



ADVISORY REPORT
FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

To: Eric R. Shields, AICP, Planning Director
From: Nancy C. Cox, AICP, Development Review Manager
Date: April 23, 2013
File: MISCELLANEOUS MUNICIPAL AND ZONING CODE AMENDMENTS,
FILE NO. CAM13-00275
Hearing Date and Place: 9:00 AM
April 30, 2013
City Hall Council Chamber
123 Fifth Avenue, Kirkland

I. INTRODUCTION

A. APPLICATION

1. Applicant: City of Kirkland
2. Proposal Summary: Minor amendments to Zoning Code text to promote clarity, eliminate redundancy, and/or correct inconsistencies. In addition, three sections in the Kirkland Municipal Code are proposed to be amended.
3. Areas Affected: The amendments would apply city-wide.
4. Review Process: Process IVA. Planning Director conducts public hearing and makes recommendation to City Council.

B. RECOMMENDATION

Staff recommends that the Planning Director conduct a public hearing and forward a recommendation to the City Council. Staff recommends approval of the proposed amendments.

II. PROPOSAL

Miscellaneous Municipal Code (KMC) and Zoning Code (KZC) text amendments to promote clarity, eliminate redundancy and correct inconsistencies are proposed. The following code sections would be affected (see Attachment 1 for the complete roster of amendments):

CODE SECTION

KMC 1.12.050.e Code Enforcement – *correct typo*

KMC 3.30.010 Design Review Board – *remove Planning Director as non-voting member*

KMC 24.02.038 SEPA Policies – *remove SMP as a separate SEPA policy; it is now part of the Comprehensive Plan and Zoning Code*

KZC 5.10.100 Definitions – *Remove out of date reference to Uniform Building Code (UBC)*

KZC 5.10.110 Definitions - *Remove out of date reference to UBC*

KZC 5.10.210 Definitions - *Remove out of date reference to UBC*

KZC 5.10.720.1 Definitions - *Remove out of date reference to Burlington Northern*

KZC 15.10.10 Special Regulation 6. RS Zone, Detached Dwelling Unit – *Correction as a result of a recent code amendment*

- KZC 17.10.010 Special Regulation 6. RSX Zone, Detached Dwelling Unit - *Correction as a result of a recent code amendment*
- KZC 17.10.010 Special Regulation 7. RSX Zone, Detached Dwelling Unit – *Remove reference to Houghton Community Council, no RSX zones in HCC jurisdiction*
- KZC 25.08.3 General Regulation for PR, PRA Zones – *Clarify that horizontal façade regulations are not applicable to detached dwelling units*
- KZC 40.10.055, BN, BNA Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column - *Correction as a result of a recent code amendment*
- KZC 45.10.090, BC, BC 1 & BC 2 Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column - *Correction as a result of a recent code amendment*
- KZC 47.10.090, BCX Zone, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column - *Correction as a result of a recent code amendment*
- KZC 51.08.3, MSC-1, 4 Zones, General Regulation – *Clarify that horizontal façade regulations are not applicable to detached dwelling units*
- KZC 55.33.080, TL 4A, 4B, 4C Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column - *Correction as a result of a recent code amendment*
- KZC 55.39.090, TL 5 Zone, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column - *Correction as a result of a recent code amendment*
- KZC 55.45.080, TL 6A, 6B Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column - *Correction as a result of a recent code amendment*
- KZC 95.23.4.b Tree Removal - Not Associated with Development Activity – *Make appeals section consistent with Planning Official appeals elsewhere in the code*
- KZC 95.40.1.d., Required Landscaping - *Remove out of date reference to Burlington Northern*
- KZC 100.15, Signs, Scope and Exclusions – *Codify common practice; exclude signs not visible from off-site from regulation*
- KZC 100.50.1.a, Signs, Designated Corridors – *Remove out of date reference*
- KZC 100.65.1, Signs, - *Codify common practice to allow signs mounted on a parapet or similar architectural feature*
- KZC 100.115, Signs, Temporary/Special Signs – *Clarify permitted duration of display of a Temporary Commercial sign*
- KZC 115.07.10.c, Accessory Dwelling Units - *Make appeals section consistent with Planning Official appeals elsewhere in the code*
- KZC 115.80.2, Legal building Site – *Clarify that lot sizes can be varied per existing code provisions*
- KZC 117.95, Personal Wireless Service Facilities, Appeals and Judicial Review - *Make appeals section consistent with Planning Official appeals elsewhere in the code*
- KZC 118.20, Hazardous Liquid Pipelines – *Make consistent with high consequence land use regulations in 118.60*
- KZC 127, Temporary Use – *Streamline temporary use permit process for homeless encampments at repeat locations. Change from Planning Director to Planning Official as decision-maker for TUP's*
- KZC 145.60.1.b., Process I Appeals – *Clarify who may appeal*

III. BACKGROUND DISCUSSION

A. PROCESS IVA OVERVIEW

The City Council established Process IVA in 1997 to increase efficiency when enacting minor Zoning Code amendments. It is intended for the review of amendments which are not quasi-judicial, are not controversial, and do not need extensive policy study. Minor amendments which promote clarity, eliminate redundancy or correct inconsistencies qualify for review under this process.

