sewer Capital Facility Charges for bonus residential units developed in exchange for the creation of affordable housing units; and

- Resolution R-4790, establishing a hearing date of January 5, 2010 for consideration of creation of new residential targeted areas related to the Multifamily Housing Property Tax Exemption, as required by Chapter 84.14 RCW.

BACKGROUND DISCUSSION

The City Council received the recommendations from the Planning Commission and Houghton Community Council on the proposed amendments and provided direction to staff on December 1st. The staff memo for that meeting included background information and the Planning Commission recommendations on the proposed amendments.

"Stand Alone" Housing in TL 10B and TL 10C

The City Council discussed the changes recommended by the Planning Commission for the TL 10B and TL 10C zones and concluded that they did not support the expansion of residential development in these zones. Therefore, the existing restrictions on "stand alone" housing should be retained. The Use Zone Charts that appear in Attachment A to Ordinance 4222 retain the geographic restrictions on residential development in these areas. The accompanying changes to Plate 37 proposed by the Planning Commission are also not included in the Ordinance, since no changes will be necessary to this Plate.

Houghton Community Council Recommendation

The Houghton Community Council (HCC) recommendation on the proposed amendments was provided during staff's presentation to the City Council on December 1st. The HCC does not support regulations that make the provision of affordable housing mandatory. They are, however, supportive of the other proposed code amendments that they believe will make a voluntary program more attractive. If the City Council adopts the Zoning Code amendments so that they apply throughout the City, and the HCC does not approve the amendments, this will leave the existing regulations in Chapter 112 of the Zoning Code in place in Houghton.

The City Council can either approve the ordinance that provides for mandatory affordable housing citywide or adopt an amended ordinance that would exempt Houghton from the mandatory provisions while still including all the other housing provisions. If the City Council approves the ordinances, the HCC has 60 days to act to either approve or veto the applicable ordinances.

If the City Council would prefer to exempt the HCC from the mandatory provisions, then the following revision to Kirkland Zoning Code Section 112.15.1 would be amended as follows:

112.15 Affordable Housing Requirement

1. 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. All other provisions of this chapter are applicable within the disapproval jurisdiction of the Houghton Community Council.

Impact of Multifamily Housing Property Tax Exemption on City Revenues

The information on the attached spreadsheet outlines the financial impact to the City of Kirkland of adopting a program that would allow a full exemption for rental properties in density limited zones and a 75% exemption in the TL and RH zones where the land use incentives provide more value to the builder. (The attached analysis was reviewed by the Finance Department.)

Sections C.1 and C.2 represent two different assumptions about the value of the improvements that would be exempt. Section C.1, which estimates the upper end of the anticipated impact, uses a top-down approach based on historic tax trends and results in an average improvement value of about $376,000 per unit. Section C.2, which estimates the lower end of the anticipated impact, uses a bottom-up approach based on an assumed average improvement value of $225,000 per unit.

Scenario A identifies the impacts for all areas where affordable housing would be required. It assumes that 50% of new housing will be in rental projects and, therefore, utilize the property tax exemption. Scenario B identifies the impacts of allowing the tax exemption as the sole incentive in zoning districts where no other incentives for affordable housing are available. It assumes that 20% of new housing will utilize the property tax exemption. The combined impacts of Scenarios A and B are estimated to be:

- Between $15,727 and $26,267 in forgone regular and excess levy taxes for the first year, peaking at between $125,815 and $210,136 in forgone regular levy taxes in the eighth year of the program;
- The amount of regular levy taxes that would be foregone represents between 5.3% and 8.8% of the City's portion of the taxes from new construction

Several assumptions have gone into these calculations, including:

- The City's annual increase in assessed valuation due to new construction will be 2.0%. Historically, it has been between 2.0% and 4.0%. However it is likely to be less than 1.0% next year.
- 28.1% of new assessed valuation will continue to be from new multifamily units.
- 61 new multifamily units using the tax exemption program will be developed each year

Residential Targeted Areas for Multifamily Housing Property Tax Exemption

Chapter 84.14 RCW requires that the City hold a hearing to establish residential targeted areas within which the Multifamily Housing Property Tax Exemption will be available. The existing residential targeted areas identified in Section 5.88.030 of the KMC do not include all of the areas of the City where affordable housing requirements will be in place if the Council adopts O-XXXX. The attached resolution establishes a hearing date of January 5, 2010 to consider expansion of the City's residential targeted areas to all properties where affordable housing would be required as part of new multifamily or mixed use development, as shown in the resolution.

ESTIMATE OF INCREMENTAL PROPERTY TAX INCREASE

A. EXISTING PROPERTY TAX ASSESSMENT

			Rate		Total Dollars
KIRKLAND TOTAL ASSESSED VALUATION				$	13,108,188,338
TOTAL PROPERTY TAXES	Assessment rate/ $1,000 value	$	7.83	$	102,637,115
KIRKLAND PROPERTY TAXES (2009)					
Regular Levy	Assessment rate/ $1,000 value	$	1.03	$	13,442,185
Excess Levy	Assessment rate/ $1,000 value	$	0.11	$	1,463,398
TOTAL	Assessment rate/ $1,000 value	$	1.14	$	14,905,583

B. PROPERTY TAX ASSESSMENT FROM NEW CONSTRUCTION

			Rate		Total Dollars
ANNUAL PERCENT INCREASE IN ASSESSED VALUATION Due to new construction / additions			**2.0%**		
ANNUAL DOLLAR INCREASE IN ASSESSED VALUATION Due to new construction / additions				$	262,163,767
Total Property Taxes	Assessment rate	$	7.83	$	2,052,742
Kirkland Property Taxes					
Regular Levy	Assessment rate	$	1.03	$	268,844
Excess Levy	Assessment rate	$	0.11	$	29,268
TOTAL	Assessment rate	$	1.14	$	298,112

C. POTENTIAL IMPACT OF 8 YEAR EXEMPTION PROGRAM

EXISTING TOTAL CITYWIDE HOUSING CAPACITY (Based on 2007 Buildable Land Report)	4646	units
PROJECTED AVERAGE ANNUAL CITYWIDE GROWTH (2006 - 2022 Using Buildable Land Capacity)	290	units

	SCENARIO A AREAS W/ INCENTIVES (Totem Lake, Rose Hill, Density Zones)		SCENARIO B AREA W/OUT INCENTIVES (CBD, JBD, NRHBD)	
PROPOSED 'URBAN CENTER' RESIDENTIAL CAPACITY	1361	units	1780	units
As Percent of total residential capacity	29%		38%	
As Percent of total multifamily capacity	43%		57%	
PORTION OF 'URBAN CENTER' HOUSING UTILIZING EXEMPTION	46%		20%	
New units per year utilizing 8 year exemption	39	units	22	units

IMPACT ON PROPERTY TAXES (Property Taxes Foregone)

1. Approach Utilizing Historic Tax Trends		
Kirkland Property Taxes (Estimated Annual Impact)		
Regular Levy	**$ 15,108**	**$ 8,580**
Excess Levy	**$ 1,645**	**$ 934**
Percent of New Taxes from New Construction	**5.6%**	**3.2%**
Percent of Total Regular Levy Taxes	**0.1%**	**0.06%**
PEAK ANNUAL TOTAL PROPERTY TAX EXEMPTION AFTER 10 YEARS	**$ 134,024**	**$ 76,112**
Percent of Total Regular Levy Taxes	**0.9%**	**0.5%**
2. Approach Utilizing Per Unit Assessment		
Kirkland Property Taxes (Estimated Annual Impact)		
Regular Levy	**$ 9,046**	**$ 5,137**
Excess Levy	**$ 985**	**$ 559**
Percent of New Taxes from New Construction	**3.4%**	**1.9%**
Percent of Total Regular Levy Taxes	**0.07%**	**0.04%**
PEAK ANNUAL TOTAL PROPERTY TAX EXEMPTION AFTER 8 YEARS	**$ 80,245**	**$ 45,571**
Percent of Total Regular Levy Taxes	**0.5%**	**0.3%**

Assumptions for Analysis:

1) Urban Center' as defined under property tax exemption law, not GMA 'Urban Center Definition' Included all mixed use and multifamily zones.
2) While multifamily units have averaged over 50% of all new housing units, historically they account for 28% of new assessment.
3) For Per Unit assessment calculation, average assessment of a new multifamily unit is $225,000.

ORDINANCE NO. 4222

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE, REVISING THE CITY'S REGULATIONS REGARDING AFFORDABLE HOUSING AND DEVELOPMENT INCENTIVES, AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON09-00005.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated November 18, 2009 and bearing Kirkland Department of Planning and Community Development File No. ZON09-00005; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission, following notice thereof as required by RCW 35A.63.070, on November 5, 2009, held a public hearing, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, prior to making said recommendation, the Houghton Community Council reviewed and discussed the amendment proposals at a meeting held on November 23, 2009; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-600; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission.

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

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, be and they hereby are amended to read as follows:

As set forth in Attachment A attached to this ordinance and incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts

adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 4. Except as provided in Section 3, this ordinance shall be in full force and effect on April 1, 2010. Pursuant to Kirkland Municipal Code 1.08.017, publication of this ordinance shall be in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 5. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 2009.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

5.10 Definitions

.023 Affordable Housing Unit – (A) ~~a~~An owner-occupied dwelling unit reserved for occupancy by eligible households and affordable to households whose household annual income does not exceed ~~70~~ the following percent of the King County median household income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than 30 percent of the monthly household income is paid for monthly housing expenses (mortgage and mortgage insurance, property taxes, property insurance and homeowners dues):

(1) 80 percent in zoning districts where additional building height is allowed in exchange for the creation of affordable housing units; or

(2) 100 percent in zoning districts where additional dwelling units are allowed in exchange for the creation of affordable housing units.

~~, or~~ (B) ~~a~~A renter-occupied dwelling unit reserved for occupancy by eligible households and affordable to households whose household annual income does not exceed 50 percent of the King County median household income, adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance).

In the event that HUD no longer publishes median income figures for King County, the city may use any other method for determining the King County median income, adjusted for household size.

New General Regulation in Density-Limited Zones

Certain sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, would be amended to include the following text as General Regulation number 2:

> 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. See Chapter 112 KZC for additional affordable housing incentives and requirements.

This change will be made to the following sections of the Kirkland Zoning Code:

Section	Zone
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

CHAPTER 53 – ROSE HILL BUSINESS DISTRICT (RHBD) ZONES

53.02 User Guide. The charts in KZC 53.06 contain the basic zoning regulations that apply in the RH 1A zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 53.04

Section 53.04 – 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. The ground floor of all structures on the subject property shall be a minimum of 15 feet in height. This requirement does not apply to:
   a. The following uses: vehicle service stations, automotive service centers, private lodges or clubs, attached or stacked dwelling units, churches, schools, day-care centers, mini-schools or mini-day-care centers, assisted living facilities, convalescent centers or nursing homes, public utilities, government facilities or community facilities.
   b. Parking garages.
   c. Additions to existing nonconforming development where the Planning Official determines it is not feasible.

3. At least 50 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to NE 85th Street, a major pedestrian sidewalk, a through block pedestrian pathway or an internal pathway (see also Chapter 92 KZC).

4. Within required front yards, canopies and similar entry features may encroach; provided, that the total horizontal dimension of such elements may not exceed 25 percent of the length of the structure.

5. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

6. The Public Works Official shall approve the number, location and characteristics of driveways on NE 85th Street in accordance with the driveway and sight distance policies contained in the Public Works Pre-approved Plans manual. Taking into consideration the characteristics of this corridor, the Public Works Official may:
   a. Require access from side streets; and/or
   b. Encourage properties to share driveways, circulation and parking areas; and/or
   c. Restrict access to right turn in and out; or
   d. Prohibit access altogether along NE 85th Street.

7. Access for drive-through facilities must be approved by the Public Works Official. See KZC 105.96 for requirements.

8. For lighting requirements associated with development, see KZC 115.85(2).

Section 53.06 Zone RH 1A **USE ZONE CHART**

Section 53.06	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.080	Attached or Stacked Dwelling Unit							~~35′~~ 67′ above average building elevation. ~~See Spec. Reg. 2.~~	D	A	1.7 per unit.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 2. At least 10 percent of the units provided in new residential developments of 4 units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~Building height may be increased above 35 feet to a maximum of 67 feet above average building elevation if the following is provided. At least 10 percent of the units in new residential developments of 10 units or greater shall be affordable housing units as defined in Chapter 5 KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at last 0.66. An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~
.090	Private Lodge or Club	D.R., Chapter 142 KZC.	None	10′	0′	0′	80%	67′ above average building elevation.	C	B	1 per each 300 sq. ft. of gross floor area.	
.100	Church										1 per every 4 people based on maximum occupancy load of any area of worship. See Spec. Reg. 2.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to this use.

53.20 User Guide. The charts in KZC 53.24 contain the basic zoning regulations that apply in the RH 2A, RH 2B and RH 2C 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 53.22

Section 53.22 – 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. For uses in RH 2A and RH 2B, vehicular access shall be from NE 85th Street or 120th Avenue NE. The subject property shall be configured to structurally prevent vehicular access, other than for emergency vehicles, from 118th Avenue NE. Only office and residential uses in RH 2C may access from 118th Avenue NE if vehicle trips do not exceed the trips that would be generated from residential development at 12 units per acre based on the total site area in RH 2C. Any excess of this amount must access from NE 85th Street or 120th Avenue NE.

3. At least 50 percent of the total gross floor area located on the ground floor of all structures in RH 2A shall contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to NE 85th Street, a major pedestrian sidewalk, a through block pedestrian pathway or an internal pathway (see also Chapter 92 KZC).

4. The ground floor of all structures in RH 2A shall be a minimum of 15 feet in height. This requirement does not apply to:
   a. The following uses: vehicle service stations, automotive service centers, private lodges or clubs, attached or stacked dwelling units, churches, schools, day-care centers, mini-schools or mini-day-care centers, assisted living facilities, convalescent centers or nursing homes, public utilities, government facilities or community facilities.
   b. Parking garages.
   c. Additions to existing nonconforming development where the Planning Official determines it is not feasible.

5. The maximum height of any portion of a building located within 100 feet of a low density zone is 25 feet above the existing grade at the adjacent curbline of 120th Avenue NE. The 25-foot building height shall be measured at the midpoint of the portion of the building wall adjoining the low density zone.

6. Loading and service areas shall be placed away from NE 85th Street, pedestrian areas and adjacent residential uses.

7. Electrical signs are not permitted along 120th Avenue across the street from a residential zone or oriented toward 118th Avenue.

8. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

Zone
RH 2A, 2B, 2C

USE ZONE CHART

9. The Public Works Official shall approve the number, location and characteristics of driveways on NE 85th Street in accordance with the driveway and sight distance policies contained in the Public Works Pre-approved Plans manual. Taking into consideration the characteristics of this corridor, the Public Works Official may:
   a. Require access from side streets; and/or
   b. Encourage properties to share driveways, circulation and parking areas; and/or
   c. Restrict access to right turn in and out; or
   d. Prohibit access altogether along NE 85th Street.

(GENERAL REGULATIONS CONTINUED ON NEXT PAGE)

(GENERAL REGULATIONS CONTINUED FROM PREVIOUS PAGE)

10. Access for drive-through facilities must be approved by the Public Works Official. See KZC 105.96 for requirements. Drive-through facilities are not permitted in an RH 2B or RH 2C zone.

11. Prior to any of the following uses occupying a structure on a property adjoining a residential zone, the applicant shall submit a noise study prepared by a qualified acoustical consultant for approval by the Planning Official.
   - Establishments expected to operate past 9:00 p.m.
   - Vehicle service station.
   - Automotive service center.
   - Retail establishment providing entertainment, recreational or cultural activities.
   - Retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, or similar vehicles.
   - Car washes.
   - Veterinary offices.
   - Any establishment where animals are kept on site.
   - Drive-through facilities with loudspeaker systems.
   - Establishments involving a large truck loading dock for deliveries.

   The study shall verify that the noise that will emanate from the site adjoining any residential-zoned property complies with the standards specified in KZC 115.95(1) and (2) and WAC 173-60-040(1) for a Class B source property and a Class A receiving property.

12. For lighting requirements associated with development, see KZC 115.85(2).

Section 53.24

Zone
RH 2A, 2B, 2C

USE ZONE CHART

Section 53.24	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.080	Attached or Stacked Dwelling Unit		In RH 2C the minimum amount of lot area per dwelling unit is 3,600 sq. ft. Otherwise, none.					In RH 2C: 35′ above average building elevation. In RH 2B: 55′ above average building elevation. In RH 2A: ~~35′~~ 67′ above average building elevation. ~~See Spec. Reg. 3.~~	D	A	1.7 per unit.	1. This use may not be located on the ground floor of a structure in RH 2A. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 3. In RH 2A and RH 2B, at least 10 percent of the units provided in new residential developments of 4 units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~Building height may be increased above 35 feet to a maximum of 67 feet in RH 2A, and to a maximum of 55 feet above average building elevation in RH 2B if:~~ ~~a. At least 10 percent of the units in new residential developments of 10 units or greater are affordable housing units as defined in Chapter 5 KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~

Zone
RH 2A, 2B, 2C

USE ZONE CHART

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

Section 53.24	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.090	Assisted Living Facility, Convalescent Center or Nursing Home	D.R., Chapter 142 KZC.	In RH 2C the minimum amount of lot area per dwelling unit is 3,600 sq. ft. Otherwise, none.	10′ adjacent to NE 85th St., otherwise 20′.	0′	0′	In RH 2A and RH 2B: 80% In RH 2C: 70%	In RH 2C: 35′ above average building elevation. In RH 2B: 55′ above average building elevation. In RH 2A: ~~35~~ 67′ above average building elevation.	C	A Convalescent Center or Nursing Home: B	Independent unit: 1.7 per unit. Assisted Living Facility: 1 per unit. Convalescent Center or Nursing Home: 1 per bed.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 2. In RH 2C for density purposes, two assisted living units shall constitute one dwelling unit. Total dwelling units may not exceed the number of stacked dwelling units allowed on the subject property.
.100	Hotel or Motel		None					In RH 2B: 55′ above average building elevation.	A	E	1 per each room. See also Spec. Reg. 3.	1. This use is permitted in RH 2A and RH 2B only. 2. May include ancillary meeting and convention facilities. 3. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirement for these ancillary uses shall be determined on a case-by-case basis.
.110	Private Lodge or Club							In RH 2A: 67′ above average building elevation.	C	B	1 per each 300 sq. ft. of gross floor area.	1. This use is permitted in RH 2B only if developed in conjunction with RH 2A. This use is not permitted in RH 2C.

53.30 User Guide. The charts in KZC 53.34 contain the basic zoning regulations that apply in the RH 3 zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 53.32

Section 53.32 – 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. Within required front yards, canopies and similar entry features may encroach; provided, that the total horizontal dimension of such elements may not exceed 25 percent of the length of the structure.

3. Individual retail uses in this zone are limited to a maximum gross floor area of 65,000 square feet.

4. At least 50 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to NE 85th Street, a major pedestrian sidewalk, a through block pedestrian pathway or an internal pathway (see also Chapters 105 and 110 KZC, and Plate 34K).

5. The ground floor of all structures on the subject property shall be a minimum of 15 feet in height. This requirement does not apply to:
   a. The following uses: vehicle service stations, automotive service centers, private lodges or clubs, attached or stacked dwelling units, churches, schools, day-care centers, mini-schools or mini-day-care centers, assisted living facilities, convalescent centers or nursing homes, public utilities, government facilities or community facilities.
   b. Parking garages.
   c. Additions to existing nonconforming development where the Planning Official determines it is not feasible.

6. The Public Works Official shall approve the number, location and characteristics of driveways on NE 85th Street in accordance with the driveway and sight distance policies contained in the Public Works Pre-approved Plans manual. Taking into consideration the characteristics of this corridor, the Public Works Official may:
   a. Require access from side streets; and/or
   b. Encourage properties to share driveways, circulation and parking areas; and/or
   c. Restrict access to right turn in and out; or
   d. Prohibit access altogether along NE 85th Street.

7. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

8. Access for drive-through facilities must be approved by the Public Works Official. See KZC 105.96 for requirements.

Zone RH 3

USE ZONE CHART

9. A through-block pedestrian pathway shall be installed pursuant to the through-block pathway standards in KZC 105.19(3); see Plate 34K:
   a. Along the north portion of the zone to make an east-to-west pedestrian connection between 124th Avenue NE and 120th Avenue NE as designated in the Comprehensive Plan; and
   b. Connecting the north end of the zone to NE 85th Street.

10. For lighting requirements associated with development, see KZC 115.85(2).

Zone RH 3

USE ZONE CHART

Section 53.34	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Development containing: retail establishments selling goods, or providing services including banking and other financial services, restaurants, taverns	D.R., Chapter 142 KZC. See Spec. Regs. 1 and 2.	More than 6 acres See Spec. Reg. 7	As established with design review process.			80%	45′ – 67′ above average building elevation along the north end of the zone with a maximum of 45′ measured above NE 85th Street. See Spec. Regs. 5 and 7~~6~~.	See Spec. Reg. 3.	See Spec. Reg. 4.	As established in the CMP.	1. May also include one or more of the other uses allowed in this zone. Development regulations of this section apply to all uses developed within a Conceptual Master Plan (CMP). 2. Development must be part of a Conceptual Master Plan (CMP) for the entire subject property. The proposed CMP shall be reviewed using the Design Review process provisions of KZC 142.35. Subsequent development proposals shall follow DR or ADR as set forth in the Notice of Approval for the Conceptual Master Plan. The Conceptual Master Plan shall incorporate the design guidelines contained in the Design Guidelines for the Rose Hill Business District pertaining to the RH 3 zone. 3. Location of drive-through facilities will not compromise the pedestrian orientation of the development. See KZC 105.96 for other requirements. 4. Signs for a development approved under this provision must be proposed within a Master Sign Plan application pursuant to KZC 100.80 for all signs within the project. 5. Building height shall be 45 feet measured above the midpoint of the frontage of the subject property along NE 85th Street, or if the subject property does not front on NE 85th Street, at the midpoint of the property frontage along any other public right-of-way. If the property abuts more than one public right-of-way, the applicant may select the right-of-way from which to measure. 6. At least 10 percent of the units provided in new residential developments of 4 units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. 7. Maximum building height for a development including residential use is 67 feet above average building elevation. However, the equivalent of the additional gross floor area constructed above 45' over ABE must be dedicated to residential use. Residential use may be located anywhere in the building above the ground floor. ~~Building height may be increased above 45 feet average elevation to a maximum 67 feet above average building elevation if affordable housing is a component of the development. At least 10 percent of the units in new residential development of 10 units or greater shall be affordable housing units as defined in Chapter 5 KZC. The number of affordable housing units is determined by rounding up to the nearest whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate~~

(Revised)

53.70 User Guide. The charts in KZC 53.74 contain the basic zoning regulations that apply in the RH 7 zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 53.72

Section 53.72 – 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. Individual retail uses in this zone are limited to a maximum of 65,000 square feet of gross floor area.

3. The ground floor of all structures on the subject property shall be a minimum of 15 feet in height. This requirement does not apply to:
   a. The following uses: vehicle service stations, automotive service centers, private lodges or clubs, attached or stacked dwelling units, churches, schools, day-care centers, mini-schools or mini-day-care centers, assisted living facilities, convalescent centers or nursing homes, public utilities, government facilities or community facilities.
   b. Parking garages.
   c. Additions to existing nonconforming development where the Planning Official determines it is not feasible.

4. At least 50 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to NE 85th Street, a major pedestrian sidewalk, a through block pedestrian pathway or an internal pathway (see also Chapter 92 KZC).

5. Within required front yards, canopies and similar entry features may encroach; provided, that the total horizontal dimension of such elements may not exceed 25 percent of the length of the structure.

6. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

7. Drive-through and drive-in facilities are not permitted in this zone.

8. The Public Works Official shall approve the number, location and characteristics of driveways on NE 85th Street in accordance with the driveway and sight distance policies contained in the Public Works Pre-approved Plans Manual. Taking into consideration the characteristics of this corridor, the Public Works Official may:
   a. Require access from side streets; and/or
   b. Encourage properties to share driveways, circulation and parking areas; and/or
   c. Restrict access to right turn in and out; or
   d. Prohibit access altogether along NE 85th Street.

9. For lighting requirements associated with development, see KZC 115.85(2).

(GENERAL REGULATIONS CONTINUED ON NEXT PAGE)

(GENERAL REGULATIONS CONTINUED FROM PREVIOUS PAGE)

10. Prior to any of the following uses occupying a structure on a property adjoining a residential zone, the applicant shall submit a noise study prepared by a qualified acoustical consultant for approval by the Planning Official:
    - Establishments expected to operate past 9:00 p.m.
    - Vehicle service station.
    - Automotive service center.
    - Car washes.
    - Retail establishment providing entertainment, recreational or cultural activities.
    - Retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, or similar vehicles.
    - Veterinary offices.
    - Drive-through facilities with loudspeaker systems.
    - Establishments involving a large truck loading dock for deliveries.

    The study shall verify that the noise that will emanate from the site adjoining any residential-zoned property complies with the standards specified in KZC 115.95(1) and (2) and WAC 173-60-040(1) for a Class B source property and a Class A receiving property.

11. See Chapters 100 and 162 KZC for information about nonconforming signs. KZC 162.35 describes when nonconforming signs must be brought into conformance or removed.

Section 53.74

Zone RH 7

USE ZONE CHART

Section 53.74	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.080	Development Containing Stacked Dwelling Units and one or more of the following uses: Retail uses including Banking and Other Financial Services, Restaurants or Taverns See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	More than 3 acres.	10′ adjacent to NE 85th St., otherwise 20′.	0′	0′	80%	45′ above average building elevation.	A	E	See KZC 105.25.	1. Development may also include other uses allowed in this zone. 2. The following uses are not permitted in this zone: a. Vehicle service stations. b. Automotive service centers. c. Uses with drive-in facilities or drive-through facilities. d. Retail establishments providing storage services unless accessory to another permitted use. e. Retail establishment involving the sale, service or repair of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment and similar vehicles. 3. The entire zone must be physically integrated both in site, building design, pedestrian access internally and to the street and provide other pedestrian amenities. 4. At least 10 percent of the units in new residential developments of 10 units or greater shall be affordable housing units as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~

Chapter 55 – TOTEM LAKE (TL) ZONES

55.05 User Guide. The charts in KZC 55.09 contain the basic zoning regulations that apply in the TL 1A zone of the city. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.07

Zone TL 1A

Section 55.07 – GENERAL REGULATIONS

1. Refer to Chapter 1 KZC to determine what other provision of this Code may apply to the subject property.

2. All ground floor uses shall be a minimum of 15 feet in height. This regulation does not apply to parking garages or property with no frontage on NE 128th Street.

3. In addition to the height exceptions established by KZC 115.60, the following exceptions to height regulations in TL zones are established:
   a. Decorative parapets may exceed the height limit by a maximum of four feet; provided, that the average height of the parapet around the perimeter of the structure shall not exceed two feet.
   b. For structures with a peaked roof, the peak may extend eight feet above the height limit if the slope of the roof is equal to or greater than four feet vertical to 12 feet horizontal.

4. The minimum required front yard is 10 feet, unless otherwise prescribed in the use zone chart. Ground floor canopies and similar entry features may encroach into the front yard, provided the total horizontal dimension of such elements may not exceed 25 percent of the length of the structure. No parking, other than underground parking, may encroach into the required 10-foot front yard.

5. The ability to accommodate new development in the TL 1A zone is dependent upon the construction of two new streets: 119th Avenue NE, between NE 128th Street and NE 130th Place, and NE 130th Place, between 120th Avenue NE and Totem Lake Boulevard NE, as shown on Plate 34A. Consistent with and to the extent authorized by applicable statutes and court decisions, new development on properties across which these streets in whole or in part extend, shall contribute to the creation of the streets as follows:
   a. With all new development, the portions of these streets crossing the subject property shall be dedicated as public right-of-way consistent with Plate 34A; and
   b. With all new development exceeding 30 feet in height, the streets shall be improved consistent with Plate 34A.

   Minor deviations in the location and width of the streets may be approved by the Public Works Director if the deviations will not negatively affect the functioning of the streets.

6. Properties located between TL 2 and NE 128th Street may be required to provide a pedestrian connection between TL 2 and NE 128th Street.

Se		RE GU LA	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Zone TL 1A

USE ZONE CHART

Section 55.09	USE ⇩	REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	MINIMUMS: REQUIRED YARD (See Ch. 115): Side	MINIMUMS: REQUIRED YARD (See Ch. 115): Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.040	Attached or Stacked Dwelling Units (continued)												4. On parcels where road dedication is required pursuant to General Regulation 5, the maximum floor area ratio (FAR) may be increased by an additional 0.30 FAR for each 10 percent or portion thereof of the subject property required to be dedicated. Where this use is combined with office use, the maximum FAR for the office use may be increased by an additional 0.2 of office use for each 10 percent or portion thereof of the subject property required to be dedicated. 5. Building height may be increased as follows: a. Building height may exceed 30 feet above average building elevation, if one of the following public improvements is provided: 1) Dedication and improvement of new streets pursuant to General Regulation 5; or 2) Where General Regulation 5 does not apply, the development of pedestrian-oriented elements that exceed the requirements of KZC 92.15 and Chapter 105 KZC. Examples include pedestrian walkways through the subject property, public plazas, public art and fountains.; and 3) Provides for at least 10 percent of the units in new residential developments of 4 ~~10~~ units or greater as affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66.~~ ~~An agreement in a form approved by the City must be recorded with King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units.~~ ~~Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~ b. Building height may exceed 80 feet and be increased up to 160 feet above average building elevation, with the height increases to be based on the following considerations: 1) Development on the subject property complies with 5(a) above. 2) Design of buildings meets guidelines for towers set forth in Design Guidelines (Chapter 142 KZC, and Chapter 3.30 KMC)

(Revised)

Section 55.09 Zone TL 1A **USE ZONE CHART**

Section 55.09	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.070	Assisted Living Facility	D.R., Chapter 142 KZC	None	10′	0′	0′	85% See Spec. Reg. 5.	30′ to 160′ above average building elevation. See Spec. Reg. 4.	B	A	See KZC 105.25.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use. 2. The maximum floor area ratio (FAR) for development on the subject property is 3.0, or 300 percent of lot size, except as provided in Special Regulation 3 below. Maximum FAR is determined based on parcel size, prior to any road dedication required pursuant to General Regulation 5 for this zone. 3. On parcels where road dedication is required pursuant to General Regulation 5, the maximum floor area ratio (FAR) may be increased by an additional 0.30 FAR for each 10 percent or portion thereof, of the subject property required to be dedicated. 4. Building height may be increased as follows: a. Building height may exceed 30 feet above average building elevation, if one of the following public improvements is provided: 1) Dedication and improvement of new streets pursuant to General Regulation 5; or 2) Where General Regulation 5 does not apply, the development of pedestrian-oriented elements that exceed the requirements of KZC 92.15 and Chapter 105 KZC. Examples include pedestrian walkways through the subject property, public plazas, public art and fountains; and 3) Provides for at least 10 percent of the units in new residential developments of 4~~10~~ units or greater as affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives.~~The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66.~~ ~~An agreement in a form approved by the City must be recorded with King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing~~ units for the life of the project. [illegible] years from the date of initial occupancy for ownership units. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).

55.11 User Guide. The charts in KZC 55.15 contain the basic zoning regulations that apply in the TL 1B zone of the city. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.13

Zone TL 1B

Section 55.13 – GENERAL REGULATIONS

1. Refer to Chapter 1 KZC to determine what other provision of this Code may apply to the subject property.

2. In addition to the height exceptions established by KZC 115.60, the following exceptions to height regulations in TL zones are established:
   a. Decorative parapets may exceed the height limit by a maximum of four feet; provided, that the average height of the parapet around the perimeter of the structure shall not exceed two feet.
   b. For structures with a peaked roof, the peak may extend eight feet above the height limit if the slope of the roof is equal to or greater than four feet vertical to 12 feet horizontal.

3. The minimum required front yard is 10 feet, unless otherwise prescribed in the use zone chart. Ground floor canopies and similar entry features may encroach into the front yard, provided the total horizontal dimension of such elements may not exceed 25 percent of the length of the structure. No parking may encroach into the required 10-foot front yard.

4. The ability to accommodate new development in the TL 1B zone is dependent upon the construction of a new street: NE 130th Place, between 120th Avenue NE and Totem Lake Boulevard NE, as shown on Plate 34A. Consistent with and to the extent authorized by applicable statutes and court decisions, new development on properties across which this street in whole or in part extends, shall contribute to the creation of the street as follows:
   a. With all new development, the portions of the street crossing the subject property shall be dedicated as public right-of-way consistent with Plate 34A; and
   b. With all new development exceeding 30 feet in height, the street shall be improved consistent with Plate 34A.

   Minor deviations in the location, width and improvement of the street may be approved by the Public Works Director if the deviations will not negatively affect the functioning of the street.

Section 55.15	USE	REGULATIONS	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS								
			Required Review Process	MINIMUMS		MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch.	Special Regulations (See also General Regulations)
				Lot Size	REQUIRED YARD (See Ch. 115)	Lot Coverage	Height of				

Section 55.15 Zone TL 1B **USE ZONE CHART**

Section 55.15	USE ⇩	REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	MINIMUMS: REQUIRED YARD (See Ch. 115): Side	MINIMUMS: REQUIRED YARD (See Ch. 115): Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.020	Development Containing Both Office Use and Attached or Stacked Dwelling Units (continued)												b. On parcels where land dedication is required pursuant to General Regulation 4, the maximum floor area ratio (FAR) may be increased by an additional 0.3 of residential use for each 10 percent or portion thereof of the subject property required to be dedicated. 2. Twenty-foot yard required where properties abut NE 132nd Street. 3. Within 100 feet of the centerline of NE 132nd Street, building height may not exceed 30 feet above the elevation of the centerline of NE 132nd Street along the subject property. 4. Building height may be increased as follows: a. Building height may exceed 30 feet above average building elevation, if: 1) One of the following public improvements is provided: a) Dedication and improvement of new streets pursuant to General Regulation 4; or b) Where General Regulation 4 does not apply, the development of pedestrian-oriented elements that exceed the requirements of KZC 92.15 and Chapter 105 KZC. Examples include pedestrian walkways through the subject property, public plazas, public art and fountains; and 2) Provides for at least 10 percent of the units in new residential developments of 4~~10~~ units or greater as affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66.~~ ~~An agreement in a form approved by the City must be recorded with King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units.~~ ~~Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~ REGULATIONS FOR THIS USE CONTINUED ON THE NEXT PAGE

(Revised)

Section 55.15 Zone TL 1B **USE ZONE CHART**

Section 55.15	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.050	Attached or Stacked Dwelling Units	D.R., Chapter 142 KZC	None	10′ See Spec. Reg. 5.	0′	0′	85% See Spec. Reg. 8.	30′ to 160′ above average building elevation. See Spec. Regs.-6 and 7.	C	A	See KZC 105.25.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use. 2. Residential development must provide a minimum density of 50 dwelling units per gross acre. 3. The maximum floor area ratio (FAR) for development on the subject property is 3.0, or 300 percent of lot size. Maximum FAR is determined based on parcel size, prior to any road dedication required pursuant to General Regulation 4 for this zone. 4. On parcels where road dedication is required pursuant to General Regulation 4, the maximum floor area ratio (FAR) may be increased by an additional 0.30 for each 10 percent or portion thereof of the subject property required to be dedicated. 5. Twenty-foot yard required where properties abut NE 132nd Street. 6. Within 100 feet of the centerline of NE 132nd Street, building height may not exceed 30 feet above the elevation of the centerline of NE 132nd Street along the subject property. 7. Building height may be increased as follows: a. Building height may exceed 30 feet above average building elevation, if one of the following public improvements is provided: 1) Dedication and improvement of new streets pursuant to General Regulation 4; or 2) Where General Regulation 4 does not apply, the development of pedestrian-oriented elements that exceed the requirements of KZC 92.15 and Chapter 105 KZC. Examples include pedestrian walkways through the subject property, public plazas, public art and fountains; and 3) Provides for at least 10 percent of the units in new residential developments of 4~~10~~ units or greater as affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66.~~ An agreement in a form approved by the City Attorney shall be recorded with King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units

Zone TL 1B

USE ZONE CHART

Section 55.15	USE ⇩	REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	MINIMUMS: REQUIRED YARD (See Ch. 115): Side	MINIMUMS: REQUIRED YARD (See Ch. 115): Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.050	Attached or Stacked Dwelling Units (continued)												~~Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~ b. Building height may exceed 80 feet and be increased up to 160 feet above average building elevation, with the height increases to be based on the following considerations: 1) Development on the subject property complies with 7(a) above. 2) Design of buildings meets guidelines for towers set forth in Design Guidelines (Chapter 142 KZC, and Chapter 3.30 KMC). 3) Floor plates may not exceed 10,000 square feet per floor, for the portion of the building above 80 feet in height. 4) Methods for mitigating any significant shadowing and lighting impacts of the increased building height on the residential areas to the north are proposed. 5) Taller elements of buildings would be stepped back from the perimeter of TL 1B boundaries, away from adjacent residential zones. 6) Portions of structures exceeding 80 feet in height must be separated by at least 60 feet, both on the subject property and from taller building elements on adjacent properties. 8. Increases in lot coverage may be considered if: a. Land dedication on the subject property provided pursuant to General Regulation 4 limits area available for development on the property; and/or b. Other techniques used to provide open space result in superior landscaping, such as the use of gardens on lower portions of structures or on rooftops, the provision of visual and pedestrian access to public garden areas, or other approaches that provide for useable green space.

Section 55.15 Zone TL 1B **USE ZONE CHART**

Section 55.15	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.080	Assisted Living Facility	D.R., Chapter 142 KZC	None	10′ See Spec. Reg. 4.	0′	0′	85% See Spec. Reg. 7.	30′ to 160′ above average building elevation. See Spec. Regs. 5 and 6.	C	A	1 per assisted living unit.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use. 2. The maximum floor area ratio (FAR) for development on the subject property is 3.0, or 300 percent of lot size. Maximum FAR is determined based on parcel size, prior to any road dedication required pursuant to General Regulation 4 for this zone. 3. On parcels where road dedication is required pursuant to General Regulation 4, the maximum floor area ratio (FAR) may be increased by an additional 0.30 for each 10 percent or portion thereof, of the subject property required to be dedicated. 4. Twenty-foot yard required where properties abut NE 132nd Street. 5. Within 100 feet of the centerline of NE 132nd Street, building height may not exceed 30 feet above the elevation of the centerline of NE 132nd Street. 6. Building height may be increased as follows: a. Building height may exceed 30 feet above average building elevation, if one of the following public improvements is provided: 1) Dedication and improvement of new streets pursuant to General Regulation 4; or 2) Where General Regulation 4 does not apply, the development of pedestrian-oriented elements that exceed the requirements of KZC 92.15 and Chapter 105 KZC. Examples include pedestrian walkways through the subject property, public plazas, public art and fountains; and 3) Provides for at least 10 percent of the units in new residential developments of 4~~10~~ units or greater as affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66.~~ ~~An agreement in a form approved by the City must be recorded with King County Department of Records and~~ Elections to stipulate conditions that ensure the affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units.

Zone TL 1B

USE ZONE CHART

Section 55.15	USE ⇩	REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	MINIMUMS: REQUIRED YARD (See Ch. 115): Side	MINIMUMS: REQUIRED YARD (See Ch. 115): Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.080	Assisted Living Facility (continued)												REGULATIONS CONTINUED FROM PREVIOUS PAGE ~~Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~ b. Building height may exceed 80 feet and be increased up to 160 feet above average building elevation, with the height increases to be based on the following considerations: 1) Development on the subject property complies with 6(a) above. 2) Design of buildings meets guidelines for towers set forth in Design Guidelines (Chapter 142 KZC, and Chapter 3.30 KMC). 3) Floor plates may not exceed 10,000 square feet per floor, for the portion of the building above 80 feet in height. 4) Methods for mitigating any significant shadowing and lighting impacts of the increased building height on the residential areas to the north are proposed. 5) Taller elements of buildings would be stepped back from the perimeter of TL 1B boundaries, away from adjacent residential zones. 6) Portions of structures exceeding 80 feet in height must be separated by at least 60 feet, both on the subject property and from taller building elements on adjacent properties. 7. Increases in lot coverage may be considered if: a. Land dedication on the subject property provided pursuant to General Regulation 4 limits area available for development on the property; and/or b. Other techniques used to provide open space result in superior landscaping, such as the use of gardens on lower portions of structures or on rooftops, the provision of visual and pedestrian access to public garden areas, or other approaches that provide for useable green space.

55.29 User Guide. The charts in KZC 55.33 contain the basic zoning regulations that apply in the TL 4A, TL 4B and TL 4C 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 55.31

Zone
TL 4A, 4C

Section 55.31 – 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 provision of this code may apply to the subject property.

2. The ground floor of all structures with frontage on a pedestrian or vehicular circulation route, or adjacent to a pedestrian-oriented space, shall be a minimum of 15 feet in height. This requirement does not apply to:
   a. The following uses: vehicle service stations, private lodges or clubs, stacked dwelling units, churches, schools, day-care centers, mini-schools or mini-day-care centers, assisted living facilities, convalescent centers or nursing homes, public utilities, government facilities or community facilities;
   b. Parking garages; or
   c. Additions to existing nonconforming development where the Planning Official determines it is not feasible.

3. In addition to the height exceptions established by KZC 115.60, the following exceptions to height regulations in TL zones are established:
   a. Decorative parapets may exceed the height limit by a maximum of four feet; provided, that the average height of the parapet around the perimeter of the structure shall not exceed two feet.
   b. For structures with a peaked roof, the peak may extend eight feet above the height limit if the slope of the roof is equal to or greater than four feet vertical to 12 feet horizontal.

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. These uses shall be oriented to a major pedestrian sidewalk, a through block pedestrian pathway or an internal pathway (see also Chapter 105 KZC).

5. Access for drive-through facilities must be approved by the Public Works Official. See Chapter 105 KZC for requirements.

6. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

Section		REGULATIONS	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS						
			Required	MINIMUMS	MAXIMUMS	Landscape	Sign		Special Regulations

Section 55.33 Zone TL 4A, 4B, 4C **USE ZONE CHART**

Section 55.33	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.100	Development containing attached or stacked dwelling units and offices, restaurants or taverns, or retail uses allowed in this zone. ~~See Spec. Regs. 3-4.~~			Same as the regulations for the ground floor use. See Spec. Reg. 1.				TL 4A and TL 4B: 65'~~45~~' above average building elevation. See Spec. Reg. ~~4~~ 5. TL 4C: 45' above average building elevation. See Spec. Reg. 5.	D	E	See KZC 105.25.	1. A veterinary office is not permitted in any development containing dwelling units. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 3. No more than 10 percent of the ground floor of a structure may contain residential use. 4. At least 10 percent of the units provided in new residential developments of 4 units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. 5. The equivalent of the additional gross floor area constructed above 35' over ABE must be dedicated to residential use. Residential use may be located anywhere in the building above the ground floor. ~~At least one full story of the building must be dedicated to residential use.~~ 5. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
.110	Church			20′	0′	0′	80%	35′ above average building elevation.	C	B	1 for every 4 people based on maximum occupancy load of any area of worship. See also Spec.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to this use.

55.35 User Guide. The charts in KZC 55.39 contain the basic zoning regulations that apply in the TL 5 zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.37

Section 55.37 – 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 provision of this code may apply to the subject property.

Zone TL 5

2. The ability to accommodate new development in the TL 5 zone is dependent upon the construction of two new streets: 123rd Avenue NE and NE 120th Street, as shown on Plate 34B. Consistent with and to the extent authorized by applicable statutes and court decisions, new development on properties across which these streets in whole or in part extend shall contribute to the creation of the streets as follows:
   a. With all new development, the portions of these streets crossing the subject property shall be dedicated as public right-of-way consistent with Plate 34B; and
   b. With all new development exceeding 35 feet in height, the streets shall be improved as determined by the Public Works Director. Minor deviations in the location and width of the streets may be approved by the Public Works Director if the deviations will not negatively affect the functioning of the streets.
   c. The street network within the TL 5 zone should be primarily made up of dedicated public rights-of-way with street improvements that meet the current City standards. The Public Works Director may authorize that an access street can be within a private access easement if it is found that the private street allows for a superior site design that also maintains an effective street network. If a private access street is allowed, the standards for the street improvements should be similar to those of public streets, and the maintenance of such streets shall be the responsibility of the property owner. Additionally, if a private access street is allowed, design standards applicable to development abutting a major pedestrian sidewalk continue to apply.
   d. Development in the TL 5 zone must provide a grid of internal access roads shown on Plate 34B and Plate 34F pursuant to the following standards:
      1) A north-south street (123rd Avenue NE) from NE 116th Street on the south leading to the extension of NE 120th Street and a potential future bridge connecting over the BNSF railroad to 120th Place NE. This is intended to be a dedicated public street that can be implemented in phases as redevelopment occurs on applicable sites.
      2) An east/west connection with the planned NE 120th Street extension. This is intended to link the proposed 123rd Avenue NE extension above with 124th Avenue NE. This is intended to be a dedicated public street that can be implemented in conjunction with redevelopment on applicable sites.
      3) Two or three other east-west access roads from 124th Avenue NE towards interior lots and areas closer to I-405. A desirable distance between access roads is between 250 and 300 feet. The maximum allowable distance between access roads shall be 350 feet. These may be public or private streets implemented in conjunction with redevelopment on applicable sites. Wider separation (up to 500 feet) may be considered where properties dedicate a minimum 30-foot-wide public pedestrian corridor.
      4) Suggested cross-sections for each of these roads would include:
         a) Two travel lanes (one lane each way);
         b) On-street parallel parking;
         c) Eight- to 12-foot-wide sidewalks on each side of the street with street trees placed toward the curb 30 feet on-center. Sidewalk width may be reduced where planting strips (minimum four feet wide) are maintained between the street and sidewalk.

(GENERAL REGULATIONS CONTINUED ON NEXT PAGE)

Section 55.39

Zone
TL 5

U S E Z O N E C H A R T

(GENERAL REGULATIONS CONTINUED FROM PREVIOUS PAGE)

3. Maximum allowable building height may be increased to 45 feet above average building elevation on parcels where dedication for roads is provided. Additional building height may be allowed with participation in a Conceptual Master Plan. No portion of a structure may exceed the following heights above the elevation of NE 116th Street, as measured at the midpoint of the frontage of the subject property on NE 116th Street:
   a. Within 20 feet of NE 116th Street, 35 feet.
   b. Within 30 feet of NE 116th Street, 45 feet.
   c. Within 40 feet of NE 116th Street, 55 feet.

4. The ground floor of all structures on the subject property with frontage on a pedestrian or vehicular circulation route, or adjacent to a pedestrian-oriented space shall be a minimum of 15 feet in height. This requirement does not apply to:
   a. The following uses: vehicle service stations, private lodges or clubs, stacked dwelling units, churches, schools, day-care centers, mini-schools or mini-day-care centers, assisted living facilities, convalescent centers or nursing homes, public utilities, government facilities or community facilities.
   b. Parking garages.
   c. Additions to existing nonconforming development where the Planning Official determines it is not feasible.

5. At least 30 percent of the total gross floor area located on the ground floor of all structures on the subject property must contain retail establishments, restaurants, taverns, hotels or motels. Ground floor spaces in structures with frontage on a pedestrian or vehicular route, or adjacent to a pedestrian-oriented space must contain retail establishments, restaurants or taverns.

6. No surface parking may encroach into the required front yard.

7. Access for drive-through facilities must be approved by the Public Works Official. See Chapter 105 KZC for requirements.

8. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

9. The applicant shall install a through-block pathway or other pathways to link streets and/or activities. In addition to the new roads to be developed through the district (123rd Avenue NE and NE 120th Street), designated as major pedestrian sidewalks in Plate 34F, a network of east-west pathways at intervals no greater than 350 feet that link uses to 124th Avenue NE shall be installed. Through-block pathways may be integrated with internal access roads and/or provided within separate pedestrian-only corridors. See KZC 105.19(3) for through-block pathway standards. Additional through-block pathways not shown in the Comprehensive Plan may be required by the City on parcels larger than two acres in order to enhance pedestrian access on large sites.

