



## CITY OF KIRKLAND

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**To:** Houghton Community Council

**From:** Eric R. Shields, AICP, Director *PS*  
Michael Bergstrom, AICP, Consultant *MB*

**Date:** July 17, 2006

**Subject:** Miscellaneous Zoning Code Amendments; File No. ZON05-00001

### I. RECOMMENDATION

Conduct courtesy public hearing on proposed amendments, and make recommendation to Planning Commission.

### II. INTRODUCTION

The Planning staff maintains an on-going list of code interpretations and issues or requests raised by the public, the City Council, and City Staff. Periodically we prepare a packet of miscellaneous Zoning Code amendments to address those issues. Enclosed is the most recent package of proposed amendments. This package will be the subject of a public hearing with the Houghton Community Council on July 24, 2006.

Zoning Code amendments are reviewed through either Process IV (Chapter 160 KZC) or Process IVA (Chapter 161 KZC). Process IVA is an abbreviated process intended for amendments that promote clarity, eliminate redundancy, or correct inconsistencies. Because the current set of amendments goes beyond those purposes, we are processing it through Process IV. Under this process, the July 24 public hearing with the Houghton Community Council will be followed by a public hearing with the Planning Commission on August 10, leading to review and action by the City Council.

The Planning Commission held a study session on the proposed amendments on July 13, 2006. The proposed amendments have not yet been modified to reflect direction received or questions raised at that meeting, but such direction and questions are summarized in Section IV below insofar as they pertain to amendments that would affect Houghton.

### III. AMENDMENT OVERVIEW

The enclosed amendments address a wide range of issues, ranging from simple clarifications of language to more substantive policy matters. They affect many different chapters of the Zoning Code. Among other changes, they would codify four Zoning

Code Interpretations: I-03-2 (Revised) (Vehicle Sales in the North Rose Hill 1A and 1B Business District Zones, I-05-2 (Large Domestic Animal Regulations (Horse Paddock Areas)), I-04-2 (Calculation of Average Building Elevation - Use of Historic Grades), and I-91-7 (Noise Regulations Governing Parking Lot Sweeping).

Some of the proposed amendments affect zones not found in Houghton (RSX, BCX, CBD, RH, NRH, TL, PLA 17), and some affect regulations not applicable in Houghton (115.20, Spec. Reg. 6 addressing Large Domestic Animals in the RS 35, RSX 35, and PLA 16 zones), 115.42 (measurement methods pursuant to Floor Area Ratios), 115.115.3.n (porch encroachments into front yards), and 120.12 (Planning Official approval of expansion or modification of an existing structure). Although these amendments appear in the enclosed materials, they are identified by an asterisk (\*) to help you focus on the amendments directly relevant to Houghton.

Attachment 1 (Key to Draft Zoning Code Amendments) contains a list of the issues that the amendments are intended to address. This list corresponds to the sequence of the actual amendment language (Attachment 2). Staff recommends that the Community Council use Attachment 1 as a reference when reviewing the amendments in Attachment 2, so that you can compare the intended purpose of the amendment with the actual language. Attachment 3 contains the four Code Interpretations that are proposed to be codified.

#### **IV. POLICY ISSUES**

While some of the amendments are quite simple and presumably non-controversial, others raise policy issues that need to be considered. The primary ones, as identified by Staff, are listed below. You may feel that other amendments raise important policy issues as well. This list does not include any policy issues raised by amendments inapplicable to Houghton. Reference numbers identify the section of the Zoning Code that would be changed.

At their July 13, 2006 study session, the Planning Commission gave Staff preliminary feedback on these issues. Not all proposed amendments were discussed at that meeting, and those which were discussed will be discussed further at the August 10 public hearing. Still, the Community Council might benefit from a summary of the preliminary feedback on these issues. This summary does not include feedback that was offered for amendments that affect zones outside of Houghton, nor does it necessarily reflect a consensus position of the Commission.

- A. 20.10.020 - Setbacks in RM zones. This amendment is intended to allow zero-lot-line multi-family development, without the need for Planned Unit Development approval. It would allow buildings to be connected at the side or rear, along a

common property line. The zero-lot-line proposal would need to be approved as part of the underlying subdivision approval.

Preliminary Planning Commission Feedback: The Commission felt this is a worthwhile amendment.

- B. 20.10.020 – Allowable Height for Multifamily Structures. This amendment would allow increased height (above 25') for multi-family structures that adjoin a low density zone occupied by a school that has been granted increased height.

Preliminary Planning Commission Feedback: Worth considering, though there was a concern expressed about tall multifamily structures next to a play area, covered play structure, or similar outdoor areas.

- C. 90.140 - Drainage Basin Reasonable Use Provisions. The City Attorney has drafted this amendment based on direction from the City Council. This amendment would replace the existing KZC 90.140 in its entirety. This amendment is still being refined based on additional City Council direction received on July 5 (see Attachment 4).

Preliminary Planning Commission Feedback: Worthwhile amendment, will follow the advice of the City Attorney.

- D. 115.59 – Calculating Average Building Elevation – Use of Historic Grades. Paragraph 3 of this amendment would codify Interpretation No. 04-2, allowing historic grades to be used to determine ABE for a site that has been previously developed. The historic grade would be required to be documented by a survey.

Preliminary Planning Commission Feedback: The Commission felt this amendment needs to be discussed further so that its effects can be better understood.

- E. 115.65 – Home Occupations. This amendment is based on direction from the City Council, and has been jointly prepared by Planning Staff and the City Attorney. The intent is to make the regulations clearer and more enforceable. The amended language would no longer prohibit specific uses, but would rely more heavily on operational characteristics and standards.

Preliminary Planning Commission Feedback: The Commission had a number of questions and concerns about this amendment, including:

1. Proposed language is not clear enough (general concern);

2. Prohibition of outdoor business activity would preclude some desirable business activity, such as professional photography or swimming lessons in a back yard pool (115.65.4.c);
3. At least one member felt the 500 sq. ft. limitation (115.65.4.g) was overly restrictive;
4. Home occupation provisions in multifamily structures should be more liberal than proposed (115.65.5);
5. 115.65.5 should be clarified to state that the prohibition of employees refers to on-site employees;
6. Enforcement provisions should give the City the ability to revoke a license without an arduous process (e.g., a “three strikes” provision) (115.65.8).

Preliminary Planning Commission Feedback: The Commission felt this is a worthwhile amendment.

- F. 130.70 – Minor Modification of a Project Rezone – Changes to Building Height. KZC 130.70.4 currently prohibits any change to structure height approved as part of a project rezone through the Minor Modification process. Staff proposes that limited flexibility be added so that minor changes to structure height can be approved as a Minor Modification. This change would allow a project to respond to more detailed grading information and construction issues that arise during final design stages, as well as minor modifications to building design. It should be noted that there are very few rezones of this type anymore.

Preliminary Planning Commission Feedback: The Commission felt that this amendment is worth considering, but expressed concern about whether the public would be able to understand its implications when combined with other provisions of the code (e.g., allowances for intrusions above allowed building height).

- G.. Various – Houghton Community Council Procedures. While these changes (which affect language in Chapters 135, 140, 152, 155, 160, and 161) do not raise policy issues, the Community Council is probably interested in the reason behind these changes. Essentially, they are intended to make the language in the Zoning Code consistent with the Kirkland Municipal Code and State law. With one exception, they involve language changes rather than substantive changes. The exception is found in KZC 135.30.2.b (Moratoria and Interim Land Use Regulations), which would increase the period for Community Council action from seven (7) to sixty (60) days, for consistency with State law.

Preliminary Planning Commission Feedback: This item was not discussed with the Commission.

Additional comments were received via e-mail from one Planning Commissioner following the study session, addressing a variety of amendments not listed above. Some of these comments address topics not relevant to Houghton, but others are relevant. They are included as Attachment 5.

## V. CONCLUSION

We look forward to discussing these amendments in more detail at your July 24 public hearing. If you have any questions in the meantime you may contact either Michael Bergstrom at (206) 633-0595 (or [bergstrommike@msn.com](mailto:bergstrommike@msn.com)), or Paul Stewart at (425) 587-3227 (or [pstewart@ci.kirkland.wa.us](mailto:pstewart@ci.kirkland.wa.us)).

## ATTACHMENTS

1. Key to Draft Zoning Code Amendments, July 7, 2006
2. Zoning Code Amendments, Including the Following Use Zone Chart Revisions:
  - 2A. Revisions to RM Use Zone Chart – KZC 20.10.010 and .020
  - 2B. Revisions to CBD-3 Use Zone Chart – KZC 50.27.050, .060, .070, and .110
  - 2C. Revisions to RH 5B Use Zone Chart – KZC 53.54.040
  - 2D. Revisions to RH 8 Use Zone Chart – KZC 53.84.020
  - 2E. Revisions to RH 8 Use Zone Chart – KZC 53.84.040
  - 2F. Revisions to NRH 3 Use Zone Chart – KZC 54.24.010
  - 2G. Revisions to RS Use Zone Chart – KZC 15.10.090 (Public Park)
3. Interpretations to be Codified
  - 3A. No. I-05-3 (Revised)
  - 3B. No. I-05-2
  - 3C. No. I-04-2
  - 3D. No. I-91-7
4. July 11, 2006 Memo to Planning Commission from Eric Shields re: Proposed Amendments to Reasonable Use Process
5. July 14, 2006 E-mail from Andy Held re: Updates (comments on proposed amendments)

Process IV Zoning Code Amendments – Updated July 14, 2006  
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KEY TO DRAFT ZONING CODE AMENDMENTS

*(Items marked with an asterisk (\*) do not apply in Houghton)*

**Code Section   Purpose of Amendment**

**Chapter 5      Definitions**

- 5.10.045      Average Building Elevation - Move regulatory (non-definitional) language to Chapter 115 (Miscellaneous Standards).
- 5.10.065      Average Parcel Width - Clarify parcel width measurement for lots in PLA 15 and WD zones that do not abut the shoreline.
- 5.10.072      Bay Window - Allow more realistic glazing requirements for bay windows.
- 5.10.590      Office Use – Add more examples of permitted uses and activities.
- 5.10.720      Rear Property Line – Clarify property line status when yard abuts an access easement on a neighboring development.

**Chapters 15    RS Zones**

- 15.10.020      Amend church use listing so that required lot size is not tied to dwelling unit density.
- 15.10.030      Amend school or day-care center listing so that required lot size is not tied to dwelling unit density.

**\* Chapter 17    RSX Zones**

- 17.10.020      Amend church use listing so that required lot size is not tied to dwelling unit density.
- 17.10.030      Amend school or day-care center listing so that required lot size is not tied to dwelling unit density.

**Chapter 20      RM Zones**

- 20.10.010      Allow detached dwelling units in RM 3.6, 2.4, and 1.8 zones to have combined side yards of 10' (retain 15' combination for the RM 5.0 zone).
- 20.10.020      Allow zero-lot-line development where approved as part of a multi-family subdivision.
- 20.20.010      Codify Comprehensive Plan policies pertinent to a portion of North Rose Hill neighborhood.
- 20.10.020      Allow increased height for multi-family development that adjoins a school in a low density zone that has been granted increased height. NOTE: This amendment would apply to all zones that allow multi-family development (RM, PR, PLA 6A, 6B, 6D, 6F, 6G, 6H, 6J, 7A, 7B, 7C, 13A, 13B).
- 20.10.030      For church use, revise street access requirement for consistency with other zones.

**\* Chapter 47 BCX Zones**

47.10.060 Allow indoor motorcycle sales, service, or rental in this zone.

**\* Chapter 50 CBD Zones**

50.12.020 - Allow indoor motorcycle sales, service, or rental in all CBD zones (CBD 1 – CBD 8)  
50.52.050

50.27.050 Remove requirement for intervening street-level retail space in CBD 3  
et al where the property does not front a Pedestrian-Oriented Street. Codifies Interpretation  
No. 05-1.

50.60 Update "fee-in-lieu" provisions for downtown parking requirements.

**\* Chapter 53 Rose Hill Zones**

53.54.040 Allow "fast food restaurants" in the RH 5B zone.

53.54.050 Allow indoor motorcycle sales, service, or rental in the RH 5B zone.

53.74.020 Allow indoor motorcycle sales, service, or rental in the RH 7 zone.

53.84.020 Allow "fast food restaurants" in the RH 8 zone.

53.84.040 Allow indoor motorcycle sales, service, or rental in the RH 8 zone.

53.84.040 Add special regulations addressing accessory seating for certain uses in the RH 8 zone.

**\* Chapter 54 North Rose Hill Zones**

54.06.060 Allow indoor motorcycle sales, service, or rental in the NRH 1A zone.

54.12.030 Allow indoor motorcycle sales, service, or rental in the NRH 1B zone.

54.24.010 Change landscape category for "detached, attached, or stacked dwelling units" from  
category D to category B, when the development contains more than one detached unit.

**\* Chapter 55 Totem Lake Zones**

55.09.030 Allow indoor motorcycle sales, service, or rental in the TL 1A zone.

55.13 Correct street dedication/improvement references for the TL 1B zones.

55.15.020 Correct street dedication/improvement references for development containing both office  
use and attached or stacked dwelling units use listing.

55.21.010 Allow indoor motorcycle sales, service, or rental in the TL 2 zone.

55.XX.040 Allow indoor motorcycle sales, service, or rental in the TL 8 zone.

55.XX.040 Allow indoor motorcycle sales, service, or rental in the TL 10A zone.

**Chapter 60 Planned Areas**

60.22.070	Amend <u>mini-school or mini-day-care center</u> listing so that required lot size is not tied to dwelling unit density in the PLA 3A zone.
* 60.185	Change General Regulations to clarify that land located waterward of the ordinary high waterline may not be used to calculate lot size or density in the PLA 17 zone.
<b>Chapter 90</b>	<b>Drainage Basins</b>
Table of Contents	Update to reflect new Section 90.170.
90.20	Clarify that "normal and routine" applies to repair as well as to maintenance.
90.60	Clarify wetland buffer monitoring and maintenance program requirements.
90.100	Clarify stream buffer monitoring and maintenance program requirements.
90.140	Re-write "Reasonable Use" section per City Council direction.
90.170	Establish Lapse of Approval timelines for Planning Official/Public Works Official decisions (use Process I provisions).
<b>Chapter 105</b>	<b>Parking and Access</b>
105.10	Clarify access road requirements.
105.47	Require parking pads between garages and the access way for detached dwelling units in low density zones.
<b>Chapter 110</b>	<b>Required Public Improvements</b>
110.70	Add inflation index to the threshold for single-family waivers of public improvements.
<b>Chapter 115</b>	<b>Miscellaneous Standards</b>
Table of Contents	Revise to reflect reorganization of chapter contents.
115.07	- Move <u>Accessory Dwelling Units</u> from 115.65; establish as free-standing section. - Clarify owner occupancy requirement. - Clarify that attic space less than 5' in height is not included in 800 sq. ft. limitation. - Clarify ADU appeal provisions.
115.08	- Move <u>Accessory Structures</u> from 115.65; establish as free-standing section. - Clarify that attic space less than 5' in height is not included in the allowable size of accessory structures.
* 115.20	Revise <u>Large Domestic Animals</u> Special Regulation 6 to codify Interpretation No. 05-2. Changes address paddock size, shape, location, and other characteristics, as well as access requirements, in the RS 35, RSX 35, and PLA 16 zones.
115.25	- Clarify <u>Development Activity</u> standard regarding impact to residential uses. - Provide exception for construction of publicly-funded improvements (e.g., "Nickel projects").
115.30	- Clarify <u>horizontal façade</u> application.

