

## **APPROVAL CRITERIA FOR BRIDLESTONE ESTATES PROPOSAL**

Below is a brief summary of the various requests to be considered in processing the Bridlestone Estates proposal and the approval criteria that each request must meet. Since one or more of the elements of the requests below require a [Process IIB](#) decision all elements will be decided upon using that process. A Process IIB decision requires the Hearing Examiner to hold a public hearing and make recommendation to City Council to grant, modify, or deny the application. The [City Council will make the final decision](#) on this project after consideration of the entire matter on the record before the Hearing Examiner. Then the City Council will adopt an ordinance or resolution to either: grant, modify and grant, or deny the application.

### Elements of the request:

- Rezoning the property from RS 35 (single-family residential, minimum lot size 35,000 sq. ft.) minimum lot size) to RS 12.5 (single-family residential, minimum lot size 12,500 sq. ft.)

#### Approval Criteria:

- Kirkland Zoning Code ([KZC Section 130.40](#)), and
  - [Bridle Trails Neighborhood Plan](#) a chapter of the [Comprehensive Plan](#)
- Subdivide the property into 35 lots for construction of single-family homes

Subdivision Approval Criteria: The Hearing Examiner will approve the subdivision if the following sections of Kirkland Municipal Code Title 22 are met:

- Hearing Examiner Decision is based on [KMC Section 22.12.230](#), and
- Design Requirements found in [KMC Section 22.28](#), and
- Improvements section found in [KMC Section 22.32](#).

Since all of the following elements are in the same Chapter of the KZC the specific sections were highlighted using the hyperlink colors for the readers ease in locating the specific information.

- Wetland Fill/Wetland Creation - "Paper fill" of wetland area is proposed in order to provide road access to the property from 116th Avenue NE near the southwest corner of the property and required right-of-way improvements along 116th Avenue NE. "Paper fill" means that they are not actually filling the wetland, but are reducing the wetland buffer beyond the maximum allowed by code. New wetland area is proposed to mitigate for the "filled" wetland.

Approval Criteria: [KZC Section 90.55](#)

- Wetland Buffer Modification - Reduction in standard wetland buffer width to meet the City required right-of-way improvements for road access.

Approval Criteria: [KZC Section 90.60](#)

- Stream Culvert Installation - A culvert or bridge will be needed in order to widen the road access to meet City requirements.

Approval Criteria: [KZC Section 90.115](#)

- Storm Water Outfalls – Discharge storm water through a piped system into the wetland buffer.

Approval Criteria: [KZC Section 90.45.3](#)

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## Chapter 152 – PROCESS IIB

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### 152.05 User Guide



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Various places in this code indicate that certain developments, activities or uses are permitted only if approved using Process IIB. This chapter describes Process IIB.

If you are interested in obtaining approval for something through Process IIB or if you wish to participate in a decision that will be made using this process, you should read this chapter. However, this chapter only applies if another provision of the code specifically states that a decision will be made using Process IIB. Please review KMC Title [20](#) for additional information regarding the City's processing of project permits.

In addition, please refer to KZC 152.10 to see if that section applies.

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### 152.12 Pre-Submittal Meeting



1. General – Before applying for a permit or approval under this chapter, the applicant shall attend a pre-submittal meeting with the Planning Official consistent with the provisions of this section.
2. Scheduling – The Planning Department will arrange a time for the pre-submittal meeting as soon as is reasonably practicable after the meeting is requested by the applicant.
3. Purpose – The purpose of the pre-submittal meeting is for the Planning Official to provide information to the applicant regarding what information needs to be submitted for a complete application.
4. Time Limits – The City will not accept an application under this chapter unless the applicant attended a pre-submittal meeting under this section, regarding the proposal for which application is made, within the six (6) months immediately prior to the date the application is submitted.

(Ord. 3814 § 1, 2001)

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### 152.15 Applications



1. Who May Apply – Any person may, personally or through an agent, apply for a decision regarding property he/she owns.
2. How To Apply – The applicant shall file the following information with the Planning Department:
  - a. A completed application, with supporting affidavits, on forms provided by the Planning Department.
  - b. Any information or material that is specified in the provision of this code that describes the applied for decision.
  - c. Any additional information or material that the Planning Official specified at the pre-submittal meeting.
  - d. Any additional information or material which must be submitted in order to have a complete application under KMC Title [20](#).
3. Fee – The applicant shall submit the fee established by ordinance with the application.

(Ord. 4320 § 1, 2011; Ord. 3954 § 1, 2004)

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### 152.17 Determination of Completeness of Application



1. General – Within 28 calendar days after the date of submittal of the application, the Planning Official shall mail to the applicant, or provide in person to the applicant, a written determination of whether the application is complete, and, if the application is not complete, what must be submitted by the applicant in order for the application to be complete. In this written determination, the Planning Official shall also identify, to the extent known to the City, the other agencies of local, state or federal government that may have jurisdiction over some aspect of the proposed development activity. The Planning Official may also include other information with this determination that will assist in the review and decision upon the application.
2. Standard for Determining Completeness – An application is complete for purposes of this section when it contains the information required by KZC [152.15](#) and is sufficient for continued processing even though additional information may be required or modification of the proposal may be subsequently undertaken. A determination of completeness under this section does not preclude the City from requesting additional information or studies either at the time of providing the written determination of completeness or subsequently if new information is required.

3. Review of Additional Information – The Planning Official shall provide a written determination under subsection (1) of this section within 14 calendar days of the date the applicant submits additional information required under this section.

4. Application Considered Withdrawn – Unless the notice specifying additional information to be submitted for a complete application establishes a longer period, the application will be considered withdrawn for all purposes if the applicant has not submitted the required information to the City within 90 calendar days after the date of the notice or, if applicable, after any extension granted in writing by the Planning Director. The Planning Director may grant an extension if, based on information submitted by the applicant with the request for the extension, the Planning Director concludes that the applicant is making reasonable progress toward submitting the required information.

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### 152.18 Voiding of Application Due to Inactivity



An application for a decision under this chapter, for which approval has not yet been granted, may be canceled for inactivity if an applicant fails to respond to any Department's written request for revisions, corrections, or additional information within 60 days of the request. The Planning Official may extend the response period beyond 60 days if within that time period the applicant provides and subsequently adheres to an approved schedule with specific target dates for submitting the full revisions, corrections, or other information needed by the requesting Department.

(Ord. 3852 § 1, 2002)

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### 152.20 Compliance with SEPA



The State Environmental Policies Act (Chapter [43.21C](#) RCW) applies to some of the decisions that will be made using this chapter. The Planning Official shall evaluate each application and, where applicable, comply with SEPA and with state regulations and City ordinances issued under the authority of SEPA. See KMC [24.02.230](#) regarding consolidation of certain appeal hearings under SEPA with the hearing required under this chapter.

(Ord. 4450 § 1, 2014)

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### 152.22 Notice of Application



1. Contents – The Planning Official shall prepare a notice of each application containing the following information:
  - a. The street address of the subject property, or if this is not available, a locational description in nonlegal language along with a vicinity map that identifies the subject property.
  - b. The date of application.
  - c. The date of the notice of completeness under KZC [152.17](#).
  - d. The date of this notice.
  - e. A description of the proposed development activity and the decision that will be made under this chapter; a list of the permits and approvals included in the application; and an identification of other necessary permits not included in the application to the extent known by the City.
  - f. A list of any studies requested by the City pertinent to the application.
  - g. Identification of existing environmental documents that evaluate the proposed development activity.

- h. The location where the official file may be examined.
- i. The time limit, which will not be less than 18 calendar days nor more than 30 calendar days after the date of the notice, for submitting comments to the Planning Official, which the Planning Official shall consider prior to making a recommendation on the application.
- j. Information regarding how to request a copy of the decision once it is made.
- k. General information regarding how to appeal decisions made under this chapter.
- l. A statement of any preliminary determination, if any, made by the Planning Official at the time of the notice regarding the development regulations that the Planning Official will propose as mitigation of project impact and the consistency of the proposed development activity with those development regulations.
- m. The name of the applicant.

## 2. Distribution

a. Not more than 10 calendar days after the Planning Official determines that the application is complete, and at least 18 calendar days prior to the end of the comment period, the Planning Official shall distribute this notice as follows:

- 1) The notice, or a summary thereof, including a vicinity map, will be distributed to the owners of all property within 300 feet of any boundary of the subject property.
- 2) The notice, or a summary thereof, including a vicinity map, will be distributed to the residents of each piece of property adjacent to or directly across the street from the subject property.
- 3) The notice, or a summary thereof, will be published in the official newspaper of the City. The published notice does not require a vicinity map.
- 4) The notice, or a summary thereof, including a vicinity map, will be posted on each of the official notification boards of the City.
- 5) The notice, or a summary thereof, will be distributed to each local, state and federal agency that the City knows has jurisdiction over the proposed development activity.
- 6) The notice will be posted on the City's website.

b. Not more than 10 calendar days after the Planning Official determines that the application is complete, and at least 18 calendar days prior to the end of the comment period, the applicant shall provide for and erect public notice signs as follows:

- 1) The signs shall be designed and constructed to City standards. A copy of the notice described in subsection (1) of this section and a site plan and/or vicinity map shall be attached to each sign.
- 2) The Department of Planning and Community Development is authorized to develop the standards for the public notice signs necessary for implementation of this section.
- 3) One (1) sign shall be erected on or near the subject property facing each public right-of-way adjacent to the subject property and private easement or tract road providing primary vehicular access to the subject property and to any property that abuts the subject property. The Department of Planning and Community Development shall approve the location of each sign.
- 4) The signs may not be removed until 21 calendar days after the final decision of the City on the

application, and the applicant shall remove the signs within seven (7) calendar days thereafter.

(Ord. 4193 § 1, 2009; Ord. 3954 § 1, 2004; Ord. 3814 § 1, 2001)

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### 152.25 Official File



1. Contents – The Planning Official shall compile an official file on the application containing the following:
  - a. All application materials submitted by the applicant.
  - b. The staff report.
  - c. All written comments and testimony received on the matter.
  - d. The electronic recording of the public hearing on the matter.
  - e. The recommendation of the Hearing Examiner.
  - f. The electronic sound recording and minutes of the City Council proceedings on the matter.
  - g. The decision of the City Council.
  - h. The recommendation and final action, if any, of the Houghton Community Council.
  - i. Any other information relevant to the matter.
2. Availability – The official file is a public record. It is available for inspection and copying in the Planning Department during regular business hours.

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### 152.30 Notice of Hearing



1. Contents – The Planning Official shall prepare a notice of the hearing of the Hearing Examiner containing the following information:
  - a. The name of the applicant and, if applicable, the project name.
  - b. The street address of the subject property or, if this is not available, a locational description in nonlegal language along with a vicinity map that identifies the subject property.
  - c. The citation of the provision of this code describing the applied for decision.
  - d. A brief verbal description of the requested decision.
  - e. The time and place of the hearing.
  - f. A statement of the availability of the official file.
  - g. A statement of the right of any person to submit written comments or testimony to the Hearing Examiner and to appear at the public hearing of the Hearing Examiner to give comments or testimony orally.
  - h. A statement that only persons who submit written or oral comments or testimony to the Hearing Examiner may challenge the recommendation of the Hearing Examiner.
2. Distribution – The Planning Official shall distribute this notice at least 14 calendar days before the public hearing

as follows:

- a. The notice, or a summary thereof, including a vicinity map, will be distributed to the owners of all property within 300 feet of any boundary of the subject property.
  - b. The notice, or a summary thereof, including a vicinity map, will be distributed to the residents of each piece of property adjacent to or directly across the street from the subject property.
  - c. The notice, or a summary thereof, will be published in the official newspaper of the City. The published notice does not require a vicinity map.
  - d. The notice, or a summary thereof, including a vicinity map, will be posted on each of the official notification boards of the City.
  - e. The notice will be posted on the City's website.
3. Combined Notice – The Planning Official may combine the notice required under this section with the notice required under KZC [152.22](#).

(Ord. 4193 § 1, 2009; Ord. 4072 § 1, 2007; Ord. 3954 § 1, 2004)

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### 152.35 Staff Report



1. Contents – The Planning Official shall prepare a staff report containing the following information:
  - a. All pertinent application materials.
  - b. All comments regarding the matter received by the Planning Department prior to distribution of the staff report.
  - c. An analysis of the application in relation to the applicable provisions of this code and the Comprehensive Plan.
  - d. A statement of the facts found by the Planning Official and the conclusions drawn from those facts.
  - e. A recommendation on the matter.
2. Distribution – At least seven (7) calendar days before the hearing, the Planning Official shall distribute the staff report to the following persons:
  - a. The Hearing Examiner
  - b. The applicant.

(Ord. 4193 § 1, 2009)

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### 152.45 Open Record Hearing



1. General – The Hearing Examiner shall hold an open record hearing on each application.
2. Hearing Declared Open – The hearings of the Hearing Examiner are open to the public.
3. Effect – The hearing of the Hearing Examiner is the hearing for City Council.

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### 152.50 Electronic Sound Recording



The Hearing Examiner shall make a complete electronic sound recording of each public hearing.

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### 152.55 Burden of Proof



The applicant has the responsibility of convincing the City that, under the provisions of this chapter, the applicant is entitled to the requested decision.

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### 152.60 Public Comments and Participation at the Hearing



Any person may participate in the hearing in either or both of the following ways:

1. By submitting written testimony or comments to the Hearing Examiner, either by delivering the testimony or comments to the Planning Department prior to the hearing or by giving it directly to the Hearing Examiner at the hearing.
2. By appearing in person, or through a representative, at the hearing and providing oral testimony or comments directly to the Hearing Examiner. The Hearing Examiner may reasonably limit the extent of oral testimony or comments to facilitate the orderly and timely conduct of the hearing.

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### 152.65 Continuation of the Hearing



The Hearing Examiner may continue the hearing if, for any reason, he/she is unable to hear all of the public comments on the matter or if the Hearing Examiner determines that he/she needs more information on the matter. However, if the continuation of the hearing would result in the Hearing Examiner not complying with the time limit for issuing his/her recommendation consistent with KZC [152.70](#), the Hearing Examiner may continue the hearing only if the time limit for issuing his/her recommendation is extended under the provisions of that section. If, during the hearing, the Hearing Examiner announces the time and place of the next hearing on the matter, no further notice of that hearing need be given.

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### 152.70 Recommendation by the Hearing Examiner



1. General – After considering all of the information, testimony and comments submitted on the matter, the Hearing Examiner shall issue a written recommendation to the City Council to either:
  - a. Grant the application; or
  - b. Modify and grant the application; or
  - c. Deny the application.
2. Time Limits – The Hearing Examiner shall issue his/her recommendation within eight (8) calendar days of the date of the open record hearing, as stated in the notice provided under KZC [152.30](#), except as follows:

- a. If the Hearing Examiner and the applicant agree in writing on an extension of the time limit for the Hearing Examiner to issue his/her recommendation, the Hearing Examiner has the additional agreed-upon time to issue his/her recommendation.
  - b. If the proposed development activity presents a special circumstance, as defined below, the Hearing Examiner shall issue his/her recommendation within 21 calendar days of the date of the open record hearing as stated in the notice provided under KZC [152.30](#). For the purposes of this section, a permit for a proposed development activity presents a special circumstance under RCW [36.70B.140](#) when, because of the unusually large size of the subject property, the unusual complexity of what the applicant is proposing, the unusually large number of discretionary permits or approvals that are required and/or other unusual characteristics stated on the record by the Hearing Examiner, the proposed development activity requires more in-depth review and/or analysis than could reasonably be conducted under the time frame that would otherwise apply.
3. Decisional Criteria – The Hearing Examiner shall use the criteria listed in the provision of this code describing the requested decision in making a recommendation to City Council on the application. In addition, the Hearing Examiner may recommend approval of the application only if:
- a. It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and
  - b. It is consistent with the public health, safety and welfare.
4. Conditions and Restrictions – The Hearing Examiner shall include in the written recommendation any conditions and restrictions that he/she determines are necessary to eliminate or minimize any undesirable effects of granting the application.
5. Contents – The Hearing Examiner shall include the following in his/her written recommendation to City Council:
- a. A statement of facts presented to the Hearing Examiner that support his/her recommendation, including any conditions and restrictions that are recommended.
  - b. A statement of the Hearing Examiner's conclusions based on those facts.
  - c. A statement of the criteria used by the Hearing Examiner in making the recommendation.
  - d. A summary of the rights, as established in this chapter, of the applicant and others to challenge the recommendation of the Hearing Examiner.

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### **152.75 Distribution of Hearing Examiner's Recommendation**



The Planning Official shall distribute the recommendation of the Hearing Examiner as follows:

1. Within four (4) business days after the Hearing Examiner's written recommendation is issued, a copy will be sent to the applicant, and to any persons who submitted written or oral testimony to the Hearing Examiner on the application. The Planning Official is not required to send a notice of decision to a party who signed a petition, unless such party also submitted independent written comments or information.
2. Prior to the meeting where City Council considers the application, a copy will be sent to each member of City Council. The Planning Official shall include the following material with the copy of the recommendation sent to each City Council member:
  - a. A draft resolution or ordinance that embodies the Hearing Examiner's recommendation.

- b. Any challenge to the Hearing Examiner’s recommendation filed under KZC [152.85](#) and received by the Planning Department before the Hearing Examiner’s recommendation is sent to the members of City Council.

(Ord. 4193 § 1, 2009; Ord. 3954 § 1, 2004; Ord. 3814 § 1, 2001)

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## 152.85 Challenge to the Hearing Examiner’s Recommendation



1. Who May Challenge – The recommendation of the Hearing Examiner may be challenged by:
  - a. The applicant; and
  - b. Any person who submitted written or oral testimony to the Hearing Examiner on the application. A party who signed a petition may not challenge unless such party also submitted independent written comments or information.
2. Contents of a Challenge – The challenge must be in writing and contain a statement of the factual findings and conclusions made by the Hearing Examiner that are contested. The challenge will be considered only on the record developed in the hearing before the Hearing Examiner.
3. How and When To File a Challenge
  - a. The challenge may be filed by delivering it to the Planning Department, together with the fee established by ordinance, within seven (7) calendar days of the date of distribution of the Hearing Examiner’s recommendation on the application; provided, that if the seventh day falls on a Saturday, Sunday, or legal holiday, the seventh day of the challenge period shall be extended through the next day on which the City is open for business.
  - b. The person filing the challenge shall, prior to delivery under subsection (3)(a) of this section, mail or personally deliver a copy of the challenge and a notice of the deadline for responding to the challenge as established in subsection (3)(c) of this section to those persons described in subsection (1) of this section. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the challenge letter filed with the Planning Department pursuant to subsection (3)(a) of this section.
  - c. Any person receiving a copy of the challenge letter, pursuant to subsection (3)(b) of this section, may file a written response to the challenge. Such response shall be submitted to the Planning Department within seven (7) calendar days after the day the challenge letter was filed with the Planning Department.
  - d. Any person filing a response pursuant to this section shall mail or personally deliver a copy of the response to those persons described in subsection (1) of this section. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the response to the challenge letter filed with the Planning Department pursuant to subsection (3)(a) of this section.

(Ord. 4193 § 1, 2009; Ord. 3814 § 1, 2001)

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## 152.90 City Council Action



1. General – The City Council shall consider the application at a scheduled meeting within 45 calendar days of the date of issuance of the Hearing Examiner’s recommendations on the proposal.
2. City Council Decision – After consideration of the entire matter on the record before the Hearing Examiner, the City Council shall, by motion, approved by a majority of the total membership, take one (1) of the following actions:
  - a. Adopt an ordinance or resolution to either:

- 1) Grant the application; or
- 2) Modify and grant the application; or
- 3) Deny the application.

b. If the City Council concludes, based on a challenge to the recommendation or its own review of the recommendation, that the record compiled by the Hearing Examiner is incomplete or inadequate for the City Council to make a decision on the application, the City Council may by motion remand the matter to the Hearing Examiner with the directions to reopen the hearing and provide supplementary findings and conclusions on the matter or matters specified in the motion. Any remand under this section shall constitute a special circumstance under RCW [36.70B.140](#). The motion may limit the scope of the issues to be considered at this rehearing. In the event of a remand, the Hearing Examiner shall hold the rehearing within 28 calendar days of the date of the City Council motion, and the time limits and other pertinent requirements of this chapter shall apply to the rehearing.