Section 55.39 Zone TL 5 **U S E Z O N E C H A R T**

Section 55.39	USE ⇩	REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Any use or combination of uses allowed in this zone, when developed within a Conceptual Master Plan. (Continued)												REGULATIONS CONTINUED FROM PREVIOUS PAGE l. Location of drive-through facilities to not compromise the pedestrian orientation of the development. 4. The following uses are not permitted within a Conceptual Master Plan: a. Retail establishments providing storage services unless accessory to another permitted use. b. Outdoor storage of bulk commodities, except in the following circumstances: i. If the outdoor storage involves vehicles for sale associated with a vehicle dealership. ii. If the square footage of the storage area is less than 20 percent of the total square footage of the use it is serving; or c. Storage and operation of heavy equipment except normal delivery vehicles associated with retail uses. 5. Signs for a development approved under this provision must be proposed within a Master Sign Plan application (KZC 100.80) for all signs within the project. 6. Land dedicated for roads pursuant to General Regulation 2 may be included in the lot size used to meet the minimum size requirement for a Conceptual Master Plan. 7. ~~A~~t least 10 percent of the units provided in new residential developments of 4~~10~~ units or greater shall be~~are~~ affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. 8.~~7.~~Building height may exceed the limits set forth in General Regulation 3, provided that~~:~~ ~~a.~~ Development on the property within the Conceptual Master Plan does not exceed the maximum floor area ratio (FAR) of 2.0, or 200 percent of lot size. Land dedicated for roads pursuant to General Regulation 2 may be included in the land used to calculate FAR; and ~~b. In buildings over 35 feet in height, at least 10 percent of the units provided in new residential developments of 20 units or greater are affordable housing units, as defined in Chapter 5 KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the~~

Zone TL 5

USE ZONE CHART

Section 55.39	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Any use or combination of uses allowed in this zone, when developed within a Conceptual Master Plan. (Continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE ~~Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~ 9.~~8~~.Parcels smaller than four acres may be added to a previously approved Conceptual Master Plan (CMP), if the applicable criteria set forth in the notice of approval for the approved CMP are met.
.020	Vehicle Service Station	D.R., Chapter 142 KZC.	22,500 sq. ft.	40′	15′ on each side	15′	80%	35′ above average building elevation. See General Regulation 3.	A	E	See KZC 105.25.	1. May not be more than two vehicle service stations at any intersection. 2. Gas pump islands may extend 20 feet into the front yard. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.
				See Spec. Reg. 2.								
.030	A Retail Establishment providing vehicle or boat sales or vehicle or boat service or repair. See Spec. Reg. 1.		None	10′	0′	0′						1. Vehicle and boat rental and used vehicles or boat sales are allowed as part of this use.
.040	Restaurant or Tavern								B		1 per each 100 sq. ft. of gross floor area.	1. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.

Section 55.39 Zone TL 5 **USE ZONE CHART**

Section 55.39	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.110	Attached or Stacked Dwelling Unit See Spec. Reg. 1.			~~Same as those regulations for the primary ground floor use.~~ 45'. See Spec. Regs. 1 and 2.						A	1.7 per unit.	1. No more than 10 percent of the ground floor of a structure may contain residential use. 2. At least 10 percent of the units provided in new residential developments of 4 units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. 3.. ~~The maximum height for buildings may be increased to 45 feet above average building elevation if:~~ At least two stories of the building must be ~~are~~ dedicated to residential use. ~~a. At least two stories of the building are dedicated to residential use; and~~ ~~b. At least 10 percent of the units provided in new residential developments of 10 units or greater are affordable housing units, as defined in Chapter 5 KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units.~~ ~~Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~ 4~~3~~.Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.

55.41 User Guide. The charts in KZC 55.45 contain the basic zoning regulations that apply in the TL 6A and TL 6B 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 55.43

Zone TL 6A, 6B

Section 55.43 – 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. Where feasible, primary access for nonresidential uses within TL 6 shall be from 124th Avenue NE, NE 124th Street, or NE 120th Street.

3. The ground floor of all structures with frontage on a pedestrian or vehicular circulation route, or adjacent to a pedestrian-oriented space shall be a minimum of 15 feet in height. This requirement does not apply to:
   a. The following uses: vehicle service stations, private lodges or clubs, stacked dwelling units, churches, schools, day-care centers, mini-schools or mini-day-care centers, assisted living facilities, convalescent centers or nursing homes, residential development in TL 6A where over 80 percent of the total units in the development are affordable to households earning no more than 60 percent of the King County median income, public utilities, government facilities or community facilities;
   b. Parking garages;
   c. Additions to existing nonconforming development where the Planning Official determines it is not feasible; or
   d. Parcels located more than 500 feet north of NE 124th Street, east of 116th Avenue NE.

4. Within TL 6B, at least 50 percent of the gross floor area located on the ground floor of all structures with frontage on a pedestrian or vehicular route, or adjacent to a pedestrian-oriented space, must contain retail establishments, restaurants, taverns, hotels or motels. These uses shall be oriented to a major pedestrian sidewalk, a through block pedestrian pathway or an internal pathway (see also Chapter 105 KZC). This regulation does not apply to parcels located more than 500 feet north of NE 124th Street, east of 116th Avenue NE (see Plate 34G).

5. In addition to the height exceptions established by KZC 115.60, the following exceptions to height regulations in TL zones are established:
   a. Decorative parapets may exceed the height limit by a maximum of four feet; provided, that the average height of the parapet around the perimeter of the structure shall not exceed two feet.
   b. For structures with a peaked roof, the peak may extend eight feet above the height limit if the slope of the roof is equal to or greater than four feet vertical to 12 feet horizontal.

6. The review process for development in this zone is as follows:
   a. In TL 6A, any development activities requiring Design Review approval pursuant to KZC 142.15 shall be reviewed administratively (ADR), pursuant to KZC 142.25. Where gross floor area of an existing building is expanded by less than 10 percent, no design review is required.

b. In TL 6B, as set forth in Chapter 142 KZC.

7. Access for drive-through facilities must be approved by the Public Works Official. See Chapter 105 KZC for requirements.

8. Some development standards or design regulations may be modified as part of the design review process. See Chapter 92 or 142 KZC for requirements.

(GENERAL REGULATIONS CONTINUED ON NEXT PAGE)

(GENERAL REGULATIONS CONTINUED FROM PREVIOUS PAGE)

9. In TL 6B, development must provide a grid of internal access roads (see Plate 34G) pursuant to the following standards:
   a. A centralized east-west connection that forms the spine for the site. Such a connection would reduce the need for vehicular circulation on NE 124th Street.
   b. Two to three north-south connections from NE 124th Street to the east-west connection noted above. A desirable distance between access roads is between 250 and 300 feet. The maximum allowable distance between access roads shall be 350 feet. These may be public or private streets. Wider separation (up to 500 feet) may be considered where properties dedicate a minimum 30-foot-wide public pedestrian corridor.
   c. Suggested cross-sections for each of these roads:
      1) Two travel lanes (one lane each way);
      2) On-street parallel parking;
      3) Eight- to 12-foot-wide sidewalks on each side of the street with street trees placed 30 feet on-center. Sidewalk width may be reduced where planting strips (minimum four feet wide) are maintained between the street and sidewalk.

      The above access roads may be private or public.

10. The applicant shall install a through-block pathway or other pathways to link streets and/or activities. (See Plate 34G). Include at least one mid-block east-west pathway connecting uses to 116th Avenue NE and a network of north-south pathways at intervals no greater than 350 feet that link uses to NE 124th Street. Through-block pathways may be integrated with internal access roads and/or provided within separate pedestrian-only corridors. See KZC 105.19(3) for through-block pathway standards. Additional through-block pathways not shown in the Comprehensive Plan may be required by the City on parcels larger than two acres in order to enhance pedestrian access on large sites.

Zone TL 6A, 6B

USE ZONE CHART

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

Section 55.45	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.100	Attached or Stacked Dwelling Units. See Spec. Reg. 1.	D.R., Chapter 142 KZC. See Gen. Reg. 6.	None	10'	0'	0'	80%	~~35' to~~ 65' above average building elevation. See Spec. Reg. 2.	D	A	See KZC 105.25.	1. On parcels abutting NE 124th Street or 124th Avenue NE, no more than 10 percent of the ground floor of a structure may be in residential use within 250 feet of these streets; provided, however, there shall be no such restriction on ground floor residential use in TL 6A where over 80 percent of the total units in the development are affordable to households earning no more than 60 percent of King County median income, adjusted for household size. 2. ~~Maximum building height may exceed 35 feet above average building elevation if:~~ ~~a.~~ No portion of a structure on the subject property within 40 feet of Slater Avenue may exceed~~s~~ 30 feet above the elevation of Slater Avenue as measured at the midpoint of the frontage of the subject property on Slater Avenue.~~; and~~ 3. b.~~.~~ At least 10 percent of the units provided in new residential developments of 4~~10~~ units or greater shall be~~are~~ affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units. This regulation does not apply to developments which provide over 80 percent of their units as affordable to households earning no more than 60 percent of King County median income, adjusted for household size.~~ ~~Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC)~~. ~~3~~4. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.

Section 55.45 Zone TL 6A, 6B **USE ZONE CHART**

Section 55.45	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.110	Development containing attached or stacked dwelling units and offices, restaurants or taverns, or retail uses allowed in this zone.	D.R., Chapter 142 KZC. See Gen. Reg. 6.	None	10'	0'	0'	80%	~~35' to~~ 65' above average building elevation. See Spec. Reg. ~~4~~.	D	E	See KZC 105.25.	1. A veterinary office is not permitted in any development containing dwelling units. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 3. No more than 10 percent of the ground floor of a structure may be in residential use within 250 feet of 124th Avenue NE or NE 124th Street; provided, however, there shall be no such restriction on ground floor residential use in TL 6A where over 80 percent of the total units in the development are affordable to households earning no more than 60 percent of King County median income, adjusted for household size. 4. ~~Maximum building height may exceed 35 feet above average building elevation if:~~ ~~a.~~ No portion of a structure on the subject property within 40 feet of Slater Avenue may exceed~~s~~ 30 feet above the elevation of Slater Avenue as measured at the midpoint of the frontage of the subject property on Slater Avenue~~; and~~ 5.~~b.~~ The equivalent of the additional gross floor area constructed above 35' over ABE must be dedicated to residential use. Residential use may be located anywhere in the building above the ground floor. ~~At least three stories of the building are dedicated to residential use; and~~ 6. ~~c. A~~t least 10 percent of the units provided in new residential developments of 4~~10~~ units or greater shall be~~are~~ affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project, but not less than 50 years, and at least 30 years from the date of initial owner occupancy for ownership units. This regulation does not apply to developments which provide over 80 percent of their units as affordable to households earning no more than 60 percent of King County median income.~~

Zone TL 6A, 6 B

USE ZONE CHART

Section 55.45	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.110	Development containing attached or stacked dwelling units and offices, restaurants or taverns, or retail uses allowed in this zone. (continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE 75.Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
.120	Wholesale Trade See Spec. Reg. 1. Packaging of Prepared Materials Wholesale Printing or Publishing Industrial Laundry Facility	D.R., Chapter 142 KZC. See Gen. Reg. 6.	None	20'	0'	0'	80%	35' above average building elevation.	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. This use is only allowed on property in TL 6A. 2. May include, as part of this use, accessory retail sales or service. 3. The building housing the use shall have been in existence on December 31, 2005, and shall not be altered, changed, or otherwise modified to accommodate the use if the cost of such alteration, change, or modification exceeds 30 percent of the replacement cost of that building. 4. The use must be discontinued when there is an alteration, change, or other work in a consecutive 12-month period to the space in which the use is located, and the cost of the alteration, change or other work exceeds 30 percent of the replacement cost of that space.
.130	Church			10'	5' on each side	10'			C	B	1 for every 4 people based on maximum occupancy load of any area of worship. See also Spec. Reg. 2.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to this use.

55.53 User Guide. The charts in KZC 55.57 contain the basic zoning regulations that apply in the TL 8 zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.55

Zone TL 8

Section 55.55 – 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. Ground floor uses on the two westernmost parcels in this zone with frontage on 120th Avenue NE must contain retail, restaurants, and/or taverns.

3. The ground floor of all structures with frontage on a pedestrian or vehicular circulation route, or adjacent to a pedestrian-oriented space shall be a minimum of 15 feet in height. This requirement does not apply to:
   a. The following uses: vehicle service stations, private lodges or clubs, stacked dwelling units, churches, schools, day-care centers, mini-schools or mini-day-care centers, assisted living facilities, convalescent centers or nursing homes, public utilities, government facilities or community facilities;
   b. Parking garage; or
   c. Additions to existing nonconforming development where the Planning Official determines it is not feasible.

4. In addition to the height exceptions established by KZC 115.60, the following exceptions to height regulations in TL zones are established:
   a. Decorative parapets may exceed the height limit by a maximum of four feet; provided, that the average height of the parapet around the perimeter of the structure shall not exceed two feet.
   b. For structures with a peaked roof, the peak may extend eight feet above the height limit if the slope of the roof is equal to or greater than four feet vertical to 12 feet horizontal.

5. Shared access points must be used to the maximum extent possible. Curb cuts must be limited to minimize traffic congestion (does not apply to Public Utility, Government Facility or Community Facility and Public Park uses).

6. Development must emphasize Totem Lake as the focal point of this zone (does not apply to Public Utility, Government Facility or Community Facility and Public Park uses).

7. Refer to Chapter 90 KZC regarding restrictions on development around Totem Lake and wetland areas.

8. Parcels located east of the strip of land zoned “P” are exempt from Design Review.

Zone TL 8

USE ZONE CHART

9. Must install a landscape berm on the subject property adjacent to 120th Avenue N.E. and Totem Lake Way consistent with existing landscaped berms along these rights-of-way.
(Does not apply to Public Park uses).

10. Access for drive-through facilities must be approved by the Public Works Official. See Chapter 105 KZC for requirements.

11. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

Section 55.57	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Hotel or Motel See Gen. Reg. 2.	D.R., Chapter 142 KZC. See Gen. Reg. 8.	None	10′	5′ each side	10′	70%	35′ above average building elevation.	B	E	See KZC 105.25.	1. The following uses are not allowed: The sale, service, and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers, vehicle service station, and storage services; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. 2. Ancillary assembly and manufactured goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent on this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 3. Outdoor storage and drive-in or drive-through facilities are not permit-
.020	A Retail Establishment providing entertainment or recreational activity											
.030	Athletic, Exercise, or Health Club/Facility See Gen. Reg. 2.											

Zone TL 8

USE ZONE CHART

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

Section 55.57	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	MINIMUMS: REQUIRED YARD (See Ch. 115): Side	MINIMUMS: REQUIRED YARD (See Ch. 115): Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.070	Attached or Stacked Dwelling Units See Gen. Reg. 2.				5′ each side See Spec. Reg. 2.	10′ See Spec. Reg. 3.		65′~~45′~~ above average building elevation.	D	A		1. ~~1.~~Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 2. At least 10 percent of the units provided in new residential developments of 4 units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. 3. The side yard may be reduced to zero feet if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of five feet. 4.~~3.~~The rear yard may be reduced to zero feet if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot.

Section 55.57 Zone TL 8 **U S E Z O N E C H A R T**

Section 55.57	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.080	Development containing attached or stacked dwelling units and offices, restaurants or taverns, or retail uses allowed in this zone. See Gen. Reg. 2. See Spec. Reg. 1.	D.R., Chapter 142 KZC. See Gen. Reg. 8.	None	10′	5′ each side. See Spec. Reg. 4.	10′ See Spec. Reg. 5.	70%	65′~~45′~~ above average building elevation.	B	E	See KZC 105.25.	1. A veterinary office is not permitted in any development containing dwelling units. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 3. Ancillary assembly and manufactured goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are subordinate and directly related to and dependent on this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail or office uses. 4. At least 10 percent of the units provided in new residential developments of 4 units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. 5. The equivalent of the additional gross floor area constructed above 35' over ABE must be dedicated to residential use. Residential use may be located anywhere in the building above the ground floor. 6. The side yard may be reduced to zero feet if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of five feet. 7.~~5.~~ The rear yard may be reduced to zero feet if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot.
.090	Private Lodge or Club See Gen. Reg. 2.				5′ each side.	10′		35′ above average building elevation.	C	B		

55.62 User Guide. The charts in KZC 55.64 contain the basic zoning regulations that apply in the TL 9B zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.63

Zone TL 9B

Section 55.63 – 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. All development or associated land surface modifications shall be set back 100 feet from the north boundary of the TL 9B zone.
3. Vehicular access shall be from the south of the slope. If necessary, access may be from 132nd Avenue NE; provided, that such access is limited to one point and meets other City standards.

Section 55.64	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Detached Dwelling Units	Process IIA, Chapter 150 KZC	5,000 sq. ft.	20'	5'	10'	60%	30' above average building elevation.	E	A	2.0 per unit.	1. For this use, only one dwelling unit may be on each lot regardless of the size of the lot. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.

Zone TL 9B

USE ZONE CHART

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

Section 55.64	USE ⇩	REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	MINIMUMS: REQUIRED YARD (See Ch. 115): Side	MINIMUMS: REQUIRED YARD (See Ch. 115): Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.020	Detached, Attached or Stacked Dwelling Units					5' for detached units. For attached or stacked units, 5', but 2 side yards must equal at least 15'. See Spec. Reg. 3.	10' See Spec. Reg. 4.		Detached Dwelling units: 30' Attached and/or Stacked dwelling units: 50' above average building elevation~~,~~ ~~-~~See Spec. Reg. 5.	D		1.7 per unit.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 2. Chapter 115 KZC contains regulations regarding common recreational space requirements for this use. 3. The side yard may be reduced to zero feet if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of five feet. 4. The rear yard may be reduced to zero feet if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot. 5. For attached and/or stacked dwelling units, ~~t~~ at least 10 percent of the units provided in new residential developments of 4 units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~he maximum building height may exceed 30 feet above average building elevation if at least 10 percent of the units provided in new residential developments of 10 units or greater are affordable housing units, as defined in Chapter 5 KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~

55.71 User Guide. The charts in KZC 55.75 contain the basic zoning regulations that apply in the TL 10B zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.73

Zone TL 10B

Section 55.73 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.

2. If any portion of a structure is adjoining a low density zone, then either:
   a. The height of that portion of the structure shall not exceed 20 feet above average building elevation; or
   b. The 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.

   See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.

3. The ability to accommodate new development in the TL 10B zone is dependent upon the extension of 118th Avenue NE to NE 116th Street as shown on Plate 34C, Chapter 180 KZC. Consistent with and to the extent authorized by applicable statutes and court decisions, new development on properties across which this street in whole or in part extends, shall contribute to the creation of the street as follows:
   a. With all new development, the portions of this street crossing the subject property shall be dedicated as public right-of-way consistent with Plate 34C; and
   b. With all new development exceeding 35 feet in height, the street shall be improved as determined by the Public Works Director.

   Minor deviations in the location and width of the street may be approved by the Public Works Director if the deviations will not negatively affect the functioning of the street.

4. Maximum allowable building height may be increased to 45 feet above average building elevation on parcels where dedication for the road is provided. Additional height increases beyond 45 feet above A.B.E. may be allowed for certain uses, as authorized in the Use Zone Chart.

5. Vehicular access to NE 116th is permitted only via 118th Avenue NE, or if the subject property does not have access to 118th Avenue NE. (Does not apply to Public Park use).

6. Any development activities requiring Design Review approval pursuant to KZC Section 142.15 shall be reviewed administratively (ADR), pursuant to KZC 142.25. Where gross floor area of an existing building is expanded by less than 10 percent, no Design Review is required.

7. Development must be designed to retain the existing hill along NE 116th Street and retain, at a minimum, 25 percent of the viable significant trees. The City may require greater than 25 percent depending on the location and clustering of trees.
   (Does not apply to Public Park use).

Zone
TL 10B

USE ZONE CHART

8. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

Section 55.75	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	MINIMUMS: REQUIRED YARD (See Ch. 115): Side	MINIMUMS: REQUIRED YARD (See Ch. 115): Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Attached or Stacked Dwelling Units See Spec. Reg. 1.	D.R., Chapter 142 KZC. See Gen. Reg. 6.	None	20′	5′ but 2 side yards must equal at least 15′. See Spec. Reg. 5.	10′ See Spec. Reg. 6.	70%	35′ to 60′ above average building elevation See Gen. Reg. 4 and Spec. Reg. 2.	D	A	1.7 per unit.	1. This use is permitted only on parcels located west of the 118th Avenue NE right-of-way alignment (see Plates 36 and 37, Chapter 180). 2. Maximum building height may be increased from 35 feet to 60 feet if at least 10 percent of the units provided in new residential developments of 4~~10~~ units or greater are affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives ~~The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units.~~ ~~3. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~ 3.~~4~~.Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 4~~5~~.The side yard may be reduced to zero feet if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of five feet. 5~~6~~.The rear yard may be reduced to zero feet if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot.

55.77 User Guide. The charts in KZC 55.81 contain the basic zoning regulations that apply in the TL 10C zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.79

Zone TL 10C

Section 55.79 – 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 provision of this code may apply to the subject property.
2. Access for drive-through facilities must be approved by the Public Works Official. See Chapter 105 KZC for requirements.
3. When a permitted use is included as an accessory use within the structure of a primary use with a taller height limit, the height limit for the primary use applies.
4. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 152 KZC for requirements.

Section 55.81	USE ⇩	REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS											
			Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure				
					Front	Side	Rear						

Zone
TL 10C

USE ZONE CHART

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

Section 55.81	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Attached or Stacked Dwelling Units See Spec. Reg. 1.	D.R., Chapter 142 KZC	None	20′	5′ but 2 side yards must equal at least 15′. See Spec. Reg. 6.	10′ See Spec. Reg. 7.	80%	Where adjoining a low density zone, 30′ above average building elevation. Otherwise, up to 55′ above average building elevation. See Spec. Reg. 4.	D	A	1.7 per unit.	1. This use is permitted as a freestanding development only in locations identified on Plate 37 as "Stand-Alone Housing Areas" (see Plate 37, Chapter 180). If developed in a mixed-use project with three stories of office or high technology use, it may be located throughout the TL 10C zone. 2. At least 10 percent of the units provided in new residential developments of 4 units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~At least 10 percent of the units provided in new residential developments of 10 units or greater must be affordable housing units, as defined in Chapter 5 KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with the King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units.~~ ~~3. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~ 3~~4~~.No portion of a structure may exceed the following heights above the elevation of NE 116th Street, as measured at the midpoint of the frontage of the subject property on NE 116th Street: a. Within 20 feet of NE 116th Street, 35 feet. b. Within 30 feet of NE 116th Street, 45 feet. c. Within 40 feet of NE 116th Street, 55 feet. 4~~5~~.Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 5~~6~~.The side yard may be reduced to zero feet if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of five feet. 6~~7~~.The rear yard may be reduced to zero feet if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot.

(Revised)

55.83 User Guide. The charts in KZC 55.87 contain the basic zoning regulations that apply in the TL 10D zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.85

Zone TL 10D

Section 55.85 – 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. When a permitted use is included as an accessory use within the structure of a primary use with a taller height limit, the height limit for the primary use applies.

Section 55.87	USE ⇩	REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS											
			Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				Lot Size	REQUIRED YARD (See Ch. 115)			Lot Coverage	Height of Structure				
					Front	Side	Rear						

Zone
TL 10D

USE ZONE CHART

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

Section 55.87	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.100	Attached or Stacked Dwelling Units See Spec. Reg. 1.	D.R., Chapter 142 KZC	None	20′	5′, but 2 side yards must equal at least 15′. See Spec. Reg. 4.	0′	80%	Where adjoining a low density zone, 30′ above average building elevation. Otherwise, 65′ above average building elevation. See Spec. Reg. 1.	D	A	1.7 per unit.	1. This use is permitted as a free-standing development only in locations identified on Plate 37 as "Stand-Alone Housing Areas" (see Plate 37, Chapter 180). If developed in a mixed-use project with three stories of office or high technology use, it may be located throughout the TL 10D zone. 2. At least 10 percent of the units provided in new residential developments of 4 units or greater shall be affordable housing units, as defined in Chapter 5 KZC. See Chapter 112 KZC for additional affordable housing requirements and incentives. ~~Maximum building height may be increased as follows:~~ ~~a. Maximum building height is 45 feet above average building elevation where not adjoining a low density zone, and where affordable housing units as described in 2.b below are not provided, and~~ ~~b. Maximum building height is 65 feet above average building elevation where not adjoining a low density zone, and where at least 10 percent of the units provided in new residential developments of 10 units or greater are affordable housing units, as defined in Chapter 5 KZC. The number of affordable housing units is determined by rounding up to the next whole number (unit) if the fraction of the whole number is at least 0.66. An agreement in a form approved by the City must be recorded with King County Department of Records and Elections to stipulate conditions under which required affordable housing units will remain as affordable housing units for the life of the project for rental units, and at least 30 years from the date of initial owner occupancy for ownership units. Additional affordable housing incentives may be applicable to residential development (see Chapter 112 KZC).~~ 3. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 4. The side yard may be reduced to zero feet if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of five feet.

Chapter 112 – AFFORDABLE HOUSING INCENTIVES – MULTIFAMILY

Sections:

112.05 User Guide
112.10 ~~Voluntary Provisions~~Purpose
112.15 ~~Applicable Use Zones~~Affordable Housing Requirement
112.20 ~~Defined~~ Basic Affordable Housing Incentives
112.25 Additional Affordable Housing Incentives ~~(Non-Defined)~~
112.30 Alternative Compliance
112.35 Affordability Provisions
112.40 Regulatory Review and Evaluation

112.05 User Guide

This chapter offers dimensional standard flexibility and density and economic incentives to encourage construction of affordable housing units in commercial zones, high density residential zones, medium density zones and office zones.

If you are interested in proposing ~~affordable housing~~four or more residential units in commercial zones, high density residential zones, medium density zones or office zones, or you wish to participate in the City's decision on such a project ~~including affordable housing units~~, you should read this chapter.

112.10 ~~Voluntary Provisions~~Purpose

~~The provisions of this chapter are available, at the sole discretion of the property owner as incentives to encourage the construction of multifamily affordable housing units.~~ There is a limited stock of land within the City zoned and available for residential development and there is a demonstrated need in the City for housing which is affordable to persons of low and moderate income. Therefore, this chapter provides development incentives in exchange for the public benefit of providing affordable housing units in commercial zones, high density residential zones, medium density zones and office zones.

112.15 ~~Applicable Use Zones~~Affordable Housing Requirement

~~The affordable housing incentives described in this chapter may be used~~

1. 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 ~~that allow dwelling units~~ 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.

2. Calculation in Density Limited Zones - For developments in density limited zones, the required amount of affordable housing shall be calculated based on the number of dwelling units proposed prior to the addition of any bonus units allowed pursuant to KZC 112.20.

3. Calculation in RH and TL Zones – For developments in the RH and TL Zones, the required amount of affordable housing shall be calculated based on the total number of dwelling units proposed.

4. Rounding – 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 Section 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.

112.20 ~~Defined~~ Basic Affordable Housing Incentives

1. Approval Process – The City will use the underlying permit process to review and decide upon an application ~~for~~ utilizing the affordable housing incentives identified in this section. ~~through the same required review process as if no affordable housing units were provided.~~

2. ~~Density~~ Bonus

   a. Height Bonus. In RH and TL use zones where there is no minimum lot size per dwelling unit, additional building height will be granted in exchange for affordable housing, as specified in each Use Zone Chart.

   b. Bonus Units. In use zones where the number of dwelling units allowed on the subject property is determined by dividing the lot size by the required minimum lot area per unit, two additional units ('bonus units') may be constructed for each affordable housing unit provided. (See Plate 32 for example of bonus unit calculations.)

   ~~b. Bonus FAR. In use zones where the density allowed on the subject property is expressed as a maximum floor area ratio (FAR), two additional square feet of floor area ('bonus FAR') may be constructed for each square foot of floor area constructed in affordable housing units. (See Plate 32 for example of bonus FAR calculations.)~~

   ~~c. Alternative Calculation of Density Bonus. Except in those zones that have an established affordable housing requirement, an applicant may propose alternative affordability levels for the affordable housing units. The ratio of bonus units or bonus floor area per affordable housing unit for alternative affordability levels will be as follows:~~

~~Affordability Level~~	~~Density Bonus to Affordable Ratio~~
~~Renter Occupied Housing~~	-
~~60% of median income~~	~~1.33 to 1~~
~~70% of median income~~	~~1 to 1~~
~~Owner Occupied Housing~~	-
~~80% of median income~~	~~1.6 to 1~~
~~60% of median income~~	~~2.67 to 1~~

~~Depending on the level of affordability provided, the affordable housing units may not be eligible for the impact fee waivers described in subsections (4)(a) and (4)(b) of this section.~~

~~d~~c. Maximum Unit Bonuses. The maximum number of bonus units ~~or amount of bonus FAR~~ achieved through a ~~defined~~ basic affordable housing incentive shall be 25 percent of the number of units ~~or floor area~~ allowed based on the underlying zone of the subject property.

~~e~~d. Density Bonus for Assisted Living Facilities. The affordable housing density bonus may be used for assisted living facilities to the extent that the bonus for affordable housing may not exceed 25 percent of the base density of the underlying zone of the subject property.

3. Alternative Affordability Levels~~Alternative Calculation of Density Bonus.~~ - ~~Except in those zones that have an established affordable housing requirement, a~~An applicant may propose ~~alternative~~ affordability levels different from those defined in KZC Chapter 5 for the affordable housing units.

a. In use zones where a density bonus is provided in exchange for affordable housing units, ~~T~~the ratio of bonus units ~~or bonus floor area~~ per affordable housing unit for alternative affordability levels will be as follows:

Affordability Level	~~Density~~ Bonus Unit to Affordable Unit Ratio
Renter Occupied Housing	
60% of median income	~~1.33 to 1~~ 1.9 to 1
70% of median income	~~1 to 1~~ 1.8 to 1
Owner Occupied Housing	
~~80~~90% of median income	~~1.6 to 1~~ 2.1 to 1
~~60~~80% of median income	~~2.67 to 1~~ 2.2 to 1

~~Depending on the level of affordability provided, the affordable housing units may not be eligible for the impact fee waivers described in subsections (4)(a) and (4)(b) of this section.~~

b. In use zones where additional height is provided in exchange for affordable housing units, the percent of affordable units required for alternative affordability levels will be as follows:

Affordability Level	% of Project Units Required to be Affordable
Renter Occupied Housing	
60% of median income	13%
70% of median income	17%
Owner Occupied Housing	
70% of median income	8%
90% of median income	13%
100% of median income	21%

c. To encourage "pioneer developments" in the Rose Hill and Totem Lake business districts, the definition of affordable housing for projects in the RH and TL zones shall be as provided in the following table. This subsection shall apply only to those projects which meet the affordability requirements on-site or off-site. This subsection shall not apply to those projects which elect to use a payment in lieu of constructing affordable units as authorized in KZC 112.30.4.

The affordable housing requirements for projects vested on or after the effective date of the ordinance codified in this section must be targeted for households whose incomes do not exceed the following:

Number of Total Units		**Affordability Level**	
RH Zones	***TL Zones***	***Renter Occupied***	***Owner Occupied***
First 50 units	First 150 units	70% of median income	100% of median income
Second 50 units	Second 150 units	60% of median income	90% of median income
All subsequent units	All subsequent units	50% of median income	80% of median income

"Number of Total Units" shall mean the total number of housing units (affordable and otherwise) permitted to be constructed within the RH and TL zones where affordable housing units are required and which have not received funding from public sources.

d. Depending on the level of affordability provided, the affordable housing units may not be eligible for the impact fee waivers described in subsections (5)(a) and (5)(b) of this section.

~~3~~4. Dimensional Standards Modification – To the extent necessary to accommodate the bonus units allowed under KZC 112.20.2.b on-site, ~~T~~the following requirements of the Kirkland Zoning Code may be modified through the procedures outlined in this subsection.~~, to the extent necessary to accommodate the bonus units on-site~~. These modifications may not be used to accommodate the units resulting from the base density ~~or FAR~~ calculation.

a. Maximum Lot Coverage. The maximum lot coverage may be increased by up to five percentage points over the maximum lot coverage permitted by the underlying use zone. Maximum lot coverage may not be modified through this provision on properties with streams, wetlands, minor lakes or their buffers.

b. Parking Requirement. The required parking may be reduced to 1.0 space per affordable housing unit. No additional guest parking is required for affordable housing units. If parking is reduced through this provision, the owner of the affordable housing unit shall sign a covenant, in a form acceptable to the City Attorney, restricting the occupants of each affordable housing unit to a maximum of one automobile.

c. Structure Height. Maximum height for structures containing affordable housing units may be increased by up to six feet for those portions of the structure(s) that are at least 20 feet from all property lines. Maximum structure height may not be modified through this provision for any portion of a structure that is adjoining a low density zone.

d. Required Yards. Structures containing affordable housing units may encroach up to five feet into any required yard except that in no case shall a remaining required yard be less than five feet.

e. Common Recreational Space. Common recreational open space per unit, when required, may be reduced by 50 square feet per affordable housing unit.

~~4~~5. Impact and Permit Fee Calculation

a. Applicants ~~proposing~~ providing affordable housing units may request an exemption from payment of road impact fees for the affordable housing units as established by KMC 27.04.050.

b. Applicants ~~proposing~~ providing affordable housing units may request an exemption from payment of park impact fees for the affordable housing units as established by KMC 27.06.050.

c. Applicants ~~proposing~~ providing affordable housing units are eligible for exemption from various planning, building, plumbing, mechanical and electrical permit fees ~~and sewer capital facility charges~~ for the bonus units allowed under KZC 112.20.2.b as established in KMC 5.74.070 ~~and 15.12.063~~ and KMC Title 21.

~~5~~6. Property Tax Exemption – A property providing affordable housing units may be eligible for a property tax exemption as established in Chapter 5.88 KMC.

112.25 Additional Affordable Housing Incentives ~~(Non-Defined)~~

1. Approval Process for Additional Affordable Housing Incentives ~~(Non-Defined)~~ – An applicant may request that the City grant affordable housing incentives in addition to or in place of the ~~defined~~ basic affordable housing incentives allowed in KZC 112.20 due to specific site conditions. Such a request shall be reviewed and decided upon as outlined below. ~~Such a request shall be reviewed and decided upon using Process IIA, described in Chapter 150 KZC. If the development, use, or activity requires approval through Process IIB or Process III, the entire proposal will be decided upon using that other process.~~

2. Density Bonus – An applicant may propose more than two bonus units ~~or two additional square feet of floor area~~ for every affordable housing unit ~~or square foot of affordable housing unit, as applicable~~. However, in no event may a project receive a bonus that would result in a ~~total~~ number of bonus units ~~or floor area~~ that exceeds 50 percent of the number of units ~~or floor area~~ allowed based on 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..

3. Dimensional Standards Modification – An applicant may request further modification from the dimensional standards listed in KZC 112.20.4~~(3)~~. Approval of any further modification of the dimensional standards will be based on the applicant's demonstration that the subject property cannot reasonably achieve the permitted density, including the bonus units. Such a request shall be reviewed and decided upon using Process ~~IIA~~I, described in Chapter ~~150~~145 KZC. If the development, use, or activity requires approval through Process IIA, IIB or Process III, the entire proposal will be decided upon using that other process.

4. Criteria for Approving Additional Affordable Housing Incentives ~~(Non-defined)~~ – The City may approve one or more of the additional affordable housing incentives listed in KZC 112.25(2) or 112.25(3), in

addition to or in place of the ~~defined~~ basic affordable housing incentives, if one or more of the following requirements are met:

a. The additional incentive is necessary to provide sufficient economic incentive to the applicant to offset the cost of providing the affordable housing units.

b. The additional incentive is necessary to reasonably achieve the permitted density, including the bonus units.

c. The additional incentive is necessary to achieve a greater number of affordable housing units than the ~~defined~~ affordable housing ~~incentives~~ requirements would prescribe or a greater level of affordability than is defined by the term affordable housing unit.

In making its decision on additional incentives, the City will consider the value of any property tax exemptions available to the project from the City as established in Chapter 5.88 KMC, as well as other fee waivers or reductions as established in the Kirkland Municipal Code.

112.30 Alternative Compliance

1. Approval Process for Alternative Compliance – As an alternative to providing some or all of the required affordable housing units on the subject property, the Planning Director may approve a request for alternative compliance. Alternative compliance may include providing affordable housing units at another location within the City of Kirkland, payment to the City in lieu of constructing partial affordable housing units to be used to create affordable housing units, or such other means proposed by the applicant and approved at the discretion of the Planning Director, consistent with the following criteria for alternative compliance.

2. Criteria for Alternative Compliance – The City may approve a request for alternative compliance if both of the following requirements are met:

   a. The applicant demonstrates that the proposed alternative compliance method achieves an affordable housing benefit to the City equal to or better than providing the affordable housing units on-site.

   b. The affordable housing units provided through the alternative compliance will be based on providing the same type of ownership of units as would have been provided on-site.

3. Requirements for Off-Site Alternative Compliance – Off-site affordable housing units are subject to the following requirements:

   a. The off-site location chosen for the affordable housing units shall not lead to an undue concentration of affordable housing either at the off-site location or in any particular area of the City.

   b. Any building permits required for off-site affordable housing units shall be submitted prior to submittal of building permits for the subject property. Certificates of occupancy for off-site affordable housing units shall be issued prior to issuance of the final certificate of occupancy for the subject property.

4. Requirements for Payment in Lieu Alternative Compliance - Payments in lieu of constructing affordable housing units are subject to the following requirements:

   a. To encourage "pioneer developments" subject to these regulations, payments in lieu are allowed for one whole required affordable housing unit and portions of required affordable housing units that are less than 0.66 units during the five years immediately following the effective date of this Ordinance (until DATE). After that time period, payments in lieu are allowed only for portions of required affordable housing units that are less than 0.66 units. Rounding up to the next whole number of units and actual construction of the affordable units is required when the calculated number of required affordable units results in a fraction of 0.66 or more.

   b. Payments in lieu shall be based on the difference between the cost of construction for a prototype affordable housing unit on the subject property, including land costs and development fees, and the revenue generated by an affordable housing unit. The formula for payments shall be established by the Planning Director.

   c. The payment obligation shall be established prior to issuance of any building permits for the project and shall be due prior to issuance of any certificate of occupancy for the project. Collected payments shall be deposited in the City's Housing Trust Fund account.

112.35 Affordability Provisions

1. Approval of Affordable Housing Units – Prior to the issuance of any permit(s), the City shall review and approve the location and unit mix of the affordable housing units consistent with the following standards:

   a. The affordable housing units shall be intermingled with all other dwelling units in the development.

   b. The type of ownership of the affordable housing units shall be the same as the type of ownership for the rest of the housing units in the development.

   c. The affordable housing units shall consist of a range of number of bedrooms that are comparable to units in the overall development.

   d. The size of the affordable housing units, if smaller than the other units with the same number of bedrooms in the development, must be approved by the Planning Director. In no case shall the affordable housing units be more than 10 percent smaller than the comparable dwelling units in the development, based on number of bedrooms, or less than ~~600~~ 500 square feet for a one bedroom unit, ~~800~~ 700 square feet for a two bedroom unit, or ~~1,000~~900 square feet for a three bedroom unit, whichever is less.

   e. The affordable housing units shall be available for occupancy in a time frame comparable to the availability of the rest of the dwelling units in the development.

   f. The exterior design of the affordable housing units must be compatible and comparable with the rest of the dwelling units in the development.

g. The interior finish and quality of construction of the affordable housing units shall at a minimum be comparable to entry level rental or ownership housing in the City of Kirkland.

2. Affordability Agreement – Prior to issuing a certificate of occupancy, an agreement in a form acceptable to the City Attorney that addresses price restrictions, homebuyer or tenant qualifications, long-term affordability, and any other applicable topics of the affordable housing units shall be recorded with King County Department of Records and Elections. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant.

   Affordable housing units that are provided under this section shall remain as affordable housing for a minimum of ~~3~~50 years from the date of initial owner occupancy for ownership affordable housing units and for the life of the project for rental affordable housing units.

112.40 Regulatory Review and Evaluation

At least every two years, the Planning Department shall submit a report that tracks the use of these regulations to the Houghton Community Council, Planning Commission and City Council.

PUBLICATION SUMMARY
OF ORDINANCE NO. 4222

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE, REVISING THE CITY'S REGULATIONS REGARDING AFFORDABLE HOUSING AND DEVELOPMENT INCENTIVES, AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON09-00005

SECTION 1. Provides that portions of the Kirkland Zoning Code relating to affordable housing and development incentives are amended in various respects, and that the amendments are attached to the Ordinance as Attachment A.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Provides that the Ordinance may be subject to the disapproval jurisdiction of the Houghton Community Council.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as April 1, 2010.

SECTION 5. Provides that the City Clerk shall send a certified copy of the Ordinance to the King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2009.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk

ORDINANCE NO. 4223

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING KIRKLAND MUNICIPAL CODE CHAPTER 5.88 REGARDING THE MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Chapter 5.88 of the Kirkland Municipal Code is hereby amended to read as follows:

As set forth in Attachment A attached to this ordinance and incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in summary form attached to the original of this ordinance and by this reference approved by the City Council as required by law.

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 2009.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Chapter 5.88
MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION

Sections:

5.88.010 Purpose.
5.88.020 Definitions.
5.88.030 Residential targeted areas—Criteria—Designation—Rescission.
5.88.040 Project eligibility.
5.88.050 Application procedure—Fee.
5.88.060 Application review—Issuance of conditional certificate—Denial—Appeal.
5.88.065 Amendment of contract.
5.88.070 Extension of conditional certificate.
5.88.080 Final certificate—Application—Issuance—Denial and appeal.
5.88.090 Exemption—Duration—Affordability requirements—Limits.
5.88.100 Annual certification—Cancellation of exemption.
5.88.110 Appeals to hearing examiner.
5.88.120 Annual reporting.

5.88.010 Purpose.

(a) The purposes of this chapter are:

(1) To encourage more multifamily housing opportunities within the city;

(2) To stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing;

(3) To increase the supply of multifamily housing opportunities within the city for low and moderate income households;

(4) To accomplish the planning goals required under the Growth Management Act, Chapter 36.70A RCW, as implemented by the city's comprehensive plan;

(5) To promote community development and affordable housing; and

(6) To encourage additional housing in certain areas to support investment in public transit projects.

(b) Any one or a combination of these purposes may be furthered by the designation of a residential targeted area under this chapter.

5.88.020 Definitions.

(a) "Affordable" means: (1) for an owner-occupied dwelling unit, housing reserved for occupancy by eligible households and affordable to households whose household annual income does not exceed ~~seventy~~the following percent of the King County median household income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than thirty percent of the monthly household income is paid for monthly housing expenses (mortgage and mortgage insurance, property taxes, property insurance and homeowners dues):

(A) 80 percent in zoning districts where additional building height is allowed in exchange for the creation of affordable housing units; or

(B) 100 percent in zoning districts where additional dwelling units are allowed in exchange for the creation of affordable housing units; ~~or~~

(2) for a renter-occupied dwelling unit, housing reserved for occupancy by eligible households and affordable to households whose household annual income does not exceed fifty percent of the King County median household income, adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size.

(b) "Assessor" means the King County assessor.

(c) "Director" means the director of the city's department of planning and community development, or any other city office, department or agency that shall succeed to its functions with respect to this chapter, or his or her authorized designee.

(d) "Eligible household" means one or more adults and their dependents who, as set forth in the regulatory agreement referenced in Section 5.88.040(7), certify that their household annual income does not exceed the applicable percent of the median household income for King County, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD); and who certify that they meet all qualifications for eligibility, including, if applicable, any requirements for recertification on income eligibility.

(e) "Household annual income" means the aggregate annual income of all persons over eighteen years of age residing within the same household for a period of at least four months.

(f) "Multifamily housing" means a building or townhouse project having four or more dwelling units designed for permanent residential occupancy resulting from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings.

(g) "Owner" means the property owner of record.

(h) "Permanent residential occupancy" means multifamily housing that provides either rental or owner occupancy for a period of at least one month, and excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

(i) "Rehabilitation improvements" means:

(1) Modifications to an existing structure, the residential portion of which has been vacant for at least twelve months prior to application for exemption under this chapter, that are made to achieve a condition of substantial compliance with the applicable building and construction codes contained in Title 21 of this code; or

(2) Modifications to an existing occupied residential structure or mixed use structure that contains occupied residential units, that add at least four multifamily dwelling units.

(j) "Residential targeted area" means an area within an urban center as defined by Chapter 84.14 RCW and the city that has been so designated by the city council pursuant to this chapter.

(k) "Substantial compliance" means compliance with the applicable building and construction codes contained in Title 21 of this code that is typically required for rehabilitation as opposed to new construction.

5.88.030 Residential targeted areas—Criteria—Designation—Rescission.

(a) Following notice and public hearing as prescribed in RCW 84.14.040, the city council may designate one or more residential targeted areas, in addition to the areas

stated in subsection (d) of this section, upon a finding by the city council in its sole discretion that the residential targeted area meets the following criteria:

(1) The residential targeted area is within an urban center as defined by Chapter 84.14 RCW;

(2) The residential targeted area lacks sufficient available, desirable and convenient residential housing, including affordable housing, to meet the needs of the public who would be likely to live in the urban center if the affordable, desirable, attractive and livable residences were available; and

(3) Providing additional housing opportunity in the residential targeted area will assist in achieving one or more of the following purposes:

(A) Encourage increased residential opportunities within the city; or

(B) Stimulate the construction of new affordable multifamily housing; or

(C) Encourage the rehabilitation of existing vacant and underutilized buildings for multifamily housing.

(b) In designating a residential targeted area, the city council may also consider other factors, including:

(1) Whether additional housing in the residential targeted area will attract and maintain an increase in the number of permanent residents;

(2) Whether providing additional housing opportunities for low and moderate income households would meet the needs of citizens likely to live in the area if affordable residences were available;

(3) Whether an increased permanent residential population in the residential targeted area will help to achieve the planning goals mandated by the Growth Management Act under Chapter 36.70A RCW, as implemented through the city's comprehensive plan; or

(4) Whether encouraging additional housing in the residential targeted area supports plans for significant public investment in public transit or a better jobs and housing balance.

(c) At any time, the city council may, by ordinance, in its sole discretion, amend or rescind the designation of a residential targeted area pursuant to the same procedural requirements as set forth in this chapter for original designation.

