



MEMORANDUM

To: Planning Commission

From: Teresa Swan, Senior Planner
Paul Stewart, Deputy Director of Planning

Date: June 15, 2010

Subject: *Public Hearing on Follow-Up Housekeeping Amendments to the Zoning Code and Subdivision Ordinance for the Kirkland's Shoreline Master Program Update (SMP), File No. ZON06-00017*

I. RECOMMENDATION

Hold public hearing and make a recommendation to the City Council.

II. INTRODUCTION

The City has approved the Shoreline Master Program (SMP) update and now is in the final stage of the Department of Ecology's approval process. The City anticipates a decision from Ecology by the end of June. Once Ecology approves the SMP update, the regulations are effect.

The SMP update consists of a new Chapter 83 (shoreline regulations) and Chapter 141 (shoreline administration) that will be placed in the Zoning Code.

There are several follow-up minor amendments to the existing Zoning Code and Subdivision Ordinance that need to be prepared and incorporated into the final adopting ordinance that the City Council will pass following Department of Ecology approval.

The amendments are housekeeping in nature and involve *no policy decisions or issues*. The scope of the amendments include revisions or deletions of definitions, references made to general topics covered in Chapter 83 that are also in other chapters of the Zoning Code, such as parking, lighting, signage, tree retention, critical areas and land division, and other minor changes to integrate the new Chapter 83 into the Zoning Code.

III. STUDY SESSION

On May 27, 2010, the Planning Commission held a study session on the amendments. No one from the public spoke on the amendments.

The Planning Commission raised a question as to why the 0.66 rounding up fraction in Chapter 112 for affordable housing would not be changed to be consistent with the 0.50 rounding up fraction as adopted in the new Section 83.190.c (the shoreline management chapter that applies to the Lake Washington shoreline area) and as proposed to be changed in Section 115.125 (that applies to the remainder of the city).

As it applies to Chapter 83 and Chapter 115, the threshold for rounding up of the fraction to the next whole number determines at what point one more unit can be built for a multifamily development. For example, if a property is 12, 500 square feet and the zoning for the property is zoned RM 5,000 (minimum lot size per unit), the maximum allowable units is determined by dividing the property size by the minimum density. At a rounding up fraction of 0.50, the resulting 2.5 unit count can be rounded up to allow 3 units. At a rounding up fraction of 0.66, the resulting 2.5 unit count cannot be rounded up to allow 3 units.

The current standard of 0.66 in Chapter 115 of the Zoning Code was established in 1983 when the present code was originally adopted. At that time, there was no particular reason for setting the rounding up threshold at 0.66 other than a fraction greater than 0.50. During the SMP update, the Planning Commission, Houghton Community Council and City Council each discussed and agreed to use a rounding up fraction of 0.50 in the shoreline area to provide for slighter higher density in some situations and since there was no specification reason for staying with the 0.66 threshold. One more reason to change the rounding up fraction is that King County uses the 0.50 fraction in the City's future annexation area which would provide annexation property owners with the same maximum density that they can achieve now.

The Planning Commission, Houghton Community Council and City Council each agreed to come back after the SMP update was completed to amend the existing Zoning Code to have the same 0.50 threshold apply city wide so that density is administered consistently throughout the city.

As it applies to Chapter 112, the rounding up fraction is used for a different purpose. It is used to determine how many affordable housing units are required and when affordable housing units must actually be built (versus using the payment in lieu of construction option). The code text reads as follows:

112.15 Affordable Housing Requirement

1. Minimum Requirement – All developments creating four or more new detached, attached or stacked dwelling units in commercial, high density residential, medium density and office zones shall provide at least 10 percent of the units as affordable housing units and comply with the provisions of this chapter as established in the General Regulations for the Use Zone or the Special Regulations in the Use Zone Chart for the specific use. This subsection is not effective within the disapproval jurisdiction of the Houghton Community Council. All other provisions of this chapter are applicable within the disapproval jurisdiction of the Houghton Community Council.
2. Calculation in Density-Limited Zones – For developments in density-limited zones, the required amount of affordable housing shall be calculated based on the number of dwelling units proposed prior to the addition of any bonus units allowed pursuant to KZC [112.20](#).

3. Calculation in RH and TL Zones – For developments in the RH and TL Zones, the required amount of affordable housing shall be calculated based on the total number of dwelling units proposed.
4. Rounding – In all zones, the number of affordable housing units required is determined by rounding up to the next whole number of units if the fraction of the whole number is at least 0.66.
5. Alternative Compliance – KZC [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.

For example, using the current 0.66 threshold, a 7 unit multifamily development must include 1 affordable unit (10% of 7 units=0.70) on site, but a 5 or 6 unit multifamily development does not have to provide an on-site affordable unit (10% of 5 units= 0.50 and 10% of 6 units=0.60).

They would instead use the payment in lieu option allowed in KZC 112.30.4. If the threshold were changed to 0.50, both a 5 and 6 unit development would be required to provide an affordable housing unit on site and not pay into the in lieu option since the resulting fraction would round up to a whole unit number.

