

**Process IV Zoning Code Amendments
File No. ZON06-00033**

HOW TO READ THIS:

- Text that is covered by a strike-through (~~strike-through~~) is existing text currently contained in the Zoning Code, proposed to be deleted.
 - Text that is underlined (underlined), with the exception of section headings, is new text that is proposed.
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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:

- ~~.043 Automotive Service Center – Establishment primarily engaged in automotive repair, including the sale and installation of lubricants, tires, batteries, mufflers, and similar accessories.~~
- .045 Average Building Elevation – The weighted average elevation of the topography, prior to any development activity, under the footprint of a building as measured by delineating the smallest square or rectangle which can enclose the building footprint and then averaging the elevations taken at the midpoint of each side of the square or rectangle 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 exterior space.
- .298 FAA – The Federal Aviation Administration.
- .299 FCC – The Federal Communications Commission.
- .302 Family DayChild-Care Home – A child-day-care operation in the family living quarters of the provider’s home for no more than 12 children, not including family members who reside in the home or employees of the family day-care home, licensed by the Department of Early Learning.
- ~~.305 Fast Food Restaurant – An establishment which offers quick food service which is accomplished through a limited menu of easily produced items. Orders are not taken at the customer’s table, and food is served in disposable wrappings or containers, and the seating and associated circulation areas exceed 10 percent of the gross floor area of the use.~~
- .323 Flag Lot - A lot which has a very narrow frontage along the right-of-way in order to accommodate the driveway which accesses the wider, buildable portion of the lot.

326.5 Front Façade – The face of a building essentially parallel to the street, access easement or tract serving the subject property. The front façade may have multiple planes, including a covered entry porch. On a corner lot, the front façade shall be the façade that includes the main entry.

.507 Maximum Horizontal Façade – The widest cross-section of the building(s) in the area adjoining the low density zone or within 100' of the lot containing the detached dwelling unit or low density use. The cross-section width is measured parallel to the zone or lot(s).

.790 Restaurant or Tavern – Commercial use (excluding fast food restaurants) which sells prepared food or beverages and generally offers accommodations for consuming the food or beverage on the premises, and where the seating and associated circulation areas exceed 10 percent of the gross floor area of the use.

Chapter 15 – RS Zones

15.08 Amend General Regulation No. 2 as follows:

2. If any portion of a structure is adjoining a detached dwelling unit in a low density zone, then either:
 - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or
 - b. The maximum horizontal length of any façade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet.

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

(Does not apply to Detached Dwelling Unit and Mini-School or Mini-Day-Care Center uses).

15.10.010 Add reference to and Special Regulation for Detached Dwelling Unit use as follows:

___ See KZC 115.43 for garage requirements, including required front yard.

15.10.040 Amend Special Regulation 10. for Mini-School or Mini-Day-Care Center as follows:

10. These uses may be are subject to State the requirements established by the Department of Social and Health Services (see WAC Title 388).

NOTE: This amendment would be applied all zoning districts with Mini-School or Mini-Day-Care Center uses that reference DSHS. Each section would have a unique Special Regulation number.

Chapter 20 – RM Zones

20.10.010 Amend Detached Dwelling Units, Required Side Yard, as follows:

5', but 2 side yards must equal at least 15'.

NOTE: This amendment would apply to the Detached Dwelling Unit uses in the following multifamily and commercial zones: PR (Section 25.10.010), PLA1 (Section 60.12.030), PLA3A (Section 60.22.010), and PLA15B (Section 60.177.010).

AND eliminate related Special Regulation in RM zone, as follows:

~~3. If the property is in an RM 1.8, 2.4, or 3.6 zone and contains less than 5,000 sq.ft., each side yard may be five feet.~~

20.10.020 Amend Detached, Attached or Stacked Dwelling Units, Required Side Yard, as follows:

5' for Detached Units. For Attached or Stacked Units, 5', but 2 side yards must equal at least 15'. See Spec. Reg. ____.

NOTE: This amendment would apply to the Detached, Attached or Stacked Dwelling Unit uses in the following multifamily and commercial zones: PR (Section 25.10.020).

20.10.020 Amend Detached, Attached or Stacked Dwelling Units, Special Regulation 4 addressing landscaping, as follows:

4. Except for low density uses, 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 PLA17, then landscape category A applies.