- Revise horizontal façade application to allow 8' breezeway height to be measured to average height of roof pitch.
  - Clarify measurement of allowable projections into 20' separation for horizontal façade and FAR application.
- \* 115.42
- Clarify attic measurement method when calculating FAR.
  - Clarify basement ceiling measurement when calculating FAR.
- 115.59
- Move regulatory (non-definitional) provisions of Average Building Elevation from Chapter 5 – definitions; establish as free-standing section.
  - Add provision for using “historic grade” to determine ABE (codifies Interpretation No. 04-2).
- 115.60
- Extend height exceptions, which now apply to single-family use, to multi-family uses.
- 115.65
- Re-write Home Occupation provisions per City Council direction.
  - Move standards not related to Home Occupations (i.e., Accessory Dwelling Units and Accessory Structures) to their own sections.
  - Remove reference to Domestic Animals.
- 115.90
- Clarify when the exception for driveway area from lot coverage calculations applies.
- 115.95
- Clarify that a noise-related public nuisance includes operation of leaf blowers or similar devices during certain hours (codifies Interpretation No. 91-7).
- 115.115.3
- Increase the size of allowable storage sheds in a required yard from 120 square feet to 200 square feet for consistency with building code.
  - \* - Allow covered entry porches to extend into front yards of all residential zones.
  - \* - Clarify allowable height of porches extending into front yards.
  - \* - Establish width allowances of multi-family porches extending into front yards.
  - \* - Clarify that a porte cochere is not considered an entry porch.
  - Clarify allowable height of garages located within a rear yard.
  - Clarify that a garage may not extend to 5 feet of an access easement that is regulated as a rear property line.
  - Establish provisions for heat pumps and similar equipment located outside of the primary structure.
- 115.115.5
- Establish separation requirements for driveways in front yards from other hard surfaces.
  - Allow a modification of driveway setback if a solid screening fence is provided along the driveway edge.
  - Allow a modification of driveway setback if a modification of the driveway buffer was approved pursuant to KZC 105.103.3.g.
  - Clarify that parking area and driveway requirements of a specific zone override the provisions of Chapter 115.
- 115.120
- Allow mechanical equipment associated with a use not reviewed through Process I, II, III, or IV to be placed in a required side or rear yard with Planning Official decision.
- 115.142
- Remove 15 foot height limitation from transit shelters and centers.
- 115.145
- Remove Section (“Trees – Certain Species Prohibited”); no longer necessary due to new Chapter 95 tree regulations.

**Chapter 120 Variances**

- \* 120.12 Establish lapse of approval for Planning Official approval to expand or modify an existing structure.
- Chapter 130 Rezones**
- 130.70 Add flexibility for revisions to structure heights approved as part of a quasijudicial project rezone.
- Chapter 135 Zoning Code Amendments**
- 135.30
  - Revise section on Moratoria and Interim Land Use Regulations (was (Emergency Zoning Code Amendment) for consistency with State law.
  - Revise Houghton Community Council provisions for consistency with State law and Kirkland Municipal Code.
  - Extend disapproval period of Houghton Community Council from 7 days to 60 days, for consistency with State law.
- Chapter 140 Amendments to the Comprehensive Plan**
- 140.35 Revise Houghton Community Council provisions for consistency with State law and Kirkland Municipal Code.
- Chapter 145 Process I**
- 145.45 Change the time period to post Planning Director decision from calendar days to business days, consistent with other review processes.
- Chapter 150 Process IIA**
- 150.90 Allow an applicant to submit a written response to an appeal filed by other parties.
- Chapter 152 Process IIB**
- 152.30 Allow the Planning Official to mail a summary of a notice of hearing, consistent with other review processes.
- 152.100 Revise Houghton Community Council provisions for consistency with State law and Kirkland Municipal Code.
- Chapter 155 Process III**
- 155.100 Revise Houghton Community Council provisions for consistency with State law and *Kirkland Municipal Code*.
- Chapter 160 Process IV**
- 160.40
  - Clarify that the distribution of notice is measured in calendar (not business) days.
  - Clarify the requirement for public notice signs when it is a city-initiated proposal to reclassify land on the Zoning Map.
- 160.50 Clarify that a recommendation from the Houghton Community Council on a Process IV proposal is not mandatory.
- 160.95 Revise Houghton Community Council provisions for consistency with State law and Kirkland Municipal Code.

**Chapter 161 Process IVA**

161.95 Revise Houghton Community Council provisions for consistency with State law and Kirkland Municipal Code.

**Chapter 170 Enforcement**

170.65 Clarify who can appeal a code interpretation.

**Parks Review Process**

Various Reduce Zoning Code redundancy by consolidating park review process requirements into a single (or as few as possible) Use Zone Charts.

Process IV Zoning Code Amendments – Updated 07/14/05  
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*(Items marked with an asterisk (\*) do not apply in Houghton)*

**Chapter 5 – Definitions** (Note: Only definitions for which changes are proposed are included below. All other definitions in Chapter 5 of the Kirkland Zoning Code remain unchanged).

5.10 Definitions

The following definitions apply throughout this code unless, from the context, another meaning is clearly intended:

- .045 Average Building Elevation – The average elevation of the topography, prior to any development activity, at the center of all exterior walls of a building or structure, including decks and porches, unless the deck or porch has no walls at or below the deck level and no roof above the deck or porch, and including cantilevered portions of a building which enclose interior space. ~~When a building or structure contains townhouses or other attached, but otherwise independent building units, the average building elevation calculations are calculated separately for each unit.~~

Formula:

$$\text{Average Building Elevation} = \frac{(\text{Mid-point Elevation}) \times (\text{Length of Wall Segment}) + (\text{Mid-point Elevation}) \times (\text{Length of Segment})}{(\text{Length of Segment}) + (\text{Length of Segment})}$$

~~(See Plate 17)~~

~~(deleted text moved to new KZC 115.59)~~

- .065 Average Parcel Width – The average of the distance from the north to the south property lines as measured along the high waterline and the front property line, or along the east and west property lines if the parcel does not abut the high waterline of Lake Washington.
- .072 Bay Window – A projecting bay from an exterior wall of a structure that contains window glazing over at least ~~75~~ 50 percent of the surface of the bay lying parallel to the exterior wall. The bay window may be directly supported by a foundation or it may be cantilevered out from an exterior wall.
- .590 Office Use – A place of employment providing services other than production, distribution or sale or repair of goods or commodities. The following is a nonexclusive list of office uses: medical, dental or other health care; veterinary, accounting architectural, engineering, consulting or other similar professional services; management, administrative, secretarial, marketing, advertising, personnel or other similar personnel services; sales offices where no inventories or goods are available on the premises, real estate, insurance, travel agent, brokerage, computer programming or consulting, data processing, specialty or training schools, or other similar services. The following uses are specifically excluded from the definition of office: banks, loan companies and similar financial institutions.
- .720 Property Line – Those lines enclosing a lot and those lines defining a recorded vehicular access easement. The following are categories of property lines:

1. (no change)

ATTACHMENT 2

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2. Rear property line is any property line that is ~~farther~~ farthest from and essentially parallel to a front property line except on a lot which contains two or more front property lines; or any property line that is adjacent to a street, alley or vehicular access easement or tract 21 feet or less in width, except when said vehicular access easement or tract serves only one lot, or is located entirely on an adjacent ~~lot or lots~~ property not part of the same subdivision or development activity and the easement or tract does not serve the subject property; or any property line that is adjacent to a vehicular access easement or tract which encompasses a hammerhead turnaround required by the Fire Department.
3. – 5. *(no change)*

**Chapter 15 – RS Zones**

15.10.020 Church – Amend Special Regulation 1 in Use Zone Chart to read:

1. Minimum lot size ~~per dwelling unit~~ is as follows:
  - a. – e. *(no change)*

15.10.030 School or Day-Care Center – Amend Special Regulation 1 in Use Zone Chart to read:

1. Minimum lot size ~~per dwelling unit~~ is as follows:
  - a. – e. *(no change)*

**\* Chapter 17 – RSX Zones**

17.10.020 Church – Amend Special Regulation 2 in Use Zone Chart to read:

2. Minimum lot size ~~per dwelling unit~~ is as follows:
  - a. – c. *(no change)*

17.10.030 School or Day-Care Center - Amend Special Regulation 2 in Use Zone Chart to read:

2. Minimum lot size ~~per dwelling unit~~ is as follows:
  - a. – c. *(no change)*

**Chapter 20 – RM Zones**

20.10.010 Detached Dwelling Units: Revise required side yards to remove 15' combined side yards for detached dwelling units in the RM 3.6, 2.4, and 1.8 zones. Keep 15' combined side yard requirement in the RM 5.0 zone (see Attachment 2A).

20.10.020 Detached, Attached, or Stacked Dwelling Units: Amend minimum yard requirements to allow zero-lot-line development (attached townhomes) along interior property lines, by adding new Special Regulations 7 and 8, to read as follows:

6. If approved by the City as part of a subdivision, the side yard may be reduced to 0' if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of 5'.
7. If approved by the City as part of a subdivision, the rear yard may be reduced to 0' if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot.

(see Attachment 2A).

20.10.020 Detached, Attached, or Stacked Dwelling Units: Add a new Special Regulation 8 to codify Comprehensive Plan policy language applicable to certain area in the North Rose Hill neighborhood, to read as follows:

8. Development located in the RM 3.6 zone in North Rose Hill, lying between Slater Ave NE and 124<sup>th</sup> Ave NE, and NE 108<sup>th</sup> PI (extended) and approximately NE 113<sup>th</sup> PI (extended) shall comply with the following:
  - a. Each development shall incorporate at least two acres;
  - b. The development shall, if determined appropriate by the City, dedicate and improve a public right-of-way extending from 124<sup>th</sup> Ave NE to Slater Ave NE. This right-of-way shall be located at NE 112<sup>th</sup> PI and/or an alternative or additional location;
  - c. Significant vegetation that provides protection from I-405 shall be retained to the maximum extent feasible;
  - d. If adjacent to wetland areas or 124<sup>th</sup> Ave NE, the development shall be consistent with natural environment and transportation goals of the Comprehensive Plan.

(See Attachment 2A).

20.10.020 Detached, Attached, or Stacked Dwelling Units: Add a new Special Regulation 9 to allow a structure height of 30' when the adjoining low density zone is occupied by a school that has been allowed height of at least 30'. The Special Regulation would read as follows:

9. If adjoining a low density zone other than RSX, structure height may be increased to 30' above average building elevation if the adjoining low density zone is occupied by a school that has been allowed to increase its height to at least 30'.

**NOTE: This amendment would apply to all zones that allow multifamily development (RM, PR, PLA 6A, 6B, 6D, 6F, 6G, 6H, 6J, 7A, 7B, 7C, 13A, 13B).**

(See Attachment 2A for the RM zone example).

20.10.030 Church – Amend Special Regulation 1 to read:

1. ~~Site must abut and be accessible from at least one roadway having at least two moving traffic lanes. The property must be served by a collector or arterial street.~~

#### **\* Chapter 47 – BCX Zones**

47.10.060 Revise Special Regulation 1 as follows:

1. ~~This use specifically excludes vehicle or boat sales or vehicle or boat service or repair. The sale, service and/or rental of motor vehicles, motor boats, and recreational trailers is not permitted. Motorcycle sales, service, or rental is permitted if conducted indoors.~~

#### **\* Chapter 50 – CBD Zones – CBD 1 through 8**

50.12.020 Revise Special Regulation 1 as follows:

1. The following uses are not permitted in this zone:
  - a. Vehicle service stations.
  - b. ~~Vehicle and/or boat sale, repair, service or rental. The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.~~
  - c. Drive-in facilities and drive-through facilities.

50.17.010 Revise Special Regulation 2 as follows:

2. The following uses are not permitted in this zone:
  - a. Vehicle service stations.
  - b. ~~Vehicle and/or boat sale, repair, service or rental.~~ The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.
  - c. Drive-in facilities and drive-through facilities.

50.27.040 Revise Special Regulation 1 as follows:

1. The following uses are not permitted in this zone:
  - a. Vehicle service stations.
  - b. ~~Vehicle and/or boat sale, repair, service, or rental.~~ The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.
  - c. Fast food restaurants.
  - d. Drive-in facilities and drive-through facilities.

50.32.040 Revise Special Regulation 1 as follows:

1. The following uses are not permitted in this zone:
  - a. Vehicle service stations.
  - b. ~~Vehicle and/or boat sale, repair, service or rental.~~ The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.
  - c. Drive-in facilities and drive-through facilities.

50.37.050 Revise Special Regulation 1 as follows:

1. The following uses are not permitted in this zone:
  - a. Vehicle service stations.
  - b. ~~Vehicle or boat sale, repair, service, or rental.~~ The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.

50.42.030 Revise Special Regulation 2 as follows:

2. ~~Vehicle and/or boat sale, repair, service, and rental are not permitted in this zone.~~ The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers are not permitted. Motorcycle sales, service, or rental is permitted if conducted indoors.

50.47.060 Revise Special Regulation 3 as follows:

3. ~~Vehicle and boat sale, repair, service, and rental are not permitted in this zone.~~ The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers are not permitted. Motorcycle sales, service, or rental is permitted if conducted indoors.

50.52.050 Revise Special Regulation 2 as follows:

2. The following uses are not permitted in this zone:
  - a. Vehicle service stations.
  - b. ~~Vehicle sales, repair, service or rental.~~ The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.

- c. Drive-in facilities and drive-through facilities.

50.27.050, .060, .070, and .110 – Remove requirement for intervening street-level retail space in CBD 3 where the property does not front a designated Pedestrian-Oriented Street (see Attachment 2B). (Codifies Interpretation No. 05-1).

50.60 Special Parking Provisions in the CBD 1, 2, and 8 Zones

- 1. – 3. (no change)

- 4. Options for Meeting Parking Obligations

The applicant may meet his/her parking obligation, computed using subsection (2) of this section ~~and after reductions under subsection (3) of this section, in either or a combination of the following ways:~~ by providing the required number of parking stalls in the building or on the building site containing the primary use conducted on the subject property. The applicant may propose to meet all or a portion of the parking obligation subject to the provisions of subsections 4.a and 4.b as set forth below.

~~a. By providing the required number of parking stalls in the building or on the building site containing the primary use conducted on the subject property.~~

~~b. By satisfying both subparagraphs herein:~~

1) ~~a.~~ Paying \$6,000 a fee-in-lieu of parking for each required parking stall or fraction of a stall into a special fund that will be used to provide and upgrade municipal off-street parking within the CBD, Planned Areas 6 or 7 Zones, or park/public use zones located adjacent to the CBD. The per-stall fee shall be \$20,000 per stall in 2006 dollars and shall be adjusted on (((date))) of each year based on (((construction cost index))) ; and

2) ~~b.~~ Purchasing one annual parking permit for a municipal parking facility for each three parking spaces required for the use by this code. When this results in a fraction, the number shall be rounded up to the next whole number if the fraction is at least 0.66. The parking permit requirement shall be satisfied by obligating business occupants of the subject property to purchase such permits as part of the application for a business license or the annual renewal of a business license. A business owner may request that the number of annual permits required be reduced to no more than the number of workers at the business. The decision on a request for such reduction will be made in the same manner as provided in KZC 170.60 through 170.65. Any such reduction will be effective only for permits required for the future and only for the business for which the reduction was requested.

The City may consider the applicant's proposal and shall base its decision whether to grant approval on whether the City has current plans or programs in place to provide or upgrade municipal off-street parking within the CBD, Planned Area 6 or 7 Zones, or park-public use zones located adjacent to the CBD. Plans and programs shall include Capital Improvement Program projects for future off-street parking. The City's decision will be made by the Planning Director as part of the permit process for the applicant's project. The director may approve the request, reject the request, or approve a lesser amount of in-lieu parking than requested.

**\* Chapter 53 – Rose Hill Zones – RH 5B, RH 7, and RH 8**

53.54.040 Allow “fast food restaurants” in the RH 5B zone (see Attachment 2C).

53.54.050 Revise Special Regulation 3 as follows:

3. For a retail establishment involving the sale, lease, ~~repair or service, or rental of motor vehicles, motor boats, recreation trailers, of automobiles, trucks, boats, motorcycles, recreation vehicles,~~ heavy equipment, and similar vehicles, the following shall apply:
  - a. This use is not permitted in the RH 5B zone; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.
  - b. – d. *(no change)*

*(codifies Interpretation 5-03 (Revised))*

53.74.020 Revise Special Regulation 1 as follows:

1. The following uses are not permitted in this zone:
  - a. – d. *(no change)*
  - e. A retail establishment involving the sale, lease, service or rental of motor vehicles, motor boats, recreation trailers, repair of automobiles, trucks, boats motorcycles, recreation vehicles, heavy equipment, and similar vehicles; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.