Thus, the purpose of the rounding up of a fraction to determine maximum density in Section 83.190.c (shoreline area) and in Section 115.125 (rest of city) is different than the purpose in Section 112.15 for determining the affordable housing requirement. There was a policy decision to set the threshold for requiring a whole affordable unit at 0.66.

Staff does not recommend changing the fraction threshold in Chapter 112 until the affordable housing requirement has been in use for a few years and the City can determine if it would be more appropriate to raise, lower or maintain the 0.66 fraction threshold.

Staff recommends that the rounding up 0.66 fraction in Section 115.25 (remainder of the city) be changed to 0.50 to be consistent with Section 83.190.c (shoreline area) so that maximum density is administered the same throughout the city. Section 83.190.c cannot be changed to use the 0.66 rounding up fraction since it has already been adopted by the City and is now being reviewed by Department of Ecology as part of their approval of the City's SMP update. Any subsequent change to the 0.50 fraction in the shoreline regulations must be approved by the Department of Ecology. Also, having one additional multifamily unit on a few properties (the difference between 0.50 and 0.66 founding up fraction is only 0.16 so the change in fraction will only affect a few properties) in the Residential-Medium/High shoreline environment will not impact shoreline setbacks, bulkheads, native landscaping or exterior lighting. The only minor impact to the shoreline would potentially be one additional moorage slip for a few multifamily piers which has been accounted for in meeting the No Net Loss standard analyzed in the Cumulative Impact Analysis. The change in fraction does not affect the other shoreline environments (Residential-Low, Urban Mixed, Urban Conservancy or Natural shoreline environments).

IV. LIST OF THE AMENDMENTS

A description of the amendments is as follows:

Zoning Code

- Chapter 1 - User Guide: add a reference to the new shoreline chapters.
- Chapter 5 – Definitions: delete definitions that have been revised and moved to the new shoreline chapter of Chapter 83, make references in several definitions to Chapter 83 and revise a few definitions to be consistent with Chapter 83 and use in other chapters of the Zoning Code.
- Chapter 20.05 – Multi-family and Chapter 30.20 - WDII: add a new General Regulation to allow a private shoreline park (beach) associated with residential developments in the Residential Multi-family (RM) zone and in the Waterfront District II (single family shoreline) zone. There is one private beach west of Juanita Beach Park in a RM 1.8 zone and one private beach in the north portion WDII. The beaches are owned by adjacent residential properties.

A private park is not an allowed use under the current WDII and multi-family use zone charts. However, as a water dependant use the use is appropriate for the shoreline and should be allowed.

- Chapters 75 (Historic), 85 (Geologic Hazardous), 90 (Drainage Basins), 95 (Tree Management and Landscaping), 100 (Signs), and 105 (Parking): make references to the applicable sections in Chapter 83 and change the rounding up of fractions for multifamily units in Chapter 90 from 0.66 to 0.50 (see discussion above and below on this topic).
- Chapter 112 – Affordable Housing Incentives: clarify that some of the permitted modifications to dimensional standards would require a shoreline variance for properties along the shoreline. The Department of Ecology would need to approve the modifications to the shoreline setback, lot coverage and possibly height. In some cases, the height allowance under the Shoreline Management Act is greater than under the Kirkland Zoning Code in which case the height modification could be approved without shoreline variance.
- Chapter 115 – Miscellaneous:
 - 115.40- revise regulation on fences to be consistent with Chapter 83
 - 115.45- reference Chapter 83 for screening of garbage and receptacles regulations
 - 115.47- reference Chapter 83 for loading and service areas regulations
 - 115.60- reference Chapter 83 for height exceptions regulations
 - 115.85- reference Chapter 83 for lighting regulations
 - 115.90- reference Chapter 83 for lot coverage regulations
 - 115.105- reference Chapter 83 for outdoor storage regulations
 - 115.115- reference Chapter 83 for required yards regulations
 - 115.120- reference Chapter 83 for rooftop appurtenances regulations

- 115.125- amend section on rounding up of fractions for multi-family dwelling units to be consistent with Chapter 83. The rounding up is changed from 0.66 to 0.50. This was discussed during the SMP update process and the Planning Commission agreed to extend the change in rounding up to the entire city. King County also uses .50 for rounding up to the next unit number in the future annexation area.
- Chapter 117 – Wireless: reference Chapter 83 for wireless facilities regulations and clarify that new cell towers are not permitted in the shoreline area as regulated in Chapter 83.
- Chapter 162 – Non-Conformance:
 - 162.05 – reference Chapter 83 in User Guide
 - 162.35 - revise subsection 7 and delete subsection 9 since part or all of these subsections are now in Chapter 83

Subdivision Ordinance

- Chapter 22.08: refer to the definitions of Class A stream, Class B stream and Class C stream found in Chapter 83 that are consistent with the Shoreline Management Act and refer to the stream definitions in Chapter 90, the critical area ordinance, rather than repeat the definitions.
- Chapters 22.12, 22.20, 22.24, and 22.28: make reference to the requirements for land division found in Chapter 83.

V. HOUGHTON COMMUNITY COUNCIL AND CITY COUNCIL REVIEW

The Houghton Community Council will hold a hearing on the proposed changes at their meeting on June 28, 2010 and possibly make a recommendation at that time.

