



## **CITY OF KIRKLAND**

**Planning and Community Development Department**  
123 Fifth Avenue, Kirkland, WA 98033 425.587-3225  
[www.ci.kirkland.wa.us](http://www.ci.kirkland.wa.us)

### **MEMORANDUM**

**To:** Houghton Community Council

**From:** Lauri Anderson, Planning Consultant

**Date:** November 14, 2008

**Subject:** ADOPTION OF RESOLUTIONS 2008-4 and 2008-5 GIVING FINAL APPROVAL TO CITY COUNCIL ORDINANCES 4151 AND 4152 RELATING TO LAND SURFACE MODIFICATIONS AND COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES (FILE NO. ZON08-00007)

### **RECOMMENDATION**

Adopt enclosed Resolutions 2008-4 and 2008-5, approving Ordinances 4151 and 4152 adopted by the City Council on October 21, 2008. Ordinance 4151 provides for amendments to the Zoning and Municipal Codes related to Land Surface Modification (LSM). Ordinance 4152 provides for amendments to the Zoning and Municipal Codes related to Cottage, Carriage and Two/Three-Unit Homes.

### **BACKGROUND**

The Houghton Community Council held a study session on amendments to the LSM and Cottage Housing standards on June 23, 2008. At that meeting, the Community Council decided not to hold a courtesy hearing on the changes, but instead made some minor recommendations for transmission to the Planning Commission. Staff incorporated those recommendations into the version of the amendments that went to the Planning Commission for public hearing.

At the Planning Commission's public hearing, only one person testified, expressing concerns about cottage housing and two/three-unit homes in general, not about any of the amendments in particular.

On October 21, 2008, the City Council discussed the amendments recommended by the Planning Commission, and adopted them, unchanged.

## **SUMMARY OF CHANGES MADE DURING PLANNING COMMISSION REVIEW**

Following is a summary of the most significant changes made to the amendments during Planning Commission review. These are changes, some recommended by staff and some recommended by the Planning Commission, that you did not discuss at your study session.

### **A. Land Surface Modification (LSM)**

- Exclude removal of trees from the definition of LSM. This change, recommended by staff, acknowledges that tree removal is handled through Chapter 95 of the Zoning Code and that a tree removal permit, rather than an LSM permit, is the appropriate vehicle to allow/deny removal of trees.
- Add new sections about “Right of Entry” and “Inspections” (Sections 29.04.030 and 29.04.040) to parallel building permit regulations.
- Change the exemption for maintaining existing landscaping (Section 29.12.010.c) to state that this maintenance cannot result in an increase or decrease in topography at any point of more than 4’. A 4’ standard was selected as this is the threshold for requiring a rockery or retaining wall permit.
- Add a new requirement to emergency exemptions that states that the party conducting the emergency land surface modification must notify adjacent property owners and residents of any actions taken that may affect their property (see Section 29.12.020).

### **B. Cottage, Carriage and Two/Three-Unit Homes**

- Clarify that density calculations on a site which contains a wetland, stream, minor lake, or their buffers must follow the standards in Section 90.135 of the Zoning Code related to maximum development potential. (See Footnote 7 to Section 113.25.)
- Provide a formula clarifying how to calculate units for a two or three-unit home (see Footnote 8 to Section 113.25).
- Clarify that the area of a vehicular-access easement can be included in the lot area for a cottage housing development that is subdivided (See Section 22.28.080 in Attachment B to the ordinance). Currently, cottage housing developments that establish condominium ownerships of the units can include the vehicular-access easement in their overall lot size, while cottage housing developments that establish ownership through subdivision cannot. This difference serves as a disincentive to subdividing cottage housing developments into individual lots. The change allows both ownership types to handle the vehicular-access easement area in the same way.

Memo to Houghton Community Council

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November 14, 2008

To streamline your meeting on November 24, you should feel free to contact staff prior to the meeting with questions concerning the ordinances. You can reach Lauri Anderson at (206)525-5240 or [lwanderson4@msn.com](mailto:lwanderson4@msn.com).

#### Attachments

1. Ordinance 4151 (adopted by the City Council on October 21, 2008)
2. Ordinance 4152 (adopted by the City Council on October 21, 2008)
3. Resolution 2008-4
4. Resolution 2008-5

cc: File No. ZON08-00007



ORDINANCE NO. 4151

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND SURFACE MODIFICATIONS; AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 1—USER GUIDE; CHAPTER 5—DEFINITIONS; CHAPTER 30—WD ZONES; CHAPTER 50—CBD ZONES; CHAPTER 52—JBD ZONES; CHAPTER 60—PLA ZONES; AND CHAPTER 115—MISCELLANEOUS STANDARDS; AMENDING PORTIONS OF THE FOLLOWING TITLES OF THE MUNICIPAL CODE: TITLE 9—HEALTH AND SANITATION AND TITLE 21—BUILDINGS AND CONSTRUCTION; ADOPTING A NEW TITLE 29 ENTITLED "LAND SURFACE MODIFICATION" IN THE KIRKLAND MUNICIPAL CODE; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00007.

WHEREAS, the City Council has received recommendations from the Kirkland Planning Commission and Houghton Community Council to amend certain sections of the text of the Kirkland Zoning and Municipal codes, all as set forth in that certain report and recommendation of the Planning Commission dated October 7, 2008 and bearing Kirkland Department of Planning and Community Development File No. ZON08-00007; and

WHEREAS, prior to making its recommendation, the Kirkland Planning Commission on July 31, 2008, 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 197-11-600; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the reports and recommendations of the Planning Commission.

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

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

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

Section 2 Municipal Code text amended: The following specified sections of the text of the Municipal Code are hereby amended to read as follows:

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

Section 3 Municipal Code text adopted: A new Title 29 of the Kirkland Municipal Code entitled "Land Surface Modification" is hereby adopted to read as follows:

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

Section 4. 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.

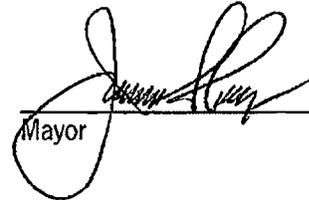
Section 5. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation on the effective date of this ordinance only 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 6. This ordinance shall be in full force and effect 90 days from and after its passage by the Kirkland City Council and publication pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 7. 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 21st day of October, 2008

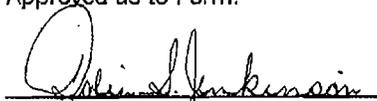
SIGNED IN AUTHENTICATION thereof this 21st day of October, 2008

  
\_\_\_\_\_  
Mayor

Attest:

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

Approved as to Form:

  
\_\_\_\_\_  
City Attorney

ATTACHMENT A

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HOW TO READ THIS:

- Text that is covered by a strike-through (~~strike-through~~) is existing text currently contained in the Zoning Code that is to be deleted.
  - Text that is underlined (underlined) is new text that is to be added.
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Section 1.10

12. Land Surface Modification – Do you want to do any clearing, grading or engage in any land surface modifications including removing vegetation other than trees on the subject property? If so, you should read KZC 415.75 KMC Title 29, Land Surface Modification.

Section 5.10

- .455 Land Surface Modification – The clearing or removal of ~~tree~~, shrubs, groundcover and other vegetation, excluding trees, and all grading, excavation and filling of materials. ~~The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 KMC shall not be deemed to be land surface modification.~~

Sections 30.17, 30.27, 30.37, 50.20, 52.35, 60.28, 60.173

4. Land Surface Modification Landward of the High Waterline Yard – Land surface modification landward of the high waterline yard is regulated like land surface modifications throughout the City. See KMC Title 29 Chapter 415 KZC for those regulations.

Section 60.18

4. Land Surface Modification Other than Waterward of the High Waterline or the Regulated Wetland or Wetland Buffer – See KMC Title 29 Chapter 415 KZC for regulations regarding land surface modifications other than waterward of the high waterline or within the regulated wetland or wetland buffer.