Process IVA requires public notice, opportunity for public comment, and a public hearing. Prior to the public hearing, the Planning Department compiles a “roster” of amendments for review through Process IVA and forwards that roster to the City Council. Council approval authorizes the Planning Director to conduct the public

hearing on the amendments. Following the hearing, the Planning Director forwards a recommendation to the City Council.

The amendments proposed under File CAM13-00275 would apply city-wide, and therefore are within the disapproval jurisdiction of the Houghton Community Council. After reviewing the roster, the Houghton Community Council chose not to participate in the public hearing with the Planning Director. However, they are copied on the staff report and will take final action after the City Council action.

B. HISTORY

1. The Planning Department maintains a list of potential amendments to the Zoning Code and other development regulations. The Department periodically reviews the list to determine which of the amendments are appropriate for review through Process IVA. Amendments that are not suitable for Process IVA are reviewed through Process IV, in which the Planning Commission, rather than the Planning Director, conducts the public hearing.
2. On March 15, 2013 the Department created a roster summarizing this year's Process IVA proposed amendments. The roster was distributed to the City Council, Planning Commission, Houghton Community Council, Kirkland Neighborhood Associations and Kirkland Chamber of Commerce as required by Chapter 161 KZC. The roster was modified as a result of citizen and staff comments. See the City Council packet from April 16, 2013. http://www.kirklandwa.gov/Assets/City+Council/Council+Packets/041613/11b_NewBusiness.pdf
3. On April 16, 2013 the roster was presented to the City Council. Councilmember Toby Nixon provided some feedback on Item 23 that has been incorporated. The Council approved the roster as modified, authorizing the proposal to proceed to a public hearing. The roster dated April 23, 2013 in Attachment 1 incorporates all of the comments to date.

C. PUBLIC COMMENT

Any written comments received after this report is distributed and prior to the public hearing will be available for consideration at the hearing. Additional opportunity for public comment will occur at the hearing.

D. STATE ENVIRONMENTAL POLICY ACT (SEPA)

An EIS Addendum was issued on April 22, 2013 (see Attachment 3). The requirements of SEPA have been fulfilled for this proposal.

E. APPROVAL CRITERIA

According to KZC 161.15 and 161.25, Zoning Code amendments may be approved through process IVA if those amendments:

1. Are minor.
2. Are not controversial.
3. Do not need extensive policy study.
4. Promote clarity, eliminate redundancy, or correct inconsistencies.

If the Planning Director concludes that the proposed amendments satisfy these criteria, he should recommend approval to the City Council of all proposed amendments. If the Director concludes that some of the proposed amendments satisfy these criteria and others do not, he should recommend approval only of those amendments which satisfy the criteria.

The roster includes a column explaining the reason for the amendment such as "wording is unclear," "out of date reference," "correction as a result of a recent code

amendment," or for clarification and consistency reasons. All reasons meet the approval criteria and intent of Chapter 161.

IV. APPENDICES

Attachments 1 – 3 are attached.

1. Roster April 23, 2013
2. Temporary Use Permit, KZC Chapter 127, proposed amended language
3. EIS Addendum issued April 22, 2013