3. Decisional Criteria – The City Council shall use the criteria listed in KZC [152.70\(3\)](#) in deciding upon the application.

4. Conditions and Restrictions – The City Council shall include in the ordinance or resolution granting the application any conditions and restrictions they determine are necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision.

5. Findings of Fact and Conclusion – The City Council shall include in their ordinance or resolution:

- a. A statement of the facts presented to City Council that support the decision, including any conditions and restrictions that they impose; and
- b. The City Council's conclusions based on those facts.

6. Effect – Subject to the provision of KZC [152.100](#), the ordinance or resolution of City Council is the final decision of the City.

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## **152.100 Action and Jurisdiction of the Houghton Community Council**



The Houghton Community Municipal Corporation is a separate municipal entity, under Chapter [35.14](#) RCW, existing within the Houghton neighborhood of the City. The governing body of the Houghton Community Municipal Corporation is the Houghton Community Council. If the application is within the disapproval jurisdiction of the Houghton Community Council, the provisions of this section apply to that application.

1. Houghton Community Council Public Meeting – The Houghton Community Council may hold a public meeting, which will be informal in nature, to obtain comments from the public and others on the application, and the following provisions shall apply:

- a. The public meeting shall be scheduled at the earliest practicable time, based on the schedule of the Houghton Community Council, that will allow for fair and informed deliberation, compliance with all notice requirements and the orderly processing of the application.
- b. The notice under KZC [152.30](#) shall include the time, place and other pertinent information about the public meeting.
- c. The Planning Official shall provide a copy of the staff report prepared under KZC [152.35](#) to each member of the Houghton Community Council prior to the public meeting.

- d. After the Houghton Community Council receives comments and information at the public meeting, it may make any recommendations on the application, in writing, that it deems appropriate.
- e. The Hearing Examiner shall consider any recommendation on the application from the Houghton Community Council that the Hearing Examiner receives within four (4) calendar days following the close of the hearing of the Hearing Examiner, and the City Council shall consider any recommendation from the Houghton Community Council that the City Council receives before the City Council first considers the application.
- f. Neither the lack of a Houghton Community Council quorum at the public meeting nor the lack of a recommendation from the Houghton Community Council in any way affects the jurisdiction of the Hearing Examiner and the City Council under this chapter or the jurisdiction of the Houghton Community Council under subsection (2) of this section.

2. Disapproval Jurisdiction – If the City Council approves an application within the disapproval jurisdiction of the Houghton Community Council, that approval shall become effective only upon:

- a. Approval by a majority of the entire membership of the Houghton Community Council. Such approval shall be by resolution; or
- b. Failure of the Houghton Community Council to disapprove the application within 60 calendar days after City Council adopts the ordinance or resolution granting the application. The vote to disapprove the application must be approved by resolution by a majority of the entire membership of the Community Council.

(Ord. 4072 § 1, 2007; Ord. 3954 § 1, 2004)

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### 152.105 Notice of Decision



- 1. General – Following the decision by City Council, the Planning Official shall prepare a notice of decision on the application.
- 2. Distribution – Except as provided in subsection (3) of this section, within four (4) business days after the City Council's decision is made, the Planning Official shall distribute the decision, or a summary thereof, along with a summary of any threshold determination under SEPA, to the following persons:
  - a. The applicant.
  - b. Each person who submitted written or oral comments or testimony on the application. The Planning Official is not required to distribute a notice of decision to a party who signed a petition, unless such party also submitted independent written comments or information.
  - c. Each person who has requested notice of the decision.

The decision shall be posted on the City's website.

3. Applications within the Jurisdiction of the Houghton Community Council – If the City Council approves an application within the disapproval jurisdiction of the Houghton Community Council, the notice of decision shall be distributed within four (4) business days after approval by the Houghton Community Council or failure to disapprove as specified in KZC [152.100\(2\)](#). The notice shall be distributed as specified in subsections (2)(a) through (c) of this section.

(Ord. 4193 § 1, 2009; Ord. 3954 § 1, 2004; Ord. 3814 § 1, 2001)

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### 152.110 Judicial Review



The action of the City in granting or denying an application under this chapter may be reviewed pursuant to the standards set forth in RCW [36.70C.130](#) in the King County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision by the City. The date of the final decision of the City is the date of passage of the City Council ordinance or resolution constituting the City's final decision unless such City Council decision is subject to the disapproval jurisdiction of the Houghton Community Council, in which case the petition for judicial review must be filed within 21 calendar days of the date of approval or disapproval action by the Houghton Community Council. For more information on the judicial review process for land use decisions, see Chapter [36.70C](#) RCW.

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### 152.115 Lapse of Approval



For final approvals under this chapter issued on or before December 31, 2014, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within seven (7) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC [152.110](#), the running of the seven (7) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions. For final approval under this chapter issued on or after January 1, 2015, the applicant must begin construction or submit to the City a complete building permit application for the development activity, use of land or other actions approved under this chapter within five (5) years after the final approval of the City of Kirkland on the matter, or the decision becomes void; provided, however, that in the event judicial review is initiated per KZC [152.110](#), the running of the five (5) years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.

For final approvals under this chapter issued on or before December 31, 2014, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within nine (9) years after the final approval on the matter, or the decision becomes void. For final approvals under this chapter issued on or after January 1, 2015, the applicant must substantially complete construction for the development activity, use of land, or other actions approved under this chapter and complete the applicable conditions listed on the notice of decision within seven (7) years after the final approval on the matter, or the decision becomes void.

For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this chapter and made a condition of the notice of decision.

(Ord. 4372 § 1, 2012)

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### 152.120 Bonds



The City Council may require a bond under Chapter [175](#) KZC to ensure compliance with any aspect of the permit or approval.

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### 152.125 Complete Compliance Required



1. General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter in order to do everything authorized by that approval.

2. Exception – Subsequent Modification

If a specific use or site plan is approved through this process, or any quasijudicial process under previous zoning codes, the applicant is not required to apply for and obtain approval through this process for a subsequent change in use or site plan unless:

- a. There is a change in use and this code establishes different or more rigorous standards for the new use than for the existing use; or
- b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change.

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### 152.130 Time Limits



Any time limit, pursuant to Chapter [36.70B](#) RCW, upon the City's processing and decision upon applications under this chapter may, except as specifically otherwise stated in this chapter, be modified by a written agreement between the applicant and Planning Director. In the event a permit constitutes or presents a special circumstance under the provisions of this chapter, the time limits for the City to make a final decision and issue its notice of decision under Chapter [36.70B](#) RCW are extended by the number of days that the final decision of the City was delayed as a result of that special circumstance.

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**The Kirkland Zoning Code is current through Ordinance 4479, passed March 3, 2015.**

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## Chapter 130 – REZONES

### Sections:

- [130.05](#) User Guide
- [130.10](#) Types of Reclassification
- [130.15](#) Legislative Rezones – Applicable Process
- [130.20](#) Legislative Rezones – Criteria
- [130.25](#) Legislative Rezones – Map Change
- [130.30](#) Quasijudicial Rezones – Applicable Process
- [130.35](#) Quasijudicial Rezones – Application
- [130.40](#) Quasijudicial Rezones – Criteria
- [130.45](#) Quasijudicial Rezones – Map Change

### 130.05 User Guide



This chapter establishes the mechanism and criteria for the City to change a zoning classification on the Zoning Map and to change the boundaries of zones on the Zoning Map. This mechanism is called rezoning. If you are interested in proposing a rezone or want to participate in the City's decision on a proposed rezone, you should read this chapter.

Please note that this chapter does not apply to proposals to amend the text of this code. Chapter [135](#) KZC describes how that can be done.

(Ord. 4121 § 1, 2008)

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### 130.10 Types of Reclassification



There are two (2) types of reclassification as follows:

1. Legislative Rezones – A rezone will be treated as a legislative matter when:
  - a. It is initiated by the City; and
    - 1) The subject property is part of a significant class of properties which are similarly affected by the proposed rezone; and
    - 2) Is either:
      - a) Based upon and will implement the results of a comprehensive planning process; or
      - b) Part of a process that includes, and is necessary to implement, amendment of the text of this code; or
  - b. It is initiated by the City and the sole purpose of the rezone is to correct grammatical, labeling, scrivener's, or similar errors on the official Zoning Map; or
  - c. It is initiated by either the City or another party and will implement a citizen-initiated amendment to the Comprehensive Plan approved pursuant to Chapter [140](#) KZC.

2. Quasijudicial – A rezone will be treated as a quasijudicial matter when it does not meet the requirements of subsection (1) of this section. Quasijudicial rezones include proposals to change the Zoning Map within a range or category that is established by the existing comprehensive plan, comprehensive plan land use map and/or zoning code regulations, as well as proposals to place or remove an overlay zoning designation on the Zoning Map.

KZC [130.15](#) through [130.25](#) apply to legislative rezones. KZC [130.30](#) through [130.45](#) apply to quasijudicial rezones.

(Ord. 4121 § 1, 2008)

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### 130.15 Legislative Rezones – Applicable Process



The City will use Process IV described in Chapter [160](#) KZC to review and decide upon a proposal for a legislative rezone; provided, that a rezone for the purpose of correcting grammatical, labeling, scrivener's, or similar errors on the official Zoning Map may be processed either through Process IV or Process IVA pursuant to Chapter [161](#) KZC.

(Ord. 4121 § 1, 2008)

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### 130.20 Legislative Rezones – Criteria



The City may decide to approve a legislative rezone only if it finds that:

1. Conditions have substantially changed since the property was given its present zoning or the proposal implements the policies of the Comprehensive Plan; and
2. The proposal bears a substantial relationship to the public health, safety, or welfare; and
3. The proposal is in the best interest of the community of Kirkland.

(Ord. 4121 § 1, 2008)

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### 130.25 Legislative Rezones – Map Change



If the City approves a legislative rezone it will give effect to this decision by making the necessary amendment to the Zoning Map of the City.

(Ord. 4121 § 1, 2008)

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### 130.30 Quasijudicial Rezones – Applicable Process



The City will use Process IIB described in Chapter [152](#) KZC to review and decide upon an application for a quasijudicial rezone.

(Ord. 4121 § 1, 2008)

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### 130.35 Quasijudicial Rezones – Application



In addition to the application materials required in Chapter [152](#) KZC, the applicant shall submit a completed application on the form provided by the Planning Department, along with all the information listed on that form.

(Ord. 4121 § 1, 2008; Ord. 3852 § 1, 2002)

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### 130.40 Quasijudicial Rezones – Criteria



The City may approve an application for a quasijudicial rezone only if it finds that:

1. Conditions have substantially changed since the property was given its present zoning or the proposed rezone implements the policies of the Comprehensive Plan; and
2. The proposed rezone is compatible with the existing land uses in the immediate vicinity of the subject property; and
3. The proposed rezone bears a substantial relationship to the public health, safety, or welfare; and
4. The proposed rezone is in the best interest of the community of Kirkland; and
5. If the rezone is to place or remove an overlay zoning designation on the Zoning Map, the proposal meets the applicable designation criteria of Chapters [70](#) through [80](#) KZC.

(Ord. 4121 § 1, 2008; Ord. 3852 § 1, 2002. Formerly 130.45.)

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### 130.45 Quasijudicial Rezones – Map Change



If the City approves an application for a quasijudicial rezone it will give effect to this decision by adopting an ordinance that makes the appropriate change to the zone boundary or zone classification on the Zoning Map.

(Ord. 4121 § 1, 2008. Formerly 130.50.)

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# **Bridle Trails Neighborhood**





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# XV.C. BRIDLE TRAILS NEIGHBORHOOD

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*Note: The Bridle Trails Neighborhood Plan had its last major update in 1986. Therefore, references in this chapter to goals, policies, or specific pages in other chapters may be inaccurate if the other chapters have since been updated.*

## 1. VISION STATEMENT

---

***The low-density residential character of the neighborhood should be maintained.***

---

The Bridle Trails Neighborhood can be characterized as a predominantly single-family area with large open spaces. The primary policy direction for this neighborhood is to maintain the low-density residential character with some areas containing large lots capable of keeping horses.

---

***Discussion of format for the analysis of the Bridle Trails Neighborhood.***

---

Specific land use designations for the Bridle Trails Neighborhood are illustrated in Figure BT-1. These designations are based on several factors including natural elements, adjacent uses, traffic patterns, land use inventories, and other relevant concerns. For convenience, the following analysis of the Bridle Trails Neighborhood has been divided according to functional headings. The use of a particular piece of property is influenced by all applicable functional considerations (namely, natural environment, living environment, economic activities, open space/parks, public services, and urban design).

## 2. NATURAL ENVIRONMENT

---

***Environmentally sensitive slopes are identified. Slope stability analysis should be required and development regulated accordingly.***

---

An environmentally sensitive and potentially hazardous slope in the Bridle Trails Neighborhood

occurs mostly on publicly owned land in the State Park and the transfer station site. No severe problems appear to exist for many types of park development, although some areas of the transfer site may be subject to uneven settlement and contamination problems due to past landfill activities. Residential development is possible on this slope south of the State Park. A slope stability analysis should be required prior to any development on this slope. If landslide or drainage problems or excessive erosion are likely to occur as a result of proposed development, the type, design, and density of land use should be restricted as necessary to avoid the problems (see Natural Environment chapter).

---

***The functional integrity of watercourses should be maintained or improved.***

---

The open watercourses in this area, specifically Yarrow Creek, should be maintained in, or restored to, their natural state, not only to provide storage and flow for natural runoff but to provide natural amenities for the neighborhood. Structures should not be located near streams where such structures may cause damage by flooding or impeding water flows.

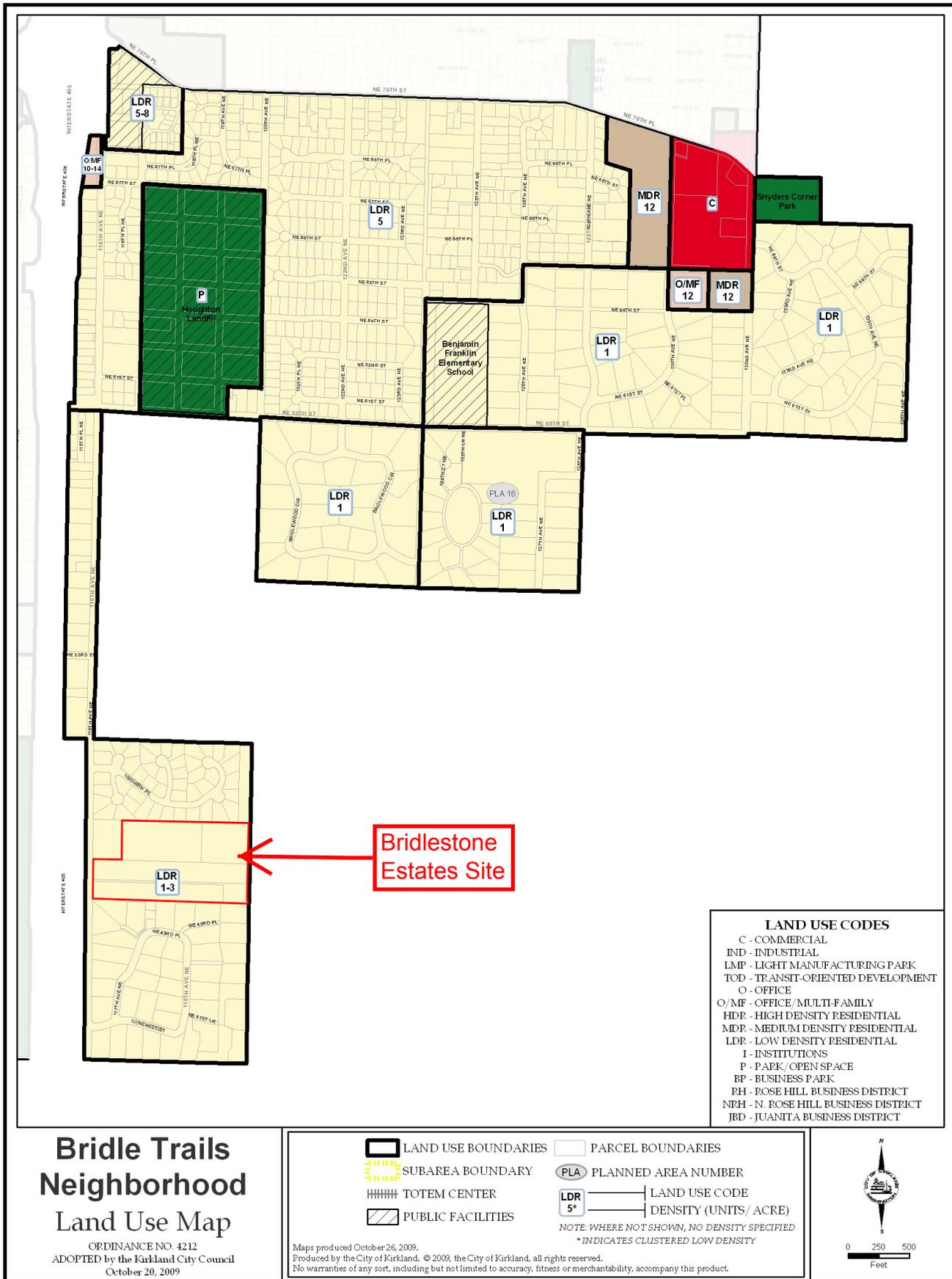
## 3. LIVING ENVIRONMENT

---

***Low-density residential uses are to be maintained.***

---

The residential developments east of I-405 are relatively new with the exception of a few older homes. The major policy direction for this area is to maintain the low-density residential quality of the neighborhood, except as described below. New residential development should be low density (up to five dwelling units per acre) and conform with existing development.



**Figure BT-1: Bridle Trails Land Use**

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## XV.C. BRIDLE TRAILS NEIGHBORHOOD

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The single-family area north of Bridle Trails State Park and south of NE 70th Street contains some large lots capable of keeping horses. Residential sites within equestrian oriented areas of the Bridle Trails Neighborhood should be designed to allow sufficient space to provide a sanitary and healthy living environment for horses, and to appropriately buffer development bordering equestrian areas.

In equestrian areas, standards for public improvements, such as paths, sidewalks, roadway improvements, transit connections and signage, consistent with Kirkland's Active Transportation Plan, shall reflect and support the character and equestrian use of the neighborhood.

---

***Clustered or common-wall housing at up to eight dwelling units per acre is allowed on the south side of NE 70th Street and east of the park and ride lot subject to standards.***

---

The south side of NE 70th Street, east of the park and ride lot and west of existing single-family residential development is developed with common-wall housing under a Planned Unit Development. Medium density of up to eight dwelling units per acre is allowed, subject to the following standards:

- (1) The site (identified in the Land Use Map in Figure BT-1) is developed as a whole under a Planned Unit Development, with clustering or common-wall housing.
- (2) The existing natural vegetation is maintained to the greatest possible extent.
- (3) Access is primarily through 117th Avenue NE and NE 67th Street to 116th Avenue NE with limited access via NE 70th Street.
- (4) The scale of all buildings is in accord with the scale of adjoining single-family development.
- (5) Large setbacks with a substantial vegetative buffer are maintained adjoining the existing single-family areas and along the abutting arterials.

- (6) Parking areas are aggregated and visually landscaped from the surrounding single-family areas.