*(codifies Interpretation 5-03 (Revised))*

53.84.020 Allow “fast food restaurants” in the RH 8 zone (see Attachment 2D).

53.84.040 Revise Special Regulation 1 as follows:

1. The following uses are not permitted in this zone:
  - a. – d. *(no change)*
  - e. A retail establishment involving the sale, service or repair rental of motor vehicles, motor boats, recreation trailers, automobiles, trucks, boats, motorcycles, recreation vehicles, heavy equipment and similar vehicles; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.
  - f. – g. *(no change)*

*(codifies Interpretation 5-03 (Revised))*

53.84.040 Add Special Regulation 4 to address accessory seating for delicatessen, bakery, or other similar use in the RH 8 zone (see Attachment 2E).

#### **\* Chapter 54 – NRH Zones – NRH 1A, 1B, and 3**

54.06.060 Revise Special Regulation 1 as follows:

1. The following uses and activities are prohibited:
  - a. ~~Vehicle or boat sales or rental facilities.~~ The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.
  - b. – d. *(no change)*

*(codifies Interpretation 5-03 (Revised))*

54.12.030 Revise Special Regulation 1 as follows:

1. The following uses and activities are prohibited:

- a. (no change)
- b. Vehicle or boat sales or rental facilities; The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors;
- c. – e. (no change)

(codifies Interpretation 5-03 (Revised))

54.24.010 Detached, Attached or Stacked Dwelling units (Stand Alone or Mixed with Other Uses). Change "Landscape Category" from "D" to "B" when this use contains more than one detached dwelling unit (see Attachment 2F).

**\* Chapter 55 – Totem Lake Zones – TL 1A, 1B, 2, 8, 10A**

55.09.030 Revise Special Regulation 3 as follows:

- 3. The following uses and activities are prohibited:
  - a. Vehicle and/or boat sales, repair, service or rental facilities. The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.
  - b. – d. (no change)

55.13 GENERAL REGULATIONS

- 1. – 3. (no change)
- 4. The ability to accommodate new development in the TL 4A and 1B zones is dependent upon the construction of ~~two~~ a new streets: NE 130<sup>th</sup> Place, between 120<sup>th</sup> Avenue NE and Totem Lake Boulevard NE, and ~~119<sup>th</sup> Avenue NE, between NE 128<sup>th</sup> Street and NE 130<sup>th</sup> Place,~~ as shown on Plate 34. Consistent with and to the extent authorized by applicable statutes and court decisions, new development on properties across which ~~these~~ this streets in whole or in part extends, shall contribute to the creation of the streets as follows:
  - a. With all new development, the portions of the streets crossing the subject property shall be dedicated as public right-of-way consistent with Plate 34; and
  - b. With all new development exceeding 30 feet in height, the streets shall be improved consistent with Plate 34.

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

55.15.020 Development Containing Both Office Use and Attached or Stacked Dwelling Units – Special Regulation No. 1:

- 1. The maximum floor area ratio (FAR) for this use is determined as follows: (% office use x 2) + (% residential use x 3) = FAR of each use allowed on the subject property. In addition, the following regulations apply to this use:
  - a. ~~Where land dedication for 119<sup>th</sup> Avenue NE is not required pursuant to General Regulation 4, office use is limited to 0.5 FAR.~~
  - b. ~~Where land dedication is required for the improvement of 119<sup>th</sup> Avenue NE, pursuant to General Regulation 4, office use may be increased according to the formula set forth in Special Regulation 1. Office use may not exceed 90 percent of the total FAR for the mixed use development. If the office use is proposed to be built prior to the residential use, the applicant may propose a phasing plan for the residential component to the Planning Department. Maximum FAR is determined based on parcel size, prior to any road dedication required pursuant to General Regulation 4 for this zone.~~

- a. The maximum Floor Area Ratio (FAR) for this use is 3.0, except as provided in paragraph b of this section. Office use shall not exceed 10% of the total gross floor area of all structures on the subject property.
- eb. On parcels where land dedication is required pursuant to General Regulation 4, the maximum floor area ratio (FAR) may be increased by an additional ~~0.2 FAR of office use,~~ or 0.3 of residential use for each 10 percent or portion thereof of the subject property required to be dedicated.

55.21.010 Revise Special Regulation 6 as follows:

- 6. Motor ~~vehicle,~~ motor boat, and recreational trailer sales are permitted only if they ~~vehicles~~ are displayed in an indoor showroom, and the showroom does not occupy more than 10,000 square feet.

55.XX.040 (TL 8 Zone, not codified in final form yet)

Revise Special Regulation 1 as follows:

- 1. The following uses are not allowed: Vehicle or boat sales or repair, The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers, vehicle service station, and storage services; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.

55.XX.040 (TL 10A Zone, not codified in final form yet)

Revise Special Regulation 2 as follows:

- 2. The following uses and activities are prohibited:
  - a. Motorized vehicle and/or boat sales, repair, service or rental facilities. The sale, service, and/or rental of motor vehicles, motor boats, and recreational trailers are not permitted; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.
  - b. – d. *(no change)*

## Chapter 60 – Planned Areas

60.22.070 PLA 3A – Mini-School or Mini-Day-Care – Amend Minimum Lot Size in Use Zone Chart to read:

Must be part of a development with a site area of at least 15 acres ~~with 3,600 sq. ft. per unit.~~

\* 60.185 PLA 17 - GENERAL REGULATIONS

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

- 1. – 4. *(no change)*
- 5. May not use lands waterward of the ordinary high waterline to determine lot size or calculate allowable density.

## Chapter 90 – Drainage Basins

Add the following to the Table of Contents for Chapter 90 – Drainage Basins:

90.170 Planning/Public Works Official Decisions – Lapse of Approval

90.20 General Exceptions

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

1. – 4. *(no change)*

5. Normal and routine maintenance of structures and normal and routine 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.

6. – 8. *(no change)*

90.60 Wetland Buffer Modification

1. Modification of Wetland Buffers when Wetland Is Also To be Modified – *(no change)*

2. Modification of Wetland Buffers when Wetland Is Not To Be Modified – *(no change)*

a. Types of Buffer Modifications – *(no change)*

1) *(no change)*

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) ~~provisions for monitoring and maintenance~~ 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 of the standards in KZC 90.45(1).

b. Review Process and Decisional Criteria – *(no change)*

90.100 Stream Buffer Modification

1. Types of Buffer Modification – *(no change)*

a. *(no change)*

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) ~~provisions for monitoring and maintenance~~ 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 of the standards in KZC 90.90(1).

2. Review Process and Decisional Criteria – *(no change)*

90.140 Reasonable Use

**Delete** entire existing text of 90.140 (retain section heading), and **replace** with the following:

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. To 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 Exception. If the application of this chapter would preclude all reasonable use of a site, and if the requested reasonable use exception includes relief from development standards for which a modification of a sensitive area or sensitive area buffer cannot be granted pursuant to the provisions of this chapter, an owner of real property may apply for a reasonable use exception to this chapter. The application shall be considered under Process IIB of Chapter 152 KZC, provided that for a single-family development proposal which does not exceed a total of 3,000 square feet of site impact, and does not encroach into the sensitive area, but only the associated buffer, the administrative alternative process in subsection 5 of this section may be used.

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 set-backs 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.
4. 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;
  - b. That there is no feasible on-site alternative to the proposed activities, including reduction in 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 development proposal results in no more than 10% of the site being disturbed by structure or other land alteration including but not limited to grading, utility installation, decks, paving, and landscaping; provided, however, that if the subject property is a lot of less than 30,000 square feet, a total area of up to 3,000 square feet may be disturbed. For properties containing 30,000 square feet or more, the maximum allowable site disturbance shall be between 3,000 square feet and 10% of the lot area, to be determined by the City on a case-by-case basis. 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 City may require the applicant to fund the input of a qualified professional for the City's determination of the appropriate limit for disturbance.
  - d. The proposal is compatible in design, scale and use with other 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 the best available 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 unreasonable threat to the public health, safety, or welfare on or off the property; and
  - g. The proposal meets the mitigation, maintenance, and monitoring requirements of this chapter; and

- h. The inability to derive reasonable use is not the result of actions by the applicant after the effective date of this chapter or its predecessor.
5. The City may approve reduction in required yards to reduce the impact on the sensitive area and sensitive area buffer. The City may impose any other reasonable conditions on the granting of the reasonable use exception consistent with the minimum requirements of this chapter.5. 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, utility installation, and grading, the Planning Director is authorized to approve a reasonable use exception subject to subsections 3.a. through 4.h. 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% 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.

The Planning Director shall include in the written decision any conditions and restrictions that he/she determines are necessary to eliminate or minimize any undesirable effects of approving the exception. The Planning Director may impose any other reasonable conditions on the approval of the exception consistent with the minimum requirements of this chapter.

6. Lapse of Approval. The reasonable use exception approval expires and is void if the applicant fails to file a complete building permit application within one 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.
- a. The applicant may apply for a one-time extension, of up to one year. The application must be submitted by letter to the Planning Department and, along with any other supplemental documentation, must demonstrate that the applicant is making substantial progress toward developing the subject property consistent with the approval and that circumstances beyond his/her control prevent compliance with the time limit under this section.
- b. The applicant shall include with the letter of request the fee as established by ordinance.
- c. An application for a time extension will be reviewed by the Planning Director for an administrative alternative Process I approval and by the Hearing Examiner for a Process IIB approval.
- d. Any person who is aggrieved by a time extension or denial of a time extension under this section may appeal that determination.
- e. The applicant must file a letter of appeal within 14 days of the approval or denial of the time extension indicating how the determination affects his/her property

and presenting any relevant arguments or information on the correctness of the determination. The applicant shall include the appeal fee as established by ordinance.

- f. All appeals of decisions under this section will be reviewed and decided upon using Process IIA, described in Chapter 150 KZC.

90.170 Planning/Public Works Official Decisions – Lapse of Approval

Planning or Public Works Official decisions authorized by this chapter shall be subject to the Lapse of Approval provisions of KZC 145.115.

**Chapter 105 – Parking and Access**

105.10 Vehicular Access Easement or Tract Standards

1. Roadway Widths – For vehicular access easements or tracts, minimum standards for widths are established as follows:
  - a. When no Fire Department access road is required, and the access easement or tract will service one to four detached dwelling units or one to two duplex structures, the minimum standard is 16 feet of unobstructed pavement in a 21-foot-wide easement or tract; for easements or tracts less than 100 feet in length, the Public Works Department may reduce the standard to 10 feet of unobstructed pavement in a 15-foot-wide easement or tract if the easement or tract and abutting driveways are located to allow for safe ingress and egress.

When an access road is required by the Fire Department, the following standards shall apply:

- 1) ~~The access road shall extend full width from the public right-of-way to the front property line of the furthest lot, or to the point at which the distance to the most distant point of the rear setback property line of the furthest lot is within 150 feet. Required pavement width shall be unobstructed;~~
  - 2) – 3) *(no change)*
- b. – d. *(no change)*
2. *(no change)*

105.47 Location of Parking Areas – Garages in Low Density Zones

Except for garages accessed from an alley, garages serving detached dwelling units in low density zones shall provide a 20' X 20' parking pad between the garage and the access easement, tract, or right-of-way providing access to the garage. These dimensions may be reduced if the Planning Official or Public Works Official determines that the reduction will not:

1. Impede vehicular or pedestrian use of the easement, tract, or right-of-way by the general public;
2. Impede emergency vehicle movement through the easement, tract, or right-of-way; and
3. Result in the placement of a structure in a location not authorized by KZC 115.115 – Required Yards.

**Chapter 110 – Required Public Improvements**

110.70 Modifications, Deferments and Waivers, and Construction-in-Lieu

1. – 4. (no change)
5. Waiver – The City may waive and not require or allow installations of a required improvement under the following circumstances:
  - a. (no change)
  - b. If the project is for a single-family dwelling alteration that is less than \$200,000 in value, based on building alteration costs in effect on January 1, 2006. This threshold shall be reviewed annually and adjusted by a percentage equal to the percentage of increase in building alteration costs, if any (see KZC 110.10(1)(d) for building alteration costs information); or
  - c. – e. (no change)
6. – 8. (no change)

## **Chapter 115 - Miscellaneous Standards**

Table of Contents: Chapter 115 – Miscellaneous Use Development and Performance Standards

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- 115.142 Transit Shelters and Centers, Public
- ~~115.145 Trees – Certain Species Prohibited~~
- 115.150 Vehicles – Size in Residential Zones Limited

115.07 Accessory Dwelling Units (this section is moved from 115.65.5; changes are made as indicated below) – One accessory dwelling unit (ADU) is permitted as subordinate to a single-family dwelling; provided, that the following criteria are met:

- a. 1. (numbering change only)
- b. 2. Owner Occupancy – One of the units must be owner-occupied. Owner occupancy is defined as a person with an ownership interest in the property the principal primary residence of the property owner(s).
- c. 3. (numbering change only)
- d. 4. Scale – The square footage of the accessory dwelling unit shall not exceed 40 percent of the primary residence and accessory dwelling unit combined. If the accessory unit is completely located on a single floor, the Planning Director may allow increased size in order to efficiently use all floor area.

Detached accessory dwelling units shall not exceed 800 square feet of gross floor area. The gross floor area shall not include attic area with less than five feet of ceiling height, as measured between the finished floor and the supporting members for the roof. When calculating the square footage of the ADU (see KZC 5.10.340, definition of “gross floor area”), covered exterior elements such as decks and porches will not be included; provided, the total size of all such covered exterior elements does not exceed 200 square feet. An accessory dwelling unit will be considered to be “detached” from the principal unit if it has any of the following characteristics:

- ~~1)–3) a) – c)~~ (numbering changes only)
- e. ~~4)–9.~~ 5. – 9. (numbering changes only)
- j. 10. Permitting
  - ~~1)–3) a. – c.~~ (numbering changes only)
  - 4) d. Appeals. An applicant may appeal the decision of the Planning Official in approving or denying a request to construct an accessory dwelling unit may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110. to the Hearing Examiner. A written notice of appeal shall be filed with the Planning Department within fourteen (14) calendar days of the date the Planning Official’s decision was mailed or otherwise delivered to the applicant. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least seventeen (17) calendar days prior to the hearing. The applicant shall have the burden of proving the Planning Official made an incorrect decision. Based on the Hearing Examiner’s findings and conclusions, he or she may affirm, reverse, or modify the decision being appealed.

115.08 Accessory Structure (detached dwelling unit uses only) (this section is moved from 115.65.3; changes are made as indicated below) –

Structures, to be used as a tool shed, greenhouse, private garage, accessory dwelling unit, barns or similar use are permitted. The total size of all such structures may not exceed the gross floor area of 1,200 square feet plus 10 percent of the lot area that exceeds 7,200 square feet. The gross floor area shall not include attic area with less than five feet of ceiling height, as measured between the finished floor and the supporting members for the roof. The height (roof peak elevation) of an accessory structure may not exceed 15 feet above the existing height (roof peak elevation) of the primary residence or 25 feet above average building elevation, whichever is less. Accessory dwelling units must also comply with subsection (5) of this section.

\* 115.20 Animals in Residential Zones

1. – 5. (no change)

Revise Chart pertaining to Large Domestic Animals, as follows:

Special Regulations:

1. – 5. (no change)

6. For residential lots in RS 35 and RSX 35 Zones within the Bridle Trails neighborhood north of Bridle Trails State Park or residential lots in PLA 16 which are not part of a recorded master plan, the required review process shall be “None”, and the maximum number of adult animals and minimum lot size and setback regulations shall not apply. Instead, the following regulations shall apply:

~~b.~~ a. Up to two additional horses may be kept on a residential lot, providing that an additional 3,000 square feet of paddock area is available for each additional horse.

~~a.~~ b. Each residential lot must contain an area of at least 10,000 permeable square feet for the purpose of accommodating two horses, capable of being used for or easily converted to a paddock area and barn, having a minimum width of 20 40 feet and configured in a contiguous and usable manner to accommodate the feed, storage, and manure pile. “Configured in a contiguous and usable manner” shall mean an area, uninterrupted by non-paddock area, having a shape as close to square or rectangle as possible. While the minimum width allowed is 40 feet, the majority of the area must have a width of at least 80 feet. The Planning Official is authorized to approve minor deviations from the required dimensions and/or shape of the paddock area due to pre-existing improvements and/or size, shape, or topography of the property.

c. ~~This~~ The area used or reserved for paddock area must be pervious and exclusive of any structures (except livestock barns) such as storage sheds, residential units, carports, decks, patios, swimming pools, sports courts, or paving, but may contain easily removed features such as children’s play equipment, landscaping, trellises, and flagpoles. The area shall not be located over a septic tank, drain field, or reserve drain field. Paddock areas shall not be located on steep slopes (over 15% grade) or in areas regulated under KZC 90 Drainage Basins.