Cc: Houghton Community Council

	CODE SECTION	REASON	DRAFT AMENDMENT
1	KMC 1.12.050.e Code Enforcement	Wording is unclear.	(e) Failure to Appear. If the person to whom the notice of civil violation was issued fails to appear at the scheduled hearing, the examiner will enter an order finding that the violation appeared <u>occurred</u> and assessing the appropriate monetary penalty. The city will carry out...
2	KMC 3.30.010 Design Review Board	Planning Director is no longer needed as a nonvoting member of the DRB in an advisory role. Staff provides this function.	The design review board shall be composed of seven appointed members. In addition, the director of planning and community development shall sit on the design review board ("DRB") as a nonvoting member for purposes of advising the board on regulatory and urban design issues. Members shall be appointed...
3	KMC 24.02.038 SEPA Policies	The SMP is no longer in Title 24. It is integrated into the Comprehensive Plan and Zoning Code and does not need to be referenced in the KMC as a SEPA policy.	(e) The Kirkland Municipal Code (KMC), including but not limited to Title 15 (Water and Sewage), Title 19 (Streets and Sidewalks), Title 21 (Buildings and Construction), Title 22 (Subdivisions), Title 24 (Environmental Procedures, including the Shoreline Master Program), Title 25 (Concurrency Management), and Title 28 (Landmarks);
4	KZC 5.10.100 Definitions	Out of date reference.	<u>Building Official</u> - "Building Official" as that term is defined in the Uniform Building Code as adopted in KMC Title 21 <u>The Building Services Manager or his/her designee.</u>
5	KZC 5.10.110 Definitions	Out of date reference.	<u>Certificate of Occupancy</u> - "Certificate of Occupancy," as that term is defined used in the Uniform Building Code as adopted in KMC Title Chapter 21.06, Construction Administration Code.
6	KZC 5.10.210 Definitions	Out of date reference.	<u>Development Activity</u> - Any work, condition or activity which requires a permit or approval under this code or the Uniform Building Code <u>KMC Title 21, Buildings and Construction.</u>
7	KZC 5.10.720.1 Definitions	Out of date reference.	...Neither the Burlington Northern Cross Kirkland Corridor railbanked rail corridor, the Eastside Rail Corridor, nor the I-405, nor SR-520 rights-of-way shall be considered front property lines.
8	KZC 15.10.10 Special Regulation 6. RS Zone, Detached Dwelling Unit	Correction as a result of a recent code amendment.	6. Residential lots in RS 35 zones within the Bridle Trails neighborhood north of Bridle Trails State Park must contain a minimum area of 10,000 permeable square feet, which <u>and</u> shall comply with Special Rregulations 6 <u>Special Regulations 6</u> for horses <u>large domestic animals</u> in KZC 115.20.5.d(4) (chart) .

9	KZC 17.10.010 Special Regulation 6. RSX Zone, Detached Dwelling Unit	Correction as a result of a recent code amendment.	6. Residential lots in RSX 35 zones within the Bridle Trails neighborhood north and northeast of Bridle Trails State Park must contain a minimum area of 10,000 permeable square feet, which and shall comply with Special Regulations 6 for horses large domestic animals in KZC 115.20.5.d(4) (chart).
10	KZC 17.10.010 Special Regulation 7. RSX Zone, Detached Dwelling Unit	There are no RSX zones in HCC jurisdiction.	Garages shall comply with the requirements of KZC 115.43, including required front yard. These requirements are not effective within the disapproval jurisdiction of the Houghton Community Council.
11	KZC 25.08.3 General Regulation for PR, PRA Zones	Clarify that horizontal façade regulations are not applicable to detached dwelling units.	3. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or b. The maximum horizontal façade shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details. (Does not apply to detached dwelling units).
12	KZC 40.10.055, BN, BNA Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25
13	KZC 45.10.090, BC, BC 1 & BC 2 Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25
14	KZC 47.10.090, BCX Zone, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25

15	KZC 51.08.3, MSC-1, 4 Zones, General Regulation	Clarify that horizontal façade regulations are not applicable to detached dwelling units.	3. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 15 feet above average building elevation; or b. The maximum horizontal façade shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details. <u>(Does not apply to detached dwelling units).</u>
16	KZC 55.33.080, TL 4A, 4B, 4C Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25
17	KZC 55.39.090, TL 5 Zone, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25
18	KZC 55.45.080, TL 6A, 6B Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25
19	KZC 95.23.4.b Tree Removal - Not Associated with Development Activity	Make consistent with Planning Official appeals elsewhere in the code.	b. An applicant may appeal an adverse determination to the Hearing Examiner. A written notice of appeal shall be filed with the City within 14 calendar days following the date of distribution of a City's decision. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least 17 calendar days prior to the hearing. The applicant shall have the burden of proving that the City made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, the Hearing Examiner may affirm, reverse or modify the decision being appealed. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.

20	KZC 95.40.1.d., Required Landscaping	Out of date reference.	d. Chapter 110 KZC and Chapter 19.36 KMC address vegetation within rights-of-way, except for the I-405, and SR-520 rights-of-way, and the Burlington Northern Cross Kirkland Corridor railbanked rail corridor or the Eastside Rail Corridor rights-of-way.
21	KZC 100.15, Signs, Scope and Exclusions	Codify common practice - exclude signs not visible from off-site from regulation. (From Interpretation 85-6, Part 2).	8. Exterior signs or displays not visible from streets or ways open to the public. 9. Signs in the interior of a building more than three feet from the closest window or not facing a window.
22	KZC 100.50.1.a, Signs, Designated Corridors	Out of date reference.	a. Market Street between Central Way and N.E. 106th Street Forbes Creek Drive.
23	KZC 100.65.1, Signs,	Codify common practice. (From Interpretation 86-16).	1. Wall-Mounted and Marquee Signs: Shall not project above the roofline of the building, <u>parapet or similar architecture feature</u> to which they are attached.
24	KZC 100.115, Signs, Temporary/Special Signs	Clarify permitted duration of display of a Temporary Commercial Sign. (From Interpretation 95-4 (Part 2))	Must remove <u>after being displayed 60 days or at end of use, event or condition, whichever comes first.</u>
25	KZC 115.07.10.c, Accessory Dwelling Units	Make consistent with Planning Official appeals elsewhere in the code.	c. Appeals. An applicant may appeal to the Hearing Examiner the decision of the Planning Official in denying a request to construct an accessory dwelling unit. A written notice of appeal shall be filed with the Planning Department within 14 calendar days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The City shall give notice of the hearing to the applicant at least 14 calendar days prior to the hearing. The applicant shall have the burden of proving the Planning Official made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, he or she may affirm, reverse, or modify the decision being appealed. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.