---

***Medium density should be permitted on lands west and south of the Bridle Trails commercial center.***

---

Existing vacant land to the west and south of the Bridle Trails commercial center should be allowed to develop at a medium density (12 dwelling units per acre) to provide a transition between adjacent low-density residential areas and the commercial center. Such development should be subject to the following performance standards:

- (1) The scale of all buildings is in accord with the scale of adjoining single-family development.
- (2) Large setbacks with a substantial vegetative buffer are maintained adjoining the existing single-family development.
- \* South of the Bridle Trails commercial center, a development with a density higher than recommended by this Plan has been approved by King County. The development, however, has been designed to cluster units away from the single-family residences to the south and, therefore, should not be construed to be in conflict with the intent of this Plan.
- (3) The existing natural vegetative cover is maintained to the greatest extent possible.
- (4) Access for development west of the shopping center is primarily via 130th Avenue NE and not towards the west or south through the adjacent single-family development nor north via NE 70th Street. Access for the southern parcel should be primarily via NE 65th Street towards the east to 132nd Avenue NE and not west or south towards the adjoining single-family development.

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## **XV.C. BRIDLE TRAILS NEIGHBORHOOD**

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- (5) Parking areas are aggregated, landscaped, and visually screened from adjoining single-family development.

---

### ***City's water tower and administrative facility should be permitted to remain.***

---

The City's water tower and an administrative building are located south of NE 65th Street and the Bridle Trails commercial center and east of 130th Avenue NE. The City's facility should be permitted to remain, since it is necessary to permit effective service to the area. Expansion of the City's facility should be permitted if adequate setbacks and buffering are provided and if future buildings are compatible in scale and in design with adjoining single-family development.

---

### ***Bridlewood Circle, Silver Spurs Ranch, and Bridle View should remain at a very low residential density.***

---

Bridlewood Circle, Silver Spurs, and Bridle View areas should remain very low density (one dwelling unit per acre) with private stable facilities permitted on these large lots.

---

### ***Low-density development and equestrian facilities should be permitted along 116th Avenue NE southwest of Bridle Trails State Park.***

---

Southwest of Bridle Trails State Park and adjacent to 116th Avenue NE is an area which contains low-density residential development (one to three dwelling units per acre) and large stable facilities. Existing equestrian access to Bridle Trails State Park from this area should be preserved.

---

### ***Problems with utilities and traffic are discussed for the area.***

---

Present utility service levels throughout this area are inadequate to support the prescribed residential development. Sewer service is presently unavailable and will have to be provided by cross-agreement with the City of Bellevue. Water services are available from the north or south by cross-agreements with either the City of Kirkland or the City of Bellevue. In all instances (water and sewer services) developer extensions should be a condition of development with the potential of a latecomer agreement to charge benefited properties which defer development. Access is limited to 116th Avenue NE. Besides utility concerns, traffic is an important consideration. Higher-density residential uses would increase traffic volumes, noise, and hazards in the area committed to low-density residences.

---

### ***Higher-density residential development should not be permitted in the area.***

---

Based upon the above considerations, development in this area should be limited to low-density equestrian-oriented residential (one to three dwelling units per acre). In addition, the existing stable facilities should be encouraged to remain, and new equestrian facilities should be allowed as appropriate to complement Bridle Trails State Park. Such facilities should be maintained in a condition compatible with surrounding residential uses.

---

### ***Noise impacts adjacent to the Interstate should be minimized.***

---

Bordering the Bridle Trails Neighborhood on the west, I-405 creates noise impacts on adjacent land uses. All developments, particularly residential, adjacent to the Interstate should seek to reduce these

---

# XV.C. BRIDLE TRAILS NEIGHBORHOOD

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noise impacts. Residential developments of two dwelling units or more should be required to protect against noise through site, building, and landscaping design or construction techniques.

## 4. PLANNED AREA 16

---

*Central Park Area is designated as a planned area because of its mix of equestrian, residential, and commercial recreation.*

---

The area lying east of Bridlewood Circle and south of NE 60th Street has been designated as a “planned area.” This area, commonly referred to as Central Park, contains a mix of commercial equestrian stables and an indoor arena, very low residential density development (one dwelling unit per acre) with associated equestrian stables and pastures, and a commercial tennis club facility with indoor and outdoor courts and a clubhouse. The Central Park Area has been designated as a planned area due to this mix of uses and the potential impacts of the uses on the surrounding residential development and the equestrian park. The planned area designation will permit the application of special development procedures and standards to allow for full development of the area while maintaining the equestrian character. However, future development in this area should not be permitted to adversely affect the unique equestrian and natural environment of the park and its uses by the general public.

---

*Very-low-density development should be maintained, and commercial equestrian facilities should be permitted in the Central Park Area.*

---

To be compatible with nearby residential density and the adjacent equestrian park permitted development should include very-low-density residential (one dwelling unit per acre) and equestrian facilities. The equestrian facilities could include private or commercial stables, pastures, arenas, and appropriate ancillary equestrian activities. Private and

commercial equestrian stables and arena buildings should be permitted if the following performance standards are met:

- (1) To the extent possible, commercial equestrian buildings are placed below existing grade, have large yard setbacks, and are screened by vegetated earthen berms.
- (2) Parking areas are aggregated and visually screened from adjoining single-family development.
- (3) Facilities are designed and maintained in a manner compatible with nearby residential uses.

Existing equestrian access to Bridle Trails State Park from this area should be preserved.

---

*Slightly more than one dwelling unit per acre should be permitted in the planned area subject to standards.*

---

To encourage a more creative development and still be in character with the surrounding very-low-density equestrian-oriented residential development, low-density residential uses (slightly more than one dwelling unit per acre, but no less than a minimum lot size of 26,000 square feet) should be permitted in the planned area if the following performance standards are met:

- (1) A master plan for a development of at least 16 contiguous acres is reviewed through a public hearing process.
- (2) Each residential lot contains an area of sufficient size and location for a horse paddock area, exclusive of any residential and equestrian structures.
- (3) Each residential lot is designed to allow truck access for equestrian services, such as hay delivery and manure disposal.
- (4) A public equestrian access trail with appropriate identification signs is provided

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# XV.C. BRIDLE TRAILS NEIGHBORHOOD

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between NE 60th Street and the Bridle Trails State and King County Parks.

- (5) A coordinated vehicular and pedestrian system is provided for the property and the surrounding area.
- (6) An equestrian facility, available to the public, is provided on the property.

---

***Expansion of the existing Central Park Tennis Club along NE 60th Street should be permitted.***

---

The existing Central Park Tennis Club has been compatible with the surrounding residential and equestrian uses. The tennis club should be permitted to expand to the degree that the following performance standards are met:

- (1) Development is reviewed through a public hearing process.
- (2) To the extent possible, commercial buildings are placed below existing grade, have large setbacks, and are screened by vegetated earthen berms.
- (3) Large setbacks with a substantial vegetative buffer should be required along the south and west borders of the subject property.
- (4) Parking areas are aggregated and visually screened from adjoining single-family development.
- (5) Vehicular and pedestrian circulation to and from the property should be coordinated with other properties in the vicinity.

## 5. ECONOMIC ACTIVITIES

---

***The existing Bridle Trails commercial center should be the primary commercial center for the Bridle Trails Neighborhood and should not be expanded.***

---

The primary site of economic activity in the Bridle Trails Neighborhood is at the southwest corner of NE 70th Street and 132nd Avenue NE where there are over 12 acres of commercially-zoned land. Some of the 12 acres is undeveloped which allows for some commercial expansion. To mitigate impacts for the adjoining residential areas, future development should be subject to the following performance standards:

- (1) The scale of all buildings is in accord with the scale of adjoining residential development.
- (2) Large setbacks with a substantial vegetative buffer are provided adjoining the residential development.
- (3) Access is provided via NE 70th Street and 132nd Avenue NE and not via 130th Avenue NE and NE 65th Street.
- (4) Parking areas are aggregated, landscaped, and visually screened from adjoining residential development.
- (5) The number and size of signs are minimized to avoid a cluttered, intensive commercial appearance. A comprehensive sign program should be implemented.

Also, commercial uses in the Bridle Trails commercial center should be oriented to the needs of the neighborhood. More intensive commercial activities should locate in the Central Business District, on NE 85th Street, and in the Totem Lake commercial center.

---

## XV.C. BRIDLE TRAILS NEIGHBORHOOD

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*Office and/or medium-density residential development should be permitted in the southeast corner of the I-405 interchange with NE 70th Street.*

---

Property on the west side of 116th Avenue NE, across from the park and ride lot, is suitable for office and/or medium-density residential development, subject to the following standards:

- (1) Building height, bulk and modulation, window treatments, and roofline design should reflect the scale and character of single-family development to the south and east.
- (2) To preserve a vegetated setback along 116th Avenue NE, surface parking should be limited to the northern, western, or southern portions of the site, and should not be located between buildings and 116th Avenue NE.
- (3) Significant trees on the site should be retained to the maximum extent possible.
- (4) A 15-foot heavily landscaped buffer should separate new development from adjacent single-family residences to the east and south.

---

*Commercial recreation facilities should be permitted to expand.*

---

The other major economic activity in the Bridle Trails Neighborhood is commercial recreation. Commercial equestrian stables and tennis courts are located south of NE 60th Street between the Bridle Trails King County Park and the Bridlewood Circle area. In addition, commercial equestrian stables are located along 116th Avenue NE. These facilities should be permitted to expand if certain performance standards are met (see page C-6).

### 6. OPEN SPACE/PARKS

---

*Bridle Trails State Park serves both local and regional open space/park needs.*

---

Bridle Trails State Park comprises a 480-acre facility that provides primarily equestrian recreational facilities on a regional scale. In addition, the park serves a broader public interest as it is used by joggers, hikers, nature groups, and picnickers. This large, mostly wooded tract also serves as a significant open space for local residents. Equestrian and pedestrian access to the parks should be made available from adjacent properties where appropriate and feasible. Signing which identifies access to the parks should be provided. This park should remain essentially as a large wooded open space.

---

*Development of Snyder's Corner Park should be completed.*

---

The Snyder's Corner Park site is currently undeveloped. This 4.5-acre property is located at the southeast corner of NE 70th Street and 132nd Avenue NE. A storm water detention area comprises a portion of the site. Development of the park site should be completed.

---

*Ben Franklin Elementary School provides important neighborhood park and recreation opportunities.*

---

In 2007 the City of Kirkland invested in civic improvements to Ben Franklin Elementary School, including expansion of the school playground, improvements to the playfield, a new picnic shelter, group seating areas, and interpretive trails. These amenities are maintained by the City's Parks and Community Services Department. Per the City's agreement with the School District, these amenities are available for community use during non-school hours, including evenings, weekends, and summer months. Neighborhood use of the school site during

---

## **XV.C. BRIDLE TRAILS NEIGHBORHOOD**

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these times should be ensured as it helps meet many important park and recreation needs particularly for those residing in the southwest portion of the neighborhood.

---

### ***Impacts from the King County Transfer Station and sports fields should be minimized.***

---

North of NE 60th Street and east of 116th Avenue NE is the King County transfer station for solid waste distribution with baseball and soccer fields located north of the transfer station. Most of the approximately 25 acres were once used as a landfill. The sports fields are self-contained with separate access roads and on-site parking. The traffic for the transfer station and sports fields should be managed to minimize impacts on the surrounding neighborhoods. The northeast area of the site contains a wooded undeveloped area appropriate for passive recreational use.

---

### ***Pedestrian and bicycle pathways are discussed.***

---

Pedestrian and bicycle pathways are also part of the park and open space system, in addition to providing a transportation function. Major pathways in the Bridle Trails Neighborhood should be established according to the designations in Figure BT-2.

## **7. PUBLIC SERVICES/FACILITIES**

---

### ***Storm runoff should be limited. The natural drainage system should be maintained or restored.***

---

The problems associated with urban runoff should be dealt with on site where the problems are usually created. Streams and other natural watercourses should be maintained or restored, if necessary, to a natural, stable condition. Storm runoff from developed sites should be limited to predevelopment levels.

---

### ***Undergrounding of utilities is to be actively encouraged.***

---

In order to enhance views, promote a sense of neighborhood identity, and increase public safety, the undergrounding of utilities should be actively encouraged (see Public Services/Facilities, Community Goals and Policies chapters).

---

### ***Modifications to major roadways in the Bridle Trails area are listed.***

---

Vehicular circulation patterns in the Bridle Trails Neighborhood are fairly well established. NE 70th Street is the primary east/west corridor for through traffic. Other arterials, 116th Avenue NE, NE 60th Street, 122nd Avenue NE, and 132nd Avenue NE facilitate access from most residential uses to the main arterials (see Figure BT-2).

---

#### ***(1) NE 60th Street and 122nd Avenue NE are collector arterials.***

---

NE 60th Street, 122nd Avenue NE, and 132nd Avenue NE should remain as collector arterials. No change in the road configuration should be necessary. However, there should be maintenance or improvements to pedestrian/bicycle/equestrian trails, especially on NE 60th Street and 132nd Avenue NE where provisions for a trail system separated from traffic should be included. Also, the removal of the transfer station would minimize adverse impacts associated with vehicles utilizing this facility.

---

#### ***(2) NE 70th Street should be designated as a secondary arterial.***

---

NE 70th Street should remain as a secondary arterial. This roadway provides through access from south Kirkland to Redmond. Future improvements to this traffic corridor should include a three-lane road, bicycle lanes, sidewalks, and provisions for the Metro bus system.

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## **XV.C. BRIDLE TRAILS NEIGHBORHOOD**

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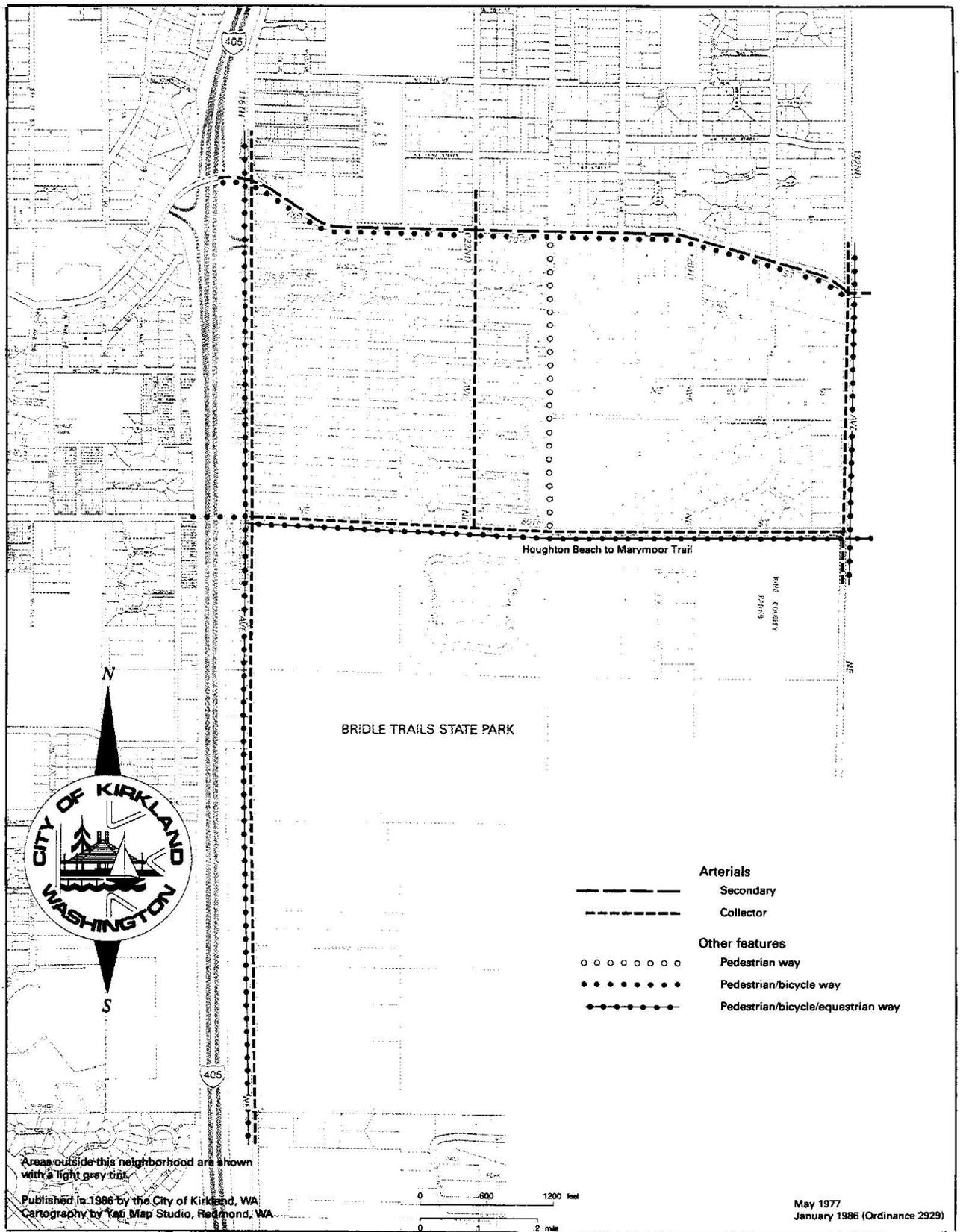
---

*(3) 116th Avenue NE should remain as a collector arterial.*

---

One-hundred-sixteenth Avenue NE is designated as a collector arterial which provides access to Bellevue. Along most of this arterial are single-family residences as well as access to Bridle Trails State Park. Additional traffic should not be generated on this roadway due to the many adjacent residences. Provisions for a pedestrian/bicycle/equestrian trail separated from traffic should be included.

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**Figure BT-2: Bridle Trails Circulation**

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## XV.C. BRIDLE TRAILS NEIGHBORHOOD

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***The State Highway Department should seek to mitigate existing and possible future impacts of I-405.***

---

The Interstate highway borders this area on the west and creates severe noise impacts on adjacent uses. If the State Highway Department makes further improvements to this facility, the City should encourage certain mitigating actions by the State. This would include the purchase of existing and undevelopable lots adjacent to the right-of-way and an extensive program of berm or other noise deflector construction.

---

***Impacts from the Houghton Kirkland Park and Ride lot should be minimized.***

---

The State Department of Transportation has a park and ride facility at the southeast corner of NE 70th Street and 116th Avenue NE to serve the needs of commuters in and around the Bridle Trails Neighborhood. Any future expansion of the facility should be carefully designed to protect the adjacent residences to the east and south. Points of access should be minimized to avoid congestion and safety problems. Improvements to adjacent streets should be made to facilitate through traffic as well as traffic to and from the park and ride lot.

---

***Bicycle and pedestrian paths are planned for this area.***

---

Within the Bridle Trails Neighborhood, the path system shown in Figure BT-2 does not include all existing and future sidewalks and paths but merely the major elements. A bicycle/pedestrian overpass located at NE 60th Street and I-405 provides a vital link in the County trail system from Seattle to Marymoor Park in Redmond. Any proposed right-of-way improvements to 116th Avenue NE and NE 60th Street should include provisions for a bicycle/pedestrian/equestrian trail separated from traffic.

On the west side of Ben Franklin Elementary School under the high voltage power lines, there is an unimproved pedestrian/bicycle path. This path provides a convenient safe link between the surrounding residences and the school and should be improved with public signing provided to designate the path.

---

***Adequate water and sewer service should be required in all new developments. New septic tanks are prohibited.***

---

Developers should be required to make adequate service extensions before new developments are occupied. These required public service extensions should be adequate to meet the requirements of designated land uses in the area. The use of septic tanks in new developments, including single-family homes, should be prohibited. Existing uses relying on septic tanks, when sewer services are available, should be required to hook up to sanitary sewers. Of particular concern is a large parcel southwest of the State Park. Due to the topography, sewers will have to be extended from the south for a distance of a mile. The developer of this property should bear the responsibility and cost for this extension before the property can be developed.

