



CITY OF KIRKLAND  
Planning and Community Development Department  
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**MEMORANDUM**

**To:** Houghton Community Council

**From:** Jon Regala, Senior Planner  
Nancy Cox, AICP, Development Review Manager  
Eric Shields, AICP, Planning Director

**Date:** January 13, 2011

**Subject:** FINAL ACTION ON MISCELLANEOUS CODE AMENDMENT PROJECT – PHASE II  
FILE ZON10-00013

**RECOMMENDATION**

The Houghton Community Council has three options for final action on Phase II of the Miscellaneous Code Amendment project. They are:

1. Approve the enclosed Houghton Resolution No. 2011-2 which adopts Ordinances 4281 and 4286 as approved by the City Council on January 4, 2011. Approval of the resolutions would make the ordinances effective within Houghton's jurisdiction;
2. Disapprove the amendments by a majority of the Community Council approving a resolution to disapprove; or
3. Fail to disapprove the ordinance within 60 days after City Council approval. This would have the effect of approving the amendments.

**CITY COUNCIL ACTION**

The City Council considered the Planning Commission's recommendations at their December 7, 2010 and January 4, 2011 meetings prior to taking final action on the ordinances. At the January 4, 2011 meeting, the City Council adopted the following ordinances as amended (See Exhibits 1 and 2):

- O-4281:** Amending various sections of the Kirkland Zoning Code (KZC) as related to the code enforcement consolidation project.
- O-4286:** Amending various sections of the KZC as related to Phase II of the Miscellaneous Code Amendment project.

## **BACKGROUND DISCUSSION**

The Phase II - Miscellaneous Code Amendment project is comprised of two parts: 1) consolidation of the City's Code Enforcement provisions, and 2) miscellaneous code changes. The Code Enforcement Consolidation project is a major change to the City's code enforcement process and is based on the code enforcement process used by the City of Bellevue. While many of the changes affect the Kirkland Municipal Code (KMC), several changes were needed to the KZC in order to reference the new KMC sections. These changes are reflected in ordinance O-4281. The miscellaneous code changes portion of the project was based on an on-going list of potential changes to the KZC and KMC and consists of a wide variety of minor, moderate, major, and procedural topics. Ordinance O-4286 contains the approved code amendments.

At the September 27, 2010 HCC study session on this project, the HCC decided not to hold a public hearing on the proposed code amendments due to the scope and limited public interest in the proposed code amendments applicable within the HCC's jurisdiction. However, Rick Whitney, HCC Chair, and John Kappler, HCC member attended the Planning Commission public hearing on November 4, 2010 to convey the HCC's recommendation on several key topics. These topics included fence height/setback requirements along arterials, windows signs, and reducing noise standards for outdoor mechanical units.

In summary, the City Council adopted the ordinances based on the recommendations by the Planning Commission except for changes to the RH 8 zone in the Rose Hill Business District (not in Houghton). The adopted regulations address the HCC's concerns on the key topics described above and as discussed at the Planning Commission's public hearing:

- Fences – see Exhibit 2, Item Z
- Window Signs – see Exhibit 2, Item S & T
- Reducing Noise Standards – No changes to noise regulations were adopted

## **EXHIBIT**

1. Ordinance 4281
2. Ordinance 4286
3. Houghton Resolution No. 2011-2

**ORDINANCE NO. 4281**

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 1—USERS GUIDE, CHAPTER 5—DEFINITIONS, CHAPTER 95—TREE MANAGEMENT AND REQUIRED LANDSCAPING, CHAPTER 115—MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS, CHAPTER 117--PERSONAL WIRELESS FACILITIES, CHAPTER 141--SHORELINE ADMINISTRATION, CHAPTER 162—NONCONFORMANCE, CHAPTER 170 CODE ENFORCEMENT.

Whereas, the City Council has received recommendations from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated November 22, 2010 and bearing Kirkland Department of Planning and Community Development File No. ZON10-00013; and

Whereas, prior to making said recommendation, the Kirkland Planning Commission, following notice thereof as required by RCW 35A.63.070, on November 4, 2010, held a public hearing, on the amendment proposals and considered the comments received at said hearing; and

Whereas, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

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

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

Section 1. Zoning Code text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance is hereby amended to read as follows:

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

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by

O-4281

any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

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

Section 4. Except as provided in Section 3, this ordinance shall be in force and effect on April 1, 2011 after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

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

Passed by majority vote of the Kirkland City Council in open meeting this 4th day of January, 2011.

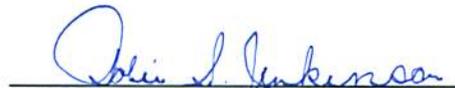
Signed in authentication thereof this 4th day of January, 2011.

  
MAYOR

Attest:

  
City Clerk

Approved as to Form:

  
City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE NO. 4281

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 1—USERS GUIDE, CHAPTER 5—DEFINITIONS, CHAPTER 95—TREE MANAGEMENT AND REQUIRED LANDSCAPING, CHAPTER 115—MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS, CHAPTER 117--PERSONAL WIRELESS FACILITIES, CHAPTER 141--SHORELINE ADMINISTRATION, CHAPTER 162—NONCONFORMANCE, CHAPTER 170 CODE ENFORCEMENT.

SECTION 1. Amends various sections of the Kirkland Zoning Code relating to code enforcement, as set forth in more detail in the title of the Ordinance.

SECTION 2. Provides a severability clause for the Ordinance.

SECTION 3. Provides that, to the extent the Ordinance is subject to the disapproval jurisdiction of the Houghton Community Council, it will become effective in the Houghton Community Municipal Corporation upon approval of the Houghton Community Council, or the failure of said Community Council to disapprove the Ordinance within 60 days of the passage of the Ordinance.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as April 1, 2011.

SECTION 5. Provides that a certified copy of this Ordinance will be provided to the King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 4th day of January, 2011.

I certify that the foregoing is a summary of Ordinance 4281 approved by the Kirkland City Council for summary publication.

  
\_\_\_\_\_  
City Clerk

**ATTACHMENT A  
KIRKLAND ZONING CODE CHANGES**

**KIRKLAND ZONING CODE AMENDMENTS  
FOR CODE ENFORCEMENT  
FILE ZON10-00013**

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How to read this document:

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

Click here to view adopted ordinances that have not yet been inserted into the Zoning Code as well as pending regulations under consideration.

**Zoning Code Interpretations**

Chapter 1 – User Guide

Chapter 5 – Definitions

(No change until)

Chapter 170 – Code ~~Enforcement~~Administration

(No further changes)

**Chapter 1 – USER GUIDE**

(No change until)

1.10.14. Junk and Junk Yards – Are you interested in the City’s regulations on junk and junk yards? If so, see ~~KZC 115.70, Junk and Junk Yards Prohibited~~KMC 21.41.308 Rubbish, junk and garbage.

(No further changes)

## Chapter 5 – DEFINITIONS

(No change until)

~~.447 **Junk** Old or scrap copper; brass; rope; rags; batteries; paper; trash; rubber debris; wastes; machinery; scrap wood; junked, dismantled or wrecked automobiles, or parts thereof; iron; steel; and other old or scrap ferrous or nonferrous material.~~

~~.448 **Junk Yard** A property or place of business which is maintained, operated, or used for storing, keeping, buying, selling, or salvaging junk.~~

(No further changes)

## Chapter 95 – TREE MANAGEMENT AND REQUIRED LANDSCAPING

(No change until)

### 95.21 Tree Pruning

1. **Tree Pruning of Street Trees.** It is the responsibility of the abutting property owner to maintain street trees abutting their property, which may include pruning, watering, and mulching. In order to prune, trim, modify, or alter a street tree, the abutting property owner shall apply for a permit by filing a written application with the City. Pruning shall conform to the most recent version of the American National Standards Institute (ANSI) A300 Part 1 – 2001 pruning standards or as outlined in an approved Utility Vegetation Management Plan. The City reserves the right to have City or utility crews perform routine pruning and maintenance of street trees.
2. **Tree Pruning on Private Property.** A permit is not required to prune trees on private property. Pruning which results in the removal of at least half of the live crown will be considered tree removal and subject to the provisions in KZC 95.23.

Tree topping is not allowed. If a tree required by this chapter is smaller than six inches in diameter and is topped, it must be replaced pursuant to the standards in ~~KZC 95.55(8)(b)~~ KMC 1.12. If a tree six inches or larger in diameter is topped, the owner must have a qualified professional develop and implement a five-year restoration pruning program.