Provided that Ecology approves the SMP update by the end of June without any changes, staff anticipates taking the final SMP adopting ordinance, including the amendments attached to this memo, to the City Council on July 20, 2010.

VI. STATE ENVIRONMENTAL POLICY ACT (SEPA)

On May 20, 2010, the City has complied with the requirements of SEPA for the minor code amendments by issuing a SEPA Addendum to the City's 2004 Environmental Impact Statement relating to the required GMA update to the City's Comprehensive Plan and development regulations.

ATTACHMENT

Attachment 1 – Zoning Code and Subdivision Ordinance Amendments

DRAFT CODE AMENDMENTS RELATING TO THE SMP UPDATE

File ZON06-00017

ZONING CODE

Chapter 1 – USER GUIDE

1.10 Additional Regulations

In addition to the regulations in the use zone charts, this code contains a variety of provisions that may apply to the subject property or to a particular use or activity on the property. The following list of questions will help you determine what other factors of this code may contain regulations that are of interest.

1.-through 22 no change

23. Personal Wireless Service Facilities – Do you want to know the City's requirements for the installation of communication antennae or towers, cell sites, or other equipment used in wireless communications? If so, see Chapter 117 KZC.
24. Design Review – Do you want to learn about the City's Design Review and process? If so, read Chapter 92 KZC.
25. Trees – Are you interested in pruning or removing trees or thinking about doing anything on your property that may impact trees, e.g., grading, building, remodeling, or demolishing? If so, you should read Chapter 95 KZC before you begin to design.
26. Landscaping – Are you interested in landscaping your property? If so, you should read KZC 95.52, Prohibited Vegetation.
27. Properties near Lake Washington – Is the subject property located within 200 feet of the ordinary high water mark of Lake Washington or contains a wetland abutting Lake Washington? If so, you should read Chapter 83 KZC, Shoreline Management.

Chapter 5 – DEFINITIONS

Sections:

[5.05](#) User Guide

[5.10](#) Definitions

5.05 User Guide

The definitions in this chapter apply for this code. Also see definitions contained in Chapter 83 KZC for shoreline management, Chapter 90 KZC for drainage basins, Chapter 95 KZC for tree management and required landscaping, and Chapter 113 KZC for cottage, carriage and two/three-units homes that are applicable to those chapters.

5.10 Definitions

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

- ~~.105 Bulkhead – A wall or embankment used for retaining earth. For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.~~
- ~~.126 Class A Streams – As defined in Chapter 90 KZC.~~
- ~~.127 Class B Streams – As defined in Chapter 90 KZC.~~
- ~~.128 Class C Streams – As defined in Chapter 90 KZC.~~
- ~~.230 Dredging~~
- ~~– Removal of earth and other materials from the bottom of a body of water or from a wetland.~~
- ~~.235 Dredging Spoils~~
- ~~– The earth and other materials removed from the floor of a body of water or a wetland by the dredging process.~~
- ~~.245 Dry Land~~
- ~~– The area of the subject property landward of the high waterline.~~
- ~~.326 Frequently Flooded Areas – As defined in Chapter 90 KZC. For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise, as defined in Chapter 90 KZC.~~
- ~~.328 Geologically Hazardous Areas – As defined in Chapter 85 KZC. For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise, as defined in Chapter 90 KZC.~~
- ~~.365 High Waterline – This term has the same meaning as “ordinary high waterline”. The line where the water meets the land when the water level of Lake Washington is 21.8 feet above mean sea level based on the Corps of Engineers Datum Point. High Waterline shall be construed to be the same as Ordinary High Water Mark (OHWM), as defined in WAC 173-16-030(10).~~
- .410 Institutional Uses – The following uses: schools, churches, colleges, universities, hospitals, parks, governmental facilities and public utilities. Also see Chapter 83 KZC for properties within jurisdiction of the Shoreline Management Act.

- ~~.525 Mean Sea Level – The level of Puget Sound at zero tide as established by the US Army Corps of Engineers.~~
- .545 Moorage Facility – A pier, dock, ~~buoy~~ or other structure providing docking or moorage space or a buoy for waterborne pleasure craft. For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.
- .612 Ordinary High Waterline –~~the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland, provided that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood.~~ This term has the same meaning as “high waterline.”See Chapter 83 KZC for term “ordinary high water mark” applicable to properties within jurisdiction of the Shoreline Management Act.
- .725 Public Access – A portion of private property subject to an easement giving the public the right to stand on or traverse this portion of the property. For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.
- ~~.837 Shoreline Management Act – The Act as adopted under the authority of Chapter 90.58 RCW and Chapter 173-26 WAC.~~
- .840 Shoreline Master Program –~~Consists of Chapters 83 and 141 KZC, the Shoreline Chapter of the Kirkland Comprehensive Plan and the City of Kirkland Restoration Plan~~ The ordinance of the City of Kirkland adopted under the authority of Chapter 90.58 RCW.
- .895 Stream – ~~As defined in Chapter 90 KZC.~~ For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise, as defined in Chapter 90 KZC.
- .985 Wetland – ~~As defined in Chapter 90 KZC.~~ For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. Otherwise, as defined in Chapter 90 in KZC.