AND amend Detached, Attached or Stacked Dwelling Units, Landscape Category, to make reference to and add Special Regulation No. 8 as follows:

8. When a low density use adjoins a detached dwelling unit in a low density zone, Landscape Category E applies.

Chapter 25 – PR Zone

25.10.050 Amend Restaurant or Tavern use listing to add new Special Regulation as follows:

__. Drive-in or drive-through facilities are prohibited.

NOTE: This amendment would apply to Restaurant uses in the following zones: PO (Section 27.10.020) and WDI (30.15.060).

Chapter 30 – WD Zones

30.15.020 Amend Detached, Attached or Stacked Dwelling Units, Required Yards, to make reference to and add Special Regulations as follows:

Special Regulation ____. The side yard may be reduced to zero feet if the side of the dwelling unit is attached to a dwelling unit on an adjoining lot. If one side of a dwelling unit is so attached and the opposite side is not, the side that is not attached must provide a minimum side yard of five feet.

Special Regulation ____. The rear yard may be reduced to zero feet if the rear of the dwelling unit is attached to a dwelling unit on an adjoining lot.

Note: This amendment would apply to any use listing containing Attached Dwelling Units in the following zones: WDIII (Section 30.35.020), and PLA15A (Section 60.172.020).

Chapter 35 – FCIII Zone

35.30.020 Add new Special Regulation to Restaurant or Tavern use as follows:

3. The following regulations apply to restaurants with drive-in or drive-through facilities:
 - a. One outdoor waste receptacle shall be provided for every eight parking stalls.
 - b. Access for drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
 - c. Landscape Category A shall apply.

35.30.050 Eliminate Fast Food Restaurant use listing and revise special regulations as follows:

1. *No change*
2. ~~The following regulation applies to retail establishments selling groceries and related items: A Gross floor area for the use may not exceed 3,000 square feet.~~
3. ~~Fast Food Restaurant use must provide one outdoor waste receptacle for every eight parking stalls.~~
4. ~~Access for drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.~~
5. *No change, except renumbered to 3.*

Chapter 45 – BC Zone

45.10.020 Revise the use listing as follows:

.020 A retail establishment providing new vehicle or boat sales or vehicle or boat service or repair. See Spec. Reg. 2.

AND revise 45.10.020 Special Regulation 2 as follows:

2. ~~Vehicle and boat rental and used vehicles or boat sales~~ are allowed as part of this use.

45.10.030 Revise Restaurant use listing to add new Special Regulation as follows.

1. The following regulations apply to restaurant uses with drive-in or drive-through facilities:
 - a. Access for drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic while waiting in line to be served.
 - b. Must provide one outdoor waste receptacle for every 8 parking stalls.
 - c. Landscape Category shall be A.

45.10.040 Eliminate Fast Food Restaurant use listing

Chapter 60 – Planned Area Zones

60.172070 In the PLA15A zone, amend Development Containing: Attached or Stacked Dwelling Units; and Restaurant or Tavern; and General Moorage Facility use listing to add new Special Regulation as follows:

- ____. Restaurant uses with drive-in or drive-through facilities are prohibited.

Chapter 95 – Tree Management and Required Landscaping

95.40.6 Amend the Land Use Buffering Standards, sub (a), sub (1) (buffering standard 1) as follows:

- 1) Trees planted at the rate of one tree per 20 linear feet of land use buffer, with deciduous trees of two and one-half inch caliper, minimum, and/or coniferous trees eight feet in height, minimum. At least 70 percent of trees shall be evergreen. ~~Evergreen and deciduous~~ The trees shall be distributed evenly throughout the buffer, spaced no more than 20 feet apart on center.

95.52 Add a new section, Prohibited Vegetation, as follows:

Plants listed as prohibited in the Kirkland Plant List shall not be planted in the City.

For landscaping not required under this chapter, this prohibition shall become effective on January 1, 2008. The City may require removal of prohibited vegetation if installed after this date. Residents and property-owners are encouraged to remove pre-existing prohibited vegetation whenever practicable.