(No further changes until)

### 95.55 Enforcement and Penalties

1. Upon determination that there has been a violation of any provision of this section, the City may pursue code enforcement and penalties in

~~accordance with the provisions of KMC 1.12, Code Enforcement. Intent. These enforcement and penalty provisions have several purposes. First, they are intended to discourage damage or removal of significant trees above and beyond what is permitted under this chapter. Second, these enforcement and penalty provisions are intended to provide complete and effective restoration of areas in which violations of this chapter occur. Finally, these regulations are intended to provide a clear and efficient process for addressing violations of this chapter.~~

~~The City may utilize one or more of several remedies when responding to violations of this chapter. In almost all cases where a violation has occurred, the City will issue a civil citation that describes the nature of the violation, the actions necessary to remedy the violation, and the amount of any civil penalty, among other things. If the acts that constitute a violation appear to be ongoing, the City may also issue a notice of cease and desist. Failure to adhere to a notice to cease and desist will result in imposition of additional civil penalties. If there is a pending development or building permit, the City may also issue a stop work order or withhold issuance of permit approval or a certificate of occupancy. Finally, additional fines may be imposed if a violator does not follow through in a timely manner with restoration work or other compliance issues.~~

- ~~2. General Requirements. Enforcement shall be conducted in accordance with procedures set forth in Chapter 170 KZC. Special enforcement provisions related to tree conservation are set forth below. To the extent there is a conflict between the provisions of this section and Chapter 170 KZC, this section shall control.~~

~~For code enforcement provisions regarding street trees and trees located on City property see Chapter 19.36 KMC.~~

- ~~3. Authority. It shall be the duty of the Planning Official to administer the provisions of this chapter. The Planning Official shall have authority to enforce and carry out the provisions of this chapter.~~
- ~~4. Cease and Desist. The Planning Official may issue a notice to cease and desist using the procedure set forth in KZC 170.30 if the Planning Official finds that a violation of this code has occurred. Continued illegal tree activity following issuance of a cease and desist from the City for the tree activity shall result in fines of \$1,000 per day of continued activity.~~
- ~~5. Stop Work Order. If a violation of this chapter or an approved Tree Retention Plan occurs on property on which work is taking place pursuant to a City of Kirkland development or building permit, the Building Official may suspend some or all of the work as appropriate through issuance of a stop work order. The Building Official shall remove the stop work order~~

~~when the City determines that the violation has been corrected or when the City has reached an agreement with the violator regarding rectification of the violation. Any stop work order issued under this section may be appealed using the procedures set forth in Chapter 21.06 KMC.~~

~~6. Civil Citation. The City's Code Enforcement Officer shall notify a person who violates this chapter by issuance of a civil citation. The civil citation shall be in writing, and issued by certified mail with return receipt requested, or by personal service. The civil citation shall contain the following:~~

- ~~a. The name and address of the property owner or other person to whom the civil citation is directed;~~
- ~~b. The street address or description sufficient for identification of the land upon which the violation has occurred or is occurring;~~
- ~~c. A description of the violation and a reference to the provisions of this chapter that have been violated;~~
- ~~d. A statement of the restoration action required to be taken to correct the violation as determined by the Planning Official;~~
- ~~e. A statement of the civil penalty incurred for each violation;~~
- ~~f. A statement that the person to whom the civil citation is issued must correct the violation through restoration described in subsection (8) of this section and may pay the civil penalty or may appeal the civil citation as provided in this section.~~

~~7. Civil Penalty.~~

- ~~a. A person who fails to comply with the requirements of this chapter or the terms of a permit issued hereunder, who undertakes an activity regulated by this chapter without obtaining a permit, or fails to comply with a cease and desist or stop work order issued under this chapter shall also be subject to a civil penalty as set forth in Table 95.55.1. Each unlawfully removed or damaged tree shall constitute a separate violation.~~
- ~~b. Any person who aids or abets in the violation shall be considered to have committed a violation for purposes of the civil penalty.~~
- ~~c. The amount of the penalty shall be assessed in accordance with Table 95.55.1. The Planning Official may elect not to seek penalties if the~~

~~Planning Official determines that the circumstances do not warrant imposition of civil penalties in addition to restoration.~~

~~Table 95.55.1  
 – Penalties~~

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

~~8. Tree Restoration:~~

~~a. Violators of this chapter or of a permit issued thereunder shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the Planning Official, which provides for repair of any environmental and property damage, and restoration of the site; and which results in a site condition that, to the greatest extent practical, equals the site condition that would have existed in the absence of the violation(s). In cases where the violator intentionally or knowingly violated this chapter or has committed previous violations of this chapter, restoration costs may be based on the City appraised tree value of the subject trees in which the violation occurred, utilizing the industry standard trunk formula method in the current edition of Guide for Plant Appraisal. If diameter of removed tree is unknown, determination of the diameter size shall be made by the Planning Official by comparing size of stump and species to similar trees in similar growing conditions. The amount of costs above the approved restoration plan will be paid into the City forestry account.~~

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

- ~~1) The number of trees required to be planted is equal to the number of tree credits of illegally removed trees according to Table 95.33.1.~~
- ~~2) The minimum size for a tree planted for restoration is 12-foot tall conifer and three-inch caliper deciduous or broadleaf evergreen~~

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

~~3) In the event the violators cannot restore the unlawfully removed or damaged trees, the violators shall make payment to the City forestry account. Unless otherwise determined to base the restoration costs on appraised value, the amount paid will be the City's unit cost for a restoration tree multiplied by the number of outstanding tree credits. The City's unit cost is based on the current market cost of purchase, installation and three-year maintenance for a minimum-sized tree for restoration.~~

~~4) The restoration plan shall include a maintenance plan and an agreement or security to ensure survival and maintenance of restoration trees for a three-year period unless the violation was on a site with an approved tree plan, in which case the maintenance period is five years.~~

#### ~~9. Failure to Restore or Pay Fines.~~

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

~~b. Fines. A property owner or occupant who fails to restore or otherwise cure property on which a violation of this chapter has occurred shall be assessed a fine of \$100.00 per day for each day that restoration is incomplete. Prior to assessing fines under this subsection, the City shall issue a written notice to the property owner or that restoration has not been completed. The notice shall include the following information: (1) a description of the nature of the violation; (2) a description of what actions are required to bring the property into compliance; and (3) a date by which compliance shall be required (the "compliance date"). The compliance date shall be no less than 30 days from the date the notice is served on the property owner or occupant. If the property owner or occupant does not, in the determination of the City, bring the property into compliance by the compliance date, then the City may~~

~~issue an order imposing \$100.00 per day fines at any time after the compliance date. The fines shall continue to accrue until the violation has been certified to be corrected by the Planning Department. The property owner or occupant may appeal the order imposing fines to the Hearing Examiner using the procedures set forth in subsection 10 of this section.~~

~~10. Appeal to Hearing Examiner.~~

- ~~a. A person to whom a civil citation or order imposing fines is directed may appeal the civil citation, including the determination that a violation exists or the amount of any monetary penalty imposed, to the Hearing Examiner.~~
- ~~b. A person may appeal the civil citation or order imposing fines by filing a written notice of appeal with the Department of Planning and Community Development within 14 calendar days of the date of service of the civil citation or order imposing fines.~~
- ~~c. Fines that accrue on a daily basis shall not be imposed while an appeal is pending unless the Hearing Examiner determines that the appeal is frivolous or imposed solely for the purpose of delay.~~
- ~~d. If both a civil citation and an order to cease and desist have been issued in the same case, and both the civil citation and the order to cease and desist have been appealed, the appeals shall be consolidated for hearing.~~
- ~~e. The office of the Hearing Examiner shall give notice of the hearing to the appellants at least 17 calendar days prior to the hearing.~~
- ~~f. The Hearing Examiner shall conduct a hearing on the appeal pursuant to the rules of procedure provided for in the Administrative Procedures Act (Chapter 34.05 RCW) and in accordance with any rules for hearings promulgated by the Hearing Examiner. The City and the appellant may participate as parties in the hearing and each may call witnesses. The City shall have the burden of proof by a preponderance of the evidence that a violation has occurred.~~

~~11. Hearing Examiner Decision.~~

- ~~a. The Hearing Examiner shall determine whether the City has proven by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend, or modify the amount of any monetary penalty imposed by the civil citation, with or without written conditions.~~

- ~~b. In the event that the Hearing Examiner determines that a violation has occurred, the Hearing Examiner shall also consider the following in making his or her decision: (1) whether the appeal is frivolous or intended to delay compliance; (2) whether the appellant exercised reasonable and timely effort to comply with applicable development regulations; and (3) any other relevant factors.~~
- ~~c. The Hearing Examiner shall mail a copy of his or her decision to the appellant, by certified mail, postage prepaid, return receipt requested.~~
- ~~d. The decision of the Hearing Examiner may be reviewed in King County Superior Court using the standards set forth in RCW 36.70C.130. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision by the Hearing Examiner (see Chapter 36.70C RCW for more information).~~

(No further changes)

## CHAPTER 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

(No change until)

### Section 115.65 Home Occupations

6. Enforcement – Upon determination that there has been a violation of any provision of this section, the City may pursue code enforcement in accordance with the provisions of KMC Chapter 170KZC 1.12, Code Enforcement.

### ~~115.70 Junk and Junk Yards Prohibited~~

~~It is a violation of this code to accumulate junk or for a property owner or the person in control of property to allow junk to accumulate on the subject property. In addition, a junk yard is not permitted in the City.~~

(No further changes)

## Chapter 117 PERSONAL WIRELESS FACILITIES

(No change until)

### 117.125 Violations and City Remedies

Any person who violates any of the provisions of this chapter shall be subject to the provisions of KMC Chapter 170-KZC 1.12, Code Enforcement. In addition to fines, the City shall have the right to seek damages and injunctive relief for any and all violations of this chapter and all other remedies provided at law or in equity.

(No further changes)

#### Chapter 141 – SHORELINE ADMINISTRATION

(No change until)

##### 141.80 Enforcement Authority.

1. WAC Chapter 173-27 contains enforcement regulations, including authority for the city to issue regulatory orders to enforce the Shoreline Management Act and the shoreline master program. In addition, the city shall have any and all other powers granted to or devolving upon municipal corporations to enforce ordinances, resolutions, regulations, and other laws within its territorial limits. Upon determination that there has been a violation of any provision of the city's shoreline regulations, the City may pursue code enforcement and penalties in accordance with the provisions of KMC 1.12, Code Enforcement.

(No further changes)

#### Chapter 162 – NONCONFORMANCE

(No change until)

##### 162.20 Abatement of Nonconformance That Was Illegal When Initiated

1. General – Except as specified in subsection (2) of this section, any nonconformance that was illegal when initiated must immediately be brought into conformance with this chapter. The City may, using the provisions of KMC Chapter 170-KZC 1.12, immediately abate any nonconformance that was illegal when initiated.

(No further changes until)

##### 162.25 Immediate Compliance with Certain Provisions Required

1. General – Regardless of any other provision of this chapter, the following nonconformances must be immediately brought into conformance with the applicable provisions of this code:

...

i. Nonconformance with the provisions in ~~Chapter 115-KZC~~ KMC 21.41 regarding junk in residential zones.