~~e.~~ d. Direct access to ~~this~~ the paddock area must be available to deliver feed and pick up manure from an alley, an easement, or an adjacent right-of-way across a side yard of the lot. The access road shall have a minimum unobstructed width of 15 feet and a grade no greater than 7%. Any portion of an access road located within an adjacent equestrian trail easement may be surfaced with gravel and shall not be paved.

- d. ~~e.~~ ~~Horse~~ The paddock areas must be setback five feet from each property line which abuts a school use or a residential use zone other than RS 35, RSX 35, or PLA 16.
- e. ~~f.~~ ~~Required horse~~ The paddock areas must be setback 10' feet from habitable dwellings and 5 feet from significant improvements outside the paddock area, such as swimming pools, sports courts, decks, and patios. Livestock barns must be setback 40' from habitable dwellings.
- f. ~~g.~~ Livestock barns permitted within the designated paddock area may not exceed 1,200 square feet in footprint, excluding covered overhangs, and must be designed solely for housing of animals and storage of tack, feed, shavings, or ancillary equipment.
- g. ~~h.~~ Special Regulations 2, 3, and 4 also apply to this area these zones.
- h. ~~i.~~ Interpretations of the Zoning Code which directly or indirectly involve application of regulations about horse paddock areas shall be liberally construed in favor of an equestrian character for the neighborhood.

*(Codifies Interpretation 05-2)*

115.25 Development Activities and Heavy Equipment Operation – Limitations On

1. General – It is a violation of this code to engage in any development activity or to operate any heavy equipment before 7:00 a.m. or after 8:00 p.m., Monday through Friday, or before 9:00 a.m. or after 6:00 p.m. Saturday. No development activity or use of heavy equipment may occur on Sundays or on the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
2. a. Exception – The Planning Official may grant written permission to engage in a development activity or to operate heavy equipment outside of the hours established by subsection (1) of this section if either:
  - i. this ~~The activity or operation~~ will not interfere with any residential use that is permitted in the zone in which it is located impact any adjoining residential use; or
  - ii. The permission will facilitate the construction of publicly-funded improvements that will serve the general population of the City of Kirkland and such permission is necessary to avoid undue delay of project completion and/or long-term inconvenience or disruption to the general public.
- b. *(no change)*

115.30 Distance Between Structures/Adjacency to Institutional Use

1. Distance Between Structures
  - a) *(no change)*
  - b) General – For purposes of the regulation in this code regarding (1) maximum horizontal façade for any use in any zone to which the maximum horizontal

façade limitations apply, and (2) F.A.R. calculation for detached dwelling units in low density residential zones only, two structures will be treated and considered as one structure if any elements of the structures, other than as specified in subsection (1)(c) of this section, are closer than 20 feet to each other. In addition, two structures connected by a breezeway or walkway will be regulated as one structure if any element of the breezeway or walkway is higher than eight feet above finished grade; provided, that where a breezeway or walkway is covered by a pitched roof form, the eight foot dimension shall be measured from finished grade to the average height of the roof pitch.

c) Exceptions

1) *(no change)*

2) Chimneys, bays bay windows, greenhouse windows, eaves, cornices, awnings, and canopies and similar elements that customarily extend beyond the exterior walls of a structure may be no closer than 17 feet from another structure may extend 18 inches from each structure toward the other.

**Note: We may want to consider a process for minor modifications for this section (115.30).**

2 Adjacency to Institutional Uses (no change)

\* 115.42 Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones does not include the following:

a. Attic area with less than five feet of headroom ceiling height, as measured between the finished floor and the supporting members for the roof.

b. Floor area with a ceiling height, including the horizontal supporting members for the ceiling, less than six feet above finished grade. The ceiling height will be measured to the bottom of the structural members for the floor above. The finished grade will be measured along the outside perimeter of the building (see Plate 23).

c. – d. *(no change)*

2. *(no change)*

**NOTE: The above changes are intended to only clarify how headroom or ceiling height is measured. Additional changes to KZC 115.42 are being considered as part of File No. ZON05-00019.**

115.59 Height Regulations – Calculating Average Building Elevation (ABE)

1. General – ABE shall be calculated using the following formula:

$$\text{ABE} = \frac{(\text{Mid-point Elevation}) \times (\text{Length of Wall Segment}) + (\text{Mid-point Elevation}) \times (\text{Length of Segment})}{(\text{Length of Segment}) + (\text{Length of Segment})}$$

(See Plate 17) (no change; only moved from definition – KZC 5.10.045)

2. Attached but independent building units - When a building or structure contains townhouses or other attached, but otherwise independent building units, the ABE is calculated separately for each unit. (no change; only moved from definition – KZC 5.10.045)
3. Use of Historic Grades – To determine ABE on a site that has been previously developed, the applicant may submit a survey stamped and signed by a professional land surveyor showing the historic or pre-development grades, and may elect to use those grades as the basis for ABE calculation. If such survey is not submitted or is not available, the current grade of the property, as modified by the existing development, shall be used to calculate ABE.

(Paragraph 3 above codifies Interpretation No. 04-2)

115.60 Height Regulations – Exceptions

1. General (no change)
2. Exceptions
  - a. Detached, Attached, or Stacked Dwelling Units
    - 1) Vents and chimneys for a detached, attached, or stacked dwelling units may exceed the maximum height limit.
    - 2) Skylights may exceed the height limit by a maximum of six inches (no change).
    - 3) Rod, wire and dish antennas, to the extent they do not constitute personal wireless service facilities, which are subject to the provisions of Chapter 117 KZC, may not be placed above the maximum height allowed for any structure unless approved by the Planning Director....(no change).
    - 4) Attached and/or stack dwelling units shall also comply with KZC 115.60.2.b.
  - b. Other Structures
    - 1) Rooftop appurtenances and their screens, subject to KZC 115.120, including roof forms pursuant to KZC 115.120(3). (no change)
    - 2) The provisions in Chapter 117 KZC related to personal wireless service facilities supersede the provisions of this section to the extent an appurtenance falls within the definition of a personal wireless service facility. (no change)
  - c. – d. (no change)

115.65 Home Occupations, Accessory Dwelling Units, and Other Accessory Components of Residential Uses

1. ~~General~~ The regulations of this section apply to every residential use within the City.
2. Home Occupations

- a. 1. Purpose – The purpose of this section is to allow limited commercial occupations activity incidental to residential uses to be located in residences while guaranteeing ensuring all residents freedom from excessive noise, excessive traffic, nuisance, fire hazard, and other possible effects of commercial uses being conducted in residential neighborhoods.
- 2. Applicability – Home occupations are allowed in all residential zones of the City as an accessory use to the residential use of an existing dwelling unit, subject to the requirements of this Chapter. A business license shall be required for all home occupations.
- 3. Residency – The location of the Home Occupation must be the principal primary residence of the person(s) conducting the Home Occupation.
- b. 4. Home Occupation Regulations Standards for Home Occupations in single-family detached dwelling units and/or registered Accessory Dwelling Units – A home occupation may be conducted subject to the following regulations if it:
  - A home occupation is permitted if it:
    - 1) ~~Is carried on exclusively by family members who reside in the dwelling unit and not more than two additional people who are not residents of the dwelling;~~
    - a. Complies with all applicable codes including City building, construction, fire and land use regulations;
    - b. Involves not more than two on-site employees, independent contractors, or other participants in the business per day visiting the site;
    - 2) c. Is conducted indoors and has no outside storage, exterior indication, or outside activity, including equipment stored on vehicles;
    - 3) d. Requires no alteration to the interior or exterior of the dwelling that changes its residential character;
    - 4) e. Involves activities, including but not limited to heavy equipment, power tools, power sources, or other equipment, which do not result in noise, vibration, smoke, dust, odors, heat, or other conditions that exceed in duration or intensity, such conditions normally produced by a residential use;
    - 5) f. Has no pickup or delivery by commercial vehicles; however, occasional mail and courier deliveries are permitted;
    - 6) ~~Does not include the following businesses:~~
      - a) ~~Motor vehicle related businesses including but not limited to auto, truck, body work, detailing, painting, or taxicab, van shuttle, limousine, towing, or other transportation service or sales;~~
      - b) ~~Repair or sales of large appliances or heavy equipment;~~
      - c) ~~Welding;~~
      - d) ~~Kennels or commercial stables;~~
      - e) ~~Inventory storage of more than 1,200 cubic feet of materials;~~

f) — Restaurants; and

g) — Landscaping.

~~Office-only activities for the above uses may be allowed as home occupations; provided, all other requirements of this section are met;~~

g. Occupies no more than 500 square feet of gross floor area per single family lot within which there is no more than 1200 cubic feet of indoor inventory storage;

h. Does not include storage of hazardous materials;

7) i. Does not include more than four persons visits by clients/customers per day and no more than two persons visits by clients/customers at any time coming to and leaving from the subject property for goods or services. Client/Customer visits or deliveries to a home occupation shall be between the hours of 8:00 a.m. and 8:00 p.m. (not applicable to a bed and breakfast house);

8) j. Operates no more than one vehicle, van, truck or similar vehicle, not exceeding a gross vehicle weight of 10,000 pounds, and is neither more than nine feet in height nor 22 feet in length, including bumpers and any other elements that are required by federal or state law for the operation of the vehicle on public roads; and

9) k. Has no signs other than one building-mounted, non-illuminated sign with a maximum size of two square feet.

10) l. For a bed and breakfast house, the following additional regulations apply in addition to those listed above:

a. – f. *(no change to standards; numbering changes only)*

5. A Home Occupation may be conducted in an attached, detached, or stacked dwelling unit if it complies with the standards in 115.65.4 except that it may not have any: (a) employees besides the residents; (b) clients/customers that visit the site; or (c) signs.

e. 6. A home occupation which does not meet one or more of the requirements of subsection (2)(b) of this section 115.65.4 or 115.65.5 may be approved as follows: Applications for home occupations for teaching, tutoring, or other educational purposes shall be reviewed using Process I, described in Chapter 145 of this Code. All other home occupation applications shall be reviewed under Process, IIA, described in Chapter 150 KZC of this Code. An application for a home occupation under this Section may be approved if the home occupation:

4) a. Will not harm the character of the surrounding neighborhood;

2) b. Will not include outdoor storage and/or operation of building materials, machinery, commercial vehicles, or tools, except if it meets the following criteria:

a 1) Is appropriately screened from other properties;

b 2) Does not emit noise, odor, or heat; and

c 3) Does not create glare; and

- 3) c. Does not create a condition which injures or endangers the comfort, repose, health or safety of persons on abutting properties or streets; and
- 4) d. Will not generate excessive traffic or necessitate excessive parking; and
- 5) e. For bed and breakfast houses, there will be a maximum of four guest rooms.

7. Inspection – The issuance or renewal of a business license may be conditioned upon the City inspecting the premises for compliance with KZC 115.65.4.g. The City shall provide advance notice of said inspection to the applicant.

~~d. Licensing – A business license shall be required for all home occupations.~~

~~e. 8. Revocation of Home Occupation Permit Enforcement – Upon determination that there has been a violation of any decision criteria or condition of approval of a home occupation permit granted pursuant to subsection (2)(c) of this section, the Director of Planning and Community Development may revoke a home occupation permit provision of this Section, the City may pursue code enforcement in accordance with pursuant to the provisions of Chapter 170 KZC of this Code, Zoning Code Enforcement.~~

~~3. Accessory Structure (detached dwelling unit uses only) – (this section has been moved to new section 115.07)~~

~~4. Domestic Animals – Please see KZC 115.20, Animals in Residential Zones, for regulations for keeping animals in residential zones.~~

~~5. Accessory Dwelling Units – (this section has been moved to new section 115.08)~~

115.90 Calculating Lot Coverage

1. General (no change)

2. Exceptions

a. – b. (no change)

c. For detached dwelling units in low density zones, 10 feet of the width of a driveway, outside of the required front yard, serving a garage or carport, provided that:

1) The portion of the driveway excepted from lot coverage calculations shall not exceed 10 percent of the lot area;

2) The portion of the driveway excepted is not located in an access easement;

3) The property has the option of placing the driveway in the front yard;

4) The property is not served solely by an access easement;

5) The exemption shall apply to a property that has frontage on both a public right-of-way and an access easement, both of which can provide legal access, but which receives vehicular access from the easement; and

6) The exemption shall not apply to a property that has frontage on both a public right-of-way and an access easement, but is legally restricted from taking access from the right-of-way.

d. – i. (no change)

115.95 Noise Regulations

1. Maximum Environmental Noise Levels – (no change)
2. Noise – Public Nuisance – Any noise which injures; endangers the comfort, repose, health or safety of persons; or in any way renders persons insecure in life, or in the use of property, is a violation of this code. A public nuisance shall include, but is not limited to, the operation of leaf blowers or other equipment in a manner or during such hours that violates the maximum environmental noise levels adopted by the City; provided, that development activities for which an exception has been granted pursuant to KZC 115.25.2.a shall not be considered to be a public nuisance. (portion of the above codifies Interpretation 91-7)
3. Bonds – (no change)

115.115 Required Yards

1. – 2. (no change)
3. Structures and Improvements – No improvement or structure may be in a required yard except as follows:
  - a. – l. (no change)
  - m. In low density residential zones, the applicant may request a modification to locate no more than one storage shed in a required yard, except a required front yard. The Planning Official may approve a modification if:
    - 1) (no change)
    - 2) The maximum length of the side of the proposed structure parallel to the affected property line(s) shall not exceed 10 feet. The structure shall not exceed ~~120~~ 200 square feet in total area; and
    - 3) – 4) (no change)
  - \* n. In low density residential zones, covered entry porches on detached dwelling units may be located within 13 feet of the front property line if:
    - 1) The porch is covered and no higher than ~~one-story~~ 15 feet above average building elevation;
    - 2) Three sides of the porch are open;
    - 3) The porch roof form is architecturally compatible with the roof form of the main house dwelling unit to which it is attached;
    - 4) No deck, balcony, or living area is ~~permitted~~ will be placed on the roof of the porch within the required front yard; and

5) If on attached or stacked dwelling units, the width of the porch will not exceed 50% of the facade to which it is attached.

5 6) Allowed exceptions to the above criteria are:

- a) Solid walls or railings may extend up to 42 inches above the porch floor;
- b) Eaves on the porch roof may extend an additional 18 inches into the required front yard;
- c) Stairs may extend an additional five feet into the required front yard.

For the purpose of this section, a porte cochere shall not be considered an entry porch.

*This subsection (KZC 115.115(3)(n)) is not effective within the disapproval jurisdiction of the Houghton Community Council)*

o. In low density residential zones:

1) – 2) (no change)

3) ~~One-story-g~~Garages without alley access may be located within five feet of the rear property line, provided that:

- a) The portion of the structure that is located within the required rear yard is no taller than 15 feet above average building elevation; and
- b) The rear yard does not abut an access easement that is regulated as a rear property line.

p. HVAC equipment may be placed no closer than 5 feet of a side or rear property line, and shall not be located within a required front yard; provided, that HVAC equipment may be located in a storage shed approved pursuant to paragraph 3.m of this section or a garage approved pursuant to paragraph 3.o(2) of this section. All HVAC equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95. In the event of persistent noise problems, it shall be the owner's responsibility to retain a noise consultant and to take the necessary actions to mitigate the impacts immediately.

4. (no change)

5. Driveways and Parking Areas – Driveways and parking areas are not allowed in required yards except as follows:

a. Detached Dwelling Units and Duplexes

- 1) General – Vehicles may be parked in the required front, rear, and north property line yards if parked on a driveway and/or parking area. For the purpose of this section, vehicles are limited to those devices or contrivances which can carry or convey persons or objects and which are equipped as required by federal or state law for operation on public roads. A driveway and/or parking area shall not exceed 20 feet in width in any required front yard, and shall not be closer than five feet to any side property line, and shall be separated from other hard-surfaced areas

located in the required front yard by a landscape strip at least five feet in width (see Plate 14); provided:

- a) That where access to a legally established lot is provided by a panhandle or vehicle access easement measuring less than 20 feet in width, a driveway not exceeding 10 feet in width, generally centered in the panhandle or access easement, shall be permitted (see Plate 14A); and
- b) That any driveway which generally parallels a right-of-way or easement road shall be set back at least five feet from the right-of-way or easement, except for a 20-foot wide section where the driveway connects with the right-of-way or easement. Such driveway shall not have a width of more than 10 feet within the front or rear yard and shall be separated from other hard-surfaced areas located in the front or rear yard by a landscape strip at least five feet in width (see Plate 14B). Where more than one driveway is permitted within a front or rear yard, those driveways shall be separated by a landscape strip at least five feet in width.