Chapter 105 – Parking Areas, Vehicle and Pedestrian Access, and Related Improvements

105.18 Pedestrian Access

2. Development standards required for pedestrian improvements-
 - a. Pedestrian Walkway Standards – General – The applicant shall install pedestrian walkways pursuant to the following standards:
 - 1)-7) *No change*
 - 8) Easements to provide rights of access between adjacent properties shall be recorded prior to project occupancy.

Chapter 115 - Miscellaneous Standards

115.10 Accessory Uses, Facilities and Activities

4. Family ~~DayChild~~-Care Home - Pursuant to Chapter ~~74.15 RCW~~ 43.215 RCW, a family ~~daychild~~-care home is a permitted accessory use in any residential or commercial zone which allowed residential use. A family ~~daychild~~-care home shall be subject to the following regulations:
 - a. The family ~~daychild~~-care home is subject to the requirements established by the Washington State Department of ~~Social and Health Services (DSHS) (WAC Title 388)~~ Early Learning (DEL) (WAC Title 170).
 - b. The family ~~daychild~~-care provider shall be licensed by ~~DSHS DEL~~ to operate a family ~~daychild~~-care home.
 - c. A safe passenger loading area as certified by the ~~DSHS DEL~~ licensor shall be provided.
 - d. The family ~~daychild~~-care home shall comply with all applicable building, fire, safety, and health codes enforced by the City.
 - e. The family ~~daychild~~-care home shall comply with all applicable use regulations of the Kirkland Zoning Code.

- f. *No change.*
- g. *No change.*
- h. Prior to receiving State licensing, the family daychild-care provider shall provide the City with proof of written notification informing immediately adjoining property owners of the intent to locate and maintain the family daychild-care home. The notification shall:
 - 1) Inform the notified parties that comments may be submitted to the State licensor Department of Early Learning; and
 - 2) Provide contact information for submitting such comments to the licensor Department of Early Learning; and
 - 3) ~~Include a statement that neighborhood dispute resolution pertaining to the proposed family day-care home is available from DSHS.~~
 The proof of notification shall be in the form of a written affidavit containing:
 - 1) The date and means of notification;
 - 2) A copy of the notification; and
 - 3) A list of the parties to whom the notification was distributed.

115.30 Distance Between Structures/Adjacency to Institutional Use

1. c. Exceptions

- 3) Detached dwelling units approved and constructed as a “Detached, Attached, or Stacked Dwelling Unit” are excluded from horizontal façade regulations ~~and may be located within 10 feet of one another~~ if they are separated by at least 10 feet.

115.43 Garage Setback Requirements for Detached Dwelling Units in Low Density Zones.

Eliminate existing requirements and replace with new section, as follows:

- ~~1. In a low density zone, the garage must be set back five feet from the remaining portion of the front façade of a dwelling unit, if:

 - a. ~~The garage door is located on the front façade of the dwelling unit; and~~
 - b. ~~The lot is at least 50 feet wide at the front setback line; and~~
 - c. ~~The garage width exceeds 50 percent of the combined dimensions of the front facades of the dwelling unit and the garage.~~~~
- ~~2. In measuring the garage setback, the front façade of the dwelling unit shall include covered entry porches that extend across 100 percent of the remaining front façade, but shall not include other elements that are allowed to extend into the required front yard, pursuant to KZC 115.115.~~
- 1. Purpose and Intent. The intent of these regulations is to minimize the appearance of the garage when viewing the front façade of a house. To achieve this result, the following principles apply:
 - a. The garage doors, whenever practicable, should not be placed on the front facade of the house;
 - b. If the garage doors are on the front façade, the garage should be set back from the plane of the front façade closest to the street, access easement or tract;
 - c. The width of the garage face generally should be no more than the width of the remainder of the front façade; and