2. Abatement – The City may immediately abate any nonconformance listed in KZC 162.25(1) using the provisions of ~~KZC 170.25 through 170.40~~ KMC 1.12, or any other abatement process lawfully available to the City.

(No further changes)

### Chapter 170 – CODE ENFORCEMENT ADMINISTRATION

- 170.05 User Guide
- 170.10 Permits Issued by Building Official – Responsibility Prior to Issuance of Permit
- 170.15 Permits Issued by Building Official – Certificate of Occupancy
- 170.20 Code Enforcement Officer – Duty To Investigate
- ~~170.25 Violation of This Code~~
- ~~170.30 Code Enforcement Officer – Order To Cease Activity~~
- ~~170.35 Code Enforcement Officer – Notice of Violation~~
- ~~170.40 Code Enforcement Officer – Notice of Civil Infraction~~
- ~~170.42 Failure To Satisfy Penalty~~
- 170.45 25 Variance, Permit, Decision or Discretionary Approval – General
- 170.50 30 Variance, Permit, Decision, or Discretionary Approval – Voiding
- 170.55 35 No Personal Liability for Acts or Omissions
- 170.60 40 Interpretations of This Code – General
- 170.65 45 Interpretations of This Code – Appeal
- 170.70 50 Conflict of Provisions
- 170.75 55 Easement Agreements Approved by the City Attorney

#### 170.05 User Guide

This chapter contains a variety of provisions generally pertaining to the administration and enforcement of this code. Specifically, this chapter contains provisions in the following areas:

1. Code administration.
2. Code enforcement.
- ~~3. Penalties for code violation.~~
43. Status of discretionary decision.
54. Liability of employees and others.
65. Code interpretations and appeals.

~~76.~~ Conflict of provisions.

~~87.~~ Recording of easements.

#### 170.10 Permits Issued by Building Official – Responsibility Prior to Issuance of Permit

1. General – The Building Official may not issue a permit to conduct any activity or to erect or alter any structure that does not conform to this code.
2. Required Information – The Building Official shall distribute to each applicant for a permit issued by that Official a list, prepared by the Planning Official, of all of the information and renderings required by this code.
3. Responsibility of Building Official – Upon receiving an application for any permit that is not exempt under subsection (7) of this section, the Building Official shall send the application and all relevant information to the Planning Department. The Building Official may not issue the permit until the permit application has been signed by the Planning Official.
4. Responsibility of the Planning Official – Upon receiving an application for a permit routed from the Building Official, the Planning Official shall promptly review it and make any necessary field inspection to determine whether the proposed development or activity complies with this code.
5. Additional Information – The Planning Official may require the applicant to provide any information or renderings required by this code, or any other information or renderings that are reasonably necessary to determine if the proposed development or activity complies with the provisions of this code.
6. Authorization by Planning Official – The Planning Official shall sign the permit application if the proposed development or activity conforms to the provisions of this code.
7. Permits Exempted from Review by the Planning Director – The Planning Director may specifically exempt categories of permits issued by the Building Official from the Planning Department review requirements of this section. The Building Official shall review applications for exempted permits for compliance with this code.

#### 170.15 Permits Issued by Building Official – Certificate of Occupancy

1. General – It is unlawful to occupy a building or conduct a use requiring a certificate of occupancy unless the Planning Official has approved the certificate of occupancy for that building or use.

2. Responsibility of Building Official – Upon receipt of a request to issue a certificate of occupancy, the Building Official shall promptly notify the Planning Official of the request. The Building Official may not issue a certificate of occupancy until he/she receives written approval from the Planning Official.
3. Responsibility of the Planning Official – Upon receiving notice from the Building Official of a request for a certificate of occupancy, the Planning Official shall promptly review the request, and if necessary, conduct a field inspection to determine if the structure or use conforms to this code.
4. Issuance of the Planning Official Approval – The Planning Official shall sign and forward to the Building Department the Certificate of Occupancy if the building or use conforms to this code.

#### 170.20 Code Enforcement Officer – Duty To Investigate

- ~~1. General – The Code Enforcement Officer shall, either upon a complaint or on his/her own initiative, investigate potential violations of this code. For code enforcement procedures and penalties for violations of this code see KMC 1.12.~~
- ~~2. Entrance on Private Property – The Code Enforcement Officer may enter upon private property to investigate potential violations of this code if he/she has a good faith belief that a violation exists or is occurring on the property. Before entering upon private property, the Code Enforcement Officer shall present his/her credentials to the owner or person in possession or charge of the property and demand entry. If entry is refused, the Code Enforcement Officer may use every lawful means and remedy to obtain entry.~~

#### ~~170.25 Violation of This Code~~

- ~~1. General – It is a violation for any person to do or cause any of the following to be done contrary to this code, and for the property owner to permit any of the following to be done contrary to this code:~~
  - ~~a. Construct, in any way alter, or move any improvement.~~
  - ~~b. Engage in any activity.~~
  - ~~c. Use or occupy any structure or land.~~
  - ~~d. Conduct any use.~~
  - ~~e. Create any conditions.~~

~~It is also a violation for any person to fail to perform any activity or obligation required by this code. Violation of a provision of this code is a civil infraction for which a monetary penalty may be imposed under this chapter.~~

- ~~2. Monetary Penalty—The amount of the monetary penalty per day or portion thereof for each violation is as follows:
  - a. First violation: \$100.00;
  - b. Second violation: \$200.00;
  - c. Third violation: \$300.00;
  - d. Additional violation in excess of three: \$500.00.~~
- ~~3. Continued Duty To Correct—Payment of a monetary penalty pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the applicable department director.~~
- ~~4. Other Legal Remedies—Nothing in this chapter limits the right of the City to pursue other lawful criminal, civil, or equitable remedies to abate, discontinue, or correct unlawful acts under or in violation of this code.~~

#### ~~170.30 Code Enforcement Officer—Order To Cease Activity~~

- ~~1. General—If the Code Enforcement Officer determines that any activity being conducted or any improvement being erected or altered:
  - a. Does not conform to the code, and
  - b. Such activity (i) involves use of noise emitting heavy construction equipment or land surface modification, or (ii) poses an immediate threat to the safety, repose or right of quiet enjoyment of neighboring property owners, or to the general public,he/she may issue an order to cease activity.~~
- ~~2. Posting and Notice—The Code Enforcement Officer shall prominently post this Order on the subject property and shall make reasonable attempts to send this Order on to the property owner, the person in charge of the property, or the person causing the activity to be conducted or the improvement to be erected or altered.~~
- ~~3. Effect—When an order to cease activity has been posted on the subject property, it is a violation for any person with actual or constructive knowledge of the order to conduct the activity or do the work covered by~~

~~the order until the Code Enforcement Officer has removed the posted copy of the order and issued written authorization for the activity or work to be continued. If an order to cease activity is violated, the Code Enforcement Officer may issue a notice of civil infraction under KZC 170.40 and need not first issue a notice of violation.~~

- ~~4. Appeal — An order to cease activity may be appealed in like manner as a notice of civil infraction to the Hearing Examiner under the provisions of KZC 170.40. If a notice of civil infraction has also been issued and appealed, the appeals shall be consolidated for hearing.~~

#### ~~170.35 Code Enforcement Officer — Notice of Violation~~

- ~~1. General — If the Code Enforcement Officer determines that any activity, condition, structure, or use exists that does not conform to this code, he/she may issue a notice of violation. This notice will specifically indicate:
  - ~~a. The name and address of the property owner or other person to whom the notice of violation is directed; and~~
  - ~~b. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and~~
  - ~~c. A description of the violation and a reference to that provision or provisions of this code being violated; and~~
  - ~~d. A statement of the action required to be taken to correct the violation as determined by the applicable department director and a date or time by which correction is to be completed, which date shall be not less than seven days after the date of issuance of the notice of violation; and~~
  - ~~e. A statement that a monetary penalty in an amount per day for each violation as specified by KZC 170.25 shall be assessed against the person to whom the notice of violation is directed for each and every day, or portion of a day, on which the violation continues following the date set for correction.~~~~
- ~~2. Notice to Occupant and Owner — The Code Enforcement Officer shall:
  - ~~a. Leave a copy of this notice with the occupant or person in charge of the property or post it in a conspicuous place on the subject property; and~~~~

- ~~b. Send a copy of the notice by certified mail to the owner of the subject property.~~
- ~~3. Extension — Upon written request received prior to the correction date or time, the Code Enforcement Officer may extend the date set for correction for good cause. The Code Enforcement Officer may consider substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as good cause.~~

#### ~~170.40 Code Enforcement Officer — Notice of Civil Infraction~~

- ~~1. General — The Code Enforcement Officer may cause a notice of civil infraction to be issued in either of the following circumstances:
  - ~~a. There is a violation of a posted order to cease activity.~~
  - ~~b. If, after this time specified in the notice of violation, the activity, conditions, structure, or use cited in the notice of violation still does not conform to this code.~~~~
- ~~2. Issuance
  - ~~a. The notice of civil infraction will be issued to the owner of the property, the occupant, or person in charge of the property and/or any other person causing or allowing the activity, conditions, structure or use to exist or occur.~~
  - ~~b. Notwithstanding the provisions of KZC 170.30 and 170.35, the Code Enforcement Officer may issue a notice of civil infraction without having issued a notice of violation or order to cease activity when a repeated violation occurs within a six-month period of time.~~
  - ~~c. A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless appealed as provided in this chapter.~~~~
- ~~3. Content — The Code Enforcement Officer shall include the following in the notice of civil infraction:
  - ~~a. The name and address of the property owner or other persons to whom the notice of civil infraction is directed; and~~
  - ~~b. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and~~~~