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

~~415.75 Land Surface Modification~~

Section 115.75

~~415.75 Land Surface Modification~~

~~1. General—The applicant shall comply with this section with respect to all land surface modifications.~~

~~2. Nature of Fill Materials—All materials used as fill must be nondissolving and nondecomposing. Fill material must not contain organic or inorganic material that would be detrimental to the water quality, or existing habitat, or create any other significant adverse impacts to the environment.~~

~~3. A land surface modification is permitted, only if it:~~

~~a. Has been approved as part of a valid development permit, subdivision, or substantial development permit; or~~

~~b. Is for cemetery graves; or~~

~~c. Is in a right-of-way authorized in writing by the Director of the Department of Public Works; or~~

~~d. Is for mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where a permit has been issued by the state of Washington, Department of Natural Resources; or~~

~~e. Is for exploratory excavations under the direction of a professional engineer licensed in the state of Washington, as long as the extent of the land surface modification does not exceed the minimum necessary to obtain the desired information; or~~

~~f. Is for normal maintenance and repair of the facilities of a common carrier by rail in interstate commerce within its existing right-of-way; or~~

~~g. Is for excavations for utility service connections to serve existing and/or new structures; or~~

~~h. Is for actions which must be undertaken immediately, or within a time too short to allow full compliance with the permit requirements of subsection (4) of this section, to avoid an imminent threat to public health or safety; to prevent an imminent danger to public or private property; or to prevent an imminent threat of serious environmental degradation. This determination will be made by the Planning Official; or~~

~~i. Is for the removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 KMC, and the removal of blackberry vines or dead, dangerous, or diseased trees, when authorized by the Building Official; or~~

~~j. Is for placement of fill on land owned or controlled by the City; or~~

~~k. Complies with all of the following criteria:~~

~~1) The subject property contains a permanent building or an active use; and~~

~~2) The land surface modification will not change the points where the storm water or groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of storm water or groundwater; and~~

~~3) The land surface modification is not in a stream, lake, wetland, or required setback therefrom; is not on or within 25 feet of a geologically hazardous area; and is not in an area with soft compressible soils; and~~

~~4) The land surface modification is not located on a site for which a development permit, subdivision, or substantial development permit has been submitted or is under review but has not yet been approved; and~~

~~5) In any one-year period, not more than 500 cubic yards of fill material is deposited on, excavated and removed from or moved from place to place on the subject property and will not result in more than a two-foot increase or one-foot decrease in average slope. If the subject property is larger than one acre, the limit is 500 cubic yards within each acre; and~~

~~6) If the land surface modification is between 100 and 500 cubic yards, the City may require a soils report. If a soils report is required, it shall contain a description of any on or off site impacts of the proposed land surface modification on each of the following elements:~~

~~a) Slope stability — if the site has an average slope 15 percent or greater;~~

~~b) Landslide hazard, sloughing or mud flows;~~

~~c) Seismic hazards (based on subclassifications within the Class III risk zone);~~

~~d) Erosion hazards;~~

~~e) Drainage;~~

~~f) Springs or seeps or any other surface water;~~

~~g) Groundwater;~~

~~h) Flood hazard;~~

~~i) Existing vegetation;~~

~~The soils report also must contain recommended methods for mitigating identified impacts and a description of how these mitigating measures impact adjacent properties. The City may require implementation of recommendations in the soils report to mitigate identified impacts.~~

4. ~~The Planning Official may approve a land surface modification which does not comply with subsection (3) of this section if the land surface modification:~~

~~a. Except as allowed by Chapter 90 KZC, does not alter or adversely affect streams, lakes, wetlands, or significant trees, either on the subject property or on any other property; and~~

~~b. Does not violate any expressed policy of the City; and~~

~~c. Either:~~

~~1) Is proposed to correct an erosion or drainage problem on an undeveloped site; or~~

~~2) Is proposed to create new utility or access corridors; or~~

~~3) The subject property contains a permanent building or an active use and in any one-year period more than 500 cubic yards of fill material is deposited on, excavated and removed from, or moved from place to place on the subject property and will not result in more than a two-foot increase or one-foot decrease in average slope. If the subject property is larger than one acre, the threshold is 500 cubic yards within each acre; or~~

~~4) The subject property contains a permanent building or an active use and is on or within 25 feet of a regulated slope or is within an area of soft compressible soils; or~~

~~5) Is proposed to ensure grading is done to avoid erosion, landslides, or other environmental hazards for a development activity for which a complete building permit application is being processed and a bond for restoration has been submitted. All land surface modification authorized by the Planning Official must be completed no later than October 1st, unless extended by the Building Official. The bond shall be held until all site work associated with the approved building permit is completed.~~

~~5. Prior to approving a land surface modification under subsection (4) of this section, the applicant shall submit to the Planning Official:~~

~~a. Survey of the subject property;~~

~~b. Limits of proposed grading;~~

~~c. Tree retention plan;~~

~~d. Utility locations;~~

~~e. Easement and right-of-way improvement locations;~~

~~f. Erosion control/construction phase storm water control plan; and~~

~~g. A soils report which contains all elements described in subsection (3)(k)(7) of this section.~~

~~6. In approving the LSM, the Planning Official may require measures to mitigate the impacts of the LSM, including but not limited to the following:~~

~~a. The limit of grading line shall be clearly marked in the field with the installation of a six-foot-high temporary chain-link fence and signage and flagging of trees to be retained.~~

~~b. An erosion control siltation fence shall be erected along required setbacks from streams, wetlands, and steep-sloped areas.~~

~~7. Appeals—The decision of the Planning Official in approving or denying a land surface modification may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110.~~

~~8. Bonds—The City may require the following bonds, per Chapter 175 KZC:~~

~~a. A performance bond to guarantee that the land surface modification will conform to City standards; and/or~~

~~b. A maintenance bond after the land surface modification is completed.~~

~~9. Tree and Plant Restoration~~

~~If any tree required to be retained or planted is damaged or destroyed, the applicant shall plant a tree of the same species at least three to five inches in diameter, if deciduous, as measured one foot above grade or at least 16 feet high, if coniferous, in the immediate vicinity of the damaged or destroyed tree. The City may require the applicant to remove the damaged or destroyed tree.~~

~~In addition, if grading or clearing destroys groundcover or shrubbery, the applicant shall hydroseed the bare soil and plant shrubs at least 24 inches in height in the immediate vicinity of the damaged or destroyed vegetation.~~

## ATTACHMENT B

## HOW TO READ THIS:

- Text that is covered by a strike-through (~~strike-through~~) is existing text currently contained in the Municipal Code that is to be deleted.
- Text that is underlined (underlined) is new text that is to be added.

## Title 9:

**9.12.010 Removal of overhanging vegetation and fire hazards.**

(a) The owner of any property in the city shall remove or destroy, in a manner permitted by law, all trees, plants, shrubs or vegetation or parts thereof that which overhangs or is growing on any sidewalk or street, or which are growing thereon in such a manner as to that obstructs or impairs the free and full use of the sidewalk or street by the public; and. Prior authorization is required from the City to the extent pruning or removal of trees is required.

(b) The owner of any property in the city shall also remove or destroy (in a manner permitted by law), all grass, weeds, shrubs, bushes, trees or vegetation growing or which have grown and died and to remove or destroy (in a manner permitted by law) all or debris upon property owned or occupied by them and which are that is a fire hazard or a menace to public health, safety or welfare. Such work, when proposed in a critical area or its buffer, requires prior approval from the Department of Planning and Community Development. Prior authorization also is required from the City to the extent pruning or removal of trees is required. (Ord. 2449 § 1, 1974)

**From Municipal Code Title 21:****Chapter 21.08  
INTERNATIONAL BUILDING CODE**

## Sections:

- 21.08.010 International Building Code adopted.
- 21.08.020 IBC Section 403.10:2 amended.
- 21.08.025 IBC Section 403.15 amended.
- 21.08.030 IBC Section 405.9 amended.
- 21.08.035 IBC Section 501.2 amended.
- 21.08.040 IBC Section 707.2 Exception 2.1 amended.
- 21.08.055 IBC Section 1608.1 amended.