### 8. URBAN DESIGN

---

***Urban design assets are identified.***

---

On the whole, the Bridle Trails Neighborhood has a clear and vivid visual image and identity. The neighborhood has a limited number of urban design assets, but they are very important in establishing neighborhood character (see Figure BT-3).

---

***'Edges' and 'visual landmarks' are discussed.***

---

The neighborhood's western border is vividly and effectively provided by a 'hard edge' Interstate 405. Major visual landmarks are the Bridle Trails

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## XV.C. BRIDLE TRAILS NEIGHBORHOOD

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State Park, the Bridle Trails Commercial Center, and the high voltage power lines. The dominant visual landmark of the wooded park creates a 'soft edge' which in turn reflects and reinforces the wooded and equestrian image of the neighborhood. This image is quite apparent from the major 'pathways' through the neighborhood, NE 70th Street, NE 60th Street, 116th Avenue NE, and 132nd Avenue NE.

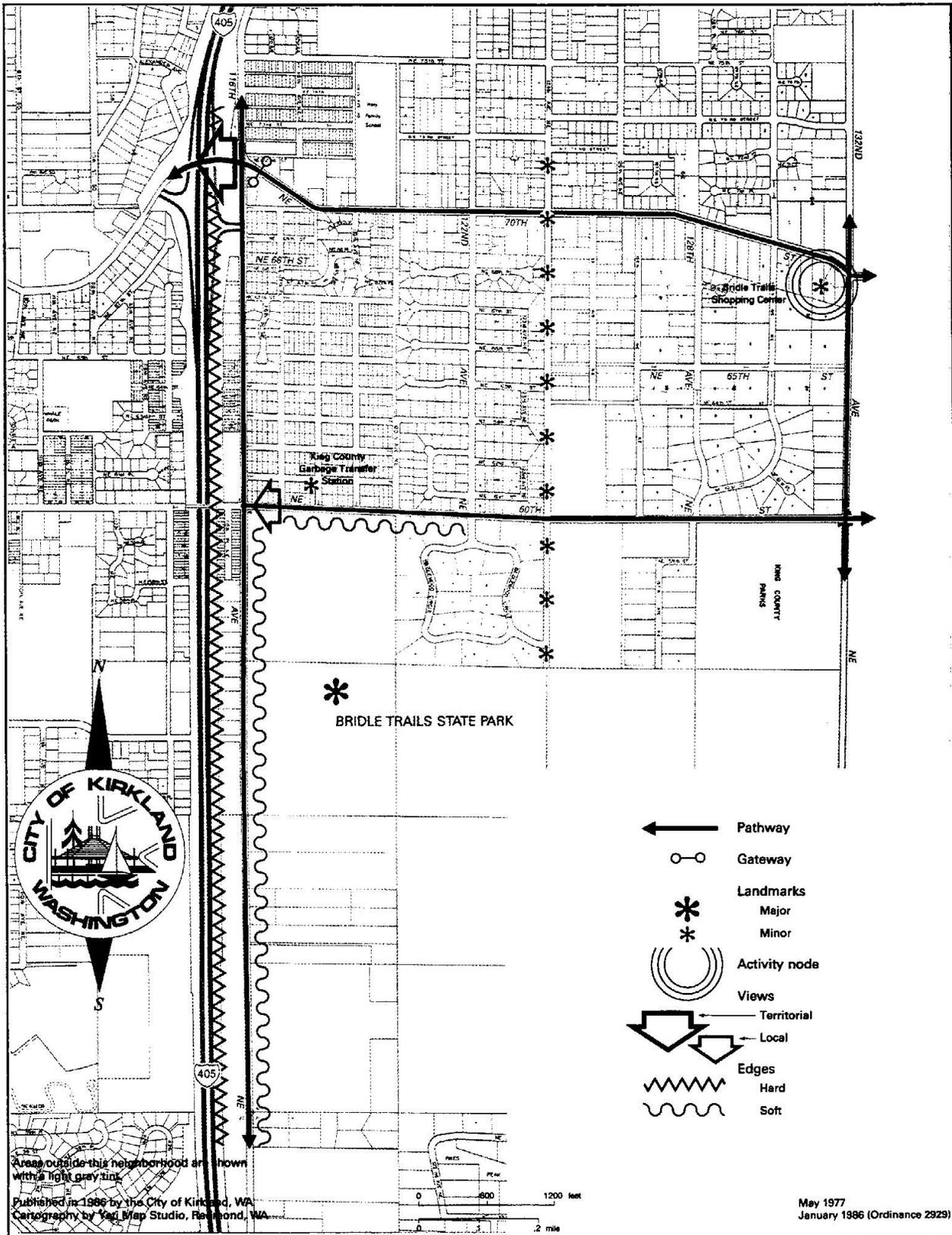
As an activity 'node,' the Bridle Trails commercial center is a focus of daily local commercial needs. The high voltage power lines and 124th Avenue NE, an unopened right-of-way, run north and south dividing the neighborhood in half and are used as a point of reference.

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### *'Major view' is discussed.*

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A major view in this neighborhood is identified on Figure BT-3 - Urban Design. NE 70th Street and 116th Avenue NE present sweeping territorial views of Lake Washington, Seattle, and the Olympic Mountain range. The NE 70th view can be protected by limiting building heights of future structures directly west of I-405 in the northeast portion of Central Houghton and southeast portion of Everest Neighborhoods and by undergrounding utility lines.



**Figure BT-3: Bridle Trails – The Image of the City**

## Chapter 22.12 PRELIMINARY PLAT PROCEDURE

### Sections:

- [22.12.005](#) Injunctive action to restrain subdivision, sale, transfer of land where final plat not filed—Violations—Penalties.
- [22.12.010](#) Purpose.
- [22.12.015](#) Applicable process.
- [22.12.020](#) Application—Contents.
- [22.12.040](#) Application—Distribution.
- [22.12.070](#) Notice of application—Distribution.
- [22.12.100](#) *Repealed.*
- [22.12.110](#) *Repealed.*
- [22.12.120](#) *Repealed.*
- [22.12.130](#) *Repealed.*
- [22.12.140](#) *Repealed.*
- [22.12.230](#) Hearing examiner's decision—Decisional criteria.
- [22.12.370](#) *Repealed.*
- [22.12.390](#) Time limits for preliminary plat.
- [22.12.410](#) Effect of preliminary plat approval—Generally.
- [22.12.420](#) Effect of preliminary plat approval—Construction of certain improvements.

### **22.12.005 Injunctive action to restrain subdivision, sale, transfer of land where final plat not filed—Violations—Penalties.**



(a) Whenever any parcel of land is divided into ten or more lots, tracts, or parcels of land and any person, firm or corporation, or any agent of any of them, sells or transfers, or offers or advertises for sale or transfer, any such lot, tract, or parcel without having a final plat of such subdivision filed for record, in addition to the authority of the county prosecuting attorney set forth in RCW [58.17.200](#), the city attorney shall have concurrent authority to commence an action to restrain and enjoin further subdivisions or sales, or transfers, or offers of sale or transfer and compel compliance with all provisions of this chapter. The costs of such action shall be taxed against the person, firm, corporation, or agent selling or transferring the property.

(b) Any person, firm, corporation or association or any agent of any person, firm, corporation or association who violates any provision of this chapter relating to the sale, offer for sale, lease, or transfer of any lot, tract, or parcel of land shall be guilty of a gross misdemeanor, and each sale, offer for sale, lease, or transfer of each separate lot, tract or parcel of land in violation of any provision of this chapter shall be deemed a separate and distinct offense. (Ord. 3705 § 2 (part), 1999)

### **22.12.010 Purpose.**



(a) The provisions of this chapter describe the procedure that the city will use to review and decide upon proposed subdivisions. Please refer to Chapters [22.28](#) and [22.32](#) for the substantive requirements that apply to subdivisions. For properties within jurisdiction of the Shoreline Management Act, see Chapter [83](#) KZC.

(b) Alterations and vacations of subdivisions shall follow the procedural requirements outlined in Chapter [22.26](#) of

this code. (Ord. 4253 § 1 (Att. A) (part), 2010: Ord. 3705 § 2 (part), 1999)

### 22.12.015 Applicable process.



Except as otherwise provided in this chapter, the city will use process IIA described in Chapter [150](#) KZC to review and decide upon proposed subdivisions. (Ord. 3705 § 2 (part), 1999)

### 22.12.020 Application—Contents.



The applicant may apply for a subdivision by submitting information to the planning department on the forms provided by that department. The planning department is hereby authorized to maintain a list of the application requirements. The list shall incorporate, at a minimum:

- (a) The requirements of state law regarding subdivisions;
- (b) The filing fee as established by ordinance;
- (c) All information required under the State Environmental Policy Act, Chapter [43.21C](#) RCW, and the administrative guidelines and local ordinance adopted to implement it;
- (d) Any additional pertinent information necessary for adequate review of the application. (Ord. 4122 § 1 (part), 2008: Ord. 3705 § 2 (part), 1999)

### 22.12.040 Application—Distribution.



Upon receipt of a preliminary subdivision application, the planning official shall, in addition to all interested city departments, send a copy of the application to the authorities and agencies reviewing or furnishing water service and sanitary sewer service to the proposed subdivision. (Ord. 3705 § 2 (part), 1999)

### 22.12.070 Notice of application—Distribution.



In addition to those parties identified in KZC [150.30\(2\)](#), notice of preliminary plat application shall be provided to the following:

- (a) A copy will be sent to appropriate city or county officials if the proposed subdivision adjoins the boundaries of the city.
- (b) A copy will be sent to the State Department of Transportation if the proposed subdivision is adjacent to the right-of-way of a state highway. (Ord. 3705 § 2 (part), 1999)

### 22.12.100 Staff report—Distribution to Houghton community council.



*Repealed by Ord. 4122.* (Ord. 3705 § 2 (part), 1999)

### 22.12.110 Houghton community council hearing—When.



*Repealed by Ord. 4122.* (Ord. 3705 § 2 (part), 1999)

### 22.12.120 Houghton community council hearing—Notice.



*Repealed by Ord. 4122.* (Ord. 3705 § 2 (part), 1999)

### 22.12.130 Houghton community council hearing—Recommendation.



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*Repealed by Ord. 4122. (Ord. 3705 § 2 (part), 1999)*

#### **22.12.140 Houghton community council hearing—Electronic sound recording.**

[+ SHARE](#)

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*Repealed by Ord. 4122. (Ord. 3705 § 2 (part), 1999)*

#### **22.12.230 Hearing examiner's decision—Decisional criteria.**

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In addition to the decisional criteria identified in KZC [150.65](#)(3), the hearing examiner may approve the proposed plat only if he/she finds that:

- (a) There is adequate provision for open spaces, drainageways, rights-of-way, easements, water supply, sanitary waste, power service, parks, playgrounds and schools; and
- (b) It will serve the public use and interest and is consistent with the public health, safety and welfare. The hearing examiner shall be guided by the policy and standards and may exercise the powers and authority set forth in Chapter [58.17](#) RCW. (Ord. 3705 § 2 (part), 1999)

#### **22.12.370 Preliminary plat approval within Houghton community council jurisdiction.**

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*Repealed by Ord. 4122. (Ord. 3705 § 2 (part), 1999)*

#### **22.12.390 Time limits for preliminary plat.**

[+ SHARE](#)

Preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within ninety calendar days following the date of filing of a complete application thereof as defined in Title [20](#), this title, and Chapter [150](#) KZC unless the applicant consents to an extension of such time period; provided, that if an environmental impact statement is required as provided in RCW [43.21C.030](#), the ninety-day period shall not include the time spent preparing and circulating the environmental impact statement by the local government agency. (Ord. 3705 § 2 (part), 1999)

#### **22.12.410 Effect of preliminary plat approval—Generally.**

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The approval of a preliminary plat by the hearing examiner or by the city council constitutes approval of the general concept and layout of the plat as approved. Preliminary plat approval does not signify acceptance of all engineering details of the plat. These engineering details remain subject to approval by the public works department. (Ord. 3705 § 2 (part), 1999)

#### **22.12.420 Effect of preliminary plat approval—Construction of certain improvements.**

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Once engineering details and specific designs have been approved by the public works department, the owner may obtain necessary permits and construct right-of-way, easement and utility improvements approved in the preliminary plat. (Ord. 3705 § 2 (part), 1999)

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## Chapter 22.28 DESIGN REQUIREMENTS

### Sections:

- [22.28.010](#) Applicability.
- [22.28.020](#) Provision for public and semipublic lands.
- [22.28.030](#) Lots—Size.
- [22.28.040](#) Lots—Lot averaging.
- [22.28.041](#) Lots—Low impact development.
- [22.28.042](#) Lots—Small lot single-family.
- [22.28.048](#) Lots—Historic preservation.
- [22.28.050](#) Lots—Dimensions.
- [22.28.060](#) General layout.
- [22.28.070](#) Blocks—Maximum length.
- [22.28.080](#) Access—Required.
- [22.28.090](#) Access—Right-of-way—Adjacent to plat.
- [22.28.100](#) Access—Right-of-way—Within plats.
- [22.28.110](#) Access—Vehicular-access easement or tract.
- [22.28.130](#) Vehicular-access easement or tract—Standards.
- [22.28.140](#) Vehicular-access easement or tract—Additional requirements.
- [22.28.150](#) Vehicular-access easement or tract—Engineering standards for vehicular access.
- [22.28.160](#) Vehicular-access easement or tract—Modifications.
- [22.28.170](#) Access—Walkways.
- [22.28.180](#) Preservation of natural features—Compliance with Zoning Code.
- [22.28.190](#) Preservation of natural features—Land adjacent to Lake Washington.
- [22.28.200](#) Preservation of natural features—Land adjacent to streams, lakes or wetlands.
- [22.28.210](#) Preservation of natural features—Significant vegetation.
- [22.28.220](#) Preservation of natural features—Easements.

### **22.28.010 Applicability.**



The provisions of this chapter apply to each plat and short plat within the city. For the purposes of this chapter, the terms “subdivision” and “plat” also mean “short subdivision” and “short plat.” (Ord. 3705 § 2 (part), 1999)

### **22.28.020 Provision for public and semipublic lands.**



The city may require the applicant to make land available, by dedication, for school sites, parks and open space, rights-of-way, utilities infrastructure, or other public or semipublic uses of land if this is reasonably necessary as a result of the subdivision. (Ord. 3705 § 2 (part), 1999)

### **22.28.030 Lots—Size.**



All lots within a subdivision must meet the minimum size requirements established for the property in the Kirkland Zoning Code or other land use regulatory document. The following provisions shall not apply to properties located in an RSA zone.

If a property is smaller than that required for subdivision by an amount less than or equal to ten percent of the minimum lot size for the zoning district as shown on the Kirkland zoning map or as indicated in the Kirkland Zoning Code, subdivision may still proceed as long as the shortage of area is spread evenly over all of the lots in the subdivision. In cases where an existing structure or other physical feature (sensitive area, easement, etc.) makes even distribution of the size shortage difficult, an exception to the even distribution may be made.

If a property is smaller than that required for subdivision by an amount greater than ten percent and less than or equal to fifteen percent of the minimum lot size for the zoning district as shown on the Kirkland zoning map or as indicated in the Kirkland Zoning Code, subdivision may also proceed, as long as:

- (a) The shortage of area is spread evenly over all of the lots in the subdivision (unless an existing structure or other physical feature such as a sensitive area or easement makes even distribution of the size shortage difficult); and
- (b) All lots have a minimum lot width at the back of the required front yard of no less than fifty feet (unless the garage is located at the rear of the lot or the lot is a flag lot); and
- (c) In zoning districts for which the Zoning Code establishes a floor area ratio (FAR) limitation, a covenant is signed prior to recording of the plat ensuring that building on the new lots will comply with an FAR restriction at least ten percentage points less than that required by the zoning district as shown on the Kirkland zoning map; and
- (d) If any lot is smaller than the minimum lot size for the zoning district by an amount greater than five percent of the minimum lot size, the subdivision may be approved if the new lots are compatible, with regard to size, with other lots in the immediate vicinity of the subdivision.

A covenant must also be signed prior to recording of the plat to ensure that the garage will be located at the rear of the lot in cases where this option is chosen under subsection (b) of this section. (Ord. 4438 § 1 (Att. A) (part), 2014; Ord. 4196 § 2 (Exh. B) (part), 2010; Ord. 3705 § 2 (part), 1999)

#### **22.28.040 Lots—Lot averaging.**



In multiple lot subdivisions not located in an RSA or PLA 3C zone and not subject to Section [22.28.030](#), the minimum lot area shall be deemed to have been met if the average lot area is not less than the minimum lot area required of the zoning district in which the property is located as identified on the zoning map. Under this provision, either:

- (a) Not more than twenty percent of the number of lots in a subdivision and one of the lots in a short plat may contain an area less than the prescribed minimum for this zoning district. In no case shall any lots be created which contain an area more than ten percent less than the prescribed minimum for this zoning district; or
- (b) Up to seventy-five percent of the number of lots in a subdivision or short plat may contain an area less than the prescribed minimum for this zoning district if the lots which would be created contain an area no more than five percent less than prescribed.

These smaller lots shall be located so as to have the least impact on surrounding properties and public rights-of-way.

Using process IIA, Chapter [150](#) KZC, and the applicable sections of Chapter [22.12](#) or [22.20](#) of this title, additional lot averaging may be achieved. Through process IIA, not more than thirty percent of the number of lots in a subdivision, and two of the lots in a short plat, may contain an area less than the prescribed minimum for this zoning district as long as the average lot area is not less than the minimum lot area required for the zoning district in which the property is located as identified on the zoning map. In no case shall any lots be created through this process which contain an area more than fifteen percent less than the prescribed minimum for this zoning district. The smaller lots shall be located so as to have the least impact on surrounding properties and public rights-of-way. In addition, the plat or short plat must meet the following criteria:

- (1) The averaging is necessary because of special circumstances regarding the size, shape, topography, or location of the subject property, or the location of a preexisting improvement on that subject property; and
- (2) The averaging will not be materially detrimental to the property or improvements in the area of the subject property or to the city in part or as a whole; and
- (3) Existing significant trees and vegetation will be preserved where feasible to buffer the adjacent properties from the smaller lots in the subject subdivision.