- ~~c. A description of the violation and a reference to that provision or provisions of this code which has been violated; and~~
  - ~~d. A statement that the monetary penalty in the amount per day for each violation as specified in KZC 170.25 is assessed against the person to whom the notice of civil infraction is directed for each and every day, or portion thereof, during which the violation continues beyond the date or time established for correction in the notice of violation; and~~
  - ~~e. A statement that the person to whom the notice of civil infraction was directed must complete correction of the violation and may pay the monetary penalty imposed to the City Clerk or may appeal the notice of civil infraction as provided in this section.~~
- ~~4. Service of Notice — The Code Enforcement Officer shall serve the notice of civil infraction upon the person to whom it is directed, either personally or by mailing a copy of the notice of civil infraction by certified mail, postage prepaid, return receipt requested, to such person at his/her last known address or by posting the notice of civil infraction conspicuously on the affected property or structure. The person who effected personal service shall make proof of service at the time of service by a written declaration under penalty of perjury declaring the time and date and the manner in which service was made.~~
- ~~5. Appeal to Hearing Examiner~~
- ~~a. A person to whom a notice of civil infraction is directed may appeal the notice of civil infraction including the determination that a violation exists or may appeal the amount of any monetary penalty imposed to the Hearing Examiner.~~
  - ~~b. A person may appeal the notice of civil infraction by filing a written notice of appeal with the Department of Planning and Community Development within seven calendar days from the date of service of the notice of civil infraction.~~
  - ~~c. The monetary penalty for a continuing violation does not accrue during the pendency of the appeal; however, the Hearing Examiner may impose a daily monetary penalty from the date of service of the notice of civil infraction if he finds that the appeal is frivolous or intended solely to delay compliance.~~
  - ~~d. The hearing before the Hearing Examiner shall be conducted as follows:~~

- ~~1) The office of the Hearing Examiner shall give notice of the hearing before the Hearing Examiner to the appellant 17 calendar days before such hearing.~~
- ~~2) The Hearing Examiner shall conduct a hearing on the appeal pursuant to the rules of procedure as provided by the Administrative Procedure Act, Chapter 34.05 RCW. The City and the appellant may participate as parties in the hearing and each may call witnesses. The City shall have the burden of proof by a preponderance of the evidence that a violation has occurred.~~

~~6. Action of Hearing Examiner~~

- ~~a. The Hearing Examiner shall determine whether the City has proven by a preponderance of the evidence that a violation has occurred and shall affirm, vacate, suspend, or modify the amount of any monetary penalty imposed by the notice of civil violation with or without written conditions.~~
- ~~b. The Hearing Examiner shall consider the following in making his/her determination:
  - ~~1) Whether the intent of the appeal was to delay compliance, or~~
  - ~~2) Whether the appeal is frivolous, or~~
  - ~~3) Whether there was a written contract or agreement with another party which specified the securing by the other party of the applicable permit or approval from the City, or~~
  - ~~4) Whether the appellant exercised reasonable and timely effort to comply with applicable development regulations, or~~
  - ~~5) Any other relevant factors.~~~~

~~7. Notice of Decision — The Hearing Examiner shall mail a copy of his decision to the appellant by certified mail, postage prepaid, return receipt requested.~~

~~8. Judicial Review — The decision of the Hearing Examiner may be reviewed pursuant to the standards set forth in RCW 36.70C.130 in King County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision by the Hearing Examiner. For more information on the judicial review process for land use decisions, see Chapter 36.70C RCW.~~

~~9. Collection of Monetary Penalty~~

- a. ~~The monetary penalty constitutes a personal obligation of the person to whom the notice of civil infraction is directed. Any monetary penalty assessed must be paid to the City Clerk within seven calendar days from the date of service of notice of civil infraction or, if an appeal was filed pursuant to this section, within seven calendar days of the Hearing Examiner's decision.~~
- b. ~~The City Attorney, on behalf of the City, is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate accrual of additional per diem monetary penalties so long as the violation continues.~~
- c. ~~In the event of failure to appear at a hearing provided in this section, the Hearing Examiner shall assess the monetary penalty prescribed and a penalty of \$25.00.~~
- d. ~~In the event of a conflict between this chapter and any other provision of this code or City ordinance providing for a civil penalty, this chapter shall control.~~

#### ~~170.42 Failure To Satisfy Penalty~~

~~A person who willfully fails to pay a monetary penalty as required by provisions of this chapter may be found in civil contempt of court after notice and hearing.~~

#### ~~170.4525 Variance, Permit, Decision or Discretionary Approval – General~~

~~The City shall enforce the provisions, including any conditions or restrictions, of a variance, permit, decision, or discretionary approval issued under this code as if those provisions are part of this code.~~

#### ~~170.5030 Variance, Permit, Decision, or Discretionary Approval – Voiding~~

1. ~~General – Under the provisions of this section, the City may void any variance, permit, decision or discretionary approval granted or issued under this code.~~
2. ~~Review Process – The City, as the applicant, shall use the same process to determine if a variance, permit, decision, or discretionary approval should be voided as it used to grant the variance, permit, decision, or discretionary approval.~~
3. ~~Decisional Criteria – The City may void a variance, permit, decision, or discretionary approval only if it finds that:~~

- a. There have been repeated violations of any aspect, including conditions or restrictions, of the variance, permit, decision, or discretionary approval; and
  - b. The detriment caused by the violations clearly outweighs any public benefit of the variance, permit, decision, or discretionary approval.
4. Effect – If the City voids a variance, permit, decision, or discretionary approval, the City will apply and enforce the provisions of this code on the subject property, as if the variance, permit, decision, or discretionary approval had never been granted.

#### **170.5535 No Personal Liability for Acts or Omissions**

Each person responsible for the enforcement or administration of this code and each member of a Committee, Board, Commission or Council responsible for making any decision or recommendation under this code is relieved from any personal liability whatsoever from any injury to persons or property as a result of his/her act or omission in the good faith discharge of his/her responsibilities. If the person or member is sued for acts or omissions occurring in the good faith discharge of his/her responsibilities, the City shall defend and provide legal representation to the person or member until final disposition of the proceedings. The City shall reimburse the person or member for any costs incurred in defending against alleged liability for the acts or omissions of the person or members in the good faith discharge of his/her duties.

#### **170.6040 Interpretations of This Code – General**

1. Criteria – The Planning Director may, acting on his/her own initiative or in response to an inquiry, issue interpretations of any of the provisions of this code. The Director shall base his/her interpretations on:
  - a. The defined or common meaning of the words of the provision; and
  - b. The general purpose of the provision as expressed in the provision; and
  - c. The logical or likely meaning of the provision viewed in relation to the Comprehensive Plan.
2. Effect – An interpretation of this code will be enforced as if it is part of this code.
3. Availability – All interpretations of this code, filed sequentially, are available for public inspection and copying in the Planning Department

during regular business hours. The Planning Official shall also make appropriate references in this code to these interpretations.

#### **170.6545 Interpretations of This Code – Appeal**

1. **Who Can Appeal** – Any person who is aggrieved by an interpretation issued by the Planning Director may appeal that interpretation at any time.
2. **How To Appeal** – The applicant must file a letter of appeal indicating how the interpretation affects his/her property and presenting any relevant arguments or information on the correctness of the interpretation. The applicant shall include the appeals fee as established by ordinance.
3. **Applicable Procedures** – All appeals of interpretations of this code will be reviewed and decided upon using the appeal provisions of Process I, described in Chapter 145 KZC.
4. **Effect** – If the interpretation of the Planning Director is modified, the Planning Official shall:
  - a. Place the modifying decision in the Interpretation File; and
  - b. Change or remove, as appropriate, the interpretation that was modified; and
  - c. Change the reference in this code to reflect the modification.

#### **170.7050 Conflict of Provisions**

The standards, procedures, and requirements of the code are the minimum necessary to promote the health, safety, and welfare of the residents of Kirkland. The City is free to adopt more rigorous or different standards, procedures, and requirements whenever this becomes necessary. If the provisions of this code conflict one with another, or if a provision of this code conflicts with the provision of another ordinance of the City, the most restrictive provision or the provision imposing the highest standard prevails.

#### **170.7555 Easement Agreements Approved by the City Attorney**

In each case where the City requires an applicant to provide a public walkway, public use area, or other area, facility or structure that is open to the public, the applicant shall execute and record with the King County Bureau of Elections and Records an easement or similar document approved by the City Attorney.



**ORDINANCE NO. 4286**

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 5 – DEFINITIONS, CHAPTER 10 – LEGAL EFFECT/APPLICABILITY, CHAPTER 15 – SINGLE-FAMILY RESIDENTIAL (RS) ZONES, CHAPTER 18 – SINGLE-FAMILY RESIDENTIAL A (RSA) ZONES, CHAPTER 20 – MULTIFAMILY RESIDENTIAL (RM AND RMA) ZONES, CHAPTER 25 – PROFESSIONAL OFFICE RESIDENTIAL (PR) AND PROFESSIONAL OFFICE RESIDENTIAL A (PRA) ZONES, CHAPTER 27 – PROFESSIONAL OFFICE (PO) ZONES, CHAPTER 30 – WATERFRONT DISTRICT (WD) ZONES, CHAPTER 35 – FREEWAY COMMERCIAL (FC) ZONES, CHAPTER 40 – NEIGHBORHOOD BUSINESS (BN) ZONES AND NEIGHBORHOOD BUSINESS A (BNA) ZONES, CHAPTER 45 – COMMUNITY BUSINESS (BC, BC 1 AND BC 2) ZONES, CHAPTER 47 – COMMUNITY BUSINESS X (BCX) ZONES, CHAPTER 48 – LIGHT INDUSTRIAL TECHNOLOGY (LIT) ZONES, CHAPTER 49 – PARK/PUBLIC USE (P) ZONES, CHAPTER 50 – CENTRAL BUSINESS DISTRICT (CBD) ZONES, CHAPTER 51 – MARKET STREET CORRIDOR (MSC) ZONES, CHAPTER 52 – JUANITA BUSINESS DISTRICT (JBD) ZONES, CHAPTER 53 – ROSE HILL BUSINESS DISTRICT (RHBD) ZONES, CHAPTER 54 – NORTH ROSE HILL BUSINESS DISTRICT (NRHBD) ZONES, CHAPTER 55 – TOTEM LAKE (TL) ZONES, CHAPTER 60 – PLANNED AREAS (PLA), CHAPTER 100 – SIGNS, CHAPTER 105 – PARKING AREAS, VEHICLE AND PEDESTRIAN ACCESS, AND RELATED IMPROVEMENTS, CHAPTER 112 – AFFORDABLE HOUSING INCENTIVES – MULTIFAMILY, CHAPTER 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS, CHAPTER 117 – PERSONAL WIRELESS SERVICE FACILITIES, CHAPTER 120 – VARIANCES, CHAPTER 150 – PROCESS IIA, CHAPTER 155 – PROCESS III, CHAPTER 170 – CODE ENFORCEMENT, CHAPTER 180 – PLATES; AND AMENDING SECTIONS 22.32.050 AND 22.04.030 OF THE KIRKLAND MUNICIPAL CODE; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION , FILE NO. ZON10-00013.