- ~~21.08.060 IBC Section 1704.12 amended.~~
- ~~21.08.075 IBC Chapter 31 amended.~~
- ~~21.08.105 IBC Section J102 amended.~~
- ~~21.08.110 IBC Section J103 amended.~~
- ~~21.08.115 IBC Appendix Section J103.3 added.~~

~~21.08.105 IBC Section J102 amended.~~

~~Section J102 of the International Building Code is amended and supplemented by the addition of the following definition:~~

~~LAND SURFACE MODIFICATION shall include clearing or removal of trees, shrubs, ground cover and other vegetation, and all grading, excavation and filling of materials. The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 of the Kirkland Municipal Code and the removal of dead, dangerous, or diseased trees or blackberry vines when authorized by the Building Official shall not be deemed to be a Land Surface Modification.~~

~~(Ord. 4099 § 3 (part), 2007; Ord. 3946 § 1 (part), 2004)~~

~~21.08.110 IBC Section J103 amended.~~

~~Section J103 of the International Building Code is amended and supplemented to read:~~

~~Section J103. PERMITS REQUIRED. Except as exempted in Section J103.2, no land surface modification shall be performed without first having obtained a permit from the building official.~~

~~Section J103.2. Exemptions. A land surface modification permit shall not be required for the following:~~

~~1. Land surface modification performed in the normal course of maintaining existing landscaping on a lot associated with an existing building or buildings, provided such work does not modify any drainage course and does not involve more than 50 cubic yards of material in an 12 month period.~~

~~2. Any excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid Building Permit. This shall not exempt any fill made with the material from such excavation when the material is removed from the lot or any fill material which is placed on the lot.~~

~~3. Cemetery graves.~~

~~4. Fill deposited on previously approved disposal sites under the control of other City Administrative Departments.~~

~~5. Excavations for wells or tunnels, or utilities or other work supervised by the City of Kirkland.~~

~~6. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where a permit has been issued by the State of Washington, Department of Natural Resources.~~

~~7. Exploratory excavations under the direction of soil engineers or engineering geologists.~~

~~8. Normal maintenance and repair of the facilities of a common carrier by rail in interstate commerce within its existing right-of-way.~~

~~9. Excavations for utility service connections to serve existing and/or new structures.~~

~~10. Correction of drainage problems when supervised by the Department of Public Works; and the installation of approved preliminary plat and short plat improvements as permitted by Section J103.3.~~

~~Exemption from the permit requirements of this Chapter shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this chapter or any other laws or ordinances of this jurisdiction.~~

~~(Ord. 4099 § 3 (part), 2007; Ord. 4017 § 7, 2005; Ord. 3946 § 1 (part), 2004)~~

#### 21.08.115 IBC Appendix Section J103.3 added.

Appendix Section J103.3 of the International Building Code is amended by the addition of a new subsection:

Section J103.3. Permit Issuance. No land surface modification or grading permit shall be issued in the following circumstances:

1. Prior to the approval of a preliminary plat or short plat.

~~Exception: After the approval of a preliminary plat or short plat, a land surface modification or grading permit may be issued for land surface modification or grading work to be done within rights-of-way, utility easements or access easements as designated on the approved preliminary plat drawings. A limited amount of grading may be permitted and stockpiling of materials on individual lots with the concurrence of the departments that normally review development permit applications. Permits to be issued for activities covered by this subparagraph shall be issued by the department of public works who shall with respect to such activities, have full authority to administer and enforce the provisions of Appendix Chapter J of the International Building Code as herein amended and supplemented.~~

2. Prior to the issuance of a building permit.

~~Exception: After the receipt of a complete application for a building permit, a land surface modification or grading permit may be issued only for the minimum land surface modification or grading necessary~~

~~to locate structures or other associated improvements designated on the submitted building permit plans.~~

~~3. In areas served by inadequate water, sewer, storm drainage or transportation systems as determined by the Public Works Department.~~

~~Exception: When such action proposes the improvement of any deficient system to minimum city standards and at the expense of the private sponsor and such improvements are associated with the issuance of a valid building permit.~~

~~4. Prior to the approval specified in Section 115.75, Kirkland Zoning Code, where no Building Permit is required.~~

~~5. Prior to the approval of a preliminary Planned Unit Development.~~

~~Exception: After the approval of a preliminary Planned Unit Development, a Land Surface Modification or Grading Permit may be issued for land surface modification or grading work to be done within rights-of-way, utility easements, access easements or other major components of the internal vehicular circulation system so designated in the approved Preliminary Planned Unit Development.~~

~~(Ord. 4099 § 3 (part), 2007; Ord. 3946 § 1 (part), 2004)~~

## ATTACHMENT C

*Add new listing to Municipal Code Table of Contents:*

Title 29 Land Surface Modification

Title 29

## LAND SURFACE MODIFICATION

Chapters:

29.04 General Provisions  
29.08 Definitions  
29.12 Permit Exemptions  
29.16 Permit Application  
29.20 Permit Approval Criteria  
29.24 Development Standards  
29.28 Bonds and Restoration  
29.32 Expiration  
29.36 Suspension or Revocation, Appeals  
 and Enforcement

Chapter 29.04  
 GENERAL PROVISIONS

Sections:

29.04.010 Purpose and Intent  
 29.04.020 Applicability  
 29.04.030 Right of Entry.  
 29.04.040 Inspections.

29.04.010 Purpose and Intent

The purpose of this title is to provide for and promote the health, safety and welfare of the general public by minimizing risks to life and property and ensuring that land surface modification occurs in a manner compatible with City goals for environmental protection. To preserve natural features and functions of the land until a development plan is reviewed and approved, speculative grading is discouraged.

29.04.020 Applicability.

The provisions of this title apply to all land surface modifications conducted after the effective date of the ordinance codified in this title. Except as exempted in

Chapter 29.12, no land surface modification shall be performed without first having obtained a permit from the City of Kirkland.

29.04.030 Right of entry.

Where it is necessary to make an inspection to enforce the provisions of this chapter, or where the City has reasonable cause to believe that there exists upon a site a condition which is contrary to or in violation of this chapter, the City is authorized to enter the site at reasonable times to inspect or to perform the duties imposed by this chapter.

29.04.040 Inspections.

Land surface modifications for which a permit is required shall be subject to inspection by the City to ascertain compliance with the provisions of this chapter and other City laws and regulations. It shall be the duty of the applicant to cause the work to remain accessible for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this chapter or of other codes or ordinances of the City.

Chapter 29.08  
DEFINITIONS

Sections:

- 29.08.010 General
- 29.08.020 Definitions

29.08.010 General.

The definitions in this Chapter apply throughout this title.

29.08.020 Definitions.

- a. "Development Permit" means any permit or approval under the Zoning Code or the Building Code that must be issued before initiating a use or development activity.
- b. "Land Surface Modification" means the clearing or removal of ~~trees~~-shrubs, groundcover and other vegetation, excluding trees, and all grading, excavation and filling of materials.

Chapter 29.12  
PERMIT EXEMPTIONS

Sections:

- 29.12.010 Permit Exemptions.
- 29.12.020 Emergency Exemption.
- 29.12.030 Relationship to Other Regulations.