Additional lot averaging may only be addressed and obtained through the provisions of Chapter [125](#) KZC, Planned Unit Development, and the applicable sections of Chapter [22.12](#) or [22.20](#) of this title. (Ord. 4332 § 1(B) (Exh. B), 2011: Ord. 4196 § 2 (Exh. B) (part), 2010: Ord. 4011 § 2, 2005: Ord. 3705 § 2 (part), 1999)

#### **22.28.041 Lots—Low impact development.**



(a) In multiple lot low impact development subdivisions described in Chapter [114](#) KZC, Low Impact Development, and not subject to Sections [22.28.030](#) and [22.28.040](#), the minimum lot area shall be deemed to have been met if the minimum lot area is not less than fifty percent of the lot area required of the zoning district in which the property is located as identified on the zoning map; provided, that all lots meet the following standards:

- (1) Within the RSA 6 zone, the lots shall be at least two thousand five hundred fifty square feet.
  - (2) Within the RSA 4 zone, the lots shall be at least three thousand eight hundred square feet.
- (b) The lots within the low impact development meet the design standards and guidelines and approval criteria as defined in Chapter [114](#) KZC. (Ord. 4438 § 1 (Att. A) (part), 2014: Ord. 4351 § 2, 2012)

#### **22.28.042 Lots—Small lot single-family.**



Within the RS and RSX 6.3, 7.2 and 8.5 zones, for those subdivisions not subject to the lot size flexibility provisions of Sections [22.28.030](#) and [22.28.040](#), low impact development provisions of Section [22.28.041](#), and historic preservation provisions of Section [22.28.048](#), the minimum lot area shall be deemed to be met if at least one-half of the lots created contain no less than the minimum lot size required in the zoning district in which the property is located. The remaining lots may contain less than the minimum required lot size; provided, that such lots meet the following standards:

- (a) Within the RS 6.3, RSX and RS 7.2 zones, the lots shall be at least five thousand square feet.
- (b) Within the RSX and RS 8.5 zones, the lots shall be at least six thousand square feet.
- (c) *Repealed by Ord. 4438.*
- (d) The floor area ratio (FAR) shall not exceed thirty percent of lot size; provided, that FAR may be increased up to thirty-five percent of the lot size if the following criteria are met:
  - (1) The primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical to twelve feet horizontal; and
  - (2) All structures are set back from side property lines by at least seven and one-half feet.
- (e) The FAR restriction shall be recorded on the face of the plat.
- (f) Accessory dwelling units are prohibited. This restriction shall be recorded on the face of the plat. (Ord. 4438 § 1 (Att. A) (part), 2014: Ord. 4372 § 2 (Att. B) (part), 2012: Ord. 4332 § 1(C) (Exh. C), 2011: Ord. 4330 § 1 (Exh. A), 2011: Ord. 4102 § 1(A), 2007)

**22.28.048 Lots—Historic preservation.**

Within the low density zones listed below in subsections (a) through (d) of this section, for those subdivisions not subject to the lot size flexibility provisions of Sections [22.28.030](#) and [22.28.040](#), low impact development provisions of Section [22.28.041](#), and the small lot single-family provisions of Section [22.28.042](#), the minimum lot area shall be deemed to be met if no more than two lots are created that contain less lot area than the minimum size required in the zoning district in which the property is located, and if an “historic residence” is preserved on one of the lots, pursuant to the process described in Chapter [75](#) KZC. The lots containing less than the minimum required lot area shall meet the following standards:

- (a) Within the RSA 6, RS 6.3 and RS and RSX 7.2 zones, the lots shall be at least five thousand square feet.
- (b) Within the RSA 4, RS 8.5 and RSX 8.5 zones, the lots shall be at least six thousand square feet.
- (c) Within the RS 12.5, RSX 12.5 and WDII zones, the lots shall be at least seven thousand two hundred square feet.
- (d) Within the RS and RSX 35 zones not located north or northeast of the Bridle Trails State Park, the lots shall be at least fifteen thousand fifty square feet.
- (e) *Repealed by Ord. 4438.*
- (f) Accessory dwelling units are prohibited. The restriction shall be recorded on the face of the plat.

Lots containing historic residences shall also meet the following standards:

- (g) If a historic residence is destroyed, damaged, relocated, or altered inconsistent with the Secretary of the Interior’s Standards for the Treatment of Historic Properties (Rehabilitation) (Code of Federal Regulations, [36](#) CFR Part [68](#)), the replacement structure shall be reconstructed in accordance with the criteria established in KZC [75.105](#). The replacement restriction shall be recorded on the face of the plat.
- (h) As part of subdivision approval, the city may allow the following modifications to regulations in the Kirkland Zoning Code regarding minimum required yards, maximum lot coverage, and floor area ratio on the lot containing the historic residence if the modifications are necessary to accommodate the historic residence.
  - (1) Required yards may be two feet less than required by the zoning district as shown on the Kirkland zoning map.
  - (2) Floor area ratio may be five percentage points more than allowed by the zoning district as shown on the Kirkland zoning map.
  - (3) Lot coverage may be five percentage points more than allowed by the zoning district as shown on the Kirkland zoning map.
- (i) At the time of recording the plat, a notice of applicable restrictions for the lot containing the designated historic residence shall be recorded. (Ord. 4438 § 1 (Att. A) (part), 2014: Ord. 4372 § 2 (Att. B) (part), 2012: Ord. 4102 § 1(B), 2007)

**22.28.050 Lots—Dimensions.**

Lots must be of a shape so that reasonable use and development may be made of the lot. Generally, the depth of the lot should not be more than twice the width of the lot. In no case shall a lot be less than fifteen feet in width where it abuts the right-of-way, vehicular-access easement or tract providing vehicular access to the subject lot. For lots smaller than five thousand square feet in size located in “low density zones” as defined in the Zoning Code, the

lot width at the back of the required front yard shall not be less than fifty feet unless the garage is located at the rear of the lot or the lot is a flag lot. A covenant shall be signed prior to the recording of the plat to ensure that the garage will be located at the rear of the lot if this option is chosen. (Ord. 4122 § 1 (part), 2008; Ord. 3705 § 2 (part), 1999)

### 22.28.060 General layout.



The plat must be designed to allow for reasonable subdivision and use of adjoining properties. While the plat should generally conform to the grid pattern, innovative layouts will be considered based on the general requirements of this chapter. (Ord. 3705 § 2 (part), 1999)

### 22.28.070 Blocks—Maximum length.



Generally, blocks should not exceed five hundred feet in length. Blocks that are more than seven hundred fifty feet in length should allow for midblock pedestrian access pursuant to Section [22.28.170](#) of this chapter. (Ord. 3705 § 2 (part), 1999)

### 22.28.080 Access—Required.



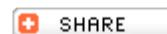
(a) All lots must have direct legal access as required by the Zoning Code, including KZC [115.80](#), Legal Building Site, and KZC [105.10](#), Vehicular Access Easement or Tract Standards. The city will determine whether access will be by right-of-way or vehicular-access easement or tract on a case-by-case basis.

(b) Unless otherwise provided in the Kirkland Zoning Code, the area of a vehicular-access easement or tract shall not be included in the computation of the lot area for the servient lot. However:

(1) If the vehicular easement serves only one lot which does not abut a public right-of-way, the easement shall be included in the lot area for the servient lot; provided, that the servient lot abuts a public right-of-way and is not a flag lot; and

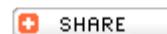
(2) The area of a vehicular-access easement shall be included in the lot area for cottage housing development approved pursuant to Chapter [113](#) KZC. (Ord. 4196 § 2 (Exh. B) (part), 2010; Ord. 4152 § 2, 2008; Ord. 4122 § 1 (part), 2008; Ord. 3705 § 2 (part), 1999)

### 22.28.090 Access—Right-of-way—Adjacent to plat.



The applicant shall comply with the requirements of the Zoning Code with respect to dedication and improvements of rights-of-way adjacent to the plat. (Ord. 3705 § 2 (part), 1999)

### 22.28.100 Access—Right-of-way—Within plats.



If a right-of-way is proposed within a plat, the public works director shall designate the right-of-way based on the projections for that right-of-way using the criteria established in the Zoning Code. The applicant shall dedicate and improve the right-of-way consistent with the provisions of the Zoning Code. (Ord. 3705 § 2 (part), 1999)

### 22.28.110 Access—Vehicular-access easement or tract.



If vehicular access within the plat will be provided by means other than rights-of-way, the plat must establish easements or tracts which will provide the legal right of access to each of the lots served. The city may require that the legal right of access be granted to other adjoining properties in order to provide a safe and efficient circulation system within the city. (Ord. 3705 § 2 (part), 1999)

**22.28.130 Vehicular-access easement or tract—Standards.**

The applicant shall comply with the requirements found in KZC [105.10](#) for vehicular-access easements or tracts. (Ord. 3705 § 2 (part), 1999)

**22.28.140 Vehicular-access easement or tract—Additional requirements.**

The city may require additional or other requirements for vehicular-access easements or tracts based on unusual circumstances. (Ord. 3705 § 2 (part), 1999)

**22.28.150 Vehicular-access easement or tract—Engineering standards for vehicular access.**

The public works director is directed to develop and keep current full engineering standards and specifications for improvements to vehicular-access easements or tracts. The applicant shall comply with these standards and specifications. These standards and specifications are available for public inspection and copying in the public works department during regular business hours. (Ord. 3705 § 2 (part), 1999)

**22.28.160 Vehicular-access easement or tract—Modifications.**

The provisions in Chapter [105](#) KZC, pertaining to modifications to the required improvements, may be used by the applicant or the city to modify the vehicular-access easement or tract provisions of this chapter. (Ord. 3705 § 2 (part), 1999)

**22.28.170 Access—Walkways.**

(a) The city may require the applicant to install pedestrian walkways in any of the following circumstances:

- (1) If a walkway is indicated as appropriate in the comprehensive plan;
- (2) If the walkway is reasonably necessary to provide efficient pedestrian access to a designated activity center of the city;
- (3) Midblock pedestrian access may be required if blocks are unusually long.

(b) Pedestrian access shall be provided by means of dedicated rights-of-way, tracts or easements at the city's option. (Ord. 3705 § 2 (part), 1999)

**22.28.180 Preservation of natural features—Compliance with Zoning Code.**

The applicant has the responsibility in proposing a plat to be sensitive with respect to the natural features, including topography, streams, lakes, wetlands, habitat, geologic features and vegetation, of the property.

The plat must be designed to preserve and enhance as many of these valuable features as possible. In addition to the specific provisions of this chapter, the applicant shall comply with all applicable provisions of the Zoning Code regarding property containing or adjacent to Lake Washington, Totem Lake, Forbes Lake, sensitive areas, geologically hazardous areas, trees and other specific requirements regarding site development restrictions due to natural features. (Ord. 4011 § 3, 2005; Ord. 3705 § 2 (part), 1999)

**22.28.190 Preservation of natural features—Land adjacent to Lake Washington.**

Subdivisions adjacent to Lake Washington must comply with the provisions of Kirkland's Shoreline Master Program regarding open space and public access along the waterfront. (Ord. 3705 § 2 (part), 1999)

**22.28.200 Preservation of natural features—Land adjacent to streams, lakes or wetlands.**

The city may require that any area adjacent to a Class A, B and C stream, a lake, or a wetland be kept in its natural or preexisting state if this is reasonably necessary to prevent hazards to persons or property. In addition, the city may also require that areas around Class A, B, and C streams, lakes or wetlands be kept in their natural or preexisting state if this is reasonably necessary to protect unique and valuable environments. (Ord. 3705 § 2 (part), 1999)

**22.28.210 Preservation of natural features—Significant vegetation.**

The applicant shall design the plat so as to comply with the tree management requirements set forth in Chapter [95](#) KZC, maximize the chances of survival of trees and associated vegetation designated for retention, and minimize potential hazards to life or property. (Ord. 4011 § 4, 2005; Ord. 3705 § 2 (part), 1999)

**22.28.220 Preservation of natural features—Easements.**

The city shall require open space or drainage easements or other similar mechanisms to ensure compliance with Sections [22.28.130](#) through [22.28.210](#) of this chapter. (Ord. 3705 § 2 (part), 1999)

**The Kirkland Municipal Code is current through Ordinance 4483, passed June 16, 2015.**

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## Chapter 22.32 IMPROVEMENTS

### Sections:

- [22.32.010](#) Compliance with utility system improvements required.
- [22.32.020](#) Water system—Fire district requirements.
- [22.32.030](#) Stormwater control system—Requirements.
- [22.32.040](#) Sanitary sewer system—Approval of septic tanks when.
- [22.32.050](#) Undergrounding of transmission lines—Required.
- [22.32.060](#) Easements for utilities.
- [22.32.070](#) Maintenance bonds.
- [22.32.080](#) Performance bonds.

### **22.32.010 Compliance with utility system improvements required.**



All utility system improvements must be designed and installed in accordance with all standards of the applicable serving utility. (Ord. 3705 § 2 (part), 1999)

### **22.32.020 Water system—Fire district requirements.**



The applicant shall install a system to provide potable water service to each lot created. The applicant shall install a system that will provide adequate fire flow and all fire-fighting infrastructure and appurtenances required by the serving fire district. (Ord. 3705 § 2 (part), 1999)

### **22.32.030 Stormwater control system—Requirements.**



The applicant shall comply with the construction phase and permanent stormwater control requirements of the municipal code. Generally, permanent stormwater control systems must be designed to accommodate all land within the subdivision. Based on unusual circumstances, the city can require or approve stormwater control systems designed and installed for individual lots or groups of lots within the proposed plat. (Ord. 4122 § 1 (part), 2008; Ord. 3705 § 2 (part), 1999)

### **22.32.040 Sanitary sewer system—Approval of septic tanks when.**



The developer shall install a sanitary sewer system to serve each lot. In lieu of installing a sanitary sewer system, the applicant may propose the use of septic tanks, which may be approved by the city if consistent with the applicable provisions of this code and Zoning Code and the applicable regulations of the Seattle-King County health department. (Ord. 3705 § 2 (part), 1999)

### **22.32.050 Undergrounding of transmission lines—Required.**



The applicant shall comply with the utility lines and appurtenances requirements of KZC [110.60](#)(7). (Ord. 4286 § 1 (Att. B)(part), 2011; Ord. 3705 § 2 (part), 1999)

### **22.32.060 Easements for utilities.**



Utility lines other than in rights-of-way and vehicular-access easements and tracts should be within easements centered on property lines whenever possible. Except in unusual circumstances, easements for utilities should be at least ten feet in width. (Ord. 3705 § 2 (part), 1999)

### 22.32.070 Maintenance bonds.



The city may require a maintenance bond requiring any of the improvements or landscaping installed or maintained under this title. The city will use the provisions in the Zoning Code regarding maintenance bonds with respect to the acceptance, amount, administration, utilization and all other components of these maintenance bonds. A two-year maintenance bond shall be provided at the time of the recording of the plat or short plat or installation and completion of all of the required plat or short plat improvements, whichever event occurs later. (Ord. 3705 § 2 (part), 1999)

### 22.32.080 Performance bonds.



In lieu of installing all required improvements and components as part of a plat or short plat, the applicant may propose to post a bond for a period of one year to ensure completion of these requirements within one year of the decision approving the plat or short plat. The city will use the provisions regarding performance bonds of the Zoning Code with respect to the acceptance, amount, administration, utilization and all other aspects of this bond. An extension of the one-year period may be approved by the public works director. If an extension is granted, it shall be for a period not to exceed twelve months and a new security must be submitted. (Ord. 3705 § 2 (part), 1999)



**The Kirkland Municipal Code is current through Ordinance 4483, passed June 16, 2015.**

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

City Website: <http://www.kirklandwa.gov/>

City Telephone: (425) 587-3190

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## Chapter 90 – DRAINAGE BASINS

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## INTRODUCTION

### 90.05 User Guide



The regulations in this chapter apply to activities, work, and conditions in or near any stream, wetland, frequently flooded area, or lake in the City. For properties within jurisdiction of the Shoreline Management Act, the regulations in Chapter [83](#) KZC must be met. 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 (1) of these areas on their property, should read these regulations. See also KZC [95.23](#)(5)(d)(2), Trees in Critical Areas or Critical Area Buffers; and KZC [95.50](#)(11), Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers.

Chapter [83](#) KZC contains wetland, stream and flood hazard reduction regulations for properties located within its jurisdiction. However, regulations contained in this chapter that are not addressed in Chapter [83](#) KZC continue to apply, such as bond or performance security, dedication and liability.

(Ord. 4252 § 1, 2010; Ord. 4238 § 2, 2010; Ord. 4010 § 3, 2005; Ord. 3834 § 1, 2002)

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### 90.10 Purpose



These regulations were prepared to comply with the Growth Management Act, Chapter [36.70A](#) RCW. The purpose of these regulations is to protect the environment, human life, and property. This purpose will be achieved by preserving the important ecological functions of wetlands, streams, lakes, and frequently flooded areas. The designation and classification of these sensitive areas is intended to assure their preservation and protection from loss or degradation, and to restrict incompatible land uses.

Sensitive areas perform a variety of valuable biological, chemical, and physical functions that benefit the City and its residents. The functions of sensitive areas include, but are not limited to, the following:

1. Wetlands – Wetlands help maintain water quality; store and convey storm and flood water; recharge ground water; provide fish and wildlife habitat; and serve as areas for recreation, education, scientific study, and aesthetic appreciation. The City's goal is to achieve no net loss of wetlands through retention of wetland functions, values, and acreage within each drainage basin. Wetlands are protected in part by buffers, which are upland areas adjacent to wetlands.

Wetland buffers serve to moderate runoff volume and flow rates; reduce sediment loads; remove waterborne contaminants such as excess nutrients, synthetic organic chemicals (e.g., pesticides, oils, and greases), and metals; provide shade for surface water temperature moderation; provide wildlife habitat; and deter harmful intrusion into wetlands.

The primary purpose of wetland regulations is to achieve a goal of no net loss of wetland function, value, and acreage within each drainage basin, which, where possible, includes enhancing and restoring wetlands.

2. Streams – Streams and their associated buffers provide important fish and wildlife habitat and travel corridors;

help maintain water quality; store and convey storm and flood water; recharge groundwater; and serve as areas for recreation, education, scientific study, and aesthetic appreciation. Streams are protected in part by buffers, which are adjacent upland areas that interact with streams.

Stream buffers – sometimes known as riparian buffers – serve to moderate runoff volume and flow rates; reduce sediment loads; remove waterborne contaminants such as excess nutrients, synthetic organic chemicals (e.g., pesticides, oils, and greases), and metals; provide shade for surface water temperature moderation; provide wildlife habitat; and deter harmful intrusion into streams.

The primary purpose of stream regulations is to avoid reducing stream and riparian corridor functions, and where possible, to enhance and restore streams and riparian areas.

3. Lakes – Lakes provide important fish and wildlife habitat; store and convey storm and flood water; recharge ground water; store ground water discharge; and serve as areas for recreation, education, scientific study, and aesthetic appreciation. Many uses and activities in and around lakes are regulated under the wetland regulations, because the shallow perimeter of most lakes (the littoral zone) often meets the definition of a wetland.

Lake Washington is a Shoreline of the State, and is subject to the Shoreline Management Act. Uses and activities near, on or in Lake Washington are regulated by the applicable use zone regulations in Chapters [15](#) through [56](#) KZC and by the shoreline regulations in Chapters [83](#) and [141](#) KZC. Uses and activities in wetlands contiguous to Lake Washington are subject primarily to the wetland regulations in Chapter [83](#) KZC, but also some applicable regulations in this chapter. Wetland buffers not located within 200 feet of the ordinary high water mark of Lake Washington are subject to the wetland buffer regulations in this chapter.

The primary purpose of the lake regulations is to avoid impacts to lakes and contiguous riparian areas, and where possible, to enhance and restore lakes.

4. Frequently Flooded Areas – Frequently flooded areas help to store and convey storm and flood water; recharge ground water; provide important riparian habitat for fish and wildlife; and serve as areas for recreation, education, and scientific study. Development within these areas can be hazardous to those inhabiting such development, and to those living upstream and downstream. Flooding also can cause substantial damage to public and private property that results in significant costs to the public as well as to private individuals.

The primary purpose of frequently flooded areas regulations is to regulate development in the 100-year floodplain to avoid substantial risk and damage to public and private property and loss of life.

(Ord. 4476 § 3, 2015; Ord. 4252 § 1, 2010; Ord. 3834 § 1, 2002)

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## 90.15 Applicability



1. General – These regulations apply to any property that contains any of the following:

- a. Streams;
- b. Type 1 or 2 wetlands;
- c. Type 3 wetlands greater than 1,000 square feet in a primary basin;
- d. Type 3 wetlands greater than 2,500 square feet in a secondary basin;
- e. Totem Lake and Forbes Lake;
- f. Frequently flooded areas; and

g. Buffers required for the preceding six (6) features.

2. **Conflicting Provisions** – The regulations in this chapter supersede any conflicting regulations in the Kirkland Zoning Code. For properties within jurisdiction of the Shoreline Management Act, the regulations in Chapter [83](#) KZC supersede any conflicting regulation in this chapter. If more than one (1) regulation applies to the subject property, then the regulation that provides the greatest protection to sensitive areas shall apply.
3. **Other Jurisdictions** – Nothing in these regulations eliminates or otherwise affects the responsibility of the applicant or property owner to comply with all other applicable local, state, and federal laws regulating development activities in sensitive areas, as herein defined.
4. **SEPA Compliance** – Nothing in these regulations or the decisions made pursuant to these regulations affects the authority of the City to review, condition, and deny projects under the State Environmental Policy Act, Chapter [43.21C](#) RCW.