(d) The following areas, as shown in Maps 1 through 4 in this section, meet the criteria of this chapter for residential targeted areas and are designated as such:

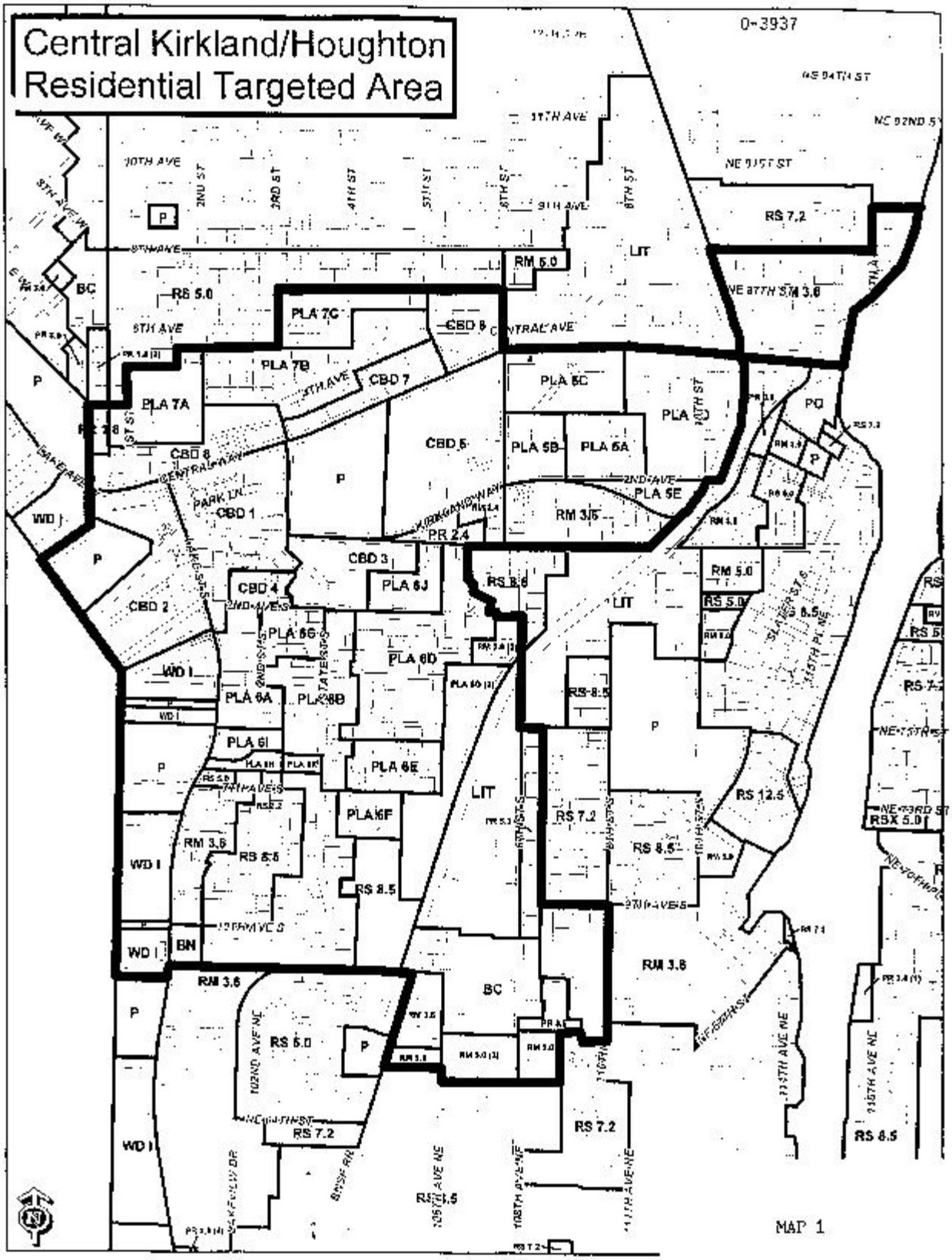
(1) Central Kirkland/Houghton;

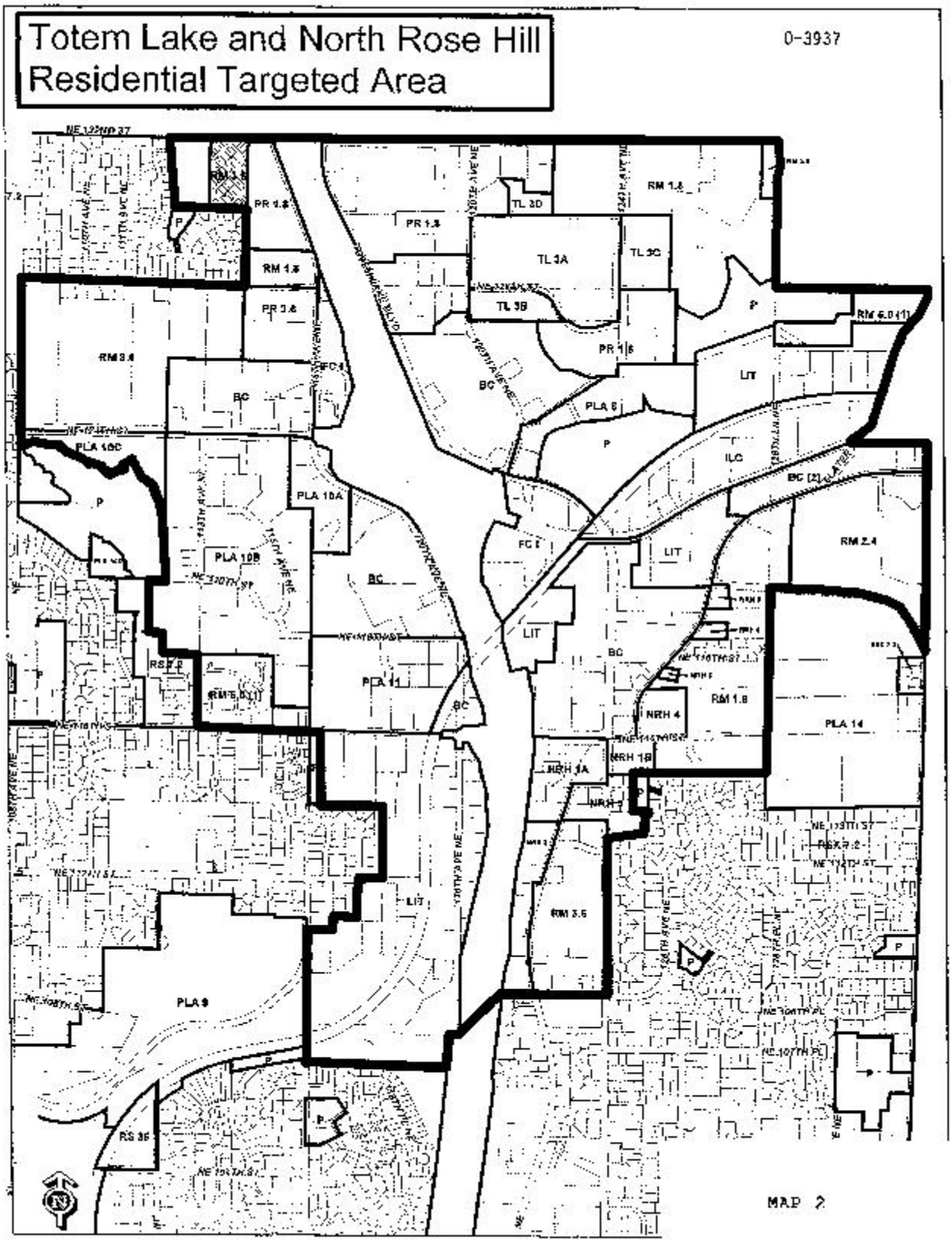
(2) Totem Lake and North Rose Hill;

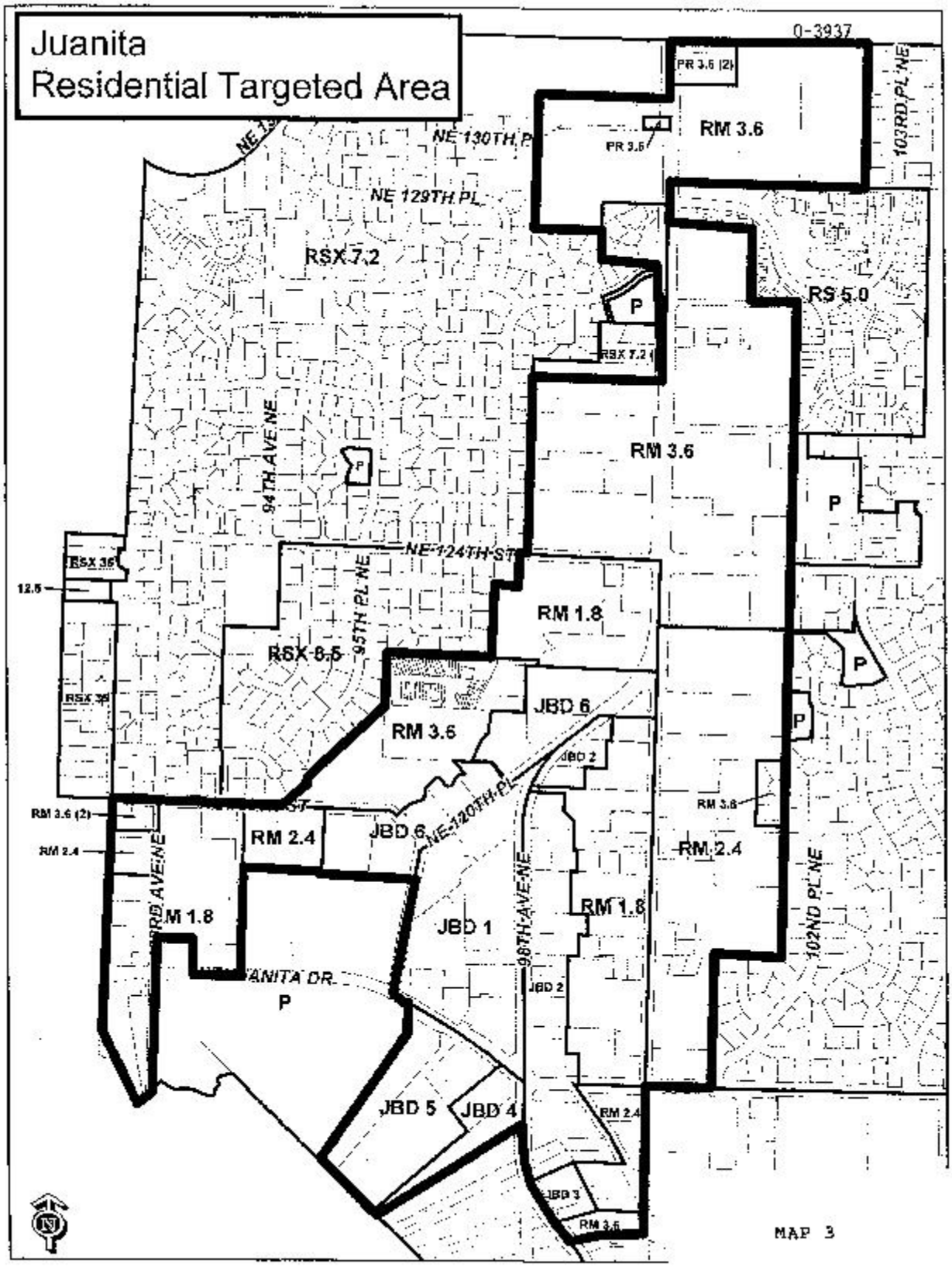
(3) Juanita; and

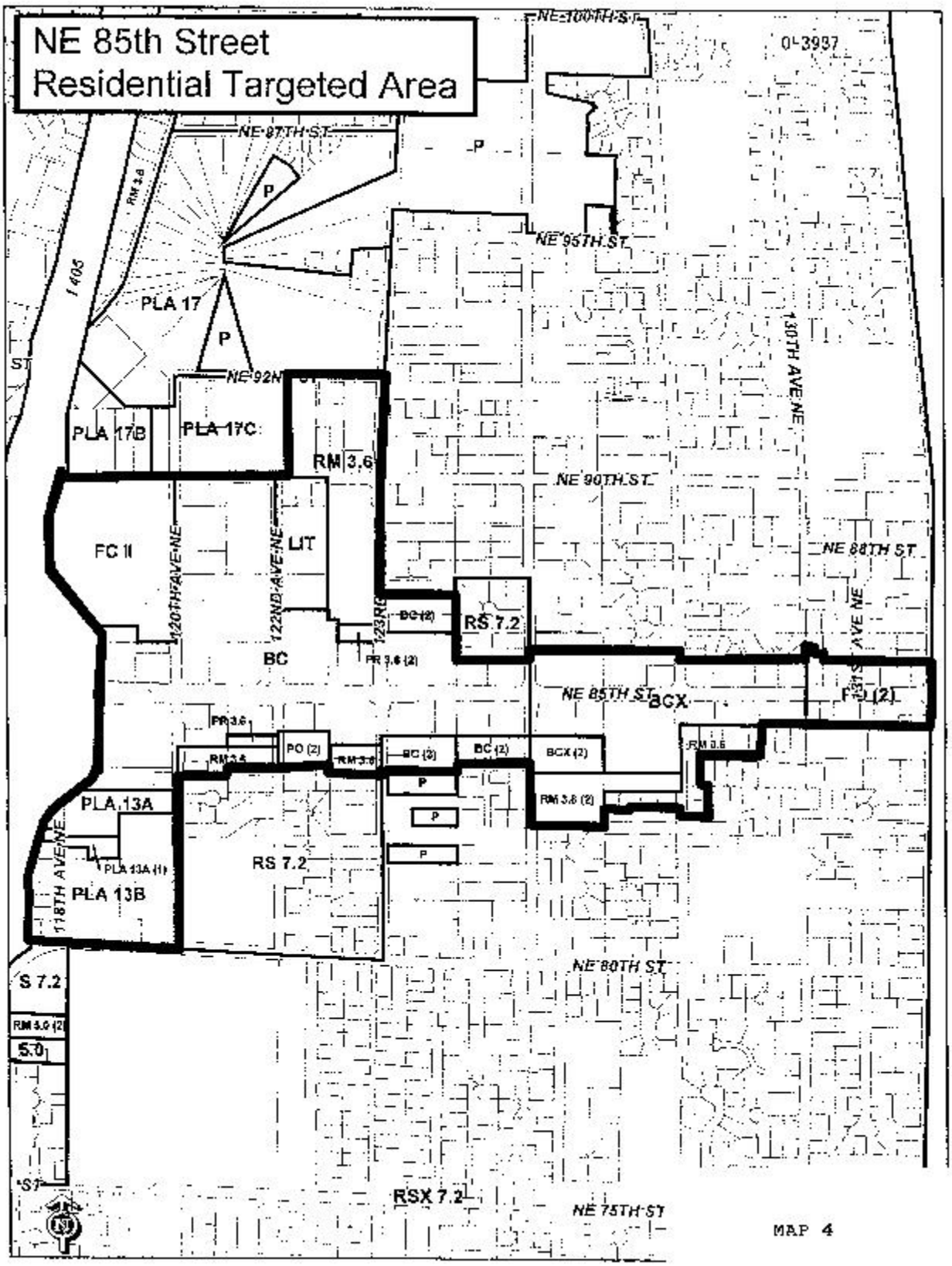
(4) NE 85th Street.

(e) If a part of any legal lot is within a residential targeted area as shown in Maps 1 through 4 in this section, then the entire lot shall be deemed to lie within such residential targeted area.


Central Kirkland/Houghton
Residential Targeted Area
O-3937
MAP 1


Totem Lake and North Rose Hill
Residential Targeted Area
0-3937
MAP 2


Juanita
Residential Targeted Area
O-3937
PR 3.6 (2)
RM 3.6
PR 3.6
103RD PL NE
NE 130TH P
NE 129TH PL
RSX 7.2
RS 5.0
P
RSX 7.2
94TH AVE NE
RM 3.6
P
NE 124TH ST
RSX 36
12.5
95TH PL NE
RM 1.8
RSX 6.5
P
RSX 36
JBD 6
RM 3.6
JBD 2
P
NE 120TH PL
RM 3.6
RM 3.6 (2)
RM 2.4
RM 2.4
JBD 6
RM 2.4
98TH AVE NE
RM 1.8
RM 1.8
JBD 1
102ND PL NE
ANITA DR
P
JBD 2
JBD 5
JBD 4
RM 2.4
JBD 3
RM 3.6
MAP 3


NE 85th Street
Residential Targeted Area
NE 100TH ST
O-3937
NE 97TH ST
NE 95TH ST
I 405
PLA 17
P
NE 92ND ST
PLA 17B
PLA 17C
RM 3.6
NE 90TH ST
130TH AVE NE
FC II
120TH AVE NE
122ND AVE NE
LIT
NE 88TH ST
RS 7.2
BC
NE 85TH ST
BCX
PO (2)
PLA 13A
PLA 13A (1)
PLA 13B
118TH AVE NE
RS 7.2
NE 80TH ST
S 7.2
5.0
RSX 7.2
NE 75TH ST
MAP 4

5.88.040 Project eligibility.

To be eligible for exemption from property taxation under this chapter, the property shall satisfy all of the following requirements:

(1) The property must be located in a residential targeted area.

(2) The project must be multifamily housing consisting of at least four dwelling units within a residential structure or as part of a mixed use development, in which at least fifty percent of the space within such residential structure or mixed use development is intended for permanent residential occupancy.

(3) For new construction, a minimum of four new dwelling units must be created; for rehabilitation or conversion of existing occupied structures, a minimum of four additional dwelling units must be added.

(4) Existing dwelling units proposed for rehabilitation shall have been unoccupied for a minimum of twelve months prior to submission of an application and shall fail to comply with one or more requirements of the building code as set forth in Title 21 of this code.

(5) No application may result in the net loss of existing affordable housing which receives housing assistance through federal low or moderate income housing programs (e.g., HUD Section 8 program).

(6) Affordable housing shall be provided in the project as described in Section 5.88.090.

(7) Prior to issuing a certificate of occupancy, an agreement in a form acceptable to the city attorney that addresses price restrictions, eligible household qualifications, long-term affordability, and any other applicable topics of the affordable housing units shall be recorded with the King County department of records and elections. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant. ~~Affordable h~~Housing units identified for households with household annual income restrictions that are provided under this section shall ~~remain as affordable housing~~ continue to be made available to households with the identified household annual income restrictions for a minimum of fifty years from the date of initial owner occupancy for ownership affordable housing units and for the life of the project for rental affordable housing units.

~~(8) The owner may request that the city approve a partial or full exemption in circumstances where less affordability is proposed than is required in Section 5.88.090. Criteria for considering such requests shall include the owner's inability to utilize some or all of the incentives available in Chapter 112 of the Kirkland Zoning Code. Requests under this subsection (8) require city council approval and shall be made at the sole discretion of the city council.~~

(~~9~~8) The mix and configuration of housing units (e.g., studio, one-bedroom, two-bedroom, etc.) used to meet the requirement for affordable units under Section 5.88.090 shall be substantially proportional to the mix and configuration of the total housing units in the project.

(~~10~~9) For owner-occupied projects, the contract with the city required under Section 5.88.060 shall identify those units that shall be eligible per Section 5.88.090.

(~~11~~10) The project shall comply with all applicable zoning requirements, land use regulations, and building and housing code requirements contained in Titles 21 and 23 of this code.

(~~12~~11) New construction of multifamily housing and rehabilitation improvements must be scheduled to be completed within three years from the date of approval of the application, or within an authorized extension of this time limit.

5.88.050 Application procedure—Fee.

(a) The owner of property applying for exemption under this chapter shall submit an application to the director, on a form established by the director. The owner shall verify the application by oath or affirmation. The application shall contain such information as the director may deem necessary or useful, and shall include:

(1) A brief written description of the project, including phasing if applicable, and preliminary schematic site and floor plans of the multifamily units and the structure(s) in which they are proposed to be located;

(2) A statement from the owner acknowledging the potential tax liability when the property ceases to be eligible for exemption under this chapter;

(3) Information describing how the applicant will comply with the affordability requirements in Section 5.88.090; or if applicable, request for approval under Section 5.88.040(8) and their justification for such request; and

(4) In the case of rehabilitation of an existing vacant structure under Section 5.88.020(i)(1), verification from the fire and building departments of noncompliance with applicable building and housing codes as required under Section 5.88.020(i)(1), and an affidavit from the owner verifying that the existing dwelling units have been vacant for a period of twelve months prior to filing the application.

(b) At the time of application under this section, the applicant shall pay to the city an initial application fee as established by ordinance. In addition, at the time of application under this section, the applicant shall pay to the city a fee of one hundred fifty dollars to cover the county assessor's administrative costs. If the director approves the application pursuant to Section 5.88.080, the city shall forward the fee for the county assessor's administrative costs to the county assessor. If the director denies the application pursuant to Section 5.88.080, the city shall refund the fee for the assessor's administrative costs to the applicant.

(c) The director shall notify the applicant within twenty-eight days of the application being filed if the director determines that an application is not complete and shall identify what additional information is required before the application will be complete. Within fourteen days of receiving additional information, the director shall notify the applicant in writing if the director determines that the application is still not complete, and what additional information is necessary. An application shall be deemed to be complete if the director does not notify the applicant in writing by the deadlines in this section that the application is incomplete; however, a determination of completeness does not preclude the director from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter.

(d) The application shall be submitted any time before, but no later than, the date the ~~building or other construction permit~~ certificate of occupancy is issued under Title 21 of this code.

5.88.060 Application review—Issuance of conditional certificate—Denial—Appeal.

(a) Other than requests under Section 5.88.040(8), the director shall approve or deny an application under this chapter. If the application is approved, the applicant shall enter into a contract with the city, subject to approval by resolution of the city council, regarding the terms and conditions of the project and eligibility for exemption under this chapter. The city council's resolution to approve the applicant's contract with the city shall take place within ninety days of the director's receipt of the completed application. Upon city council approval of the contract, the director shall execute the contract as approved by the city council, and shall issue a conditional certificate of acceptance of tax exemption. The conditional certificate shall expire three years from the date of approval unless an extension is granted as provided in this chapter.

(b) If the application is denied, the director shall state in writing the reasons for the denial and send notice of denial to the applicant's last known address within ten days of the denial.

(c) An applicant may appeal the director's denial of the application to the city council by filing a notice of appeal with the city clerk along with the appeal fee as established by ordinance within thirty days of the date of the denial. The appeal before the city council shall be based upon the record before the director, and the director's decision shall be upheld unless the applicant can show that there is no substantial evidence on the record to support the director's decision. The city council's decision on appeal is final.

5.88.065 Amendment of contract.

(a) Any applicant seeking amendment(s) to the contract approved by the city council may do so by submitting a request in writing to the director at any time within three years of the date of the city council's approval of the contract.

(b) The director shall have authority to approve amendments to the contract between the applicant and the city that are reasonably within the scope and intent of the contract approved by the city council. Amendments that are not reasonably within the scope and intent of the approved contract, as determined by the director, shall be submitted to the city council for approval by resolution.

(c) Any applicant seeking amendments to the approved contract, which in the sole discretion of the director require approval by the city council, shall pay to the city an amendment application fee as established by ordinance.

(d) The date for expiration of the conditional certificate shall not be extended by contract amendment unless: (1) all the conditions for extension set forth in Section 5.88.070 are met, or (2) the conditions set forth in Section 5.88.070(1) and (2) are met and the city council specifically approves the extension.

5.88.070 Extension of conditional certificate.

The conditional certificate may be extended by the director for a period not to exceed twenty-four consecutive months. The applicant shall submit a written request stating the grounds for the extension together with a fee as established by ordinance. The director may grant an extension if the director determines that:

(1) The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;

(2) The owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and

(3) All the conditions of the original contract between the applicant and the city will be satisfied upon completion of the project.

5.88.080 Final certificate—Application—Issuance—Denial and appeal.

(a) Upon completion of the rehabilitation improvements or new construction as provided in the contract between the applicant and the city, and upon issuance of a certificate of occupancy, the applicant may request a final certificate of tax exemption. The applicant shall file with the director such information as the director may deem necessary or useful to evaluate eligibility for the final certificate, and shall include:

(1) A statement of expenditures made with respect to each multifamily housing unit, including phasing if applicable, and the total expenditures made with respect to the entire property;

(2) A description of the completed work and a statement of qualification for the exemption;

(3) A statement that the work was completed within the required three-year period or any approved extension; and

(4) Information on the applicant's compliance with the affordability requirements in Section 5.88.090.

(b) Within thirty days of receipt of all materials required for a final certificate, the director shall determine whether the completed work is consistent with the application and contract approved by the city council and is qualified for limited exemption under Chapter 84.14 RCW, and which specific improvements completed meet the requirements of this chapter and the required findings of RCW 84.14.060.

(c) If the director determines that the project has been completed in accordance with subsection (a) of this section, the city shall file a final certificate of tax exemption with the assessor within ten days of the expiration of the thirty-day period provided under subsection (b) of this section.

(d) The director is authorized to cause to be recorded, or to require the applicant or owner to record, in the real property records of the King County department of records and elections, the contract with the city required under Section 5.88.060(a), and such other document(s) as will identify such terms and conditions of eligibility for exemption under this chapter as the director deems appropriate for recording, including requirements under this chapter relating to affordability of units.

(e) The director shall notify the applicant in writing that the city will not file a final certificate if the director determines that the project was not completed within the required three-year period or any approved extension or was not completed in accordance with subsection (b) of this section; or if the director determines that the owner's property is not otherwise qualified under this chapter or if the owner and the director cannot agree on the allocation of the value of the improvements allocated to the exempt portion of rehabilitation improvements, new construction and multiuse new construction.

(f) Within thirty days of the date of notice of denial of final certificate, the applicant may file a notice of appeal with the city clerk along with the appeal fee as established by ordinance specifying the factual and legal basis for the appeal. The appeal shall be heard by the city's hearing examiner pursuant to Section 5.88.110.

5.88.090 Exemption—Duration—Affordability requirements—Limits.

(a) The value of new housing construction and rehabilitation improvements qualifying under this chapter shall be exempt from ad valorem property taxation for:

(1) Eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate for rental projects where at least ten percent of the units are affordable as defined in Section 5.88.020(a), or have such other comparable level of affordability as provided for in the city's affordable housing incentive program, as regulated through Chapter 112 of the Kirkland Zoning Code. Projects where affordable units are provided through a payment to the city in lieu of construction, as allowed in Chapter 112 of the Kirkland Zoning Code, are eligible to apply for an exemption. If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66. To the extent allowed by Chapter 84.14 RCW, the city may grant a partial exemption in zoning districts where additional building height is allowed instead of a density bonus in exchange for the creation of affordable housing units. In making its decision on the amount of the partial exemption, the city will consider the value of the height increase allowed and any fee waivers. ~~if a lesser amount of affordability is provided. The amount of the partial exemption shall be proportional to the amount of affordability provided relative to that required for a full exemption. (For example, if a project includes five percent of the units affordable at fifty percent of median income, the property will receive an exemption on fifty percent of the residential portion of the project.) If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66.~~

(2) Eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate for rental projects not subject to the affordable housing requirements of the Kirkland Zoning Code where at least ten percent of the units are affordable to households whose household annual income does not exceed eighty percent of the King County median household income, adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66. To the extent allowed by Chapter 84.14 RCW, the city may grant a partial exemption if a lesser amount of affordability is provided. The amount of the partial exemption shall be proportional to the amount of affordability provided relative to that required for a full exemption. (For example, if a project includes five percent of the units affordable at fifty percent of median income, the property will receive an exemption on fifty percent of the residential portion of the project.)

(~~2~~3) Eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate for owner-occupied projects. The property tax exemption shall apply only to those units that are affordable as defined in

Section 5.88.020(a) or that have such other comparable level of affordability as provided for in the city's affordable housing incentive program, as regulated through Chapter 112 of the Kirkland Zoning Code.

(~~3~~4) Twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate for rental projects where at least ten percent of the units are affordable as defined in Section 5.88.020(a) and at least an additional ten percent of the units are affordable to households whose household annual income does not exceed eighty percent of the King County median household income, adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. Projects where affordable units are provided through a payment to the city in lieu of construction, as allowed in Chapter 112 of the Kirkland Zoning Code, are eligible to apply for an exemption. If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66. To the extent allowed by Chapter 84.14 RCW, the city may grant a partial exemption in zoning districts where additional building height is allowed instead of a density bonus in exchange for the creation of affordable housing units. In making its decision on the amount of the partial exemption, the city will consider the value of the height increase allowed and any fee waivers. ~~If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66.~~

(~~4~~5) Twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate for owner-occupied projects where at least ten percent of the units are affordable as defined in Section 5.88.020(a) and at least an additional ten percent of the units are affordable to households whose household annual income ~~does not exceed one hundred percent of~~is no greater than 30 percentage points higher than the applicable ~~the~~ King County median household income defined in Section 5.88.020(a), adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses. In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66. The property tax exemption shall apply only to those units that are affordable as defined in Section 5.88.020(a) or this subsection.

(b) The exemption does not apply to the value of land or to the value of improvements not qualifying under this chapter, to increases in assessed valuation of land and nonqualifying improvements, or to increases made by lawful order of the King County board of equalization, Washington State Department of Revenue, State Board of Tax Appeals, or King County, to a class of property throughout the county or a

specific area of the county to achieve uniformity of assessment or appraisal as required by law. In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to submission of the completed application required under this chapter.

5.88.100 Annual certification—Cancellation of exemption.

(a) A property or individual affordable ownership unit that receives a tax exemption under this chapter shall continue to comply with the contract and the requirements of this chapter in order to retain its property tax exemption.

(b) Within thirty days after the first anniversary of the date the city filed the final certificate of tax exemption and each year for the tax exemption period, the property owner shall file a certification with the director, verified upon oath or affirmation, which shall contain such information as the director may deem necessary or useful, and shall include the following information:

(1) A statement of occupancy and vacancy of the multifamily units during the previous year;

(2) A certification that the property has not changed use since the date of filing of the final certificate of tax exemption, and continues to be in compliance with the contract with the city and the requirements of this chapter;

(3) A description of any improvements or changes to the property made after the filing of the final certificate or last declaration, as applicable;

(4) Information demonstrating the owner's compliance with the affordability requirements of Section 5.88.090;

(5) The total monthly rent or total sale amount of each unit;

(6) The income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption;

(7) The value of the tax exemption for the project; and

(8) Any additional information requested by the city in regards to the units receiving a tax exemption (pursuant to meeting any reporting requirements under Chapter 84.14 RCW).

(c) Failure to submit the annual declaration may result in cancellation of the tax exemption pursuant to this section.

(d) For the duration of the exemption granted under this chapter, the property shall have no violation of applicable zoning requirements, land use regulations, and building and housing code requirements contained in Titles 21 and 23 of this code for which the designated city department shall have issued a notice of violation or notice of civil infraction that is not resolved by a certificate of compliance, certificate of release, or withdrawal within the time period for compliance provided in such notice of violation or notice of civil infraction and any extension of the time period for compliance granted by the director.

(e) For owner-occupied affordable units, in addition to any other requirements in this chapter, the affordable owner-occupied units must continue to meet the conditions of Section 5.88.090. In the event of a sale of an affordable owner-occupied unit to a household other than an eligible household, or at a price greater than prescribed in the regulatory agreement referenced in Section 5.88.040(7), the property tax exemption for that affordable owner-occupied unit shall be canceled pursuant to this section.

(f) For property with renter-occupied dwelling units, in addition to any other requirements in this chapter, the affordable renter-occupied units must continue to meet the conditions of Section 5.88.090. In the event of a rental of an affordable renter-occupied unit to a household other than an eligible household, or at a rent greater than prescribed in the regulatory agreement referenced in Section 5.88.040(7), the property tax exemption for the property shall be canceled pursuant to this section.

(g) If the owner converts the multifamily housing to another use, the owner shall notify the director and the county assessor within sixty days of the change in use. Upon such change in use, the tax exemption shall be canceled ~~and additional taxes, interest and penalty imposed pursuant to state law~~pursuant to this section.

(h) The director shall cancel the tax exemption for any property or individual unit that no longer complies with the terms of the contract or with the requirements of this chapter. Upon cancellation, additional taxes, interest and penalties ~~may~~ shall be imposed pursuant to state law. Upon determining that a tax exemption shall be canceled, the director shall notify the property owner by certified mail, return receipt requested. The property owner may appeal the determination by filing a notice of appeal with the city clerk along with the appeal fee established by ordinance within thirty days of the date of notice of cancellation, specifying the factual and legal basis for the appeal. The appeal shall be heard by the hearing examiner pursuant to Section 5.88.110.

5.88.110 Appeals to hearing examiner.

(a) The city's hearing examiner is provided jurisdiction to hear appeals of the decisions of the director on the final certificate of tax exemption and cancellation thereof.

(b) The hearing examiner's procedures shall apply to hearings under this chapter to the extent they are consistent with the requirement of this chapter and Chapter 84.14 RCW. The hearing examiner shall give substantial weight to the director's decision and the burden of overcoming the weight shall be on the appellant. The decision of the hearing examiner constitutes the final decision of the city. An aggrieved party may appeal the decision to superior court under RCW 34.05.510 through 34.05.598 if the appeal is properly filed within thirty days of the date of the notification by the city to the appellant of that decision.

5.88.120 Annual reporting.

(a) If the city issues tax exemption certificates pursuant to this chapter, the director shall submit the report required by RCW 84.14.100 to the Department of Community, Trade and Economic Development by December 31st of each year.

(b) Annually, beginning in 2005, the director or designee shall review the program established by this chapter and provide a report to the city council outlining development activity, types and numbers of units produced and their locations, rent and sales prices, information regarding the number of low and moderate income households benefiting from the program, and other appropriate factors. These reports may include recommendations on whether any neighborhoods should be added or removed, whether affordability limits should be changed in certain areas, and will analyze any issues related to the use of the program for homeownership units. The annual report shall be submitted to the city council no later than March 30th of each year the program is in effect, starting in 2005; each report shall include information for the previous year.

PUBLICATION SUMMARY
OF ORDINANCE NO. 4223

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING KIRKLAND MUNICIPAL CODE CHAPTER 5.88 REGARDING THE MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION.

SECTION 1. Provides that portions of Kirkland Municipal Code Chapter 5.88 relating to the multifamily housing property tax exemption are amended, and that the amendments are attached to the Ordinance as Attachment A.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2009.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk

ORDINANCE NO. 4224

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION AND PARK IMPACT FEES AND AMENDING CERTAIN SECTIONS OF CHAPTERS 27.04 AND 27.06 OF THE KIRKLAND MUNICIPAL CODE.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Section 27.04.050 of the Kirkland Municipal Code is hereby amended to read as follows:

27.04.050 Exemptions.
(a) The following building permit applications shall be exempt from impact fees:
(1) Replacement of a structure with a new structure of the same gross floor area and use at the same site or lot when such replacement occurs within five years of the demolition or destruction of the prior structure.
(2) Replacement, alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed.
(3) Any building permit for a legal accessory dwelling unit approved under Title 23 of this code (zoning code) as it is considered part of the single-family use associated with this fee.
(4) Alteration of an existing nonresidential structure that does not expand the usable space or change the use.
(5) Miscellaneous improvements, including but not limited to fences, walls, swimming pools, mechanical units, and signs.
(6) Demolition or moving of a structure.
(7)(A) Construction or Creation of Low-Income Housing. Any claim for an exemption must be made before payment of the impact fee. Any claim not so made shall be deemed waived. The claim for exemption must be accompanied by a draft lien and covenant against the property guaranteeing that the low-income housing will continue. Before approval of the exemption, the department shall approve the form of the lien and covenant. Within ten days of approval, the applicant shall execute and record the approved lien and covenant with the King County department of records and elections. The lien and covenant shall run with the land. In the event that the housing unit is no longer used for low-income housing, the current owner shall pay the current impact fee plus interest to the date of the payment.
(B) The amount of impact fees not collected from low-income housing pursuant to this exemption shall be paid from public funds other than the impact fee account and budgeted for this purpose by the Kirkland City Council. If claims for exemptions under this subsection exceed the funds the Kirkland City Council has budgeted for the payment of impact fees for low-income housing, this subsection shall not apply to claims made after the budgeted funds were committed or allocated until additional funds are budgeted.

(8)(A) Development activities of community-based human services agencies which meet the human services needs of the community such as providing employment assistance, food, shelter, clothing, or health services for low- and moderate-income residents.

(B) Any applicant for an exemption from the impact fee which meets the criteria set forth in subsection (8)(C) of this section may apply to the city manager for an exemption. The application shall be on forms provided by the city and shall be accompanied by all information and data the city deems necessary to process the application.

(C) Exemption Criteria. To be eligible for the impact fee exemption established by this section, the applicant shall meet each of the following criteria:

1. The applicant must have secured federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code.
2. The applicant's services must be responsive to the variety of cultures and languages that exist in the city.
3. The applicant must provide services and programs to those considered most vulnerable and/or at risk, such as youth, seniors, and those with financial needs, special needs and disabilities.
4. The applicant's services must meet the human services goals and policies set forth in XII.B. of the city of Kirkland comprehensive plan.
5. The applicant shall certify that no person shall be denied or subjected to discrimination in receipt of the benefit of services and programs provided by the applicant because of sex, marital status, sexual orientation, race, creed, color, national origin, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a disabled person.
6. The applicant must provide direct human services at the premises for which the applicant is seeking exemption.

(D) The city manager shall review applications for exemptions under subsection (8)(A) of this section pursuant to the above criteria and shall advise the applicant, in writing, of the granting or denial of the application. In addition, the city manager shall notify the city council when such applications are granted or denied.

(E) The determination of the city manager shall be subject to the appeals procedures set forth in Section 27.04.130.

(F) Any claim for exemption must be made before payment of the impact fee. Any claim not so made shall be deemed waived. The claim for exemption must be accompanied by a draft lien and covenant against the property guaranteeing that the human services use will continue. Before approval of the exemption, the department shall approve the form of lien and covenant. Within ten days of approval, the applicant shall execute and record the approved lien and covenant with the King County department of records and elections. The lien and covenant shall run with the land. In the event the property is no longer used for human services, the current owner shall pay the current impact fee plus interest to the date of the payment.

(G) The amount of impact fees not collected from human services agencies pursuant to this exemption shall be paid from public funds other than the impact fee account.
(b) The director shall be authorized to determine whether a particular development for a proposed building permit, or a change in land use when no building permit is required, falls within an exemption of this chapter or in this code. Determinations of the director shall be subject to the appeals procedures set forth in Section 27.04.130.

Section 2. Subsection 27.06.050 of the Kirkland Municipal Code is hereby amended to read as follows:

27.06.050 Exemptions.
(a) The following building permit applications shall be exempt from impact fees:
(1) Replacement, alteration, expansion, enlargement, remodeling, rehabilitation or conversion of an existing dwelling unit where no additional units are created and the use is not changed. Replacement must occur within five years of the demolition or destruction of the prior structure.
(2) Any building permit for a legal accessory dwelling unit approved under Title 23 of this code (Kirkland Zoning Code).
(3) Miscellaneous improvements, including but not limited to fences, walls, swimming pools, mechanical units, and signs.
(4) Demolition or moving of a structure.
(5)(A) Construction or Creation of Low-Income Housing. Any claim for an exemption must be made before payment of the impact fee. Any claim not so made shall be deemed waived. The claim for exemption must be accompanied by a draft lien and covenant against the property guaranteeing that the low-income housing will continue. Before approval of the exemption, the department shall approve the form of the lien and covenant. Within ten days of approval, the applicant shall execute and record the approved lien and covenant with the King County department of records and elections. The lien and covenant shall run with the land. In the event that the housing unit is no longer used for low-income housing, the current owner shall pay the current impact fee plus interest to the date of the payment.
(B) The amount of impact fees not collected from low-income housing pursuant to this exemption shall be paid from public funds other than the impact fee account <u>and budgeted for this purpose by the Kirkland City Council. If claims for exemptions under this subsection exceed the funds the Kirkland City Council has budgeted for the payment of impact fees for low-income housing, this subsection shall not apply to claims made after the budgeted funds were committed or allocated until additional funds are budgeted.</u>
(b) The director shall be authorized to determine whether a particular development for a proposed building permit or a change in land use when no building permit is required falls within an exemption of this chapter or of this code. Determinations of the director shall be subject to the appeals procedures set forth in Section 27.06.130.

Section 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this _____ day of _____, 2009.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4224

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO TRANSPORTATION AND PARK IMPACT FEES AND AMENDING CERTAIN SECTIONS OF CHAPTERS 27.04 AND 27.06 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Amends KMC Section 27.04.050 relating to exemptions from transportation impact fees.

SECTION 2. Amends KMC Section 27.06.050 relating to exemptions from park impact fees.

SECTION 3. Provides a severability clause for the ordinance.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2009.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk

ORDINANCE NO. 4225

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SEWER CAPITAL FACILITY CHARGES AND AMENDING CERTAIN SECTIONS OF CHAPTERS 15.12 OF THE KIRKLAND MUNICIPAL CODE.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Section 15.12.063 of the Kirkland Municipal Code is hereby amended to read as follows:

15.12.063 Sewer capital facility charges (SCFC)—Definitions.
The sewer connection charge(s) must be paid prior to issuance of the permit and shall be determined as to each requested connection by the application of the criteria set forth below.
(1) For all sewer connections a sewer capital facility charge will be assessed and shall consist of the following:
(a) Each sewer connection will be assigned a "residential customer equivalent" (RCE) factor. The RCE has a base of one for a three-fourths-inch by five-eighths-inch water meter, i.e., a building served by a five-eighths-inch by three-fourths-inch meter will be given a sewer RCE factor of one.
(b) The RCE for each sewer connection is as follows:

Single-Family/Multifamily Sewer Fees

Single-family	(1 RCE)
2 unit multi	(1.6 RCE, 0.8 RCE per unit)
3 unit multi	(2.4 RCE)
4 unit multi	(3.2 RCE)
5 or more units	Number of units x 0.64 x 1 RCE (0.64 RCE per unit)

~~(c) The sewer capital facility charge shall be waived for the bonus or additional units or floor area being developed in exchange for construction of affordable housing units pursuant to Chapter 112 of the Kirkland Zoning Code. Any claim for waived sewer capital facility charges must be made before payment of those charges. The amount of sewer capital facility charges not collected under this waiver shall be paid from public funds other than the sewer utility.~~
(~~d~~c) Other use (commercial, office, light industrial, churches, school, etc.) shall be based on the water meter size serving the property:

Meter Size	RCE
5/8" x 3/4"	1
1"	2.5
1-1/2"	5
2"	8
3"	16
4"	25
6"	50
8"	80

(~~e~~d) Each property will be assessed an SCFC for each domestic water meter service or as determined by the department of public works.

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

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this _____ day of _____, 2009.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

RESOLUTION R-4790

A RESOLUTION OF THE CITY OF KIRKLAND STATING ITS INTENT TO DESIGNATE RESIDENTIAL TARGETED AREAS UNDER CHAPTER 84.14 RCW AND PROVIDING NOTICE OF A PUBLIC HEARING PURSUANT TO RCW 84.14.040.

WHEREAS, Chapter 5.88 of the Kirkland Municipal Code provides for an exemption from ad valorem property taxation for the value of eligible improvements associated with qualifying multi-unit housing located in residential targeted areas; and

WHEREAS, the City of Kirkland requires affordable housing units to be created as part of the multifamily property tax exemption in Chapter 5.88 of the Kirkland Municipal Code; and

WHEREAS, the City Council is considering amendments to the Affordable Housing Incentives – Multifamily in Chapter 112 of the Kirkland Zoning Code that would expand the circumstances when affordable housing would be required; and

WHEREAS, the residential targeted areas currently identified in Chapter 5.88 of the Kirkland Municipal Code do not cover all areas of the City where affordable housing would be required; and

WHEREAS, the multifamily property tax exemption is an integral part of the package of incentives that the City is offering in exchange for the creation of affordable housing; and

WHEREAS, Section 84.14.040 RCW requires that the City hold a public hearing to consider the designation of residential targeted areas; and

WHEREAS, the City Council will consider the creation of new residential targeted areas as shown in Attachment A at a public hearing.

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Council states its intent to designate the area shown in Attachment A as a residential targeted area.

Section 2. A public hearing shall be held to consider the designation of the residential targeted area pursuant to RCW 84.14.040 in Kirkland City Hall, 123 Fifth Avenue, on January 5, 2010 after 7:30 pm.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this _____ day of _____, 2009.

_____
MAYOR

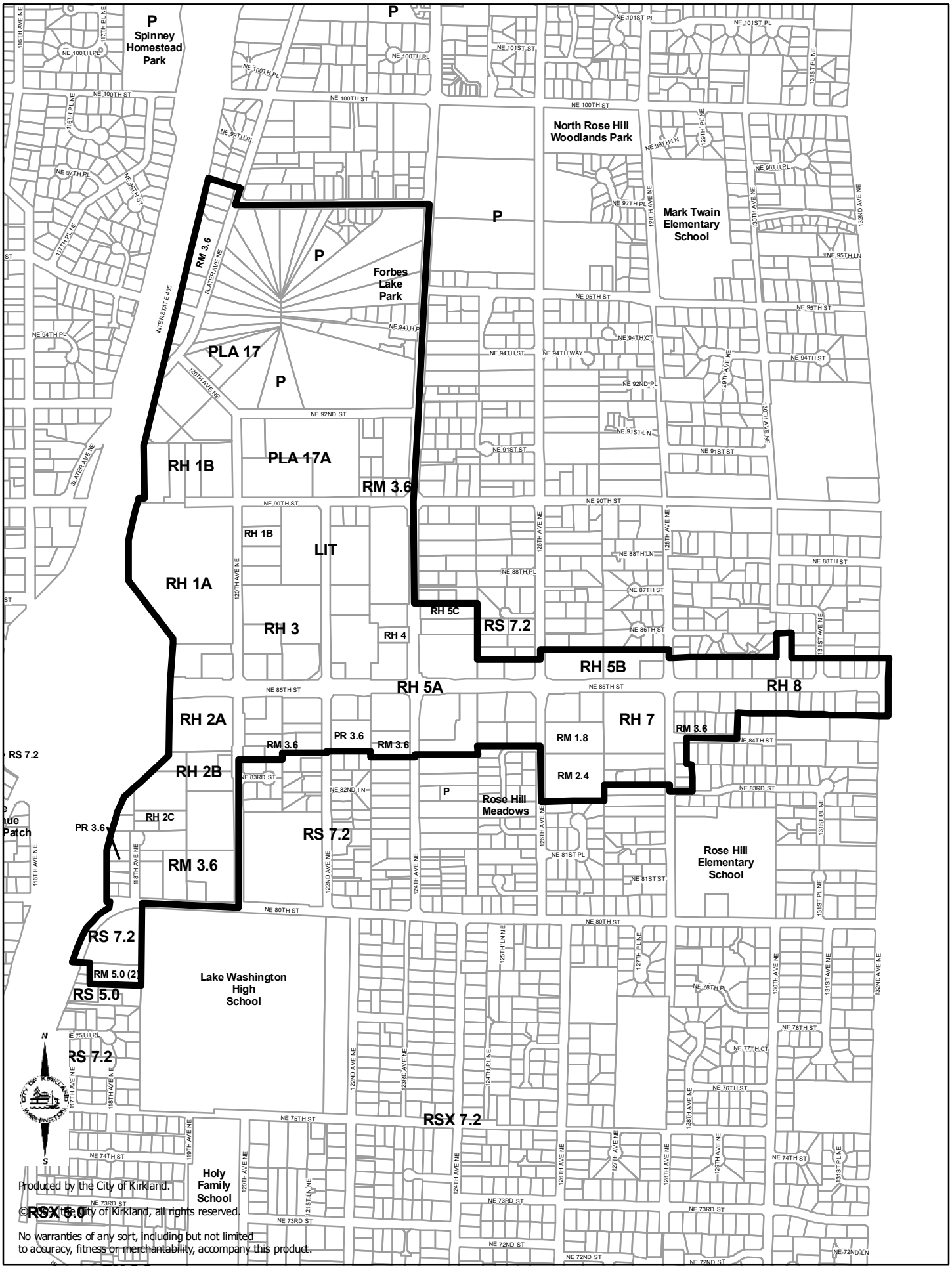
Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

85th Street Residential Targeted Areas



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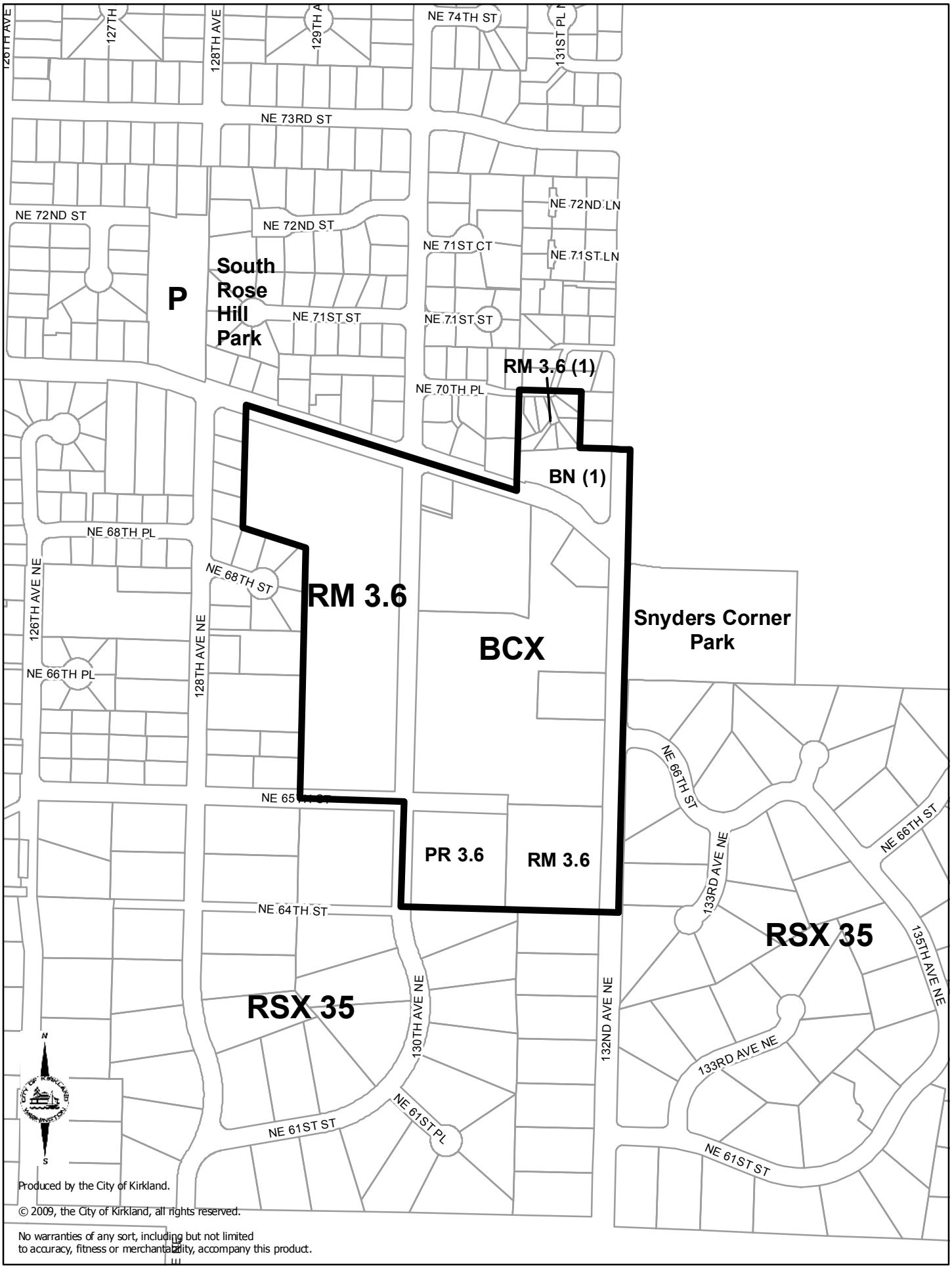
Bridle Trails Residential Targeted Areas