### 29.12.010 Permit Exemptions

Except in (1) critical areas and their buffers, (2) areas waterward of the high waterline, (3) high waterline required yards, or (4) areas with an historic overlay designation, a land surface modification permit shall not be required for the following:

- a. The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 of the Kirkland Municipal Code.
- b. The removal of prohibited vegetation.
- c. Land surface modification performed in the normal course of maintaining existing landscaping on a lot associated with an existing building or buildings, provided such work:
  - 1) does not substantially change the points where the stormwater or groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of stormwater or groundwater;
  - 2) does not result in an increase or decrease in topography at any point of more than 4'; and
  - 3) does not involve more than 50 cubic yards of material in any 12 month period.
- d. Any excavation authorized by a valid Building Permit. This shall not exempt any fill made with the material from such excavation when the material is removed from the lot or any fill material which is placed on the lot.
- e. Utilities or other work in a right-of-way supervised by the City of Kirkland, authorized in writing by the Director of the Department of Public Works, or as allowed by a right-of-way permit approved under KMC 19.12.
- f. Excavations for franchise utility service connections (power, telephone, cable, gas, etc.) to serve existing and/or new structures.
- g. Correction of storm drainage problems when supervised by the Department of Public Works.
- h. Exploratory excavations under the direction of a professional engineer licensed in the state of Washington, as long as the extent of the land surface modification does not exceed the minimum necessary to obtain the desired information.
- i. Normal maintenance and repair of the facilities of a common carrier by rail in interstate commerce within its existing right-of-way.
- j. Cemetary graves.

### 29.12.020 Emergency Exemption.

A land surface modification permit shall not be required for actions which must be undertaken immediately or within a time too short to allow full compliance with the permit requirements of this title to avoid an imminent threat to public health or

safety; to prevent an imminent danger to public or private property; or to prevent an imminent threat of serious environmental degradation. The party conducting the land surface modification shall contact the City within seven days of the land surface modification to provide evidence of threat or imminent danger. Within this same seven-day period, the party conducting the land surface modification shall be solely responsible for notifying adjacent property owners and residents of any actions taken that may affect their property. The City may require that the party obtain a permit after-the-fact, and/or require other mitigation as necessary.

### 29.12.030 Relationship to Other Regulations.

Exemption from the permit requirements of this title shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this title or any other laws or ordinances of this jurisdiction. In particular, requests for pruning or removal of trees shall follow the procedures and comply with the standards outlined in KZC Chapter 95.

## Chapter 29.16 PERMIT APPLICATION

### Sections:

- 29.16.010 Application--Contents
- 29.16.020 Geotechnical Report
- 29.16.030 Third Party Review Authorized

### 29.16.010 Application—Contents.

The applicant shall apply for a land surface modification permit by submitting information to the City. The City is hereby authorized to maintain a list of the application requirements that may include, but is not limited to, the following:

- a. Permit application form;
- b. Fees as established in KMC Titles 5 and 21, as applicable;
- c. Survey of the subject property;
- d. Any additional pertinent information.

### 29.16.020 Geotechnical Report

The City may require a geotechnical report as part of any land surface modification permit application. If a geotechnical report is required, it shall be prepared by a qualified geotechnical engineer or engineering geologist and must contain a description of any on- or off-site impacts of the proposed land surface modification on each of the following elements:

- a. Geologically hazardous areas, including landslide hazard areas, erosion hazard areas and seismic hazard areas;
- b. Storm drainage;

- c. Groundwater;
- d. Springs or seeps or other surface expressions of groundwater;
- e. Surface water, including streams, seasonal runoff and wetlands.
- f. Flood hazards;
- g. Existing vegetation, including trees; and
- h. Stability of existing or proposed structures or landforms.

The geotechnical report also must contain recommended methods for mitigating identified impacts and a description of how these mitigating measures impact adjacent properties.

If the land surface modification proposal is subject to the requirements of KZC Chapter 85, additional geotechnical information may be required.

#### 29.16.030 Third Party Review Authorized

At the City's option, funding for a qualified geotechnical engineer or engineering geologist to review the geotechnical report and recommendations may be required of the applicant. The geotechnical engineer or engineering geologist will be selected and retained by the City subject to a three-party contract.

### Chapter 29.20 PERMIT APPROVAL CRITERIA

#### Sections:

- 29.20.010 For projects with a valid development permit, subdivision or substantial development permit.
- 29.20.020 For projects without a valid development permit, subdivision or substantial development permit, but with a submitted building permit application.
- 29.20.030 For projects without a valid development permit, subdivision or substantial development permit, on a site with an existing building or an active use and involving up to 500 cubic yards of material.
- 29.20.040 For projects without a valid development permit, subdivision or substantial development permit, on a vacant site or involving more than 500 cubic yards of material.
- 29.20.050 General criteria

29.20.010 For projects with a valid development permit, subdivision or substantial development permit.

A land surface modification permit may be approved as part of a valid development permit, substantial development permit or subdivision.

After approval of a zoning or substantial development permit, a land surface modification permit may be issued for land surface modification to be done within rights-of-way, utility easements, access easements, the internal vehicular circulation system, or other portions of the site pursuant to the approved zoning or substantial development permit.

After approval of a preliminary subdivision or short plat, a land surface modification permit may be issued for land surface modification to be done within rights-of-way, utility easements or access easements as designated on the approved engineering plans. A limited amount of grading, as well as stockpiling of materials, on individual lots may be permitted with City approval.

**29.20.020** For projects without a valid development permit, subdivision or substantial development permit, but with a submitted building permit application.

A land surface modification may be approved for a project on a site without a valid development permit, subdivision or substantial development permit, but with a submitted building permit application, if the land surface modification complies with all of the following criteria:

- a. A complete building permit application for the site has been submitted.
- b. The land surface modification is not located on a site for which a zoning permit, subdivision, or substantial development permit has been submitted or is under review but has not yet been approved.
- c. The land surface modification is the minimum necessary to locate structures or other associated improvements designated on the submitted building permit plans.
- d. The land surface modification will not substantially change the points where the stormwater or groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of stormwater or groundwater.
- e. The land surface modification complies with the criteria in Section 29.20.050.
- f. A bond is submitted prior to issuance of the land surface modification permit for restoration of the site in the event the building permit is not approved.

**29.20.030** For projects without a valid development permit, subdivision or substantial development permit, on a site with an existing building or an active use and involving up to 500 cubic yards of material.

A land surface modification may be approved for a project on a site without a valid development permit, subdivision or substantial development permit, but with an existing building or an active use, if the land surface modification complies with all of the following criteria:

- a. The land surface modification is not located on a site for which a development permit, subdivision, or substantial development permit has been submitted or is under review but has not yet been approved.

- b. The land surface modification will not substantially change the points where the stormwater or groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of stormwater or groundwater.
- c. In any one-year period, not more than 500 cubic yards of fill material is deposited on, excavated and removed from, or moved from place to place on, the subject property. If the subject property is larger than one acre, the limit is 500 cubic yards within each acre.
- d. The land surface modification complies with the criteria in Section 29.20.050.

**29.20.040** For projects without a valid development permit, subdivision or substantial development permit, on a vacant site or involving more than 500 cubic yards of material.

On a vacant site involving any amount of material, or on a site with an existing building or an active use involving more than 500 cubic yards of material (or 500 cubic yards of material within each acre, if the subject property is larger than one acre), the land surface modification may be approved if all of the following criteria are met:

- a. The land surface modification is proposed to do at least one of the following:
  - 1) Correct an erosion or storm drainage problem under the supervision of the Department of Public Works; or
  - 2) Create new utility or access corridors required by the City of Kirkland; or
  - 3) Improve to minimum standards, at the expense of the applicant, a deficient water, sewer, storm drainage or transportation system, as determined by the Public Works Department; or
  - 4) Avoid erosion, landslides, or other environmental hazards.
- b. The land surface modification is not located on a site for which a development permit, subdivision, or substantial development permit has been submitted or is under review but has not yet been approved.
- c. The land surface modification will not substantially change the points where the groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of groundwater.
- d. The land surface modification complies with the criteria in Section 29.20.050.