(Ord. 4252 § 1, 2010; Ord. 3834 § 1, 2002)

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## 90.20 General Exceptions



The following activities or conditions shall be exempt from this chapter:

1. Activities involving artificially created wetlands or streams intentionally created from non-wetland sites, including but not limited to grass-lined swales, irrigation and drainage ditches, retention and/or detention facilities, farm ponds, and landscape features, except activities involving wetlands or streams that are created as mitigation for impacts to regulated sensitive areas, or that support state or federally listed threatened or endangered species.
2. Legally filled wetlands, or wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway.
3. Activities affecting Type 3 wetlands that are 1,000 square feet or less in any of the primary basins, or affecting Type 3 wetlands that are 2,500 square feet or less in any of the secondary basins.
4. All utility work in improved City rights-of-way; all normal and routine maintenance, operation and reconstruction of existing roads, streets, and associated rights-of-way and structures; construction of sewer or water lines that connect to existing lines in a sensitive area or buffer where no feasible alternative location exists based on an analysis of technology and system efficiency; and minor replacement or modification of existing facilities by a public utility in an improved utility corridor. In each case (1) such activities shall not increase the impervious area (excluding utility poles) or reduce flood storage capacity, and (2) the construction drawings shall specify that all affected sensitive areas and buffers will be expeditiously restored to their pre-project condition or better. For purposes of this subsection only, “improved City rights-of-way” shall include the Cross Kirkland Corridor, Eastside Rail Corridor, and those rights-of-way that have improvements only underground, as well as those with surface improvements.
5. Construction of public nonmotorized trails within the Cross Kirkland Corridor and Eastside Rail Corridor; provided, that (1) the trail is located in a manner that, to the extent feasible, avoids and minimizes impacts to sensitive areas and buffers such as placement on previously disturbed areas, (2) the trail project includes on-site or off-site mitigation of new impacts to affected sensitive areas and buffers, and (3) pervious or other low-impact materials are used where practical.
6. Normal and routine maintenance or repair of structures; provided, that such activities do not increase the previously approved structure footprint within a sensitive area or its buffer. Increases in structure footprint outside of such areas shall be allowed, even if all or a portion of the previously approved footprint is within such areas.

7. Site investigative work and studies necessary for preparing and processing land use applications, including but not limited to hand-dug holes for soils tests, water quality sampling, wildlife studies, and wetland and stream investigations; provided, that any disturbance of the sensitive area or its buffer shall be the minimum necessary to carry out the work or studies. Use of any mechanized equipment requires prior approval of the Planning Official. Areas disturbed by these activities shall be expeditiously stabilized and replanted, as approved by the Planning Official, to restore them to their previous condition.

8. Educational activities, scientific research, and passive outdoor recreational activities such as bird watching.

9. Emergency activities necessary to prevent an immediate threat to public health, safety, or welfare.

(Ord. 4442 § 1, 2014; Ord. 3834 § 1, 2002)

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## 90.25 Sensitive Areas Maps and Other Resources



As part of the City's SEPA Ordinance, the City Council adopted, and may amend, a map folio entitled "Kirkland Sensitive Areas." Some of the maps in this folio depict wetlands, streams, and 100-year floodplains. The most recent amendment to this map folio reflects a 1998 study of wetlands and streams throughout the City's drainage basins and other sensitive areas discovered since 1992. The map folio, subsequent amendments, and other available resources (such as topographic maps, soils maps, and air photos) are intended only as guides. They depict the *approximate* location and extent of known sensitive areas. Some sensitive areas depicted in these resources may no longer exist; further, sensitive areas not shown in these resources may occur. Property owners and project applicants are strongly advised to retain qualified professionals to conduct site-specific studies for the presence of sensitive areas.

(Ord. 3834 § 1, 2002)

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## 90.30 Definitions



1. Basin – A specific area of land drained by a particular watercourse and its tributaries.
2. Buffer – The area immediately adjacent to wetlands and streams that protects these sensitive areas and provides essential habitat elements for fish and/or wildlife.
3. Buffer Setback – A setback distance of 10 feet from a designated or modified wetland or stream buffer within which no buildings or other above-ground structures may be constructed, except as provided in KZC [90.45\(2\)](#) and [90.90\(2\)](#). The buffer setback serves to protect the wetland or stream buffer during development activities, use, and routine maintenance occurring adjacent to these resources.
4. Class A Streams – Streams that are used by salmonids. Class A streams generally correlate with Type 3 streams as defined in the Washington State Hydraulic Code.
5. Class B Streams – Perennial streams (during years of normal precipitation) that are not used by salmonids. Class B streams generally correlate with Type 4 streams as defined in the Washington State Hydraulic Code.
6. Class C Streams – Seasonal or ephemeral streams (during years of normal precipitation) not used by salmonids. Class C streams generally correlate with Type 5 streams as defined in the Washington State Hydraulic Code.
7. Critical Areas – Critical areas include the following areas and ecosystems: (a) wetlands; (b) areas with a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat conservation areas; (d) frequently flooded areas; and (e) geologically hazardous areas.
8. Frequently Flooded Areas – All areas shown on the Kirkland sensitive areas maps as being within a 100-year

floodplain, as well as all areas regulated by Chapter [21.56](#) KMC.

9. Minor Improvements – Walkways, pedestrian bridges, benches, and similar features, as determined by the Planning Official, pursuant to KZC [90.45\(5\)](#) and [90.90\(5\)](#).
10. Primary Basins – The following basins, as shown on the Sensitive Areas Map: Juanita Creek, Forbes Creek, South Juanita Slope, Yarrow Creek, Carillon Creek, Denny Creek, and Champagne Creek.
11. Qualified Professional – An individual with relevant education and training, as determined by the Planning Official, and with at least three (3) years' experience in biological fields such as botany, fisheries, wildlife, soils, ecology, and similar areas of specialization, and including a professional wetland scientist.
12. Salmonid – A member of the fish family salmonidae, which include chinook, coho, chum, sockeye, and pink salmon; rainbow, steelhead, and cutthroat trout; brown trout; brook and dolly varden char, kokanee, and white fish.
13. Secondary Basins – Moss Bay, Houghton Slope A, Houghton Slope B, Kirkland Slope, Holmes Point and Kingsgate Slope, which are depicted on the Sensitive Areas Map.
14. Sensitive Areas – Wetlands, streams, lakes, and frequently flooded areas.
15. Significant Habitat Area – An area that provides food, protective cover, nesting, breeding, or movement for threatened, endangered, sensitive, monitor, or priority species of plants, fish, or wildlife. The terms threatened, endangered, sensitive, monitor, and priority pertain to lists, categories, and definitions of species promulgated by the Washington Department of Wildlife (Non-Game Data Systems Special Animal Species), as identified in WAC [232-12-011](#) or [232-12-014](#), or in the Priority Habitat and Species (PHS) program of the Washington State Department of Wildlife, or in rules and regulations adopted from time to time by the U.S. Fish and Wildlife Service.
16. Streams – Areas where surface waters produce a defined channel or bed that demonstrates clear evidence of the passage of water, including but not limited to bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed need not contain water year-round. Streams do not include irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses, unless they are used by salmonids or convey a naturally occurring stream that has been diverted into the artificial channel.
17. Type 1 Wetlands – Wetlands that meet any of the following conditions:
  - a. Wetlands contiguous to Lake Washington;
  - b. Wetlands containing at least one-quarter (1/4) acre of organic soils, such as peat bogs or mucky soils;
  - c. Wetlands equal to or greater than 10 acres in size and having three (3) or more wetland classes, as defined by the U.S. Fish & Wildlife Service (Cowardin et al., 1979), one (1) of which is open water;
  - d. Wetlands that have significant habitat value to state or federally listed threatened or endangered wildlife species; or
  - e. Wetlands that contain state or federally listed threatened or endangered plant species.
18. Type 2 Wetlands – Wetlands that do not meet any of the criteria for Type 1 Wetlands, yet provide significant habitat function and value, and that merit at least 22 points as determined by using the City's Wetland Field Data Form, which is Plate [26](#) of Chapter [180](#) KZC.
19. Type 3 Wetlands – Wetlands that do not meet the criteria for either Type 1 or Type 2 wetlands and that merit fewer than 22 points as determined by using the City's Wetland Field Data Form, which is Plate [26](#) of Chapter [180](#) KZC.

20. Watershed – A region or area bounded on the periphery by a parting of water and draining to a particular watercourse or body of water.

21. Wetlands – Those areas that are inundated or saturated by surface or groundwater at a frequency and duration to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soils conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Wetlands do not include those artificial wetlands intentionally created from non-wetland sites, including but not limited to irrigation and drainage ditches, grass-lined swales, canals, retention and/or detention facilities, wastewater treatment facilities, farm ponds, and landscape amenities, or those wetlands created after July 1, 1990, that were unintentionally created as a result of the construction of a road, street, or highway. However, wetlands do include those artificial wetlands intentionally created from non-wetland sites as mitigation for the conversion of wetlands.

(Ord. 4196 § 1, 2009; Ord. 3977 § 3, 2004; Ord. 3834 § 1, 2002)

## WETLANDS

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### 90.35 Wetland Determinations, Delineations, Regulations, Criteria, and Procedures



All delineations of wetlands shall be made using the criteria and procedures described in WAC [173-22-035](#), now or as hereafter amended. All determinations, delineations, and regulations of wetlands shall be based on the entire extent of the wetland, irrespective of property lines, ownership patterns, and the like.

(Ord. 4320 § 1, 2011; Ord. 3834 § 1, 2002)

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### 90.40 Wetland Determinations



Either prior to or during review of a development application, the Planning Official shall determine whether a wetland or its buffer is present on the subject property using the following provisions:

1. During or immediately following a site inspection, the Planning Official shall make an initial assessment as to whether any portion of the subject property or surrounding area (which shall be the area within 100 feet of the subject property) meets the definition of a wetland. If this initial site inspection does not indicate the presence of a wetland on the subject property or surrounding area, no additional wetland studies will be required. However, if the initial site inspection or information subsequently obtained indicates the presence of a wetland on the subject property or surrounding area, then the applicant shall follow the procedure in subsection (2) of this section.
2. If the initial site inspection or information subsequently obtained indicates that a wetland may exist on or near the subject property or surrounding area, the applicant shall either (a) fund a study and report prepared by the City's wetland consultant; or (b) submit a report prepared by a qualified professional approved by the City, and fund a review of this report by the City's wetland consultant.
3. If a wetlands study and report are required, at a minimum the report shall include the following:
  - a. A summary of the methodology used to conduct the study;
  - b. A professional survey which is based on the KCAS or plat-bearing system and tied to a known monument, depicting the wetland boundary on a map of the surrounding area which shows the wetland and its buffer;
  - c. A description of the wetland habitat(s) found throughout the entire wetland (not just on the subject property) using the U.S. Fish & Wildlife Service classification system (*Classification of Wetlands and Deepwater Habitats in the U.S.*, Cowardin et al., 1979);

- d. A description of nesting, denning, and breeding areas found in the wetland or its surrounding area;
- e. A description of the surrounding area, including any drainage systems entering and leaving the wetland, and a list of observed or documented plant and wildlife species;
- f. A description of historical, hydrologic, vegetative, topographic, and soil modifications, if any;
- g. A proposed classification of the wetland as a Type 1, 2, or 3 wetland, including the rationale for the proposed classification; and
- h. A completed Wetland Field Data Form, which is Plate [26](#) of Chapter [180](#) KZC.

4. Formal determination of whether a wetland exists on the subject property, as well as its boundaries, habitat classes, and rating, shall be made by the Planning Official after preparation and review of the report, if applicable, by the City's wetland consultant. A decision of the Planning Official may be appealed pursuant to [KZC 90.160](#). The Planning Official's decision under this section shall be used for review of any development activity proposed on the subject property for which an application is received within two (2) years of the decision; provided, that the Planning Official may modify any decision whenever physical circumstances have markedly and demonstrably changed on the subject property or the surrounding area as a result of natural processes or human activity.

(Ord. 3834 § 1, 2002)

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### 90.45 Wetland Buffers and Setbacks



1. No land surface modification or tree removal shall occur and no improvement may be located in a wetland or its buffer, except as provided in this section through [KZC 90.70](#). See also [KZC 95.23\(5\)\(d\)\(2\)](#), Trees in Critical Areas or Critical Area Buffers; and [KZC 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:

<u>Wetland Type</u>	<u>Primary Basin</u>	<u>Secondary Basin</u>
1	100 feet	75 feet
2	75 feet	50 feet
3	50 feet	25 feet

2. Buffer Setback – Structures shall be set back at least 10 feet from the designated or modified wetland buffer. The Planning Official may allow within this setback minor improvements which would clearly have no adverse effect during their construction, installation, use, or maintenance, on fish, wildlife, or their habitat or any vegetation in the buffer or adjacent wetland. The Planning Official's decision may be appealed in accordance with [KZC 90.160](#).

3. Storm Water Outfalls – Surface discharge of storm water through wetland buffers and buffer setbacks is required unless a piped system is approved pursuant to this section. Storm water outfalls (piped systems) may be located within the buffer setback specified in subsection (2) of this section and within the buffers specified in subsection (1) of this section only when the Public Works and Planning Officials both determine, based on a report prepared by a qualified professional under contract to the City and paid for by the applicant, that surface discharge of storm water through the buffer would clearly pose a threat to slope stability, and if the storm water outfall will not:

- a. Adversely affect water quality;
- b. Adversely affect fish, wildlife, or their habitat;
- c. Adversely affect drainage or storm water detention capabilities;

- d. Lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and
- e. Be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas.

The decision of the Public Works and Planning Officials may be appealed in accordance with KZC 90.160.

If a piped system is used, catch basins may be located within the buffer setback specified in subsection (2) of this section, but must be installed as far as feasible from the buffer boundary (see Plate 25 of Chapter 180 KZC). Under this subsection, pipe conveying storm water may be located within the buffer, but catch basins may not. Detention and water quality treatment devices shall not be located within the wetland buffers or buffer setbacks of this section except as provided below.

4. Water Quality Facilities – Water quality facilities, as determined by the Planning Official, may be located within the wetland buffers of subsection (1) of this section. The Planning Official shall approve a proposal to install a water quality facility within the outer one-half (1/2) of a wetland buffer if:

- a. It will not adversely affect water quality;
- b. It will not adversely affect fish, wildlife, or their habitat;
- c. It will not adversely affect drainage or storm water detention capabilities;
- d. It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;
- e. It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas;
- f. The existing buffer is already degraded as determined by a qualified professional;
- g. Its installation would be followed immediately by enhancement of an area equal in size and immediately adjacent to the affected portion of the buffer; and
- h. Once installed, it would not require any further disturbance or intrusion into the buffer.

The Planning Official shall approve a proposal by a public agency to install a water quality facility elsewhere in a wetland buffer if criteria i – l (below) are met in addition to a – h (above):

- i. The project includes enhancement of the entire buffer;
- j. The project would provide an exceptional ecological benefit off-site;
- k. The water quality facility, once installed, would not require any further disturbance or intrusion into the buffer; and
- l. There is no practicable or feasible alternative proposal that results in less impact to the buffer.

The Planning Official's decision may be appealed in accordance with KZC 90.160.

5. Minor Improvements – Minor improvements may be located within the sensitive area buffers specified in subsection (1) of this section. These minor improvements shall be located within the outer one-half (1/2) of the sensitive area buffer, except where approved stream crossings are made. The Planning Official shall approve a proposal to construct a minor improvement within an environmentally sensitive area buffer if:

- a. It will not adversely affect water quality;

- b. It will not adversely affect fish, wildlife, or their habitat;
- c. It will not adversely affect drainage or storm water detention capabilities;
- d. It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and
- e. It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas.

The Planning Official may require the applicant to submit a report prepared by a qualified professional which describes how the proposal will or will not comply with the criteria for approving a minor improvement. The Planning Official's decision may be appealed in accordance with KZC [90.160](#).

(Ord. 4320 § 1, 2011; Ord. 4238 § 2, 2010; Ord. 4010 § 3, 2005; Ord. 3834 § 1, 2002)

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### 90.50 Wetland Buffer Fence or Barrier



Prior to beginning development activities, the applicant shall install a 6-foot-high construction-phase chain link fence or equivalent fence, as approved by the Planning Official along the upland boundary of the entire wetland buffer with silt screen fabric installed per City standard, in a manner approved by the Planning Official. The construction-phase fence shall remain upright in the approved location for the duration of development activities.

Upon project completion, the applicant shall install between the upland boundary of all wetland buffers and the developed portion of the site, either (1) a permanent 3- to 4-foot-tall split rail fence; or (2) permanent planting of equal barrier value; or (3) equivalent barrier, as approved by the Planning Official. Installation of the permanent fence or planted barrier must be done by hand where necessary to prevent machinery from entering the wetland or its buffer.

(Ord. 3834 § 1, 2002)

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### 90.55 Wetland Modification



1. Modification of Type 1 Wetlands – No land surface modification shall occur and no improvement shall be located in a Type 1 wetland, except as provided in this subsection. Furthermore, all modifications of a Type 1 wetland shall be consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998).

An applicant may request a modification of the requirements of this subsection. The City Council shall consider the modification request pursuant to Process IIB, described in Chapter [152](#) KZC. **As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's wetland consultant. The report shall contain all information specified in KZC [90.40\(3\)](#) as well as an assessment of the habitat, water quality, storm water detention, ground water recharge, shoreline protection, and erosion protection functions of the wetland and its buffer. The report shall also assess the effects of the proposed modification on those functions. In addition to criteria of Process IIB, the City Council shall approve an improvement or land surface modification in a wetland only if:**

- a. **It will not adversely affect water quality;**
- b. **It will not adversely affect fish, wildlife, or their habitat;**
- c. **It will not have an adverse effect on drainage and/or storm water detention capabilities;**
- d. **It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;**

- e. It will not be materially detrimental to any other property or the City as a whole;
- f. It will result in land surface modification of no more than five (5) percent of the wetland on the subject property;
- g. Compensatory mitigation is provided in accordance with the table in subsection (4) of this section;
- h. Fill material does not contain organic or inorganic material that would be detrimental to water quality or fish and wildlife habitat;
- i. All exposed areas are stabilized with vegetation normally associated with native wetlands and/or buffers, as appropriate; and
- j. There is no practicable or feasible alternative development proposal that results in less impact to the Type 1 wetland and its buffer.

2. Modification of Type 2 Wetlands – No land surface modification shall occur and no improvement shall be located in a Type 2 wetland, except as provided in this subsection.

An applicant may request a modification of the requirements of this subsection. The Hearing Examiner shall consider the modification request pursuant to Process IIA, described in Chapter 150 KZC. The requirements for requesting such a modification are identical to those listed above for a Type 1 wetland with the following exceptions:

- a. In primary basins, the modification shall not affect more than 10 percent of the wetland on the subject property; and
- b. In secondary basins, the modification shall not affect more than 25 percent of the wetland on the subject property.

3. Modification of Type 3 Wetlands – No land surface modification shall occur and no improvement may be located in a Type 3 wetland, except as provided in this subsection.

An applicant may request a modification of the requirements of this subsection. The Planning Official shall consider the modification request in conjunction with approval of the applicable development permit. The requirements for requesting such a modification are identical to those listed above for a Type 1 wetland with the following exceptions:

- a. In primary basins, the modification shall not affect more than 50 percent of the wetland on the subject property; and
- b. In secondary basins, the modification may affect all of the wetland on the subject property.

Decisions on requests to modify Type 3 wetlands may be appealed in accordance with KZC 90.160.