CHAPTER 20.05 MULTIFAMILY RESIDENTIAL (RM) ZONES)

Section 20.08 – General Regulations

New General Regulation No 10.

10) Residential uses may have an associated private shoreline park that is commonly owned and used by residents and guests.

Section 30 19 WATERFRONT DISTRICT II

Section 30.20 – General Regulations

New General Regulation No 5.

10) Residential uses abutting Lake Washington may have an associated private shoreline park that is commonly owned and used by residents and guests.

Chapter 75 – HISTORIC LANDMARK OVERLAY ZONE AND HISTORIC RESIDENCE DESIGNATION

75.05 User Guide

This chapter establishes mechanisms for designating certain areas or improvements in the City as historic landmarks or historic residences. This chapter also contains regulations that govern the use and alteration of any area or improvement that has been designated as an historic landmark or historic residence.

For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

Chapter 85 – GEOLOGICALLY HAZARDOUS AREAS

85.05 User Guide

1. This chapter establishes special regulations that apply to development on property containing geologically hazardous areas. These regulations add to and, in some cases, supersede other regulations of this code. See Chapter 95 KZC for additional regulations that address trees and other vegetation within and outside of geologically hazardous areas.
2. If you are interested in developing property that contains a geologically hazardous area, or if you wish to participate in the City's decision on a proposed development on any of these areas, you should read this chapter.

3. For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

Chapter 90 – DRAINAGE BASINS

90.05 User Guide

~~These~~ The regulations in this chapter apply to activities, work, and conditions in or near any stream, wetland, frequently flooded area, or lake in the City. For properties within jurisdiction of the Shoreline Management Act, the regulations in Chapter 83 KZC must be met. These regulations add to and in some cases supersede other City regulations. Anyone interested in conducting any development activity on or near a wetland, stream, lake, or frequently flooded area; wishing to participate in the City's decision on a proposed development on or near any of these areas, or wishing to have a determination made as to the presence of one of these areas on their ~~his or her~~ property, should read these regulations. See also KZC 95.23.5.d.39, Trees in Critical Areas or Critical Area Buffers; and KZC 95.50.11, Installation Standards for Required Plantings – Mitigation and Restoration Plantings in Critical Areas and Critical Area Buffers.

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

90.10 Purpose

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

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

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

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

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

2. Streams – Streams and their associated buffers provide important fish and wildlife habitat and travel corridors; help maintain water quality; store and convey storm and flood water; recharge groundwater; and serve as areas for recreation, education, scientific study, and aesthetic appreciation. Streams are protected in part by buffers, which are adjacent upland areas that interact with streams.

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

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

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

Lake Washington is a Shoreline of the State, and is subject to the Shoreline Management Act. Uses and aActivities near, on or in Lake Washington are regulated by the applicable use zone regulations in Chapters 15 through 60 that include Lake Washington (see the Kirkland Zoning Code) and by the shoreline regulations in Chapter 83 KZC and Chapter 141 KZC. Uses and aActivities in wetlands contiguous to Lake Washington are subject primarily to the wetland regulations in Chapter 83 KZC, but also some applicable regulations in this chapter both the Shoreline Master Program and the wetland regulations. Wetland buffers not located within 200 feet of the ordinary high water mark of Lake Washington are subject to the wetland buffer regulations in this chapter.

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

90.15 Applicability

1. General – These regulations apply to any property that contains any of the following:
 - a. Streams;
 - b. Type 1 or 2 wetlands;
 - c. Type 3 wetlands greater than 1,000 square feet in a primary basin;

- d. Type 3 wetlands greater than 2,500 square feet in a secondary basin;
 - e. Totem Lake and Forbes Lake;
 - f. Frequently flooded areas; and
 - g. Buffers required for the preceding six features.
2. Conflicting Provisions – ~~The provisions of these regulations in this chapter supersede any conflicting regulations provisions in the Kirkland Zoning Code. For properties within jurisdiction of the Shoreline Management Act, the regulations in Chapter 83 KZC supersede any conflicting regulation in this chapter.~~ If more than one ~~regulation provision of these regulations~~ applies to the subject property, then the regulation that provides the greatest protection to sensitive areas shall apply. ~~If these regulations and the Shoreline Master Program both apply to the subject property, then the regulation that provides the greatest protection to sensitive areas shall apply.~~

90.135 Maximum Development Potential

1. Dwelling Units – The maximum potential number of dwelling units for a site which contains a wetland, stream, minor lake, or their buffers shall be the buildable area in square feet divided by the minimum lot area per unit or the maximum units per acre as specified by Chapters 15 through 60 KZC, plus the area of the required sensitive area buffer in square feet divided by the minimum lot area per unit, the maximum units per acre or as specified by Chapters 15 through 60 KZC, multiplied by the development factor derived from subsection (2) of this section:

MAXIMUM DWELLING UNIT POTENTIAL = (BUILDABLE AREA/THE PRESCRIBED MINIMUM LOT AREA PER UNIT OR MAXIMUM UNITS PER ACRE) + [(BUFFER AREA/THE PRESCRIBED MINIMUM LOT AREA PER UNIT OR MAXIMUM UNITS PER ACRE) X (DEVELOPMENT FACTOR)]

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

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

For multifamily development, if application of the maximum development potential formula results in a fraction, the number of permitted dwelling units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.50. ~~.66~~ For single-family development, if application of the maximum development potential formula results in a fraction, the number of permitted dwelling units (lots) shall not be rounded up, regardless of the fraction. This provision shall not be construed to preclude application of Chapter 22.28 KMC.