**29.20.050** General criteria.

The following criteria must be met for any land surface modification approved under Sections 29.20.020, 29.20.030 or 29.20.040:

- a. The land surface modification is consistent with the provisions of the Kirkland Zoning Code, including, but not limited to, regulations regarding streams, lakes, and wetlands and their buffers; geologically hazardous areas; shorelines; and trees.

- b. The land surface modification will not adversely affect the stability of structures or landforms on-site or on adjacent properties.
- c. The land surface modification is consistent with the provisions of the Kirkland Municipal Code, including, but not limited to, the Shoreline Master Program.
- d. The land surface modification is consistent with the provisions of the most current edition of the Public Works Department's Pre-Approved Plans and Policies.
- e. The land surface modification does not violate any policy of the City.

## Chapter 29.24 DEVELOPMENT STANDARDS

### Sections:

#### 29.24.010 Conditions of Permit Approval

#### 29.24.010 Conditions of Permit Approval.

Prior to approving a land surface modification permit, the City may require measures to mitigate impacts, including but not limited to the following:

- a. Implementation of recommendations in the geotechnical report.
- b. Restrictions on the nature of fill materials. All materials used as fill shall be nondissolving and nondecomposing. Fill material shall not contain organic or inorganic material that would be detrimental to water quality or existing habitat, or create any other significant adverse impacts to the environment.
- c. Compliance with the City's rodent abatement standards.
- d. Marking the limit of grading line in the field with a temporary fence and signage as approved by the City.
- e. Installation of temporary protective tree fencing and signage as described in KZC Chapter 95.
- f. Implementation of erosion control measures, including installation of an erosion control siltation fence along required setbacks from streams, wetlands, and steep-sloped areas.
- g. Implementation of measures to control dust.
- h. Maintenance of streets and storm drains so that they are kept clean of debris resulting from the land surface modification.
- i. Limitation on timing of the land surface modification. The land surface modification should be completed between April 1 and October 1st, unless a wet weather erosion control plan has been approved by the Public Works Department.

## Chapter 29.28 BONDS AND RESTORATION

**Sections:**

- 29.28.010 Bonds
- 29.28.020 Restoration

**29.28.010 Bonds.**

The City may require or permit a bond in accordance with KZC Chapter 175 to ensure compliance with any of the requirements of this chapter.

**29.28.020 Restoration.**

If any tree required to be retained or planted as a condition of the land surface modification permit is damaged or destroyed, the applicant shall comply with the restoration requirements of KZC Chapter 95.

The applicant shall stabilize any exposed areas left after the land surface modification with approved vegetation.

**Chapter 29.32  
EXPIRATION**

**Sections:**

- 29.32.010 Time Limitation for Application
- 29.32.020 Permit Expiration

**29.32.010 Time Limitation for Application.**

An application for a land surface modification permit shall expire as described in KMC Section 21.06.

**29.32.020 Permit Expiration.**

A land surface modification permit shall expire as described in KMC Section 21.06.

**Chapter 29.36  
SUSPENSION OR REVOCATION, APPEALS AND  
ENFORCEMENT**

**Sections:**

- 29.36.010 Suspension or Revocation
- 29.36.020 Appeals
- 29.36.030 Enforcement

**29.36.010 Suspension or Revocation.**

The City is authorized to suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

**29.36.020 Appeals.**

The decision of the City in approving or denying a land surface modification may be appealed using the appeal provisions, as applicable, of Article XII of KMC Chapter 21.06

**29.36.030 Enforcement.**

Violations of the requirements of this title shall be enforced through the provisions, as applicable, of KZC Chapter 170.

ORDINANCE NO. 4151  
PUBLICATION SUMMARY

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND SURFACE MODIFICATIONS; AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 1--USER GUIDE; CHAPTER 5--DEFINITIONS; CHAPTER 30--WD ZONES; CHAPTER 50--CBD ZONES; CHAPTER 52--JBD ZONES; CHAPTER 60--PLA ZONES; AND CHAPTER 115--MISCELLANEOUS STANDARDS; AMENDING PORTIONS OF THE FOLLOWING TITLES OF THE MUNICIPAL CODE: TITLE 9--HEALTH AND SANITATION AND TITLE 21--BUILDINGS AND CONSTRUCTION; ADOPTING A NEW TITLE 29 ENTITLED "LAND SURFACE MODIFICATION" IN THE KIRKLAND MUNICIPAL CODE; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00007.

Section 1. Identifies the specific amendments to Ordinance 3719, as amended, the Kirkland Zoning Ordinance.

Section 2. Identifies the specific amendments to the Municipal Code;

Section 3. Adopts the specific text of a new Title 29 of the Kirkland Municipal Code entitled "Land Surface Modification."

Section 4. Addresses severability.

Section 5. Establishes that this ordinance will be effective within the disapproval jurisdiction of the Houghton Community Council Municipal Corporation on the effective date 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.

Section 6. 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 ninety days after publication of said summary for all amendments.

Section 7. Directs the City Clerk to certify and forward a complete certified copy of this ordinance 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 regular meeting on the 21st day of October, 2008.

I certify that the foregoing is a summary of Ordinance 4151 approved by the Kirkland City Council for summary publication.

Attest:

Acting *Karen R. Jewell*  
City Clerk

ORDINANCE NO. 4152

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES; AMENDING PORTIONS OF THE FOLLOWING CHAPTER OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 113—COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES; AMENDING PORTIONS OF THE FOLLOWING TITLE OF THE MUNICIPAL CODE: TITLE 22—SUBDIVISIONS; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00007.

WHEREAS, the City Council has received recommendations from the Kirkland Planning Commission and Houghton Community Council to amend certain sections of the text of the Kirkland Zoning and Municipal codes, all as set forth in that certain report and recommendation of the Planning Commission dated October 7, 2008 and bearing Kirkland Department of Planning and Community Development File No. ZON08-00007; and

WHEREAS, prior to making its recommendation, the Kirkland Planning Commission on July 31, 2008 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 197-11-600; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the reports and recommendations of the Planning Commission.

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

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

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

Section 2 Municipal Code text amended: The following specified sections of the text of the Municipal Code are hereby amended to read as follows:

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

O-4152

Section 3. 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.

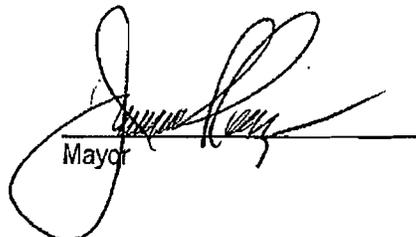
Section 4. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation on the effective date of this ordinance only 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 5. This ordinance shall be in full force and effect 90 days from and after its passage by the Kirkland City Council and publication pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 6. 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 21st day of October, 2008

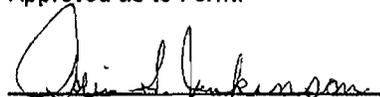
SIGNED IN AUTHENTICATION thereof this 21st day  
of October, 2008.

  
\_\_\_\_\_  
Mayor

Attest:

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

Approved as to Form:

  
\_\_\_\_\_  
City Attorney

## ATTACHMENT A

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### HOW TO READ THIS:

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

## Chapter 113 – COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES

### Sections:

- 113.05 User Guide
- 113.10 Voluntary Provisions and Intent
- 113.15 Housing Types Defined
- 113.20 Applicable Use Zones
- 113.25 Parameters for Cottages, Carriage Units and Two/Three-Unit Homes
- 113.30 Community Buildings and Community Space in Cottage Developments
- 113.35 Design Standards and Guidelines
- 113.40 Median Income Housing
- 113.45 Review Process
- 113.50 Additional Standards

#### 113.05 User Guide

This chapter provides standards for alternative types of housing in single-family zones. If you are interested in proposing cottage, carriage or two/three-unit homes or you wish to participate in the City's decision on a project including these types of housing units, you should read this chapter.