4. Compensatory Mitigation – All approved impacts to regulated wetlands require compensatory mitigation so that the goal of no net loss of wetland function, value, and acreage may be achieved. Mitigation shall be implemented through the creation of wetlands (from non-wetland areas) or through the restoration of wetlands (from uplands that were formerly wetlands). The following mitigation ratios (the ratio of the mitigated area to the impacted area) shall apply:

Wetland Type	Primary Basin	Secondary Basin
1	3:1	3:1
2	2:1	1.5:1

Compensatory mitigation as wetland enhancement (that is, the improvement of existing wetlands) shall also be allowed. In primary basins, no more than one-third (1/3) of the mitigation may consist of enhancement; in secondary basins, no more than one-half (1/2) of the mitigation may consist of enhancement.

On-site mitigation is presumed to be preferable to off-site mitigation. The decision maker may approve a plan to implement all or a portion of the required mitigation off-site, if the off-site mitigation is within the same drainage basin as the property that will be impacted by the project. The applicant shall demonstrate that the off-site mitigation will result in higher wetland functions, values, and/or acreage than on-site mitigation. Required compensatory mitigation ratios shall be the same for on-site or off-site mitigation, or a combination of both.

If the proposed on-site or off-site mitigation plan will result in the creation or expansion of a wetland or its buffer on any property other than the subject property, the plan shall not be approved until the applicant submits to the Planning Official a copy of a statement signed by the owners of all affected properties, in a form approved by the City Attorney and recorded in the King County Department of Elections and Records, consenting to the wetland and/or buffer creation or increase on such property.

Applicants proposing to alter wetlands or their buffers shall submit a mitigation plan prepared by a qualified professional. The mitigation plan shall consist of a description of the existing functions and values of the wetlands and buffers affected by the proposed project, the nature and extent of impacts to those areas, and the mitigation measures to offset those impacts. The mitigation plan shall also contain a drawing that illustrates the compensatory mitigation elements. The plan and/or drawing shall list plant materials and other habitat features to be installed.

To ensure success of the mitigation plan, the applicant shall submit a monitoring and maintenance program prepared by a qualified professional. At a minimum, the monitoring and maintenance plan shall include the following:

- a. The goals and objectives for the mitigation plan;
- b. Success criteria by which the mitigation will be assessed;
- c. Plans for a 5-year monitoring and maintenance program;
- d. A contingency plan in case of failure; and
- e. Proof of a written contract with a qualified professional who will perform the monitoring program.

The monitoring program shall consist of at least two (2) site visits per year by a qualified professional, with annual progress reports submitted to the Planning Official and all other agencies with jurisdiction.

The cost of producing and implementing the mitigation plan, the monitoring and maintenance program, reports, and drawing, as well as the review of each component by the City's wetland consultant, shall be borne by the applicant.

(Ord. 3834 § 1, 2002)

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## 90.60 Wetland Buffer Modification



1. Modification of Wetland Buffers when Wetland Is Also To Be Modified – Wetland buffer impact is assumed to occur when wetland fill or modification is proposed. Any proposal for wetland fill/modification shall include provisions

for establishing a new wetland buffer zone to be located around the compensatory mitigation sites and to be equal in width to its standard buffer specified in KZC 90.45(1) or a buffer reduced in accordance with this section by no more than one-third (1/3) of the standard buffer width in all cases (regardless of wetland type or basin type).

2. Modification of Wetland Buffers when Wetland Is Not To Be Modified – No land surface modification may occur and no improvement may be located in a wetland buffer, except as provided for in this subsection. Buffer widths may be decreased if an applicant receives a modification request approval.

a. Types of Buffer Modifications – Buffers may be reduced through one (1) of two (2) means, either (1) buffer averaging, or (2) buffer reduction with enhancement. A combination of these two (2) buffer reduction approaches shall not be used:

1) Buffer averaging requires that the area of the buffer resulting from the buffer averaging is equal in size and quality to the buffer area calculated by the standards specified in KZC 90.45(1). Buffers may not be reduced at any point by more than one-third (1/3) of the standards specified in KZC 90.45(1). Buffer averaging calculations shall only consider the subject property.

2) Buffers may be decreased through buffer enhancement. The applicant shall demonstrate that through enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means), the reduced buffer will function at a higher level than the existing standard buffer. At a minimum, a buffer enhancement plan shall provide the following: (a) a map locating the specific area of enhancement; (b) a planting plan that uses native species, including groundcover, shrubs, and trees; and (c) a monitoring and maintenance program prepared by a qualified professional consistent with the standards specified in KZC 90.55(4). Buffers may not be reduced at any point by more than one-third (1/3) of the standards in KZC 90.45(1).

b. Review Process and Decisional Criteria – Modification requests for averaging or reduction/enhancement of Types 1 and 2 wetland buffers shall be considered by the Hearing Examiner pursuant to Process IIA, described in Chapter 150 KZC. Modification requests for averaging or reduction/enhancement of Type 3 wetland buffers shall be considered by the Planning Official.

An improvement or land surface modification shall be approved in a wetland buffer only if:

1) It is consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998);

2) It will not adversely affect water quality;

3) It will not adversely affect fish, wildlife, or their habitat;

4) It will not have an adverse effect on drainage and/or storm water detention capabilities;

5) It will not lead to unstable earth conditions or create an erosion hazard;

6) It will not be materially detrimental to any other property or the City as a whole;

7) Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;

8) All exposed areas are stabilized with vegetation normally associated with native wetland buffers, as appropriate; and

9) There is no practicable or feasible alternative development proposal that results in less impact to the buffer.

As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's wetland consultant. The report shall assess the habitat, water quality, storm water detention, ground water recharge, shoreline protection, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the nine (9) criteria listed in this subsection (2)(b) of this section.

(Ord. 4072 § 1, 2007; Ord. 3834 § 1, 2002)

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## 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), Trees in Critical Areas or Critical Area Buffers; and KZC [95.50](#)(11), 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.

(Ord. 4238 § 2, 2010; Ord. 4010 § 3, 2005; Ord. 3834 § 1, 2002)

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## 90.70 Wetland Access



The City may develop access through a wetland and its buffer in conjunction with a public park.

(Ord. 3834 § 1, 2002)

## MINOR LAKES

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## 90.75 Totem Lake and Forbes Lake



The majority, if not the entirety, of the perimeters of Totem Lake and Forbes Lake meet the definition of wetlands. All activities in the shallow (less than or equal to 6.6 feet) portions of these lakes as well as in their contiguous wetlands (located above the high waterline) are regulated pursuant to KZC [90.35](#) through [90.70](#). Activities in deep water portions (water depths greater than 6.6 feet) of these lakes, that is, waterward of the lakes' perimeter wetlands, shall be regulated as follows:

1. The Planning Official may permit or require the applicant or property owner to rehabilitate and maintain a lake by removing material detrimental to the lake, such as debris, sediment, or non-native vegetation. Rehabilitation may be required when a condition detrimental to water quality or habitat exists. Decisions made under this paragraph may be appealed in accordance with KZC [90.160](#).
2. Moorage structures are permitted in Totem Lake and Forbes Lake. The Planning Official shall consider requests to construct, replace, or repair structures concurrently with the Washington Department of Fish and Wildlife's review of a Hydraulic Project Approval (HPA), or upon notification by that agency that an HPA is not required.
3. The Planning Official shall review applications for moorage structures using Process I, described in Chapter [145](#) KZC. The Planning Director shall authorize a moorage structure to be constructed only if (a) it is accessory to a dwelling unit or public park on the subject property, and (b) no significant habitat area will be destroyed.

4. A moorage structure shall extend no farther than is necessary to function properly, but in no event may extend more than 125 feet waterward of the high waterline.
5. A moorage structure shall not be treated with creosote or oil base or toxic substances.
6. Docks and pier decks and the tops of other moorage structures shall not be more than two (2) feet above the high waterline.
7. Bulkheads are prohibited unless (a) necessary to prevent significant erosion and (b) the use of vegetation or other “bioengineering” materials and techniques would not sufficiently stabilize the shoreline.

(Ord. 3834 § 1, 2002)

## STREAMS

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### **90.80 Activities in or Near Streams**



No land surface modification or tree removal may occur and no improvements may be located in a stream or its buffer except as provided in this chapter.

(Ord. 4320 § 1, 2011; Ord. 3834 § 1, 2002)

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### **90.85 Stream Determinations**



The Planning Official shall determine whether a stream or stream buffer is present on the subject property using the following provisions. During or immediately following a site inspection, the Planning Official shall make an initial assessment as to whether a stream exists on any portion of the subject property or surrounding area (which shall be the area within approximately 100 feet of the subject property).

If the initial site inspection indicates the presence of a stream, the Planning Official shall determine, based on the definitions contained in this chapter and after a review of all information available to the City, the classification of the stream.

If this initial site inspection does not indicate the presence of a stream on or near the subject property, no additional stream study will be required.

If an applicant disagrees with the Planning Official's determination that a stream exists on or near the subject property or the Planning Official's classification of a stream, the applicant shall submit a report prepared by a qualified professional approved by the Planning Official that independently evaluates the presence of a stream or the classification of the stream, based on the definitions contained in this chapter.

The Planning Official shall make final determinations regarding the existence of a stream and the proper classification of that stream. This determination may be appealed pursuant to the provisions of KZC [90.160](#). The Planning Official's decision under this section shall be used for review of any development activity proposed on the subject property for which an application is received within two (2) years of the decision; provided, that the Planning Official may modify any decision whenever physical circumstances have markedly and demonstrably changed on the subject property or the surrounding area as a result of natural processes or human activity.

(Ord. 3834 § 1, 2002)

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## 90.90 Stream Buffers and Setbacks

1. Stream Buffers – No land surface modification or tree removal shall occur and no improvement may be located in a stream or its buffer, except as provided in this section through KZC [90.120](#). See also KZC [95.23](#)(5)(d)(2), Trees in Critical Areas or Critical Area Buffers; and KZC [95.50](#)(11), 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:

<u>Stream Class</u>	<u>Primary Basins</u>	<u>Secondary Basins</u>
A	75 feet	N/A
B	60 feet	50 feet
C	35 feet	25 feet

Stream buffers shall be measured from each side of the top of the slope of the channel of the stream except that where streams enter or exit pipes, the buffer shall be measured in all directions from the pipe opening (see Plates 16 and 16A of Chapter [180](#) KZC). Essential improvements to accommodate required vehicular, pedestrian, or utility access to the subject property may be located within those portions of stream buffers which are measured toward culverts from culvert openings.

2. Buffer Setback – Structures shall be set back at least 10 feet from the designated or modified stream buffer. The Planning Official may allow within this setback minor improvements which would have no potential adverse effect during their construction, installation, use, or maintenance to fish, wildlife, or their habitat or to any vegetation in the buffer or adjacent stream. The Planning Official's decision may be appealed in accordance with KZC [90.160](#).

3. Storm Water Outfalls – Surface discharge of storm water through stream buffers and buffer setbacks is required unless a piped system is approved pursuant to this section. Storm water outfalls (piped systems) may be located within the buffer setback specified in subsection (2) of this section and within the buffers specified in subsection (1) of this section only when the Public Works and Planning Officials both determine, based on a report prepared by a qualified professional under contract to the City and paid for by the applicant, that surface discharge of storm water through the buffer would clearly pose a threat to slope stability; and if the storm water outfall will not:

- a. Adversely affect water quality;
- b. Adversely affect fish, wildlife, or their habitat;
- c. Adversely affect drainage or storm water detention capabilities;
- d. Lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;
- e. Be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas.

The decision of the Planning and Public Works Officials may be appealed in accordance with KZC [90.160](#).

If a pipe system is used, catch basins may be located within the buffer setback of subsection (2) of this section, but must be installed as far as feasible from the buffer boundary (see Plate [25](#) of Chapter [180](#) KZC). Under this subsection, pipe conveying storm water may be located within the buffer, but catch basins may not. Detention and water quality treatment devices shall not be located within the stream buffers or buffer setbacks of this section except as provided below.

4. Water Quality Facilities – Water quality facilities, as determined by the Planning Official, may be located within the stream buffers of subsection (1) of this section. The Planning Official shall approve a proposal to install a water

quality facility within the outer one-half (1/2) of a stream buffer if:

- a. It will not adversely affect water quality;
- b. It will not adversely affect fish, wildlife, or their habitat;
- c. It will not adversely affect drainage or storm water detention capabilities;
- d. It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions;
- e. It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas;
- f. The existing buffer is already degraded as determined by a qualified professional;
- g. Its installation of the water quality facility would be followed immediately by enhancement of an area equal in size and immediately adjacent to the affected portion of the buffer; and
- h. Once installed, it would not require any further disturbance or intrusion into the buffer.

The Planning Official shall approve a proposal by a public agency to install a water quality facility elsewhere in a stream buffer if Criteria i – l (below) are met in addition to a – h (above):

- i. The project includes enhancement of the entire buffer;
- j. The project would provide an exceptional ecological benefit off-site;
- k. The water quality facility, once installed, would not require any further disturbance or intrusion into the buffer; and
- l. There is no practicable or feasible alternative proposal that results in less impact to the buffer.

The Planning Official's decision may be appealed in accordance with KZC [90.160](#).

5. Minor Improvements – Minor improvements may be located within the sensitive area buffers specified in subsection (1) of this section. These minor improvements shall be located within the outer one-half (1/2) of the sensitive area buffer, except where approved stream crossings are made. The Planning Official shall approve a proposal to construct a minor improvement within a sensitive area buffer if:

- a. It will not adversely affect water quality;
- b. It will not adversely affect fish, wildlife, or their habitat;
- c. It will not adversely affect drainage or storm water detention capabilities;
- d. It will not lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and
- e. It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, including the loss of significant open space or scenic vistas.

The Planning Official may require the applicant to submit a report prepared by a qualified professional which describes how the proposal will or will not comply with the criteria for approving a minor improvement. The Planning Official's decision may be appealed in accordance with KZC [90.160](#).

(Ord. 4320 § 1, 2011; Ord. 4238 § 2, 2010; Ord. 4010 § 3, 2005; Ord. 3834 § 1, 2002)

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## 90.95 Stream Buffer Fence or Barrier



Prior to beginning development activities, the applicant shall install a 6-foot-high construction-phase chain link fence or equivalent fence, as approved by the Planning Official, along the upland boundary of the entire stream buffer with silt screen fabric installed per City standard, in a manner approved by the Planning Official. The construction-phase fence shall remain upright in the approved location for the duration of development activities.

Upon project completion, the applicant shall install between the upland boundary of all stream buffers and the developed portion of the site, either (1) a permanent 3- to 4-foot-tall split rail fence; or (2) permanent planting of equal barrier value; or (3) equivalent barrier, as approved by the Planning Official. Installation of the permanent fence or planted barrier must be done by hand where necessary to prevent machinery from entering the stream or its buffer.

(Ord. 3834 § 1, 2002)

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## 90.100 Stream Buffer Modification



1. Types of Buffer Modification – Buffers may be reduced through one (1) of two (2) means, either (a) buffer averaging; or (b) buffer reduction with enhancement. A combination of these two (2) buffer reduction approaches shall not be used.

a. Buffer averaging requires that the area of the buffer resulting from the buffer averaging be equal in size and quality to the buffer area calculated by the standards specified in KZC [90.90\(1\)](#). Buffers may not be reduced at any point by more than one-third (1/3) of the standards in KZC [90.90\(1\)](#). Buffer averaging calculations shall only consider the subject property.

b. Buffers may be decreased through buffer enhancement. The applicant shall demonstrate that through enhancing the buffer (by removing invasive plants, planting native vegetation, installing habitat features such as downed logs or snags, or other means) the reduced buffer will function at a higher level than the standard existing buffer. A buffer enhancement plan shall at a minimum provide the following: (1) a map locating the specific area of enhancement; (2) a planting plan that uses native species, including groundcover, shrubs, and trees; and (3) a monitoring and maintenance program prepared by a qualified professional consistent with the standards specified in KZC [90.55\(4\)](#). Buffers may not be reduced at any point by more than one-third (1/3) of the standards in KZC [90.90\(1\)](#).

2. Review Process and Decisional Criteria – Modification requests for averaging or reduction/enhancement of Class A stream buffers shall be considered by the Hearing Examiner pursuant to Process IIA, described in Chapter [150](#) KZC. Modification requests for averaging or reduction/enhancement of Class B stream buffers shall be considered by the Planning Official pursuant to Process I, described in Chapter [145](#) KZC. Modification requests for averaging or reduction/enhancement of Class C stream buffers shall be considered by the Planning Official.

An improvement or land surface modification shall be approved in a stream buffer only if:

- a. It is consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998);
- b. It will not adversely affect water quality;
- c. It will not adversely affect fish, wildlife, or their habitat;
- d. It will not have an adverse effect on drainage and/or storm water detention capabilities;
- e. It will not lead to unstable earth conditions or create an erosion hazard or contribute to scouring actions;

- f. It will not be materially detrimental to any other property or the City as a whole;
- g. Fill material does not contain organic or inorganic material that would be detrimental to water quality or to fish, wildlife, or their habitat;
- h. All exposed areas are stabilized with vegetation normally associated with native stream buffers, as appropriate; and
- i. There is no practicable or feasible alternative development proposal that results in less impact to the buffer.

As part of the modification request, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City's wetland consultant. The report shall assess the habitat, water quality, storm water detention, ground water recharge, and erosion protection functions of the buffer; assess the effects of the proposed modification on those functions; and address the nine (9) criteria listed in this subsection.

(Ord. 4072 § 1, 2007; Ord. 3834 § 1, 2002)

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### 90.105 Stream Relocation or Modification



A proposal to relocate or modify a Class C stream shall be considered by the Planning Official. A proposal to relocate or modify a Class A or B stream shall be considered by the Planning Official pursuant to Process I. The Planning Official shall permit a stream to be relocated or modified only if water quality, conveyance, fish and wildlife habitat, wetland recharge (if hydrologically connected to a wetland), and storm water detention capabilities of the stream, will be significantly improved by the relocation or modification. Convenience to the applicant in order to facilitate general site design may not be considered.

A proposal to relocate or modify a Class A stream shall be approved only if the Washington Department of Fish and Wildlife issues a Hydraulic Project Approval for the project. Furthermore, all modifications shall be consistent with *Kirkland's Streams, Wetlands and Wildlife Study* (The Watershed Company, 1998) and the *Kirkland Sensitive Areas Regulatory Recommendations Report* (Adolfson Associates, Inc., 1998).

If the proposed stream activity will result in the creation or expansion of a stream or its buffer on any property other than the subject property, the Planning Official shall not approve the plan until the applicant submits to the Planning Official a copy of a statement signed by the owners of all affected properties, in a form approved by the City Attorney and recorded in the King County Department of Elections and Records, consenting to the sensitive area and/or buffer creation or increase on such property.

Prior to the Planning Official's approval of a stream relocation or modification, the applicant shall submit a stream relocation/modification plan prepared by a qualified professional approved by the Planning Official. The cost of producing and implementing the stream relocation/modification plan, and the cost of review of that plan by the City's stream consultant shall be borne by the applicant. This plan shall contain or demonstrate the following:

1. A topographic survey showing existing and proposed topography and improvements;
2. The filling and revegetation of the existing stream channel;
3. A proposed phasing plan specifying time of year for all project phases;
4. The ability of the new stream channel to accommodate flow and velocity of 100-year storm events; and
5. The design and implementation features and techniques listed below, unless clearly and demonstrably inappropriate for the proposed relocation or modification:

- a. The creation of natural meander patterns;
- b. The formation of gentle and stable side slopes, no steeper than two (2) feet horizontal to one (1) foot vertical, and the installation of both temporary and permanent erosion-control features (the use of native vegetation on stream banks shall be emphasized);
- c. The creation of a narrow sub-channel (thalweg) against the south or west stream bank;
- d. The utilization of native materials;
- e. The installation of vegetation normally associated with streams, emphasizing native plants with high food and cover value for fish and wildlife;
- f. The creation of spawning areas, as appropriate;
- g. The re-establishment of fish population, as appropriate;
- h. The restoration of water flow characteristics compatible with fish habitat areas;
- i. Demonstration that the flow and velocity of the stream after relocation or modification shall not be increased or decreased at the points where the stream enters and leaves the subject property, unless the change has been approved by the Planning Official to improve fish and wildlife habitat or to improve storm water management; and
- j. A written description of how the proposed relocation or modification of the stream will significantly improve water quality, conveyance, fish and wildlife habitat, wetland recharge (if hydrologically connected to a wetland), and storm water detention capabilities of the stream.