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

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

Chapter 95 – TREE MANAGEMENT AND REQUIRED LANDSCAPING

95.30 Tree Retention, Protection and Density Associated with Development Activity

1. Introduction.

The City’s objective is to retain as many viable trees as possible on a developing site while still allowing the development proposal to move forward in a timely manner. To that end, the City requires approval of a tree retention plan tree permit in conjunction with all development permits resulting in site disturbance and with any proposed for any tree removal on developed sites not exempted by KZC 95.20. This section includes provisions that allow development standards to be modified in order to retain viable significant trees.

In order to make better decisions about tree retention, particularly during all stages of development, tree removal retention plans permits will require specific information about the existing trees before removal is allowed. Different levels of detail correspond to the scale of the project or activity. Specific tree retention plan review standards are provided in this section KZC 95.35(4) and include establish tree retention priorities, and incentives, and variations to development standards in order to facilitate preservation of healthy, viable, significant trees.

A minimum tree density approach is being used to retain as many viable trees as possible with new development activity. The requirement to meet a minimum tree density applies to new single-family homes, cottages, carriage units, two/three-unit homes and duplex developments and major redevelopments, and new residential subdivisions and short subdivisions. If such a site falls below the minimum density with existing trees, supplemental planting is required. A tree density for existing trees to be retained is calculated to see if new trees are required in order to meet the minimum density for the entire site. Supplemental tree location priority is set as well as minimum size of supplemental trees to meet the required tree density.

The importance of effective protection of retained trees during construction is emphasized with specific protection standards in the last part of this section. These standards must be adhered to and included on demolition, grading and building plans as necessary.

[Properties within jurisdiction of the Shoreline Management Act are subject to additional tree retention and protection regulations as set forth in Chapter 83 KZC.](#)

Chapter 100 – SIGNS

100.05 User Guide

Chapters 15 through 60 KZC, which contain the use zone charts, assign a sign category to each use in each zone. This category is either A, B, C, D, E, or F. This chapter contains the specific requirements in each sign category. If you do not know

what sign category applies to the subject property, you should consult the appropriate use zone chart.

This chapter also contains regulations regarding special signs (e.g., political, real estate or temporary signs). These regulations are contained in KZC 100.115.

[For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.](#)

Chapter 105 – PARKING AREAS, VEHICLE AND PEDESTRIAN ACCESS, AND RELATED IMPROVEMENTS

105.05 User Guide

This chapter contains information on vehicle and pedestrian circulation areas, parking areas, and related improvements. For the most part, this chapter will not tell you how many parking spaces are required for a particular use. This information is listed for most uses in the use zone charts. However, this chapter does provide a mechanism for determining the specific parking requirement for some uses. It also contains a mechanism for requesting permission to increase or decrease the parking requirements of this code. Finally, this chapter contains requirements regarding the location and minimum dimensions of parking areas and other vehicular and pedestrian circulation areas.

[For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.](#)

Chapter 112 – AFFORDABLE HOUSING INCENTIVES – MULTIFAMILY

4. Dimensional Standards Modification – To the extent necessary to accommodate the bonus units allowed under subsection (2)(b) of this section on site, the following requirements of the Kirkland Zoning Code may be modified through the procedures outlined in this subsection. These modifications may not be used to accommodate the units resulting from the base density calculation.
 - a. Maximum Lot Coverage. The maximum lot coverage may be increased by up to five percentage points over the maximum lot coverage permitted by the underlying use zone. Maximum lot coverage may not be modified through this provision on properties with streams, wetlands, minor lakes or their buffers. [In addition, this modification would require a shoreline variance as set forth in Chapter 141 KZC for properties within jurisdiction of the Shoreline Management Act. See Chapter 83 KZC.](#)
 - b. Parking Requirement. The required parking may be reduced to 1.0 space per affordable housing unit. No additional guest parking is required for affordable housing units. If parking is reduced through this provision, the owner of the affordable housing unit shall sign a covenant, in a form acceptable to the City Attorney, restricting the occupants of each affordable housing unit to a maximum of one automobile.

- c. Structure Height. Maximum height for structures containing affordable housing units may be increased by up to six feet for those portions of the structure(s) that are at least 20 feet from all property lines. Maximum structure height may not be modified through this provision for any portion of a structure that is adjoining a low density zone. This modification may be permitted or may require a shoreline variance as set forth in Chapter 141 KZC for properties within jurisdiction of the Shoreline Management Act. See Chapter 83 KZC.
- d. Required Yards. Structures containing affordable housing units may encroach up to five feet into any required yard except that in no case shall a remaining required yard be less than five feet. A modification to the shoreline setback would require a shoreline variance set forth in Chapter 141 KZC for properties within jurisdiction of the Shoreline Management Act. See Chapter 83 KZC.
- e. Common Recreational Space. Common recreational open space per unit, when required, may be reduced by 50 square feet per affordable housing unit.