#### 113.10 Voluntary Provisions and Intent

The provisions of this chapter are available as alternatives to the development of typical detached single-family homes. In the event of a conflict between the standards in this Chapter and the standards in Chapter 15 or Chapter 17 of this Code, the standards in this Chapter shall control. These standards are intended to address the changing composition of households, and the need for smaller, more diverse, and often, more affordable housing choices. Providing for a variety of housing types also encourages innovation and diversity in housing design and site development, while ensuring compatibility with surrounding single-family residential development.

#### 113.15 Housing Types Defined

The following definitions apply to the housing types allowed through the provisions in this chapter:

1. Cottage – A detached, single-family dwelling unit containing 1,500 square feet or less of gross floor area.
2. Carriage Unit – A single-family dwelling unit, not to exceed 800 square feet in gross floor area, located above a garage structure in a cottage housing development.
3. Two/Three-Unit Home – A structure containing two dwelling units or three dwelling units, designed to look like a detached single-family home.

113.20 Applicable Use Zones

The housing types described in this chapter may be used only in the following low density zones: RS 7.2, RSX 7.2, RS 8.5, RSX 8.5, RS 12.5 and RSX 12.5 (see KZC 113.25 for further standards regarding location of these housing types).

113.25 Parameters for Cottages, Carriage Units and Two/Three-Unit Homes

Please refer to KZC 113.30, 113.35 and 113.40 for additional requirements related to these standards.

	Cottage	Carriage	Two/Three-Unit Home <sup>1</sup>
Max Unit Size <sup>2</sup>	1,500 square feet <sup>3</sup>	800 square feet	1,000 square feet average unit size
			Structure total <sup>4</sup> :
			Two-Unit: 2,000 s.f. Three-Unit: 3,000 s.f.
Density	2 times the maximum number of detached dwelling units allowed in the underlying zone <sup>5, 6, 7, 8</sup>		
Max Floor Area Ratio (FAR) <sup>9,8</sup>	.35		
Development Size	Min. 4 units Max. 24 units	Allowed when included in a cottage project.	Must be limited to either one two-unit home or one three-unit home, or be part of a cottage development, unless approved through Process IIA, Chapter 150 KZC.
	Maximum cluster <sup>10,9</sup> : 12 units		
Review Process	Process I		Single two-unit home or single three-unit home: Process I <sup>11,11</sup> Development containing more than one two-unit or one three-unit home (other than a cottage project): Process IIA <sup>12,12</sup>
Location	Developments containing cottage, carriage and/or two/three-unit homes may not be located closer than the distance noted below to another development approved under the provisions of this chapter or under Ordinance 3856:		
	1 to 9 Units: 500'		
	10 – 19 Units: 1,000'		
20 – 24 Units: 1,500'			

Minimum Lot Size	Beyond density restrictions, there is no required minimum lot size for lots created through the subdivision process. (The number of allowed units on the subject property is determined by the density provision of this chart.)		
Parking Requirements <sup>13</sup>	Units under 700 square feet: 1 space per unit Units between 700 – 1,000 square feet: 1.5 spaces per unit Units over 1,000 square feet: 2 spaces per unit. Must be provided on the subject property.		
Minimum Required Yards (from exterior property lines of subject property)	Front: 20' Other: 10'	Allowed when included in a cottage project.	Front: 20' Other: 10'
Lot coverage (all impervious surfaces) <sup>13,14</sup>	50%	Allowed when included in a cottage project.	50%
Height			
Dwelling Units	25' (RS Zones) and 27' (RSX Zones) maximum above A.B.E., (where minimum roof slope of 6:12 for all parts of the roof above 18' are provided). Otherwise, 18' above A.B.E.		
Accessory Structures	One story, not to exceed 18' above A.B.E.		
Tree Retention	Standards contained in KZC 95.35 for Tree Plan III shall apply to development approved under this chapter.		
Common Open Space	400 square feet per unit. Private open space is also encouraged (see KZC 113.35).		
Community Buildings	Community buildings are encouraged. See KZC 113.30 for further regulations.		
Attached Covered Porches <sup>15</sup>	Each unit must have a covered porch with a minimum area of 64 square feet per unit and a minimum dimension of 7' on all sides.		
Development Options	Subdivision <del>Binding Site Plan</del> Condominium Rental or Ownership		
Accessory Dwelling Units (ADUs)	Not permitted as part of a cottage, carriage or two/three-unit home development.		

<sup>1</sup> Within the jurisdiction of the Houghton Community Council, this housing type is only allowed where it is included in a cottage project.

<sup>2</sup> A covenant restricting any increases in unit size after initial construction shall be recorded against the property. Vaulted space may not be converted to habitable space.

<sup>3</sup> Maximum size for a cottage is 1,500 square feet. A cottage may include an attached garage, not to exceed an additional 250 square feet.

<sup>4</sup> Maximum size for a two-unit home is 2,000 square feet. A two-unit home may include an attached garage, not to exceed an additional 500 square feet. The maximum size for a three-unit home is 3,000 square feet. A three-unit home may include an attached garage, not to exceed an additional 750 square feet.

<sup>5</sup> Existing detached dwelling units may remain on the subject property and will be counted as units.

<sup>6</sup> When the conversion from detached dwelling units to equivalent units results in a fraction, the equivalent units shall be limited to the whole number below the fraction.

<sup>7</sup> See Section 90.135 for density calculation on a site which contains a wetland, stream, minor lake, or their buffers.

~~<sup>8</sup> Median income units, and any attached garages for the median income units provided under KZC 113.40, shall not be included in the FAR calculation for the development.~~

<sup>8</sup> To determine equivalent units for a two or three-unit home, the following formula will be used: Lot area/mln. lot size per unit in underlying zone x 2 = maximum units (always round down to nearest whole number). Example (RS 7.2 zone): 10,800/7200 = 1.5 x 2 = 3 units

<sup>7a</sup> FAR Regulations:

- a. FAR regulations are calculated using the "buildable area" of the site, entire development site as defined in Section 90.135. Where no sensitive areas regulated under Chapter 90 exist on the site, FAR regulations shall be calculated using the entire subject property, except as provided in subsection b of this footnote.
- b. Where Native Growth Protective Easements (NGPEs) for slopes result in a restricted area for development, density may be limited to ensure that the FAR on the developed portion of the site remains compatible with surrounding development and generally consistent with the FAR limitation of this Chapter.
- c. FAR for individual lots may vary. All structures on site, other than median income units and any attached garages for the median income units provided under KZC 113.40, shall be included in the FAR calculation for the development.

<sup>910</sup> Cluster size is intended to encourage a sense of community among residents. A development site may contain more than one cluster, with a clear separation between clusters.

<sup>4011</sup> Stand-alone two/three-unit homes are not allowed within the jurisdiction of the Houghton Community Council.

<sup>4412</sup> See KZC 113.45. Carriage units and two/three-unit homes may be included within a cottage housing proposal to be reviewed through Process I; provided, that the number of two/three-unit homes and carriage units does not exceed 20 percent of the total number of units in the project.

<sup>13</sup> See Section 105.20 for requirements related to guest parking.

<sup>1214</sup> Lot coverage is calculated using the entire development site. Lot coverage for individual lots may vary.

<sup>4315</sup> Requirements for porches do not apply to carriage or two/three-unit homes.

113.30 Community Buildings and Community Space in Cottage Developments

Community buildings and community space are encouraged in cottage developments.

1. Community buildings or space shall be clearly incidental in use and size to the dwelling units.
2. Building height for community buildings shall be no more than one story. Where the community space is located above another common structure, such as a detached garage or storage building, standard building heights apply.
3. Community buildings must be located on the same site as the cottage housing development, and be commonly owned by the residents.

113.35 Design Standards and Guidelines

1. Cottage Projects

a. Orientation of Dwelling Units

Dwellings within a cottage housing development should be oriented to promote a sense of community, both within the development, and with respect to the larger community, outside of the cottage project. A cottage development should not be designed to "turn its back" on the surrounding neighborhood.