WHEREAS, the City Council has received recommendations from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated November 22, 2010 and bearing Kirkland Department of Planning and Community Development File No. ZON10-00013; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission, following notice thereof as required by RCW 35A.63.070, on November 4, 2010, held a public hearing, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

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

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

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

As set forth in Attachment A (Zoning text changes) and B (Municipal Code text changes) attached to this ordinance and incorporated by reference.

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

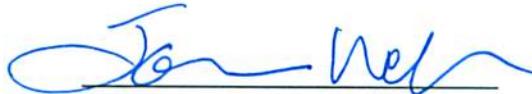
Section 3. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community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

Section 4. Except as provided in Section 3, this ordinance shall be in force and effect on April 1, 2011 after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

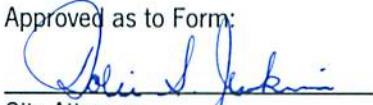
Section 5. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this 4th day of January, 2011.

SIGNED IN AUTHENTICATION thereof this 4th day of January, 2011.

  
\_\_\_\_\_  
Mayor

Attest:  
  
\_\_\_\_\_  
City Clerk

Approved as to Form:  
  
\_\_\_\_\_  
City Attorney

**ATTACHMENT A**  
**KIRKLAND ZONING CODE CHANGES**  
**FILE NO. ZON10-00013**  
**2010 MISCELLANEOUS CODE AMENDMENTS PHASE II**  
 \* - Not subject to Houghton Community Council review

How to read this document:

- The first several amendments affect various code sections. The remaining amendments are listed in code section order.
- Italicized text reflects existing code language
- Italicized text that is covered by a strike-through (~~abc~~) is existing text currently contained in the Zoning Code that is to be deleted.
- Italicized text that is underlined (abc), with the exception of section headings, is new text that is to be added.

**A. Various Code Sections - Clarify how horizontal façade is measured by using the defined term "maximum horizontal façade" as applicable.**

*If any portion of a structure is adjoining a low density zone, then either:*

- a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or*
- b. ~~The Maximum Horizontal Façade horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet in width.~~*

Affected Kirkland Zoning Code (KZC) sections are:

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

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

*If any portion of a structure is adjoining a low density use within PLA 5A, then either:*

- a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or*
- b. The Maximum Horizontal Façade ~~horizontal length of any façade of that portion of the structure which is within 100 feet of the lot containing a low density use within PLA 5A shall not exceed 75 feet.~~*

The affected KZC sections are:

KZC 60.30.3.b	KZC 60.45.3.b
KZC 60.35.3.b	KZC 60.50.3.b
KZC 60.40.3.b	

**B. Various Code Sections - Affordable Housing – Clarify Requirement for all housing types in Multi-Family and Commercial Zones & Revise Minimum Lot Size Provision**

*Developments creating four or more new detached, attached or stacked dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. In such cases, the minimum lot size listed in the Use Regulations shall be used to establish the base number of units allowed on the site, but shall not limit the size of individual lots. See Chapter 112 KZC for additional affordable housing incentives and requirements.*

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

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

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

**C. Various Code Sections - Make Outdoor Vehicle/Boat Sales, Service/Repair Buffer Standards Consistent between zones**

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

**BCX** – KZC 47.10.020.4: *Storage of used parts and tires must be conducted entirely within an enclosed structure. Outdoor vehicle parking or storage areas must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.*

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

**JBD 1** – KZC 52.12.020.4: *Storage of used parts and tires must be conducted entirely within an enclosed structure. Outdoor vehicle parking or storage areas must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations. ~~also the section in Chapter 115 entitled "Outdoor Use, Activity and Storage" for additional regulations.~~*

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

**JBD 2** – KZC 52.17.020.4: *Storage of used parts and tires must be conducted entirely within an enclosed structure. Outdoor vehicle parking or storage areas must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations. ~~also the section in Chapter 115 entitled "Outdoor Use, Activity and Storage" for additional regulations.~~*

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

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

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

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

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

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

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

**NRH 1A** – KZC 54.06.070.5: Storage of used parts and tires must be conducted entirely within an enclosed structure. Outdoor vehicle parking or storage areas must be buffered as required for a parking area in KZC 95.45. See also KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.

**NRH 1B** – KZC 54.12.050.5: Storage of used parts and tires must be conducted entirely within an enclosed structure. Outdoor vehicle parking or storage areas must be buffered as required for a parking area in KZC 95.45. See also KZC 115.105, Outdoor Use, Activity and Storage, for additional regulations.

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

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

**TL 5** – KZC 55.39.030: 2. Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in KZC 95.45. See KZC 115.105, Outdoor Use Activity and Storage, for additional regulations.

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

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

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

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

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

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

**D. KZC 5.10 - Window Signs**

Add a definition for a window sign:

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

**E. KZC 10.45 - Annexation vesting**

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

*KZC 10.45 Annexed Property*

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

**F. KZC 15.10 - Change to RS Zoning in regards to Schools**

*15.10.030.2.c - May locate on the subject property only if:*

- a. *It will not be materially detrimental to the character of the neighborhood in which it is located.*
- b. *Site and building design minimizes adverse impacts on surrounding residential neighborhoods.*
- c. *The property is served by a collector or arterial street (does not apply to existing school sites).*

**G. KZC 18.10.030 - Change to RSA Zoning in regards to Schools**

18.10.030.1.c - *May locate on the subject property only if:*

- a. *It will not be materially detrimental to the character of the neighborhood in which it is located; or*
- b. *Site and building design minimizes adverse impacts on surrounding residential neighborhoods.*
- c. *The property is served by a collector or arterial street (does not apply to existing school sites).*

**H. KZC 18.10.080 - Electronic Readerboard Signs for Fire Stations in the Annexation Area \***

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

One pedestal sign with a readerboard having electronic programming is allowed at a fire station only if:

- a. It is a pedestal sign (see Plate 12) having a maximum of 40 square feet of sign area per sign face;
- b. The electronic readerboard is no more than 50 percent of the sign area;
- c. Moving graphics and text or video are not part of the sign;
- d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way;
- e. The electronic readerboard displays messages regarding public service announcements or City events only;
- f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness;
- g. The electronic readerboard is turned off between 10:00 p.m. and 6:00 a.m. except during emergencies;
- h. It is located to have the least impact on surrounding residential properties.

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

**I. KZC 40.10.170 - Electronic Readerboard Signs for Fire Stations in the Annexation Area \***

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

One pedestal sign with a readerboard having electronic programming is allowed at a fire station only if:

- a. It is a pedestal sign (see Plate 12) having a maximum of 40 square feet of sign area per sign face;
- b. The electronic readerboard is no more than 50 percent of the sign area;
- c. Moving graphics and text or video are not part of the sign;
- d. The electronic readerboard does not change text and/or images at a rate less than one every seven seconds and shall be readily legible given the text size and the speed limit of the adjacent right-of-way;
- e. The electronic readerboard displays messages regarding public service announcements or City events only;
- f. The intensity of the display shall not produce glare that extends to adjacent properties and the signs shall be equipped with a device which automatically dims the intensity of the lights during hours of darkness;
- g. The electronic readerboard is turned off between 10:00 p.m. and 6:00 a.m. except during emergencies;
- h. It is located to have the least impact on surrounding residential properties.

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

**J. KZC 45.08 - Affordable Housing. Also Require in BC 1 and BC 2**

BC1 and BC 2:

KZC 45.08.4 – In BC 1 and BC 2 zones, developments creating four or more new dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. See Chapter 112 KZC for additional affordable housing incentives and requirements.