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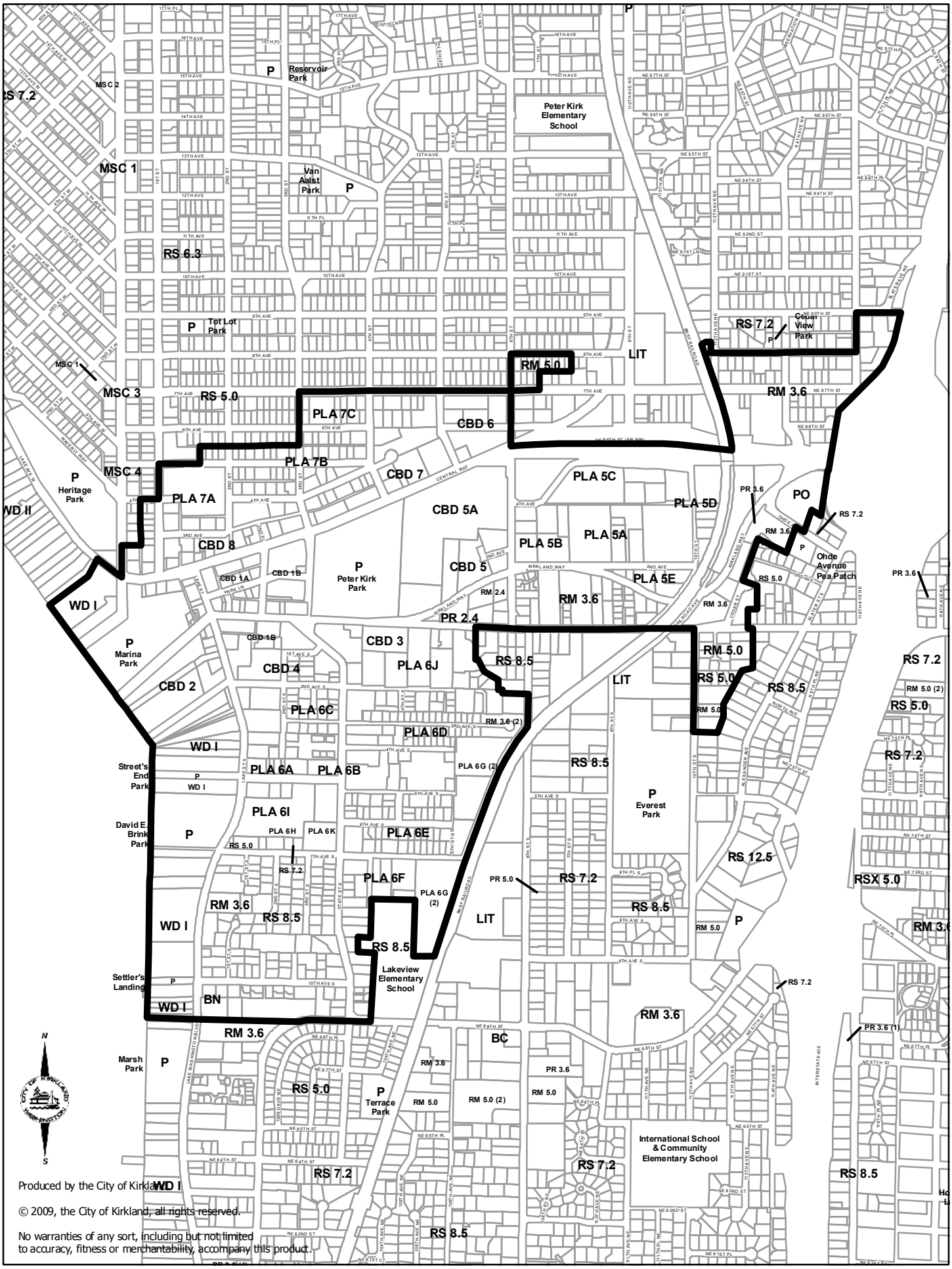
Central Kirkland Residential Targeted Areas



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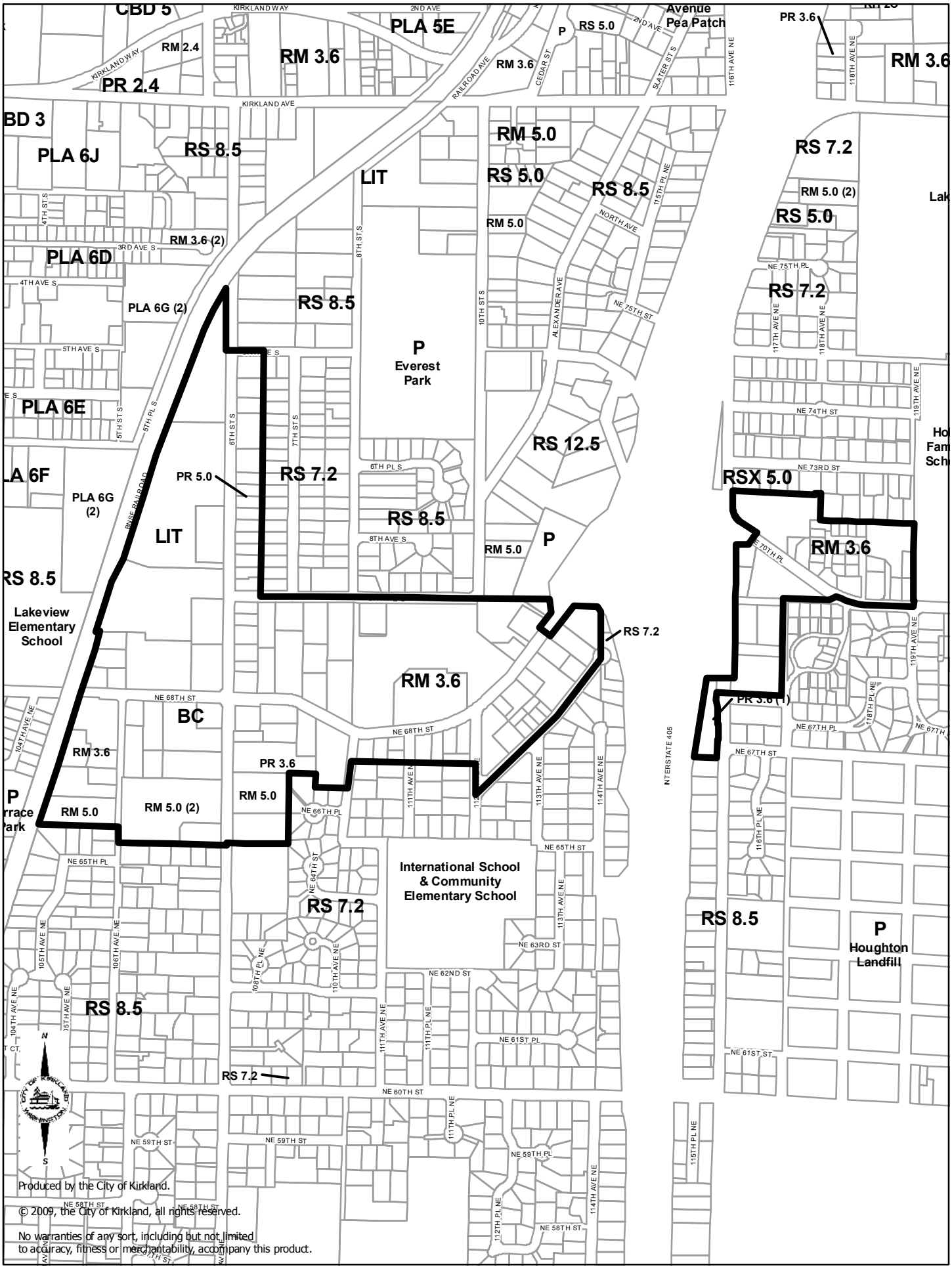
Houghton/ Everest Residential Targeted Areas



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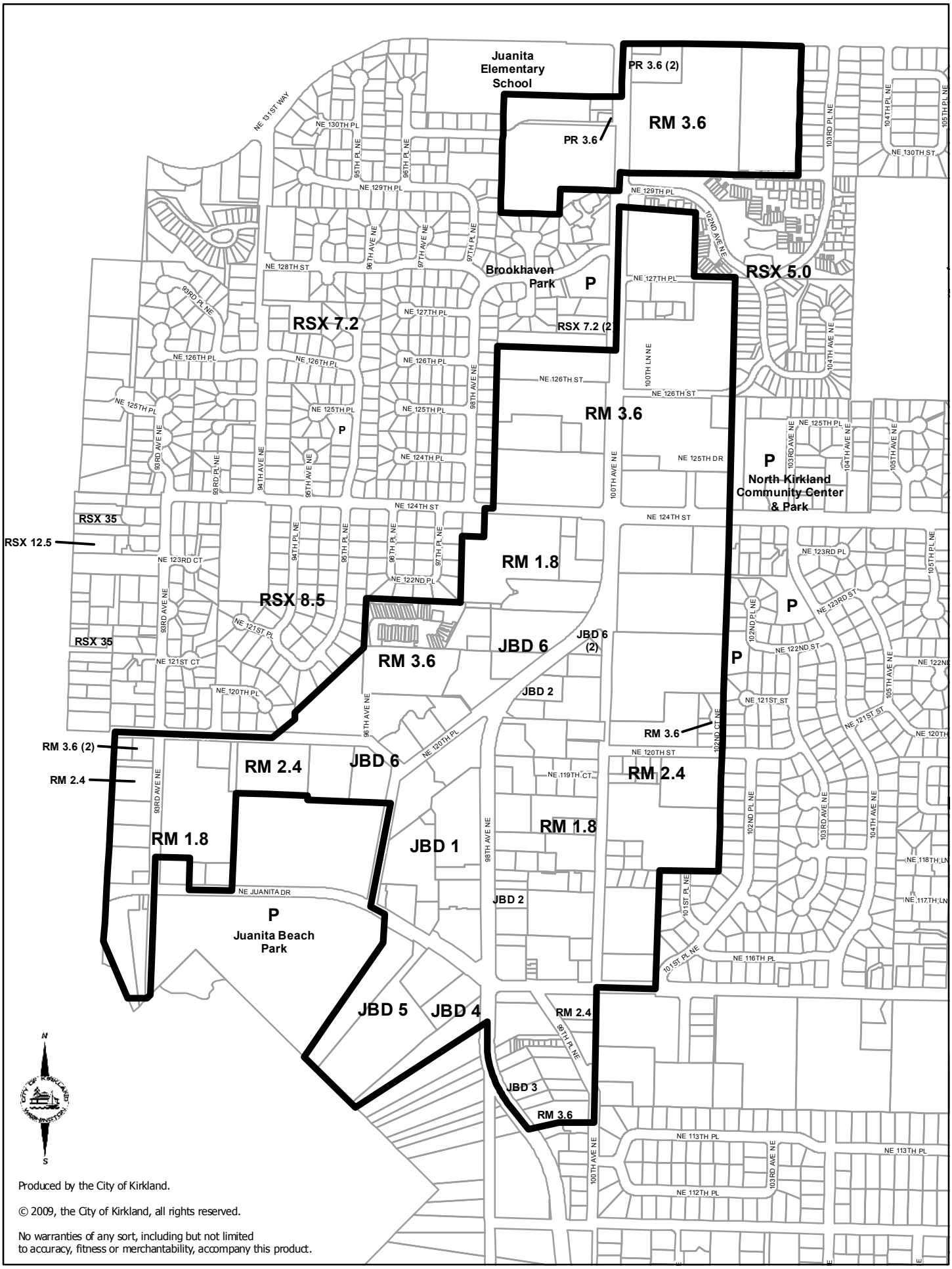
Juanita Residential Targeted Areas



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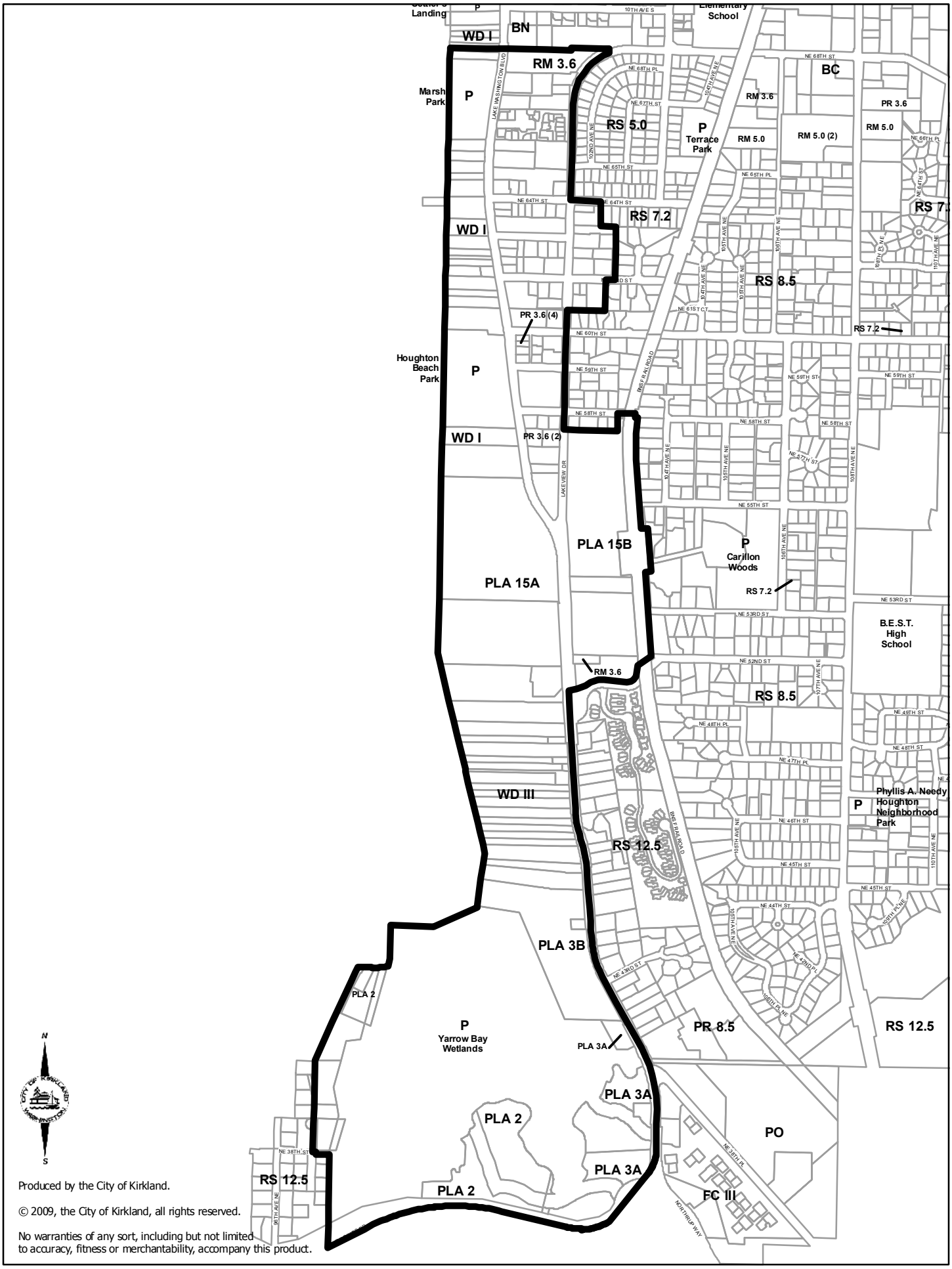
Lakeview Residential Targeted Areas



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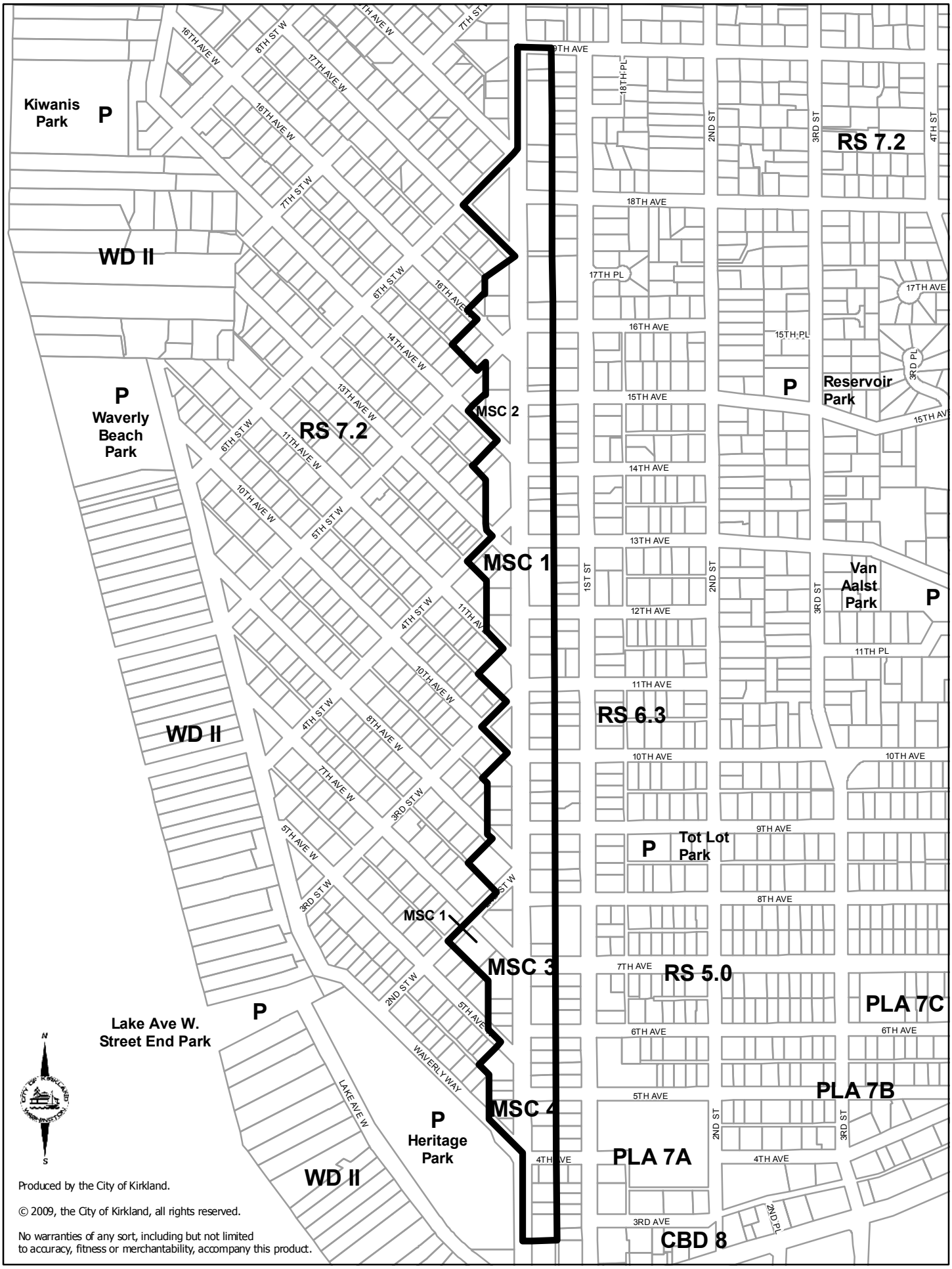
Market St. Corridor Residential Targeted Areas



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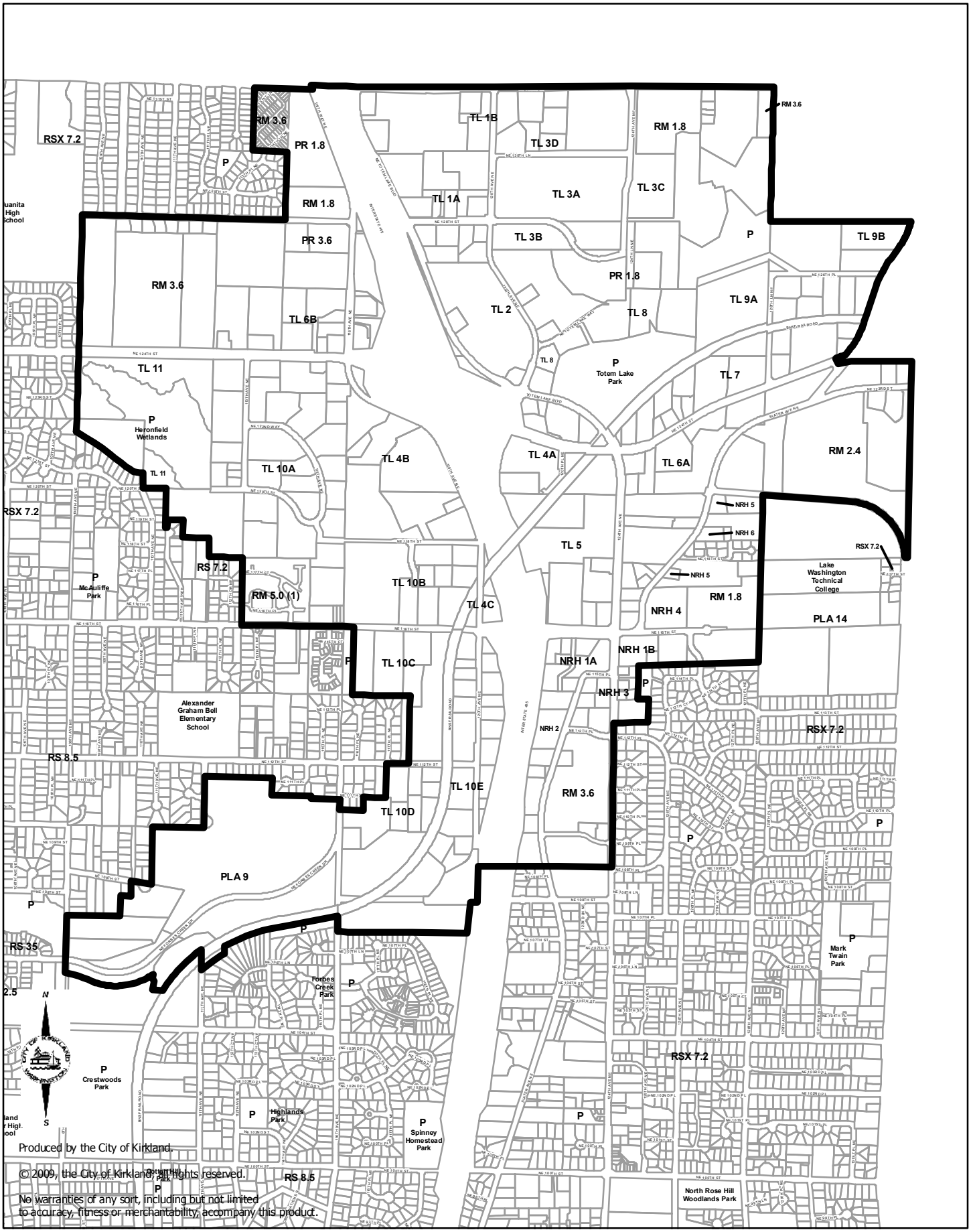
Totem Lake/ North Rose Hill Residential Targeted Areas



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

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT MEMORANDUM

To: David Ramsay, City Manager

From: Jon Regala, Senior Planner
Deb Powers, Urban Forester
Nancy Cox, AICP, Development Review Manager
Paul Stewart, AICP, Deputy Director
Eric Shields, AICP, Planning Director

Date: December 15, 2009

Subject: ADOPTION OF TREE REGULATION AMENDMENTS – FILE ZON08-00016

RECOMMENDATION

Staff recommends that the City Council adopt the attached Ordinances amending:

- Kirkland Zoning Code (KZC) Chapter 95 – *Tree Management and Required Landscaping* to incorporate the changes recommended by the Planning Commission;
- Various KZC code sections which update code references to KZC Chapter 95;
- Kirkland Municipal Code (KMC) Title 19 by deleting text which was incorporated into KZC Chapter 95; and
- KMC Title 5 to require fees for certain tree related permits.

CITY COUNCIL REVIEW

On December 1, 2009, the City Council reviewed and discussed the Planning Commission's recommendations on the Tree Regulations Amendment project. Andy Held, the Planning Commission chair presented the Commission's recommendations to the City Council. The staff memo and the Planning Commission recommendations are available online at:

http://www.ci.kirkland.wa.us/Assets/City+Council/Council+Packets/120109/11a_NewBusiness.pdf

At the conclusion of the meeting the City Council had several comments and questions regarding the proposed changes and asked that staff prepare a response. Staff has prepared the responses noted below and would recommend the Council adopt the attached Ordinances with any desired changes.

STAFF RESPONSE

Staff response to the Council's comments/questions on the various topics is described in the sections below.

1. Tree Protection Fencing

   A question was raised by the Council on the adequacy of tree protection fencing. Currently, the code requires the fence to remain in place until the Planning Official authorizes its removal. Required signs are posted with the City phone number for code enforcement to report violations. In addition, the City is authorized to require the applicant's arborist to be on site for any activity within the tree's limits of disturbance.

   To remain consistent with current practice and the Public Works Fencing Standard CK-R-49, a code change to KZC Chapter 95 is being proposed to standardize the requirement for a 6' tall chain link fence City-wide (the previous KZC standard was 4' tall chain link fence). Comparable substitutions to the chain link fence requirement are allowed on a case-by-case basis.

   Although the Council has pointed to incidents where the tree protection fence was moved and violations have occurred staff feels the current fencing standard along with the fence height increase to 6 feet will generally be effective for protecting retained trees. To control all unauthorized activity within tree protection fencing, the City would need to conduct additional inspections and increase code enforcement efforts. This results in an increased level of service that may not be practical at this point in time given budget and available staff.

2. Required Trees

   A question was asked at the Council meeting as to how trees are to be maintained throughout the life of a project. In response, landscaping that is required by KZC 95.40 through 95.45 (supplemental landscaping, landscape buffers, landscaping in parking areas, etc.) is required to be maintained throughout the life of the development. If a tree is removed the tree is required to be replaced based on the appropriate replacement standards.

   Trees that were identified as grove of trees are required to be retained in perpetuity. Prior to occupancy, a legal document is required to be recorded on the subject property to ensure the preservation of the grove and associated vegetation. Trees in critical areas or their buffers may only be removed if the criteria for a hazard or nuisance tree have been met. A replacement tree is required. Otherwise, trees identified for retention as part of a Tree Retention Plan are required to be maintained for a period of 5 years following building occupancy. After five years, the tree removal allowances apply.

3. Increased Fees for Phased Review

   The proposed changes codify a 'phased review' process in which the review of trees would occur at the short plat, grading, and building permit stages for new single-family

development. A question was asked if fees were going to be increased to account for staff time involved with reviewing trees at each permit stage.

Permit fees associated with 'phased review' are not proposed to be increased. As a matter of practice, the City has been processing the majority of single-family projects under a more informal 'phased review' process. The current permit fee was based on a fee study which takes into account average review times. Future adjustments to permit fees will also take this into account.

4. Canopy Analysis

Accurate canopy data was not in place for the two-year status report on the tree regulations last fall. Staff realizes the need for a method with which to evaluate and monitor the City's tree canopy. With an accurate canopy assessment and a monitoring system in place, the City can prepare an Urban Forestry Management Plan that ties into the community's vision. Staff has identified the City's Forestry Account as a funding source and, as part of its 2010 Work Program, will consider the various imaging/software options available to assess its urban tree canopy. Staff will also be working with other jurisdictions to see if a joint effort is possible. In addition, grant funding may be available as well. Detailed information on canopy assessment can be viewed on a publication produced by a vendor of consideration, American Forests at http://amfor.org/downloads/rea/AF_PugetSound.pdf. Staff will keep the Council informed as we move forward with this project.

5. Fines for Illegal Tree Removal

A comment was made at the Council meeting that enforcement fines for illegal tree removal are too low. The current $1,000 fine for unauthorized tree removal has not been a deterrent for those intending to illegally remove trees or clear a site for development.

The City is currently involved in a project to consolidate all of the City's code enforcement regulations, including tree code enforcement, into the Kirkland Municipal Code. Background information is being gathered by staff on how other jurisdictions regulate and process code enforcement actions. Since regulations for both right-of-way trees and private property trees are being consolidated, code enforcement fines should also be consistent. Therefore the topic of fines as it relates to illegal tree removal will be discussed as part of the code enforcement consolidation project. This project is currently underway with proposed changes coming before the Planning Commission and City Council in early 2010.

6. Landmark Trees

With no clear intent or different level of protection for *landmark trees,* the Planning Commission and HCC agreed to delete the definition of *landmark tree* from the Zoning Code. Staff agrees since Chapter 95 clearly defines and affords the maximum level of protection to *specimen* and *Type 1* trees.

In the initial definition, *landmark trees* are defined as having exceptional value to the residents of the City. Staff recommends the City consider a voluntary program to identify, celebrate, and protect its heritage or notable trees. PlantAmnesty's Heritage and Notable Tree Program in Seattle is an example of a voluntary program that the City may use as a

model. As part of an overall Urban Forestry Management Plan, this task will be noted in the Planning Work Program. The intent is to work with groups and interested citizens in initiating a Heritage Tree Program.

Defining *landmark tree* to increase the level of protection beyond Type I trees is outside the scope of this project. Although mature tree canopy is an important part of a sustainable urban forest, staff recommends deferring major amendments to KZC Chapter 95 until canopy data is available.

7. Incentives to Plant Trees

A concern raised at the Council meeting was that there are no incentives built into the current tree regulations to plant trees. While this topic is not within the scope of the current Tree Amendment project, it could be considered as part of a future Urban Forestry Management Plan to be considered for the 2010 – 2013 Planning Work Program. The goal of such a plan would be to create policies and programs regarding tree planting citywide to support Kirkland's tree canopy goals.

8. Tree Removal & Replacement

With the 2006 amendments, in order to slow tree canopy loss, tree removal (not associated with development activity) was reduced to two significant trees per year for lots smaller than one acre. Regardless of lot size, two trees are required to remain. The Zoning Code requires that for removal of one or both of the last two trees, a replacement tree be planted for each tree removed.

The Planning Commission expressed a concern that while this tree retention/replacement requirement may be okay on smaller lots, only requiring two trees to remain on larger properties is too low of a standard. The Planning Commission asked staff to explore options to increase the minimum number of trees as the property size increases. Below were the three options prepared by staff:

Option 1 - *Set Minimum Tree Retention Based on Tree Density*

The City requires a minimum tree density of 30 tree credits per acre for development applications related to single-family and short subdivision or subdivision applications. The tree density requirements currently do not apply to tree removal not associated with development. With this option, the tree density calculation would apply to tree removal not associated with development. This approach will make the tree density requirement consistent between single-family properties regardless if development is proposed or not.

Option 2 - *Set Minimum Tree Retention Based on Lot Size*

This option is based on the existing regulation of having two trees remain on the subject property. However, larger lots would require a higher number of trees to remain on the property. Since the lowest single-family zoning designation pertains to 5,000 square foot lots, the code could be revised to maintain a minimum of two trees for every 5,000

square feet of lot area (or 1 per 2,500 square feet). Therefore a 10,000 square foot lot will need four significant trees while a 30,000 square foot lot will need 12 significant trees for minimum tree retention. This is the option recommended by the Planning Commission. A variation of this option would be to establish a different ratio of land area per tree (for example 1 tree per 4,000 square feet of lot area).

Option 3 – *No Change*

A third option is to keep the code as is until additional information is obtained.

At their December 1st meeting, several Council members expressed their support for either Option 2 or Option 3. Option 1 was not considered for adoption. Support for Option 2 stems from working towards attaining the City's 40% canopy goal and that adopting this change would be a step in that direction. Support for Option 3 argues that imposing additional regulations on property owners should be avoided. The Houghton Community Council, at its public hearing, also voiced support for Option 3 agreeing with staff in that additional data is needed prior to making any changes to this requirement.

The Planning Commission however feels strongly that Option 2 should be codified now rather than later to further slow tree canopy loss and increase the succession of trees by requiring replacement trees earlier. The Planning Commission's recommendation has been incorporated into the Ordinance. However, if the City Council opts for Option 3 – *No Change*, the following changes will need to be made to the draft ordinance to maintain the current approach:

KZC 95.23(5)(b) Tree Retention and Replacement Requirements

1) *Tree Retention. For single-family homes, cottages, carriage units, two/three-unit homes, two trees ~~one significant tree for every 2,500 square feet of land area~~ shall be required to remain on the subject property. ~~When this results in a fraction, the number of trees to remain shall be rounded down to the next whole number. In no case shall the remaining number of trees be less than two trees.~~*

2) *Tree Replacement.*

   a) *For every significant tree that is removed and is not required to remain based on subsection (5)(b)(1) above, the City encourages the planting of a tree that is appropriate to the site.*

   b) *If a tree removal request is for one or both ~~more~~ of the trees required to remain, a Tree Removal Permit and one-for-one replacement is required. The replacement tree shall be six feet tall for a conifer and two-inch caliper for deciduous or broad-leaf evergreen tree.*

9. Tree Removal Permit

At its public hearing, the Houghton Community Council did not agree with staff's recommendation to require a permit to remove up to two trees per year. The Houghton Community Council cited the following reasons for its recommendation:

- Tracking individual tree removal is not an effective way to measure tree canopy
- The City should conduct a periodic tree canopy analysis to measure tree canopy
- Citizens do not want additional bureaucracy and additional fees
- The tree removal request system in place is working

The Planning Commission recommended requiring a permit for the removal of up to two trees per year but not until an online permit application system is developed by the City and is available without an application fee. In the meantime, the Planning Commission is okay with maintaining the current voluntary system for submitting a tree removal permit (currently named a *Tree Removal Request Form*).

The code changes presented at the December 1st Council meeting reflects the voluntary approach currently being utilized. However, the City Council asked staff to present language that could incorporate deferring a tree removal permit until an online permit system is made available. Staff explored adding code language to KZC 95.23(5)(a)– Tree Removal Allowances to defer requiring a permit. Below is the change identified by staff:

> *KZC 95.23(5)(a) – Tree Removal Allowances*
>
> *Any private property owner of developed property may remove up to two significant trees from their property within a 12-month period without having to apply for a tree removal permit until such time an online permit system is made available at no cost to the applicant; provided that…*

Staff feels that the above approach creates unclear code language and provides uncertainty to the user. Staff would suggest that the above code section remain unchanged and that the intent to make available an online permit system for tree removal at no charge to the applicant be incorporated into the adopting ordinance. Once a permit system is made available, staff will then present a code amendment requiring a tree removal permit. Section 2 of the Ordinance adopting the tree regulation amendments was added containing language to this effect.

10. Emergency Tree Removal

A concern at the previous Council meeting was that the exemption for Utility Maintenance (KZC 95.20(2)) allows tree removal without first considering pruning. Staff agrees that street tree pruning should be the first option in utility maintenance. If street tree pruning does not solve the problem, tree removal may be used as a last resort. Below is the revised language which reflects this approach. Changes were also made to subsection (1) below to clarify that the exemption for emergency tree removal applies to trees on private and public property.

KZC 95.20 Exemptions. The following activities are exempt from the provisions of this chapter:

1. *Emergency Tree Removal. Any tree ~~on private property~~ that poses an imminent threat to life or property may be removed ~~without first obtaining a tree removal permit~~. The City must be notified within seven days of the emergency tree removal with evidence of the threat for removing the tree to be considered exempt from this chapter. If the Planning Official determines that the emergency tree removal was not warranted or if the removed tree was required by a development permit, the Planning Official may require that the party obtain a permit and/or require that replacement trees and vegetation be replanted as mitigation.*

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

11. Street Tree Pruning

The City has the authority to regulate and manage street right-of-way for street and utility purposes. The City's regulatory authority extends to trees located in the right of way. As part of its authority, the City may provide in its regulations that abutting property owners are responsible for maintaining trees and other vegetation in the right of way.

The Kirkland Municipal Code currently requires abutting owners to maintain street trees but apply for a permit for any pruning activity to help ensure pruning is carried out in accordance with City standards. This approach is maintained with the proposed code changes. The question of whether to require a permit for pruning a street tree is a policy choice, but requiring a permit is within the scope of the City's authority over its rights of way.

FEES

An ordinance is included that will require fees for a limited number of tree permits. Fees for certain tree permits *not associated with development* are warranted due to the staff time to review arborist reports and conduct site visits associated with these requests. This information was presented to the Planning Commission and Houghton Community Council. Neither group recommended changes. There are three tree-related fee schedule changes that are included:

1. Integrated Development Plan (IDP) pre-submittal meeting – An IDP pre-submittal meeting will involve staff review from all departments, including the Urban Forester, and detailed review of trees, building and utility plans. It is likely that IDP applicants would need to attend a standard pre-submittal meeting and an IDP pre-submittal meeting. Currently a pre-submittal fee ($504) can be credited toward the permit fee if the application is submitted within 6 months of the pre-submittal meeting. IDP applicants would pay for both, but could only have one fee credited.

2. Multiple Private or ROW Tree Removal Permit (formerly Tree Plan IV) – This permit is applicable when there are 3 or more private or any number of ROW trees proposed for removal in a year. The Urban Forester currently reviews up to 70 permits per year in this category and has estimated these permits take on average 3 hours including site visits. A $200.00 fee is proposed.

3. Forest Management Plan permit (formerly Tree Plan V) – The Urban Forester reviews these requests for heavily treed properties (such as Bridlewood Circle). There have been only one or two applications since 2006. The review of these is generally more complex and takes additional time compared to a typical tree removal request. A $300.00 fee is proposed.

Pruning: Pruning a private tree does not require city approval. Pruning a right-of-way tree requires City approval but there is no fee.

Right-of-Way (ROW) Permit: The Public Works Department has noted that some tree work (pruning or removal) in the public right-of-way is subject to a ROW permit. A ROW Permit is needed when the ROW will be blocked or impacted by an activity. Once the city has approved a tree pruning or removal permit for a tree in the ROW, then it will be determined whether or not a ROW Permit is needed. If so, the ROW permit is $106.00.

Summary

Tree Removal/Pruning Request or Permit (no fee)
- ▢ Remove 2 or fewer private trees – City approval not required
- ▢ Prune 1 or more ROW tree(s) – City approval required

Multiple Private or ROW Tree Removal Permit ($200.00)
- ▢ Remove 3 or more private trees
- ▢ Remove 1 or more ROW tree(s)

Forest Management Plan Permit ($300.00)
- ▢ Site > 35,000 sq. ft. & > 40% canopy coverage

ROW permit ($106.00)
- ▢ When ROW is impacted

Inflation Adjustment: KMC 5.74.070 provides that the fees established will be reviewed annually, and, effective January 1st of each year, may be administratively increased or decreased, by an adjustment to reflect the current published annual change in the Seattle Consumer Price Index for Wage Earners and Clerical Workers as needed in order to maintain the cost recovery objectives established by the city council. The current printed version of the KMC reflects Planning fees from 2008; therefore, this ordinance also brings all of the Planning fees up-to-date. There will be no adjustment for 2010, so the fees are the same as has been effect in 2009.

Attachments:

Ordinance Amending KZC Chapter 95 and other KZC Sections
Ordinance Amending KMC Title 19
Ordinance Amending KMC Title 5
Publication Summary Ordinances

CC: Planning Commission
Houghton Community Council
Rob Jammerman, City of Kirkland Public Works Development Engineering Manager
Jason Filan, Parks Operations Manager
Mark Padgett, Public Works
Kirkland Chamber of Commerce
File: ZON08-00016

ORDINANCE NO. 4226

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING AND LAND USE, AMENDING CITY REGULATIONS RELATING TO TREES, AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00016.

WHEREAS, the City Council has received a recommendations from the Kirkland Planning Commission and the Houghton Community Council to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, all as set forth in that certain reports and recommendations of the Planning Commission and the Houghton Community Council dated December 1, 2009 and bearing Kirkland Department of Planning and Community Development File No. ZON08-00016; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission, following notice thereof as required by RCW 35A.63.070, on November 5, 2009, held a public hearing, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, prior to making said recommendation, the Houghton Community Council, following notice thereof as required by RCW 35A.63.070, on October 26, 2009, held a courtesy hearing, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the reports and recommendations of the Planning Commission and Houghton Community Council; and.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, be and they hereby are amended to read as follows:

As set forth in Attachments A and B attached to this ordinance and incorporated by reference.

Section 2. The City Council desires to require a tree removal permit in the future for the removal of trees that are currently exempt under Kirkland Zoning Code Section 95.20.1.a. This permit requirement should be adopted at such time as the City is able to make an online permit application available with no associated permit fee to the applicant. The City Council directs staff to process a proposed Zoning Code amendment to this effect at such time as the City is able to accept online permit applications for tree removal requests.

Section 3. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 5. Except as provided in Section 4, this ordinance shall be in full force and effect on April 1, 2010. Pursuant to Section 1.08.017 Kirkland Municipal Code, publication of this ordinance shall be in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 6. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 20__.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

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KIRKLAND ZONING CODE CHAPTER 95 – TREE MANAGEMENT AND REQUIRED LANDSCAPING

95.05 Purpose and Intent

1. Trees and other vegetation are important elements of the physical environment. They are integral to Kirkland's community character and protect public health, safety and general welfare. Protecting, enhancing, and maintaining healthy trees and vegetation are key community values. Comprehensive Plan Policy NE-3.1 describes working towards ~~A goal is to achieve~~ achieving a Citywide ~~an overall~~ tree canopy coverage of 40 percent ~~for the community~~. The many benefits of healthy trees and vegetation contribute to Kirkland's quality of life by:

    a. Minimizing the adverse impacts of land disturbing activities and impervious surfaces such as runoff, soil erosion, land instability, sedimentation and pollution of waterways, thus, reducing the public and private costs for storm water control/treatment and utility maintenance;

    b. Improving the air quality by absorbing air pollutants, mitigating the urban heat island effect, assimilating carbon dioxide and generating oxygen, and decreasing the impacts of climate change;

    c. Reducing the effects of excessive noise pollution;

    d. Providing cost-effective protection from severe weather conditions with cooling effects in the summer months and insulating effects in winter;

    e. Providing visual relief and screening buffers;

    f. Providing recreational benefits;

    g. Providing habitat, cover, food supply and corridors for a diversity of fish and wildlife; and

    h. Providing economic benefit by enhancing local property values and contributing to the region's natural beauty, aesthetic character, and livability of the community.

2. Tree and vegetation removal in urban areas has resulted in the loss to the public of these beneficial functions. The purpose of this chapter is to establish a process and standards to provide for the protection, preservation, replacement, proper maintenance, and use of significant trees, associated vegetation, and woodlands located in the City of Kirkland.

    The intent of this chapter is to:

    a. Maintain and enhance canopy coverage provided by trees for their functions as identified in KZC 95.05(1);

b. Preserve and enhance the City of Kirkland's environmental, economic, and community character with mature landscapes;

c. Promote site planning, building, and development practices that work to avoid removal or destruction of trees and vegetation, that avoid unnecessary disturbance to the City's natural vegetation, and that provide landscaping to buffer the effects of built and paved areas;

d. Mitigate the consequences of required tree removal in land development through on- and off-site tree replacement with the goals of halting net loss and enhancing Kirkland's tree canopy to achieve an overall healthy tree canopy cover of 40 percent City-wide over time;

e. Encourage tree retention efforts by providing flexibility with respect to certain other development requirements;

f. Implement the goals and objectives of the City's Comprehensive Plan;

g. Implement the goals and objectives of the State Environmental Policy Act (SEPA); and

h. Manage trees and other vegetation in a manner consistent with the City's Natural Resource Management Plan.

i. ~~Regulate, p~~Preserve and protect street trees, trees in public parks and trees on other city property.

95.10 Definitions

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

1. Caliper – The American Association of Nurserymen standard for trunk measurement of nursery stock. Caliper of the trunk shall be the trunk diameter measured six inches above the ground for up to and including four-inch caliper size and 12 inches above the ground for larger sizes.

2. Critical Root Zone – The area surrounding a tree at a distance from the trunk, which is equal to one foot for every inch of ~~tree~~ trunk diameter measured at ~~breast height~~4.5 feet from grade or otherwise determined by a qualified professional (example: 1' radius per 1" DBH).

3. Crown – The area of a tree containing leaf- or needle-bearing branches.

4. Diameter at Breast Height (DBH) – The diameter or thickness of a tree trunk measured at 4.5 feet from the ground. DBH is also known as Diameter at Standard Height (DSH).

5. Dripline – The distance from the tree trunk, that is equal to the furthest extent of the tree's crown.

6. Grove – A group of three or more significant trees with overlapping or touching crowns.

7. Hazard Tree - A ~~hazard~~ tree that ~~must~~ meets all the following criteria:

a. ~~a~~A tree with a combination of structural defects and/or disease which makes it subject to a high probability of failure;

b. ~~and i~~Is in proximity to moderate~~-~~ to high frequency targets (~~of~~ persons or property that can be damaged by tree failure); and

c. ~~–~~The hazard condition of the tree cannot be lessened with reasonable and proper arboricultural practices nor can the target be removed.

8. Impact – A condition or activity that affects a part of a tree including the trunk, branches, and critical root zone.

~~Landmark Tree – A tree or group of trees designated as such because of its exceptional value to the residents of the City.~~

9. Limit of Disturbance – The boundary between the ~~area of minimum protection~~protected area around a tree and the allowable site disturbance as determined by a qualified professional measured in feet from the trunk.

10. Nuisance Tree - A ~~nuisance~~ tree that ~~must~~ meets either of the following criteria:

~~1~~a. ~~Tree i~~Is causing obvious~~,~~ physical damage to private or public structures, including but not limited to: sidewalk, curb, road, driveway, parking lot, building foundation, or roof; or

~~2~~b. ~~Tree h~~Has ~~been~~ sustained damage~~d~~ ~~by~~ from past maintenance practices.~~, that cannot be corrected with proper arboricultural practices~~

~~; or 3.~~ The problems associated with the tree must be such that they cannot be corrected by ~~any other~~ reasonable practices~~.~~ ~~I~~including but not limited to ~~the following~~:

~~a) P~~pruning of the crown or roots of the tree, ~~and/or small modifications to the site including but not limited to a driveway, parking lot, patio or sidewalk to alleviate the problem.~~

~~b) Pruning,~~ bracing, and/or cabling to reconstruct a healthy crown.

11. Public Works Official – Designee of the Public Works Director

12. Qualified Professional – An individual with relevant education and training in arboriculture or urban forestry, having two or more of the following credentials:

- International Society of Arboriculture (ISA) Certified Arborist;

- Tree Risk Assessor Certification (TRACE) as established by the Pacific Northwest Chapter of ISA (or equivalent); ~~for tree risk assessments located within critical areas.~~
- American Society of Consulting Arborists (ASCA) registered Consulting Arborist;
- Society of American Foresters (SAF) Certified Forester for Forest Management Plans;

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

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

    a. ~~Type 1~~High, a viable tree, located within required yards and/or required landscape areas. Tree retention efforts shall be directed to the following trees if they are determined to be healthy and windfirm by a qualified professional, and provided the trees can be safely retained when pursuing alternatives to development standards ~~in subsections (4)(a)(2) and (4)(a)(3) of this section~~pursuant to KZC 95.32:

        ~~1) Landmark trees;~~

        ~~2~~1) Specimen trees;

        ~~3~~2) Tree groves and associated vegetation that are to be set aside as preserved groves pursuant to KZC ~~95.50~~95.51(3);

        ~~4~~3) Trees on slopes of at least 10 percent; or

        ~~5~~4) Trees that are a part of a grove that extends into adjacent property, such as in a public park, open space, sensitive area buffer or otherwise preserved group of trees on adjacent private property. If significant trees must be removed in these situations, an adequate buffer of trees may be required to be retained or planted on the edge of the remaining grove to help stabilize.

    b. ~~Type 2~~Moderate, a viable tree that is to be retained if feasible; or

    c. ~~Type 3~~Low, a tree that is either (1) not viable or (2) is in an area where removal is unavoidable due to the anticipated development activity.

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

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

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

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

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

~~Target – Person or property that can be damaged by failure of a tree.~~

19. Tree Removal – The removal of a tree, through either direct or indirect actions, including but not limited to: (1) clearing, damaging or poisoning resulting in an unhealthy or dead tree; (2) removal of at least half of the live crown; or (3) damage to roots or trunk that is likely to destroy the tree's structural integrity.

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

21. Wildlife Snag – The remaining trunk of a ~~dying, diseased, or dangerous~~ tree that is intentionally reduced in height and usually stripped of ~~all~~ its live branches.

22. Windfirm – A condition of a tree in which it ~~can~~ withstands average peak local wind speeds and gusts.~~moderate storm winds.~~

95.20 Exemptions

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

~~2~~1. Emergency Tree Removal. Any tree on private property that poses an imminent threat to life or property may be removed without first obtaining a tree removal permit. ~~The party removing the tree will contact t~~The City must be notified within seven days of the emergency tree removal ~~to~~ with~~provide~~ evidence of the threat for removing the tree ~~for approval of~~ to be considered exempt~~ion~~ from this chapter. If the Planning Official determines that the emergency tree removal was not warranted, ~~he or she~~the Planning Official may require that the party obtain a permit and/or require that replacement trees and vegetation be replanted as mitigation.

~~3~~2. Utility ~~Management~~Maintenance. Trees may be removed by the City or utility provider in situations involving immediate danger to life or property, or interruption of services provided by a utility.

~~4~~3. Commercial Nurseries or Tree Farms. A nursery or tree farm owner may remove trees that are being grown to be sold as Christmas or landscape trees.

~~19.36.030 Alteration of street trees without prior approval is prohibited.~~

95.21 Tree Pruning

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

   ~~An application to prune, trim, modify or alter a street tree shall not be granted if the sole or primary purpose of the proposed action is view enhancement.except in the city's central business district (CBD) zones and in any other specific right-of-way that may be identified by the city. Except for routine maintenance, it is unlawful for any person to prune, trim, modify, alter or damage a street tree without the prior approval of the director of public works or his or her designee; provided, that the city and utility crews may perform routine pruning and maintenance of street trees; and provided further, that an abutting property owner may perform routine pruning and maintenance in accordance with any landscape maintenance agreement or contract with the city. (Ord. 3891 § 2, 2003: Ord. 3866 § 1 (part), 2002)~~

2. Tree Pruning on Private Property. ~~Topping or~~ A permit is not required to ~~pruning~~ prune trees on private property. Pruning which results in the removal of at least half of the live crown will be considered tree removal and subject to the provisions in KZC 95.23. ~~to the extent defined by tree removal in KZC~~ 95.10, .