- 1) Where feasible, each dwelling unit that abuts a common open space shall have a primary entry and/or covered porch oriented to the common open space.
- 2) Each dwelling unit abutting a public right-of-way (not including alleys) shall have an inviting facade, such as a primary or secondary entrance or porch, oriented to the public right-of-way. If a dwelling unit abuts more than one public right-of-way, the City shall determine to which right-of-way the inviting facade shall be oriented.

b. Required Common Open Space

Common open space should provide a sense of openness, visual relief, and community for cottage developments. The space must be outside of wetlands, streams and their buffers, and developed and maintained to provide for passive and/or active recreational activities for the residents of the development.

- 1) Each area of common open space shall be in one contiguous and usable piece with a minimum dimension of 20 feet on all sides.
- 2) Land located between dwelling units and an abutting right-of-way or access easement greater than 21' in width may not serve as required common open space, unless the area is reserved as a separate tract, and does not contain pathways leading to individual units or other

elements that detract from its appearance and function as a shared space for all residents.

- 32) Required common open space may be divided into no more than two separate areas per cluster of dwelling units.
- 43) Common open space shall be located in a centrally located area and be easily accessible to all dwellings within the development.
- 54) Fences may not be located within required open space areas.
- 65) Landscaping located in common open space areas shall be designed to allow for easy access and use of the space by all residents, and to facilitate maintenance needs. Where feasible, existing mature trees should be retained.
- 76) Unless the shape or topography of the site precludes the ability to locate units adjacent to the common open space, the following standards must be met:
  - a) The open space shall be located so that it will be surrounded by cottages or two/three-unit homes on at least two sides;
  - b) At least 50 percent of the units in the development shall abut a common open space. A cottage is considered to "abut" an area of open space if there is no structure between the unit and the open space.
- 87) Surface water management facilities shall be limited within common open space areas. Low Impact Development (LID) features are permitted, provided they do not adversely impact access to or use of the common open space for a variety of activities. Conventional stormwater collection and conveyance tools, such as flow control and/or water quality vaults are permitted if located underground.

c. Shared Detached Garages and Surface Parking Design

Parking areas should be located so their visual presence is minimized, and associated noise or other impacts do not intrude into public spaces. These areas should also maintain the single-family character along public streets.

- 1) Shared detached garage structures may not exceed four garage doors per building, and a total of 1,200 square feet.
- 2) For shared detached garages, the design of the structure must be similar and compatible to that of the dwelling units within the development.
- 3) Shared detached garage structures and surface parking areas must be screened from public streets and adjacent residential uses by landscaping or architectural screening.

- 4) Shared detached garage structures shall be reserved for the parking of vehicles owned by the residents of the development. Storage of items which preclude the use of the parking spaces for vehicles is prohibited.
- 5) Surface parking areas may not be located in clusters of more than four spaces. Clusters must be separated by a distance of at least 20 feet.
- 6) The design of carports must include roof lines similar and compatible to that of the dwelling units within the development.

d. Low Impact Development

The proposed site design shall incorporate the use of low impact development (LID) strategies to meet stormwater management standards. LID is a set of techniques that mimic natural watershed hydrology by slowing, evaporating/transpiring, and filtering water, which allows water to soak into the ground closer to its source. The design should seek to meet the following objectives:

- 1) Preservation of natural hydrology.
- 2) Reduced impervious surfaces.
- 3) Treatment of stormwater in numerous small, decentralized structures.
- 4) Use of natural topography for drainageways and storage areas.
- 5) Preservation of portions of the site in undisturbed, natural conditions.
- 6) Reduction of the use of piped systems. Whenever possible, site design should use multifunctional open drainage systems such as vegetated swales or filter strips which also help to fulfill landscaping and open space requirements.

e. Two/Three-Unit Homes and Carriage Units within Cottage Projects

Two/three-unit homes and carriage units may be included within a cottage housing development. Design of these units should be compatible with that of the cottages included in the project.

f. Variation in Unit Sizes, Building and Site Design

Cottage projects should establish building and site design that promotes variety and visual interest that is compatible with the character of the surrounding neighborhood.

- 1) Projects should include a mix of unit sizes within a single development.
- 2) Proposals are encouraged to provide a variety of building styles, features and site design elements within cottage housing communities. Dwellings with the same combination of features and treatments should not be located adjacent to each other.

g. Private Open Space

Open space around individual dwellings should be provided to contribute to the visual appearance of the development, and to promote diversity in landscape design.

h. Pedestrian Flow through Development

Pedestrian connections should link all buildings to the public right-of-way, common open space and parking areas.

2. Two/Three-Unit Homes Not Included in Cottage Developments

Two and three-unit homes are an allowed use on individual lots in the zones listed in KZC 113.20. These homes should be consistent in height, bulk, scale and style with surrounding single-family residential uses.

a. Entries

Two and three-unit homes shall maintain the traditional character and quality of detached single-family dwelling units by using design elements such as the appearance of single points of entry addressing the street, pitched roofs, substantial trim around windows, porches and chimneys. Ideally, the multiple-unit home will have no more than one entry on each side of the structure.

b. Low Impact Development (LID)

Projects containing two or more two/three-unit homes shall follow the LID standards set forth in this section.

c. Garages and Surface Parking Design

- 1) Garages and driveways for two/three-unit homes shall meet the standards established in KZC 115.43 and 115.115(5). In addition, no more than three garage doors may be visible on any facade of the structure.
- 2) Surface parking shall be limited to groups of no more than three stalls. Parking areas with more than two stalls must be visually separated from the street, perimeter property lines and common areas through site planning, landscaping or natural screening.

113.40 Median Income Housing

1. Requirement to Provide Median Income Housing – Projects including 10 or more housing units shall be required to provide 10 percent of the units as affordable to median income households. The level of affordability shall be determined according to the following schedule:

10-unit project:	1 unit affordable to households earning 100% of King County median income
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11-unit project:	1 unit affordable to households earning 98% of King County median income
12-unit project:	1 unit affordable to households earning 96% of King County median income
13-unit project:	1 unit affordable to households earning 94% of King County median income
14-unit project:	1 unit affordable to households earning 92% of King County median income
15-unit project:	1 unit affordable to households earning 90% of King County median income
16-unit project:	1 unit affordable to households earning 88% of King County median income
17-unit project:	1 unit affordable to households earning 86% of King County median income
18-unit project:	1 unit affordable to households earning 84% of King County median income
19-unit project:	1 unit affordable to households earning 82% of King County median income

For projects with 20 units or more, the following schedule will apply:

20-unit project:	2 units affordable to households earning 100% of King County median income
21-unit project:	2 units affordable to households earning 98% of King County median income
22-unit project:	2 units affordable to households earning 96% of King County median income
23-unit project:	2 units affordable to households earning 94% of King County median income
24-unit project:	2 units affordable to households earning 92% of King County median income

Median income dwelling units shall have the same general appearance and use the same exterior materials as the market rate dwelling units, and shall be dispersed throughout the development.

The type of ownership of the median income housing units shall be the same as the type of ownership for the rest of the housing units in the development.

As noted in KZC 113.25, any median income units, and any attached garages for the median income units, provided under this section shall not be included in the floor area ratio (FAR) calculation for the development.

2. Agreement for Median Income Housing Units – Prior to Issuance of a certificate of occupancy, an agreement in a form acceptable to the City Attorney shall be recorded with King County Department of Records and Elections. The agreement shall address price restrictions, homebuyer or tenant qualifications, long-term affordability, and any other applicable topics of the median income housing units. The agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant.

Median income housing units that are provided under this section shall remain as median income housing for a minimum of 50 years from the date of initial owner occupancy for ownership median income housing units and for the life of the project for rental median income housing units.