45. No Change to Text

56. No Change to Text

67. No Change to Text

**K. KZC 50.10.3 - CBD 1A & 1B KZC Chapter 50. Ground Floor Retail Requirements \***

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

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

**L. KZC 50.34, 50.35, and Plate 34H - CBD 5 \***

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

50.33 User Guide.

The charts in KZC 50.35 contain the basic zoning regulations that apply in the CBD 5 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 50.34



**Section 50.34 – GENERAL REGULATIONS**

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

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
2. No portion of a structure above the elevation of Kirkland Way as measured at the midpoint of the frontage of the subject property on Kirkland Way may exceed the following:
  - a. Within 20 feet of Kirkland Way, 2 stories;
  - b. Within 40 feet of Kirkland Way, 4 stories;
  - c. Within 50 feet of Kirkland Way, 5 stories.
- ~~3. Buildings exceeding two stories above average building elevation shall demonstrate compliance with the design regulations of Chapter 02 KZC and the provisions of the Downtown Plan Chapter of the Comprehensive Plan. The City will use Design Review (D.R.) to determine compliance.~~
3. 4. The minimum required yard abutting Peter Kirk Park is 10 feet. The required front yard is 0 feet for those portions of buildings with continuous retail or restaurant uses at street level. Kirkland Way shall be considered a pedestrian-oriented street if the front yard is less than 20 feet.
4. 5. No portion of a structure within 100 feet of Peter Kirk Park shall exceed three stories above average building elevation.
5. 6. Ground floor porches and similar entry features may encroach into the required front yard, provided the total horizontal dimensions of such elements may not exceed 25 percent of the length of the facade of the structure (does not apply to Public Park uses).
- ~~7. The entire zone must be physically integrated both in site and building design. Also, site design must include installation of pedestrian linkage consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan, between public sidewalks and building entrances, and between walkways on the subject property and existing or planned walkways on abutting properties (does not apply to Public Utility, Government Facility or Community Facility and Public Park uses).~~

Section 50.35

Zone  
CBD-5

USE ZONE CHART

67'

Section 50.35		DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS										
		Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
USE	REGULATIONS		Front	Side	Rear							
.010	Restaurant or Tavern	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	2-to-6 stories above average building elevation.	D See Spec. Reg. 1.	E	One per each 125 sq. ft. of gross floor area.	<ol style="list-style-type: none"> <li>Landscape Category B is required if the subject property is adjacent to 6th Street or Kirkland Avenue.</li> <li>For restaurants with drive-in or drive-through facilities:                             <ol style="list-style-type: none"> <li>One outdoor waste receptacle shall be provided for every eight parking stalls.</li> <li>Access for drive-through facilities shall be approved by the Public Works Department. Drive-through facilities shall be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.</li> <li>Landscape Category A shall apply if the subject property is adjacent to 6th Street or Kirkland Avenue.</li> </ol> </li> </ol>
.030	Entertainment, Cultural and/or Cultural Recreational Facility								D See Spec. Reg. 2.		See KZC 50.60 and 105.25.	<ol style="list-style-type: none"> <li>The parking requirements for hotel or motel use do not include parking requirements for ancillary meetings and convention facilities. Additional parking requirements for ancillary uses shall be determined on a case-by-case basis.</li> <li>Landscape Category B is required if the subject property is adjacent to 6th Street or Kirkland Avenue.</li> </ol>
.040	Hotel or Motel										One per each room. See Special Reg. 1.	
.050	Any Retail Establishment, other than those specifically listed, limited, or prohibited in the zone, selling goods, or providing services including banking and related financial services								D See Spec. Reg. 4.		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>The sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers; provided, that motorcycle sales, service, or rental is permitted if conducted indoors.</li> </ol> </li> <li>Access for drive-through facilities must be approved by the Public Works Department.</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 subject property is adjacent to 6th Street or Kirkland Avenue.</li> </ol>

(Revised 3/09)

Section 50.35

Zone  
CBD-5

USE ZONE CHART

67'

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

Section 50.35	USE ↓ REGULATIONS ↑	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.060	Private Lodge or Club	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	3-to-6-stories-above average building elevation.	D See Spec. Reg. 1.	B	See KZC 105.25.	1. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.
.070	Office Use								D See Spec. Reg. 3.		One per each 350 sq. ft. of gross floor area.	1. Ancillary assembly and manufacture of goods on premises may be permitted as part of an office use if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this office use; and b. The outward appearance and impacts of this office use with ancillary assembly and manufacturing activities must be no different from other office uses. 2. The following regulations apply to veterinary office only: a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the D.R. and building permit applications. d. A veterinary office is not permitted if the subject property contains dwelling units. 3. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.
.080	Church								D See Spec. Reg. 2.		One per every four people based on maximum occupancy of any area of worship.	1. No parking is required for daycare or school ancillary to the use. 2. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.

Section 50.35

Zone  
CBD-5

USE ZONE CHART

67'

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 50.35	USE ↓ REGULATIONS →	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 108)	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	School, Day-Care Center, or Mini-School or Day-Care Center	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	3 to 6 stories above average building elevation.	D	B	See KZC 105.25.	<ol style="list-style-type: none"> <li>1. A six-foot-high fence is required along all property lines adjacent to outside play areas.</li> <li>2. Structured play areas must be setback from all property lines by at least five feet.</li> <li>3. Hours of operation may be limited by the City to reduce impacts on nearby residential uses.</li> <li>4. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements.</li> <li>5. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).</li> </ol>
.100	Assisted Living Facility See Spec. Reg. 4.								D See Spec. Reg. 3.	A	1.7 per independent unit. 1 per assisted living unit.	<ol style="list-style-type: none"> <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. Landscape Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.</li> <li>4. This use only allowed:                             <ol style="list-style-type: none"> <li>a. On properties with frontage on Second Avenue.</li> <li>b. Within 170 feet of Peter Kirk Park provided that the gross floor area of this use does not exceed 12.5% of the total gross floor area for the subject property.</li> </ol> </li> </ol>
.110	Stacked or Attached Dwelling Units								D See Special Reg. 1.		1.7 per unit.	<ol style="list-style-type: none"> <li>1. Landscape Category C is required if the subject property to adjacent to 6th Street or Kirkland Avenue.</li> <li>2. This use only allowed:                             <ol style="list-style-type: none"> <li>a. On properties with frontage on Second Avenue.</li> <li>b. Within 170 feet of Peter Kirk Park provided that the gross floor area of this use does not exceed 12.5% of the total gross floor area for the subject property.</li> </ol> </li> </ol>

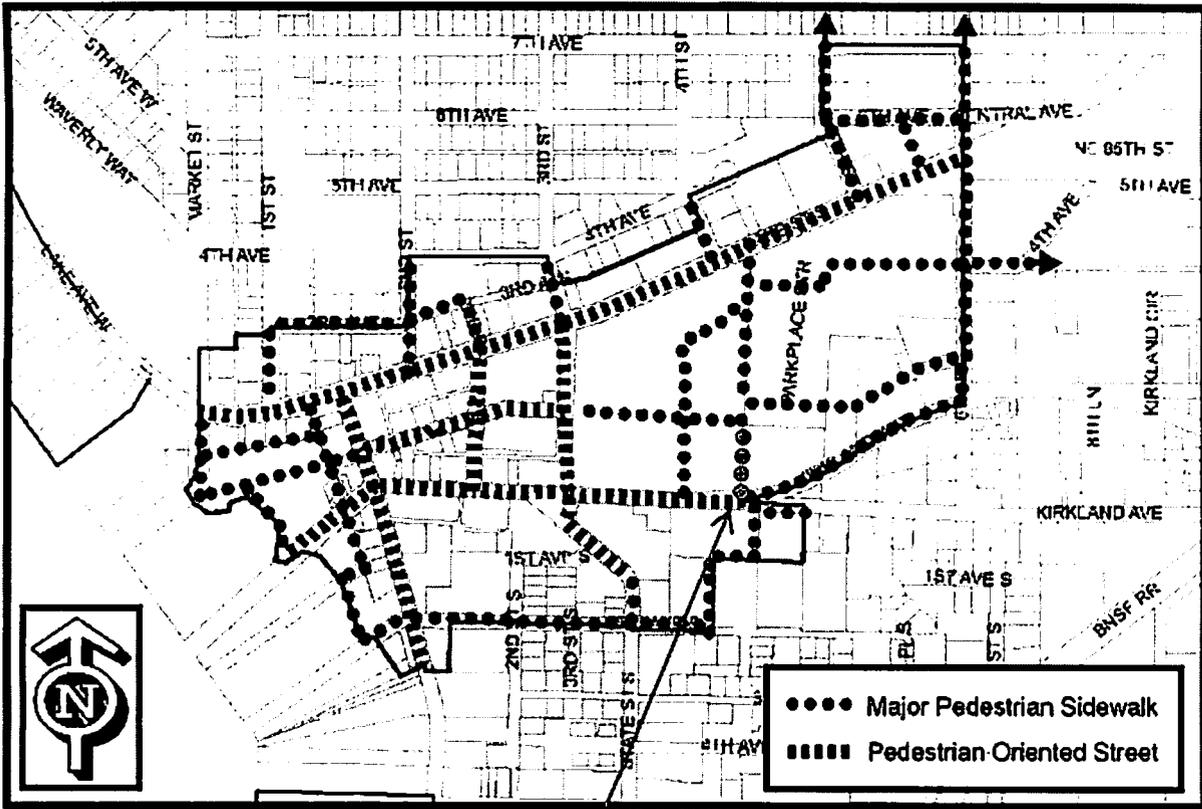
Section 50.35

Zone  
CBD-5

USE ZONE CHART

67'

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 50.35	USE REGULATIONS	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.120	Public Utility, Government Facility, or Community Facility	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	2-6 stories above average building elevation.	D See Special Reg. 1.	B	See KZC 105.25.	<ol style="list-style-type: none"> <li>Landscape Category C is required if the subject property is adjacent to 6th Street or Kirkland Avenue. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on nearby uses.</li> <li>Site design must include installation of pedestrian linkages consistent with the major pedestrian routes in the Downtown Plan chapter of the Comprehensive Plan, between public sidewalks and building entrances, and between walkways on the subject property and existing or planned walkways on abutting properties.</li> </ol>
.130	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										



New Connection

**KZC CHAPTER 180**  
**PLATE 34H**

**M. KZC 50.60 - Reduced Multi Family Parking Standards in the CBD \***

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

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

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

**N. KZC 50.27, 50.32, 50.35, 50.42, 50.52 – Reduced Multi-Family Parking Standards in the CBD\***

The same regulation in item M above is being added to the following CBD use zone charts as a special regulation (except for sentence regarding assisted living units since it is under a separate use listing) for the stacked or attached dwelling unit use listing: CBD 3, 4, 5, 6, & 7.