- d. Garages with garage doors perpendicular to the street, access easement or tract (side-entry garages) should not have a blank wall on the front façade.
2. General Requirements
- a. Detached dwelling units served by an open public alley, or an easement or tract serving as an alley, shall enter all garages from that alley;
 - b. Side-entry garages shall minimize blank walls by incorporating architectural details or windows on the front facade that complement the features of the remainder of the front façade.
3. Additional Requirements for Garages with Garage Doors on the Front Façade of the Detached Dwelling Unit
- a. The required front yard for the garage shall be 8' greater than the required front yard for the remainder of the detached dwelling unit (not including covered entry porches approved under KZC 115.115.3.n).
 - b. The garage width shall not exceed 50% of the total width of the front façade. (This standard shall not apply if the lot width, as measured at the back of the required yard for the front façade, is less than 55'.)
 - c. For purposes of this section, the width of the front façade shall not include those items located along the side facades described in Section 115.115.3.d. of this code, even if they are outside of a required yard.
4. Exemptions. The following are exempt from the requirements of Subsection 3 of this section:
- a. Houses on flag lots;
 - b. Houses with below-grade garages. For purposes of this exemption, a "below-grade garage" is one that has at least 75% of the area of the garage doors below the midpoint elevation(s) of the street, access easement or tract as it passes along the front of the garage.
5. Deviation From Requirements. The Planning Official may allow deviations from the requirements of this section if the following criteria are met:
- a. The modification is necessary because of the size, configuration, topography or location of the subject property; and
 - b. The modification supports the purpose and intent of the garage setback regulations; and
 - c. The modification includes design details that minimize the dominant appearance of the garage when viewed from the street, access easement or tract (for example, casings; columns; trellises; windows; surface treatments or color; single-stall doors; door offsets; narrowed driveway widths; and/or enhanced landscaping); and
 - d. The modification will not have any substantial detrimental effect on nearby properties and the City as a whole.

115.59 Height Regulations – Calculating Average Building Elevation (ABE).

Modify existing subsections and add new subsection, as follows:

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

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

(See Plate 17) *This plate would be revised as necessary*

The square or rectangle used to determine the ABE segments shall include 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, as well as cantilevered portions of a building which enclose interior space. Those items allowed to extend into required yards through Section 115.115.3.d shall not be included within the square or rectangle.

For calculation of mid-point elevation, existing predevelopment grades shall be used, unless fill has been placed on the site, whether legally or illegally, within a 10-year period prior to the development application, in which case the grades prior to the placement of the fill shall be used.

2. *No change*

3. Partially underground structures or improvements – Building wall segments more than 4' in height above finished grade and enclosing interior space shall be included in the height calculations.

115.90 Calculating Lot Coverage

2.b. An access easement or tract that is not included in the calculation of lot size serves more than one lot that does not abut a right-of-way will not be used in calculating lot coverage for any lot it serves or crosses.

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

- 1) This exception cannot be used for flag or panhandle lots;
- 2) *Renumbering, no change.*
- 3) *Renumbering, no change.*

115.115 Required Yards

3. Structures and Improvements – No improvement or structure may be in a required yard except as follows:

d. Chimneys, bay windows, greenhouse windows, eaves, cornices, awnings, and canopies may extend up to 18 inches into any required yard, subject to the limitations of this section. Eaves on bay windows may extend an additional 18 inches beyond the bay window. The total horizontal dimension of the elements that extend into a required yard, excluding eaves and cornices, may not exceed 25 percent of the length of the façade of the structure. Except for properties located within the disapproval jurisdiction of the Houghton Community Council, chimneys, bay windows, greenhouse windows, cornices, awnings, and/or canopies attached to detached dwelling units and their accessory structures located in low density zones in which the Floor Area Ratio regulations of KZC 115.42 apply may not extend closer than 4 feet to any property line. See Plate 10.

(codifies Interpretation 06-03)

- p. HVAC and similar types of mechanical equipment may be placed no closer than five feet ~~of~~ to a side or rear property line, and shall not be located within a required front yard; provided, that such HVAC equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC and similar types of mechanical equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95.
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 be separated from other hard-surfaced areas located in the required front yard by a landscape strip at least five feet in width. This landscape strip may be interrupted by a walkway or pavers providing a connection from the driveway to other hard-surfaced areas, as long as such walkway or pavers cover no more than 20 percent of the landscape strip. A driveway and/or parking area located in a required front yard shall not be closer than five feet to any side property line (see Plate 14); provided:
 - a) *no change*
 - b) That for panhandle lots, a 5' setback is not required from any side property line that abuts a neighboring lot that was part of the same plat.
 - c) *Renumbered, but no change.*