26	KZC 115.80.2, Legal building Site	Clarify that lot sizes can be varied per existing code provisions.	<p>2. Exception, Detached Dwelling Units – An applicant may build one (1) detached dwelling unit on a lot or parcel regardless of the size of the lot or parcel if:</p> <p>a. The applicant applies for necessary permits to construct the unit within five (5) years of the date the lot or parcel is annexed into the City and the lot or parcel was a lawfully created lot under King County subdivision and zoning laws; or</p> <p>b. There is or ever has been a residence on the subject property. At any time, the applicant may remodel, rebuild, or enlarge that one (1) residence; provided, that all other Zoning Code requirements are met; or</p> <p>c. <u>The lot size was approved pursuant to all applicable laws, ordinances and regulations; or</u></p> <p>ed. The lot lines defining the lot or parcel were recorded in the King County Assessors Office prior to May 17, 1972, and the lot or parcel has not simultaneously been owned by the owner of a contiguous lot or parcel which fronts on the same right of way subsequent to May 17, 1972.</p>
27	KZC 117.95, Personal Wireless Service Facilities, Appeals and Judicial Review	Make consistent with Planning Official appeals elsewhere in the code.	<p>1. An applicant may appeal a Planning Official decision to the Hearing Examiner. A written notice of appeal shall be filed with the Planning Department within 14 days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least 14 days prior to the hearing. The applicant shall have the burden of proving that the Planning Official made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, he or she may affirm, reverse, or modify the decision being appealed. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.</p>
28	KZC 118.20, Hazardous Liquid Pipelines	Make consistent with high consequence land use regulations in 118.60.	<p><u>Applicability</u> The provisions of this chapter shall apply to all development activity, landfilling, excavation and construction on properties within 150<u>500</u> feet of any hazardous liquid pipeline corridor, as defined in KZC 5.10.348.</p>

29	KZC 127, Temporary Use	Streamline temporary use permit (TUP) process for homeless encampments at repeat locations. Change from Planning Director to Planning Official as decision-maker for TUP's.	see Attachment 2
30	KZC 145.60.1.b., Process I Appeals	Clarification.	1. <u>Who May Appeal</u> - The decision of the Planning Director may be appealed by: a. The applicant, or b. Any person who submitted written comments or information to the Planning Director on the application <u>during the comment period established in the Notice of Application.</u>

PROCESS IVA CODE AMENDMENTS

Chapter 127 – TEMPORARY USE

(Only sections that are proposed for amendment are shown)

127.10 Process for Deciding Upon a Proposed Temporary Use

An application for a temporary use permit will be reviewed and decided upon by the Planning ~~Director~~Official.

127.42 Notice Requirements for Homeless Encampments in New Locations

1. Applicability - The following notice requirements apply only to new locations for homeless encampments. If an encampment has previously located at a site, the provisions of KZC 127.44 apply.

21. Public Meeting

A minimum of 14 calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall conduct a public informational meeting by providing mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the meeting is to provide the surrounding community with information regarding the proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and to answer questions regarding the homeless encampment.

32. A Notice of Application for Homeless Encampment shall be provided prior to the Planning ~~Director's~~Official's decision. The purpose of the notice is to inform the surrounding community of the application. Due to the administrative and temporary nature of the permit, there is no comment period. The notice shall contain at a minimum the date of application, project location, proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and how to get more information (i.e., City website). The Planning Department shall distribute this notice as follows:

- a. The notice, or a summary thereof, will be published in the official newspaper of the City at least seven calendar days prior to the ~~Director's~~Official's decision.
- b. The notice, or a summary thereof, will be distributed to owners of all property within 500 feet of any boundary of the subject property and residents and tenants adjacent to the subject property at least 14 calendar days prior to the ~~Director's~~Official's decision.
- c. If located within the jurisdiction of the Houghton Community Council, the notice shall be distributed to the members of the Community Council at least 14 calendar days prior to the Planning ~~Director's~~Official's decision.
- d. The notice will be posted on the City's website.

43. A Notice of Decision for Homeless Encampment, or summary thereof, shall contain the decision of the Planning ~~Director~~ Official and appeal procedure and be distributed as required for notice of application within four business days after the decision.