2) Exception – (no change)

3) The Planning Official may approve a modification to the driveway and/or setback requirements in KZC 115.115(5)(a)(1) if:

- a) The existing topography of the subject property or the abutting property decreases or eliminates the need for the setback; or
- b) The location of pre-existing improvements or vegetation on the abutting site eliminates the need for or benefit of a setback; and or
- c) A solid screening fence is provided adjacent to the portion of the driveway and/or parking area for which the setback modification is requested; or
- d) A modification of the parking area buffering requirements established by KZC 105.80 have been modified pursuant to KZC 105.103.3.g, and said modification reduced the buffer adjacent to the portion of the driveway and/or parking area for which the setback modification is requested; and
- e) The modification will not have any substantial detrimental effect on abutting properties or the City as a whole.

b. – c. (no change)

d. Other Uses – Parking areas and driveways for uses other than those addressed in subsections (5)(a), (b), and (c) of this section may be located within required setback yards, but, except for the portion of any driveway which connects with an adjacent street, not closer than five feet to any property line. Where this provision conflicts with a regulation of a specific zone, the regulation of the specific zone shall govern.

e. – f. (no change)

1. – 4. (no change)
5. Optional Locations – As an option to placing appurtenances on the roof, appurtenances may be located as follows:
- a. At or below grade, subject to the following:
    - 1) – 2) (no change)
    - 3) The appurtenances may be located in a required side or rear yard, if:
      - a) (no change)
      - b) The appurtenances are reviewed as part of a Process I, II, III, or IV zoning permit for the use or structure they will serve;
      - c) If the use or structure the appurtenance will serve does not require review through Process I, II, III, or IV, the Planning Official may allow an appurtenance to be located in a required side or rear yard using the process described in Section 4.c. above. In such event, only the owners and residents of the property located immediately adjacent to the required yard in which the appurtenance is proposed to be located must receive notice; and
      - e) – e) d) – f) (numbering change only)
    - 4) (no change)
  - b. (no change)

115.142 Transit Shelters and Centers, Public

Public transit shelters and centers are allowed in all zones. ~~Shelter height shall not exceed 15 feet above average building elevation, and the use~~ The public transit shelters and centers must not unreasonably impede pedestrian movement or create traffic safety problems. Transit route and information signs and markers may be installed. One hundred percent lot coverage is allowed. There are no specific requirements for review process, minimum lot size, minimum required yards, landscaping, or parking for this use.

~~115.145~~ Trees – Certain Species Prohibited

~~The following types of trees may not be planted closer than the listed minimum planting distance to streets or sewers:~~

<u>Trees</u>	<u>Minimum Planting Distance</u>
1. <del>Ailanthus-Altisinia (Tree of Heaven)</del>	25'
2. <del>Catalpa</del>	25'
3. <del>Cottonwood</del>	40'
4. <del>Juglans Nigra (Black Walnut)</del>	25'
5. <del>Platanus (Plane, Sycamore)</del>	40'
6. <del>Populus (Poplars)</del>	40'
7. <del>Salix (Willows)</del>	25'
8. <del>Tilia Americana (Basswood)</del>	25'

9. ~~Ulmus (Elm)~~ 40'

~~Any person violating this provision is responsible for any damage caused by the tree or trees.~~

## Chapter 120 – Variances

### \* 120.12 Expansion or Modification of an Existing Structure

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

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

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

An approval granted pursuant to this subsection shall be valid for a period of four years following the date of approval, during which time a complete building permit application for the expansion or modification shall be submitted to the City. Within six years following the date of approval granted pursuant to this subsection, the applicant shall substantially complete construction of the expansion or modification and any permit conditions applicable thereto, or the approval becomes null and void.

## Chapter 130 - Rezones

### 130.70 Quasijudicial Project Rezones – Minor Modifications

Subsequent to the adoption of the resolution of intent to rezone, the applicant may apply for a minor modification to the site plan approved as part of that resolution. The Planning Official shall administratively review and decide upon an application for a minor modification. The City may approve a minor modification only if it finds that:

1. – 3. *(no change)*
4. The change will not result in any increase in height of any structure above any of the following:
  - a. 10% above the originally-approved height;
  - b. The Maximum Height of Structure of the underlying zone; or
  - c. The maximum allowable height, if any, specified in the resolution of intent to rezone; and
5. *(no change)*

## Chapter 135 – Zoning Code Amendments

### 135.30 Emergency Zoning Code Amendment Moratoria and Interim Land Use Regulations

1. General – ~~The City may initiate an emergency amendment to the Zoning Code. An emergency amendment is an amendment necessary for the immediate protection of~~

~~public health, safety, property or peace. Nothing shall prevent the City Council from establishing or extending development moratoria or interim land use regulations in accordance with the procedures set forth in RCW 35A.63.220 and RCW 36.70A.390, as those sections exist or may be hereafter amended or superseded.~~

2. Process Disapproval Jurisdiction -

- ~~a. The City Council shall hold a public hearing using the process described in KZC 160.40 for notice; KZC 160.45 for staff report; KZC 160.55, 160.65 and 160.70 for public hearing; and KZC 160.90 for publication and effect.~~
- ~~b. The Planning Official shall notify the Planning Commission in writing about the proposed emergency amendment at least 14 days before the public hearing. If the amendment is within the jurisdiction of the Houghton Community, the Houghton Community Council shall also be notified.~~
- ~~c. If the proposed amendment is within the jurisdiction of the Houghton Community Council, the Houghton Community Council shall hold a joint hearing with the City Council.~~
- ~~d. The City Council shall adopt an emergency plan amendment by an appropriate resolution or ordinance that includes a statement of the facts justifying the emergency.~~
- e. If the City Council approves a resolution or ordinance, it is not ~~shall become effective~~ establishes or extends a moratorium or interim land use regulations within the disapproval jurisdictional area of the Houghton Community Council, until that City Council action shall become effective only upon:
  - 1) a. Approval by a majority of the entire membership of the Houghton Community Council, votes to approve it; Such approval shall be by resolution; or
  - 2) b. Failure of the Houghton Community Council fails to disapprove it, by majority vote of the entire membership, within seven 60 calendar days after City Council approves the resolution or ordinance establishing or extending the moratorium or interim land use regulations. The vote to disapprove the action must be approved by resolution by a majority of the entire membership of the Community Council.

**Chapter 140 – Amendments to the Comprehensive Plan**

140.35 Emergency Plan Amendment

- 1. *(no change)*
- 2. Process
  - a. – d. *(no change)*
  - e. If the City Council approves a resolution or ordinance, it is not ~~shall become effective~~ within the jurisdictional area of the Houghton Community Council until only upon:

- 1) A Approval by a majority of the entire membership of the Houghton Community Council, votes to approve it; Such approval shall be by resolution; or
- 2) Failure of Tthe Houghton Community Council fails to disapprove the resolution ordinance it, by majority vote of the entire membership, within seven calendar days after the City Council approval the resolution or ordinance. The vote to disapprove the resolution or ordinance must be approved by resolution by a majority of the entire membership of the Community Council.

**Chapter 145 - Process I**

145.45 Planning Director's Decision

1. – 4. *(no change)*

5. Notice of Decision – Within four business days after the Planning Director's written decision is issued, the Planning Official shall mail a copy of the decision to the following persons:

a. – c. *(no change)*

In addition, within four calendar business days after the Planning Director's decision is issued, the Planning Official shall post a summary of the decision, along with a summary of any threshold determination under SEPA and the procedures for appealing the decision under this chapter, on the public notice sign erected under KZC 145.22(2)(b).

**Chapter 150 – Process IIA**

150.90 Participation in the Appeal

Only those persons entitled to appeal the decision under KZC 150.80(1) who file an appeal under KZC 150.80(2) may participate in the appeal; provided, that the applicant may submit a written response to an appeal filed by an appellant, regardless of whether the applicant filed an appeal. These persons may participate in either or both of the following ways:

1. – 2. *(no change)*

**Chapter 152 – Process IIB**

152.30 Notice of Hearing

1. Contents - *(no change)*

2. Distribution – The Planning Official shall distribute this notice at least 14 calendar days before the public hearing as follows:

- a. A copy of the notice, or a summary thereof, including a vicinity map, will be sent to the owners of all property within 300 feet of any boundary of the subject property.
- b. A copy of the notice, or a summary thereof, including a vicinity map, will be sent to the residents of each piece of property adjacent to or directly across the street from the subject property.

c. – e. (no change)

3. Combined Notice - (no change)

152.100 Action and Jurisdiction of the Houghton Community Council

1. (no change)

2. Disapproval Jurisdiction – If the City Council approves an application within the disapproval jurisdiction of the Houghton Community Council, that approval ~~is not~~ shall become effective until only upon:

a. A Approval by a majority of the entire membership of the Houghton Community Council, ~~vote by resolution to approve it;~~ Such approval shall be by resolution; or

b. Failure of ¶the Houghton Community Council fails to disapprove it 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.

**Chapter 155 – Process III**

155.100 Action and Jurisdiction of the Houghton Community Council

1. (no change)

2. Disapproval Jurisdiction – If the City Council approves an application within the disapproval jurisdiction of the Houghton Community Council, that approval ~~is not~~ shall become effective until only upon:

a. A Approval by a majority of the entire membership of the Houghton Community Council, ~~votes by resolution to approve it;~~ Such approval shall be by resolution; or

b. Failure of ¶the Houghton Community Council fails to disapprove the application it 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.

**Chapter 160 – Process IV**

160.40 Notice

1. Contents (no change)

2. Distribution

a. The Planning Official shall distribute this notice at least 14 calendar days before the public hearing as follows:

1) A copy of the notice will be published in the official newspaper of the City.

- 2) A copy of the notice will be posted on each of the official notification boards of the City.
- b. Public Notice Signs – If the proposal is to reclassify land on the Zoning Map, the applicant or in the case of City initiated proposals the City shall provide for and erect public notice signs at least 14 calendar days before the public hearing 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 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) For City initiated proposals that involve multiple properties, one public notice sign shall be placed on an adjacent public right-of-way for properties that include up to 10 lots. For multiple properties that include more than 10 lots, a minimum of two such signs shall be placed. The Department of Planning and Community Development shall approve the location of each sign.
  - 3 4) For all other proposals, One 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 5) The signs shall be removed within seven calendar days after the final public hearing.

160.50 Community Council Proceeding

1. General (no change)
2. Notice (no change)
3. Recommendation – The Houghton Community Council, ~~by resolution approved by a majority vote of its entire membership,~~ may make a recommendation on the proposal. The Planning Official shall present any the recommendation of the Houghton Community Council, if available, to the Planning Commission before the Planning Commission takes a final vote on the proposal.

160.95 Jurisdiction of the Houghton Community Council.

1. General – If the City Council approves a resolution or ordinance within the disapproval jurisdiction of the Houghton Community Council, that resolution or ordinance is not shall become effective with the Houghton community until only upon:
  - a. A Approval by a majority of the entire membership of the Houghton Community Council, votes by resolution to approve it; Such approval shall be by resolution; or

- b. Failure of ¶the Houghton Community Council fails to disapprove the resolution or ordinance it, by majority vote of the entire membership, within 60 days after City Council approval, the resolution or ordinance. The vote to disapprove the resolution or ordinance must be approved by resolution by a majority of the entire membership of the Community Council.

**Chapter 161 – Process IVA**

161.95 Jurisdiction of the Houghton Community Council

1. – 2. (no change)

3. General – If the City Council approves an ordinance within the disapproval jurisdiction of the Houghton Community Council, that ordinance ~~is not~~ shall become effective within the Houghton Community ~~until~~ only upon:

- a. A Approval by a majority of the entire membership of the Houghton Community Council, ~~votes by resolution to approve it;~~ Such approval shall be by resolution or
- b. Failure of ¶the Houghton Community Council fails to disapprove the ordinance it, by majority vote of the entire membership, within 60 days after City Council approval, the resolution or ordinance. The vote to disapprove the application ordinance must be approved by resolution by a majority of the entire membership of the Community Council.

**Chapter 170 – Enforcement**

3. Applicable Procedures – All appeals of interpretations of this code will be reviewed and decided upon using Process ~~HA I,~~ described in Chapter ~~450~~ 145 KZC.

**Parks Review Process**

Purpose of Amendment: Reduce Zoning Code redundancy. Parks are a permitted use in almost every zone, and each zone has its own requirements for Park use (mostly duplicative). The concept of this amendment is to remove the requirements from each individual zone Use Zone Chart and instead refer to Chapter 49 – P Zone (Parks). See Attachment 2G for a sample revision to a Use Zone Chart.

This amendment affects the following Zoning Code sections: 15.10.090, 17.10.090, 20.10.120, 25.10.150, 27.10.130, 30.15.070, 30.25.050, 30.35.060, 35.10.130, 35.20.170, 35.30.130, 40.10.180, 45.10.190, 47.10.190, 48.15.210, 49.15.010, 50.12.120, 50.17.160, 50.27.140, 50.32.130, 50.37.130, 50.42.130, 50.47.140, 50.52.130, 52.12.190, 52.17.180, 52.22.090, 52.27.160, 52.32.150, 52.42.140, 54.06.170, 54.12.150, 54.18.110, 54.24.110, 54.30.190, 54.36.110, 54.42.110, 55.09.110, 55.15.120, 55.21.140, 55.27.040, 57.15.290, 60.12.070, 60.17.060, 60.22.130, 60.27.080, 60.32.100, 60.37.120, 60.42.120, 60.47.100, 60.52.100, 60.57.100, 60.62.130, 60.67.080, 60.72.100, 60.77.070, 60.82.100, 60.87.160, 60.92.100, 60.97.100, 60.102.100, 60.107.100, 60.112.100, 60.117.110, 60.122.100, 60.127.150, 60.132.130, 60.137.100, 60.142.080, 60.147.080, 60.152.160, 60.162.170, 60.167.130, 60.168b.080, 60.172.100, 60.177.080, 60.182.090, 60.187.120, 60.192.100, and 60.197.100.

8. May also be regulated under the Shoreline Master Program, KMC Title 24.

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 20.10	USE ↓ REGULATIONS ↑	Required Review Process	Lot Size	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear						
.010	Detached Dwelling Units	None	5,000 sq. ft. in an RM 5.0 Otherwise, 3,600 sq. ft.	20'	If in the RM 5.0 zone, 5', but 2 side yards must equal at least 15'. Otherwise, 5' each side.	10'	60%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	E	A	2.0 per unit	1. For this use, only one dwelling unit may be on each lot regardless of the size of the lot. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.
.020	Detached, Attached or Stacked Dwelling Units  Stacked Dwelling Units are not permitted in RM 5.0.		3,600 sq. ft. with a density as established on the Zoning Map. See Spec. Reg. 1.		5', but 2 side yards must equal at least 15'. See Spec. Reg. 6.	10'. See Spec. Reg. 7.		See Spec. Reg. 9.	D See Spec. Reg. 5.		1.7 per unit.	1. Minimum amount of lot area per dwelling unit is as follows: a. In RM 5.0 zones the minimum lot area per unit is 5,000 sq. ft. b. In RM 3.6 zones the minimum lot area per unit is 3,600 sq. ft. c. In RM 2.4 zones the minimum lot area per unit is 2,400 sq. ft. d. In RM 1.8 zones, the minimum lot area per unit is 1,800 sq. ft. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 3. If the subject property contains four or more units, then it must contain at least 200 sq. ft. per unit of common recreational space usable for many activities. This required common recreational open space must have the following minimum dimensions: a. For four to 20 units, the open space must be in one or more pieces each having at least 800 sq. ft. and having a length and width of at least 25 feet. b. For 21 units or more, the open space must be in one or more pieces having a length and width of at least 40 feet. 4. The required common recreational open space may be reduced to 150 sq. ft. per unit if permanent outdoor furniture, pool, cooking facilities, playing equipment, and/or a recreation building are provided in the common open space. The City shall determine if these outdoor provisions provide comparable recreational opportunities as would the open space that is reduced, based on the number of residents that they would serve at one time. Also, the required minimum dimension for the open space containing these outdoor provisions may also be reduced in proportion to the reduced open space area.