Chapter 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS

115.40 Fences

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) No fence of any height may be placed waterward of the within a shoreline setback required in Chapter 83 KZC high waterline setback yard or within any portion of a side yard north or south property line yard which that coincides is coincident with the shoreline setback high waterline setback yard.

- b. Fences over six feet in height may not be located in a required setback yard. See KZC 115.115, Required Yards, for regulations relating to fences on retaining walls.
- c. The Planning Official may approve a modification to the fence height requirements, except within the shoreline setback regulated under Chapter 83 KZC, if:
 - 1) The modification is necessary because of the size, configuration, topography or location of the subject property; and
 - 2) The modification will not have any substantial detrimental effect on abutting properties or the City as a whole.

115.45 Garbage and Recycling Receptacles and Enclosures – Storage Space, Placement and Screening

1. Purpose and Intent – The purpose of these regulations is to ensure the provision of areas for the collection, storage, loading and pickup of garbage and recyclable materials by requiring that adequate and convenient space is functionally located at all new projects, except as exempted in subsection (5) of this section.

For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.
2. Storage Space – Space provided for garbage and recycling receptacles shall comply with Public Works Pre-approved Plans and Policies.
3. Placement – Garbage and recycling receptacles must comply with the following:
 - a. Be set back a minimum of five feet from side property lines, 10 feet from rear property lines and 10 feet from front property lines; or
 - b. Comply with the setbacks established for the use with which they are associated;
 - c. Be located outside landscape buffers required by Chapter 95 KZC;
 - d. Be located to minimize visibility from any street, pedestrian walkway, or public park; and
 - e. Be located to provide convenient and safe access for residents, service vehicles and employees.
4. Screening – Garbage and recycling receptacles must be screened from view from the street and from adjacent properties by a solid screening enclosure. The screening shall meet or exceed the standards established in the Public Works Pre-approved Plans and Policies.
5. Exemptions

- a. Detached dwelling units, two/three-unit homes, moorage facilities, parks, and construction sites are exempt from the requirements of this section.
- b. A Public Works official may approve an exemption to the requirements of this section if the applicant proposes alternative, workable measures that meet the intent of this section.

115.47 Loading and Service Areas Placement and Screening

Loading and service areas must be located so they are not visible from any street or pedestrian walkway. If that location is not physically possible, loading and service areas must be screened from public view using a compact evergreen hedge, a solid wall or fence, or in a manner approved by the Planning Official.

[For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.](#)

115.60 Height Regulations – Exceptions

1. General – No element or feature of a structure, other than as listed in subsection (2) of this section, may exceed the applicable height limitation established for each use in each use zone in Chapters 15 through 60 KZC.

[For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.](#)

115.90 Calculating Lot Coverage

1. General – The area of all structures and pavement and any other impervious surface on the subject property will be calculated as a percentage of total lot area. If the subject property contains more than one use, the maximum lot coverage requirements for the predominant use will apply to the entire development.
2. Exceptions
 - a. Wood decks may be excluded if constructed with gaps between the boards and if there is pervious surface below the decks.
 - b. An access easement or tract that is not included in the calculation of lot size will not be used in calculating lot coverage for any lot it serves or crosses.
 - c. For detached dwelling units in low density zones and having a front yard, 10 feet of the width of a driveway, outside of the required front yard, serving a garage or carport; provided, that:
 - 1) This exception cannot be used for flag or panhandle lots;
 - 2) The portion of the driveway excepted from lot coverage calculations shall not exceed 10 percent of the lot area; and

- 3) The portion of the driveway excepted is not located in an access easement.
- d. Grass grid or brick pavers and compact gravel, when installed over a pervious surface, will be calculated as impervious surface at a ratio of 50 percent of the total area covered.
- e. Outdoor swimming pools.
- f. Pedestrian walkways required by [Chapter 83 KZC and](#) KZC 105.18.
- g. Pervious areas below eaves, balconies, and other cantilevered portions of buildings.
- h. Landscaped areas at least two feet wide and 40 square feet in area located over subterranean structures if the Planning Official determines, based on site-specific information submitted by the proponent and prepared by a qualified expert, soil and depth conditions in the landscaped area will provide cleansing and percolation similar to that provided by existing site conditions.
- i. Retaining walls not immediately adjacent to other impervious areas

115.85 Lighting Regulations

(new number 3)

3. Exterior Lighting Requirements for the Shoreline Management Area

For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

115.105 Outdoor Use, Activity and Storage

1. Shoreline Management Area

For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

42. Residential Uses

Uses and activities normally associated with a residential use are allowed unless Chapters [15](#) through 60 KZC limit outside activity for a residential use in a particular zone. The outdoor storage of firewood may be located within setback yards only if (1) it is stacked immediately adjacent to or within a supporting structure, (2) it is visually screened from adjoining properties by a building, solid screening fence, solid screening enclosure, dense evergreen landscaping, rockery or retaining wall, and (3) the height of the firewood stack does not exceed the greater of six feet or the height of either the supporting structure or visual screen.