   Tree topping is not allowed~~ within the City of Kirkland~~. If a ~~required~~ tree required by this Chapter is smaller than six inches in diameter and is topped, it must be replaced pursuant to the standards in KZC 95.55(8)(b). If a tree six inches or larger in diameter is topped, the owner must have a qualified professional develop and ~~carry out~~implement a five-year restoration pruning ~~schedule~~program.

95.23 Tree Removal – Not Associated with Development Activity

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

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

~~Removal or alteration of trees in public parks and other city property prohibited.~~ It is unlawful for any person (other than City crews) to remove, prune, trim, modify, alter or damage a tree in a public park or on any other ~~city~~ City property~~; provided, that the city may perform routine pruning and maintenance~~. ~~of such trees and take any actions it deems necessary with respect to trees on city property.~~

No person, directly or indirectly, shall remove any significant tree on any property within the City, or any tree in the public right-of-way ~~except City right-of-way,~~ without first obtaining a tree removal permit as provided in this chapter, unless the activity is exempted in KZC 95.20 and KZC 95.23(5). ~~Trees in City right-of-way are regulated pursuant to Chapter 19.36 KMC.~~

3. Tree Removal Permit Application Form

The Department of Planning and Community Development and Public Works Department shall establish and maintain a tree removal permit ~~request~~ application form to allow property owners to request ~~Department~~ City review of ~~potentially exempt~~ tree removal for compliance with applicable City regulations. ~~Tree Plan Requirements. The plan can be developed by the applicant but may require assistance of a qualified professional.~~ The tree ~~plan~~ removal application form shall include at a minimum the following:

a. A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of structures, driveways, access ways and easements.

b. For required replacement trees, a planting plan showing location, size and species of the new trees in accordance to standards set forth in KZC 95.33(3)~~subsection (5)(c) of this section~~.

4. Tree Removal Permit Application Procedure and Appeals

a. Applicants ~~for a Level IV or V tree plan~~requesting to remove trees must submit a completed permit application on a form provided by the City. The City shall review the application ~~W~~within 21 calendar days~~, the Planning Official shall review the application~~ and either approve, approve with conditions or modifications, deny the application or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.

b. ~~With respect to Level IV and Level V Tree Plans, a~~An applicant may appeal an adverse determination to the Hearing Examiner. A written notice of appeal shall be filed with the ~~Planning Department~~City within 14 calendar days following the date of distribution of a ~~Planning Official's~~ City's decision. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least 17 calendar days prior to the hearing. The applicant shall have the burden of proving that the ~~Planning Official~~ City made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, ~~he or she~~the Hearing Examiner may affirm, reverse or modify the decision being appealed.

5. Tree Removal Allowances

a. Any private property owner of developed property may remove up to two significant trees from their property within a 12-month period without having to apply for a tree removal permit; ~~provided,~~provided that:

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

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

b. Tree Retention and Replacement Requirements

1) Tree Retention. For single-family homes, cottages, carriage units, two/three-unit homes, one significant tree for every 2,500 square feet of land area shall be required to remain on the subject property. When this results in a fraction, the number of trees to remain shall be rounded down to the next whole number. In no case shall the remaining number of trees be less than two trees.

2) Tree Replacement.

a) For every significant tree that is removed and is not required to remain based on subsection (5)(b)(1) above, the City encourages the planting of a tree that is appropriate to the site.

b) If a tree removal request is for one or ~~both of the last two trees~~more of the trees required to remain, a Tree Removal Permit and one-for-one replacement is required. The replacement tree shall be six feet tall for a conifer and two-inch caliper for deciduous or broad-leaf evergreen tree.

c) For all other uses not listed in subsection (5)(b)(1) above, a Tree Removal Permit is required and the required tree replacement will be based on the required landscaping standards in KZC 95.40 through 95.45.

c. Shoreline Jurisdiction.

Properties located with the City's shoreline jurisdiction are subject to additional tree removal and replacement standards if the tree(s) to be removed are located within the required shoreline setback. See KZC Chapter 83 for additional standards.

d. Removal of Hazard or Nuisance Trees

Any private property owner seeking to remove any number of significant trees which are a hazard or nuisance from developed or undeveloped property or the public right-of-way shall first obtain approval of a Tree Removal Permit and meet the requirements of this subsection. ~~there is no current application for development activity for the site significant trees which were required to be retained by a special regulation contained in Chapters 15 through 60 KZC;esignated on an approved Tree Retention Plan to be retained pursuant to KZC 95.30;~~

1) Tree Risk Assessment. ~~Additional Applicant Requirements.~~If the nuisance or hazard condition is not obvious ~~An an arborist report~~ tree risk assessment prepared by a qualified professional explaining how the tree(s) meet the definition of a nuisance or hazard tree is required. ~~fit the criteria in subsection (4)(b) or (4)(c) of this section if removal is based on nuisance or hazard and the nuisance or hazard condition is not obvious~~ Removal of nuisance or hazard trees does not count toward the tree removal limit if the nuisance or hazard is supported by a report prepared by a qualified professional and approved by the City.

2) Trees in Critical Areas or Critical Areas Buffers. For hazard or nuisance trees i~~I~~n (1) easements dedicated to ensure the protection of vegetation; ~~or in~~(2) critical areas, or (3) critical area buffers, a planting plan is required to mitigate the removal of the hazard or nuisance tree. ~~If a tree is considered a nuisance or hazard in a critical area or its buffer, t~~The priority action is to create a "snag" or wildlife tree with the subject tree. If creation of a snag is not feasible, then the felled tree shall be left in place unless the Planning Official permits its removal in writing.

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

The removal of any tree in a critical area or Native Growth Protective Easement will require the planting of a native tree of a minimum of six feet in height in close proximity to where the removed tree was located. Selection of native species and timing of installation shall be coordinated with the Planning Official. ~~. For nuisance or hazard trees in critical areas or their buffers, the planting plan must propose action to mitigate the hazard or nuisance in accordance to standards set forth in subsection (4) of this section. Trees in Critical Areas or Critical Area Buffers~~. ~~The property owner must submit a Level IV Tree Plan to City Planning and Community Development Department to trim or remove any tree from a critical area or critical area buffer.~~

3) Street Trees. Street trees may only be removed if determined to be a hazard or nuisance. If the removal request is for street trees, the Public Works Official may consider whether the tree(s) ~~is~~ are now, or may be in the future, part of the City's plans for the right-of-way. The City shall require a one-for-one tree

replacement in a suitable location. ~~4. Standards and criteria for approval to remove street tree. An abutting property owner may apply for permission to remove a street tree by filing a written application with the department of public works. An application to remove a street tree shall be reviewed by the director of public works, or his or her designee. The director shall consider the following factors in determining whether to grant or deny the application: (1) whether the tree is a hazard tree or nuisance tree; (2) the location of the tree in the right-of-way; (3) the size and type of tree and whether it constitutes a "significant tree" as defined in the Kirkland Zoning Code; (4) whether the tree is now, or may be in the future, part of the city's plans for the right-of-way; (5) whether the property owner is willing to mitigate the consequences of removal of the tree by planting a new tree or trees in a more suitable location; and (6) any other factor that the director deems relevant or appropriate. Any failure by the applicant or his or her agents to adhere to conditions imposed on tree removal by the city under this chapter shall constitute a violation of this chapter and is subject to enforcement under this chapter. (Ord. 3891 § 3, 2003)~~

~~b) Tree removal on undeveloped property shall be approved only for hazard or nuisance trees pursuant to the criteria in subsections (4)(c) and (4)(d) of this section. The tree removal exemptions in KZC 95.20 are not applicable to undeveloped property~~

e. Forest Management Plan

1) A Forest Management Plan ~~is~~must be submitted for developed, significantly wooded sites (over 40% canopy coverage) of at least 35,000 square feet in size in which tree removal is requested ~~that~~ and is not exempt under Section 95.20 of this Chapter. A Forest Management Plan must be developed by a qualified professional~~. The Tree Plan~~ and shall include the following:

a) A site plan depicting the location of all significant trees (a ~~tree~~ survey identifying tree locations is not required) with a numbering system of the trees (with corresponding tags on trees in the field). The site plan shall include size (DBH), species, and condition of each tree;

b) Identification of trees to be removed, including reasons for their removal and a description of low impact removal techniques pursuant to subsection (~~4~~2)~~(c)~~ of this section;

c) A reforestation plan that includes location, size, species, and timing of installation;

~~d) A narrative report of prescribed, long-term maintenance activity for the site as outlined in subsection (4)(e)(8) of this section.~~

2) The following Forest Management Plan ~~. For properties proposing tree removal requiring a forest management plan, the following~~ standards shall apply:

~~1~~a) Trees to remain should be dominant or co-dominant in the stand, healthy and wind-firm.

~~2~~b) No removal of trees from critical areas and their buffers, unless otherwise permitted by this chapter.

~~3~~c) No removal of ~~landmark or~~ specimen trees, unless otherwise permitted by this chapter.

~~4~~d) No removal of healthy trees that would cause trees on adjacent properties to become hazardous.

~~5~~e) The reforestation plan ensures perpetuity of the wooded areas. The size of planted trees for reforestation shall be a minimum of three feet tall.

~~6~~f) Logging operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time. To control erosion, native shrubs, ground cover and stumps shall be retained where feasible. Where not feasible, appropriate erosion control measures to be approved by the City shall be implemented.

~~7~~g) Removal of tree debris shall be done pursuant to Kirkland Fire Department standards.

~~8~~h) Recommended maintenance prescription for retained trees with a specific timeline for such management.

95.25 ~~Alternative Compliance~~Sustainable Site Development

All activities regulated by this chapter shall be performed in compliance with the applicable standards contained in this chapter, unless the applicant demonstrates that alternate measures or procedures will be equal or superior to the provisions of this chapter in accomplishing the purpose and intent of this chapter as described in KZC 95.05. ~~Requests to use alternative measures and procedures shall be reviewed by the Planning Official, who may approve, approve with conditions, or deny the request. Examples include but are not limited to retention of specimen or landmark trees or low impact development techniques, including such programs as Green Building Design or Leadership in Energy and Environmental Design that demonstrate a significant reduction to stormwater runoff from the site.~~

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

alternative measures and procedures shall be reviewed by the Planning Official, who may approve, approve with conditions, or deny the request.

95.30 Tree Retention~~, Protection and Density~~ Associated with Development Activity

1. Introduction.

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

In order to make better decisions about tree retention, particularly during all stages of development, tree ~~removal~~ retention plans~~permits~~ will require specific information about the existing trees before removal is allowed. ~~Different levels of detail correspond to the scale of the project or activity.~~ Specific tree retention plan review standards ~~are~~ provided in this section ~~KZC 95.35(4) and include~~ establish tree retention priorities~~y~~, ~~and~~ incentives, and variations to development standards in order to facilitate preservation of ~~healthy,~~ viable~~,~~ ~~significant~~ trees.

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

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

2. Tree Retention Plan Required

~~a. Requirement Established.~~ An applicant for a ~~tree removal~~development permit must submit a tree retention plan that complies with this section. A qualified professional may be required to prepare certain components of a tree retention plan at the applicant's expense. If proposed development activities call for more than one tree retention plan ~~level~~~~requirement~~component, the more stringent tree retention plan ~~level requirement~~component ~~with the more stringent requirements~~ shall apply; provided, that the Planning Official may require a combination of tree plan components based on the nature of

the proposed development activities. If the proposed activity is not clearly identified in this chapter, the Planning Official shall determine the appropriate tree retention plan requirements.

~~b. Tree Plan and Retention Requirements.~~ The ~~following sets~~chart in subsection (5) sets forth the tree retention plan requirements ~~different tree plans required~~ for development activities ~~or~~ and associated tree removal~~ requests requiring a tree removal permit~~. Applicants for development are encouraged to confer with City staff as early in the design process as possible so that the applicable tree planting and retention concepts can be incorporated into the design of the subject property.~~ Each plan sets forth the required components and retention standards for each tree plan.~~ The Planning Official may waive a component ~~for a~~ of the tree retention plan, if ~~he or she~~the Planning Official determines that the information is not necessary.

3. Tree Retention Plan Review

Any proposed development of the subject property requiring approval through a building permit, land surface modification permit, and/or demolition permit; or Design Review, Process I, IIA, IIB, or III, described in Chapters 142, 145, 150, 152 and 155 KZC respectively, shall include a Tree Retention Plan to be considered as part of that process.

Based on the Tree Retention Plan information submitted by the applicant and the Planning Official's evaluation of the trees relative to the proposed development on the subject property, the Planning Official shall designate each tree as having a high, moderate, or low Retention Value as defined in KZC 95.10 Definitions, for application towards the regulations in this Chapter.

4. Tree Retention Plan Components

~~Qualified Professional Reports. Reports prepared by a qualified professional~~ The tree retention plan shall contain the following information as specified in the chart in subsection 4(5) below, unless waived by the Planning Official:

a. A tree inventory containing the following:

1) A~~a~~ numbering system of all existing significant trees on the subject property (with corresponding tags on trees); the inventory must also ~~to~~ include significant trees on adjacent property with driplines extending over the subject property line;

2) Limits of disturbance (LOD) ~~Measured driplines~~of all existing significant trees (including approximate LOD of offsite trees with overhanging driplines);

3) ~~s~~Size (DBH);~~, species and~~

4) Proposed ~~T~~tree status (trees to be removed or retained)~~ based on criteria in subsection (2)(c) of this section for all significant trees~~;

5) Brief ~~G~~general health or condition rating of these trees (i.e.: poor, fair, good, excellent, etc.);

6) Tree type or species~~, approximate trunk location,~~ ; ~~and~~

~~7) measured dripline of significant trees that are on adjacent property with driplines extending over the subject property line.~~

b. A site plan depicting the following:

1) Location of all proposed improvements, including building footprint, access, ~~and~~ utilities, ~~with~~ applicable setbacks, buffers, and required landscaped areas clearly identified. If a short plat or subdivision is being proposed and the location of all proposed improvements cannot be established, a phased tree retention plan review is required as described in subsection (6)(a);

2) Accurate location of significant trees on the subject property (surveyed locations may be required). The ~~S~~site plan ~~to~~must also include ~~and~~ the approximate trunk location and ~~driplines~~ critical root zone of significant trees that are on adjacent property with driplines extending over the subject property line;

3) Trees labeled corresponding to the tree inventory numbering system;

~~4) Driplines measured relative to visible site features~~4)Location of tree protection measures;

5) Indicate ~~L~~limits of disturbance drawn to scale around all trees potentially impacted by site disturbances ~~as a result~~resulting from grading, demolition, or construction activities (including approximate LOD of offsite trees with overhanging driplines);

6) Proposed ~~T~~tree status (trees to be removed or retained) ~~(4)()~~noted by an 'X' or by ghosting out;

7) ~~Final plan showing r~~Retained trees ~~and p~~Proposed locations of any supplemental trees and any required trees in order to meet tree density or minimum number of trees as outlined in ~~subsections (2)(b)(1)(d) and (2)(b)(1)(e) of this section~~KZC 95.33.

c. An arborist report containing the following:

1) A complete description of each tree's health, condition, and viability;~~.~~

2) A description of the method(s) used to determine the limits of disturbance (i.e.: critical root zone, root plate diameter, or a case-by-case basis description for individual trees);

3) Any special instructions specifically outlining any ~~for~~ work ~~within~~ proposed within the limits of the disturbance protection area (i.e.: ~~(~~hand-digging, tunneling, root pruning, any grade changes, clearing, monitoring, and aftercare)~~maximum grade change).~~;

4) ~~If a~~For trees ~~is~~ not viable for retention, a description of the reason(s) for removal ~~must be soundly~~ based on poor health, high risk of failure due to structure, defects, unavoidable isolation (windfirmness), or unsuitability of species, etc. and for which no reasonable alternative action is possible must be given (pruning, cabling, etc.);~~.~~

5) Describe ~~T~~the impact of necessary tree removal to the remaining trees, including those in a grove or on adjacent properties~~, must also be discussed.~~;

6) For development applications, a discussion of timing and installation of tree protection measures that must include fencing and be in accordance with the tree protection standards as outlined in ~~subsection (6)~~KZC 95.34 of this section~~.~~; and

7) The suggested location and species of supplemental trees to be used when required. The report shall include planting and maintenance specifications pursuant to KZC 95.~~45~~ 50 and 95.~~50~~51.

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

TREE RETENTION PLAN (new chart)

Development Activity Required Components	Minor [(1)(3)] - Single-Family, or two attached, detached, or stacked dwelling units, and related demolition and land surface modification applications	Major [(2)(3)] Single-Family, or two attached, detached, or stacked dwelling units, and related demolition and land surface modification applications	Multi-Family, Commercial, any other use other than residential, and related demolition and land surface modification applications	Short Plat, Subdivisions, cottages, carriage units, two/three-unit homes, and related demolition and land surface modification applications (see KZC 95.30(6)(a) - Phased Review for additional standards)
TREE INVENTORY AS DESCRIBED IN KZC 95.30(4)(a) FOR:				
All significant trees on the subject property		**X**	**X**	**X**
Significant trees potentially impacted by proposed development activity	**X**			
SITE PLAN AS DESCRIBED IN KZC 95.30(4)(b) TO INCLUDE:				
Surveyed tree locations if required by the Planning Official		**X**	**X**	
Surveyed tree locations				**X**
A final landscape plan showing retained trees			**X**	
REQUIREMENTS IN KZC 95.30(4)(c) SHALL BE PREPARED BY A QUALIFIED PROFESSIONAL AND APPLY TO:				
Significant trees within required yards or within 10 feet of any side property line		**X**		
Significant trees potentially impacted by proposed development activity as determined by the Planning Official			**X**	
Proposed removal of			**X**	

trees with a High Retention Value in required landscaping areas				
All significant trees				X
TREE RETENTION STANDARDS				
Applicant is encouraged to retain viable trees	X(4)			
Retain and protect trees with a High Retention Value to the maximum extent possible		X(4)	X(4)	X(4)
Retain and protect trees with a Moderate Retention Value if feasible		X	X	X
Preservation and maintenance agreements pursuant to KZC 95.51. are required for all remaining trees on the subject property	X	X	X	X(5)
TREE DENSITY				
Tree density requirements shall apply as required in KZC 95.33		X		X
A minimum of two trees must be on the lot following the requirement set forth in KZC 95.33(4)	X			
LANDSCAPING				
Preserved trees in required landscaping areas shall apply toward required landscaping requirements			X	

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

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

(3) For lots ~~from~~ created through a short subdivision, subdivision, or Planned Unit Development with an approved Tree Retention Plan ~~III~~, ~~the tree information shall be transferred over and~~ the applicant must comply with the ~~applicable~~ Tree Retention Plan approved with the short subdivision, subdivision, or Planned Unit Development ~~III requirements~~unless subsection (6)(a) Phased Review below applies.

(4) To retain trees with a High Retention Value~~Type 1 trees in required yards~~, the applicant shall pursue, where feasible, applicable variations in the development standards of this code as outlined in ~~subsections (4)(a)(2) and (4)(a)(3)~~KZC 95.32 of this ~~section~~chapter.

(5) Prior to short plat or subdivision recording

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

a. Phased Review.

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

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

b. Modifications to Tree Retention Plan for Short Plats and Subdivisions. A Tree Retention Plan modification request shall contain information as determined by the Planning Official based on the requirements in KZC 95.30(5) Tree Retention Plan. The fee for processing a modification request shall be established by City ordinance.

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

1) Modification - General. The Planning Official may approve minor modifications to the approved Tree Retention Plan in which the minimum tree density credits associated with trees identified for retention are not decreased.

2) Modification Prior to Tree Removal. The Planning Official may approve a modification request to decrease the minimum number of tree density credits associated with trees previously identified for retention if:

a) Trees inventoried in the original Tree Retention Plan have not yet been removed; and

b) The Planning Official shall not approve or deny a modification pursuant to this section without first providing notice of the modification request consistent with the noticing requirements for the short plat.

3) Modification after Tree Removal. A modification request is required to decrease the minimum number of tree density credits associated with trees previously identified for retention after which trees inventoried in the original Tree Retention Plan have already been removed. Such a request may be approved by the Hearing Examiner only if the following are met:

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

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

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

d) The Hearing Examiner shall not approve or deny a modification pursuant to this section without the Planning Official first providing notice of the modification request consistent with the noticing requirements for the short plat and providing opportunity for comments for consideration by the Hearing Examiner; and~~.~~

e) Said comment period shall not be less than ~~seven~~fourteen calendar days.

95.32 - Incentives and Variations to Development Standards

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

Requirements of the Kirkland Zoning Code may be modified by the Planning Official as outlined below when such modifications would further the purpose and intent of this chapter as set forth in KZC 95.05 and would involve ~~Type 1~~ trees with a High Retention Value.

1. Common Recreational Open Space. Reductions or variations of the area, width, or composition of required common recreational open space, may be granted.

2. Parking Areas and Access. Variations in parking lot design and/or access driveway requirements may be granted when the Public Works and Planning Officials both determine the variations to be consistent with the intent of City policies and codes.

3. Required Yards. Initially, the applicant shall pursue options for placement of required yards as permitted by other sections of this code, such as selecting one front required yard in the RSX zone and adjusting side yards in any zone to meet the 15-foot total as needed for each structure on the site. The Planning Official may also reduce the front or side required yards provided that:

   a. No required side yard shall be less than five feet; and

   b. The required front yard shall not be reduced by more than five feet in residential zones. There shall not be an additional five feet of reduction beyond the allowance provided for covered entry porches.

4. Stormwater. Requirements pertaining to stormwater may be varied if approved by the Public Works Official under KMC 15.52.060.

5. Additional Variations. In addition to the variations described above, the Planning Official is authorized to require site plan alterations to retain ~~Type 1~~ trees with a High Retention Value. Such alterations include minor adjustments to the location of building footprints, adjustments to the location of driveways and access ways, or adjustment to the location of walkways, easements or utilities. The Planning Official and the applicant shall work in good faith to find reasonable solutions.

95.33 - Tree Density Requirement

~~a. Minimum Tree Density Requirement Established.~~ The required minimum tree density is 30 tree credits per acre for single-family homes, cottages, carriage units, two/three-unit homes, short plats, and/or subdivisions and associated demolition and land surface modification. ~~development requiring a Tree Plan I – Major and Tree Plan III.~~ For individual lots in a short subdivision or subdivision with an approved Tree Retention Plan ~~III~~, the tree density shall be calculated ~~based on the entire~~for each lot within the short plat or subdivision. The tree density may consist of existing trees pursuant to the ~~priority established in subsection (4)(a)(1) of this section~~tree's retention value, or supplemental trees or a combination of existing and supplemental trees pursuant to subsection ~~(5)(c)~~(2) of this section. Existing trees transplanted to an area on the same site shall not count toward the required density unless approved by the Urban Forester based on transplant specifications provided by a qualified professional that will ensure a good probability for survival.

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

Tree density calculation for existing individual trees:

a. Diameter breast height (DBH) of the tree shall be measured in inches.

b. The tree credit value that corresponds with DBH shall be found in Table 95.~~35~~33.1.

Table 95.~~35~~33.1

Tree Density for Existing Significant Trees

(Credits per minimum diameter – DBH)

DBH	Tree Credits	DBH	Tree Credits	DBH	Tree Credits
3 – 5″	0.5				
6 – 10″	1	24″	8	38″	15
12″	2	26″	9	40″	16
14″	3	28″	10	42″	17

16″	4	30″	11	44″	18
18″	5	32″	12	46″	19
20″	6	34″	13	48″	20
22″	7	36″	14	50″	21

Example: a 7,200-square-foot lot would need five tree credits (7,200/43,560 = 0.165 X 30 = (4.9) or five). The density for the lot could be met with ~~a~~ one existing 16-inch tree and one existing six-inch tree ~~existing~~ on-site.

2. Supplemental Trees Planted to Meet Minimum Density Requirement. For sites and activities requiring a minimum tree density and where the existing trees to be retained do not meet the minimum tree density requirement, supplemental trees shall be planted to achieve the required minimum tree density.

3. Tree Location. In designing a development and in meeting the required minimum tree density the trees shall be planted in the following order of priority:

   a. On-Site. The preferred locations for new trees are:

      1) In preserved groves, critical areas or their buffers.

      2) Adjacent to stormwater facilities as approved by Public Works under KMC 15.52.060.

      3) Entrance landscaping, traffic islands and other common areas in residential subdivisions.

      4) Site perimeter ~~Site Perimeter~~ – The area of the subject property that is within 10 feet from the property line.

      5) On individual residential building lots.

   b. Off-Site. When room is unavailable for planting the required trees on-site, then they may be planted at another approved location in the City.

   c. City Forestry Account. When the Planning Official determines on-site and off-site locations are unavailable, then the applicant shall pay an amount of money approximating the current market value of the supplemental trees into the City forestry account.

4. Minimum Size and Tree Density Value for Supplemental Trees. The required minimum size of the supplemental tree worth one tree credit shall be six feet tall for a conifer and two-inch caliper for deciduous or broad-leaf evergreen tree. Additional credits may be awarded for larger supplemental trees. The installation and maintenance shall be pursuant to KZC ~~95.45~~ 95.50 and ~~95.50~~ 95.51 respectively.

95.34 - Tree Protection during Development Activity

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

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

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

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

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

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

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

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

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

      1) If equipment is authorized to operate within the critical root zone, cover the areas adjoining the critical root zone of a tree with mulch to a depth of at least six inches or with plywood or similar material in order to protect roots from damage caused by heavy equipment.

      2) Minimize root damage by excavating a two-foot-deep trench, at edge of critical root zone, to cleanly sever the roots of trees to be retained.

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

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

3. Grade.

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

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

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

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

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

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

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

95.40 Required Landscaping

1. User Guide. Chapters 15 through 60 KZC containing the use zone charts assign a landscaping category to each use in each zone. This category is either "A," "B," "C," "D," or "E." If you do not know which landscaping category applies to the subject property, you should consult the appropriate use zone chart.

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

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

a. Various use zone charts, in Chapters 15 through 60 KZC, establish additional or special buffering requirements for some uses in some zones.

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

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

d. Chapter 110 KZC and Chapter 19.36 KMC address vegetation within rights-of-way, except for the I-405, SR-520, and Burlington Northern rights-of-way.

e. KZC 115.135, Sight Distance at Intersections, which may limit the placement of landscaping in some areas.

f. Chapter 22 KMC addresses trees in subdivisions.

2. Use of Significant Existing Vegetation.

a. General. The applicant shall apply subsection KZC ~~95.35(4)~~95.30(3)-Tree Retention Plan Review Procedure and KZC 95.32-Incentives and Variations to Development Standards to retain existing trees and vegetation in areas subject to the landscaping standards of this section. The Planning Official shall give substantial weight to the retained trees and vegetation when determining the applicant's compliance with this section.

b. Supplement. The City may require the applicant to plant trees, shrubs, and groundcover according to the requirements of this section to supplement the existing vegetation in order to provide a buffer at least as effective as the required buffer.

c. Protection Techniques. The applicant shall use the protection techniques described in KZC ~~95.35(6)~~95.34 to ensure the protection of significant existing vegetation.

3. Landscape Plan Required. In addition to the ~~tree plan~~Tree Retention Plan required pursuant to KZC ~~95.35(2)~~95.30, application materials shall clearly depict the quantity, location, species, and size of plant materials proposed to comply with the requirements of this section, and shall address the plant installation and maintenance requirements set forth in KZC ~~95.45~~ 95.50 and ~~95.50~~95.51. Plant materials shall be identified with both their scientific and common names. Any required irrigation system must also be shown.

95.41~~5.~~ Supplemental Plantings.

1. General. The applicant shall provide the supplemental landscaping specified in subsection ~~(5)(b)~~(2) of this section in any area of the subject property that:

a. Is not covered with a building, vehicle circulation area or other improvement; and

b. Is not a critical area, critical area buffer, or in an area to be planted with required landscaping; and

c. Is not committed to and being used for some specific purpose.

2. Standards. The applicant shall provide the following at a minimum:

a. Living plant material which will cover 80 percent of the area to be landscaped within two years. If the material to be used does not spread over time, the applicant shall re-plant the entire area involved immediately. Any area that will not be covered with living plant material must be covered with nonliving groundcover.

b. One tree for each 1,000 square feet of area to be landscaped. At the time of planting, deciduous trees must be at least two inches in caliper and coniferous trees must be at least five feet in height.

c. If a development requires approval through Process I, IIA, IIB or III as described in Chapters 145, 150, 152 and 155 KZC, respectively, the City may require additional vegetation to be planted along a building facade if:

1) The building facade is more than 25 feet high or more than 50 feet long; or

2) Additional landscaping is necessary to provide a visual break in the facade.

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

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

~~4.~~95.42 Minimum Land Use Buffer Requirements.

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

LANDSCAPING CATEGORY ↓	ADJOINING PROPERTY ↓	***Public park or low density residential use or if no permitted use exists on the adjoining property then**	**Medium or high density residential use or if no permitted use exists on the adjoining property then a medium**	**Institutional or office use or if no permitted use exists on the adjoining property then an institutional or office zone.**	**A commercial use or an industrial use or if no permitted use exists on the adjoining property then a commercial**

		a low density zone.	**density or high density zone.**		**or industrial zone.**
A		Must comply with KZC ~~95.40(6)(a)~~ subsection (1) (Buffering Standard 1)	Must comply with KZC subsection (1) ~~95.40(6)(a)~~ (Buffering Standard 1)	Must comply with subsection (2) ~~KZC 95.40(6)(b)~~ (Buffering Standard 2)	
B		Must comply with KZC subsection (1) ~~95.40(6)(a)~~ (Buffering Standard 1)	Must comply with KZC subsection (1) ~~95.40(6)(a)~~ (Buffering Standard 1)		
C		Must comply with KZC subsection (1) ~~95.40(6)(a)~~ (Buffering Standard 1)	Must comply with KZC ~~95.40(6)(b)~~ subsection (2) (Buffering Standard 2)		
D		Must comply with KZC subsection (2) ~~95.40(6)(b)~~ (Buffering Standard 2)			
E					
Footnotes:		*If the adjoining property is zoned Central Business District, Juanita Business District, North Rose Hill Business District, Rose Hill Business District, Totem Center or is located in TL 5, this section, KZC ~~95.40(6)~~95.42 does not apply.			

~~1. Land Use Buffering Standards. The~~ This chart ~~in subsection (4) of this section~~ establishes which buffering standard applies in a particular case. The following subsections establish the specific requirement for each standard:

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

a. Trees planted at the rate of one tree per 20 linear feet of land use buffer, with deciduous trees of two and one-half inch caliper, minimum, and/or coniferous trees eight feet in height, minimum. At least 70 percent of trees shall be evergreen. The trees shall be distributed evenly throughout the buffer, spaced no more than 20 feet apart on center.

b. Large shrubs or a mix of shrubs planted to attain coverage of at least 60 percent of the land use buffer area within two years, planted at the following sizes and spacing, depending on type:

1) Low shrub – (mature size under three feet tall), one- or two-gallon pot or balled and burlapped equivalent);

2) Medium shrub – (mature size from three to six feet tall), two- or three-gallon pot or balled and burlapped equivalent);

3) Large shrub – (mature size over six feet tall), five-gallon pot or balled and burlapped equivalent).

c. Living ground covers planted from either four-inch pot with 12-inch spacing or one-gallon pot with 18-inch spacing to cover within two years 60 percent of the land use buffer not needed for viability of the shrubs or trees.

2. For standard 2, the applicant shall provide a five-foot-wide landscaped strip with a six-foot-high solid screening fence or wall. Except for public utilities, the fence or wall must be placed on the outside edge of the land use buffer or on the property line when adjacent to private property. For public utilities, the fence or wall may be placed either on the outside or inside edge of the landscaping strip. A fence or wall is not required when the land use buffer is adjacent and parallel to a public right-of-way that is improved for vehicular use. See KZC 115.40 for additional fence standards. The landscaped strip must be planted as follows:

a. One row of trees planted no more than 10 feet apart on center along the entire length of the buffer, with deciduous trees of two inch caliper, minimum, and/or coniferous trees at least six feet in height, minimum. At least 50 percent of the required trees shall be evergreen.

b. Living ground covers planted from either four-inch pot with 12-inch spacing or one-gallon pot with 18-inch spacing to cover within two years 60 percent of the land use buffer not needed for viability of the trees.

3. Plant Standards. All plant materials used shall meet the most recent American Association of Nurserymen Standards for nursery stock: ANSI Z60.1.

4. Location of the Land Use Buffer. The applicant shall provide the required buffer along the entire common border between the subject property and the adjoining property.

5. Multiple Buffering Requirement. If the subject property borders more than one adjoining property along the same property line, the applicant shall provide a gradual transition between different land use buffers. This transition must occur totally within the area which has the less stringent buffering requirement. The specific design of the transition must be approved by the City.

6. Adjoining Property Containing Several Uses. If the adjoining property contains several permitted uses, the applicant may provide the least stringent land use buffer required for any of these uses.

7. Subject Property Containing Several Uses. If the subject property contains more than one use, the applicant shall comply with the land use buffering requirement that pertains to the use within the most stringent landscaping category that abuts the property to be buffered.

8. Subject Property Containing School. If the subject property is occupied by a school, land use buffers are not required along property lines adjacent to a street.

9. Encroachment into Land Use Buffer. Typical incidental extensions of structures such as chimneys, bay windows, greenhouse windows, cornices, eaves, awnings, and canopies may be permitted in land use buffers as set forth in KZC 115.115(3)(d); provided, that:

   a. Buffer planting standards are met; and

   b. Required plantings will be able to attain full size and form typical to their species.

95.43~~k.~~ Outdoor ~~use~~Use, ~~activity~~Activity, and ~~storage~~Storage

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

1. That portion of an outdoor use, activity, or storage area which abuts another outdoor use, activity, or storage area which is located on property zoned for commercial or industrial use.

2. Outdoor use, activity, and storage areas which are located adjacent to a fence or structure which is a minimum of six feet above finished grade; and do not extend outward from the fence or structure more than five feet; provided, that the total horizontal dimensions of these areas shall not exceed 50 percent of the length of the facade or fence (see Plate 11).

3. If there is an improved path or sidewalk in front of the outdoor storage area, the outdoor use, activity or storage area may extend beyond five feet if a clearly defined walking path at least three feet in width is maintained and there is adequate pedestrian access to and from the primary use. The total horizontal dimension of these areas shall not exceed 50 percent of the length of the facade of the structure or fence (see Plate 11).

4. Outdoor dining areas.

5. That portion of an outdoor display of vehicles for sale or lease which is adjacent to a public right-of-way that is improved for vehicular use; provided, that it meets the buffering standards for driving and parking areas in ~~subsections (7)(b)(1)(a) and (7)(b)(1)(b) of this section~~KZC 95.45(1); and provided further, that the exemptions of ~~subsection (7)(b)(2) of this section~~KZC 95.45(2) do not apply unless it is fully enclosed within or under a building, or is on top of a building and is at least one story above finished grade.

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

~~7. Landscaping and Buffering Standards for Driving and Parking Areas.~~**95.44Internal Parking Lot Landscaping Requirements**

~~a. Landscaping — General.1)~~ The following internal parking lot landscape standards apply to each parking lot or portion thereof containing more than eight parking stalls.

1. The parking lot must contain 25 square feet of landscaped area per parking stall planted ~~pursuant to subsections (7)(a)(1)(b) and (c) of this section~~as follows;

   ~~2~~a. The applicant shall arrange the required landscaping ~~required in subsection (7)(a)(1)(a) of this section~~ throughout the parking lot to provide landscape islands or peninsulas to separate groups of parking spaces (generally every eight stalls) from one another and each row of spaces from any adjacent driveway that runs perpendicular to the row. This island or peninsula must be surrounded by a six-inch-high vertical curb, be of similar dimensions as the adjacent parking stalls. ~~and planted pursuant to the standards in subsection (7)(a)(1)(c) of this section:~~

   ~~3~~b. Landscaping shall be installed pursuant to the following standards:

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

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

   ~~4~~c. Exception. The requirements of this subsection do not apply to any area that is fully enclosed within or under a building.

~~5~~2. Rooftop Parking Landscaping. For a driving or parking area on the top level of a structure that is not within the CBD zone or within any zone that requires design regulation compliance, one planter that is 30 inches deep and five feet square must be provided for every eight stalls on the top level of the structure. Each planter must contain a small tree or large shrub suited to the size of the container and the specific site conditions, including desiccating winds, and is clustered with other planters near driving ramps or stairways to maximize visual effect.

~~6~~3. If development is subject to Design Review as described in Chapter 142 KZC, the City will review the parking area design, plant choice and specific plant location as part of the Design Review approval. The City may also require or permit modification to the required landscaping and design of the parking area as part of Design Review approval.

95.45.~~b.~~ Perimeter Landscape **Buffering for Driving and Parking Areas.**

1. Perimeter Buffering – General. Except as specified in subsection ~~(7)(b)~~(2) of this section, the applicant shall buffer all parking areas and driveways from abutting rights-of-way and from adjacent property with a five-foot-wide strip along the perimeter of the parking areas and driveways planted as follows (see Figure 95.45.A):

   a. One row of trees, two inches in caliper and planted 30 feet on center along the entire length of the strip.

   b. Living groundcover planted to attain coverage of at least 60 percent of the strip area within two years.

2. Exception. The requirements of ~~subsection (7)(b)(1) of~~ this section do not apply to any parking area that:

   a. Is fully enclosed within or under a building; or

   b. Is on top of a building and is at least one story above finished grade; or

   c. Serves detached dwelling units exclusively; or

   d. Is within any zone that requires design regulation compliance. See below for Design District requirements.

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

   a. By providing a landscape strip at least five feet wide planted consistent with ~~subsection (7)(b)(1) of this section~~KZC 95.45(1), or in combination with the following. In the RHBD Regional Center (see KZC Figure 92.05.A) a 10-foot perimeter landscape strip along NE 85th Street is required planted consistent with subsection ~~(7)(b)~~(1) of this section.

   b. The hedge or wall must extend at least two feet, six inches, and not more than three feet above the ground directly below it.

   c. The wall may be constructed of masonry or concrete, if consistent with the provisions of KZC 92.35(1)(g), in building material, color and detail, or of wood if the design and materials match the building on the subject property.

   d. In JBD zones:

1) If the street is a pedestrian-oriented street, the wall may also include a continuous trellis or grillwork, at least five feet in height above the ground, placed on top of or in front of the wall and planted with climbing vines. The trellis or grillwork may be constructed of masonry, steel, cast iron and/or wood.

2) If the wall abuts a pedestrian-oriented street, the requirements of this subsection may be fulfilled by providing pedestrian weather protection along at least 80 percent of the frontage of the subject property.

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

4. Overlapping Requirements. If buffering is required ~~under subsection (6) of this section~~in KZC 95.42, Land Use Buffering Standards, and by this subsection, the applicant shall utilize the more stringent buffering requirement.

Perimeter Parking Lot Landscaping

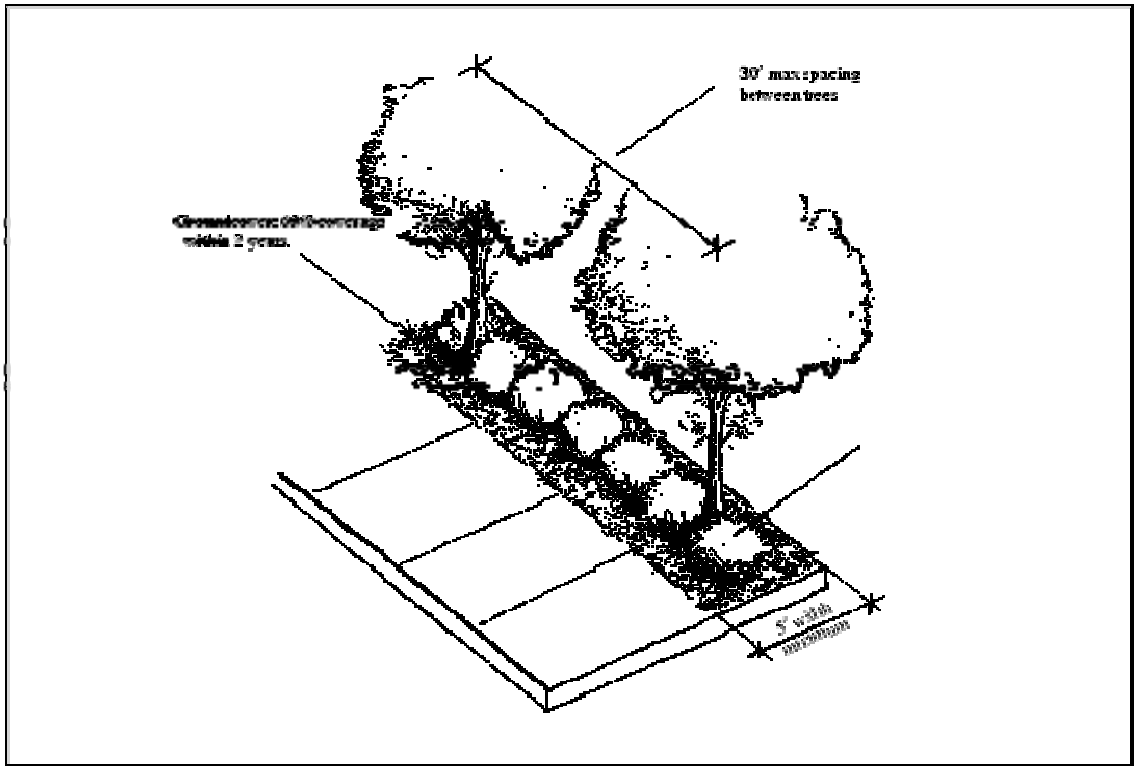

FIGURE 95.45.A

Perimeter Parking – Examples of Various Screen Wall Designs

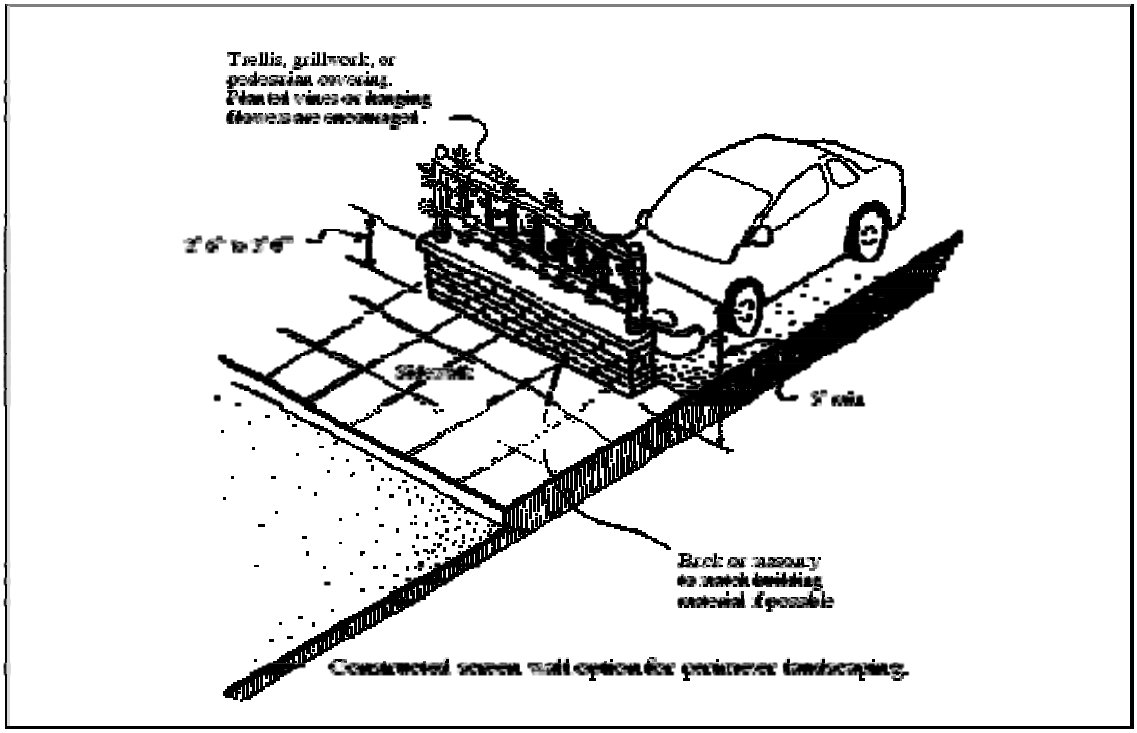

FIGURE 95.45.B

Perimeter Parking – Examples of Various Screen Wall Designs

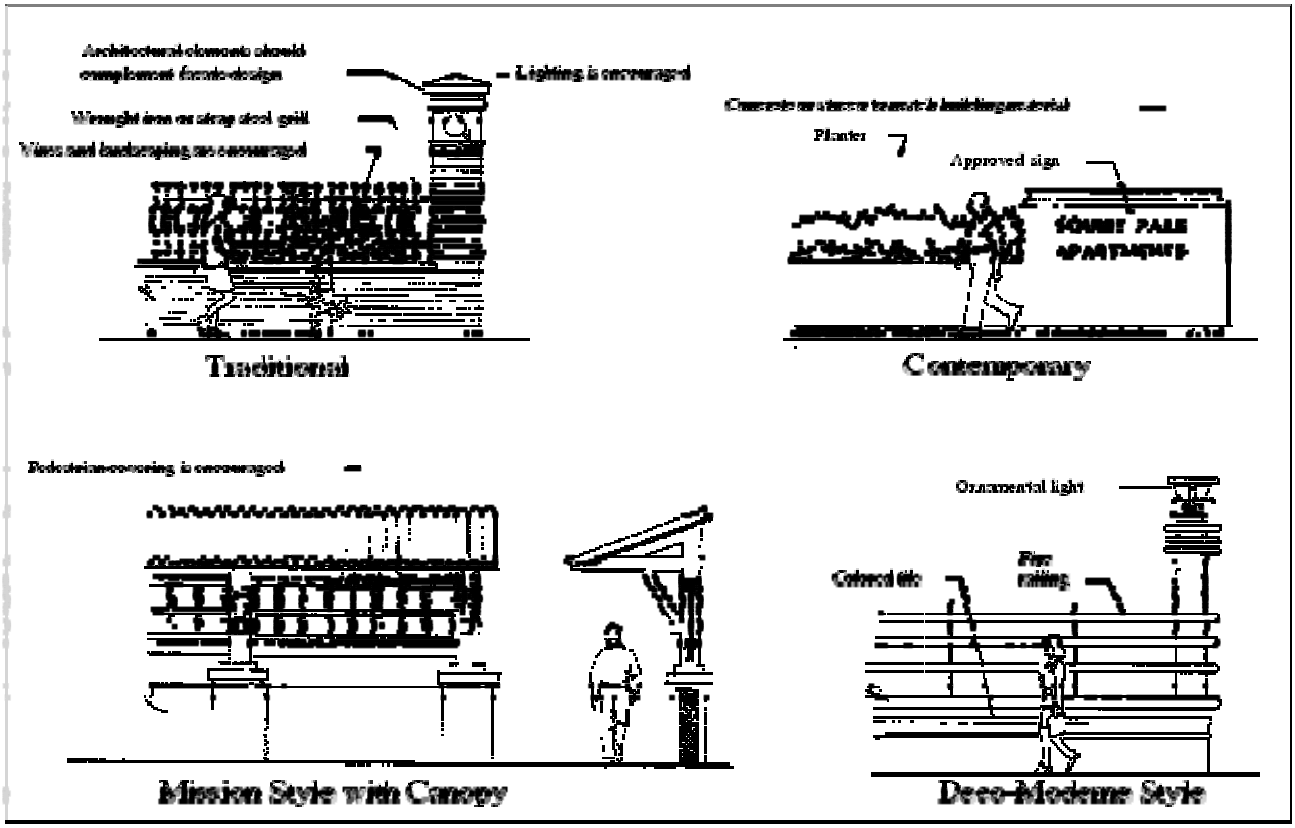

FIGURE 95.45.C

95.46~~c.~~ Modifications ~~of~~to Landscaping ~~and Buffering~~ Standards ~~for Driving and Parking Areas~~.

~~j.~~ 1. Modification to Land Use Buffer Requirements. The applicant may request a modification of the requirements of the buffering standards ~~of subsection (6) of this section~~in KZC 95.42. The Planning Official may approve a modification if:

a. The owner of the adjoining property agrees to this in writing; and

b. The existing topography or other characteristics of the subject property or the adjoining property, or the distance of development from the neighboring property decreases or eliminates the need for buffering; or

c. The modification will be more beneficial to the adjoining property than the required buffer by causing less impairment of view or sunlight; or

d. The Planning Official determines that it is reasonable to anticipate that the adjoining property will be redeveloped in the foreseeable future to a use that would require no, or a less intensive, buffer; or

e. The location of pre-existing improvements on the adjoining site eliminates the need or benefit of the required landscape buffer.

2.~~1)~~ ~~Authority to Grant and Duration.~~Modifications to General Landscaping Requirements

a. Authority to Grant and Duration. If the proposed development of the subject property requires approval through Design Review or Process I, IIA, IIB, or III, described in Chapters 142, 145, 150, 152, and 155 KZC, respectively, a request for a modification will be considered as part of that process under the provisions of this section. The City must find that the applicant meets the applicable criteria listed in subsections (2)(b) and (2)(c) ~~(7)(c)(2)~~ of this section. If granted under Design Review or Process I, IIA, IIB, or III, the modification is binding on the City for all development permits issued for that development under the building code within five years of the granting of the modification.