127.44 Notice Requirements for Homeless Encampments at Repeat Locations

1. A minimum of 14 calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall provide mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the notice is to inform the surrounding community of the proposed duration and operation of the homeless encampment, applicable standards, requirements of the written code of conduct, and how to get more information.
2. A minimum of 14 calendar days prior to the anticipated start of the encampment, the City shall update the City's website with the date of application, project location, proposed duration and operation of the homeless encampment, the conditions that will be placed on the operation of the homeless encampment, requirements of the written code of conduct and how to get more information.
3. If the encampment is proposed with the jurisdiction of the Houghton Community Council, the City shall notify the Houghton Community Council no later than 14 calendar days prior to the anticipated start of the encampment.

127.45 Appeals

There is no administrative appeal of the Planning ~~Director's~~ Official's decision for a temporary use permit. The action of the City in granting or denying an application under this chapter may be reviewed pursuant to the standards set forth in RCW 35.70C.130 in the King County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision of the City. For more information on the judicial process for land use decision, see Chapter 36.70C RCW.

Fact Sheet

Action Sponsor and Lead Agency	City of Kirkland Department of Planning and Community Development
Proposed Action	Legislative adoption of Miscellaneous Kirkland Municipal Code and Zoning Code amendments pursuant to Chapter 161 KZC (Process IVA).
Responsible Official	 <hr style="width: 200px; margin-left: 0;"/> Eric R. Shields, AICP Planning Director
Contact Person	Nancy Cox, City of Kirkland (425) 587- 3228.
Required Approvals	Adoption by Kirkland City Council Approval by Houghton Community Council for amendments within its jurisdiction.
Location of Background Data	File CAM13-00275 City of Kirkland Department of Planning and Community Development 123 Fifth Avenue Kirkland, WA 98033
Date of Issuance	April 23, 2013

City of Kirkland

Process IVA Miscellaneous Kirkland Municipal Code and Zoning Code

EIS Addendum dated April 23, 2013

File No. CAM13-00275

I. Background

The City of Kirkland proposes to amend the Kirkland Municipal Code and Kirkland Zoning Code. The amendment will be reviewed using the Chapter 161 KZC, Process IVA with adoption by City Council and final action by the Houghton Community Council for the amendments that are within their jurisdiction.

This Environmental Impact Statement (EIS) Addendum is intended to fulfill the environmental requirements pursuant to the State Environmental Policy Act (SEPA) for the proposed Zoning Code amendment.

II. EIS Addendum

According to the SEPA Rules, an EIS addendum provides additional analysis and/or information about a proposal or alternatives where their significant environmental impacts have been disclosed and identified in a previous environmental document (WAC 197-11-600(2)). An addendum is appropriate when the impacts of the new proposal are the same general types as those identified in the prior document, and when the new analysis does not substantially change the analysis of significant impacts and alternatives in the prior environmental document (WAC 197-11-600(4)(c), -625 and -706).

The City published the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*. This EIS addressed the 2004 Comprehensive Plan, Zoning Code and Zoning Map updates required by the Washington State Growth Management Act (GMA). Elements of the environment addressed in this EIS include population and employment growth, earth resources, air quality, water resources, plants and animals, energy, environmental health (noise, hazardous materials), land use, socioeconomics, aesthetics, parks/recreation, transportation, and public services/utilities.

This addendum to the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* is being issued pursuant to WAC 197-11-625 to meet the City's SEPA responsibilities. The EIS evaluated plan alternatives and impacts that encompass the same general policy direction, land use pattern, and environmental impacts that are expected to be associated with the proposed

Municipal Code and Zoning Code amendments discussed herein. While the specific location, precise magnitude, or timing of some impacts may vary from those estimated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*, they are still within the range of what was evaluated and disclosed there. No new significant impacts have been identified.

III. Non-Project Action

Decisions on the adoption or amendment of zoning ordinances are referred to in the SEPA rules as “non-project actions” (WAC 197-11-704(2)(b)). The purpose of an EIS in analyzing a non-project action is to help the public and decision-makers identify and evaluate the environmental effects of alternative policies, implementation approaches, and similar choices related to future growth. While plans and regulations do not directly result in alteration of the physical environment, they do provide a framework within which future growth and development – and resulting environmental impacts – will occur. Both the adoption of the Comprehensive Plan evaluated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* and eventual action on the are “non-project actions”.

IV. Environmental Analysis

The *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update* evaluated the environmental impacts associated with adoption of proposed policies and land use designations. The plan’s policies are intended to accomplish responsibilities mandated by the Washington State Growth Management Act (GMA), and to mitigate the impacts of future growth. In general, environmental impacts associated with the proposed Zoning Code amendment are similar in magnitude to the potential impacts disclosed in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*. As this proposal is consistent with the policies and designations of the Comprehensive Plan and the environmental impacts disclosed in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*, no additional or new significant impacts beyond those identified in the EIS for the Comprehensive Plan are anticipated.