REGULATIONS CONTINUED ON NEXT PAGE

FILE NO. 20105-00001  
ATTACHMENT 24

Section 20.10



USE ZONE CHART

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

Section 20.10	USE ↓ REGULATIONS →	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.020	Detached, Attached or Stacked Dwelling Units (continued)									REGULATIONS CONTINUED FROM PREVIOUS PAGE 5. If the subject property is located within the NRH neighborhood, west of Slater Avenue NE and south of NE 100th Street, and if it adjoins a low density zone or a low density use in PLA 17, then landscape category A applies.		
.030	Church	Process IIA, Chapter 150 KZC.	7,200 sq. ft.	20'	20'	20'	70%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	C See Spec. Reg. 3.	B 1 for every 4 people based on maximum occupancy load of worship. See Special Reg. 2.	1. Site must abut and be accessible from at least one roadway having at least two moving traffic lanes. 2. No parking is required for day-care or school ancillary to the use. 3. If the subject property is located within the NRH neighborhood, west of Slater Avenue NE and south of NE 100th Street, and if it adjoins a low density zone or a low density use in PLA 17, then landscape category A applies.	

6. If approved by the City as part of a subdivision, the side yard may be reduced to 0' if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of 5'.

7. If approved by the City as part of a subdivision, the rear yard may be reduced to 0' if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot.

8. Development located in the RM 3.6 zone in North Rose Hill, lying between Slater Ave NE and 124<sup>th</sup> Ave NE, and NE 108<sup>th</sup> Pl (extended) and approximately NE 113<sup>th</sup> Pl (extended) shall comply with the following:

a. Each development shall incorporate at least two acres;

b. The development shall, if determined appropriate by the City, dedicate and improve a public right-of-way extending from 124<sup>th</sup> Ave NE to Slater Ave NE. This right-of-way shall be located at NE 112<sup>th</sup> Pl and/or an alternative or additional location;

c. Significant vegetation that provides protection from I-405 shall be retained to the maximum extent feasible;

d. If adjacent to wetland areas or 124<sup>th</sup> Ave NE, the development shall be consistent with natural environment and transportation goals of the Comprehensive Plan.

9. If adjoining a low density zone other than RSX, structure height may be increased to 30' above average building elevation if the adjoining low density zone is occupied by a school that has been allowed to increase its height to at least 30'.

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

Section 50.27	REGULATIONS USE ATTACHMENT FILE NO. 26110500001 AB	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
		D.R., Chapter 142 KZC.	None	20' See Spec. Reg. 5.	0'	0'	80% See Spec. Reg. 5.	3 stories above average building elevation.	D See Spec. Reg. 4.	F	One per each 350 sq. ft. of gross floor area.	<ol style="list-style-type: none"> <li>The following uses are not permitted in this zone:                             <ol style="list-style-type: none"> <li>Vehicle service stations.</li> <li>Vehicle or boat sales, repair, service, or rental.</li> <li>Fast food restaurants.</li> <li>Drive-in facilities and drive-through facilities.</li> </ol> </li> <li>Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists.</li> <li>Ancillary assembly and manufacture of goods on the premises of this use are permitted only if:                             <ol style="list-style-type: none"> <li>The assembled or manufactured goods are directly related to and dependent upon this use, and are available for purchase and removal from the premises.</li> <li>The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.</li> </ol> </li> <li>Landscape Category B is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J.</li> <li>The required front yard for this use shall be zero feet for one story at street level. No parking may encroach into the required 20-foot front yard. If this use provides a zero-foot front yard, the lot coverage for the entire property shall be 100 percent.</li> </ol>
.050	Private Lodge or Club See Spec. Reg. 3.		20' See Spec. Reg. 4.			80%			D See Spec. Reg. 2.	B	See KZC 105.25.	<ol style="list-style-type: none"> <li>Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists.</li> <li>Landscape Category C is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J.</li> <li>This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.</li> <li>Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.</li> </ol>

This Special Regulation shall not apply along portions of State Street and Second Avenue South not designated as Pedestrian-Oriented Streets.

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

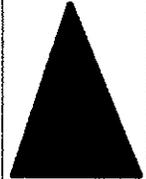
Section 50.27	USE REGULATIONS	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)	Front	Side	Rear					Lot Coverage
.060	Office Use See Spec. Reg. 5.	D.R., Chapter 142.KZC.	None	20'	0'	0'	80%	3 stories above average building elevation.	D See Spec. Reg. 4.	D	One per each 350 sq. ft. of gross floor area.	<ol style="list-style-type: none"> <li>Primary vehicular access to the subject property may not be directly from Second Avenue South between Second Street South and State Street unless no other alternative exists.</li> <li>The following regulations apply to veterinary offices only:                             <ol style="list-style-type: none"> <li>May only treat small animals on the subject property.</li> <li>Outside runs and other outside facilities for the animals are not permitted.</li> <li>Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the D.F. and building permit applications.</li> <li>A veterinary office is not permitted if the subject property contains dwelling units.</li> </ol> </li> <li>Ancillary assembly and manufacture of goods on the premises of this use are permitted only if:                             <ol style="list-style-type: none"> <li>The assembled or manufactured goods are directly related to and dependent upon this use, and are available for purchase and removal from the premises.</li> <li>The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.</li> </ol> </li> <li>Landscape Category C is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J.</li> <li>This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.</li> <li>Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.</li> </ol>
.070	Stacked or Attached Dwelling Units See Spec. Reg. 1.			20'					D	A	1.7 per unit.	<ol style="list-style-type: none"> <li>This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension.</li> <li>Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.</li> </ol>

This Special Regulation shall not apply along portions of State Street and Second Avenue South not designated as Pedestrian-Oriented Streets.

This Special Regulation shall not apply along portions of State Street and Second Avenue South not designated as Pedestrian-Oriented Streets.

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

Section 50.27	USE ↓ REGULATIONS ↑	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.110	Assisted Living Facility See Special Regulation 3.	D.R., Chapter 142 KZC.	None	20'	0	0	80%	3 stories above average building elevation.	D	A	1.7 per independent unit. 1 per assisted living unit.	<ol style="list-style-type: none"> <li>1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility.</li> <li>2. A nursing home use may be permitted as part of an assisted living facility use in order to provide a continuum of care for residents. If a nursing home use is included, the following parking standard shall apply to the nursing home portion of the facility:                             <ol style="list-style-type: none"> <li>a. One parking stall shall be provided for each bed.</li> </ol> </li> <li>3. This use may be located on the street level floor of a building only if there is a retail space extending a minimum of 30 feet of the building depth between this use and the abutting right-of-way. The Planning Director may approve a reduction to the depth requirement for the retail space if the applicant demonstrates that the proposed configuration of the retail use provides an adequate dimension for a viable retail tenant and provides equivalent or superior visual interest and potential foot traffic as would compliance with the required dimension. ↑</li> <li>4. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.</li> </ol>
<p style="text-align: center; border: 1px dashed black; border-radius: 50%; padding: 10px;">This Special Regulation shall not apply along portions of State Street and Second Avenue South not designated as Pedestrian-Oriented Streets.</p>												
.120	Public Utility			20' See Spec. Reg. 3.					C See Special Reg. 1.			<ol style="list-style-type: none"> <li>1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on nearby uses.</li> <li>2. Landscape Category C is required if the subject property is adjacent to Planned Areas 6C, 6D, or 6J.</li> <li>3. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure.</li> </ol>
.130	Government Facility or Community Facility								D See Special Regs. 1 and 2.			
.140	Public Park			Will be determined on a case-by-case basis.					--	B	See KZC 105.25.	



**RH 5A  
RH 5B**

**USE ZONE CHART**

REGULATIONS	USE	Section 60.22	Required Review Process	MINIMUMS REQUIRED YARDS (See Ch. 115)			Lot Coverage	MAXIMUMS	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Req'd Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				Front	Side	Rear						
.030	A retail establishment providing entertainment, recreational or cultural activities		Design Review Chapter 142, KZC	10' Otherwise 20' adjoining a residential zone	0'	15'	80%	If adjoining an RS or RSX zone then 30' above average building elevation  Otherwise, 35' above average building elevation.	A	E	See KZC Section 105.25	
.040	Restaurant, Tavern or Fast Food Restaurant See Spec. Reg 1										1 per each gross floor area. 100 sq. ft. zone. Fast food restaurants must provide one outdoor waste receptacle for every 8 parking stalls.	1. Taverns and fast food restaurants are not permitted uses in a RH 5B zone. 2. Fast food restaurants must provide one outdoor waste receptacle for every 8 parking stalls.

ATTACHMENT 2C  
FILE NO. ZON/05-00001

RH 8



USE ZONE CHART

Section 60.22	USE	REGULATIONS	Required Review Process	MINIMUMS			Lot Coverage	MAXIMUMS	Landscape Category (See Ch. 95)	Category (See Ch. 104)	Req'd Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
				REQUIRED YARDS (See Ch. 115)									Height of Structure
				Front	Side	Rear							
.010	Office Uses	Design Review, Chapter 142, KZC	None	10' Otherwise 20' adjoining a residential zone	0'	15'	70%	30' above average building elevation  See General Regulations 1 and 2	A	D	If Medical, Dental, or Veterinary office, then one per each 200 sq. ft. of gross floor area. Otherwise, one per each 300 sq. ft. of gross floor area.	1. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.	
.020	Restaurant or Fast Food Restaurant									E	1 per each 100 sq. ft. of gross floor area.	1. May not be located above the ground floor of a structure. 2. Gross floor area for each individual use may not exceed 4,000 sq. ft. 3. <u>Fast food restaurants must provide one outdoor waste receptacle for every 8 parking stalls.</u>	
.030	A retail establishment providing entertainment, recreational or cultural										See KZC Section 105.25	1. Gross floor area for each individual use may not exceed 4,000 sq. ft.	

ATTACHMENT 2D

FILE NO. 201105-00001

**RH 8**

**USE ZONE CHART**

USE Section 60.22	REGULATIONS	Required Review Process	Lot Size	MINIMUMS			Lot Coverage	MAXIMUMS	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Req'd Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				Front	Side	Rear						
.040	Any retail Establishment other than those specifically listed, limited, or prohibited in the zone, selling goods, or providing services including banking or related financial service	Design Review Chapter 142, KZC	None	10' Otherwise 20'	0'	15'	70%	30' above average building elevation See General Regulations 1 and 2	A	D	1 per each 300 sq. ft. of gross floor area.	1. The following uses are not permitted in this zone: a. vehicle service stations b. automotive service centers. <del>Exception for existing uses. This use may only be permitted if the use existed on _____ date (adoption date of Ordinance # _____) and must be discontinued when:</del> 1. <del>There is an increase in gross floor area of more than 25 percent to any structure on the subject property or</del> 2. <del>There is an alteration or change in a consecutive 12-month period to an improvement or structure on the subject property and the cost of the alteration, change or other work exceeds 50 percent of the replacement cost of that improvement or structure. or</del> 3. <del>The use has ceased for a consecutive 12-month period.</del> c. uses with drive in facilities or drive through facilities d. retail establishments providing storage services unless accessory to another permitted use. e. retail establishments involving the sale, service or repair of automobiles, trucks, boats, motorcycles, recreation vehicles, heavy equipment and similar vehicles. f. storage and operation of heavy equipment, except delivery vehicles associated with retail uses. g. storage of parts unless conducted entirely within an enclosed structure. 2. This use may not be located above the ground floor of a structure. 3. Gross floor area for each individual use may not exceed 4,000 sq. ft.

4. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if:  
 a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use, and  
 b. it can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded.

USE ZONE CHART

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

Section 54.24	USE ↓ REGULATIONS ↑	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.010	Detached, Attached or Stacked Dwelling Units (Stand Alone or Mixed with Other Uses) See Spec. Reg. 1.	One detached dwelling unit none, otherwise D.R., Chapter 142 KZC.	None	20'	5' but 2 side yards must equal at least 15'	10'	70%	30' above average building elevation.	One detached dwelling unit E, otherwise <del>D</del> See <u>B</u> , Spec. Reg. 2.	A See Spec. Reg. 2.	1.7 per unit. See Spec. Reg. 2.	1. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 2. In a mixed use development: a. Landscape Category B will apply, and b. Sign Category D will apply, and c. Parking requirement determined by KZC 105.25.
.020	Office Uses See Spec. Regs. 1 and 2.	D.R., Chapter 142 KZC.							B	D	If a medical, dental, or veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per 300 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: a. The ancillary assembled or manufactured goods are subordinate to and are dependent upon this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing must be no different from other office uses. 2. The following regulations apply to veterinary offices only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the development permit application. d. A veterinary office is not permitted if the subject property contains dwelling units.
.030	Funeral Home or Mortuary								C	B	1 per each 300 sq. ft. of gross floor area.	
.040	Church										1 for every four people based on maximum occupancy load of any area of worship. See Spec. Reg. 1.	1. No parking is required for day-care or school ancillary to the use.

Section 15.10

Zone  
RS

USE ZONE CHART

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

USE ↓	MINIMUMS				MAXIMUMS		Special Regulations (See also General Regulations)
	Required Review Process	Lot Size	REQUIRED YARDS (See Ch. 115)			Height of Structure	
			Front	Side	Rear		
.090 Public Park	See Special Regulations here and elsewhere	None	Will be determined on case-by-case basis.			Lot Coverage	Except as provided for in Special Regulation 2 below, any development or use of a park must occur consistent with a Master Plan. A Master Plan shall be reviewed through a community review process, established by the Parks and Community Services Director, which shall include at a minimum: a. One formal public hearing, conducted by the Parks Board, preceded by appropriate public notice. The required public hearing on a Master Plan proposed within Houghton Community Municipal Corporation shall be conducted by the Houghton Community Municipal Corporation, which may be a joint hearing with the Parks Board; submittal of a written report on the proposed Master Plan from the Parks Board to the City Council, containing at least the following: 1. description of the proposal; 2. an analysis of the consistency of the proposal with adopted Comprehensive Plan policies, including the pertinent Park and Recreation Comprehensive Plan policies; 3. an analysis of the consistency of the proposal with applicable developmental regulations, if any; 4. a copy of the environmental record, if the proposal is subject to the State Environmental Policy Act; 5. a summary and evaluation of issues raised and comments received on the proposed Master Plan; and 6. A recommendation by the City Council. b) A recommended action by the City Council. c. City Council review and approval. The City Council shall approve the Master Plan by resolution only if it finds: 1) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and 2) It is consistent with the public health, safety, and welfare; 3) If the Master Plan is proposed within the Houghton Community Municipal Corporation, it shall become effective according to the procedure in KMC 2.12.040.
						Required Parking Spaces (See Ch. 105)	
						Sign Category (See Ch. 95)	
						Landscape Category (See Ch. 95)	

See KZC 49.15.010

REGULATIONS CONTINUED ON NEXT PAGE

ATTACHMENT 26  
FILE NO. 20105-00001



USE ZONE CHART

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

USE	REGULATIONS	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
-090	Public Park (continued)										<p style="text-align: center;"><del>REGULATIONS CONTINUED FROM PREVIOUS PAGE</del></p> <p>In addition to the features identified in KZC 5.10.505, the Master Plan shall identify the following:</p> <ol style="list-style-type: none"> <li>a. Location, dimensions, and uses of all active and passive recreation areas;</li> <li>b. Potential users and hours of use;</li> <li>c. Lighting, including location, hours of illumination, lighting intensity, and height of light standards;</li> <li>d. Landscaping;</li> <li>e. Other features as appropriate due to the character of the neighborhood or characteristics of the subject property.</li> </ol> <p>2. Development and use of a park does not require a Master Plan under this Code if it will not involve any of the following:</p> <ol style="list-style-type: none"> <li>a. Lighting for outdoor nighttime activities;</li> <li>b. The construction of any building of more than 4,000 square feet;</li> <li>c. The construction of more than 20 parking stalls;</li> <li>d. The development of any structured sports or activity areas, other than minor recreational equipment including swing sets, climber toys, slides, single basketball hoops, and similar equipment.</li> </ol>	

**CITY OF KIRKLAND**

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**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT  
MEMORANDUM**

**To:** Interpretation No. 05-3 REVISED  
**From:** Eric Shields, AICP  
Planning Director  
**Date:** October 28, 2005  
**Subject:** VEHICLE SALES IN THE NORTH ROSE HILL 1A AND 1B BUSINESS  
DISTRICT ZONES

**ISSUE**

Is the sale of all vehicles under all circumstances prohibited in the NRH 1A and 1B and the CBD 1-8 zones?