115.120 Rooftop Appurtenances

- 1. – 2. *No change*
- 3. Required Screening:
 - a. *No change*
 - b. New or replacement appurtenances on existing buildings and new appurtenances on new buildings where compliance with subsection (3)(a) of this section is not feasible shall be surrounded by a solid screening enclosure equal in height to the appurtenances being screened. The screen must be integrated into the architecture of the building.
 - c. *No change*
- 4. – 5. *No change*

115.150 Vehicles and Boats – Size in Residential Zones Limited

1. General – Except as specified below, it is a violation of this code to park or store any vehicle or boat on any lot in a residential zone if that vehicle or boat is both more than nine feet in height and 22 feet in length, including bumpers and any other elements that are required by federal or state law for the operation of the vehicle on public roads or waterways and including any trailer upon which such vehicle or boat rests. Any boat that is 16 feet or longer and has a gunwale which is at least five (5) feet from the ground when the boat is sitting on a boat trailer shall not be parked or stored in a required front yard.

2. Exceptions
 - a. A vehicle or boat of any size may be parked on any lot in the City for not more than 24 48 hours in any consecutive seven-day period for the exclusive purpose of loading or unloading the vehicle or boat.

 - b. The City may, using Process IIA, described in Chapter 150 KZC, approve a request to park or store a vehicle or boat of any size on a lot in a residential zone if:
 - 1) The parking or storage of the vehicle or boat will not be detrimental to the character of the neighborhood; and

 - 2) The property abutting the subject property will not be impacted by the parking or storage; and

 - 3) The placement of the vehicle or boat will not create a potential fire hazard; and

 - 4) The parking or storage is clearly accessory to a residential use on the subject property and the vehicle or boat is operated by a resident of the subject property.

The City may impose screening requirements, limit the hours of operation of the vehicle or boat, and impose other restrictions to eliminate adverse impacts of the parking or storage.

Chapter 117 – Personal Wireless Service Facilities

117.15 Definitions

For the purpose of this chapter, the following terms shall have the meaning ascribed to them below. Terms not defined in this section shall be defined as set forth in Chapter 5 KZC:

1. – 2. *No change*

- ~~3. “Building” shall mean a roofed structure used or intended for human occupancy.~~

4. – 5. Re-number to 3. – 4.

5. “Conductor” means a material or object designed and used to conduct heat, electricity, light, or sound, and contains electrical charges that are relatively free to move through the material. The term conductor does not include “insulator” or any connecting or support device.

6. – 7. *No change*

8. ~~“FAA” shall mean the Federal Aviation Administration.~~

9. ~~“FCC” shall mean the Federal Communications Commission.~~

8. “Insulator” means a material in a unit form designed and used so as to support a charged conductor and electrically isolate it.

10. – 13. Renumber to 9. – 12.

14 13. “Residential zone” for the purpose of this chapter, shall mean portions of the City in the following zones: ~~RS 35; RSX 35; RS 12.5; RSX 12.5; RS 8.5; RSX 8.5; RS 7.2; RSX 7.2; RS 5.0; RSX 5.0; RM 5.0; RM 3.6; RM 2.4; RM 1.8; WD I; WD II; WD III; PLA 1; PLA 1; PLA 5A, D, E; PLA 6A, C, D, E, F, H, I, J, K; PLA 7A, B, C; PLA 9; PLA 15B; PLA 16; PLA 17; and be as defined in KZC 5.10.785, together with the PLA1 and P zones; and rights-of-way adjacent thereto to each of the afore-mentioned zones, measured to the centerline of the right-of-way.~~

15. – 16. Renumber to 14. – 15.

117.40 Application Review Process Amend 117.40.1 (Planning Official Decision) and add a new subsection (e), to read:

e) Attachment of antennas to existing buildings within a public park, regardless of zone.

117.40 Application Review Process Amend 117.40.2 (Process I Permit) as follows:

a) – c) *No change*

d) Attachment of antennas to nonresidential buildings, such as schools or churches, in residential zones, except when located in a public park.³ See KZC 117.65(7).

117.40 Application Review Process Amend 117.40.3 (Process IIA Permit) as follows:

a) – b) *No change*

c) Attachment of antennas to multifamily residential buildings in any residential zones³.