Section 50.27



USE ZONE CHART

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						
.070	Stacked or Attached Dwelling Units See Spec. Reg. 1.	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	41' above average building elevation.	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. This special regulation shall not apply along portions of State Street and Second Avenue South not designated as pedestrian-oriented streets.</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>
.080	Detached Dwelling Units	None	3,000 sq. ft.	20'	5'	10'	70%	If adjoining a low density zone, then 25' above average building elevation. Otherwise, 30' above average building elevation.	D	A	2.0 per unit	<ol style="list-style-type: none"> <li>For this use, only one dwelling unit may be on each lot regardless of size.</li> <li>This use may only be located west of State Street.</li> <li>Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use.</li> </ol>

See Spec. Reg. 3

3. This use must provide a minimum of one parking stall per bedroom or studio unit and an average of at least 1.3 parking stalls per unit for each development. In addition, guest parking shall be provided at a rate of 0.1 stalls per bedroom or studio unit with a minimum of two guest parking stalls provided per development.

Section 50.32

Zone  
CBD-4

USE ZONE CHART

Section 50.32		USE ↓ REGULATIONS ↑	DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS									
			Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage				
		Front Side Rear										
.050	Private Lodge or Club	D.R., Chapter 142 KZC.	None	10'	0'	0'	100%	54' above average building elevation or existing grade.	D See Spec. Reg. 2.	B	See KZC 105.25.	1. 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. 2. Landscape Category C is required if subject property is adjacent to Planned Area 6C.
.060	Office Use										350	2. This use must provide a minimum of one parking stall per bedroom or studio unit and an average of at least 1.3 parking stalls per unit for each development. In addition, guest parking shall be provided at a rate of 0.1 stalls per bedroom or studio unit with a minimum of two guest parking stalls provided per development. 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. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the D.R. and building permit applications. d. A veterinary office is not permitted if the subject property contains dwelling units. 2. Ancillary assembly and manufacture of goods on premises may be permitted as part of an office use if: a. The ancillary assembled or manufactured goods are subordinate to and dependent on this office use; and b. The outward appearance and impacts of this office use with ancillary assembly and manufacturing activities must be no different from other office uses. 3. Primary vehicle 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. 4. Landscape Category C is required if subject property is adjacent to Planned Area 6C.
.070	Church								D See Spec. Reg. 3.	B	One per every 4 people based on maximum occupancy load of any area of worship. See Spec. Reg. 2.	1. 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. 2. No parking is required for daycare or school ancillary to the use. 3. Landscape Category C is required if subject property is adjacent to Planned Area 6C.
.080	Stacked or Attached Dwelling Units								D See Spec. Reg. 1.	A	1.7 per unit	1. Landscape Category C is required if subject property is adjacent to Planned Area 6C.

(Revised 3/09)

See Spec. Reg. 2

Section 50.35

Zone  
 CBD-5

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 50.35	USE ↓ REGULATIONS →	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.090	School, Day-Care Center, or Mini-School or Day-Care Center	D.R., Chapter 142 KZC.	None	20'	0'	0'	80%	3 to 5 stories above average building elevation.	D	B	See KZC 105.25.	<ol style="list-style-type: none"> <li>1. A six-foot-high fence is required along all property lines adjacent to outside play areas.</li> <li>2. Structured play areas must be setback from all property lines by at least five feet.</li> <li>3. Hours of operation may be limited by the City to reduce impacts on nearby residential uses.</li> <li>4. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements.</li> <li>5. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).</li> </ol>
.100	Assisted Living Facility See Spec. Reg. 3.								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:               <ul style="list-style-type: none"> <li>a. One parking stall shall be provided for each bed.</li> </ul> </li> </ol> <p>Category C is required if subject property is adjacent to 6th Street or Kirkland Avenue.</p> <ol style="list-style-type: none"> <li>3. This use only allowed:               <ul style="list-style-type: none"> <li>a. On properties with frontage on Second Avenue.</li> <li>b. Within 170 feet of Peter Kirk Park provided that the gross floor area of this use does not exceed 12.5% of the total gross floor area for the subject property.</li> </ul> </li> </ol>
.110	Stacked or Attached Dwelling Units								D	See Special Reg. 1.	1.7 per unit.	<ol style="list-style-type: none"> <li>1. Landscape Category C is required if the subject property to adjacent to 6th Street or Kirkland Avenue.</li> <li>2. This use only allowed:               <ul style="list-style-type: none"> <li>a. On properties with frontage on Second Avenue.</li> <li>b. Within 170 feet of Peter Kirk Park provided that the gross floor area of this use does not exceed 12.5% of the total gross floor area for the subject property.</li> </ul> </li> </ol>

(Revised 3/09)

Section 50.42



USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 50.42	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	REQ. YARDS (See Ch. 115)			Lot Coverage					Height of Structure
				Front	Side	Rear						
.080	Stacked, or Attached Dwelling Units See Spec. Reg. 1.	D.R., Chapter 142 KZC.	None	20'	10'	10'	80%	54' above average building elevation. See also Spec. Reg. 3.	D See Spec. Reg. 4.	A 1.7 per unit	<ol style="list-style-type: none"> <li>Along Central Way, this use is only permitted above the ground floor.</li> <li>For any portion of a structure on the subject property within 40 feet of Seventh Avenue or Fifth Street north of Sixth Avenue that does not exceed 30 feet in height above average building elevation, the minimum required side yards are five feet but two side yards must equal at least 15 feet.</li> <li>No portion of a structure on the subject property within 40 feet of Seventh Avenue may exceed 25 feet above the elevation of Seventh Avenue as measured from the midpoint of the frontage of the subject property on Seventh Avenue. No portion of a structure on the subject property within 40 feet of Fifth Street north of Sixth Avenue may exceed 30 feet above the elevation of Fifth Street, as measured at the midpoint of the frontage of the subject property on Fifth Street.</li> <li>Landscape Category C is required if the subject property is located adjacent to the RS 5.0, or Planned Areas 7B or 7C zones.</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> <li>Along Seventh Avenue, buildings shall be designed with predominantly sloped roof forms.</li> <li>Within 40 feet of Seventh Avenue, the maximum length of any facade is 50 feet and a minimum 50 percent of this area shall be open space.</li> </ol>	
<p>8. This use must provide a minimum of one parking stall per bedroom or studio unit and an average of at least 1.3 parking stalls per unit for each development. In addition, guest parking shall be provided at a rate of 0.1 stalls per bedroom or studio unit with a minimum of two guest parking stalls provided per development.</p>												

Section 50.47

Zone  
CBD-7

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 50.47	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	D.R., Chapter	None	20'	0'	0'	80%	41' 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 <span style="border: 1px solid black; padding: 2px;">See Spec. Reg. 2</span> 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> </ol>
.120	Stacked or Attached Dwelling Units See Special Regulation 1.										1.7 per unit	<ol style="list-style-type: none"> <li>1. 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> </ol>
.130	Public Utility, Government Facility, or Community Facility								D See Spec. Reg. 1.	B	See KZC 105.25.	<ol style="list-style-type: none"> <li>1. Landscape Category C is required if the subject property is adjacent to Planned Area 7B. 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> </ol>
.140	Public Park	Development standards will be determined on a case-by-case basis. See Chapter 49 KZC for required review process.										

2. This use must provide a minimum of one parking stall per bedroom or studio unit and an average of at least 1.3 parking stalls per unit for each development. In addition, guest parking shall be provided at a rate of 0.1 stalls per bedroom or studio unit with a minimum of two guest parking stalls provided per development.

**O. KZC 55.31 - Government Facilities in the TL 4B Zone \***

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

**P. KZC 60.12.010 - Fix Incorrect References to Landscape Buffers – PLA 1**

KZC Section 60.12.010 Special Regulation

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

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

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

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

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

**Q. KZC 60.85 - Affordable Housing. Also Require in PLA 6G**

PLA 6G:

*KZC 60.85.2 - Developments creating four or more new dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. In such cases, the minimum lot size listed in the Use Regulations shall be used to establish the base number of units allowed on the site, but shall not limit the size of individual lots. See Chapter 112 KZC for additional affordable housing incentives and requirements.*

*23. No Change to Text*

*34. No Change to Text*

*45. No Change to Text*

*56. No Change to Text*

**R. KZC 60.185.4 - Delete Vague Stream/Wetland Regulation in PLA 17 \***

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

~~KZC Section 60.185.4: During and after construction, substantial setbacks and protective measures should be provided around streams and wetlands (does not apply to Detached Dwelling Unit and Family Day Care Home uses).~~

~~54. No change to text.~~

~~65. No change to text.~~

**S. KZC 100.25 - Window Signs**

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

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

**T. KZC 100.115 - Window Signs**

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

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

**U. KZC 105.103 - Public Comment for Parking Modifications**

Addition of public notice and comment process for parking modifications.

KZC 105.103.3.c

*For a modification to KZC 105.20 and 105.45, a decrease in the required number of spaces may be granted if the number of spaces proposed is documented by an adequate and thorough parking demand and utilization study to be sufficient to fully serve the use...*

The Planning Official shall not approve or deny a modification to decrease the number of parking spaces pursuant to subsection (2)(b) of this section without first providing notice of the modification request to the owners and residents of property within 300 feet of the subject property and providing opportunity for comment. The Planning Official shall use mailing labels provided by the applicant, or, at the discretion of the Planning Official, by the City. Said comment period shall not be less than seven calendar days.

**V. KZC 112.15.1 - Clarify that Voluntary Affordable Housing is allowed where Affordable Housing is not required.**

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

KZC 112.15.1 Minimum Requirement Applicability –

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

b. Voluntary Use. All other provisions of this chapter are applicable available for use within the disapproval jurisdiction of the Houghton Community Council and in developments where the minimum requirement does not apply.

**W. KZC 112.15.4 and 112.15.5 - Clarify Application Rounding Language for Affordable Housing**

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

KZC Section 112.15

4. Rounding and Alternative Compliance – In all zones, the number of affordable housing units required is determined by rounding up to the next whole number of units if the fraction of the whole number is at least 0.66.