V. Description of the Proposed Amendments

The proposal would modify, add and delete several provisions of the Kirkland Municipal and Kirkland Zoning Codes. The following code sections will be affected:

CODE SECTION

KMC 1.12.050.e Code Enforcement – *correct typo*

KMC 3.30.010 Design Review Board – *remove Planning Director as non-voting member*

KMC 24.02.038 SEPA Policies – *remove SMP as a separate SEPA policy; it is now part of the Comprehensive Plan and Zoning Code*

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- KZC 100.50.1.a, Signs, Designated Corridors – *Remove out of date reference*
- KZC 100.65.1, Signs, - *Codify common practice to allow signs mounted on a parapet or similar architectural feature*
- KZC 100.115, Signs, Temporary/Special Signs – *Clarify permitted duration of display of a Temporary Commercial sign*
- KZC 115.07.10.c, Accessory Dwelling Units - *Make appeals section consistent with Planning Official appeals elsewhere in the code*
- KZC 115.80.2, Legal building Site – *Clarify that lot sizes can be varied per existing code provisions*
- KZC 117.95, Personal Wireless Service Facilities, Appeals and Judicial Review - *Make appeals section consistent with Planning Official appeals elsewhere in the code*
- KZC 118.20, Hazardous Liquid Pipelines – *Make consistent with high consequence land use regulations in 118.60*
- KZC 127, Temporary Use – *Streamline temporary use permit process for homeless encampments at repeat locations. Change from Planning Director to Planning Official as decision-maker for TUP's*
- KZC 145.60.1.b., Process I Appeals – *Clarify who may appeal*

VI. Public Involvement

The Planning Director will hold a public hearing on April 30, 2013 at 9 AM in the City Council chamber. Public notice of the amendment and the public hearing is being provided in accordance with State law. The City Council will take final action on the proposal on May 21, 2013. The Houghton Community Council will take final action in May, 2013 as the amendments are within their jurisdiction. All dates are subject to change.

VII. Conclusion

This EIS Addendum fulfills the environmental review requirements for the proposed KMC and KZC amendments. The impacts of the proposal are within the range of impacts disclosed and evaluated in the *City of Kirkland 2004 Draft and Final Comprehensive Plan 10-year Update*; no new significant impacts have been identified. Therefore, issuance of this EIS Addendum is the appropriate course of action.

Attachment: Roster of proposed amendments as approved by the Kirkland City Council on April 16, 2013

	CODE SECTION	REASON	DRAFT AMENDMENT
1	KMC 1.12.050.e Code Enforcement	Wording is unclear.	(e) Failure to Appear. If the person to whom the notice of civil violation was issued fails to appear at the scheduled hearing, the examiner will enter an order finding that the violation appeared <u>occurred</u> and assessing the appropriate monetary penalty. The city will carry out...
2	KMC 3.30.010 Design Review Board	Planning Director is no longer needed as a nonvoting member of the DRB in an advisory role. Staff provides this function.	The design review board shall be composed of seven appointed members. In addition, the director of planning and community development shall sit on the design review board ("DRB") as a nonvoting member for purposes of advising the board on regulatory and urban design issues. Members shall be appointed...
3	KMC 24.02.038 SEPA Policies	The SMP is no longer in Title 24. It is integrated into the Comprehensive Plan and Zoning Code and does not need to be referenced in the KMC as a SEPA policy.	(e) The Kirkland Municipal Code (KMC), including but not limited to Title 15 (Water and Sewage), Title 19 (Streets and Sidewalks), Title 21 (Buildings and Construction), Title 22 (Subdivisions), Title 24 (Environmental Procedures, including the Shoreline Master Program), Title 25 (Concurrency Management), and Title 28 (Landmarks);
4	KZC 5.10.100 Definitions	Out of date reference.	Building Official - <u>"Building Official"</u> as that term is defined in the Uniform Building Code as adopted in KMC Title 21 The Building Services Manager or his/her designee.
5	KZC 5.10.110 Definitions	Out of date reference.	Certificate of Occupancy - <u>"Certificate of Occupancy,"</u> as that term is defined used in the Uniform Building Code as adopted in KMC Title Chapter 21.06, Construction Administration Code.
6	KZC 5.10.210 Definitions	Out of date reference.	<u>Development Activity</u> - Any work, condition or activity which requires a permit or approval under this code or the Uniform Building Code <u>KMC Title 21, Buildings and Construction.</u>
7	KZC 5.10.720.1 Definitions	Out of date reference.	...Neither the Burlington Northern Cross Kirkland Corridor railbanked rail corridor, the Eastside Rail Corridor, nor the I-405, nor SR-520 rights-of-way shall be considered front property lines.
8	KZC 15.10.10 Special Regulation 6. RS Zone, Detached Dwelling Unit	Correction as a result of a recent code amendment.	6. Residential lots in RS 35 zones within the Bridle Trails neighborhood north of Bridle Trails State Park must contain a minimum area of 10,000 permeable square feet, which <u>and</u> shall comply with Special Rregulations <u>Special Regulations</u> 6 for horses <u>large domestic animals</u> in KZC 115.20.5.d(4) (chart) .