117.65 PWSF Standards Amend 117.65.6 as follows:

6. Antennas on a Utility Pole – Antennas mounted to an existing or replacement utility pole shall be subject to the following height limits:

- a. In any zone, 15 feet above the top of a pole not used to convey electrical service;
- b. In a residential zone, 15 feet above the electrical distribution or transmission conductor (as opposed to top of pole) if the pole is used to convey electrical service; and
- c. In a nonresidential zone, 15 feet above an electrical distribution conductor or 21 feet above an electrical transmission conductor (as opposed to top of pole) if the pole is used to convey electrical service.

- d. On Seattle City Light transmission towers, regardless of zone, 15' above the top of the tower, before any tower extensions, subject to the concealment measures identified in Section 117.65.3.

117.70 Equipment Structure Standards Amend 117.70.3 as follows:

- 3. Equipment Structures Located in Right-of-Way –
 - a. If ground-mounted, equipment structures shall not exceed a height of 30 inches. If mounted on poles, said structures shall comply with subsection (6) of this section. Setback requirements do not apply to equipment structures located in the right-of-way.
 - b. Exception: The Planning Official may increase the 30 inch height limitation for ground-mounted equipment structures to a maximum of 66 inches, if:
 - 1) The height increase is required by the serving electrical utility; and
 - 2) No feasible alternative exists for reducing the height of the structure;
and
 - 3) Concealment measures are employed; and
 - 4) The height increase will not adversely impact the neighborhood or the City.

Chapter 130 - Rezones

Sections:

- 130.05 User Guide
- 130.10 Types of Reclassification
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- 130.20 Legislative Rezones – Criteria
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- 130.30 Quasijudicial Rezones – Applicable Process
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- ~~130.40 Quasijudicial Rezones – Types~~
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- ~~130.55 Quasijudicial Project Rezones – General~~
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- ~~130.75 Quasijudicial Project Rezones – Major Modifications~~
- ~~130.80 Quasijudicial Project Rezones – Lapse of a Resolution of Intent to Rezone~~
- ~~130.85 Quasijudicial Project Rezones – Map Change~~

130.35 User Guide

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

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

130.10 Types of Reclassification

There are two types of reclassification as follows:

1. Legislative Rezones – A rezone will be treated as a legislative matter when:
 - a. It is initiated by the City; and
 - b.
 - 1) The subject property is part of a significant class of properties which are similarly affected by the proposed rezone; and
 - 2) It is either:
 - 1) (a) Based upon and will implement the results of a comprehensive planning process; or
 - 2) (b) Part of a process that includes, and is necessary to implement, amendment of the text of this code; or
 - b. It is initiated by the City and the sole purpose of the rezone is to correct grammatical, labeling, scrivener's, or similar errors on the official Zoning Map; or
 - c. It is initiated by either the City or another party and will implement a citizen-initiated amendment to the comprehensive plan approved pursuant to Chapter 140 KZC.
2. Quasijudicial – A rezone will be treated as a quasijudicial matter when it does not meet the requirements of subsection (1) of this section. Quasijudicial rezones include proposals to change the Zoning Map within a range or category that is established by the existing comprehensive plan, comprehensive plan land use map and/or zoning code regulations, as well as proposals to place or remove an overlay zoning designation on the Zoning Map.

KZC 130.15 through 130.25 apply to legislative rezones. KZC 130.30 through 130.85 130.45 apply to quasijudicial rezones.

130.15 Legislative Rezones – Applicable Process

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

130.20 Legislative Rezones – Criteria

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

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

130.25 Legislative Rezones – Map Change

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

130.30 Quasijudicial Rezones – Applicable Process

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

130.35 Quasijudicial Rezones – Application

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

~~130.40 Quasijudicial Rezones – Types~~

~~There are two types of quasijudicial rezones as follows:~~

~~1. Nonproject Related – A quasijudicial rezone will be treated as nonproject related when:~~

~~a. The proposed rezone is initiated by the City and the subject property is not owned by the City; or~~

~~b. The proposed rezone is from one single-family residential zone classification to another single-family residential zone classification; or~~

~~c. The proposed rezone is to place or remove an overlay zoning designation on the Zoning Map under Chapters 70 through 80 KZC.~~