113.45 Review Process

1. Approval Process – Cottage Housing Development

- a. The City will process an application for cottage development through Process I, Chapter 145 KZC.
- b. Public notice for developments proposed through this section shall be as set forth under the provisions of Chapter 150 KZC (Process IIA).
- c. Lapse of Approval: Unless otherwise specified in the decision granting Process I approval, the applicant must begin construction or submit to the City a complete building permit application for development of the subject property consistent with the Process I approval within one year after the final decision granting the Process I approval or that decision becomes void. The applicant must substantially complete construction consistent with the Process I approval and complete all conditions listed in the Process I approval decision within three years after the final decision on the Process I approval or the decision becomes void. "Final decision" means the final decision of the Planning Director.
- d. Extensions: The applicant may apply for a one-time extension, of up to one year, of the time limits under subsection (c) of this section. The application for the extension must be submitted by letter prior to the expiration of the applicable time limit under subsection (c) of this section. The letter of application must be submitted to the Planning Department and, along with any other supplemental documentation, must demonstrate that the applicant is making substantial progress toward developing the subject property consistent with the Process I approval and that circumstances beyond his/her control prevent compliance with the applicable time limit under subsection (c) of this section.

2. Approval Process – Carriage Unit and Two/Three-Unit Home Development

- a. Single [two/three-unit homes shall be reviewed through Process I. Developments containing two/three-unit homes and carriage units that are part of a cottage project shall also be reviewed through Process I; provided, that the number of two/three-unit homes and carriage units does not exceed 20 percent of the total number of units in the project. Noticing requirements shall be as described in subsection (1)(b) of this section.
- b. All other developments containing carriage and two/three-unit homes shall be reviewed using Process IIA.
- c. The lapse of approval and extension provisions in subsections 1.c. and 1.d of this section also apply to carriage unit and two/three-unit home development approved under either Process I or Process IIA.

3. Approval Process – Requests for Modifications to Standards

- a. Minor Modifications: Applicants may request minor modifications to the general parameters and design standards set forth in this chapter. The Planning Director or Hearing Examiner may modify the requirements if all of the following criteria are met:

- 1) The site is constrained due to unusual shape, topography, easements or sensitive areas.
- 2) The modification is consistent with the objectives of this chapter.
- 3) The modification will not result in a development that is less compatible with neighboring land uses.

#### 4. Review Criteria

a. In addition to the criteria established for review of development proposals in Chapters 145 and 150 KZC, the applicant must demonstrate that:

- 1) The proposal is compatible with and is not larger in scale than surrounding development with respect to size of units, building heights, roof forms, setbacks between adjacent buildings and between buildings and perimeter property lines, number of parking spaces, parking location and screening, access and lot coverage.
- 2) Any proposed modifications to provisions of this chapter are important to the success of the proposal as an alternative housing project and are necessary to meet the intent of these regulations.

#### 113.50 Additional Standards

1. Application fees for the Process I or IIA review of the proposed project shall be based on the number of single-family units that would be allowed by the underlying zoning, regardless of the number of units proposed under this chapter.
2. Impact fees under Kirkland Municipal Code Chapters 27.04 and 27.06 for the proposed project shall be assessed at the rates for multifamily dwelling units, as identified in Appendix A of Kirkland Municipal Code Chapters 27.04 and 27.06.
3. The City's approval of a cottage housing or two/three-unit home development does not constitute approval of a subdivision ~~or, a short plat, or a binding site plan.~~ An applicant wishing to subdivide in connection with a development under this Chapter shall seek approval to do so concurrently with the approval process under this Chapter. To the extent there is a conflict between the standards set forth in the Chapter and Title 22 of the Kirkland Municipal Code, the standards set forth in this Chapter shall control. A lot that has existing cottage, carriage or two/three-unit homes may not be subdivided unless all of the requirements of the Zoning Code and Title 22 of the Kirkland Municipal Code are met. A lot containing a two/three-unit home may not be subdivided in a manner that results in the dwelling units being located on separate lots.

ATTACHMENT B

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HOW TO READ THIS:

- Text that is covered by a strike-through (~~strike-through~~) is existing text currently contained in the Municipal Code that is to be deleted.
  - Text that is underlined (underlined), with the exception of section headings, is new text that is to be added.
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**22.28.080 Access—Required.**

(a) All lots must have direct legal access as required by the zoning code, including Section 115.80, Legal Building Site, and Section 105.10, Vehicular Access Easement or Tract Standards, of Title 23 of this code. The city will determine whether access will be by right-of-way or vehicular-access easement or tract on a case-by-case basis.

(b) The area of a vehicular-access easement or tract shall not be included in the computation of the lot area for the servient lot. However;

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

2. The area of a vehicular-access easement shall be included in the lot area for cottage housing development approved pursuant to Chapter 113 of the Kirkland Zoning Code.

ORDINANCE NO. 4152  
PUBLICATION SUMMARY

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES; AMENDING PORTIONS OF THE FOLLOWING CHAPTER OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE: CHAPTER 113-COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES; AMENDING PORTIONS OF THE FOLLOWING TITLE OF THE MUNICIPAL CODE: TITLE 22-SUBDIVISIONS; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON08-00007.

Section 1. Identifies the specific amendments to the Kirkland Zoning Ordinance.

Section 2. Identifies the specific amendments to the Municipal Code.

Section 3. Addresses severability.

Section 4. Establishes that this ordinance will be effective within the disapproval jurisdiction of the Houghton Community Council Municipal Corporation on the effective date 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.

Section 5. 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 ninety days after publication of said summary.

Section 6. Directs the City Clerk to certify and forward a complete certified copy of this ordinance 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 regular meeting on the 21st day of October, 2008.

I certify that the foregoing is a summary of Ordinance 4152 approved by the Kirkland City Council for summary publication.

Attest:

Acting Karen L. Duce  
City Clerk



RESOLUTION NO. 2008-4

A RESOLUTION OF THE HOUGHTON COMMUNITY COUNCIL APPROVING ORDINANCE NO. 4151 ADOPTED BY THE KIRKLAND CITY COUNCIL ON OCTOBER 21, 2008 RELATING TO LAND SURFACE MODIFICATIONS (FILE NO. ZON08-00007).

WHEREAS, the Houghton Community Council has received from the Kirkland City Council Ordinance No. 4151, adopting amendments to the Zoning and Municipal Codes; and

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 passage of this ordinance; and

WHEREAS, on June 23, 2008, the Houghton Community Council held a study session on the proposed amendments and recommended that the City Council approve the amendments with modifications as requested by the Houghton Community Council; and

WHEREAS, the Houghton Community Council elects to exercise its jurisdiction with respect to Ordinance 4151 by approving the ordinance;

NOW, THEREFORE, BE IT RESOLVED that Ordinance 4151 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 \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

SIGNED IN AUTHENTICATION thereof this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

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



RESOLUTION NO. 2008-5

A RESOLUTION OF THE HOUGHTON COMMUNITY COUNCIL APPROVING ORDINANCE NO. 4152 ADOPTED BY THE KIRKLAND CITY COUNCIL ON OCTOBER 21, 2008 RELATING TO COTTAGE, CARRIAGE AND TWO/THREE-UNIT HOMES (FILE NO. ZON08-00007).

WHEREAS, the Houghton Community Council has received from the Kirkland City Council Ordinance No. 4152, adopting amendments to the Zoning and Municipal Codes; and

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 passage of this ordinance; and

WHEREAS, on June 23, 2008, the Houghton Community Council held a study session on the proposed amendments and recommended that the City Council approve the amendments with modifications as requested by the Houghton Community Council; and

WHEREAS, the Houghton Community Council elects to exercise its jurisdiction with respect to Ordinance 4152 by approving the ordinance;

NOW, THEREFORE, BE IT RESOLVED that Ordinance 4152 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 \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

SIGNED IN AUTHENTICATION thereof this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

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