~~5. Alternative Compliance – KZC 112.30 establishes methods for alternative compliance, including payment in lieu of construction for portions of required affordable housing units that are less than 0.66 units.~~

**X. KZC 112.25.2 - Clarify Density Bonus for Affordable Housing Units**

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

*subsection may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110.*

**Y. KZC 115.07 and 115.08 - Clarify Height and Size of Detached Accessory Dwelling Units (ADU's)**

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

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

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

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

**Z. KZC 115.40 - Fence Heights**

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

*KZC 115.40.1. General*

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

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

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

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

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

**AA. KZC 115.95 - Delete Outdated Reference to State Watercraft Noise Standards**

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

*KZC Section 115.95 Noise Regulations*

*1. Maximum Environmental Noise Levels*

- a. State Standard Adopted – The City of Kirkland adopts by reference the maximum environmental noise levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC.*
- b. ~~Watercraft Noise Performance Standards – The City of Kirkland adopts by reference the Watercraft Noise Performance Standards established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-70 WAC.~~*
- c. ~~Availability – These regulations are available for inspection and copying in the Planning Department during regular business hours.~~*

**BB. KZC 117.50 - Review Timing for Co-Location of Wireless Facilities**

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

*117.50 Application Requirements*

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

**CC. KZC 117.65.7 - Wireless Antennas on Water Reservoirs \***

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

**DD. KZC 117.65.8 - Wireless Facilities KZC Chapter 117 – Historic**

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

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

*Designated Historic Community Landmarks—*

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

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

**EE. KZC 120.10 - Correct Code reference for variance process notification**

*KZC 120.10 Process for Deciding Upon a Proposed Variance*

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

- 1. The City will use Process IIA, described in Chapter 150 KZC, to review and decide upon an application for a variance except as to property located within an RS, RSA or RSX Zone or for a detached dwelling unit in any zone. For variance applications as to property located within an RS, RSA or RSX Zone or for a detached dwelling unit in any zone, the City will use Process I described in Chapter 145 KZC; provided, however, that while the content of the notice shall be per KZC 145.22(1), the distribution of the notice shall be per KZC 150.3022(2).*

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

2. *The City will use Process IIA, described in Chapter 150 KZC, to review and decide upon an application for a variance except as to property located within an RS, RSA or RSX Zone. For variance applications as to property located within an RS, RSA or RSX Zone, the City will use Process I described in Chapter 145 KZC; provided, however, that while the content of the notice shall be per KZC 145.22(1), the distribution of the notice shall be per KZC 150.3022(2).*

**FF. KZC 120.12 - HCC Administrative Variances**

Allows administrative variances in HCC jurisdiction.

*120.12 Expansion or Modification of an Existing Structure*

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

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

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

**GG. Various Code Sections - Hearing Examiner Appeal Notice \***

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

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

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

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

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

**HH. KZC 150.85 - Minor text edit\***

*KZC 150.85 Notice of Consideration of the Appeal*

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

**II. KZC 155 - Eliminate Chapter**

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

Section 53.84

Zone  
RH 8

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
Section 53.84	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						
.040	Any Retail Establishment other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services. (continued)										REGULATIONS CONTINUED FROM PREVIOUS PAGE  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.	
.050	Stacked Dwelling Units See Spec. Reg. 1.	D.R., Chapter 142 KZC.	None	10' adjacent to NE 85th St., otherwise 20'.	0'	15'	70%	30' above average building elevation.  See Gen. Regs. 2 and 3.	A	A	1.7 per unit.	1. This use may 2. Chapter 115 K other access
.060	Assisted Living Facility, Convalescent Center or Nursing Home See Spec. Reg. 1.										Independent unit: 1.7 per unit. Assisted living facility: 1 per unit. Convalescent Center or Nursing Home: 1 per each bed.	1. This use may 2. Chapter 115 K other access
.070	Church										1 per every 4 people based on maximum occupancy load of any area of worship. See Spec. Reg. 1.	1. No parking is

except for personal service establishments that provide services involving the care of a person, or of a person's apparel, such as, laundry and dry cleaning services, beauty shops, barber shops, shoe repair shops and tailors may be located above the ground floor; provided that the use of exterior areas adjoining residential uses is prohibited.

(Revised 4/08)

**ATTACHMENT B  
MUNICIPAL CODE CHANGES**

**FILE NO. ZON10-00013  
2010 MISCELLANEOUS CODE AMENDMENTS PHASE II**

\* - Not subject to Houghton Community Council review

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How to read this document:

- Italicized text reflects existing code language
  - Italicized text that is covered by a strike-through (~~abc~~) is existing text currently contained in the Zoning Code that is to be deleted.
  - Italicized text that is underlined (abc), with the exception of section headings, is new text that is to be added.
- 

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

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

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

**B. Fixes Incorrect Code Reference in Kirkland Municipal Code (KMC) Section 22.32.050\*:**

*KMC 22.32.050 Undergrounding of transmission lines—Required.*

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

PUBLICATION SUMMARY  
OF ORDINANCE NO. 4286

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 5 – DEFINITIONS, CHAPTER 10 – LEGAL EFFECT/APPLICABILITY, CHAPTER 15 – SINGLE-FAMILY RESIDENTIAL (RS) ZONES, CHAPTER 18 – SINGLE-FAMILY RESIDENTIAL A (RSA) ZONES, CHAPTER 20 – MULTIFAMILY RESIDENTIAL (RM AND RMA) ZONES, CHAPTER 25 – PROFESSIONAL OFFICE RESIDENTIAL (PR) AND PROFESSIONAL OFFICE RESIDENTIAL A (PRA) ZONES, CHAPTER 27 – PROFESSIONAL OFFICE (PO) ZONES, CHAPTER 30 – WATERFRONT DISTRICT (WD) ZONES, CHAPTER 35 – FREEWAY COMMERCIAL (FC) ZONES, CHAPTER 40 – NEIGHBORHOOD BUSINESS (BN) ZONES AND NEIGHBORHOOD BUSINESS A (BNA) ZONES, CHAPTER 45 – COMMUNITY BUSINESS (BC, BC 1 AND BC 2) ZONES, CHAPTER 47 – COMMUNITY BUSINESS X (BCX) ZONES, CHAPTER 48 – LIGHT INDUSTRIAL TECHNOLOGY (LIT) ZONES, CHAPTER 49 – PARK/PUBLIC USE (P) ZONES, CHAPTER 50 – CENTRAL BUSINESS DISTRICT (CBD) ZONES, CHAPTER 51 – MARKET STREET CORRIDOR (MSC) ZONES, CHAPTER 52 – JUANITA BUSINESS DISTRICT (JBD) ZONES, CHAPTER 53 – ROSE HILL BUSINESS DISTRICT (RHBD) ZONES, CHAPTER 54 – NORTH ROSE HILL BUSINESS DISTRICT (NRHBD) ZONES, CHAPTER 55 – TOTEM LAKE (TL) ZONES, CHAPTER 60 – PLANNED AREAS (PLA), CHAPTER 100 – SIGNS, CHAPTER 105 – PARKING AREAS, VEHICLE AND PEDESTRIAN ACCESS, AND RELATED IMPROVEMENTS, CHAPTER 112 – AFFORDABLE HOUSING INCENTIVES – MULTIFAMILY, CHAPTER 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS, CHAPTER 117 – PERSONAL WIRELESS SERVICE FACILITIES, CHAPTER 120 – VARIANCES, CHAPTER 150 – PROCESS IIA, CHAPTER 155 – PROCESS III, CHAPTER 170 – CODE ENFORCEMENT, CHAPTER 180 – PLATES; AND AMENDING SECTIONS 22.32.050 AND 22.04.030 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Amends various sections of the Kirkland Zoning Code and the Kirkland Municipal Code, as set forth in more detail in the title of the Ordinance.

SECTION 2. Provides a severability clause for the Ordinance.

SECTION 3. Provides that, to the extent the Ordinance is subject to the disapproval jurisdiction of the Houghton Community Council, it will become effective in the Houghton Community Municipal Corporation upon approval of the Houghton Community Council, or the failure of said Community Council to disapprove the Ordinance within 60 days of the passage of the Ordinance.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as April 1, 2011.

SECTION 5. Provides that a certified copy of this Ordinance will be provided to the King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 4th day of January, 2011.

I certify that the foregoing is a summary of Ordinance 4286 approved by the Kirkland City Council for summary publication.

  
\_\_\_\_\_  
City Clerk

RESOLUTION 2011-2

A RESOLUTION OF THE HOUGHTON COMMUNITY COUNCIL APPROVING ORDINANCE NO. 4281 AND ORDINANCE NO. 4286 ADOPTED BY THE KIRKLAND CITY COUNCIL ON JANUARY 4, 2011, ADOPTING THE ZONING CODE AMENDMENTS (FILE NO. ZON10-00013).

WHEREAS, the Houghton Community Council has received from the Kirkland City Council Ordinance No. 4281 and Ordinance No. 4286, adopting the amendments to the Zoning Code.

WHEREAS, the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council and shall become effective within the Houghton Community Municipal Corporation only upon approval by the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance; and

WHEREAS, the subject of this ordinance was reviewed and discussed by the Houghton Community Council at meetings held on August 12, 2010 and September 27, 2010; and

WHEREAS, the Houghton Community Council elects to exercise its jurisdiction with respect to Ordinance No. 4281 and Ordinance No. 4286 by approving the ordinances;

NOW, THEREFORE, be it resolved that Ordinance No. 4281 and Ordinance No. 4286 is hereby approved and shall be effective within the Houghton Community Municipal Corporation.

PASSED by majority vote of the Houghton Community Council in regular, open meeting this 24th day of January, 2011.

SIGNED IN AUTHENTICATION thereof this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Chair, Houghton Community Council

\_\_\_\_\_  
City Clerk