If ~~subsection (7)(1)(a) of this section~~the above does not apply, the Planning Official may grant a modification in writing under the provisions of this section.

b. Internal parking lot landscaping Modifications. For a modification to the internal parking lot landscaping requirements in KZC 95.44~~of subsection (7)(a) of this section~~, the landscape requirements may be modified if:

1) The modification will produce a landscaping design in the parking area comparable or superior to that which would result from adherence to the adopted standard; or

2) The modification will result in increased retention of significant existing vegetation; or

3) The purpose of the modification is to accommodate low impact development techniques as approved by the Planning Official.

c. Perimeter parking lot and driveway landscaping. For a modification to ~~subsection (7)(b) of this section~~the perimeter landscaping for parking lots and driveways, the buffering requirements for parking areas and driveways may be modified if:

1) The existing topography of or adjacent to the subject property decreases or eliminates the need for visual screening; or

2) The modification will be of more benefit to the adjoining property by causing less impairment of view or sunlight; or

3) The modification will provide a visual screen that is comparable or superior to the buffer required by ~~subsection (7)(b) of this section~~KZC 95.45; or

4) The modification eliminates the portion of the buffer that would divide a shared parking area serving two or more adjacent uses, but provides the buffer around the perimeter of the shared parking area.

95.47~~8~~ Nonconforming Landscaping and Buffers.

1. The landscaping requirements of ~~subsections (5) and (7)~~KZC 95.41 Supplemental Plantings, KZC 95.43 Outdoor Use and Storage, KZC 95.44 Internal Parking Lot Landscaping, and KZC 95.45 Perimeter Landscape Buffering for Driving and Parking Areas of this section must be brought into conformance as much as is feasible, based on available land area, in either of the following situations:

   a. An increase of at least 10 percent in gross floor area of any structure; or

   b. An alteration to any structure, the cost of which exceeds 50 percent of the replacement cost of the structure.

2. Land use buffers must be brought into conformance with ~~subsection (6) of this section~~KZC 95.42 in either of the following situations:

   a. An increase in gross floor area of any structure (the requirement to provide conforming buffers applies only where new gross floor area impacts adjoining property); or

   b. A change in use on the subject property and the new use requires larger buffers than the former use.

95.~~45~~ 50 Installation Standards for Required Plantings

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

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

~~1. Street Trees. Street trees are not subject to the regulations of this chapter and are not counted toward any landscaping required by this chapter. Street trees are regulated by Chapter 110 KZC and Chapter 19.36 KMC.~~

~~2~~1. Compliance. It is the applicant's responsibility to show that the proposed landscaping complies with the regulations of this chapter.

~~3~~2. Timing. All landscaping shall be installed prior to the issuance of a certificate of occupancy, except that the installation of any required tree or landscaping may be deferred during the summer months to the next planting season, but never for more than six months. Deferred

installation shall be secured with a performance bond pursuant to Chapter 175 KZC prior to the issuance of a certificate of occupancy.

~~4~~3. Grading. Berms shall not exceed a slope of two horizontal feet to one vertical foot (2:1).

~~5.~~4 Soil Specifications. Soils in planting areas shall have adequate porosity to allow root growth. Soils which have been compacted to a density greater than one and three-tenths grams per cubic centimeters shall be loosened to increase aeration to a minimum depth of 24 inches or to the depth of the largest plant root ball, whichever is greater. Imported topsoils shall be tilled into existing soils to prevent a distinct soil interface from forming. After soil preparation is completed, motorized vehicles shall be kept off to prevent excessive compaction and underground pipe damage. The organic content of soils in any landscape area shall be as necessary to provide adequate nutrient and moisture-retention levels for the establishment of plantings. See subsection (~~8~~9) of this section for mulch requirements.

~~6~~5. Plant Selection.

a. Plant selection shall be consistent with the Kirkland Plant List, which is produced by the City's Natural Resource Management Team and available in the Department of Planning and Community Development.

b. Plants shall be selected and sited to produce a hardy and drought-resistant landscape area. Selection shall consider soil type and depth, the amount of maintenance required, spacing, exposure to sun and wind, the slope and contours of the site, and compatibility with existing native vegetation preserved on the site. Preservation of existing vegetation is strongly encouraged.

c. Prohibited Materials. Plants listed as prohibited in the Kirkland Plant List are prohibited in required landscape areas. Additionally, there are other plants that may not be used if identified in the Kirkland Plant List as potentially damaging to sidewalks, roads, underground utilities, drainage improvements, foundations, or when not provided with enough growing space.

d. All plants shall conform to American Association of Nurserymen (AAN) grades and standards as published in the "American Standard for Nursery Stock" manual.

e. Plants shall meet the minimum size standards established in other sections of the KZC.

f. Multiple-stemmed trees may be permitted as an option to single-stemmed trees for required landscaping provided that such multiple-stemmed trees are at least 10 feet in height and that they are approved by the Planning Official prior to installation.

~~7~~6. Fertilization. All fertilizer applications to turf or trees and shrubs shall follow Washington State University, National Arborist Association or other accepted agronomic or horticultural standards.

~~8~~7. Irrigation. The intent of this standard is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. All required plantings must provide an irrigation system, using either Option 1, 2, or 3 or a combination

of those options. For each option irrigation shall be designed to conserve water by using the best practical management techniques available. These techniques may include, but not be limited to: drip irrigation to minimize evaporation loss, moisture sensors to prevent irrigation during rainy periods, automatic controllers to insure proper duration of watering, sprinkler head selection and spacing designed to minimize overspray, and separate zones for turf and shrubs and for full sun exposure and shady areas to meet watering needs of different sections of the landscape.

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

a. Option 1. A permanent built-in irrigation system with an automatic controller designed and certified by a licensed landscape architect as part of the landscape plan.

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

c. Option 3. Irrigation by hand. If the applicant chooses this option, an inspection will be required one year after final inspection to ensure that the landscaping has become established.

~~9~~8. Drainage. All landscapes shall have adequate drainage, either through natural percolation or through an installed drainage system. A percolation rate of one-half inch of water per hour is acceptable.

~~10~~9. Mulch.

a. Required plantings, except turf or areas of established ground cover, shall be covered with two inches or more of organic mulch to minimize evaporation and runoff. Mulch shall consist of materials such as yard waste, sawdust, and/or manure that are fully composted.

b. All mulches used in planter beds shall be kept at least six inches away from the trunks of shrubs and trees.

~~11~~10. Protection. All required landscaped areas, particularly trees and shrubs, must be protected from potential damage by adjacent uses and development, including parking and storage areas. Protective devices such as bollards, wheel stops, trunk guards, root guards, etc., may be required in some situations.

~~12~~11. Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Plants intended to mitigate for the loss of natural resource values are subject to the following requirements in addition to the other landscaping requirements ~~of~~ found in KZC ~~95.45~~95.40 through KZC 95.45. Where these requirements conflict with other requirements of this

chapter, these requirements take precedence. Refer to Chapters 85 and 90 KZC for additional requirements for these areas.

a. Plant Source. Plant materials must be native and selected from the Kirkland Plant List. Seed source must be as local as possible, and plants must be nursery propagated unless transplanted from on-site areas approved for disturbance. These requirements must be included in the Mitigation Plan specifications.

b. Installation. Plant materials must be supported only when necessary due to extreme winds at the planting site. Where support is necessary, stakes, guy wires, or other measures must be removed as soon as the plant can support itself, usually after the first growing season. All fertilizer applications to turf or trees and shrubs shall follow Washington State University, National Arborist Association or other accepted agronomic or horticultural standards.

c. Fertilizer Applications. Fertilizers shall be applied in such a manner as to prevent its entry into waterways and wetlands and minimize its entry into storm drains. No applications shall be made within 50 feet of a waterway or wetland, or a required buffer as established by the City codes (such as Chapter 90 KZC) or Kirkland Shoreline Master Program (SMP, KMC Title 24), whichever is greater, unless specifically authorized in an approved mitigation plan or otherwise authorized in writing by the Planning Official.

95.~~50~~ 51 Tree and Landscape Maintenance Requirements

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

1. Responsibility for Regular Maintenance. Required trees and vegetation, fences, walls, and other landscape elements shall be considered as elements of the project in the same manner as parking, building materials, and other site details. The applicant, landowner, or successors in interest shall be responsible for the regular maintenance of required landscaping elements. Plants that die must be replaced in kind. It is also the responsibility of the property owner to maintain street trees abutting their property pursuant to KZC 95.21.

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

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

b. Any existing tree or other existing vegetation designated for preservation ~~on a Tree Plan I – Major, a Tree Plan II, or a Tree Plan III~~in a Tree Retention Plan shall be maintained for a period of five years following issuance of the certificate of occupancy for the individual lot or development. After five years, all trees on the property are subject to KZC ~~95.20~~ 95.23 unless:

1) The tree and associated vegetation are in a grove that is protected pursuant to subsection (3) of this section; or

2) The tree or vegetation is considered to be a public benefit related to approval of a planned unit development; or

3) The tree or vegetation was retained to partially or fully meet requirements of KZC 95.40 through KZC 95.45, Required Landscaping.

3. Maintenance of Preserved Grove. Any applicant who has a grove of trees identified for preservation on an approved ~~tree plan~~Tree Retention Plan pursuant to KZC ~~95.35(4)(a)(1)(b)~~95.30(2) shall provide prior to occupancy the legal instrument acceptable to the City to ensure preservation of the grove and associated vegetation in perpetuity, except that the agreement may be extinguished if the Planning Official determines that preservation is no longer appropriate.

4. Maintenance of Critical Area and Critical Area Buffers. In critical areas and their buffers, native vegetation is not to be removed without City approval pursuant to KZC ~~95.35(4)(c)~~95.23(5)(d). However, it is the responsibility of the property owner to maintain critical areas and their buffers by removing non-native, invasive, and noxious plants in a manner that will not harm critical areas or their buffers. See also subsection (6) of this section and Chapters 85 and 90 KZC for additional requirements for trees and other vegetation within critical areas and critical area buffers.

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

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

7. Landscape Plans and Utility Plans. Landscape plans and utility plans shall be coordinated. In general, the placement of trees and large shrubs should adjust to the location of required utility routes both above and below ground. Location of plants shall be based on the plant's mature size both above and below ground. See the Kirkland Plant List for additional standards.

95.52 Prohibited Vegetation

Plants listed as prohibited in the Kirkland Plant List shall not be planted in the City.

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

95.55 Enforcement and Penalties

1. Intent. These enforcement and penalty provisions have several purposes. First, they are intended to discourage damage or removal of significant trees above and beyond what is permitted under this chapter. Second, these enforcement and penalty provisions are intended to provide complete and effective restoration of areas in which violations of this chapter occur. Finally, these regulations are intended to provide a clear and efficient process for addressing violations of this chapter.

   The City may utilize one or more of several remedies when responding to violations of this chapter. In almost all cases where a violation has occurred, the City will issue a civil citation that describes the nature of the violation, the actions necessary to remedy the violation, and the amount of any civil penalty, among other things. If the acts that constitute a violation appear to be ongoing, the City may also issue a notice of cease and desist. Failure to adhere to a notice to cease and desist will result in imposition of additional civil penalties. If there is a pending development or building permit, the City may also issue a stop work order or withhold issuance of permit approval or a certificate of occupancy. Finally, additional fines may be imposed if a violator does not follow through in a timely manner with restoration work or other compliance issues.

2. General Requirements. Enforcement shall be conducted in accordance with procedures set forth in Chapter 170 KZC. Special enforcement provisions related to tree conservation are set forth below. To the extent there is a conflict between the provisions of this section and Chapter 170 KZC, this section shall control.

   For code enforcement provisions regarding street trees and trees located on City property see Kirkland Municipal Code Chapter 19.36.

3. Authority. It shall be the duty of the Planning Official to administer the provisions of this chapter. The Planning Official shall have authority to enforce and carry out the provisions of this chapter.

4. Cease and Desist. The Planning Official may issue a notice to cease and desist using the procedure set forth in KZC 170.30 if the Planning Official 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.

5. Stop Work Order. If a violation of this chapter or an approved T~~t~~ree Retention ~~p~~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 Chapter 21.06 KMC.

6. Civil Citation. The City's Code Enforcement Officer shall notify a person who violates this chapter by issuance of a civil citation. The civil citation shall be in writing, and issued by certified mail with return receipt requested, or by personal service. The civil citation shall contain the following:

   a. The name and address of the property owner or other person to whom the civil citation is directed;

   b. The street address or description sufficient for identification of the land upon which the violation has occurred or is occurring;

   c. A description of the violation and a reference to the provisions of this chapter that have been violated;

   d. A statement of the restoration action required to be taken to correct the violation as determined by the Planning Official;

   e. A statement of the civil penalty incurred for each violation;

   f. A statement that the person to whom the civil citation is issued must correct the violation through restoration described in subsection (8) of this section and may pay the civil penalty or may appeal the civil citation as provided in this section.

Note: Section 95.55 continues on page 636.23.

7. Civil Penalty.

   a. A person who fails to comply with the requirements of this chapter or the terms of a permit issued hereunder, 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 Table 95.55.1. Each unlawfully removed or damaged tree shall constitute a separate violation.

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

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

Table 95.55.1 – Penalties

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

8. Tree Restoration.

a. Violators of this chapter or of a permit issued thereunder shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the Planning Official, which provides for repair of any environmental and property damage, and restoration of the site; and which results in a site condition that, to the greatest extent practical, equals the site condition that would have existed in the absence of the violation(s). 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 Planning Official 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.

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

1) The number of trees required to be planted is equal to the number of tree credits of illegally removed trees according to Table 95.~~35~~33.1.

2) 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.

3) 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.

4) 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.

9. Failure to Restore or Pay Fines.

a. 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 Planning Official and by payment of any penalty imposed for the violation.

b. 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. The fines shall continue to accrue until the violation has been certified to be corrected by the Planning Department. The property owner or occupant may appeal the order imposing fines to the hearing examiner using the procedures set forth in subsection 10 of this section.

10. Appeal to Hearing Examiner.

a. A person to whom a civil citation or order imposing fines is directed may appeal the civil citation, including the determination that a violation exists or the amount of any monetary penalty imposed, to the Hearing Examiner.

b. A person may appeal the civil citation or order imposing fines by filing a written notice of appeal with the Department of Planning and Community Development within 14 calendar days of the date of service of the civil citation or order imposing fines.

c. Fines that accrue on a daily basis shall not be imposed while an appeal is pending unless the Hearing Examiner determines that the appeal is frivolous or imposed solely for the purpose of delay.

d. If both a civil citation and an order to cease and desist have been issued in the same case, and both the civil citation and the order to cease and desist have been appealed, the appeals shall be consolidated for hearing.

e. The office of the Hearing Examiner shall give notice of the hearing to the appellants at least 17 calendar days prior to the hearing.

f. The Hearing Examiner shall conduct a hearing on the appeal pursuant to the rules of procedure provided for in the Administrative Procedures Act (Chapter 34.05 RCW) and in accordance with any rules for hearings promulgated by the Hearing Examiner. The City

and the appellant may participate as parties in the hearing and each may call witnesses. The City shall have the burden of proof by a preponderance of the evidence that a violation has occurred.

11. Hearing Examiner Decision.

a. The Hearing Examiner shall determine whether the City has proven by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend, or modify the amount of any monetary penalty imposed by the civil citation, with or without written conditions.

b. In the event that the Hearing Examiner determines that a violation has occurred, the Hearing Examiner shall also consider the following in making his or her decision: (1) whether the appeal is frivolous or intended to delay compliance; (2) whether the appellant exercised reasonable and timely effort to comply with applicable development regulations; and (3) any other relevant factors.

c. The Hearing Examiner shall mail a copy of his or her decision to the appellant, by certified mail, postage prepaid, return receipt requested.

d. The decision of the Hearing Examiner may be reviewed in King County Superior Court using the standards set forth in RCW 36.70C.130. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision by the Hearing Examiner (see Chapter 36.70C RCW for more information).

95.~~30~~ 57 City Forestry Account

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

a. Agreed upon restoration payments imposed under KZC 95.55 or settlements in lieu of penalties;

b. Sale of trees or wood from City property where the proceeds from such sale have not been dedicated to another purpose;

c. Donations and grants for tree purposes;

d. Sale of seedlings by the City; and

e. Other monies allocated by the City Council.

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

a. Acquiring, maintaining, and preserving wooded areas within the City;

b. Planting and maintaining trees within the City;

~~c. Identification and maintenance of landmark trees;~~

~~d~~c. Establishment of a holding public tree nursery;

~~e~~d. Urban forestry education;

e. Implementation of a tree canopy monitoring program; or

f. Other purposes relating to trees as determined by the City Council.

REVISIONS TO KIRKLAND ZONING CODE

NEW CODE REFERENCES TO REVISED KZC CHAPTER 95

KZC 90.05 User Guide

These regulations apply to activities, work, and conditions in or near any stream, wetland, frequently flooded area, or lake in the City. These regulations add to and in some cases supersede other City regulations. Anyone interested in conducting any development activity on or near a wetland, stream, lake, or frequently flooded area; wishing to participate in the City's decision on a proposed development on or near any of these areas; or wishing to have a determination made as to the presence of one of these areas on his or her property, should read these regulations. See also KZC 95.23.5.d.3~~95.35(4)(d)~~, ~~Tree Plan Review Standards~~ – Trees in Critical Areas or Critical Area Buffers; and KZC ~~95.45(12)~~95.50.11, Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers.

90.45 Wetland Buffers and Setbacks

1. No land surface modification shall occur and no improvement may be located in a wetland or its buffer, except as provided in this section. See also KZC ~~95.35(4)(d)~~95.23(5)(d)(2), ~~Tree Plan Review Standards~~ – Trees in Critical Areas or Critical Area Buffers; and KZC ~~95.45(12)~~95.50(11), Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Required, or standard, buffers for wetlands are as follows:

90.65 Wetland Restoration

Planning Official approval is required prior to wetland restoration. The Planning Official may permit or require the applicant or property owner to restore and maintain a wetland and/or its buffer by removing material detrimental to the area, such as debris, sediment, or vegetation. The Planning Official may also permit or require the applicant to restore a wetland or its buffer through the addition of native plants and other habitat features. See also KZC 95.23(5)(d)(2)~~95.35(4)(d)~~, ~~Tree Plan Review Standards~~ – Trees in Critical Areas or Critical Area Buffers; and KZC 95.50(11)~~95.45(12)~~, Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Restoration may be required whenever a condition detrimental to water quality or habitat exists. When wetland restoration is required by the City, the requirements of KZC 90.55(4), Compensatory Mitigation, shall apply.

90.90 Stream Buffers and Setbacks

1. Stream Buffers – No land surface modification shall occur and no improvement may be located in a stream or its buffer, except as provided in this section. See also KZC 95.23(5)(d)(2)~~95.35(4)(d)~~, ~~Tree Plan Review Standards~~ – Trees in Critical Areas or Critical Area Buffers; and KZC 95.50(11)~~95.45(12)~~, Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Required, or standard, buffers for streams are as follows:

90.120 Stream Rehabilitation

Planning Official approval is required prior to stream rehabilitation. The Planning Official may permit or require the applicant or property owner to restore and maintain a stream and/or its buffer by removing material detrimental to the stream and its surrounding area such as debris, sediment, or vegetation. The Planning Official may also permit or require the applicant to restore a stream or its buffer through the addition of native plants and other habitat features. See also KZC 95.23(5)(d)(2)~~95.35(4)(d)~~, ~~Tree Plan Review Standards –~~Trees in Critical Areas or Critical Area Buffers; and KZC 95.50(11)~~95.45(12)~~, Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers. Restoration may be required at any time that a condition detrimental to water quality or habitat exists. When stream rehabilitation is required by the City, the mitigation plan and monitoring requirements of KZC 90.55(4), shall apply.

KZC 92.10.3. Building Placement In RHBD and TLN

a. Building Location Featuring Pedestrian-Oriented Facades in RHBD and TLN Zones – Buildings may be located adjacent to the sidewalk of any street (except west of 124th Avenue NE), if they contain a pedestrian-oriented facade along that street frontage pursuant to the standards in subsection (2) of this section. As part of the Design Review process, required yards, setbacks or other development standards may be modified along the street frontage. Buildings not featuring a pedestrian-oriented facade along a street must provide a building setback of at least 10 feet from any public street (except areas used for pedestrian or vehicular access) landscaped with a combination of trees, shrubs, and groundcover per the requirements of supplemental landscape standards of KZC ~~95.40(5)(b)~~95.41.2.

KZC 92.103.f. RHBD East End – Rear Yard Building Placement – Pursuant to KZC 95.40 through KZC 95.45, in most cases, commercial uses shall install a required landscaped buffer adjacent to single-family properties. By requesting a modification to these provisions, the property owners may negotiate an agreement to reduce the landscape buffer/setback in a way that can benefit both parties.

Where buildings are sited towards the rear of the property, the applicant must utilize one of the following standards to minimize impacts to adjacent residential areas (see Figure 92.10.C and options below):

1) Meet the required landscape buffer pursuant to KZC ~~95.40~~95.42.

KZC 92.35 Building Material, Color and Detail

e. Trellises or arbors having an area of at least 100 square feet and planted consistent with the requirements of KZC ~~95.40(5)~~95.41 to achieve at least 30 percent coverage of the trellis or arbor with plant material within three years.

KZC 78.35.2.e. Required Landscaping. The requirements of Chapter 95 KZC apply. An SCTF shall satisfy the requirements of Landscape Category A pursuant to KZC ~~95.40(4)~~95.42, except that if an SCTF is proposed adjoining a commercial or industrial use or zone, the SCTF must comply with KZC ~~95.40(5)~~95.41 Supplemental Plantings and ~~(6)(b)~~95.42.2 (Buffering

Standard 2). The landscape buffers shall be placed between the property line and the solid screening fence.

KZC 113.25

Tree Retention	The Tree Retention Plan Standards contained in KZC 95.3595.30 ~~for Tree Plan III~~ shall apply to development approved under this chapter.

KZC 162.35.6 <u>Nonconforming Landscaping, Buffers and Paving</u>

a. See KZC 95.4095.47 for nonconforming landscaping and buffering requirements.

KZC 115.105.2.d. <u>Exceptions to Outdoor Use, Activity or Storage</u> – The following outdoor uses and activities, when located in commercial and industrial zones, are exempt from the requirements of this section as stated below:

1) Exceptions to subsections (2)(c)(1) through (5) of this section; provided, that a temporary certificate of occupancy from the Building Department is obtained:

a) Outdoor Christmas tree lots and fireworks stands if these uses will not exceed 30 days.

b) Outdoor amusement rides, carnivals and circuses, and parking lot sales which are ancillary to the indoor sale of the same goods and services if these uses will not exceed seven days.

2) See KZC 95.4095.43 for exceptions to subsections (2)(c)(1) and (2)(c)(2) of this section.

CITY OF KIRKLAND

123 FIFTH AVENUE KIRKLAND, WASHINGTON 98033-6189 (425) 828-1257

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT MEMORANDUM

To: Interpretation File 91-3

From: Joseph W. Tovar

Date: July 24, 1991

Subject: KZC 95.40 – BONDS – ESTABLISHMENT OF TWO-YEAR MAINTENANCE AGREEMENT FOR ON-SITE LANDSCAPING

95.50

KZC ~~95.40~~ gives the City the authority to require a bond pursuant to Chapter 175 KZC to ensure compliance with any aspect of the landscaping chapter. The City has been requiring two year landscape maintenance securities to cover required landscaping for all new development. Planners have found that few landscape maintenance securities are called in, and that the paperwork to establish them is substantial. In an effort to streamline permit processing, provide more timely service, and still comply with the code and ensure maintenance of landscaping, a new way of achieving compliance has been developed.

When a project nears occupancy, the applicant and property owner will be required to sign a "Two-Year Landscape Maintenance Agreement – On-Site Landscaping" which will be recorded with King County. An as-built landscape plan will still be required and a site visit will still be performed by the planner prior to releasing the certificate of occupancy. At the end of two years, the planner will again visit the site to determine whether the landscaping has been adequately maintained. If not, and if the planner has difficulty obtaining voluntary compliance, then the case will be subject to civil penalties as authorized by Chapter 170 KZC.

95.50

Therefore, it is my interpretation that applicants can achieve compliance with KZC ~~95.40~~ by submitting a properly signed and notarized "Two-Year Landscape Maintenance Agreement – On-Site Landscaping" prior to occupancy rather than bonds.

Zone JBD-1

USE ZONE CHART

Section 52.12	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
.010	Vehicle Service Station. See Special Regulation 1.	D.R., Chapter 142 KZC.	22,500 sq. ft.	0′ See Special Regulation 2.	0′	0′	80%	30′ above average building elevation.	A	E	See KZC 105.25.	1. May not be more than two vehicle service stations at any intersection. 2. Gas pump islands must be setback at least 20 feet from all property lines. Canopies and covers over gas pump islands may not be closer than 10 feet to any property line. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.
.020	Automotive Service Center See Special Regulation 1.		None	0′	0′	0′					1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 3.	1. This use specifically excludes new or used vehicle sales or rentals. 2. No openings (i.e., doors, windows which open, etc.) shall be permitted in any facade of the building adjoining a residential use. Windows are permitted if they are triple-paned and unable to be opened. 3. Ten (10) percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 4. Storage of used parts and tires must be conducted entirely within an enclosed structure. See also the section in Chapter 115 entitled "Outdoor Use, Activity and Storage" for additional regulations. 95.45 5. Prior to occupancy of the structure, documentation must be provided and stamped by a licensed professional verifying that the expected noise to be emanating from the site adjoining to any residential use complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.
.030	Retail Establishment providing boat sales, service, or repair. See Special Regulation 1.										See KZC 105.25.	1. Boat rental and used boat sales are allowed as part of this use. 2. Storage of parts must be conducted entirely within an enclosed structure. 3. Outdoor boat parking and storage areas must be buffered as required for a parking area per design regulations, ~~KZC 95.40(7).~~ See also KZC 115.105, Outdoor Activity and Storage, for further regulations.
.040	Restaurant or Tavern								D		1 per each 100 sq. ft. of gross floor area.	1. For restaurants with drive-in or drive through facilities: a. These facilities are permitted only if they do not compromise the pedestrian orientation of the development. The location and specific design of the facilities require Planning Official approval. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served. c. One outdoor waste receptacle shall be provided for every eight parking stalls. d. Landscape Category B shall apply.

Zone JBD-2

USE ZONE CHART

Section 52.17	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Vehicle Service Station See Spec. Reg. 1.	D.R., Chapter 142 KZC.	22,500 sq. ft.	0′ See Spec. Reg. 2.	0′	0′	80%	26′ above average building elevation.	A	E	See KZC 105.25.	1. May not be more than two vehicle service stations at any intersection. 2. Gas pump islands must be setback at least 20 feet from all property lines. Canopies and covers over gas pump islands may not be closer than 10 feet to any property line. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.
.020	Automotive Service Center See Spec. Reg. 1.		None	0′	0′	0′					1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 3.	1. This use specifically excludes new or used automobile sales or rentals. 2. No openings (i.e., doors, windows which open, etc.) shall be permitted in any facade of the building adjoining a residential use. Windows are permitted if they are triple-paned and unable to be opened. 3. Ten percent of the required parking spaces on site must have a minimum dimension of 10-feet wide by 30-feet long for motor home/travel trailer use. 4. Storage of used parts and tires must be conducted entirely within an enclosed structure. See also the section in Chapter 115 entitled "Outdoor Use, Activity and Storage" for additional regulations. 95.45 5. Prior to occupancy of the structure, documentation must be provided and stamped by a licensed professional verifying that the expected noise to be emanating from the site adjoining to any residential use complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.
.030	Retail Establishment providing boat sales, service, or repair. See Spec. Reg. 1.										See KZC 105.25.	1. Boat rental and used boat sales are allowed as part of this use. 2. Storage of parts must be conducted entirely within an enclosed structure. 3. Outdoor boat parking and storage areas must be buffered as required for a parking area per design regulations, KZC ~~95.40(7).~~ See also KZC 115.105, Outdoor Activity and Storage, for further regulations.
.040	Restaurant or Tavern								D		1 per each 100 sq. ft. of gross floor area.	1. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served. c. Landscape Category B shall apply.
.060	A Retail Establishment providing entertainment, recreational, or cultural activities										See KZC 105.25.	

Zone JBD-4

USE ZONE CHART

Section 52.27	USE ⇩ REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Retail Establishment providing boat sales, service, or repair. See Spec. Reg. 1.	D.R., Chapter 142 KZC.	None	0′	0′	0′	80%	26′ above average building elevation.	A	E	See KZC 105.25.	1. Boat rental and used boat sales are allowed as part of this use. 2. Storage of parts must be conducted entirely within an enclosed structure. 3. Outdoor boat parking and storage areas must be buffered as required for a parking area per design regulations, KZC ~~95.40(7).~~ 95.45 See also KZC 115.105, Outdoor Activity and Storage, for further regulations.
.020	Restaurant or Tavern								C		1 per each 100 sq. ft. of gross floor area.	1. Drive-in or drive-through facilities are prohibited.
.040	A Retail Establishment providing entertainment, recreational, or cultural activities										See KZC 105.25.	

Zone LIT

USE ZONE CHART

Section 48.15	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.150	Recycling Center	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	20′	0′	0′	80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation with a maximum of two stories, exclusive of parking levels.	A	C	See KZC 105.25.	1. May deal in metal cans, glass, and paper. Other materials may be recycled if the Planning Director determines that the impacts are no greater than those associated with recycling metal cans, glass, or paper. The individual will have the burden of proof in demonstrating similar impacts.
.160	Public Utility								C See Spec. Reg. 1.	B		1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.170	Government Facility Community Facility											
.180	Hazardous Waste Treatment and Storage Facilities	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	30′	0′	0′	90%	35′ above average building elevation with a maximum of two stories, exclusive of parking levels. See Spec. Reg. 2.	A	C	1 per each 1,000 sq. ft. of gross floor area.	1. Must comply with the state siting criteria adopted in accordance with RCW 70.105.210. 2. Structure height may be increased above 35 feet in height through a Process IIA, Chapter 150 KZC, if: a. It will not block local or territorial views designated in the Comprehensive Plan; and b. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and c. The need for an increase in height is directly related to the hazardous waste treatment and/or storage activity; and d. The required yard of any portion of the structure may be increased up to a maximum [illegible] portion of the structure exce[illegible] ing elevation. The need for additional setback yards will be determined as part of the review of any request to increase structure height.
.190	Vehicle or Boat Repair, Services, Storage, or Washing			20′			80%	If adjoining a low density zone other than RSX, then 25′ above average building elevation. Otherwise, 35′ above average building elevation with a maximum of two stories, exclusive of parking levels.		E	See KZC 105.25.	1. Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in ~~KZC 95.40(6) and (7)~~ 95.40 through 95.45, landscaping regulations. 2. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.

Zone RH 1A

USE ZONE CHART

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

Section 53.06	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	S (See also General Regulations)
.010	Vehicle Service Station	D.R., Chapter 142 KZC.	22,500 sq. ft.	20′ See Spec. Reg. 1.	15′ on each side.	15′	80%	67′ above average building	A	E	See KZC 105.25.	1. Gas pump islands must be set back at least 20 feet from all property lines. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. 2. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.020	Automotive Service Center See Spec. Reg. 1.		None	10′	0′	0′					1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 1.	1. Ten (10) percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 2. Parts and tires must be stored entirely within an enclosed structure. 3. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.030	Restaurant or Tavern								B		1 per each 100 sq. ft. of gross floor area.	1. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
.040	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services										1 per each 300 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 2. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if: a. The seating and associated circulation area does not exceed more than area of the use; and City that the floor plan is designed to preclude the seating area from being expanded. 3. For a retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, and similar vehicles, the following shall apply: a. For the number of required parking stalls see KZC 105.25. b. Parts must be stored entirely within an enclosed structure. c. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.

95.40 through 95.45

95.40 through 95.45

95.40 through 95.45

Zone RH 1B

USE ZONE CHART

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

Section 53.12	USE / REGULATIONS	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Vehicle Service Station See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	22,500 sq. ft.	20'	15'	15'	80%	20' above average building elevation.	A	E See Spec. Reg. 6.	See KZC 105.25.	95.40 through 95.45 h of NE 90th Street as an accessory use to a commercial use located in RH 1A and limited to sale of fuel. Vehicle service, repair, or the sale or installation of lubricants, tires, batteries or other similar accessories is prohibited. 2. Hours of operation and truck deliveries are limited to 8:00 a.m. to 9:00 p.m. 3. Gas pump islands must be located at least 20 feet from all property lines. 4. See ~~KZC 95.40(6) and (7)~~, required landscaping, for additional regulations. 5. The following improvements must be installed: a. Half street improvements including vertical curb, five-foot-wide sidewalk and 4.5-foot-wide landscape strip planted with street trees adjacent to the curb in the following locations: i. Along the south side of NE 90th Street between 120th Avenue NE and the existing sidewalk west of 122nd Avenue NE. ii. Along the south side of NE 90th Street between 122nd Avenue and 123rd Lane NE. iii. Along the east side of 120th Avenue NE between NE 90th Street and the existing sidewalk to the south. b. Crosswalk markings at the intersection of NE 90th Street and 122nd Avenue NE. Minor deviations may be approved by the Public Works Director. If improvements will result in impacts to adjacent wetlands, they must comply with Chapter 90 KZC, Drainage Basins, requirements. c. Basic water quality treatment for the surface water discharge from all the parking lots that serve the commercial use located in RH 1A. The treatment shall meet the specifications of the 1998 King County Surface Water Design Manual, or equivalent approved by the Public Works Department. d. A pedestrian pathway shall be developed and maintained between NE 90th Street and Slater Avenue NE. 6. Internally illuminated signs are prohibited on the north and east sides of gas pump islands or canopies.
.020	Accessory parking for retail uses located in the RH 1A zone		None	10' Otherwise 20' adjoining a residential zone	10' on each side	10'		35' above average building elevation.	B	D	N/A	1. No retail floor area shall be permitted for this use.

Section 53.24 — Zone RH 2A, 2B, 2C — USE ZONE CHART

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

Section 53.24	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Vehicle Service Station See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	22,500 sq. ft.	20′ See Spec. Reg. 2.	0′ See Spec. Reg. 2.	0′ See Spec. Reg. 2.	80%	35′ above average building elevation.	A	E	See KZC 105.25.	1. This use is permitted only in RH 2A. 2. Gas pump islands must be set back a minimum of 20 feet from all property lines. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. 3. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.020	Automotive Service Center See Spec. Reg. 1.		None	10′ adjacent to NE 85th St., otherwise 20′.	0′	0′	In RH 2A and RH 2B: 80% In RH 2C: 70%	In RH 2B: 55′ above average building elevation. In RH 2A: 67′ above average building elevation.			1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 2.	1. This use is permitted only in RH 2A. 2. Ten percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 3. Parts and tires must be stored entirely within an enclosed structure. 4. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.030	Restaurant or Tavern										1 per each 100 sq. ft. of gross floor area.	1. This use is permitted in RH 2B only if developed in conjunction with the RH 2A zone. 2. This use is not permitted in RH 2C. 3. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
.040	A Retail Establishment providing entertainment, recreational or cultural activities										See KZC 105.25.	1. This use is permitted in RH 2B only if developed in conjunction with the RH 2A zone. 2. This use is not permitted in RH 2C.

95.40 through 95.45

95.40 through 95.45

Zone
RH 2A, 2B, 2C

USE ZONE CHART

Section 53.24	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.050	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods, or providing services including banking and related financial services	D.R., Chapter 142 KZC.	None	10′ adjacent to NE 85th St., otherwise 20′.	0′	0′	In RH 2A and RH 2B: 80% In RH 2C: 70%	In RH 2C: 35′ above average building elevation. In RH 2B: 55′ above average building elevation. In RH 2A: 67′ above average building elevation.	A	E	1 per each 300 sq. ft. of gross floor area. See Spec. Reg. 2.	1. This use is permitted in RH 2B only if developed in conjunction with the RH 2A zone. No retail uses are permitted in RH 2C unless the use is a retail establishment providing the sale, lease, service or repair of automobiles, trucks, boats, motorcycles, recreational vehi- 95.40 through 95.45 vehicles also located in the RH 2A 2. For a retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, and similar vehicles, the following shall apply: a. For the number of required parking stalls see KZC 105.25. b. Parts must be stored entirely within an enclosed structure. c. See KZC ~~95.40(6) and(7)~~, required landscaping, for further regulations. d. The landscape buffer requirements of Chapter 95 KZC shall apply adjacent to 118th Avenue NE. 3. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent on this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 4. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if: a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded.

Section 53.34 Zone RH 3 USE ZONE CHART

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

Section 53.34	USE / REGULATIONS	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (General Regulations)
.020	Vehicle Service Station	D.R., Chapter 142 KZC.	Less than 6 acres.	20′	0′	0′	80%	35′ above average building elevation.	A	E	See KZC 105.25.	1. Gas pump islands must be set back at least 20 feet from all property lines. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. 2. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.030	Automotive Service Center See Spec. Reg. 1.			10′	0′	0′					1 per each 250 sq. ft. of gross floor area. See Spec. Reg. 1.	1. Ten percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 2. Parts and tires must be stored entirely within an enclosed structure. 3. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.040	Restaurant or Tavern										1 per each 100 sq. ft.	1. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
.050	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services.								B		1 per each 300 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 2. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if: a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded. REGULATIONS CONTINUED ON NEXT PAGE

95.40 through 95.45

95.40 through 95.45

Zone RH 3

USE ZONE CHART

Section 53.34	USE ⇩ / REGULATIONS ⇨	DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS				MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.050	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services. (continued)											95.40 through 95.45 NUED FROM PREVIOUS PAGE 3. For a retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, and similar vehicles, the following shall apply: a. For the number of required parking stalls see KZC 105.25. b. Parts must be stored entirely within an enclosed structure. c. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.060	Hotel or Motel	D.R., Chapter 142 KZC.	Less than 6 acres.	10′	0′	0′	80%	35′ above average building elevation.	B	E	1 per each room. See also Spec. Reg. 2.	1. May include ancillary meeting and convention facilities. 2. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirement for these ancillary uses shall be determined on a case-by-case basis.
.070	A Retail Establishment providing entertainment, recreational or cultural activities										See KZC 105.25.	

Section 53.54 — Zone RH 5A, 5B — USE ZONE CHART

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

Section 53.54	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Vehicle Service Station See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.	22,500 sq. ft.	20′ See Spec. Reg. 4.	15′ See Spec. Reg. 4.	15′ See Spec. Reg. 4.	80%	If adjoining an RS or RSX zone, then 30′ above average building elevation. Otherwise, 35′ above average building elevation.	A	E	See KZC 105.25.	95.40 through 95.45 he subject property abuts NE 85th Street. he RH 5B zone. 3. May not be more than two vehicle service stations at any intersection. 4. Gas pump islands must be set back at least 20 feet from all property lines. Canopies or covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. 5. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.020	Automotive Service Center See Spec. Reg. 1.		None	10′ adjacent to NE 85th St., otherwise 20′.	0′	15′					sq. ft. of gross floor area. See Spec. Reg. 4.	95.40 through 95.45 1. This use is not permitted in the RH 5B zone. 2. This use specifically excludes a retail establishment involving the sale, lease, repair or service of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment, and similar vehicles. 3. No openings (i.e., doors, windows which open, etc.) shall be permitted in any facade of a building adjoining any residential zone. Windows are permitted if they are triple-paned and unable to be opened. 4. Ten percent of the required parking spaces on site must have a minimum dimension of 10 feet wide by 30 feet long for motor home/travel trailer use. 5. Parts and tires must be stored entirely within an enclosed structure. 6. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.030	A Retail Establishment providing entertainment, recreational or cultural activities										See KZC 105.25.	
.040	Restaurant or Tavern See Spec. Regs. 1 and 2.										1 per each 100 sq. ft. of gross floor area.	1. Taverns and restaurants with drive-in or drive-through facilities are not permitted uses in an RH 5B zone. 2. For restaurants with drive-in or drive-through facilities: a. One outdoor waste receptacle shall be provided for every eight parking stalls. b. Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.

Zone RH 5A, 5B

USE ZONE CHART

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

Section 53.54	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.050	Any Retail Establishment other than those specifically listed in this zone, selling goods or providing services, including banking and related financial services	D.R., Chapter 142 KZC.	None	10′ adjacent to NE 85th St., otherwise 20′.	0′	15′	80%	If adjoining an RS or RSX zone, then 30′ above average building elevation. Otherwise, 35′ above average building elevation.	A	E	1 per each 300 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses. 2. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if: a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded. 3. 95.40 through 95.45 ng the sale, service or rental of motor , or recreation trailers, the following shall apply: a. This use is not permitted in the RH 5B zone; provided, that motorcycle sales, service, or rental is permitted if conducted indoors. b. For the number of required parking stalls see KZC 105.25. c. Parts must be stored entirely within an enclosed structure. d. See KZC ~~95.40(6) and (7)~~, required landscaping, for further regulations.
.060	Office Use								B	D	If a medical, dental or veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.	1. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.

Section 55.61

Zone TL 9A

USE ZONE CHART

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

Section 55.61	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARD (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.140	Mini-Day-Care See Spec. Reg. 1.	None	None	20'	0'	0'	80%	35' above average building elevation.	D	B	See KZC 105.25.	1. This use is permitted if accessory to a primary use, and: a. It will not exceed 20 percent of the gross floor area of the building; b. The use is integrated into the design of the building. 2. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 3. To reduce impacts on nearby residential uses, hours of operation of the use may be limited and parking and passenger loading areas relocated. 4. Structured play areas must be set back from all property lines by five feet. 5. 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. 6. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 7. May include accessory living facilities for staff persons. 8. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.150	Recycling Center								A	C		1. May deal in metal cans, glass, and paper. Other materials may be recycled if the Planning Director determines that the impacts are no greater than those associated with recycling metal cans, glass, or paper. The individual will have the burden of proof in demonstrating similar impacts.
.160	Public Utility								C See Spec. Reg. 1.	B		1. Landscape Category 95.40 through 95.45 ng on the type of use on the subject property and the impacts associated with the use on the nearby uses.
.170	Government Facility Community Facility											
.180	Vehicle or Boat Repair, Services, Storage, or Washing								A	E		1. Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC ~~95.40(6) and (7)~~, landscaping regulations. 2. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
.190	Public Park	Development standards will be determined on case-by-case basis. See Chapter 49 KZC for required review process.										

PUBLICATION SUMMARY
OF ORDINANCE NO. 4226

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING AND LAND USE, AMENDING CITY REGULATIONS RELATING TO TREES, AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00016.

SECTION 1. Provides that Kirkland Zoning Code Chapter 95 relating to tree management and required landscaping is amended in various respects, and that the amendments are attached to the Ordinance as Attachments A and B.

SECTION 2. Directs staff to process a Zoning Code amendment requiring permits for all removal of significant trees once the City has the ability to accept permit applications online at no charge to the applicant.

SECTION 3. Provides a severability clause for the Ordinance.

SECTION 4. Provides that the Ordinance may be subject to the disapproval jurisdiction of the Houghton Community Council.

SECTION 5. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as April 1, 2010.

SECTION 6. Provides that the City Clerk shall send a certified copy of the Ordinance to the King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2009.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk

ORDINANCE NO. 4227

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING CHAPTER 19.36 OF THE KIRKLAND MUNICIPAL CODE REGARDING STREET TREES AND TREES ON CITY PROPERTY.

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents or Determination issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official,

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Text Amended: The following specific portions of the text of Chapter 19.36 – Street Trees and Trees on City Property of the Kirkland Municipal Code is amended to read as follows:

As set forth in Attachment A attached to this ordinance and incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance shall be in full force and effect on April 1, 2010. Pursuant to Section 1.08.017 Kirkland Municipal Code, publication of this ordinance shall be in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

PASSED by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 20__.

SIGNED IN AUTHENTICATION thereof this _____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Kirkland Municipal Code

Chapter 19.36
PENALTIES FOR VIOLATIONS - STREET TREES AND TREES ON CITY PROPERTY

Sections:

~~19.36.010 Purpose.~~
~~19.36.020 Definitions.~~
~~19.36.030 Alteration of street trees without prior approval is prohibited.~~
~~19.36.035 Standards and criteria for approval to remove street tree.~~
~~19.36.040 Removal or alteration of trees in public parks and other city property prohibited.~~
~~19.36.050~~ 19.36.010 Civil penalties for violations.
~~19.36.060~~ 19.36.020 Issuance of notice of violation.
~~19.36.070~~ 19.36.030 Issuance of notice of civil infraction.
~~19.36.080~~ 19.36.040 Civil infraction appeal procedures.
~~19.36.090~~ 19.36.050 Criminal penalties for willful violations.
~~19.36.110~~ 19.36.060 Remedies not exclusive.

~~19.36.010 Purpose.~~

~~The purpose of this chapter is to regulate, preserve and protect street trees, trees in public parks and trees on other city property.~~

~~19.36.020 Definitions.~~

~~Terms used in this title shall have the following meanings:~~

~~(a) "Hazard tree" is any tree with structural defects, disease, or both, which makes it subject to a high probability of failure in the opinion of a qualified professional retained or approved by the city.~~

~~(b) "Nuisance tree" is a tree which is causing physical damage to property or has been damaged by past maintenance practices, and for which accepted arboricultural practices cannot correct the problem.~~

~~(c) "Street tree" is a tree located within the street right-of-way; provided, that if the trunk of the tree straddles the boundary line of the street right-of-way and the abutting property, it shall be considered to be on the abutting property and subject to the provisions of the Kirkland Zoning Code.~~

~~19.36.030 Alteration of street trees without prior approval is prohibited.~~

~~Routine maintenance of street trees is the responsibility of the abutting property owner except in the city's central business district (CBD) zones and in any other specific right-of-way that may be identified by the city. Except for routine maintenance, it is unlawful for any person to prune, trim, modify, alter or damage a street tree without the prior approval of the director of public works or his or her designee; provided, that the city and utility crews may perform routine pruning and maintenance of street trees; and provided further, that an abutting property owner may perform routine pruning and maintenance in accordance with any landscape maintenance agreement or contract with the city. An application to prune, trim, modify or alter a street tree shall be granted only if the proposed action will improve the health and appearance of the tree. An application to prune, trim, modify or alter a street tree~~

~~shall not be granted if the sole or primary purpose of the proposed action is view enhancement.~~

~~19.36.035 Standards and criteria for approval to remove street tree.~~

~~An abutting property owner may apply for permission to remove a street tree by filing a written application with the department of public works. An application to remove a street tree shall be reviewed by the director of public works, or his or her designee. The director shall consider the following factors in determining whether to grant or deny the application: (1) whether the tree is a hazard tree or nuisance tree; (2) the location of the tree in the right-of-way; (3) the size and type of tree and whether it constitutes a "significant tree" as defined in the Kirkland Zoning Code; (4) whether the tree is now, or may be in the future, part of the city's plans for the right-of-way; (5) whether the property owner is willing to mitigate the consequences of removal of the tree by planting a new tree or trees in a more suitable location; and (6) any other factor that the director deems relevant or appropriate. Any failure by the applicant or his or her agents to adhere to conditions imposed on tree removal by the city under this chapter shall constitute a violation of this chapter and is subject to enforcement under this chapter.~~

~~19.36.040 Removal or alteration of trees in public parks and other city property prohibited.~~

~~It is unlawful for any person to remove, prune, trim, modify, alter or damage a tree in a public park or on any other city property; provided, that the city may perform routine pruning and maintenance of such trees and take any actions it deems necessary with respect to trees on city property.~~

19.36.~~050~~ 010 Civil penalties for violations.

(a) The director of public works or his or her designee shall be responsible for enforcing the provisions of this chapter with respect to street trees. The director of parks and community services or his or her designee shall be responsible for enforcing the provisions of this chapter with respect to city parks and other city property.

(b) When taking enforcement action under this chapter, the city's primary goal, if feasible, shall be full restoration of the area where the violation occurred. Each tree removed, pruned, trimmed, modified, altered or damaged in violation of this chapter shall constitute a separate violation for the purpose of assessing penalties under this chapter. Violations shall be deemed to be continuing in nature until the area where the violations occurred is fully restored to the condition it was in prior to the violations; provided, that the city, in its discretion, may suspend the accrual of daily penalties if the property owner is actively and diligently implementing a city-approved restoration plan. The costs of restoration shall not be more than the appraised value of the significant trees removed, according to the most recent edition of the Guide for Plant Appraisal.

(c) In addition to the costs of restoration, the amount of the monetary penalty per day for violation is as follows:

(1) First violation: two hundred dollars.

(2) Second violation: four hundred dollars.

(3) Third violation: six hundred dollars.

(d) Payment of a monetary penalty under this chapter does not relieve a person of the duty to correct the violation as ordered by the applicable department director. (Ord. 3866 § 1 (part), 2002)

19.36.~~060~~ 020 Issuance of notice of violation.

If the applicable department director, or his or her designee, determines that any person has violated this chapter, he or she may issue a notice of violation. The notice of violation shall state:

(a) The name and address of the person to whom the notice of violation is directed;

(b) The street address or a description of the land sufficient for identifying where the violation occurred;

(c) A description of the violation and a reference to the provision of this chapter that has been violated;

(d) A statement of the action required to be taken to correct the violation and a date and time by which the correction is to be completed no less than seven days after issuance of the notice of violation; and

(e) A statement of the monetary penalty for each day on which the violation continues after the date set for correction.