~~2. Project Related – A quasijudicial rezone will be treated as project related when it does not meet the provisions of subsection (1) of this section. All project related reclassifications require a specific development proposal for the subject property.~~

~~— KZC 130.45 through 135.50 apply to nonproject related quasijudicial rezones. KZC 130.55 through 130.85 apply to project related quasijudicial rezones.~~

130.4540 Quasijudicial Nonproject Rezones – Criteria

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

1. The proposed rezone is consistent with the Comprehensive Plan; and Conditions have substantially changed since the property was given its present zoning or the proposed rezone implements the policies of the comprehensive plan, and

2. The proposed rezone bears a substantial relationship to the public health, safety, or welfare; and

3. The proposed rezone is in the best interest of the residents community of Kirkland; and
4. The proposed rezone is appropriate because either:
 - a. Conditions in the immediate vicinity have so markedly changed since the property was given its present zoning and that under those changed conditions a rezone is within the public interest; or
 - b. The rezone will correct a zone classification or zone boundary that was inappropriate when established; or
 - c.
4. If ~~the~~ rezone is to place or remove an overlay zoning designation on the Zoning Map, ~~and~~ the proposal meets the applicable designation criteria of Chapters 70 through 80 KZC;

provided, that a showing of changed conditions pursuant to subsection (4) of this section is not required if the rezone will implement the policies of the Comprehensive Plan.

130.5045 Quasijudicial Nonproject Rezones – Map Changes

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

130.55 Quasijudicial Project Rezones – General

~~The purpose of a project related rezone is to enable the City to evaluate the applicant's specific development proposal for the subject property as part of the decision on the rezone. If the City decides to grant the application, it will adopt a resolution of intent to rezone which permits the applicant to develop the subject property as shown on the site plan that will be approved as part of that resolution. After the approved development is completed, the City will make the appropriate change to the Zoning Map of the City.~~

130.60 Quasijudicial Project Rezones – Criteria

The City may approve an application for a project-related rezone only if it finds that:

1. ~~The criteria set forth in KZC 130.45 are met; and~~
2. ~~The proposed project complies with this code in all respects; and~~
2. ~~The site plan of the proposed project is designed to minimize all adverse impacts on existing land use in the immediate vicinity of the subject property.~~
3.

130.65 Quasijudicial Project Rezones – Effect of Approval

~~If City Council approves an application for a project-related rezone, it will give effect to this decision by adopting a resolution of intent to rezone which will have the following effects:~~

- ~~1. Effect on the Applicant – The applicant may, subject to all other applicable codes and ordinances, develop the subject property in conformity with the resolution of intent to rezone and the site plan approved as part of that resolution.~~
- ~~2. Effect on the City – If the applicant completes development of the subject property in conformity with the resolution of intent to rezone and the site plan approved as part of that resolution, the City shall make the zone boundary or zone classification change on the Zoning Map that was approved in that resolution.~~

~~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. The change will not result in reducing the landscaped area, buffering areas or the amount of open space on the project; and~~
- ~~2. The change will not result in increasing the residential density or gross floor area of the project; and~~
- ~~3. The change will not result in any structure, or vehicular circulation or parking area, being moved more than 10 feet in any direction and will not reduce any required yard; and~~
- ~~4. The change will not result in any increase in height of any structure above any of the following:

 - ~~a. Ten percent 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. The City determines that the change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project.~~

~~130.75 Quasijudicial Project Rezones – Major Modifications~~

~~If the applicants seeks a modification to the approved site plan that does not meet all of the requirements of KZC 130.70, he/she may do so by submitting the application material required for a new quasijudicial project related rezone. The City will process and decide upon this application, using the provisions in KZC 130.55 through this section, as if it were an application for a new quasijudicial project related rezone.~~

~~130.80 Quasijudicial Project Rezones – Lapse of a Resolution of Intent to Rezone~~

- ~~1. Increased Time – City Council may, in the resolution of intent to rezone, extend the time limit of Chapter 152 KZC for the project.~~
- ~~2. Effect on Land Use If Resolution Lapses – If the resolution of intent to rezone lapses under the time limits of Chapter 152 KZC, or subsection (1) of this~~

~~section, any development on the subject property must comply with all applicable laws of the City as if the resolution of intent to rezone had not been granted.~~