**INTERPRETATION**

Sale of automobiles and large boats is prohibited in the NRH 1A and 1B and the CBD 1-8 zones.

Retail sale of small vehicles, such as bicycles, motorcycles, kayaks and row boats, is not prohibited in the NRH 1A and 1B and the CBD 1-8 zones; provided, that all vehicles are kept indoors. Incidental outdoor display is allowed subject to the standards of KZC 115.105(2)(d)(2)(b)<sup>1</sup>.

**APPLICABLE CODE SECTIONS**

Special Regulations in KZC 54.06.060 and 54.12.030 pertaining to the NRH 1A and 1B zones state:

*The following uses and activities are prohibited:*

- a. *Vehicle or boat sales or rental facilities...*

Special Regulations in KZC 50.12.020, 50.17.010, 50.27.040, 50.32.040, 50.37.050 and 50.52.050 pertaining to the CBD 1-5 and CBD 6 zones state:

*The following uses and activities are prohibited: ...*

- b. *Vehicle and/or boat sale, repair, service or rental....*

ATTACHMENT 3A

FILE NO. ZON05-00001

1. Code reviser's note: Ordinance 4010 updates the provisions of KZC 115.105(2); applicable provisions are now located in KZC 95.40(6)(k)(2).

Special Regulations in KZC 50.42.030 and 50.47.060 pertaining to the CBD 6 and 7 zones state:

*Vehicle and/or boat sale, repair, service or rental are not permitted in this zone.*

## ANALYSIS

### The Issue

Is the intent of the above regulations to prohibit sale of all vehicles under any circumstances? Are nonmotorized vehicles, such as bicycles and skateboards intended to be included in the prohibition? How about sale of smaller motorized vehicles, such as motor scooters? Are vehicle sales allowed if all inventories are kept indoors?

### Criteria for Code Interpretations

KZC 170.60 states that the Planning Director may issue an interpretation of any of the provisions of the Zoning Code and that the interpretation must be based on:

a. **The defined or common meaning of the words of the provision; and**

The Zoning Code does not have a definition of vehicle. Webster's New World Dictionary defines vehicle as "any device or contrivance for carrying or conveying persons or objects..." Using this definition would include motorized as well as nonmotorized vehicles, such as bicycles and skateboards, and would not distinguish between indoor and outdoor sales.

b. **The general purpose of the provision as expressed in the provision; and**

The applicable code sections do not state the purpose for prohibiting vehicle sales.

c. **The logical or likely meaning of the provision viewed in relation to the Comprehensive Plan.**

The NRH zones and regulations were adopted in 2003 along with a new North Rose Hill Neighborhood Plan, which was adopted as a chapter in the Comprehensive Plan. Policy NRH 19.1 in the NRH Neighborhood Plan provides direction for both the NRH 1A and 1B zones. Portions of that policy which are particularly relevant to the issue at hand are as follows:

For NRH 1A: *"The types of commercial uses allowed in this area should be compatible with the community and the region. Car and boat dealerships and big box retail uses are prohibited."* (emphasis added)

For NRH 1B: *"The types of commercial uses allowed in this area should be limited to both office uses and those retail uses that serve the people living and working in*

*Kirkland. Traditional neighborhood business uses are retail sales of goods and services with limited gross floor area. Car and boat dealerships, hotels/ motels, entertainment and big box retail uses are prohibited.” (emphasis added)*

The Downtown Plan within the Moss Bay Neighborhood Plan does not specifically address vehicle sales. Land uses are discussed generally on page XV.D-4:

*The Downtown area is appropriate for a wide variety of permitted uses. The area’s economic vitality and identity as a commercial center will depend upon its ability to establish and retain a critical mass of retail uses and services...*

The plan goes on to discuss five land use districts. The districts are distinguished by a number of factors including the “*appropriateness of pedestrian and/or automobile oriented uses.*”

### **North Rose Hill Background**

To help determine the intent of the regulations, I sought the opinion of several people who were on the Citizen’s Advisory Committee that was involved with the North Rose Hill Neighborhood Plan amendment process. Everyone I spoke with indicated that they hadn’t previously considered the distinction between indoor and outdoor or motorized and nonmotorized vehicle sales. The main consideration during the plan amendment process, they said, was to preclude automobile sales lots. The major goal was to protect nearby residential areas from the impacts of undesirable commercial encroachment. One person said that the regulation should be interpreted literally to prohibit all vehicle sales. Another thought that prior to making a decision on any questionable business, the advice of the North Rose Hill Neighborhood Association should be sought.

On June 21, 2005, I asked the City Council to provide direction on the intended meaning of the North Rose Hill regulation. After considerable discussion, the Council reached the following conclusions:

- \* The overall purpose of the regulations is to prevent outdoor vehicle sales.
- \* Because the North Rose Hill Neighborhood Plan specifically references the prohibition of automobile and boat sales, sales of those vehicles should be generally prohibited.
- \* The sale of other vehicles if conducted indoors is allowed. Incidental outdoor display associated with allowed vehicle sales is acceptable but should be strictly limited.

### **Application to Central Business District Zones**

The above conclusions are also applicable in the CBD zones. The primary concern in most of the CBD land use districts is to maintain a pedestrian-oriented urban pattern and design. Outdoor vehicle sales are inherently inconsistent with this intent. Indoor sales of smaller vehicles, however, can be compatible with a pedestrian environment. Application of the City’s adopted design guidelines will assure that a strong pedestrian orientation is maintained.

### **Incidental Outdoor Display**

KZC 115.105 regulates outdoor use activity and storage. KZC 115.105(2)(d)(2)(e)<sup>1</sup> substantially reduces the screening requirements for outdoor vehicle display areas. Since this interpretation limits outdoor vehicle sales in the NRH 1A, NRH 1B and CBD zones, subsection (2)(e) would not be applicable. More relevant is KZC 115.105(2)(d)(2)(b)<sup>1</sup> which addresses other retail uses. Subsection (2)(b) allows outdoor use, activity and storage areas to be unscreened if they:

*“...are located adjacent to a fence or structure which is a minimum of six feet above finished grade and do not extend outward from the fence or structure more than five feet; provided that the total horizontal dimensions of these areas shall not exceed 50 percent of the length of the facade of the structure or fence...”*

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1. Code reviser's note: Ordinance 4010 updates the provisions of KZC 115.105(2); applicable provisions are now located in KZC 95.40(6)(k)(2).



## CITY OF KIRKLAND

Planning and Community Development Department

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### MEMORANDUM

**To:** Interpretation No. 05-2

**From:** Eric R. Shields, AICP, Planning Director

**Date:** July 18, 2005

**Subject:** LARGE DOMESTIC ANIMAL REGULATIONS CONCERNING SECTION 115.20, SPECIAL REGULATIONS 6.a AND 6.h. ON SIZE AND LOCATION OF HORSE PADDOCK AREAS FOR, RS, RSX 35 AND PLA 16 ZONES WITHIN THE BRIDLE TRAILS NEIGHBORHOOD

#### ISSUE

Is a continuous 20-foot wide horse paddock sufficient to accommodate the keeping of horses and is it consistent with the equestrian character of the Bridle Trails neighborhood?

How close may a paddock area be located to other accessory improvements, such as patios, swimming pools and sport courts?

What kind of improvements may be located within an area "capable of being used for a paddock area"?

What are the standards for a road providing direct access to a paddock?

#### INTERPRETATION

Horse paddock areas must be generally square or rectangular in dimension to provide adequate space for horses for barns and storage of manure, and to be in character with the dimensions of existing paddocks in the Bridle Trails equestrian neighborhood. To be useable for keeping a horse, having a barn and storing manure, only a small portion of the paddock area may have a minimum width of 20 feet. The remaining portion must be considerably wider than 20 feet (see Special Regulations 6a and 6h).

Horse paddock areas must to be located at least 5 feet from significant improvements located outside the paddocks, such as swimming pools, sports courts, decks and patios (see Special Regulations 6e. and 6h).

Improvements allowed within an area "capable of being used for a paddock" are those that can be easily removed for the keeping of horses, for example: children's play equipment, landscaping, trellises and flagpoles. (see Special Regulation 6a). Septic drain fields and reserve drain fields are not allowed within paddock areas. In addition, paddock areas cannot be on steep slopes or in areas saturated with water.

To accommodate commercial delivery feed and manure pick-up service, access roads serving the paddock areas must have a minimum unobstructed width of 15 feet and have a grade no greater than 7%. If an access road is proposed to be within an adjacent equestrian easement trail, the road must to be gravel and not paved to accommodate horses using the trail.

ATTACHMENT 3B  
FILE NO. 20105-0001

### **APPLICABLE CODE SECTIONS**

#### 115.20 Large Domestic Animals:

Special Regulation 6.a.: Each residential lot must contain an area of at least 10,000 permeable square feet for the purpose of accommodating two horses, capable of being used for a paddock area and barn, having a minimum width of 20 feet and configure in a contiguous and usable manner to accommodate the feed storage and manure pile. This area must be pervious and exclusive of any structures (except livestock barns) such as storage sheds, residential units, carports, decks, patios, swimming pools, sports courts or paving.

Special Regulation 3: The applicant must provide a suitable structure or pen to house the animals and must maintain that structure or pen in a clean condition.

Special Regulation 6.c.: Direct access to this area (the paddock) must be available to deliver feed and pick up manure from an alley, an easement or an adjacent right-of-way across the side yard of the lot.

Special Regulation 6.e.: Required horse paddock areas must be setback 10 feet from habitable dwellings.

Special Regulation 6.h.: Interpretations of the Zoning Code which directly or indirectly involve application of regulations about horse paddock areas shall be liberally construed in favor of an equestrian character for the neighborhood.

### **ANALYSIS**

Horse paddocks areas in the equestrian Bridle Trails neighborhood are generally square or rectangular in shape with a minimum width of 40 feet. These dimensions provide adequate areas for horses, construction of barns, storage of feed and manure piles. As required for habitable structures in Special Regulation 6e, horse paddock areas in the equestrian neighborhood are generally at least 5 feet from accessory improvements, such as swimming pools, sport courts, decks and patios. These are some of the physical and visual features that would describe "the equestrian character of the neighborhood." The equestrian neighborhoods include Silver Spurs Ranch, Bridlewood Circle and Planned Area 16 along NE 60<sup>th</sup> Street east of I-405.

Having the required 10,000 square foot horse paddock areas in narrow, 20-foot wide continuous strips wrapped around the homes is not in character with the existing square and rectangular shaped horse paddock areas on equestrian lots in the neighborhood. These continuous narrow strips also would not provide an adequate dimension for horses, locating a barn or storing feed and manure piles.

Also, it is not practical to place horse paddock areas immediately next to accessory improvements, such as swimming pools, sport courts, decks and patios. Like habitable structures, these improvements should also be setback from the paddock areas to ensure that the paddocks are practically usable for keeping horses.

The intent of the language in Special Regulation 6.a concerning "capable of being used for paddock area and barn" is to enable a property owner to use the 10,000 square foot paddock area on their property for some other purpose than the keeping of horses if they choose not to have horses. Only minor

Interpretation No. 05-2

July 18, 2005

Page 3 of 3

The intent of the language in Special Regulation 6.a concerning "capable of being used for paddock area and barn" is to enable a property owner to use the 10,000 square foot paddock area on their property for some other purpose than the keeping of horses if they choose not to have horses. Only minor improvements that can be easily removed to make the area usable as a paddock should be allowed. Examples of such improvements are landscaping, children's play equipment, trellises and flagpoles. In addition, many of the lots subject to Special Regulation 6 are on septic systems that require drain fields. According to the Seattle King County Department of Health, keeping of horses and other large animals is not compatible with drain fields due to the compaction of the soil caused by the animals. In addition, paddock areas should not be on steep slopes or in areas saturated with water because these conditions are not suitable for the keeping of horses.

Wide commercial service trucks are typically used to deliver feed and pick-up manure. These trucks need a 15 foot wide driving surface and a grade of 7% or less to maneuver to and from the paddocks. Both Bridlewood Circle and Silver Spurs Ranch contain existing equestrian trails between many of the lots to provide convenient and safe equestrian access. If an adjacent equestrian trail is used for access to a paddock area, the trail should be improved with gravel and not pavement to provide for safe horse use.

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**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT  
MEMORANDUM**

**To:** Interpretation No. 04-2  
**From:** Eric Shields, AICP, Planning Director  
**Date:** August 9, 2004  
**Subject:** CALCULATION OF AVERAGE BUILDING ELEVATION –  
USE OF HISTORIC GRADES

**ISSUE**

How is “average building elevation” to be determined on a previously developed site that is proposed for redevelopment? Is the average building elevation to be calculated from the grade of the property prior to the original development or from the developed topography immediately prior to redevelopment?

**INTERPRETATION**

A survey stamped and signed by a professional land surveyor showing the historic or pre-development grades on the property may be used to calculate average building elevation on a site that has been previously developed. If a survey is not available, then the existing developed grade of the property shall be used.

**APPLICABLE CODE SECTIONS**

- 5.10.045 Average Building Elevation – The average elevation of the topography, prior to any development activity, at the center of all exterior walls of a building or structure...
- 5.10.357 Height of Structure – The vertical distance measured from the average building elevation to the highest point of any element or feature of a structure, excluding the exceptions identified in KZC 115.60.
- 5.10.210 Development Activity – Any work, condition or activity which requires a permit or approval under this code or the Uniform Building Code.

**ANALYSIS**

KZC 170.60(1) states that the Planning Director is required to base Zoning Code interpretations on: a) the defined or common meaning of words; b) the general purpose of the provision being interpreted; and c) the logical or likely meaning of the provision viewed in relation to the Comprehensive Plan. Following is a discussion of each criterion:

ATTACHMENT 3C

FILE NO. ZON05-00001

a) Defined or common meaning of the words: Average building elevation (ABE) is defined in KZC 5.10.045 as the average elevation of the topography, prior to any development activity. Webster's New Twentieth Century Dictionary (1983, at page 83) defines "any" as: to an indefinite extent; at all; in any degree. "Development activity" is defined in KZC 5.10.210 as "[a]ny work, condition which requires a permit or approval under this code or the Uniform Building Code." Therefore it follows that the phrase prior to any development activity means that the building elevation is to be calculated as though no development activity had ever taken place.

b) The general purpose of the provision: The Use Zone Charts for each zone in the City identify a maximum "height of structure" for each permitted use. KZC 5.10.357 states that "height of structure" is measured above average building elevation. Therefore, the apparent purpose of ABE is to establish a common and certain benchmark for calculating the height of a structure in relationship to the maximum permitted height. By defining ABE as the topographic elevation prior to "any" development activity, it appears that the intent was to use historic grades so that development follows the contour of the natural topography and is not penalized by or does not benefit from past alteration of the topography. See Interpretation File 89-11.

c) The logical or likely meaning of the provision viewed in relation to the Comprehensive Plan: I have not identified any provisions of the Comprehensive Plan that have a direct bearing on this interpretation.

A problem with using the pre-development topography on a previously developed site is in establishing what that topography actually was, since the previous development likely altered the topography to some degree and perhaps significantly. Unless there is specific documentation, such as an historical survey, determining the pre-development topography is a matter of speculation and subject to dispute. If the purpose of calculating ABE is to provide a certain elevation from which to measure height, it is important that the ABE be based on credible documentation. The most reliable documentation would be survey conducted prior to the original development.

In most cases, however, such a survey is not available and as noted above, speculative reconstruction of the topography is inaccurate. Therefore, when a survey is not available, it is reasonable to establish ABE using the existing topography immediately prior to the current proposed development activity.

To my knowledge, the City of Kirkland has consistently applied average building elevation calculations consistent with this interpretation.