9	KZC 17.10.010 Special Regulation 6. RSX Zone, Detached Dwelling Unit	Correction as a result of a recent code amendment.	6. Residential lots in RSX 35 zones within the Bridle Trails neighborhood north and northeast of Bridle Trails State Park must contain a minimum area of 10,000 permeable square feet, which <u>and</u> shall comply with Special Regulations 6 for horses <u>large domestic animals</u> in KZC 115.20.5.d(4) (chart).
10	KZC 17.10.010 Special Regulation 7. RSX Zone, Detached Dwelling Unit	There are no RSX zones in HCC jurisdiction.	Garages shall comply with the requirements of KZC 115.43, including required front yard. These requirements are not effective within the disapproval jurisdiction of the Houghton Community Council.
11	KZC 25.08.3 General Regulation for PR, PRA Zones	Clarify that horizontal façade regulations are not applicable to detached dwelling units.	3. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or b. The maximum horizontal façade shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details. (Does not apply to detached dwelling units).
12	KZC 40.10.055, BN, BNA Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25
13	KZC 45.10.090, BC, BC 1 & BC 2 Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25
14	KZC 47.10.090, BCX Zone, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25

15	KZC 51.08.3, MSC-1, 4 Zones, General Regulation	Clarify that horizontal façade regulations are not applicable to detached dwelling units.	3. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 15 feet above average building elevation; or b. The maximum horizontal façade shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details. <u>(Does not apply to detached dwelling units).</u>
16	KZC 55.33.080, TL 4A, 4B, 4C Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25
17	KZC 55.39.090, TL 5 Zone, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25
18	KZC 55.45.080, TL 6A, 6B Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	Correction as a result of a recent code amendment.	1 per every 4 fixed seats See KZC 105.25
19	KZC 95.23.4.b Tree Removal - Not Associated with Development Activity	Make consistent with Planning Official appeals elsewhere in the code.	b. An applicant may appeal an adverse determination to the Hearing Examiner. A written notice of appeal shall be filed with the City within 14 calendar days following the date of distribution of a City's decision. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least 17 calendar days prior to the hearing. The applicant shall have the burden of proving that the City made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, the Hearing Examiner may affirm, reverse or modify the decision being appealed. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.

20	KZC 95.40.1.d., Required Landscaping	Out of date reference.	d. Chapter 110 KZC and Chapter 19.36 KMC address vegetation within rights-of-way, except for the I-405, <u>and SR-520 rights-of-way</u> , and <u>the Burlington NorthernCross Kirkland Corridor railbanked rail corridor or the Eastside Rail Corridor rights-of-way.</u>
21	KZC 100.15, Signs, Scope and Exclusions	Codify common practice - exclude signs not visible from off-site from regulation. (From Interpretation 85-6, Part 2).	<u>8. Exterior signs or displays not visible from streets or ways open to the public. 9. Signs in the interior of a building more than three feet from the closest window or not facing a window.</u>
22	KZC 100.50.1.a, Signs, Designated Corridors	Out of date reference.	a. Market Street between Central Way and N.E. 106th Street <u>Forbes Creek Drive.</u>
23	KZC 100.65.1, Signs,	Codify common practice. (From Interpretation 86-16).	1. Wall-Mounted and Marquee Signs: Shall not project above the roofline of the building, <u>parapet or similar architecture feature</u> to which they are attached.
24	KZC 100.115, Signs, Temporary/Special Signs	Clarify permitted duration of display of a Temporary Commercial Sign. (From Interpretation 95-4 (Part 2))	Must remove <u>after being displayed 60 days or at end of use, event or condition, whichever comes first.</u>
25	KZC 115.07.10.c, Accessory Dwelling Units	Make consistent with Planning Official appeals elsewhere in the code.	c. Appeals. An applicant may appeal to the Hearing Examiner the decision of the Planning Official in denying a request to construct an accessory dwelling unit. A written notice of appeal shall be filed with the Planning Department within 14 calendar days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The City shall give notice of the hearing to the applicant at least 14 calendar days prior to the hearing. The applicant shall have the burden of proving the Planning Official made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, he or she may affirm, reverse, or modify the decision being appealed. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.