23. Commercial and Industrial Nonresidential Uses

- a. General – Subject to the requirements of subsections (2)(b) through (f) of this section, the uses and activities that are allowable on a site may be conducted out of doors unless Chapters 15 through 60 KZC limit outside activity for a particular use in a particular zone.

115.115 Required Yards

1. General – This section establishes what structures, improvements, and activities may be in or take place in required yards as established for each use in each zone in Chapters 15 through 60 KZC.
2. Exceptions and Limitations in Some Zones – Chapters 15 through 60 KZC contain specific regulations regarding what may be located in ~~or take place in~~ required yards. Chapter 83 contains specific regulations regarding what may be located in the required shoreline setback. Where applicable, those specific regulations supersede the provisions of this section.

115.120 Rooftop Appurtenances

1. Scope – The regulations contained in this section apply to all construction except: (a) single-family detached residential, and (b) personal wireless service facilities regulated by Chapter 117 KZC.

For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

115.125 Rounding of Fractions of Dwelling Units

In many zones, the number of dwelling units allowed on the subject property is determined by dividing the lot size by the number of square feet this code requires per unit. When this results in a fraction, the number of permitted dwelling units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least ~~0.66~~ 0.50.

Chapter 117 – PERSONAL WIRELESS SERVICE FACILITIES

117.05 User Guide

This chapter establishes the conditions under which personal wireless service facilities (PWSF) may locate and operate in different areas of the City. The provisions of this chapter add to and in some cases supersede the other regulations of this code. If you wish to install, operate, or alter PWSF in Kirkland, you should read the provisions of this chapter.

For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

117.30 Prohibited Devices

1. Except as exempted pursuant to KZC 117.25, PWSF that are not permanently affixed to a support structure and which are capable of being moved from location to location (e.g., “cell on wheels”) are prohibited.

2. Towers are prohibited on properties within jurisdiction of the Shoreline Management Act as set forth in Chapter 83 KZC.

117.35 Permit Required

In all instances, a permit must be obtained from the City before any PWSF may be constructed on any public or private land or right-of-way, including I-405, SR 520, and the Burlington Northern Railroad right-of-way, within the City limits.

117.40 Application Review Process

After the applicant has satisfied the pre-submittal meeting requirements of KZC 117.45, an application to site a PWSF shall be processed according to the table below. This table does not include all requirements for PWSF. Additional requirements and standards affecting design and location of PWSF can be found in KZC 117.65 (PWSF Standards), 117.70 (Equipment Structure Standards), and 117.75 (Screening).

Review Process	Facility Type ¹
1. Planning Official Decision (Planning Official issues decision.)	a) Co-location of antennas on existing towers in nonresidential zones. b) Attachment of antennas to existing buildings or mechanical equipment enclosures in a nonresidential zone. See KZC 117.65(7). c) Attachment of antennas to existing water reservoirs, utility poles, or other support structures in any zone. ² See KZC 117.65(6) and (7). d) Attachment of antennas to replacement utility poles in any zone, where the diameter of the replacement pole will not exceed 18 inches or increase the diameter of the existing pole by more than 50 percent, whichever is less. ² See KZC 117.65(6). e) Attachment of antennas to existing buildings within a public park, regardless of zone, if approved by the Park Board.
2. Process I Permit (Planning Director decision following public notice and comment, per Chapter 145 KZC.)	a) Co-location of antennas on existing towers in residential zones, not resulting in any increase to tower height. b) New towers in nonresidential zones, not exceeding 40 feet in height. ⁴ c) Attachment of antennas to replacement utility poles in any zone, where the diameter of the replacement pole will not exceed 24 inches or increase the diameter of the existing pole by more than 100 percent, whichever is less. ² See KZC 117.65(6). d) Attachment of antennas to nonresidential buildings, such as schools or churches, in residential zones, except when located in a public park. ³ See KZC 117.65(7).
3. Process IIA Permit (Hearing Examiner holds public hearing and issues decision, per	a) New towers in nonresidential zones, exceeding 40 feet in height. ⁴ b) Attachment of antennas to replacement utility poles in any zone, where the diameter of the replacement pole will exceed the diameter

Chapter 150 KZC.)	of the existing pole by more than 100 percent, or 24 inches, whichever is less. c) Attachment of antennas to multifamily residential buildings in residential zones. ³
4. Process IIB Permit (Hearing Examiner holds public hearing, City Council issues decision, per Chapter 152 KZC.)	a) Co-location of antennas on existing towers in residential zones resulting in an increase in tower height. ³ b) New towers in residential zones, not exceeding 40 feet in height. ^{3,4} c) Departures from standards contained in this chapter, subject to the limitations of KZC 117.80. d) Any facility that does not qualify for review as a Planning Official Decision, Process I permit, or Process IIA permit as listed above. ³

Footnotes:

- 1 Although this table specifically addresses antennas and towers, it is presumed that for each facility there will be associated equipment structures, and there may be structural alterations to existing support structures. Such equipment structures and structural alterations shall be reviewed through the same process as the facility with which they are associated, subject to the limitations of KZC 117.20.
- 2 Attachment of antennas to existing water reservoirs or other support structures, or to existing or replacement utility poles, where such attachment results in a height increase to the original support structure, may be approved only once through the review process indicated. Any subsequent proposal that would result in a height increase shall be reviewed through Process IIB.
- 3 If in a residential zone, the applicant shall demonstrate that a diligent effort has been made to locate the proposed facility in a nonresidential zone, and that due to valid considerations including physical constraints or technological feasibility, no other location is available.
- 4 An application for a new tower shall not be approved unless the applicant demonstrates, to the satisfaction of the City, that an attempt was made to co-locate the proposed antenna on an existing structure, and that such attempt was spatially, structurally, or technically infeasible. New towers are prohibited on properties within jurisdiction of the Shoreline Management Act as set forth in Chapter 83 KZC.

Chapter 162 – NONCONFORMANCE

162.05 User Guide

This chapter establishes when and under what circumstances nonconforming aspects of a use or development must be brought into conformance with this code. You need to consult the provisions of this chapter only if there is some aspect of the use or development on the subject property that is not permitted under this code.

For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

162.35 Certain Nonconformances Specifically Regulated**7. Nonconforming Height, Yards, and View Corridors**

Any structural alteration of a roof or exterior wall which does not comply with height, required yard, or view corridor standards will require that the nonconforming height, setback or view corridor be brought into conformance. Excepted from this section is the repair or maintenance of structural members. For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

8. Nonconformances to Design Regulations in Design Districts

Nonconformances to the design regulations of Chapter 92 KZC are governed by Chapter 142 KZC.

~~**9. Nonconforming Waterfront Access Trails**~~

~~Nonconforming waterfront access trails are governed by KMC 24.05.210.~~

~~**109. Personal Wireless Service Facilities**~~

Existing or nonconforming personal wireless service facilities are governed by KZC 117.15, New and Existing Facilities. For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

~~**110. Vehicular Access Easement or Tract Standards**~~

Nonconforming access easements and tracts are governed by KZC 105.10(2)(i).

~~**121. Nonconforming Paddock Areas**~~

- a. Paddock areas as required under KZC 115.20 must be brought into conformance if a proposed alteration or replacement of an existing dwelling unit on the subject property in any 12-month period exceeds 50 percent of the replacement cost of that dwelling unit.
- b. See KZC 162.45, Prohibition on Increasing Nonconformance, for proposed modifications, alterations, or replacements of any other improvements on the subject property.

~~**1312. Any Other Nonconformance**~~

If any nonconformance exists on the subject property, other than as specifically listed in the prior subsections of this section, these must be brought into conformance if:

- a. The applicant is making any alteration or change or doing any other work in a consecutive 12-month period to an improvement that is nonconforming or houses, supports or is supported by the nonconformance, and the cost of the alteration, change or other work exceeds 50 percent of the replacement cost of that improvement; or

- b. The use on the subject property is changed and this code establishes more stringent or different standards or requirements for the nonconforming aspect of the new use than this code establishes for the former use.

Chapter 22.08 –SUBDIVISION ORDINANCE

DEFINITIONS

22.08.054 Class A streams.

~~For “Class A streams”, see definition in Chapter 83 KZC for properties within jurisdiction of the Shoreline Management Act, otherwise see Chapter 90 KZC means stream that are used by salmonids. Class A streams generally correlate with Type 3 streams as defined in the Washington State Hydraulic Code. (Ord. 3705 § 2 (part), 1999)~~

22.08.055 Class B streams.

~~For “Class B streams”, see definition in Chapter 83 KZC for properties within jurisdiction of the Shoreline Management Act, otherwise see Chapter 90 KZC means perennial streams (during years of normal precipitation) that are not used by salmonids. Class B streams generally correlate with Type 4 streams as defined in the Washington State Hydraulic Code. (Ord. 3705 § 2 (part), 1999)~~

22.08.056 Class C streams.

~~For “Class C streams”, see definition in Chapter 83 KZC for properties within jurisdiction of the Shoreline Management Act, otherwise see Chapter 90 KZC means intermittent or ephemeral streams (during years of normal precipitation) not used by salmonids. Class C streams generally correlate with Type 5 streams as defined in the Washington State Hydraulic Code. (Ord. 3705 § 2 (part), 1999)~~

Chapter 22.12

PRELIMINARY PLAT PROCEDURE

22.12.010 Purpose.

- (a) The provisions of this chapter describe the procedure that the city will use to review and decide upon proposed subdivisions. Please refer to Chapters 22.28 and 22.32 for the substantive requirements that apply to subdivisions. For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.
- (b) Alterations and vacations of subdivisions shall follow the procedural requirements outlined in Chapter 22.26 of this code. (Ord. 3705 § 2 (part), 1999)

Chapter 22.20
SHORT SUBDIVISIONS

22.20.010 Purpose.

The provisions of this chapter describe the procedure that the city will use to review and decide upon proposed short subdivision. Please refer to Chapters 22.28 and 22.32 for the substantive requirements that apply to short subdivisions. For properties within the jurisdiction of the Shoreline Management Act, see Chapter 83 KZC. (Ord. 3705 § 2 (part), 1999)