NOTE: Plate 17 in Chapter 180 KZC shows an example of how average building elevation is calculated. The first line of the plate, following the title, states "A, B, C, D... Existing Ground Elevation at the Midpoint..." This reference to "existing" elevation appears to contradict the language in the definition of "average building elevation" as discussed above. Near the bottom of the plate are the words "existing topography before development activity" which are more consistent

**CITY OF KIRKLAND**

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**DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT  
MEMORANDUM**

**To:** Interpretation File 91-7  
**From:** Joseph W. Tovar, Planning Director  
**Date:** November 18, 1991  
**Subject:** NOISE REGULATIONS GOVERNING PARKING LOT SWEEPING

KZC 115.95 adopts by reference the standards adopted by the Washington State Noise Control Act of 1974, Chapter 70.107 RCW. WAC 173-60-050(4)(f) establishes that certain exemptions can be made from maximum permissible noise levels if the noise is caused by work that is "necessary for the health, safety or welfare of the community". It is the purpose of this interpretation to address specifically the question of parking lot sweeping as it relates to the noise standards and this exemption standard.

Over the past years, we have received a number of complaints from residents about the noise of parking lot sweeping in the evening and early morning hours. The object of these complaints has been the noise of leaf blower type equipment that has been used to clean commercial parking lots. Some combination of the high-pitched whine of the blower motor and the wind generated by the blower will commonly exceed the 47 dBA that WAC 173-60-040(2)(a) says can be transmitted between the hours of 10:00 p.m. and 7:00 a.m. from a commercial source to a residential receiving source.

While it is understandable that commercial property owners would prefer to clean their parking lots when few vehicles are present, it does not seem reasonable to subject residential neighbors to excessive noise levels after 10:00 p.m. and before 7:00 a.m. More to the point, because there are practical alternatives for cleaning the parking lots (other than using leaf blowers late at night and early in the morning), it cannot be concluded that this activity is necessary for the health, safety or welfare of the community.

Therefore, it is my interpretation that the exemption listed at WAC 173-60-050(4)(f) does not apply to leaf blowers or similar windblowing equipment used for cleaning parking lots. It shall be a violation of the Kirkland Zoning Code to employ such devices in the City of Kirkland between the hours of 10:00 p.m. and 7:00 a.m.

ATTACHMENT 3D

FILE NO. ZON05-00001



## CITY OF KIRKLAND

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**To:** Planning Commission

**From:** Eric R. Shields, AICP, Director  
Robin S. Jenkinson, City Attorney

**Date:** July 11, 2006

**Subject:** Miscellaneous Zoning Code Amendments (File NO. ZON05-00001)  
Proposed Amendments to Reasonable Use Process

### I. RECOMMENDATION

Consider the City Council comments on the proposed reasonable use process amendments and forward a recommendation to the City Council.

### II. BACKGROUND

On May 2, 2006, the City Council considered two reasonable use applications recommended by the Hearing Examiner. The Council asked staff to examine the existing reasonable use process for potential amendments to be included for consideration by the Planning Commission as part of the Miscellaneous Zoning Code Amendments. On July 5, 2006, the City Council considered and commented upon the proposed amendments to the City's reasonable use process which had previously been forwarded to the Planning Commission.

The City Council was provided with a matrix comparing examples of reasonable use provisions from other cities, and in some instances, counties. Some of the Council comments reference information included in the matrix. Attachment 1 is a copy of the matrix.

### III. COUNCIL QUESTIONS AND COMMENTS

While there appeared to be support for an alternative administrative process, there was no clear consensus for the proposed amendments provided by staff. The questions and comments of individual City Council Members are summarized below.

#### Questions

- What is meant by "no permitted type of land use for the property with less impact in 90.140.4.a.? Perhaps the City should prioritize the possible land uses for consideration in a reasonable use application, without necessarily being limited to those uses permitted in the underlying zone.

ATTACHMENT 4  
FILE NO. ZON05-00001

- What is “an unreasonable threat to the public health, safety, or welfare on or off the property” in 90.140.4.f.? What would be a “reasonable” threat?
- Is the City achieving cost recovery with the fees charged for the reasonable use process?
- What about multiple, contiguous lots? Is there some way to get applicants, with such lots, to limit their future applications?
- Should the use of best available science be included as one of the criteria?
- Some cities use “no net loss” as part of the reasonable use criteria. How do we measure no net loss?

#### Comments

- The intent and/or knowledge of the applicant should be taken into consideration.
- A critical areas maintenance fund should be considered.
- Concerns were expressed about using absolute numbers for square footage or percentages of coverage.
- *Additional flexibility in design, such as a third story or different setbacks, should be encouraged.*
- Language that “no special privilege is being conferred” should be included.
- Language to ensure that previously granted reasonable use exceptions will not be used as precedent under the amended reasonable use process.
- There is a need to inventory the properties for which applicants may be coming to the City seeking reasonable use exceptions.
- Similar to the Mukilteo Ordinance, the rules should be tailored for small lots of 7,200 square feet or less, to reduce site impact.
- In 90.140.4.a. the type of land use for “less impact” should be defined.
- There should be a square footage maximum with no more 10% of the lot area being disturbed as a threshold.

- Would like to see a discussion of the pros and cons of the Administrative Alternative proposed in 90.140.5.
- Sale price, as an indication of investment backed expectation, should be taken into consideration.
- There should be consideration of a 1,000 square foot floor area maximum similar to regulations for cottages.
- The historical condition of the land should be taken into consideration.
- Equitable issues should be considered such as whether development approved by the City has contributed to the size of the wetland or there are existing structures which should be grandfathered.
- Concern was expressed about ever encroaching into Type I and II wetlands.
- Concern was expressed about inquiring into the applicant's intent.
- There needs to be a recognition that we live in a compact, urban environment.

#### **IV. POTENTIAL AMENDMENTS IN RESPONSE TO COUNCIL COMMENTS**

In response to the City Council comments, the following are some potential amendments to the decisional criteria contained in 90.140.4:

- A. 90.140.4.d. On small lots 6,000 square feet or less, no more than 50% of the site may be disturbed.
- B. 90.140.4.e 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 zoning category shall be one single-family dwelling and in a commercial or industrial zoning category would be an office use;
- C. 90.140.4.f The proposed development does not pose an unreasonable unacceptable threat to the public health, safety, or welfare on or off the property;
- D. 90.140.4.h The granting of exception requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures under similar circumstances.
- E. The City may approve reductions in required yards or buffer setbacks and may allow the maximum height of structures to be increased up to five feet to reduce

the impact on the sensitive area and sensitive area buffer. The City may impose any other reasonable conditions on the granting of the reasonable use exception consistent with the minimum requirements of this chapter.

**V. CONCLUSION**

Staff will be reviewing the balance of the Council questions and comments and developing additional amendments for Planning Commission consideration.

**ATTACHMENT**

1. Matrix comparing examples of reasonable use provisions from other cities and counties.

## REASONABLE USE ORDINANCES

\*Generally, the reasonable use provisions of the cities and counties appear to follow the decision or review criteria from Model Code for Critical Areas originally developed for the cities of Duvall, Carnation, Snoqualmie and North Bend. The Model Code includes the following review criteria:

1. Application of the critical areas chapter would otherwise deny all reasonable use of the property;
2. There is no other reasonable use consistent with the underlying zoning of the property that has less adverse impact on the critical area and/or associated buffer;
3. The proposed development does not pose an unreasonable threat to the public health, safety or welfare on or off the property;
4. Any alteration is the minimum necessary to allow for reasonable use of the property;
5. The inability of the applicant to derive reasonable use of the property is not the result of actions by the applicant after the effective date of the critical areas chapter or its predecessor; and
6. The applicant may only apply for a reasonable use exception if the requested exception provides relief not otherwise available from a variance approval.

The chart below will only indicate where a city or county has added to or departed from the criteria used in the Model Code.

CITY/COUNTY	DECISION CRITERIA	REQUIREMENTS	PROCESS
AUBURN	*		Hearing Examiner
BELLEVUE	The proposal results in no more than ten percent of the site being disturbed by structure or other land alteration. If the lot is less than 30,000 gross square feet, a total area up to 3,000 square feet may be disturbed.	The exception expires if the applicant fails to file for a building permit within one year unless an extension is granted.	Planning Director's Decision
BOTHELL	*		Hearing Examiner
BURIEN	*	Critical area study including mitigation plan	Planning Director's Decision
CARNATION	*	An approved mitigation plan.	Planning Board Decision
CASHMERE	*		Planning Director's Decision
DES MOINES	The proposal is compatible in design, scale, and use with other development or potential development in the	The extent of development within the buffer is limited to	Hearing Examiner

## REASONABLE USE ORDINANCES

	immediate vicinity of the subject property in the same zone with similar site constraints.	that which is necessary to create a developable area which is no larger than 5,000 square feet.	
ENUMCLAW	*		City Council
EVERETT	*	A description of any modifications needed to the required front, side and rear setbacks; building height; and landscape widths to provide for a reasonable use while providing protection to the environmentally sensitive areas.	Planning Director's Decision
EDMONDS	The proposal minimizes net loss of critical area functions and values consistent with the best available science.		Hearing Examiner
FEDERAL WAY	The knowledge of the applicant of limitations when he or she acquired the property.		Hearing Examiner
GIG HARBOR	*	The exception is valid for two years unless an extension is granted.	Planning Director's Decision
ISSAQUAH	*		Hearing Examiner
MILL CREEK	The proposed activity will result in minimal alteration of existing contours, vegetation, fish and wildlife resources, hydrological conditions, and geologic conditions and will have a minimal effect on critical area functions. The proposed activity will not jeopardize the continued existence of endangered, threatened, sensitive, or monitored species as listed by the federal or state government. The proposed activity will not cause material degradation of habitat, ground water or surface water quality.		Planning Commission

## REASONABLE USE ORDINANCES

	The proposed activity will comply with all local, state, and general laws, including those related to environmental protection, sediment control, pollution control, floodplain restrictions; and on-site wastewater disposal.		
MUKILTEO	<p>Feasible on-site alternatives shall include, but are not limited to: reduction in density or building size, phasing of project implementation, change in timing of activities, and revision of road or parcel layout or related site planning considerations.</p> <p>An alternative is practical if the property or site is available and the project is capable of being done after taking into consideration existing technology, infrastructure, and logistics in light of the overall project purpose.</p> <p>The proposed activity or use will be mitigated to the maximum practical extent and result in the minimum feasible alteration or impairment of functional characteristics of the site, including contours, vegetation and habitat, groundwater, surface water and hydrologic conditions and consideration being given to best available science.</p>	<p>Building setbacks may be reduced up to 50 percent whether the applicant demonstrates that the development cannot meet the code requirements without encroaching into a critical area or its buffer.</p> <p>Development shall leave at least 70 percent of the lot undisturbed. On small lots of 7,500 square feet or less, a maximum building footprint of 2,500 square feet would be allowed.</p> <p>Critical area regulations, buffers and/or setbacks may be reduced up to 50 percent by the Planning and Public Works Directors.</p>	Planning Director's Decision
NEWCASTLE	*		Hearing Examiner
PUYALLUP	<p>That the proposed activities will not jeopardize the continued existence of endangered, threatened, sensitive, or monitored species as listed by the federal government or State of Washington.</p> <p>That the proposed activities will not cause significant degradation of ground water or surface water quality.</p> <p>That the proposed activities comply with all state, local and</p>		Planning Director's Decision

## REASONABLE USE ORDINANCES

	general laws, including those related to sediment control, pollution control, floodplain restrictions, and on-site wastewater disposal.		
REDMOND	*		Hearing Examiner
RICHLAND	*		Deputy City Manager, Community and Development Services
SPOKANE	*		Planning Director's Decision
STANWOOD	The proposal will result in no net loss of critical area functions and values consistent with the best available science.		Hearing Examiner
STEILACOOM	*		Hearing Examiner
SUMAS	Special circumstances and conditions exist which are peculiar to the land or lot, and which are not applicable to other lands or lots. The granting of the exception requested will not confer on the applicant any special privilege that is denied to other lands, buildings or structures under similar circumstances.		City Council
VANCOUVER	The proposal mitigates for the loss of critical area functions to the greatest extent feasible and contributes to the Critical Areas Restoration Fund for any impacts that cannot be mitigated.		Hearing Examiner
KITSAP	*		Hearing Examiner
KITTITAS	The Planning Department shall refer to relevant legal authorities at all levels of government, including federal and state constitutions, federal and state statutes, federal and state administrative regulations, and judicial interpretations thereof.		

**Michael Bergstrom**

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**From:** "Paul Stewart" <PStewart@ci.kirkland.wa.us>  
**To:** <public@andyheld.com>; "Byron Katsuyama" <bkatsuyama@mrsc.org>; "Carolyn Hayek" <chayek@verizon.net>; "Janet Pruitt" <janetpruitt@hotmail.com>; "Karen Tennyson" <tennysonkk@aol.com>; "Kiri Rennaker" <kiri@rennakerco.com>; "Mathew Gregory" <mjg@awerks.com.>  
**Cc:** "Eric Shields" <EShields@ci.kirkland.wa.us>; <bergstrommike@msn.com>  
**Sent:** Friday, July 14, 2006 9:48 AM  
**Subject:** Misc. Zoning Code Amendments

Here are comments from Andy regarding Misc. Code Amendments.

*Paul Stewart*  
 425-587-3227

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**From:** Andy Held [mailto:andy@andyheld.com]  
**Sent:** Friday, July 14, 2006 8:27 AM  
**To:** Paul Stewart  
**Subject:** updates

Hi Paul,

Please forward this to the folks in attendance last night. Please include me on the mail so I have it to file.

Thanks,  
 -andy

Fellow PC members and staff:

Freeman was pretty anxious, and wanted me to come home, but did not go into labor. Thanks for your understanding.

I had a few other comments about the Misc Zoning Code Amendments:

- 5.10.072 - Bay window definition - this definition is too narrow, since it talks about the glazing parallel to the exterior wall. In this usage, "bay windows" is generic for bay windows, bow windows, angle bay windows, and others. (I realize the language staff is proposing to change doesn't introduce this problem, but as long as we're editing, we should fix it.) **Be more specific (and accurate) about what needs to be glazed.**
- 115.08 - Accessory Structure - There is an inconsistency in the zoning code. In the Use Zone chart for some RSX areas and for PLA 16, it states explicitly that Accessory structures can be 30 feet above ABE, just as the primary residence can be. This section (115.08) states generally for the whole city that accessory structures can be at most 25' above ABE. (Here, too, I am suggesting we fix something not on the staff's list of issues.) My preference is to **have the Accessory Structure language in the Use Charts take precedence**, perhaps by removing this section altogether.
- 115.20 - Animals -

ATTACHMENT 5

FILE NO. ZON05-00001

- 6.c - Area reserved for paddock area - I am concerned about the overly inclusive list of "easily removed features," which includes items like flag poles, trellises, and landscaping with no limitation. Many of these items are not easily removed! The trellises built in Bridle Trails are set in several feet of concrete and constructed with 4x4 and 4x6 vertical members. Similarly, flagpoles and significant trees are not easily removed. **These should not be included in the list of easily removed features, and should not be allowed.**
- 6.d - Access to the paddock - I am now pointing out a problem in the other direction. 15' width is excessive, at least on straight portions of the access. Think about the 300' deep parcels in the Bridle trails - if the direct access is straight back, 10' is more than adequate along the straight portion. The fire department only requires 10' of pavement (see 105.10.1.a in our packet). **I would like to see this more realistic in terms what is needed for access.** (Many existing, functional horse properties do not have 15' wide access.)
- 115.25.2.a.i - Exceptions to limitations on Development activities and Heavy equipment operation - "not impact any adjoining residential use". I am concerned about neighbors who do not "adjoin" the project. (From my dictionary: adjoining: to be next to or share a common border with something, especially an area of land). **This exception language must be more restrictive, it should no allow the activity or operation if impacts any nearby residential use.**
- 115.42.1.b - FAR Calcs - I think this is too high to be ignored in calculating FAR, but I realize this is part of our discussion for next year. . .
- 115.115.3.m.2 - Structure in required yards - A 10 x 20 building in a required yard is too big. The rationale given for this is consistency with the UBC. So what!?! UBC is not about livability and impact on neighbors. It's about safety. **This should not be changed as proposed.**

Thanks,  
-andy