26	KZC 115.80.2, Legal building Site	Clarify that lot sizes can be varied per existing code provisions.	<p>2. Exception, Detached Dwelling Units – An applicant may build one (1) detached dwelling unit on a lot or parcel regardless of the size of the lot or parcel if:</p> <p>a. The applicant applies for necessary permits to construct the unit within five (5) years of the date the lot or parcel is annexed into the City and the lot or parcel was a lawfully created lot under King County subdivision and zoning laws; or</p> <p>b. There is or ever has been a residence on the subject property. At any time, the applicant may remodel, rebuild, or enlarge that one (1) residence; provided, that all other Zoning Code requirements are met; or</p> <p>c. <u>The lot size was approved pursuant to all applicable laws, ordinances and regulations; or</u></p> <p>ed. The lot lines defining the lot or parcel were recorded in the King County Assessors Office prior to May 17, 1972, and the lot or parcel has not simultaneously been owned by the owner of a contiguous lot or parcel which fronts on the same right of way subsequent to May 17, 1972.</p>
27	KZC 117.95, Personal Wireless Service Facilities, Appeals and Judicial Review	Make consistent with Planning Official appeals elsewhere in the code.	<p>1. An applicant may appeal a Planning Official decision to the Hearing Examiner. A written notice of appeal shall be filed with the Planning Department within 14 days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least 14 days prior to the hearing. The applicant shall have the burden of proving that the Planning Official made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, he or she may affirm, reverse, or modify the decision being appealed. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.</p>
28	KZC 118.20, Hazardous Liquid Pipelines	Make consistent with high consequence land use regulations in 118.60.	<p><u>Applicability</u> The provisions of this chapter shall apply to all development activity, landfilling, excavation and construction on properties within 150<u>500</u> feet of any hazardous liquid pipeline corridor, as defined in KZC 5.10.348.</p>

29	KZC 127, Temporary Use	Streamline temporary use permit (TUP) process for homeless encampments at repeat locations. Change from Planning Director to Planning Official as decision-maker for TUP's.	see Attachment 2
30	KZC 145.60.1.b., Process I Appeals	Clarification.	1. <u>Who May Appeal</u> - The decision of the Planning Director may be appealed by: a. The applicant, or b. Any person who submitted written comments or information to the Planning Director on the application <u>during the comment period established in the Notice of Application.</u>

PROCESS IVA CODE AMENDMENTS

Chapter 127 – TEMPORARY USE

(Only sections that are proposed for amendment are shown)

127.10 Process for Deciding Upon a Proposed Temporary Use

An application for a temporary use permit will be reviewed and decided upon by the Planning ~~Director~~Official.

127.42 Notice Requirements for Homeless Encampments in New Locations

1. Applicability - The following notice requirements apply only to new locations for homeless encampments. If an encampment has previously located at a site, the provisions of KZC 127.44 apply.

21. Public Meeting

A minimum of 14 calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall conduct a public informational meeting by providing mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the meeting is to provide the surrounding community with information regarding the proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and to answer questions regarding the homeless encampment.

32. A Notice of Application for Homeless Encampment shall be provided prior to the Planning ~~Director's~~Official's decision. The purpose of the notice is to inform the surrounding community of the application. Due to the administrative and temporary nature of the permit, there is no comment period. The notice shall contain at a minimum the date of application, project location, proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and how to get more information (i.e., City website). The Planning Department shall distribute this notice as follows:

- a. The notice, or a summary thereof, will be published in the official newspaper of the City at least seven calendar days prior to the ~~Director's~~Official's decision.
- b. The notice, or a summary thereof, will be distributed to owners of all property within 500 feet of any boundary of the subject property and residents and tenants adjacent to the subject property at least 14 calendar days prior to the ~~Director's~~Official's decision.
- c. If located within the jurisdiction of the Houghton Community Council, the notice shall be distributed to the members of the Community Council at least 14 calendar days prior to the Planning ~~Director's~~Official's decision.
- d. The notice will be posted on the City's website.

43. A Notice of Decision for Homeless Encampment, or summary thereof, shall contain the decision of the Planning ~~Director~~ Official and appeal procedure and be distributed as required for notice of application within four business days after the decision.

127.44 Notice Requirements for Homeless Encampments at Repeat Locations

1. A minimum of 14 calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall provide mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the notice is to inform the surrounding community of the proposed duration and operation of the homeless encampment, applicable standards, requirements of the written code of conduct, and how to get more information.
2. A minimum of 14 calendar days prior to the anticipated start of the encampment, the City shall update the City's website with the date of application, project location, proposed duration and operation of the homeless encampment, the conditions that will be placed on the operation of the homeless encampment, requirements of the written code of conduct and how to get more information.
3. If the encampment is proposed with the jurisdiction of the Houghton Community Council, the City shall notify the Houghton Community Council no later than 14 calendar days prior to the anticipated start of the encampment.

127.45 Appeals

There is no administrative appeal of the Planning ~~Director's~~ Official's decision for a temporary use permit. The action of the City in granting or denying an application under this chapter may be reviewed pursuant to the standards set forth in RCW 35.70C.130 in the King County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision of the City. For more information on the judicial process for land use decision, see Chapter 36.70C RCW.