The city shall serve the notice of violation on the person charged with violating this chapter personally or by certified mail. (Ord. 3866 § 1 (part), 2002)

19.36.~~070~~ 030 Issuance of notice of civil infraction.

If a violation is not corrected in the time specified in the notice of violation, the city may issue a notice of civil infraction to the person charged with violating this chapter. The notice of civil infraction shall include the following:

(a) The name and address of the person to whom the notice of civil infraction is directed;

(b) The street address or a description of the land sufficient for identifying where the violation occurred;

(c) A description of the violation and a reference to the provision of this chapter that has been violated;

(d) A statement that the monetary penalty in the amount per day for each violation, as set forth in the notice of violation, is assessed against the person to whom the notice of civil infraction is issued; and

(e) A statement that the person to whom the notice of civil infraction was directed must complete correction of the violation and may pay the monetary penalty imposed to the city or may appeal the notice of civil infraction as provided in this chapter.

A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless appealed as provided in this chapter. The city shall serve the notice of violation on the person charged with violating this chapter personally or by certified mail. (Ord. 3866 § 1 (part), 2002)

19.36.~~080~~ 040 Civil infraction appeal procedures.

(a) A person to whom a notice of civil infraction is directed may appeal the determination that a violation exists or the amount of any monetary penalty to the hearing examiner. A written notice of appeal must be filed with the city within seven calendar days from the date of service of the notice of civil infraction. The office of the hearing examiner shall give notice of the hearing of the appeal no less than seventeen calendar days prior to the hearing date.

(b) The hearing examiner shall conduct a hearing on the appeal pursuant to the rules of procedure provided by the Administrative Procedure Act, Chapter 34.05 RCW, as well as any procedural rules and guidelines promulgated by the hearing examiner. The city and the

appellant may participate as parties in the proceedings and each may call witnesses. The city shall have the burden of proving by a preponderance of the evidence that a violation has occurred.

(c) The hearing examiner shall determine whether the city has proven by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend or modify the amount of any monetary penalty with or without written conditions. The monetary penalty does not accrue during the pendency of the appeal; provided, that if the hearing examiner finds that the appeal is frivolous or intended solely to delay compliance, he or she may impose a daily monetary penalty from the date of service of the notice of civil infraction. The hearing examiner's decision shall be the city's final administrative ruling. The hearing examiner shall mail a copy of his decision to the appellant by certified mail, postage prepaid, return receipt requested.

(d) The monetary penalty is the personal obligation of the person to whom the notice of civil infraction was directed. Any monetary penalty assessed shall be paid to the city clerk within seven days of issuance of the notice of civil infraction, or, if an appeal was filed, within seven days of the hearing examiner's decision. The city attorney is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking or granting of which shall not stay or terminate accrual of additional per-day monetary penalties so long as the violation continues. (Ord. 3866 § 1 (part), 2002)

19.36.~~090~~ 050 Criminal penalties for willful violations.

Any willful violation of this chapter is a gross misdemeanor punishable by imprisonment for not more than one year, or by a fine of not more than five thousand dollars, or both. The city may also seek criminal restitution for all costs and expenses incurred in replacing or restoring any trees and landscaping that were damaged or removed as a result of the violation. (Ord. 3866 § 1 (part), 2002)

19.36.~~110~~ 060 Remedies not exclusive.

The remedies prescribed in this chapter are in addition to all other remedies provided for or authorized by law, including, but not limited to, RCW 64.12.030 which provides for treble damages for unlawful removal of trees. (Ord. 3866 § 1 (part), 2002)

PUBLICATION SUMMARY
OF ORDINANCE NO. 4227

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING CHAPTER 19.36 OF THE KIRKLAND MUNICIPAL CODE REGARDING STREET TREES AND TREES ON CITY PROPERTY.

SECTION 1. Provides that Kirkland Municipal Code Chapter 19.36 relating to street trees and trees on public property is amended in various respects, and that the amendments are attached to the Ordinance as Attachment A.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as April 1, 2010.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2009.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk

ORDINANCE NO. 4228

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO FEES CHARGED BY THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT, ESTABLISHING NEW FEES FOR CERTAIN TREE RELATED PERMITS AND REFLECTING THE CURRENT PUBLISHED ANNUAL CHANGE IN THE SEATTLE CONSUMER PRICE INDEX FOR WAGE EARNERS AND CLERICAL WORKERS.

WHEREAS, the City has had tree regulations in place since 2006, some of which require permits needing review by the Urban Forester and other City staff;

WHEREAS, the City would like to establish new fees for certain tree related permits that are currently not incorporated in other permit fees; and

WHEREAS, the fee schedule shown in the KMC is from 2008 and has been increased administratively.

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

Section 1. Section 5.74.070 of the KMC is hereby repealed.

Section 2. A new Section 5.74.070 of the Kirkland Municipal Code is hereby created to read as follows:

5.74.070 Fees charged by planning department

(a) The schedule below establishes fees charged by the planning department. The entire fee must be paid before the review or processing begins, except as otherwise specified.

FEE TYPE	FEE AMOUNT
Preliminary Project Review Presubmittal Meeting, Intergrated Development Plan, and/or Predesign Conference *Note: Fee subtracted from the application fee if the application is submitted within six months of the date of the preliminary project review meeting date. Credit does not apply to subsequent meetings related to the same project.*	$504.00
Planning Official Decisions	
Accessory Dwelling Unit *(not required if reviewed concurrently with a building permit)*	$414.00
Personal Wireless Service Facility Planning Official Decision	$8,352.00
Personal Wireless Service Facility Subsequent or Minor Modification	$828.00
Parking Modification	$525.00
Sensitive Area Planning Official Decision	$2,071.00

FEE TYPE	FEE AMOUNT
Administrative Design Review If application involves new gross floor area (new buildings or additions to existing buildings) No new gross floor area	 $2,071.00 $0.00
Master Sign Plan Approval Modification	$828.00
Off-Site Directional Sign Approval Modification	$525.00
Design Review Approval Modification	$1,049.00
Design Review Approval Extension	$414.00
Historic Residence Alteration	$828.00
Rooftop Appurtenance Modification	$828.00
Multiple Private or ROW Tree Removal Permit	$200.00
Forest Management Plan	$300.00
Planning Director Decisions	
Temporary Use Permit	$212.00
Variance Exception	$1,049.00
Off-Site Directional Sign	$1,049.00
Master Sign Plan	$2,927.00
Short Plat or Subdivision Approval Modification	$828.00
Process I Approval Modification	$828.00
Process IIA, IIB or III Approval Modification	$1,049.00
Lot Line Alteration	$1,049.00
Binding Site Plan	$2,085.00
Multifamily Housing Property Tax Exemption Conditional Certificate	$1,049.00
Multifamily Housing Property Tax Exemption Contract Amendment	$525.00
Multifamily Housing Property Tax Exemption Conditional Certificate Extension	$525.00
Noise Variance	$525.00
Process I Review	
Short Subdivision Base Fee Fee per lot	 $4,141.00 $966.00
Innovative Short Subdivision Fixed Fee Fee per lot	 $6,764.00 $966.00
Substantial Development Permit General Moorage Facility Other Shoreline Improvements	 $10,436.00 $4,473.00
Personal Wireless Service Facility Process I Review	$10,436.00
Other Process I Review Residential Base Fee Fee per new residential unit	 $4,141.00 $483.00
Nonresidential Base Fee Fee per square foot new GFA	 $4,141.00 $0.29
Mixed Use Base Fee Fee per new unit Fee per square foot new GFA	 $4,141.00 $483.00 $0.29
Home Occupation	$1,062.00
Historic Residence Designation	$1,062.00

FEE TYPE	FEE AMOUNT
Process IIA Review	
Preliminary Subdivision Fixed Fee Fee per lot	 $8,711.00 $1,049.00
Innovative Preliminary Subdivision Fixed Fee Fee per lot	 $10,795.00 $1,049.00
Personal Wireless Service Facility Process IIA Review	$20,210.00
Other IIA Base Fee Fee per new residential unit Fee per sq. ft. new non-residential GFA	 $7,303.00 $414.00 $0.41
Process IIB & Process III Review	
Subdivision Vacation or Alteration	$8,945.00
Historic Landmark Overlay or Equestrian Overlay	$1,049.00
Personal Wireless Service Facility Process IIB Review	$29,156.00
Other IIB or III Residential (including Short Subdivisions reviewed through Process IIB per KMC 22.28.050) Base Fee Fee per new residential unit Fee per sq. ft. new non-residential GFA	 $11,265.00 $414.00 $0.41
Design Board Review	
Design Board Concept Review	$1,427.00
Design Board Design Response Review Base Fee Fee per new unit Fee per sq. ft. new GFA	 $4,371.00 $201.00 $0.20
State Environmental Policy Act (SEPA)	
Review of Environmental Checklist Base Fee	$552.00
Estimated Number of PM Peak Trips Less than 20 trips 21-50 trips 51-200 trips Greater than 200 trips	 $903.00 $1,805.00 $3,610.00 $7,221.00
Applications involving sensitive areas (streams and/or wetlands only)	$552.00
Preparation of Environmental Impact Statement (EIS) * The cost of preparing an EIS is the sole responsibility of the applicant. Kirkland Ordinance #2473, as amended, establishes the procedures that the City will use to charge for preparation and distribution of a draft and final EIS. The applicant is required to deposit with the City an amount not less than $5,000 to provide for the City's cost of review and processing an EIS. If the anticipated cost exceeds $5,000, the City may require the applicant to deposit enough money to cover the anticipated cost.	

FEE TYPE	FEE AMOUNT
Miscellaneous	
Appeals and Challenges Appeals Challenges	 $207.00 $207.00
Note: No Fee for appeals of Notice of Civil Infraction or Order to Cease Activity	
Sidewalk Café Permits Fixed Fee Fee per sq. ft. of cafe area	 $654.00 $0.73
Street Vacation Fixed Fee Fee per sq. ft. of street	 $8352.00 $0.41
Final Subdivision Fixed Fee Fee per lot	 $2071.00 $207.00
Review of Concurrency Application - Estimated Number of PM Peak Trips Less than 20 trips 21-50 trips 51-200 trips Greater than 200 trips	 $531.00 $743.00 $1,487.00 $1,911.00
Fees for Comprehensive Plan and Zoning Text Amendment Requests	
Request for property specific map change Initial request If request is authorized by City Council for review	 $319.00 $319.00
Request for city-wide or neighborhood-wide policy change	No charge

General Notes:

1. **Fee Reduction for Applications Processed Together:** When two or more applications are processed together, the full amount will be charged for the application with the highest fee. The fee for the other application(s) will be calculated at 50% of the listed amount.
2. **Projects with greater than 50 dwelling units or 50,000 sq. ft. non-residential GFA:** The per unit and per sq. ft. fee for all units above 50 and all GFA above 50,000 sq. ft. shall be reduced by one half.
3. **Note for Sensitive Areas permits:**
   a. In cases where technical expertise is required, the Planning Official may require the applicant to fund such studies.
   b. Voluntary wetland restoration & voluntary stream rehabilitation projects are not subject to fees.
4. **Construction of affordable housing units pursuant to Chapter 112 of the Kirkland Zoning Code:** The fee per new unit and fee per square foot new GFA shall be waived for the bonus or additional units or floor area being developed.
5. **Note for Historic Residence permits:** An additional fee shall be required for consulting services in connection with designation and alteration of historic residences.

(b) The director is authorized to interpret the provisions of this chapter and may issue rules for its administration. This includes, but is not limited to, correcting errors and omissions and adjusting fees to match the scope of the project. The fees established here will be reviewed annually, and, effective January 1st of each year, may be

administratively increased or decreased, by an adjustment to reflect the current published annual change in the Seattle Consumer Price Index for Wage Earners and Clerical Workers as needed in order to maintain the cost recovery objectives established by the city council.

Section 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

Section 4. This ordinance shall be in full force and effect on April 1, 2010. The current fees charged by the Planning Department shall remain in effect until April 1, 2010. Pursuant to Section 1.08.017 Kirkland Municipal Code, publication of this ordinance shall be in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this _____ day of _____, 2009.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4228

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO FEES CHARGED BY THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT, ESTABLISHING NEW FEES FOR CERTAIN TREE RELATED PERMITS AND REFLECTING THE CURRENT PUBLISHED ANNUAL CHANGE IN THE SEATTLE CONSUMER PRICE INDEX FOR WAGE EARNERS AND CLERICAL WORKERS.

SECTION 1. Repeals Section 5.74.070 of the Kirkland Municipal Code.

SECTION 2. Adds a new Section 5.74.070 of the Kirkland Municipal Code related to fees charged by the Planning Department.

SECTION 3. Provides a severability clause for the ordinance.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date of the ordinance as April 1, 2010.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2009.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk

Council Meeting: 12/15/2009
Agenda: Unfinished Business
Item #: 10. d.

CITY OF KIRKLAND
City Attorney's Office
123 Fifth Avenue, Kirkland, WA 98033 425.587.3030
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MEMORANDUM

To: David Ramsay, City Manager

From: Robin S. Jenkinson, City Attorney

Date: December 8, 2009

Subject: Annexation Resolution and Ordinance

Recommendation:

That the City Council consider the attached resolution stating the Council's intent to accept the Finn Hill, Kingsgate and North Juanita Annexation area without the assumption of voter-approved indebtedness. Should the Council vote to pass the resolution, a proposed annexation ordinance is also attached for Council action.

Background:

On November 3, 2009, 59.94 percent of the voters residing within the Finn Hill, Kingsgate and North Juanita Annexation area, and voting on the annexation proposition (Proposition A), voted "yes" for annexation, assumption of voter-approved indebtedness, and adoption of zoning regulations. However, because the questions of annexation and assumption of voter-approved indebtedness were combined on the ballot, the proposition required a 60 percent majority vote. The King County Council certified the election results on December 7, 2009, and will transmit a certified abstract of the vote to the City Clerk.

As requested by the City Council at its December 1, 2009, Study Session, staff has prepared a resolution and ordinance for the Council's consideration. Under RCW 35A.14.085, if the combined measures of annexation and assumption of voter-approved indebtedness are not approved by a 60 percent majority, the City Council may adopt a resolution accepting the annexation without the assumption of voter-approved indebtedness. However, RCW 35A.14.090 and 35A.14.100 refer to "ordinance(s)" of annexation which also adopt zoning regulations, and set the effective date of annexation.

The attached resolution states the Council's intent to accept the annexation of the Finn Hill, Kingsgate and North Juanita Annexation Area without the assumption of voter-approved indebtedness that would be outstanding as of the effective date of the annexation. The attached ordinance annexes the Finn Hill, Kingsgate and North Juanita Annexation area to the City of Kirkland; makes the annexation area subject to the zoning regulations adopted by the City Council with the passage of Ordinance 4196; and, sets an effective date of June 1, 2011.

RESOLUTION R-4791

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND EXPRESSING THE COUNCIL'S INTENT TO ACCEPT THE ANNEXATION OF CERTAIN TERRITORY REFERRED TO AS THE FINN HILL, KINGSGATE AND NORTH JUANITA ANNEXATION AREA WITHOUT THE ASSUMPTION OF VOTER-APPROVED INDEBTEDNESS.

WHEREAS, on April 7, 2009, the City Council of the City of Kirkland passed Resolution R-4751 which directed the City Clerk to file a notice of intent to annex the Finn Hill, Kingsgate and North Juanita Annexation Area with the King County Boundary Review Board; and

WHEREAS, the Boundary Review Board held a public hearing on the proposed annexation on June 8, 2009, and approved the annexation on July 9, 2009; and

WHEREAS, after two public hearings, the City Council adopted zoning for the Finn Hill, Kingsgate and North Juanita Annexation area as provided in Ordinance 4196; and

WHEREAS, the City Council passed Resolution R-4763 calling for an election which was held pursuant to State statute; and

WHEREAS, the King County Council has transmitted a certified abstract of the vote in the November 3, 2009, general election; and

WHEREAS, the annexation of the Finn Hill, Kingsgate and North Juanita Annexation area and the adoption of the proposed zoning regulation was approved by a majority of the voters residing in the area and voting on the annexation proposition, but the assumption of voter-approved indebtedness was not approved by a sufficient vote; and

WHEREAS, the City Council finds it in the City's best interest to accept the annexation without the assumption of voter-approved indebtedness as authorized by RCW 35A.14.085;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Council expresses its intent to accept all property within the Finn Hill, Kingsgate and North Juanita Annexation Areas, the boundaries of which are attached and incorporated as Exhibit A to this Resolution, for annexation and to be made a part of the City of Kirkland.

Section 2. Upon annexation, pursuant to City ordinance, all property within the Finn Hill, Kingsgate and North Juanita Annexation Area described in Exhibit A to this Resolution shall be assessed and taxed at the same regular property tax rate and on the same basis as other property within the City of Kirkland. However, voter-approved indebtedness of the City outstanding as of the effective date of annexation shall not be assumed by the property within the Finn Hill, Kingsgate and North Juanita Annexation Area, nor shall excess property taxes for payment of any such indebtedness be levied against property within that annexed area.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this ____ day of _____, 2009.

_____
MAYOR

Attest:

_____
City Clerk

City of Kirkland
Legal Description – Finn Hill, North Juanita, Kingsgate Annexation

Triad Job No 09-033
March 24, 2009
Revised March 31, 2009
Revised May 13, 2009

That portion of Sections 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30 and 31 Township 26 North, Range 5 East W.M. and Sections 13, 23, 24, 25, 26 and 36 Township 26 North, Range 4 East W.M. in King County, Washington described as follows:

Beginning at North Quarter Corner of Section 28, Township 26 North, Range 5 East, W.M.;

Thence west along the north line of the Northwest Quarter of said Section 28 (said north line being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 2252 and the centerline of NE 132nd Street) to the corner common to Sections 28 and 29, Township 26 North, Range 5 East, W.M.;

Thence west along the north line of the Northeast Quarter of said Section 29 (said north line being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 2252 and the centerline of NE 132nd Street) to the centerline of 116th Avenue NE right of way;

Thence southerly along the centerline of 116th Avenue NE right of way to the easterly extension of the south margin of the NE 132nd Street right of way;

Thence westerly along said south margin and the south margin of the NE 131st Way right of way (said south margins being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062) to the west line of east half of Section 30, Township 26 North, Range 5 East, W.M.;

Thence south along said west line (said west line being the west limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062) to the north line of the southeast quarter of the northwest quarter of said Section 30;

Thence west along said north line (said north line being the north boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance No. 4048) to the west line of east 275 feet of said southeast quarter of the northwest quarter;

Thence south along said west line (said west line being the west boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance No. 4048) to south line of said southeast quarter of the northwest quarter;

Thence along said south line to the east margin and/or the northerly extension of the east margin of 91st Avenue NE (said east margin being the west boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance Number 3121);

Thence south along said east margin and/or its northerly extension (said east margin being the west boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance Number 3121) to the south margin of NE 120th Street;

Thence east along the south margin of NE 120th Street and/or its easterly extension to the west limits of the City of Kirkland as established by King County Ordinance No. 15471;

Thence south along said west limits to the southerly margin of Juanita Drive NE right of way;

Thence along said southerly margin to the west line of Juanita Bay Condominiums (said line being the west limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062);

Thence southerly and southeasterly along the said west line and its southerly extension (said line being the west limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062) to the outer limits of the second class shorelands of Lake Washington;

Thence leaving said city limits, southwesterly and northwesterly along said outer limits to North line of King County Short Plat Number 985037 (Alteration), recorded under Recording Number 911180963,

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records of King County, Washington and the limits of the City of Kenmore as established by King County Ordinance No. 12815;

Thence along said limits of the City of Kenmore the following courses:

Thence easterly along the North line of said King County Short Plat and the North line of Lot 2, King County Short Plat Number 273020, recorded under Recording Number 7601230425 records of King County, Washington to the west margin of 62nd Avenue Northeast;

Thence southerly along said margin to the north line of the Southeast Quarter of Section 23, Township 26 North, Range 4 East, W.M.;

Thence easterly along said north line to the east margin of 62nd Avenue Northeast;

Thence southerly along the east margin of 62nd Avenue Northeast to the point of intersection with the north line of King County Short Plat Number 376072, recorded under Recording Number 7607290790, records of King County. Washington;

Thence easterly along the north line of said King County Short Plat and the north line of King County Short Plat Number 682031, recorded under Recording Number 8404240701 and King County Short Plat Number S89S0226, recorded under Recording Number 8908311935. all in records of King County, Washington, to the westerly margin of Holmes Point Drive Northeast;

Thence northerly and easterly along said margin to the westerly margin of Juanita Drive Northeast;

Thence northerly along the westerly margin of said Juanita Drive Northeast to the point of intersection with the westerly extension of the north margin of Northeast 143rd Street;

Thence easterly along said extended line and the north margin at Northeast 143rd Street and the north margin of Northeast 145th Street to the intersection with the Westerly margin of 92nd Avenue Northeast;

Thence northerly along said margin to the intersection with the northeasterly margin of Simonds Road Northeast, said margin also being the limits of the City of Bothell as established by City of Bothell Ordinances 225, 227 and 960;

Thence southeasterly along the southerly limits of the City of Bothell and the northeasterly margin of Simonds Road Northeast to the west margin of 100th Avenue NE;

Thence north along said west margin to the north line of Section 19, Township 26 North, Range 5 East, W.M. and the south limits of the City of Bothell as established by City of Bothell Ordinance Number 225;

Thence east along said north line and the south limits of the City of Bothell to the Northeast Corner of said Section 19;

Thence east along the north line of Section 20, Township 26 North, Range 5 East, W.M. and the south limits of the City of Bothell as established by City of Bothell Ordinance Number 1220 to the southerly prolongation of the east margin of 100th Avenue NE and the easterly limits of the City of Bothell as established by City of Bothell Ordinance Number 1220;

Thence north along said southerly prolongation and easterly limits of Bothell to the north margin of NE 145th Street;

Thence leaving said city limits, east along said north margin to the southerly prolongation of the west line of the plat of Norway View according to the plat thereof recorded in Volume 125 of Plats at Pages 77 and 78, records of King County, Washington:

Thence north along said southerly prolongation to the north margin of NE 145th Street;

Thence east along said north margin and its easterly extension to the southeasterly margin of Juanita-Woodinville Way NE;

Thence southerly along said southeasterly margin to the north margin of NE 145th Street;

Thence east along said north margin to the east line of the plat of Windsor Vista No. 1 according to the plat thereof recorded in Volume 81 of Plats, at pages 70 and 71, records of King County, Washington;

Thence southerly along the southerly prolongation of said east line to the south line of Section 17, Township 26 North, Range 5 East, W.M.;

Thence east along said south line to the easterly margin of Primary State Highway No. 1 (SR-405) as depicted on the Record of Survey recording in Book 182 of Surveys, at Pages 251 through 259, records of King County, Washington:

Thence north along said easterly margin to the south line of a tract land conveyed to King County by the State of Washington by instrument recorded under 8603110513, records of King County, Washington;

Thence east along the south line of said tract to the east line of said tract;

Thence north along the east line of said tract to the southwesterly margin of the City of Seattle Tolt River Pipeline Right of Way:

Thence southeasterly along southwesterly margin to the west margin of NE 124th Avenue NE and west limits of the City of Woodinville as established by King County Ordinance No. 10306;

Thence along said limits of the City of Woodinville the following courses:

Thence south along said west margin to the intersection of the westerly extension of the south boundary of Kingsgate Highlands, Division No. *5,* recorded in Volume 88 of Plats, Pages 1 to *5,* Records of King County, Washington;

Thence east along said westerly extension and said south boundary to the southeast corner of said plat of Kingsgate Highlands Division 5;

Thence north along the east boundary thereof to the southwest corner of the plat of Kingsgate Vista, recorded in Volume 107 of Plats, pages 52 and 53, records of King County, Washington;

Thence east along the south boundary of said plat of Kingsgate Vista and its easterly projection to the West margin of 132nd Ave NE;

Thence southerly along said west margin of 132nd Avenue NE to the westerly extension of the south margin of NE 143rd street;

Thence easterly along said westerly extension and south margin thereof to the west line of the Puget Sound Power and Light Co. transmission line easement as located in the NW 1/4 of the NW 1/4 of Section 22, Township 26 North, Range 5 East W.M.;

Thence south along said west line to the south line of the NW 1/4 of Section 22, Township 26, North Range 5 East W.M.;

Thence easterly along said south line to the NW corner of the NE 1/4 of the NE 1/4 of the S W 1/4 of said Section 22;

Thence south to the SW corner of the NE 1/4 of the NE 1/4 of the SW 1/4 of said Section 22;

Thence east along the south line thereof to the North-South centerline of' Section 22;

Thence north along said North-South centerline to the center of said Section 22;

Thence west along the East-West centerline thereof 310 feet, more or less, to the SW corner of Tax Lot No. 108 in the SE ¼ of the NW 1/4 of said Section 22;

Thence N 7° 10' 00" W along the west line of said Tax Lot 108, 380 feet, more or less, to the NW corner thereof;

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Thence N 77°15'00" E along the northerly line of said Tax Lot 108 to the westerly margin of the Burlington Northern Railway right-of-way (also known as Northern Pacific Belt Line);

Thence southerly along said westerly margin to the south line of the NE 1/4 of said Section 22;

Thence east along the south line of the NE 1/4 of said Section 22 to the easterly margin of the Burlington Northern Railway right-of-way, (also known as Northern Pacific, Snoqualmie Branch) and an angle point in the limits of the City of Woodinville;

Thence leaving said limits of the City of Woodinville and continuing along the south line of NE ¼ of said Section 22 to the easterly margin of the Burlington Northern Railway right-of-way, (also known as Northern Pacific, Snoqualmie Branch)

Thence south along said easterly margin to the south margin of NE 124th Street;

Thence westerly to the northeast corner of a tract of land annexed to the City of Redmond by City of Redmond Ordinance Number 1030;

Thence west along the north line of the tracts of land annexed to the City of Redmond by City of Redmond Ordinance Numbers 1030 and 966 to the west line of the east ¾ of the Northwest ¼ of the Southwest ¼ of Section 27, Township 26 North, Range 5 East, W.M.

Thence south along said west line and the west line of a tract of land annexed to the City of Redmond by City of Redmond Ordinance Number 966 to the south line of the said Northwest ¼ and the north line of a tract of land annexed to the City of Redmond by City of Redmond Ordinance Number 778;

Thence west along said south line and said limits of the City of Redmond to the easterly margin of Seattle Water Department Eastside Supply Line right-of-way and the limits of the City of Kirkland as established by City of Kirkland Ordinance Number 3063:

Thence north along said easterly margin and said limits of the City of Kirkland to the south margin of NE 124th Street:

Thence westerly along said right of way and said limits of the City of Kirkland to the northerly tangent point of the southerly margin of said right-of-way with the westerly margin of the Slater Avenue NE right of way;

Thence northwesterly perpendicular to the centerline of NE 124th Street right-of-way to the southerly line of a tract of land annexed to the City of Kirkland by City of Kirkland Ordinance No. 2545:

Thence northeasterly along said southerly line to the southeast corner of said tract of land;

Thence northerly along east line of said tract of land to the northeast corner thereof;

Thence west along said north line of said tract of land to the west line of the northeast quarter of the northeast quarter of Section 28, Township 26 North, Range 5, W.M. and the limits of the City of Kirkland as established by City of Kirkland Ordinance Number 2252;

Thence north along said west line and said limits of the City of Kirkland to the north line of said Section 28:

Thence west along said north line (said north line being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 2252 and the centerline of NE 132nd Street) to the Point of Beginning.

Written By: BTF
Written By: GTJ

6/3/09

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ORDINANCE NO. 4229

AN ORDINANCE OF THE CITY OF KIRKLAND ANNEXING CERTAIN TERRITORY REFERRED TO AS THE FINN HILL, KINGSGATE AND NORTH JUANITA ANNEXATION AREA; PROVIDING THAT THE PROPERTY IN THE ANNEXATION AREA BE ASSESSED AND TAXED AT THE SAME RATE AND ON THE SAME BASIS AS OTHER PROPERTY WITHIN THE CITY OF KIRKLAND, BUT WITHOUT THE ASSUMPTION OF VOTER-APPROVED INDEBTEDNESS; ADOPTING ZONING REGULATIONS; AND FIXING THE EFFECTIVE DATE OF THE ANNEXATION.

WHEREAS, on April 7, 2009, the City Council of the City of Kirkland passed Resolution R-4751 which directed the City Clerk to file a notice of intent to annex the Finn Hill, Kingsgate and North Juanita Annexation Area with the King County Boundary Review Board; and

WHEREAS, the Boundary Review Board held a public hearing on the proposed annexation on June 8, 2009, and approved the annexation on July 9, 2009; and

WHEREAS, after two public hearings, the City Council adopted zoning for the Finn Hill, Kingsgate and North Juanita Annexation area as provided in Ordinance 4196; and

WHEREAS, the City Council passed Resolution R-4763 calling for an election which was held pursuant to State statute; and

WHEREAS, the King County Council has transmitted a certified abstract of the vote in the November 3, 2009, general election; and

WHEREAS, the annexation of the Finn Hill, Kingsgate and North Juanita Annexation area and the adoption of the proposed zoning regulation was approved by a majority of the voters residing in the area and voting on the annexation proposition, but the assumption of voter-approved indebtedness was not approved by a sufficient vote; and

WHEREAS, the City Council passed Resolution R-4791 accepting the annexation without the assumption of voter-approved indebtedness as authorized in RCW 35A.14.085;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. Annexation of Property. All property within the Finn Hill, Kingsgate and North Juanita Annexation Areas, the boundaries of which are attached and incorporated as Exhibit A to this Ordinance, is annexed to and made a part of the City of Kirkland.

Section 2. Taxation. All property within the Finn Hill, Kingsgate and North Juanita Annexation Area annexed by this Ordinance shall be assessed and taxed at the same regular property tax rate and on the same basis as other property within the City of Kirkland. However, voter-approved indebtedness of the City outstanding as of the effective date of the annexation shall not be assumed by the property within the Finn Hill, Kingsgate and North Juanita Annexation Area annexed by this Ordinance, nor shall excess property taxes for payment of any such indebtedness be levied against property within that annexed area.

Section 3. Zoning. The property with the Finn Hill, Kingsgate and North Juanita Annexation Area shall be subject to the zoning regulations and zoning map established in Ordinance 4196.

Section 4. Effective date of annexation. The effective date of the annexation of the Finn Hill, Kingsgate and North Juanita Annexation Area shall be effective on June 1, 2011.

Section 5. The City Clerk shall file a certified copy of this Ordinance with the King County Council and the King County Elections Director.

Section 6. Severability. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 7. Effective date of ordinance. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this ____ day of _____, 2009.

_____
MAYOR

Attest:

_____
City Clerk

City of Kirkland
Legal Description – Finn Hill, North Juanita, Kingsgate Annexation

Triad Job No 09-033
March 24, 2009
Revised March 31, 2009
Revised May 13, 2009

That portion of Sections 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30 and 31 Township 26 North, Range 5 East W.M. and Sections 13, 23, 24, 25, 26 and 36 Township 26 North, Range 4 East W.M. in King County, Washington described as follows:

Beginning at North Quarter Corner of Section 28, Township 26 North, Range 5 East, W.M.;

Thence west along the north line of the Northwest Quarter of said Section 28 (said north line being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 2252 and the centerline of NE 132nd Street) to the corner common to Sections 28 and 29, Township 26 North, Range 5 East, W.M.;

Thence west along the north line of the Northeast Quarter of said Section 29 (said north line being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 2252 and the centerline of NE 132nd Street) to the centerline of 116th Avenue NE right of way;

Thence southerly along the centerline of 116th Avenue NE right of way to the easterly extension of the south margin of the NE 132nd Street right of way;

Thence westerly along said south margin and the south margin of the NE 131st Way right of way (said south margins being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062) to the west line of east half of Section 30, Township 26 North, Range 5 East, W.M.;

Thence south along said west line (said west line being the west limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062) to the north line of the southeast quarter of the northwest quarter of said Section 30;

Thence west along said north line (said north line being the north boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance No. 4048) to the west line of east 275 feet of said southeast quarter of the northwest quarter;

Thence south along said west line (said west line being the west boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance No. 4048) to south line of said southeast quarter of the northwest quarter;

Thence along said south line to the east margin and/or the northerly extension of the east margin of 91st Avenue NE (said east margin being the west boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance Number 3121);

Thence south along said east margin and/or its northerly extension (said east margin being the west boundary of a tract of land annexed to the City of Kirkland under City of Kirkland Ordinance Number 3121) to the south margin of NE 120th Street;

Thence east along the south margin of NE 120th Street and/or its easterly extension to the west limits of the City of Kirkland as established by King County Ordinance No. 15471;

Thence south along said west limits to the southerly margin of Juanita Drive NE right of way;

Thence along said southerly margin to the west line of Juanita Bay Condominiums (said line being the west limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062);

Thence southerly and southeasterly along the said west line and its southerly extension (said line being the west limits of the City of Kirkland as established by City of Kirkland Ordinance No. 3062) to the outer limits of the second class shorelands of Lake Washington;

Thence leaving said city limits, southwesterly and northwesterly along said outer limits to North line of King County Short Plat Number 985037 (Alteration), recorded under Recording Number 911180963,

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records of King County, Washington and the limits of the City of Kenmore as established by King County Ordinance No. 12815;

Thence along said limits of the City of Kenmore the following courses:

Thence easterly along the North line of said King County Short Plat and the North line of Lot 2, King County Short Plat Number 273020, recorded under Recording Number 7601230425 records of King County, Washington to the west margin of 62nd Avenue Northeast;

Thence southerly along said margin to the north line of the Southeast Quarter of Section 23, Township 26 North, Range 4 East, W.M.;

Thence easterly along said north line to the east margin of 62nd Avenue Northeast;

Thence southerly along the east margin of 62nd Avenue Northeast to the point of intersection with the north line of King County Short Plat Number 376072, recorded under Recording Number 7607290790, records of King County. Washington;

Thence easterly along the north line of said King County Short Plat and the north line of King County Short Plat Number 682031, recorded under Recording Number 8404240701 and King County Short Plat Number S89S0226, recorded under Recording Number 8908311935. all in records of King County, Washington, to the westerly margin of Holmes Point Drive Northeast;

Thence northerly and easterly along said margin to the westerly margin of Juanita Drive Northeast;

Thence northerly along the westerly margin of said Juanita Drive Northeast to the point of intersection with the westerly extension of the north margin of Northeast 143rd Street;

Thence easterly along said extended line and the north margin at Northeast 143rd Street and the north margin of Northeast 145th Street to the intersection with the Westerly margin of 92nd Avenue Northeast;

Thence northerly along said margin to the intersection with the northeasterly margin of Simonds Road Northeast, said margin also being the limits of the City of Bothell as established by City of Bothell Ordinances 225, 227 and 960;

Thence southeasterly along the southerly limits of the City of Bothell and the northeasterly margin of Simonds Road Northeast to the west margin of 100th Avenue NE;

Thence north along said west margin to the north line of Section 19, Township 26 North, Range 5 East, W.M. and the south limits of the City of Bothell as established by City of Bothell Ordinance Number 225;

Thence east along said north line and the south limits of the City of Bothell to the Northeast Corner of said Section 19;

Thence east along the north line of Section 20, Township 26 North, Range 5 East, W.M. and the south limits of the City of Bothell as established by City of Bothell Ordinance Number 1220 to the southerly prolongation of the east margin of 100th Avenue NE and the easterly limits of the City of Bothell as established by City of Bothell Ordinance Number 1220;

Thence north along said southerly prolongation and easterly limits of Bothell to the north margin of NE 145th Street;

Thence leaving said city limits, east along said north margin to the southerly prolongation of the west line of the plat of Norway View according to the plat thereof recorded in Volume 125 of Plats at Pages 77 and 78, records of King County, Washington:

Thence north along said southerly prolongation to the north margin of NE 145th Street;

Thence east along said north margin and its easterly extension to the southeasterly margin of Juanita-Woodinville Way NE;

Thence southerly along said southeasterly margin to the north margin of NE 145th Street;

Thence east along said north margin to the east line of the plat of Windsor Vista No. 1 according to the plat thereof recorded in Volume 81 of Plats, at pages 70 and 71, records of King County, Washington;

Thence southerly along the southerly prolongation of said east line to the south line of Section 17, Township 26 North, Range 5 East, W.M.;

Thence east along said south line to the easterly margin of Primary State Highway No. 1 (SR-405) as depicted on the Record of Survey recording in Book 182 of Surveys, at Pages 251 through 259, records of King County, Washington:

Thence north along said easterly margin to the south line of a tract land conveyed to King County by the State of Washington by instrument recorded under 8603110513, records of King County, Washington;

Thence east along the south line of said tract to the east line of said tract;

Thence north along the east line of said tract to the southwesterly margin of the City of Seattle Tolt River Pipeline Right of Way:

Thence southeasterly along southwesterly margin to the west margin of NE 124th Avenue NE and west limits of the City of Woodinville as established by King County Ordinance No. 10306;

Thence along said limits of the City of Woodinville the following courses:

Thence south along said west margin to the intersection of the westerly extension of the south boundary of Kingsgate Highlands, Division No. *5,* recorded in Volume 88 of Plats, Pages 1 to *5,* Records of King County, Washington;

Thence east along said westerly extension and said south boundary to the southeast corner of said plat of Kingsgate Highlands Division 5;

Thence north along the east boundary thereof to the southwest corner of the plat of Kingsgate Vista, recorded in Volume 107 of Plats, pages 52 and 53, records of King County, Washington;

Thence east along the south boundary of said plat of Kingsgate Vista and its easterly projection to the West margin of 132nd Ave NE;

Thence southerly along said west margin of 132nd Avenue NE to the westerly extension of the south margin of NE 143rd street;

Thence easterly along said westerly extension and south margin thereof to the west line of the Puget Sound Power and Light Co. transmission line easement as located in the NW 1/4 of the NW 1/4 of Section 22, Township 26 North, Range 5 East W.M.;

Thence south along said west line to the south line of the NW 1/4 of Section 22, Township 26, North Range 5 East W.M.;

Thence easterly along said south line to the NW corner of the NE 1/4 of the NE 1/4 of the S W 1/4 of said Section 22;

Thence south to the SW corner of the NE 1/4 of the NE 1/4 of the SW 1/4 of said Section 22;

Thence east along the south line thereof to the North-South centerline of' Section 22;

Thence north along said North-South centerline to the center of said Section 22;

Thence west along the East-West centerline thereof 310 feet, more or less, to the SW corner of Tax Lot No. 108 in the SE ¼ of the NW 1/4 of said Section 22;

Thence N 7° 10' 00" W along the west line of said Tax Lot 108, 380 feet, more or less, to the NW corner thereof;

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Thence N 77°15'00" E along the northerly line of said Tax Lot 108 to the westerly margin of the Burlington Northern Railway right-of-way (also known as Northern Pacific Belt Line);

Thence southerly along said westerly margin to the south line of the NE 1/4 of said Section 22;

Thence east along the south line of the NE 1/4 of said Section 22 to the easterly margin of the Burlington Northern Railway right-of-way, (also known as Northern Pacific, Snoqualmie Branch) and an angle point in the limits of the City of Woodinville;

Thence leaving said limits of the City of Woodinville and continuing along the south line of NE ¼ of said Section 22 to the easterly margin of the Burlington Northern Railway right-of-way, (also known as Northern Pacific, Snoqualmie Branch)

Thence south along said easterly margin to the south margin of NE 124th Street;

Thence westerly to the northeast corner of a tract of land annexed to the City of Redmond by City of Redmond Ordinance Number 1030;

Thence west along the north line of the tracts of land annexed to the City of Redmond by City of Redmond Ordinance Numbers 1030 and 966 to the west line of the east ¾ of the Northwest ¼ of the Southwest ¼ of Section 27, Township 26 North, Range 5 East, W.M.

Thence south along said west line and the west line of a tract of land annexed to the City of Redmond by City of Redmond Ordinance Number 966 to the south line of the said Northwest ¼ and the north line of a tract of land annexed to the City of Redmond by City of Redmond Ordinance Number 778;

Thence west along said south line and said limits of the City of Redmond to the easterly margin of Seattle Water Department Eastside Supply Line right-of-way and the limits of the City of Kirkland as established by City of Kirkland Ordinance Number 3063:

Thence north along said easterly margin and said limits of the City of Kirkland to the south margin of NE 124th Street:

Thence westerly along said right of way and said limits of the City of Kirkland to the northerly tangent point of the southerly margin of said right-of-way with the westerly margin of the Slater Avenue NE right of way;

Thence northwesterly perpendicular to the centerline of NE 124th Street right-of-way to the southerly line of a tract of land annexed to the City of Kirkland by City of Kirkland Ordinance No. 2545:

Thence northeasterly along said southerly line to the southeast corner of said tract of land;

Thence northerly along east line of said tract of land to the northeast corner thereof;

Thence west along said north line of said tract of land to the west line of the northeast quarter of the northeast quarter of Section 28, Township 26 North, Range 5, W.M. and the limits of the City of Kirkland as established by City of Kirkland Ordinance Number 2252;

Thence north along said west line and said limits of the City of Kirkland to the north line of said Section 28:

Thence west along said north line (said north line being the north limits of the City of Kirkland as established by City of Kirkland Ordinance No. 2252 and the centerline of NE 132nd Street) to the Point of Beginning.

Written By: BTF
Written By: GTJ

6/3/09

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PUBLICATION SUMMARY
OF ORDINANCE NO. 4229

AN ORDINANCE OF THE CITY OF KIRKLAND ANNEXING CERTAIN TERRITORY REFERRED TO AS THE FINN HILL, KINGSGATE AND NORTH JUANITA ANNEXATION AREA; PROVIDING THAT THE PROPERTY IN THE ANNEXATION AREA BE ASSESSED AND TAXED AT THE SAME RATE AND ON THE SAME BASIS AS OTHER PROPERTY WITHIN THE CITY OF KIRKLAND, BUT WITHOUT THE ASSUMPTION OF VOTER-APPROVED INDEBTEDNESS; ADOPTING ZONING REGULATIONS; AND FIXING THE EFFECTIVE DATE OF THE ANNEXATION.

SECTION 1. Describes the annexation boundaries.

SECTION 2. Describes the taxation of the annexation area.

SECTION 3. Describes the zoning of the annexation area.

SECTION 4. Sets an effective date of annexation.

SECTION 5. Instructs the City Clerk to file a certified copy of the Ordinance with the King County Council and the King County Elections Director.

SECTION 6. Provides a severability clause for the ordinance.

SECTION 7. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the _____ day of _____, 2009.

I certify that the foregoing is a summary of Ordinance _____ approved by the Kirkland City Council for summary publication.

_____
City Clerk

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Tracey Dunlap, Director of Finance and Administration
Sri Krishnan, Acting Financial Planning Manager

Date: December 4, 2009

Subject: **FINAL 2010 PROPERTY TAX LEVY**

RECOMMENDATION:

Council approve the attached ordinance, which repeals Ordinance 4216 approved on November 17, 2009 and establishes the final property tax levy for the 2010 fiscal year.

BACKGROUND DISCUSSION:

The attached ordinance reflects the final property tax levy data received from King County on December 4, 2009. This ordinance replaces the interim ordinance that was approved on November 17, 2009 in order to meet the County's deadline for 2010 levy information. As noted in the preliminary 2010 property tax levy memo, the initial levy was set intentionally high to ensure that the City would capture any additional new construction and state assessed valuation that was not recorded at the time of the preliminary levy.

It should be noted that the property tax levy needs to be established annually even though the Council has already adopted a budget for the 2009-2010 biennium. Accordingly, the attached ordinance relates to 2010 only.

The following discussion explains how the final levy numbers were calculated for each of the variable factors in the levy. There are two components to the property tax levy — the regular levy, which funds operating costs, and the excess levy, which funds debt service on voter-approved bonds.

Regular Levy

For 2010, there are two factors impacting the amount of the regular levy – the new construction levy and the optional increase.

New Construction

New construction represents additional property taxes to be received from the construction of new buildings and additions to existing structures. The new construction levy increases revenue to the City but does not increase the tax levy on existing taxpayers. The new construction levy is calculated by dividing the new construction valuation by $1,000 and

multiplying the quotient by the current year's regular levy tax rate[1] ($1.02548 per $1,000 of assessed valuation). The final new construction valuation for the 2010 levy (as of December 4, 2009) is $99,901,830, which translates into a new construction levy of $102,447 ($99,901,830/$1,000 x $1.02548). Over the past several years, the increase in new construction levy as a percentage of each year's total base regular levy has ranged between 1% and 4%. The 2010 new construction levy of $102,447 is 0.76% of the total base regular levy for 2010.

Optional Levy Increase

The 2009-2010 Budget assumes an optional increase of one percent in each year. The Council adopted a resolution of substantial need (R-4782) at the November 17 meeting, so the 2010 final levy includes the one percent increase. Each one percent increase in the regular levy equates to a little more than $126,000 in new revenue to the General Fund and about $8,000 in new revenue to the Parks Maintenance Fund, for a total of about $134,000. Note that this figure is net of a levy correction by King County of $18,919.

Excess Levy

The total excess levy, which relates to voted debt, is decreasing from $1,456,986 in 2009 to $921,776 in 2010, due to the retirement of the 1993 Unlimited General Obligation Refunding. This translates to a rate per $1,000 assessed value of $0.08148 (a decrease from the 2009 rate of $0.11115).

Trends in Assessed Valuation

Growth in assessed valuation is composed of new construction and revaluation of existing properties. Final valuation figures from King County dated 12/04/2009, indicate that the City's total assessed valuation decreased by 13.69% ($1,794,589,019) comprised of a 0.76% increase due to new construction ($99,901,830) and a 14.45% decrease due to revaluations ($1,894,490,849).

The change in valuation does not in itself generate additional revenue for the City. If the Council took no optional increase in the levy and the assessed valuation increases, it would have the effect of lowering the rate applied to each $1,000 of assessed valuation. Conversely, if the assessed valuation decreases, as it has in 2009, it results in an increase in the rate applied to each $1,000 of assessed valuation, since the levy is set as a total dollar amount, which is divided by the assessed valuation.

The overall tax rate increases from $1.13712 per $1,000 of assessed valuation in 2009 to $1.29076 in 2010. The rate per $1,000 increases as the result of dividing the total levy dollars by an assessed valuation that has decreased almost 14% from the 2009 levy. Note that the total dollar amount of the levy is fixed but the final rate per $1,000 of assessed valuation (AV) can change based on the final AV at the time King County finalizes the levy rates (in early 2010).

[1] Levy rate per the Final Levy Limit Worksheet from the King County Assessor's Office.

Final Levy Recap:

Base General Levy (2010 Rate)	$ 12,632,012
1% Optional Increase (General Levy)	126,320
Base Parks Maintenance Levy (2010)	814,430
1% Optional Increase (Parks Maint. Levy)	8,144
New Construction and Prior Yr. Adjustments*	100,284
Total Regular and Parks Maint Levy	$ 13,681,190
Excess Levy (for voted debt)	921,776
Total 2010 Final Levy	**$ 14,602,966**

*Prior-year adjustments include new construction levy, re-levy for prior-year refunds, and any levy corrections or omissions.

Attachments

Attachment A

CITY OF KIRKLAND
2010 PROPERTY TAX DISTRIBUTION (FINAL LEVY)

Taxable Assessed Valuation For 2010 Levy	**$11,313,599,319**

REGULAR LEVY

Operating Fund	Levy	Rate per $1,000 AV
General Fund	$9,812,795	$0.86735
Street Operating Fund	$3,037,672	$0.26850
Parks Maintenance Fund	$830,723	$0.07343
Total 2010 Regular Levy	***$13,681,190***	***$1.20928***

EXCESS LEVY

Unlimited General Obligation Bond Issue	Levy	Rate per $1,000 AV
1993 Unlimited G.O. Refunding (Parks)	$0	$0.00000
1995 Unlimited G.O. (Public Safety)	$91,378	$0.00808
2001 Unlimited G.O. Refunding (Public Safety)	$188,513	$0.01666
2003 Unlimited G.O. (Parks)	$641,885	$0.05674
Total 2010 Excess Levy	***$921,776***	***$0.08148***

TOTAL LEVY

	Levy	Rate per $1,000 AV
Total 2010 Levy	***$14,602,966***	***$1.29076***

ORDINANCE NO. 4230

AN ORDINANCE OF THE CITY OF KIRKLAND ESTABLISHING THE AMOUNT OF PROPERTY TAXES TO BE LEVIED FOR THE YEAR 2010, THE SECOND YEAR OF THE CITY OF KIRKLAND'S 2009-2010 FISCAL BIENNIUM AND REPEALING ORDINANCE 4216.

WHEREAS, the City Council previously held a public hearing on November 17, 2009, to consider revenue sources for the 2009-2010 Biennial Budget; and

WHEREAS, the City Council and the City Manager have considered the anticipated financial requirements of the City of Kirkland for the fiscal year 2010; and

WHEREAS, pursuant to RCW 35A.33.135, the City Council is required to determine and fix by ordinance the amount to be raised by ad valorem taxes; and

WHEREAS, on November 17, 2009, the City Council passed Ordinance 4216 which was the preliminary property tax levy; and

WHEREAS, the City Council wishes to repeal the preliminary property tax levy and pass the final tax levy based upon the most recent property tax levy data provided by King County; and

WHEREAS, RCW 84.55.120 requires that the increase in the levy over the prior year shall be stated both as to dollars and percentage;

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

Section 1. Ordinance 4216 passed November 17, 2009, is hereby repealed.