Prior to diverting water into a new stream channel, a qualified professional approved by the Planning Official shall inspect the completed new channel and issue a written report to the Planning Official stating that the new stream channel complies with the requirements of this section. The cost for this inspection and report shall be borne by the applicant.

(Ord. 3834 § 1, 2002)

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### 90.110 Bulkheads in Streams



Bulkheads are not permitted along a stream except as provided in this section. A proposal for a bulkhead shall be reviewed and decided upon by the Planning Official. Decisions made under this subsection may be appealed in accordance with KZC [90.160](#). The Planning Official shall allow a bulkhead to be constructed only if:

1. It is not located within a wetland or between a wetland and a stream;
2. It is needed to prevent significant erosion;
3. The use of vegetation and/or other biological materials would not sufficiently stabilize the stream bank to prevent significant erosion;
4. The applicant submits a plan prepared by a qualified professional approved by the Planning Official that shows a bulkhead and implementation techniques that meet the following criteria:
  - a. There will be no adverse impact to water quality;
  - b. There will be no adverse impact to fish, wildlife, and their habitat;

- c. There will be no increase in the velocity of stream flow, unless approved by the Planning Official to improve fish habitat;
- d. There will be no decrease in flood storage volumes;
- e. Neither the installation, existence, nor operation of the bulkhead will lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and
- f. Neither the installation, existence, nor operation of the bulkhead will be detrimental to any other property or the City as a whole.

The bulkhead shall be designed and constructed to minimize the transmittal of water current and energy to other properties. Changes in the horizontal or vertical configuration of the land shall be kept to a minimum. Fill material used in construction of a bulkhead shall be non-dissolving and non-decomposing. The applicant shall also stabilize all exposed soils by planting native riparian vegetation with high food and cover value for fish and wildlife.

(Ord. 3834 § 1, 2002)

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### 90.115 Culverts in Streams



Culverts are not permitted in streams except as specified in this section. The Planning Official shall review and decide upon an application to place a stream in a culvert under an access drive, driveway, or street. Decisions made under this subsection may be appealed in accordance with KZC 90.160. The Planning Director will review and decide upon proposals to place streams in culverts, other than as specified above, using Process I, described in Chapter 145 KZC. A stream shall be allowed to be put in a culvert only if:

1. Placing the stream in a culvert is necessary to provide required vehicular, pedestrian, or utility access to the subject property. Convenience to the applicant in order to facilitate general site design shall not be considered; and
2. The applicant submits a plan prepared by a qualified professional approved by the Planning Official that shows the culvert and implementation techniques that meet the following criteria:
  - a. There will be no adverse impact to water quality;
  - b. There will be no adverse impact to fish, wildlife, and their habitat;
  - c. There will be no increase in the velocity of stream flow, unless approved by the Planning Official to improve fish habitat;
  - d. There will be no decrease in flood storage volumes;
  - e. Neither the installation, existence, nor operation of the culvert will lead to unstable earth conditions or create erosion hazards or contribute to scouring actions; and
  - f. Neither the installation, existence, nor operation of the culvert will be detrimental to any other property or to the City as a whole.

The culvert shall be designed and constructed to allow passage of fish inhabiting the stream or which may inhabit the stream in the future. The culvert shall be large enough to accommodate a 100-year storm event. The applicant shall at all times keep the culvert free of debris and sediment so as to allow free passage of water and fish. The Planning Official shall require a security or perpetual culvert maintenance agreement under KZC 90.145 for continued maintenance of the culvert.

If a proposal for a culvert is denied, a bridge may be approved if the bridge complies with the above criteria.

If a proposed project requires approval through Process IIB, the City Council may require that any stream in a culvert on the subject property be opened, relocated, and restored, consistent with the provisions of this subsection.

(Ord. 3834 § 1, 2002)

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### 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\(5\)\(d\)\(2\)](#), Trees in Critical Areas or Critical Area Buffers; and KZC [95.50\(11\)](#), 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.

(Ord. 4238 § 2, 2010; Ord. 4010 § 3, 2005; Ord. 3834 § 1, 2002)

## GENERAL

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### 90.125 Frequently Flooded Areas



No land surface modification may take place and no improvements may be located in a frequently flooded area except as specifically provided for in Chapter [21.56](#) KMC.

(Ord. 3834 § 1, 2002)

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### 90.130 Site Requirements and Sensitive Areas Protection Techniques



In addition to any other requirements of this chapter, the applicant shall locate all improvements on the subject property to minimize adverse impacts to sensitive areas. In order to minimize adverse impacts to sensitive areas or to other areas not subject to development activity, the decision maker may require construction techniques, conditions, and restrictions, including:

1. The decision maker may limit development activity in or near sensitive areas to specific months and to a maximum number of continuous days or hours in order to minimize adverse impacts.
2. The decision maker may require that equipment be operated from only one (1) side of a stream in order to minimize bank disruption.
3. The applicant shall install a berm, curb, or other physical barrier during construction and following completion of the project when necessary to prevent direct runoff and erosion from any modified land surface into any sensitive area.

(Ord. 3834 § 1, 2002)

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### 90.135 Maximum Development Potential

1. Dwelling Units – The maximum potential number of dwelling units for a site which contains a wetland, stream, minor lake, or their buffers shall be the buildable area in square feet divided by the minimum lot area per unit or the maximum units per acre as specified by Chapters [15](#) through [56](#) KZC, plus the area of the required sensitive area buffer in square feet divided by the minimum lot area per unit, the maximum units per acre or as specified by Chapters [15](#) through [56](#) KZC, multiplied by the development factor derived from subsection (2) of this section:

$$\text{MAXIMUM DWELLING UNIT POTENTIAL} = (\text{BUILDABLE AREA/THE PRESCRIBED MINIMUM LOT AREA PER UNIT OR MAXIMUM UNITS PER ACRE}) + [(\text{BUFFER AREA/THE PRESCRIBED MINIMUM LOT AREA PER UNIT OR MAXIMUM UNITS PER ACRE}) \times (\text{DEVELOPMENT FACTOR})]$$

For purposes of this subsection only, “buildable area” means the total area of the subject property minus sensitive areas and their buffers.

For developments providing affordable housing units pursuant to Chapter [112](#) KZC, or cottage, carriage or two/three-unit homes pursuant to Chapter [113](#) KZC, the density bonus and resulting maximum density shall be calculated using the maximum dwelling unit potential of this section as the base to which the bonus units will be added.

For multifamily development, if application of the maximum development potential formula results in a fraction, the number of permitted dwelling units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.50. For single-family development, if application of the maximum development potential formula results in a fraction, the number of permitted dwelling units (lots) shall not be rounded up, regardless of the fraction. This provision shall not be construed to preclude application of Chapter [22.28](#) KMC.

Lot size and/or density may be limited by or through other provisions of this code or other applicable law, and the application of the provisions of this chapter may result in the necessity for larger lot sizes or lower density due to inadequate buildable area.

2. Development Factor – The development factor, consisting of a “percent credit,” to be used in computing the maximum potential number of dwelling units for a site which contains a sensitive area buffer is derived from the following table:

Percentage of Site in Sensitive Area Buffer			Counted at
< 1	to	10%	100%
> 10	to	20%	90%
> 20	to	30%	80%
> 30	to	40%	70%
> 40	to	50%	60%
> 50	to	60%	50%
> 60	to	70%	40%
> 70	to	80%	30%
> 80	to	90%	20%
> 90	to	100%	10%

(Ord. 4476 § 3, 2015; Ord. 4252 § 1, 2010; Ord. 4196 § 1, 2009; Ord. 4120 § 1, 2007; Ord. 3938 § 1, 2004; Ord. 3834 § 1, 2002)

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## 90.140 Reasonable Use Exception

1. Purpose of the Reasonable Use Exception – The purpose of the reasonable use exception is to:
  - a. Provide the City with a mechanism to approve limited use and disturbance of a sensitive area and sensitive area buffer when strict application of this chapter would deny all economically viable use of the property;
  - b. Establish guidelines and standards for the exercise of this authority adjusted to the specific conditions of each site; and
  - c. Protect public health, welfare and safety of the citizens of Kirkland.
2. “Reasonable Use” – is a legal concept that has been articulated by federal and state courts in regulatory takings cases. In a takings case, the decision-maker must balance the public benefit against the owner’s interests by considering the nature of the harm the regulation is intended to prevent, the availability and effectiveness of alternative measures, and the economic loss borne by the owner. Public benefit factors include the seriousness of the harm to be prevented, the extent to which the land involved contributes to the harm, the degree to which the regulation solves the problem, and the feasibility of less oppressive solutions.
3. Reasonable Use Process – If the strict application of this chapter would preclude all reasonable use of a site, an owner of real property may apply for a reasonable use exception to this chapter. The application shall be considered under Process IIA of Chapter [150](#) KZC; provided, that for a single-family development proposal which does not exceed a total of 3,000 square feet of site disturbance, and does not encroach into the sensitive area, but only the associated buffer, the application shall be considered pursuant to subsection (7) of this section, Reasonable Use Process: Administrative Alternative.
4. Submittal Requirements – As part of the reasonable use request, in addition to submitting an application, the applicant shall submit a report prepared by a qualified professional and fund a review of this report by the City’s qualified professional. The report shall include the following:
  - a. A determination and delineation of the sensitive area and sensitive area buffer containing all the information specified in KZC [90.40](#)(3) for a wetland or based on the definitions contained in this chapter for a stream;
  - b. An analysis of whether any other reasonable use with less impact on the sensitive area and sensitive area buffer is possible;
  - c. Sensitive site design and construction staging of the proposal so that the development will have the least practicable impact on the sensitive area and sensitive area buffer;
  - d. A description of the area of the site which is within the sensitive area or within the setbacks or buffers required by this chapter;
  - e. A description of protective measures that will be undertaken such as siltation curtains, hay bales and other siltation prevention measures, and scheduling the construction activity to avoid interference with wildlife and fisheries rearing, nesting or spawning activities;
  - f. An analysis of the impact that the amount of development proposed would have on the sensitive area and the sensitive area buffer;
  - g. How the proposal minimizes to the greatest extent possible net loss of sensitive area functions;
  - h. Whether the improvement is located away from the sensitive area and the sensitive area buffer to the greatest extent possible; and

i. Such other information or studies as the Planning Official may reasonably require.

5. Decisional Criteria – The City shall grant applications for reasonable use exceptions only if all of the following criteria are met:

a. That no permitted type of land use for the property with less impact on the sensitive area and associated buffer is feasible and reasonable, which in a residential zone shall be one (1) single-family dwelling and in a commercial or industrial zone shall be an office use;

b. That there is no feasible on-site alternative to the proposed activities, including reduction in size, density or intensity, phasing of project implementation, change in timing of activities, revision of road and lot layout, and/or related site planning considerations, that would allow a reasonable economic use with less adverse impacts to the sensitive area and buffer;

c. Unless the applicant can demonstrate unique circumstances related to the subject property, the amount of site area that will be disturbed by structure placement or other land alteration, including but not limited to grading, utility installation, decks, driveways, paving, and landscaping, shall not exceed the following limits:

i. If the subject property contains 6,000 square feet of area or less, no more than 50 percent of the site may be disturbed.

ii. If the subject property contains more than 6,000 square feet but less than 30,000 square feet, no more than 3,000 square feet may be disturbed.

iii. For properties containing 30,000 square feet or more, the maximum allowable site disturbance shall be between 3,000 square feet and 10 percent of the lot area, to be determined by the City on a case-by-case basis.

iv. The amount of allowable disturbance shall be that which will have the least practicable impact on the sensitive area and the sensitive area buffer given the characteristics and context of the subject property, sensitive area, and buffer.

The applicant shall pay for a qualified professional to help with the City's determination of the appropriate limit for disturbance;

d. The proposal is compatible in design, scale and use with other legally established development in the immediate vicinity of the subject property in the same zone and with similar site constraints;

e. The proposal utilizes to the maximum extent possible innovative construction, design, and development techniques, including pervious surfaces, which minimize to the greatest extent possible net loss of sensitive area functions and values;

f. The proposed development does not pose an unacceptable threat to the public health, safety, or welfare on or off the property;

g. The proposal meets the mitigation, maintenance, and monitoring requirements of this chapter;

h. The inability to derive reasonable use is not the result of actions by the applicant after the effective date of the ordinance codified in this chapter or its predecessor; and

i. The granting of the exception will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures under similar circumstances.

6. Modifications and Conditions – The City may approve reduction in required yards or buffer setbacks and may allow the maximum height of structures to be increased up to five (5) feet to reduce the impact on the sensitive area

and sensitive area buffer. The City shall include in the written decision any conditions and restrictions that the City determines are necessary to eliminate or minimize any undesirable effects of approving the exception.

7. Reasonable Use Process: Administrative Alternative – If, in order to provide reasonable use of a site, the standards of this chapter need to be modified and the proposed improvement does not exceed a total of 3,000 square feet of site impact, including but not limited to structures, paved areas, landscaping, decks, driveways, utility installation, and grading, the Planning Director is authorized to approve a reasonable use exception subject to subsections (4) and (5) of this section and considered under Process I of Chapter [145](#) KZC. Administrative approval shall also be subject to the following limitations:

- a. The required front yard may be reduced by up to 50 percent where the applicant demonstrates that the development cannot meet the City's code requirements without encroaching into the sensitive area buffer.
- b. The encroachment of the proposed development shall only be into the sensitive area buffer, not the sensitive area.

#### 8. Lapse of Approval

- a. The reasonable use exception approval expires and is void if the applicant fails to file a complete building permit application within one (1) year of the final decision granting or approving the exception, unless the applicant has received an extension for the exception from the decision-maker 30 days prior to expiration. "Final decision" means the final decision of the Planning Director or City Council.
- b. The applicant may apply for a one-time extension of up to one (1) year. The application must be submitted by letter to the Planning Official and, along with any other supplemental documentation, must demonstrate that the applicant is making substantial progress toward developing the subject property consistent with the approval and that circumstances beyond his/her control prevent compliance with the time limit under this section.
- c. The lapse of approval period provided in this section is shorter than the lapse of approval period in KZC [150.135](#) generally applicable to Process IIA approvals and this shorter period shall control for reasonable use exception approvals.

(Ord. 4072 § 1, 2007)

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### 90.145 Bond or Performance Security



The Planning Official shall require a performance or maintenance bond, a performance or maintenance security, a perpetual culvert maintenance agreement, and/or a perpetual landscape maintenance agreement, as determined to be appropriate by the Planning Official, to ensure compliance with any aspect of this chapter or any decision or determination made pursuant to this chapter.

1. Performance or Maintenance Bond or Security Requirement – The performance or maintenance security required by the Planning Official shall be provided in such forms and amounts as the Planning Official deems necessary to assure that all work or actions are satisfactorily completed or maintained in accordance with the approved plans, specifications, permit or approval requirements, and applicable regulations, and to assure that all work or actions not satisfactorily completed or maintained will be corrected to comply with approved plans, specifications, requirements, and regulations to restore environmental damage or degradation, protect fish and wildlife habitat and protect the health, safety, and general welfare of the public.

2. Form of Performance Security – The performance security shall be a surety bond obtained from companies registered as surety in the state or certified as acceptable sureties on federal bonds. In lieu of a surety bond, the Planning Official may allow alternative performance security in the form of an assignment of funds or account, an

escrow agreement, an irrevocable letter of credit, or other financial security device in an amount equal to that required for a surety bond. The surety bond or other performance security shall be conditioned on the work being completed or maintained in accordance with requirements, approvals, or permits; on the site being left or maintained in a safe condition; and on the site and adjacent or surrounding areas being restored in the event of damages or other environmental degradation from development or maintenance activities conducted pursuant to the permit or approval.

3. Amount of Performance Security – The amount of the performance or maintenance security shall be 125 percent of the estimated cost, as approved by the Planning Official, of conformance to plans, specifications, and permit or approval requirements under this chapter, including corrective work and compensation, enhancement, mitigation, maintenance, and restoration of sensitive areas. In addition, an administrative deposit shall be paid as required in KZC 175.25. All bond or performance security shall be submitted in their original form with original signatures of authorization.

4. Administration of Performance Security – If during the term of the performance or maintenance security, the Planning Official determines that conditions exist which do not conform with plans, specifications, approval or permit requirements, the Planning Official may issue a stop work order prohibiting any additional work or maintenance until the condition is corrected. The Planning Official may revoke the performance or maintenance security, or a portion thereof, in order to correct conditions that are not in conformance with plans, specifications, approval or permit requirements. The performance or maintenance security may be released upon written notification by the Planning Official, following final site inspection or completion, as appropriate, or when the Planning Official is satisfied that the work or activity complies with permits or approved requirements.

5. Exemptions for Public Agencies – State agencies and local government bodies, including school districts, shall not be required to secure the performance or maintenance of permit or approval conditions with a surety bond or other financial security device. These public agencies are required to comply with all requirements, terms, and conditions of the permit or approval, and the Planning Official may enforce compliance by withholding certificates of occupancy or occupancy approval, by administrative enforcement action, or by any other legal means.

(Ord. 3834 § 1, 2002)

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## 90.150 Dedication



Consistent with law, the applicant shall dedicate development rights, air space, or grant a greenbelt protection or open space easement to the City to protect sensitive areas and their buffers. Land survey information shall be provided by the applicant for this purpose in a format approved by the Planning Official.

(Ord. 3834 § 1, 2002)

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## 90.155 Liability



Prior to issuance of a land surface modification permit or a building permit, whichever is issued first, the applicant shall enter into an agreement with the City that runs with the property, in a form acceptable to the City Attorney, indemnifying the City from any claims, actions, liability and damages to sensitive areas arising out of development activity on the subject property. The applicant shall record this agreement with the King County Department of Elections and Records.

(Ord. 3834 § 1, 2002)

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## 90.160 Appeals

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All classifications, decisions, and determinations made pursuant to this chapter may be appealed using, except as stated below, the applicable appeal provisions of Chapter [145](#) KZC. If a proposed development activity requires approval through Process IIA or IIB (as described in Chapters [150](#) and [152](#) KZC, respectively), any appeal of a classification, determination, or decision will be heard as part of that other process.

(Ord. 3834 § 1, 2002)

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## 90.165 Setbacks and Buffers Required by Prior Approvals

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If, subsequent to October 2, 1982, the City approved a variance, planned unit development, rezone, or zoning permit through Processes I, II, IIA, or IIB, as described in Chapters [120](#), [125](#), [130](#), [145](#), [150](#), and [152](#) KZC, respectively, and/or a subdivision or short subdivision for the subject property with established setbacks or buffers on the subject property from a stream or wetland, those setbacks or buffers shall apply to the original construction on the subject property. All of the provisions of this chapter which do not directly conflict with the previously imposed setback or buffer requirements shall fully apply to the subject property.

(Ord. 3834 § 1, 2002)

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## 90.170 Planning/Public Works Official Decisions – Lapse of Approval

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Planning or Public Works Official decisions authorized by this chapter shall be subject to the lapse of approval provisions of KZC [145.115](#).

(Ord. 4072 § 1, 2007)

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### **The Kirkland Zoning Code is current through Ordinance 4479, passed March 3, 2015.**

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

City Website: <http://www.kirklandwa.gov/>

City Telephone: (425) 587-3190

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