~~130.85 Quasijudicial Project Rezones – Map Change~~

~~Upon completion of the project in full compliance with the resolution of intent to rezone and the site plan approved as part of that resolution, the City shall give effect to the rezone by adopting an ordinance that makes the change to the zone boundary or zone classification on the Zoning Map that was approved in the resolution of intent to rezone.~~

Chapter 142 – Design Review

142.35 Design Board Review (D.B.R.)

1. – 4. *No change*

5. Conceptual Design Conference – Before applying for design review approval, the applicant shall attend a conceptual design conference (CDC) with the Design Review Board. The conference will be scheduled by the Planning Official to occur within 30 days of written request by the applicant. The applicant shall submit a complete application for Design Review within six (6) months following the CDC, or the results of the CDC will be null and void and a new CDC will be required prior to application for design review approval. The purpose of this conference is to provide an opportunity for the applicant to discuss the project concept with the Design Review Board and:

a. – c. *No change*

6. – 9. *No change*

142.40 Appeals of Design Review Board Decisions

1. *No change*

2. Who May Appeal – The decision of the Design Review Board may be appealed by the applicant or any other individual or entity who submitted written or oral comments to the Design Review Board. A party who signed a petition may not appeal unless such party also submitted independent written comments or information.

3. – 11. *No change*

Chapter 150 – Process IIA

150.90 Participation in the Appeal

Only those person 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. By submitting written arguments to the City Council prior to the commencement of the City Council's consideration of the appeal.
2. By appearing in person, or through a representative, at the City Council's consideration of the appeal and providing oral or written arguments directly to the City Council. ~~The Council may reasonably limit the extent of the oral arguments to facilitate the orderly and timely conduct of their consideration of the appeal.~~ The City Council shall allow each side (proponents and opponents) to speak for a maximum of ten minutes each.

150.95 Nature of the Appeal and Scope of the Appeal

The appeal will be a closed record appeal. The scope of the appeal is limited to the specific factual findings and conclusions disputed in the letter of appeal, and City Council may only consider arguments on these factual findings and conclusions. The appeal will be considered only on the record developed in the hearing before the Hearing Examiner. No new evidence may be presented.

Chapter 160 – Process IV

160.25 Threshold Review

1. General – The City Council shall make a threshold review of each citizen-initiated proposal to amend the Comprehensive Plan pursuant to KZC 140.20, ~~to make a legislative rezone,~~ and to amend the Zoning Code and/or Zoning Map done in conjunction with the process to amend the Comprehensive Plan.
2. Threshold Review
 - a. The Planning Commission shall review each proposal and make a threshold recommendation to the City Council to determine those proposals eligible for further consideration. The recommendation shall be consistent with KZC 160.60 and based on the criteria described in Chapter 135 KZC for Zoning Code amendments and in Chapter 140 KZC for Comprehensive Plan amendments.
 - b. The Houghton Community Council may review any proposal within its jurisdiction and also make a recommendation to the Planning Commission and City Council.
 - c. The Planning Department shall provide the Planning Commission and Houghton Community Council with a staff report for the threshold review consistent with KZC 160.45 and include an analysis of the threshold criteria.
3. Threshold Decision – After consideration of the Planning Commission and Houghton Community Council recommendations, the City Council shall decide one of the following:
 - a. The proposal has merit and shall be considered by the Planning Commission and City Council during the current year; and
 - b. The proposal has merit, but should be considered at a subsequent amendment phase; or

- c. The proposal does not have merit and shall not be given further consideration.

Chapter 161 – Process IVA

161.25 Suitability for Process IVA

1. General – Process IVA is for:
 - a. ~~Minor~~ Minor Zoning Code amendments to promote clarity, eliminate redundancy, or to correct inconsistencies, or
 - b. Minor Zoning Map amendments to correct grammatical, labeling, scrivener's, or similar errors on the official Zoning Map.

The Planning Director may propose amendments for review under Process IVA. To do so, the Planning Director shall periodically present to the City Council a roster of proposed amendments for review and decision under Process IVA. The City Council, by motion, may approve the entire proposed Process IVA roster. Otherwise, the City Council may ask for more discussion about the suitability of a subject for Process IVA or could remove a subject from the Process IVA roster.

2. Distribution - *No change*