Section 2. The regular property tax levy for the year 2010 is hereby fixed and established in the amount of $13,681,190. This property tax levy represents a dollar increase of $234,748 and a percentage increase of 1.75% from the previous year, including the increase resulting from the addition of new construction, improvements to property, any increase in state-assessed property, and administrative refunds as shown below:

	Amount	% Increase (Decrease)
2009 Regular Property Tax Levy	13,446,442	
Less Prior Year Refund	0	
Plus New Construction Levy	102,447	0.76%
Plus Annexation Levy	0	0.00%
Plus Refund Levy	16,756	0.13%
Plus Property Tax Increase	134,464	1.00%
Plus Levy Corrections by King County	(18,919)	-0.14%
2010 Regular Levy	**13,681,190**	**1.75%**

Section 3. There is hereby levied for 2010 upon all property, both real and personal, within the City of Kirkland, Washington, and within the area subject to tax levies for the principal and interest of all general obligation bond issues, a total voted property tax of $921,776 on the total of assessed valuation for such property.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this _____ day of _____, 2009.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

Council Meeting: 12/15/2009
Agenda: Unfinished Business
Item #: 10. f.

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: David Ramsay, City Manager

From: Tracey Dunlap, Director of Finance and Administration
Sri Krishnan, Acting Financial Planning Manager

Date: December 3, 2009

Subject: **2009-2010 MID-BIENNIAL BUDGET ADJUSTMENT**

RECOMMENDATION:

Council approve the attached ordinance and resolution adjusting the budget for the 2009-2010 biennium.

BACKGROUND DISCUSSION:

At the November 12 and 17 and December 1 Council Study Sessions, the City Council was presented with a financial update and a series of funding recommendations to update the adopted 2009-2010 Budget. In addition, a public hearing on the mid-biennium budget adjustments was held on November 17. Based on those discussions, Council provided direction on the following issues:

- Outside agencies funding totaling $37,670 for the Kirkland Arts Center, KITH 7 Hills of Kirkland, and the Kirkland Performance Center was identified from the Council Contingency.

- Enterprise Seattle Dues for 2010 ($6,000) were funded half from the Economic Development professional services line item and half from the Council Contingency.

- Staff recommended establishing a "hard cap" on fire suppression overtime, holding the department to the budgeted level in 2010 ($750,000). The department will continue pursuing overtime reduction strategies with the union at the negotiating table and staff will bring back any recommendation to reduce minimum staffing before it is implemented. The overtime status will continue to be updated monthly as part of the budget dashboard.

- The following reserve assumptions were identified:
    - The transfer of the planned use of the Rainy Day reserve will only occur if necessary,
    - If 2010 revenues fall short of the revised budget, further expenditure reductions will be implemented as soon as the first quarter of 2010,
    - If 2010 revenues perform better than budget, the first call on cash will be to replenish reserves.

The City's budget is adopted at the fund level which sets the total expenditure authority for the biennium for each fund. A summary of the 2009-2010 adjusted budget by fund type is included in the table that follows.

Fund Type	Current 09-10 Budget	Adjustments	Revised 09-10 Budget
General Government:			
General Fund	126,195,010	(5,566,321)	120,628,689
Other Operating Funds	15,968,587	(377,276)	15,591,311
Internal Service Funds	33,635,254	(495,453)	33,139,801
Non-Operating Funds	112,937,366	(422,797)	112,514,569
Utilities:			
Water/Sewer	69,306,639	(1,208,453)	68,098,186
Surface Water	23,915,282	269,262	24,184,544
Solid Waste	18,578,902	0	18,578,902
Total Budget	**400,537,040**	**(7,801,038)**	**392,736,002**

Total adjustments of $7,801,038 (reductions) are recommended and reflect five broad categories:

- *Budget Balancing Strategies* – During the budget study sessions, the strategy for balancing the projected budget shortfall has been summarized in the Budget Balancing Framework (Attachment A). It is important to remember that the budget process is an exercise in balancing financial resources and needs, resulting in very detailed and line-item oriented adjustments. The Budget Balancing framework is a communications tool and the process of matching up individual strategies with specific contributors to the shortfall is intended to provide clarity to the discussion. In fact, the available strategies as a group are used to balance the budget as a whole. In other words, the individual strategies could be lined up in any number of ways to address the budget shortfall.

  Some of the specific strategies are not reflected in the line-item adjustments, reflecting decisions that are pending or Council policy direction. For example:
  - As of the date of this memorandum, the specific actions required to implement the work schedule reductions (furloughs or alternate approaches to achieving a 3.4% reduction in personnel costs) are still in negotiation or have not been ratified by the labor unions. As a result, the 2010 sales tax figure in the revised budget is $1.1 million higher than the projected figure reflected in the framework (consistent with a 20% reduction in revenue in 2009). Once the concessions or additional reductions have been finalized, a budget adjustment will be brought forward in early 2010 to reduce the sales tax by $1.1 million and reduce the related detailed expenditure line items.
  - As discussed at the budget study sessions, the projected use of the Rainy Day reserve will only occur if needed. As a result, selected revenue line items have not been

reduced all the way to the 2010 level reflected in the framework. If these or other revenues fall short of the revised budget and the use of the reserve is necessary, the transfers from the reserve will be brought forward as a separate action. In the event that revenues exceed expectations or there are other expenditure savings, these amounts will be used to balance the budget rather than transferring funds from the Rainy Day reserve.

Note that a separate resolution is required to implement the use of the Contingency to fund 2009 fire overtime (attached).

- *Development Services Reductions* – Given the continuing decline in development services permit revenues (which are not part of the budget gap identified in the framework), additional reductions were made in late 2009 to better align resources with activity levels. The total reduction for 2010 is $975,714.
    - The Building division reductions total $450,248 and include reducing four FTEs (two Permit Technicians, a Plans Examiner and an Electrical/Building Inspector).
    - Public Works Engineering reductions total $382,868, including reduction of 1.8 FTEs (0.5 FTE Transportation Engineer, a Development Inspector, and 0.3 FTE Office Specialist).
    - The Planning Department reductions total $142,598, including a reduction of 1.11 FTEs (Admin Supervisor reduced 0.21 FTE, Development Review Manager reduced 0.4 FTE, and a Planner reduced 0.5 FTE).

- *Council Directed/Other Requests and Previously Approved Adjustments* – This category includes any additional changes identified by Council and formalizing previously approved actions (fiscal notes, etc). Some of these requests have been approved by the Council since the budget was adopted, but the formal appropriation adjustment is occurring as part of the mid-biennial budget update:
    - Fire Hydrant costs for 2009 and 2010 – In compliance with the October 2008 Washington State Supreme Court ruling that fire hydrant costs are a general government function and should be paid out of general tax revenues, the Council previously approved the use of $188,262 from the Contingency Reserve to pay for fire hydrant costs in 2009 and 2010.
    - Other Council directed adjustments made in 2009 total $51,050 and include costs for relocation of Hopelink ($20,000), two outside legal reviews on specific issues ($15,105), Concours d'Elegance admissions tax refund ($2,175), and flex pass alternative program ($13,770).
    - The Council directed changes summarized at the beginning of this memo related to outside agencies and Enterprise Seattle funding.

- *CIP Adjustments* - Formalizing changes based on the 2009-2014 CIP update presented to the City Council in September.
    - Projects funded but not started – Public safety and technology projects with general purpose funds that can be redirected to the General Fund total $279,349.
    - Projects to be closed – Public safety, technology, and neighborhood connections projects in this category with general purpose funds that can be redirected to the General Fund total $287,530. [Note that part of the adjustment for these first two items appears in the Budget Balancing category as well.]
    - New funded projects – Since the review of the Updated 2009-14 CIP was taken to Council in September, two new surface water utility projects are proposed to be added

to the 2009-14 CIP funded by a King County levy (collected by King County as a separate levy component to the property tax): 112nd Ave NE Low Impact Development Stormwater Facilities ($50,000) and Regional Detention in the Forbes Creek Watershed ($100,000).

- *Housekeeping Items* - Adjustments that may be needed to adjust budget accounts, fund balances, etc.
    - Grant funding – The City has been awarded several grants that require budget adjustments totaling $261,713. The following is a list of the items funded through grants:
        - SHSP Zone 1 (Fire Department) – $100,000
        - CMAQ Countywide Grant for a GTEC Project (Public Works) - $50,000
        - Court Security (Municipal Court/CMO) – $45,524
        - Shoreline Master Plan (Planning) – $4,600
        - Respect Booklet (Parks) – $3,500
        - Various grants to the Police Department – $58,089

    - Other housekeeping adjustments to the General Fund identified in the mid-biennial review process totaling $60,537.

A summary of the detailed line item adjustments is included as Attachment B. It is organized by adjustment type within each fund and identifies the funding source for each item.

A final category of potential budget adjustments presented at the budget study sessions was a series of service packages to prepare for the potential annexation of the PAA in mid-2011 totaling $2.15 million in 2010, including:

- Police Department service packages to address annexation-related ramp-up include: the hiring of 26 officers, promotions, overtime related to training, facility improvements, recruitment costs, and the purchase of two vehicles for a total of $1.65 million.
- Annexation support staff in Finance, Human Resources, Planning, and the City Manager's Office for a total of $328,000.
- The service package for GIS professional services addresses the creation and improvement of GIS data layers required to generate maps of the PAA. This service package is proposed to be funded by re-purposing $177,000 of existing GIS CIP funding.

Attachment C contains the summary of the recommended service packages and Attachment D is a version of the budget balancing framework that includes funding of the service packages. Because the annexation question has not yet been decided and the discussion of the service packages will continue on December 15, the attached budget ordinance does not include funding these service packages. An alternate ordinance, including the service packages, will be available for consideration at the December 15 meeting in the event the decision is made to proceed with annexation.

Budget Balancing Strategy - General Fund

Framework - 11/12/09 Mid-Bi Update without Utility Tax without Annexation

Dollars in thousands

	Potential Savings Available	One-Time 2009	One-Time 2010	Ongoing 2009	Ongoing 2010	Total
Projected Near-Term Shortfall due to Sales Tax		(2,772)	(2,642)	-	-	(5,414)
Other Near-Term Shortfall due to Economy		(351)	(787)			(1,138)
Projected Ongoing Shortfall due to Utility Tax		-	-	-	(2,240)	(2,240)
Projected Shortfall in Baseline Utility Tax		***(982)***	***(1,497)***	**-**	**-**	***(2,479)***
Projected Shortfall in Business License Fees		***(622)***	***(676)***	**-**	**-**	***(1,298)***
Projected Overspending in Fire Overtime		***(272)***	~~***(300)***~~	**-**	**-**	~~***(572)***~~
Total (Shortfall)		**(4,999)**	**(5,902)**	**-**	**(2,240)**	**(13,141)**
Strategies						
1. Budget Reduction List/Services Matrix	*1,615*	-	*348*	-	*1,267*	*1,615*
2. Additional Reductions						
Line Item Budgets						
Dues & Memberships	47	-	31	-	-	31
Out-of-State Training/Travel & Subsistence	64	29	35	-	-	64
~~Fire Minimum Staffing/Other OT Reduction~~	~~369~~	-	~~300~~	-	-	~~300~~
3. Savings from M&O/Additional Revenues						
Internal Service Rates						
Fleet Rates (mostly due to fuel savings)	229	129	100	-	-	229
IT Operating Rates	201	70	131	-	-	201
IT Replacement Rates	228	76	152			228
Governor's Pension Rate Reductions	557	180	377	-	-	557
Facilities/Court Building Lease Savings	*320*	*118*	*202*	-	-	*320*
Revenue - Parking Fine Increase ($10/ticket)	*100*	-	*100*	-	-	*100*
Estimated Under Expenditures in 2009	*800*	*800*	-	-	-	*800*
NORCOM - reduced 2010 budget	*219*	-	*219*	-	-	*219*
4. Reserves/Year End Cash						
2008 Year-end Cash	1,500	1,500		-	-	1,500
Revenue Stabilization Reserve	1,082	1,000	*82*	-	-	1,082
Rainy Day Reserves	2,700	-	*1,646*	-	-	1,646
Contingency (for Fire OT)	*2,325*	*272*	-	-	-	*272*
Street Fund	*200*	-	*200*	-	-	200
COLA Reserve	*500*	-	*500*	-	-	500
LTGO Bond Fund	*150*	-	*150*	-	-	150
Non-Department Contingency	*581*	258	*229*	-	-	487
5. Capital Improvement Program						
Projects Funded not Started	477	279	-	-	-	279
Projects to be Closed/Funds Repurposed	453	288	-	-	-	288
6. Compensation Savings						
AFSCME/Teamsters	344	-	-	-	344	344
MAC	270	-	-	-	270	270
IAFF	*339*	-	-	-	*339*	*339*
PSEU (Police Lts.)	20	-	-	-	20	20
*Police Commissioned & Support Guild**	*296*	-	-	-	-	-
7. Work Schedule Reductions						
Furlough/Equivalent Reduction	1,100	-	1,100	-	-	1,100
Total Potential Savings		**4,999**	**5,902**	**-**	**2,240**	**13,141**
Net Surplus/(Shortfall) - Annual		**-**	**-**	**-**	**-**	**-**

NOTES

* Collective bargaining agreement is currently open, so savings are shown as potential pending negotiations.

Grey shaded items indicate approved Mid-Year Budget adjustments.

Yellow shaded items indicate changes since 8/4/09 presentation

Italicized items are changes from last version

Development Services-related shortfall/reductions are excluded ($978,000)

City of Kirkland

2009-2010 Budget
Mid-Biennial Budget Adjustment Summary

Adjustment Type	Dept.	Description	Adjustments	Appropriation Adjustment	Funding Source				Funding Source Notes
					Internal Transf./Chrg.	Reserves	Resources Forward	External Revenue	
General Fund									
Council Directed/Other	CC	Review of Bank of America Appeals Process	10,105	10,105		10,105			Council Contingency
Council Directed/Other	CC	Professional Services for E-mail Review	5,000	5,000		5,000			Council Contingency
Council Directed/Other	HR	City Manager Recruitment	30,400	-					General Fund Contingency
Council Directed/Other	ND	Concours d'Elegance Admissions Tax Refund	2,175	2,175				2,175	Admissions Tax
Council Directed/Other	ND	Flex Pass Alternative Program	13,770	13,770		13,770			Council Contingency
Council Directed/Other	ND	Outside Agency Funding	37,670	37,670	37,670				Council Contingency
Council Directed/Other	ND	Re-instate Enterprise Seattle Membership	6,000	3,000	3,000				Council Contingency $3,000; Econ Dev $3,000
Council Directed/Other	PCS	Hopelink - Establish New Location	20,000	20,000		20,000			Council Contingency
Council Directed/Other	ND	Fire Hydrant Costs	188,262	188,262		188,262			Contingency Reserve
Dev Svcs Reduction	FB	Building Services Reductions	(450,248)	(450,248)				(450,248)	Reduce Building-related Permit Fees
Dev Svcs Reduction	PCD	Planning Department Reductions	(142,598)	(142,598)				(142,598)	Reduce Planning-related Development Revenues
Dev Svcs Reduction	PW	Development Engineering Reductions and Reallocations	(211,464)	(211,464)	171,404			(382,868)	Reallocate Staff to Utilities/Reduce Revenue
Housekeeping	PW	CMAQ Countywide Grant for a GTEC Project	50,000	50,000				50,000	CMAQ Countywide Grant
Housekeeping	CC	Mayor and City Council Salaries	(2,174)	(2,174)				(2,174)	Reduce Sales Tax
Housekeeping	CC	Reduced AWC Dues	(1,502)	-					General Fund Contingency
Housekeeping	FA	Additional Audit Expenses	8,850	-					General Fund Contingency
Housekeeping	FB	SHSP Zone 1 Grant	100,000	100,000				100,000	Indirect Federal Homeland Security Grant
Housekeeping	ND	Reduced Puget Sound Clean Air Organization Dues	(2,649)	-					General Fund Contingency
Housekeeping	PCS	Sports Camps	36,336	36,336	36,336				Xfr in from Recreation Fund
Housekeeping	PCS	Moving Excise Tax Expenses to Fund 126 w/Revenue	(20,050)	(20,050)	(20,050)				Xfr in from Fund 126
Housekeeping	PCS	Respect Booklet	3,500	3,500	3,500				Xfr in from Recreation Fund
Housekeeping	PCD	Shoreline Master Plan	4,600	4,600				4,600	Dept. of Ecology Grant
Housekeeping	PD	Court Security	45,524	45,524				45,524	JAG Grant
Housekeeping	PD	Police Department Grant Adjustments	58,089	58,089				58,089	Grants
Housekeeping	Var.	City Banking Services Costs	25,400	-					General Fund Contingency
Housekeeping	FA	Voter registration, election and voter pamphlet costs	26,000	-					General Fund Contingency
Housekeeping	ND	Eliminate Snow Plow expense xfr to Street Fund	(43,000)	-					General Fund Contingency
Housekeeping	CM	Correct CTED Grant	(30,000)	(30,000)				(30,000)	General Fund Contingency
Housekeeping	FB	Pandemic Flu Supplies	70,250	70,250	70,250				Emergency Generators Public Safety CIP Savings
Housekeeping	ND	Reimbursements for 2008 Snow Storm Expenses	6,175	6,175				6,175	Disaster Assistance Reimbursement - FEMA
Housekeeping	PCS	Park Garbage Collection	70,000	-					General Fund Contingency

Adjustment Type	Dept.	Description	Adjustments	Appropriation Adjustment	Funding Source: Internal Transf./Chrg.	Funding Source: Reserves	Funding Source: Resources Forward	Funding Source: External Revenue	Funding Source Notes
General Fund continued									
Budget Bal Strategy	CC	Utility Tax Increase Failure Expenditure Reductions	(17,165)	(17,165)				(17,165)	Utility Tax
Budget Bal Strategy	CM	Utility Tax Increase Failure Expenditure Reductions	(105,012)	(105,012)				(105,012)	Utility Tax
Budget Bal Strategy	CM	Utility Tax Increase Failure Expenditure Reductions	(10,133)	(10,133)				(10,133)	Utility Tax
Budget Bal Strategy	HR	Utility Tax Increase Failure Expenditure Reductions	(43,152)	(43,152)				(43,152)	Utility Tax
Budget Bal Strategy	CA	Utility Tax Increase Failure Expenditure Reductions	(2,000)	(2,000)				(2,000)	Utility Tax
Budget Bal Strategy	PK	Utility Tax Increase Failure Expenditure Reductions	(568,709)	(568,709)				(568,709)	Utility Tax
Budget Bal Strategy	PW	Utility Tax Increase Failure Expenditure Reductions	(160,899)	(160,899)				(160,899)	Utility Tax
Budget Bal Strategy	FA	Utility Tax Increase Failure Expenditure Reductions	(30,601)	(30,601)				(30,601)	Utility Tax
Budget Bal Strategy	PCD	Utility Tax Increase Failure Expenditure Reductions	(22,900)	(22,900)				(22,900)	Utility Tax
Budget Bal Strategy	PD	Utility Tax Increase Failure Expenditure Reductions	(134,504)	(134,504)				(134,504)	Utility Tax
Budget Bal Strategy	FB	Utility Tax Increase Failure Expenditure Reductions	(110,380)	(110,380)				(110,380)	Utility Tax
Budget Bal Strategy	ND	Utility Tax Increase Failure Expenditure Reductions	(80,000)	(80,000)				(80,000)	Utility Tax/Sales Tax
Budget Bal Strategy	Var.	Net GF Internal Rates Savings From Utility Tax Increase Failure	(154,580)	(154,580)				(154,580)	Sales Tax
Budget Bal Strategy	Var.	Street Fund Savings to GF Due to Utility Tax Increase Failure	(184,170)	-					Sales Tax
Budget Bal Strategy	Var.	Use of Remaining Revenue Stabilization Reserve	82,380	-	82,380			(82,380)	Sales Tax reduced - Xfr in increased
Budget Bal Strategy	FB	Firefighter Overtime	272,000	272,000	272,000				Contingency Reserve
Budget Bal Strategy	Var.	Parking Fine Increase	100,000	-					Reduce Sales Tax Rev./Increase Prkng Fine Rev.
Budget Bal Strategy	Var.	Street Property Tax	200,000	-					Reduce Sales Tax Rv./Realloc St. Fund Prop Tax
Budget Bal Strategy	Var.	Closed CIP Project Balances Funding Re-purposed	287,530	-	287,530			(287,530)	Business Lic. Revenue reduced-Xfr In Increased
Budget Bal Strategy	Var.	Deferring Funded CIP Projects	279,349	-	279,349			(279,349)	Business Lic. Revenue reduced-Xfr In Increased
Budget Bal Strategy	Var.	Projected 2009 Revenue Shortfalls-Various	(1,105,874)	(1,105,874)				(1,105,874)	GF Revenue shortfall/GF Contingency reduced
Budget Bal Strategy	Var.	Projected 2010 Revenue Shortfalls-Various	(786,215)	(786,215)				(786,215)	GF Revenue shortfall/GF Contingency reduced
Budget Bal Strategy	ND	Reduced Xfr Out to LTGO	(150,000)	(150,000)				(150,000)	Sales Tax reduced - Expense reduced
Budget Bal Strategy	Var.	Eliminate Out-of-State Training & Travel/Subsistence	(1,055)	(1,055)				(1,055)	Reduce Sales Tax
Budget Bal Strategy	Var.	Compensation Savings	(973,000)	(973,000)				(973,000)	Utility Tax/COLA Reserve
Budget Bal Strategy	ND	Reduce COLA Reserve	(500,000)	(500,000)				(500,000)	Utility Tax/COLA Reserve
Budget Bal Strategy	FB/PD	2010 NORCOM savings from revised budget	(226,698)	(226,698)				(226,698)	Sales Tax reduced - Expense reduced
Budget Bal Strategy	Var.	Discretionary Dues and Memberships	(31,657)	(31,657)				(31,657)	Sales Tax reduced - Expense reduced
Budget Bal Strategy	Var.	Reduce Fleet Operating Internal Charges from Fuel Savings	(100,000)	(100,000)	(100,000)				Sales Tax reduced - Expense reduced
Budget Bal Strategy	Var.	2009 Facilities Charges	(118,803)	(118,803)	(118,803)				Utility Taxes reduced-Expense reduced
Budget Bal Strategy	Var.	2010 Facilities Charges	(202,906)	(202,906)	(202,906)				Sales/Utility Taxes reduced-Expense reduced
General Fund Total			**(4,684,733)**	**(5,566,321)**	**801,660**	**237,137**	**-**	**(6,605,118)**	

E-Page 295 Adjustment Type	Dept.	Description	Adjustments	Appropriation Adjustment	Funding Source Internal Transf./Chrg.	Reserves	Resources Forward	External Revenue	Funding Source Notes
OTHER FUNDS									
Street Operating Fund									
Budget Bal Strategy	PW	Discretionary Dues and Memberships	(816)	(816)				(816)	Reduce Property Tax Allocation/Expense reduced
Budget Bal Strategy	PW	Utility Tax Increase Failure Expenditure Reductions	(184,170)	(184,170)				(184,170)	Reduce Property Tax Allocation/Expense reduced
Budget Bal Strategy	PW	Reduce Property Tax to Streets	(200,000)	(200,000)				(200,000)	Reduce Property Tax Allocation/Expense reduced
Housekeeping	PW	Downtown Maintenance Program	25,000	25,000	25,000				Transfer from General Fund
Housekeeping	PW	Eliminate Snow Plow expense xfr from General Fund	(43,000)	(43,000)	(43,000)				Transfer back to GF
Housekeeping	PW	Reimbursements for 2008 Snow Storm Expenses	21,374	21,374				21,374	Disaster Assistance Reimbursement - FEMA
Street Operating Fund Total			**(381,612)**	**(381,612)**	**(18,000)**	**-**	**-**	**(363,612)**	
Parks Maintenance Fund									
Budget Bal Strategy	PCS	Utility Tax Increase Failure Revenue Changes	(50,000)	(50,000)	(50,000)				Reduced Subsidy from General Fund
Parks Maintenance Fund Total			**(50,000)**	**(50,000)**	**(50,000)**	**-**	**-**	**-**	
Recreation Revolving Fund									
Budget Bal Strategy	PCS	Utility Tax Increase Failure Revenue Changes	14,500	14,500				14,500	Van Fees, Friday Night Market and Events
Housekeeping	PCS	Respect Booklet	3,500	3,500				3,500	King County Grant and Park Place Donation
Housekeeping	PCS	Skyhawks Sports Camps	36,336	36,336				36,336	SkyHawks Sports Camps
Recreation Revolving Fund Total			**54,336**	**54,336**	**-**	**-**	**-**	**54,336**	
Impact Fees Fund									
Housekeeping	Var.	Final 2009-14 CIP Correction	(736,300)	(736,300)				(736,300)	Interest Revenue and Impact Fees
CIP Update	Var.	2009-14 CIP Update	(1,223,000)	(1,223,000)				(1,223,000)	Impact Fees for Transportation Projects
Impact Fees Fund Total			**(1,959,300)**	**(1,959,300)**	**-**	**-**	**-**	**(1,959,300)**	
Park and Municipal Reserve Fund									
Budget Bal Strategy	Var.	Utility Tax Increase Failure Expenditure Reductions	(30,000)	(30,000)	(30,000)				Xfr in from GF
Dev Svcs Reduction	PW	Development Engineering Reductions and Reallocations	(15,190)	(15,190)	(15,190)				Xfr in from GF
Housekeeping	PW	Development Services Reserve Correction	140,000	140,000	140,000				Xfr in from GF
Housekeeping	Var.	Reduction to Litigation Reserve from Mid Year	(265,000)	(265,000)	(265,000)				Xfr in from GF $265K for mid-yr
Housekeeping	Var.	Jail Property Proceeds from Bellevue for NEC Planning	425,486	425,486				425,486	Jail Property Proceeds from Bellevue
Park and Municipal Reserve Fund Total			**255,296**	**255,296**	**(170,190)**	**-**	**-**	**425,486**	
LTGO Debt Service Fund									
Budget Bal Strategy	Var.	Reduce Reserves - LTGO Fund Balance Over Required	(150,000)	(150,000)	(150,000)				Xfr in from GF
LTGO Debt Service Fund Total			**(150,000)**	**(150,000)**	**(150,000)**	**-**	**-**	**-**	

Adjustment Type	Dept.	Description	Adjustments	Appropriation Adjustment	Funding Source: Internal Transf./Chrg.	Funding Source: Reserves	Funding Source: Resources Forward	Funding Source: External Revenue	Funding Source Notes
General Capital Projects Fund									
Housekeeping	Var.	Reimbursements for 2008 Snow Storm Expenses	8,607	8,607				8,607	Disaster Assistance Reimbursement - FEMA
CIP Update	Var.	2009-14 CIP Update	535,700	478,700		(21,300)		500,000	CIP Update-Grant Revenue/Reserves
Budget Bal. Strategy	Var.	Closing Public Safety Projects (xfr to General Fund)	(254,930)						Returning General Govt CIP Funding to GF
Budget Bal. Strategy	Var.	Closing Technology Projects (xfr to General Fund)	(7,600)						Returning General Govt CIP Funding to GF
Budget Bal. Strategy	Var.	Closing Neighborhood Connections Projects (xfr to G.F.)	(25,000)						Returning General Govt CIP Funding to GF
Budget Bal. Strategy	Var.	Public Safety Projects Not Started (xfr to General Fund)	(259,449)						Returning General Govt CIP Funding to GF
Budget Bal. Strategy	Var.	Technology Projects Not Started (xfr to General Fund)	(19,900)						Returning General Govt CIP Funding to GF
General Capital Projects Fund Total			**(22,572)**	**487,307**	**-**	**(21,300)**	**-**	**508,607**	
Grant Capital Projects Fund									
CIP Update	Var.	2009-14 CIP Update	943,900	943,900		(897,100)		1,841,000	CIP Update-Grant Revenue/Reserves
Grant Capital Projects Fund Total			**943,900**	**943,900**	**-**	**(897,100)**	**-**	**1,841,000**	
Water/Sewer Utility Operating Fund									
Housekeeping	PW	Fire Hydrant Costs	188,262	188,262	188,262				GF payment for fire hydrant costs
Housekeeping	PW	Reimbursements for 2008 Snow Storm Expenses	3,285	3,285				3,285	Disaster Assistance Reimbursement - FEMA
Water/Sewer Utility Operating Fund Total			**191,547**	**191,547**	**188,262**	**-**	**-**	**3,285**	
Water/Sewer Capital Fund									
Housekeeping	PW	Emergency Sewer Project Funding Correction	(1,400,000)	(1,400,000)	(1,400,000)				No xfr in
CIP Update	PW	2009-14 CIP Update	174,400	-					CIP Update-Reserves
Water/Sewer Capital Fund Total			**(1,225,600)**	**(1,400,000)**	**(1,400,000)**	**-**	**-**	**-**	
Surface Water Operating Fund									
Housekeeping	PW	2009 Local Govt Stormwtr Grant	50,000	50,000				50,000	Department of Ecology Grant
Housekeeping	PW	Natural Yard Care Neighborhood -- King County grant	49,150	49,150				49,150	King County Grant
Housekeeping	PW	Reimbursements for 2008 Snow Storm Expenses	20,112	20,112				20,112	Disaster Assistance Reimbursement - FEMA
Surface Water Operating Fund Total			**119,262**	**119,262**	**-**	**-**	**-**	**119,262**	
Surface Water Capital Fund									
CIP Update	PW	2009-14 CIP Update	162,100	-					CIP Update-Reserves
CIP Revisions	PW	122nd Ave NE Low Impact Development C SD 0071 000	50,000	50,000				50,000	King County Grant
CIP Revisions	PW	Forbes Creek Watershed Regional Detention C SD 0046 000	100,000	100,000				100,000	King County Grant
Surface Water Capital Fund Total			**312,100**	**150,000**	**-**	**-**	**-**	**150,000**	

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Adjustment Type	Dept.	Description	Adjustments	Appropriation Adjustment	Funding Source: Internal Transf./Chrg.	Funding Source: Reserves	Funding Source: Resources Forward	Funding Source: External Revenue	Funding Source Notes
Equipment Rental Fund									
Budget Bal Strategy	PW	Utility Tax Increase Failure Expenditure Reductions	(46,404)	(46,404)	(46,404)				Reduced Operating Revenue/Expense reduced
Budget Bal Strategy	PW	Reduce Fleet Operating Internal Charges from Fuel Savings	(150,000)	(150,000)	(150,000)				Reduced Operating Revenue/Expense reduced
Housekeeping	PW	De-Icer and Snow Plow Blades PU79, PU71 & PU72	28,000	28,000	28,000				Xfr in from Street Operating
Housekeeping	PW	Reimbursements for 2008 Snow Storm Expenses	8,200	8,200				8,200	Disaster Assistance Reimbursement - FEMA
Equipment Rental Fund Total			**(160,204)**	**(160,204)**	**(168,404)**	**-**	**-**	**8,200**	
Information Technology Fund									
Council Directed/Other	IT	Consultation Services for Transfer of Cable Franchise	54,750	54,750		54,750			Contingency Fund
Other	IT	GIS Staffing Analysis for Other Agencies	23,257	23,257				23,257	External revenue
Other	IT	NORCOM Standby/Staff Support	28,093	28,093				28,093	External revenue
Budget Bal Strategy	IT	Utility Tax Increase Failure Expenditure Reductions	(134,202)	(134,202)	(134,202)				Reduced Operating Revenue/Expense reduced
Information Technology Fund Total			**(28,102)**	**(28,102)**	**(134,202)**	**54,750**	**-**	**51,350**	
Facilities Maintenance Fund									
Budget Bal. Strategy	PW	Adjusted 2009 Facilities Rates	(79,763)	(79,763)	(79,763)				Reduced Operating Revenue/Expense reduced
Budget Bal. Strategy	PW	Utility Tax Increase Failure Expenditure Reductions	(24,439)	(24,439)	(24,439)				Reduced Operating Revenue/Expense reduced
Budget Bal. Strategy	PW	Adjusted 2010 Facilities Rates	(202,945)	(202,945)	(202,945)				Reduced Operating Revenue/Expense reduced
Facilities Maintenance Fund Total			**(307,147)**	**(307,147)**	**(307,147)**	**-**	**-**	**-**	
TOTAL OTHER FUNDS			**(2,408,096)**	**(2,234,717)**	**(2,209,681)**	**(863,650)**	**-**	**838,614**	
TOTAL ALL FUNDS			**(7,092,829)**	**(7,801,038)**	**(1,408,021)**	**(626,513)**	**-**	**(5,766,504)**	

City of Kirkland
2009-2010 Mid-Biennial Budget Review
Annexation Service Package Requests -- 11-10-09

Department	SP #	Service Package Title	FTE	Department Request	City Manager Recommendation	Notes
Finance & Admin.	010FA11	Budget Analyst	1.00	$ 87,039	$ 87,039	
Police	010PD06	Recruitment and Advertising		$ 25,000	$ 25,000	
Police	010PD07	Workplace Expansion		$ 49,000	$ 49,000	
Police	010PD08	Vehicles		$ 162,400	$ 162,400	Assumes June 1, 2011 effective date
Police	010PD09	Annexation Related Police Reorganization		$ 66,141	$ 66,141	
Police	010PD10	PTO Training Overtime		$ 27,563	$ 27,563	
Police	010PD11	Annexation Officers	26.00	$ 1,319,219	$ 1,319,219	Assumes June 1, 2011 effective date
		Subtotal Police Department	26.00	$ 1,649,323	$ 1,649,323	
Information Technology	522IT09	GIS Professional Services		$ 265,000	$ 177,000	Total estimated cost of $265,000 funded by re-purposing $177,000 of existing GIS CIP funding; remainder will be brought forward for future consideration.
Human Resources	010HR02	HR Analyst (0.7 FTE)	0.70	$ 70,955	$106,833	1.12 FTE HR Analyst starting 2/1/2010 recommended
Human Resources	010HR03	HR Analyst (0.7 FTE)	0.70	$ 49,108		
Human Resources	010HR04	HR Coordinator (0.5 FTE)	0.50	$ 33,196		
		Subtotal Human Resources Department	1.90	$ 153,259	$ 106,833	
Planning	010PL09	Planner	1.00	$ 99,201	$ 99,201	
City Manager	010CM12	Annexation General Support	0.40	$ 35,084	$ 35,084	
		Total	**30.30**	**$ 2,288,906**	**$ 2,154,480**	

Budget Balancing Strategy - General Fund

Framework - 11/17/09 Mid-Bi Update without Utility Tax with Annexation

Attachment D

Dollars in thousands

	Potential Savings Available	One-Time 2009	One-Time 2010	Ongoing 2009	Ongoing 2010	Total
Projected Near-Term Shortfall due to Sales Tax		(2,772)	(2,642)	-	-	(5,414)
Other Near-Term Shortfall due to Economy		(351)	(787)	-	-	(1,138)
Projected Ongoing Shortfall due to Utility Tax		-	-	-	(2,240)	(2,240)
Projected Shortfall in Baseline Utility Tax		(982)	(1,497)	-	-	(2,479)
Projected Shortfall in Business License Fees		(622)	(676)	-	-	(1,298)
Projected Overspending in Fire Overtime (with "Hard Cap")		(272)	~~(300)~~	-	-	~~(572)~~
Annexation Service Packages		-	(2,154)	-	-	(2,154)
Total (Shortfall)		**(4,999)**	**(8,056)**	**-**	**(2,240)**	**(15,295)**
Strategies						
1. Budget Reduction List/Services Matrix	1,615	-	348	-	1,267	1,615
2. Additional Reductions						
Line Item Budgets						
Dues & Memberships	47	-	31	-	-	31
Out-of-State Training/Travel & Subsistence	64	29	35	-	-	64
~~Fire Minimum Staffing/Other OT Reduction~~	~~369~~	-	~~300~~	-	-	~~300~~
3. Savings from M&O/Additional Revenues						
Internal Service Rates						
Fleet Rates (mostly due to fuel savings)	229	129	100	-	-	229
IT Operating Rates	201	70	131	-	-	201
IT Replacement Rates	228	76	152	-	-	228
Governor's Pension Rate Reductions	557	180	377	-	-	557
Facilities/Court Building Lease Savings	320	118	202	-	-	320
Revenue - Parking Fine Increase ($10/ticket)	100	-	100	-	-	100
Estimated Under Expenditures in 2009	800	800	-	-	-	800
NORCOM - reduced 2010 budget	219	-	219	-	-	219
Estimated Year-End Non-Tax Revenues	700	-	700	-	-	700
4. Reserves/Year End Cash						
2008 Year-end Cash	1,500	1,500		-	-	1,500
Revenue Stabilization Reserve	1,082	1,000	82	-	-	1,082
Rainy Day Reserves	2,700	-	1,646	-	-	1,646
Contingency (for Fire OT)	2,325	272	-	-	-	272
Street Fund	200	-	200	-	-	200
COLA Reserve	500	-	500	-	-	500
LTGO Bond Fund	150	-	150	-	-	150
Non-Department Contingency	581	258	229	-	-	487
Interest Backfill Set-aside	577	-	327	-	-	327
Unemployment/Restructuring Set-aside	300	-	200	-	-	200
5. Capital Improvement Program						
Projects Funded not Started	477	279	-	-	-	279
Projects to be Closed/Funds Repurposed	453	288	-	-	-	288
Police CIP -or- State Sales Tax Credit	750	-	750	-	-	750
Repurposing GIS CIP	177	-	177	-	-	177
6. Compensation Savings						
AFSCME/Teamsters	344	-	-	-	344	344
MAC	270	-	-	-	270	270
IAFF	339	-	-	-	339	339
PSEU (Police Lts.)	20	-	-	-	20	20
Police Commissioned & Support Guild*	296	-	-	-	-	-
7. Work Schedule Reductions						
Furlough/Equivalent Reduction	1,100	-	1,100	-	-	1,100
Total Potential Savings		**4,999**	**8,056**	**-**	**2,240**	**15,295**
Net Surplus/(Shortfall) - Annual		**-**	**-**	**-**	**-**	**-**

NOTES

* Collective bargaining agreement is currently open, so savings are shown as potential pending negotiations.

Grey shaded items indicate approved Mid-Year Budget adjustments.

Yellow shaded items indicate changes since 8/4/09 presentation

Purple shaded items indicate annexation-related changes reflecting 11/17/09 funding recommendations.

Development Services-related shortfall/reductions are excluded ($978,000)

ORDINANCE NO. 4231

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING THE BIENNIAL BUDGET FOR 2009-2010.

WHEREAS, the City Council finds that the proposed adjustments to the Biennial Budget for 2009-2010 reflect revenues and expenditures that are intended to ensure the provision of vital municipal services at acceptable levels;

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

Section 1. The Mid-biennial 2009 adjustments to the Biennial Budget of the City of Kirkland for 2009-2010 are hereby adopted.

Section 2. In summary form, modifications to the totals of estimated revenues and appropriations for each separate fund and the aggregate totals for all such funds combined are as follows:

Funds	Current Budget	Adjustments	Revised Budget
General	126,195,010	(5,566,321)	120,628,689
Lodging Tax	791,648	0	791,648
Street Operating	9,852,992	(381,612)	9,471,380
Cemetery Operating	210,362	0	210,362
Parks Maintenance	2,277,124	(50,000)	2,227,124
Recreation Revolving	2,836,461	54,336	2,890,797
Contingency	2,328,060	0	2,328,060
Cemetery Improvement	586,574	0	586,574
Impact Fees	6,110,398	(1,959,300)	4,151,098
Park & Municipal Reserve	11,192,876	255,296	11,448,172
Off-Street Parking Reserve	217,610	0	217,610
Tour Dock	126,275	0	126,275
Street Improvement	2,833,503	0	2,833,503
Grant Control Fund	222,924	0	222,924
Excise Tax Capital Improvement	22,396,187	0	22,396,187
Limited General Obligation Bonds	2,735,729	(150,000)	2,585,729
Unlimited General Obligation Bonds	2,687,388	0	2,687,388
General Capital Projects	42,502,263	487,307	42,989,570
Grant Capital Projects	17,363,502	943,900	18,307,402
Water/Sewer Operating	46,001,669	191,547	46,193,216
Water/Sewer Debt Service	3,505,639	0	3,505,639
Utility Capital Projects	19,799,331	(1,400,000)	18,399,331
Surface Water Management	12,826,765	119,262	12,946,027
Surface Water Capital Projects	11,088,517	150,000	11,238,517
Solid Waste	18,578,902	0	18,578,902
Equipment Rental	13,759,389	(160,204)	13,599,185

Funds	Current Budget	Adjustments	Revised Budget
Information Technology	10,195,682	(28,102)	10,167,580
Facilities Maintenance	9,680,183	(307,147)	9,373,036
Firefighter's Pension	1,634,077	0	1,634,077
	400,537,040	(7,801,038)	392,736,002

Section 3. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this 15th day of December 2009.

Signed in authentication thereof this 15th day of December, 2009.

_____
MAYOR

Attest:

_____
City Clerk

Approved as to Form:

_____
City Attorney

RESOLUTION R-4793

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND AUTHORIZING THE TRANSFER OF FUNDS FROM THE CONTINGENCY RESERVE FUND TO THE GENERAL FUND TO PAY FIREFIGHTER OVERTIME COSTS IN 2009.

WHEREAS, the City has unforeseen general fund expenses for firefighter overtime in 2009;
and

WHEREAS, under RCW 35A.146, the City may, by resolution or ordinance adopted by a vote of the majority of the entire City Council, authorize the transfer of funds from the contingency fund to the appropriate operating fund;

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. Funds in the amount of $272,000 shall be transferred from the Contingency Reserve Fund to the general fund for the purpose of paying firefighter overtime costs in 2009. A plan for replenishing this reserve use will be developed as part of the 2011-2012 budget process.

Passed by majority vote of the Kirkland City Council plus one in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this ____ day of _____, 2009.

_____
MAYOR

Attest:

_____
City Clerk

CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033 425.587.3225
www.ci.kirkland.wa.us

MEMORANDUM

Date: **December 7, 2009**

To: **David Ramsay, City Manager**

From: **Paul Stewart, Deputy Planning Director**
Eric Shields, Planning Director

Subject: **Shoreline Master Program and Houghton Community Council Action (ZON06-00017)**

Recommendation

Receive an update on the Houghton Community Council's comments or action on the Shoreline Master Program and either:

- Revise the regulations adopted by the City Council with the passage of Resolution R-4786 approving the Shoreline Master Program; or
- Take no further action at this time (the Shoreline Master Program as approved by the City Council will be transmitted to the State Department of Ecology for their review and comment).

Background

On December 1, 2009 the City Council approved R-4786 adopting the Shoreline Master Program (SMP). This resolution along with the associated regulations and the full Council packet can be accessed at the following link:
http://www.ci.kirkland.wa.us/Assets/City+Council/Council+Packets/120109/10a_UnfinishedBusiness.pdf

The Houghton Community Council (HCC) is scheduled to meet on December 14th, 2009. The HCC wanted to review the SMP as approved by the City Council prior to it being transmitted to the Department of Ecology (DOE). Staff has recommended to the HCC that they either concur with the City Council approval or provide comments to the City Council and Department of Ecology. On December 15th, the City Council can review the action taken by the HCC prior to sending the SMP to DOE.

The City Council considered the SMP update along with the recommendations from the Planning Commission and Houghton Community Council at three study sessions on October 22, November 2 and November 23, 2009.

Subsequently, at their regular meeting on December 1, 2009, the City Council adopted

two resolutions. R-4786 approved the SMP. This resolution along with the associated attachments will be sent to the Department of Ecology. The Council also approved R-4787, the Zoning Code Amendments associated with the SMP. These amendments do not require DOE approval.

On September 14, 2009, the HCC forwarded their recommendation of approval to the City Council on the Shoreline Master Program update. The recommendation was the same as the Planning Commission with the exception of three areas:

- shoreline vegetation requirements for parks outside of the swimming and boating areas;
- tree replacement standards for trees less than 12" in diameter; and
- use of shoreline stabilization to protect land and not only primary structures.

Regarding shoreline vegetation requirements for parks, the City Council agreed with the Planning Commission that there should not be different standards for parks than for other uses. However, the City Council also noted that there are provisions already in the SMP that provides the Parks Department with flexibility in placing shoreline vegetation in appropriate locations that do not result in the obstructing public views or public access.

On tree replacement standards for removal of trees less than 12" in diameter, the City Council agreed with the HCC not to require an additional 40 square feet of riparian vegetation along with the planting of a replacement tree.

The Houghton Community Council recommended that shoreline stabilization be allowed to protect land when protection of the primary structure is not needed. The Planning Commission's recommendation followed the Washington Administrative Code (WAC) Guidelines on shoreline stabilization.

The WAC Guidelines are clear in limiting the replacement of existing hard shoreline stabilization structures to circumstances in which there is a **demonstrated need to protect primary structures or existing principal uses** (such as a public park where there are no structures or in some cases accessory structures if they cannot be located elsewhere on the site) from erosion caused by waves or currents.

The City Council wanted the SMP update to be consistent with the WAC Guidelines and to receive DOE approval. *Thus, the City Council adopted the Planning Commission's recommendation on shoreline stabilization. However, the City Council also adopted the staff's new suggestion to add an appeal process in the Shoreline Administration Chapter 141* to provide property owners with a clear **appeal provision** if they disagree with the Planning Official's determination about the replacement of an existing bulkhead. The applicant can appeal a determination to the Hearing Examiner for further review.

In addition, at one of the City Council study sessions, staff pointed out that that the WAC Guidelines may allow an applicant to make a case that a hard stabilization measure is needed to protect the ***principal existing use***, which would provide the applicant and City the flexibility to consider the individual site characteristics and determine what features constitute components of the primary use. This potentially allows for a broader consideration of site features, other than the primary structure, in the evaluation of the necessity for shoreline stabilization.

The above provisions were adopted to respond to the Houghton Community Council concerns. The City Council also made other revisions since the HCC reviewed the SMP on September 14th. These were based on City Council, public, DOE and staff comments. Staff will be updating the Community Council on these changes at their December 14th meeting.

Council Meeting: 12/15/2009
Agenda: Unfinished Business
Item #: 10. h.

CITY OF KIRKLAND
Department of Finance & Administration
123 Fifth Avenue, Kirkland, WA 98033 425.587.3100
www.ci.kirkland.wa.us

MEMORANDUM

To: City Council

From: Mayor Jim Lauinger

Date: December 7, 2009

Subject: **KENYON DISEND CONTRACT AMENDMENT**

RECOMMENDATION:

Council approve the execution of a contract amendment with the law firm Kenyon Disend for additional services related to the Bank of America review and approve the use of $2,400.49 from the Council Special Projects reserve.

BACKGROUND DISCUSSION:

In June 2009, the City Council approved contracting with the law firm Kenyon Disend for a review of the Bank of America process. The contract amount was $10,105.00 funded from the Council Special Projects reserve. The City has paid invoices through September totaling $8,245.02. A new invoice for services through October 31, 2009 in the amount of $6,660.95 has been received. This invoice brings the total billing to date to $14,905.97, which exceeds the contract budget by $4,800.97. I am recommending that the City pay one-half of the amount over budget ($2,400.49) and authorized the additional use of the Council Special Projects reserve.

Attachment A provides a recap of the billing history.

Attachment A

Kenyon Disend Payment Summary – Bank of America Review

Payments from Check Register Report (City):

• 06/17/2009		2,580.00
• 08/19/2009		645.00
• 09/23/2009		1,215.80
• 10/20/2009		3,804.22
	Total	$**8,245.02**
• 10/31/2009 new invoice		$ 6,660.95
	Grand Total	**$14,905.97**

Kenyon Provided Statements

• 5/31/2009		$2,580.00
• 7/31/2009		645.00
• 8/31/2009		1,215.80
• 9/30/2009		3,804.22
		$8,245.02
• 10/31/2009 new invoice		6,660.95
	Grand Total	**$14,905.97**

Contract Amount:

- 05/15/2009 $10,105.00

Difference Over Contract Amount:

- 12/3/2009 $ 4,800.97

½ of Difference $ 2,400.49

FISCAL NOTE

CITY OF KIRKLAND

Source of Request

Jim Lauinger, Mayor

Description of Request

Request for $2,401 from the Council Special Projects Reserve to pay one-half of the amount over budget for contracted legal services with the law firm of Kenyon Disend.

Legality/City Policy Basis

Fiscal Impact

One-time use of $2,401 of the Council Special Projects Reserve. The reserve is able to fully fund this request.

Recommended Funding Source(s)

	Description	2010 Est End Balance	Prior Auth. 2009-10 Uses	Prior Auth. 2009-10 Additions	Amount This Request	Revised 2010 End Balance	2010 Target
Reserve	Council Special Projects Reserve	271,960	101,875	0	2,401	167,684	250,000
	2009-2010 Prior Authorized Uses of this reserve include: $2,000 for Council Retreat facilitator, $26,000 for federal lobbyist services, $25,000 for Neighborhood Connections program, $20,000 for Hopelink's relocation, $13,770 for the Flexpass alternative program, $5,000 for Council requested special investigation, and $10,105 for the Banak of America review.						
Revenue/ Exp Savings							
Other Source							

Other Information

Prepared By	Sri Krishnan, Acting Financial Planning Manager	Date	December 7, 2009