

ORDINANCE O-4650

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND MAKING NONSUBSTANTIVE CHANGES TO THE KIRKLAND ZONING CODE (ORDINANCE 3719 AS AMENDED) SUCH AS TO CORRECT TYPOGRAPHICAL ERRORS, UNINTENTIONAL MISTAKES AND CHANGES IN DEPARTMENTS.

1 WHEREAS, the City Council has from time to time adopted
2 provisions of its zoning code; and
3

4 WHEREAS, there are unintentional typographical errors in the
5 code as adopted, and references to certain other codes, rules or laws
6 that have since changed, and references to responsible departments in
7 the City that have since changed; and
8

9 WHEREAS, this Ordinance corrects such inadvertent mistakes
10 currently contained in the zoning code but does not make any
11 substantive changes to the zoning code; and
12

13 NOW, THEREFORE, the City Council of the City of Kirkland do
14 ordain as follows:
15

16 Section 1. The following specified chapters of the Kirkland
17 Zoning Code ("KZC") are adopted to read as set forth in Attachment A
18 attached to this Ordinance and incorporated herein by reference: 5, 40,
19 70, 95, 112, 115, 140 and 162.
20

21 Section 2. If any provision of this ordinance or its application to
22 any person or circumstance is held invalid, the remainder of the
23 ordinance or the application of the provision to other persons or
24 circumstances is not affected.
25

26 Section 3. This ordinance shall be in force and effect five days
27 from and after its passage by the Kirkland City Council and publication
28 pursuant to Section 1.08.017, Kirkland Municipal Code in the summary
29 form attached to the original of this ordinance and by this reference
30 approved by the City Council.
31

32 Passed by majority vote of the Kirkland City Council in open
33 meeting this 3rd day of July, 2018.
34

35 Signed in authentication thereof this 3rd day of July, 2018.


Amy Walen, Mayor


Publication Date: 07/09/2018

Attest:



Anja Mullin, Deputy City Clerk

Approved as to Form:



Kevin Raymond, City Attorney

**Kirkland Zoning Code
Chapter 5 – Definitions**

5.10 Definitions

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.300 Family

One (1) or more persons (but not more than five (5) unrelated persons) living together as a single housekeeping unit. For purposes of this definition and notwithstanding any other provision of this code, persons with familial status within the meaning of Title 42 United States Code, Section 3602(k) and persons with handicaps within the meaning of Title 42 United States Code, Section 3602(h) and RCW 35A.63.240 will not be counted as unrelated persons. "Adult family homes," as defined by RCW ~~70.128.175~~ 70.28.10, shall be included within this definition of "family." Facilities housing individuals who are incarcerated as the result of a conviction or other court order shall not be included within this definition of "family."

...

.665 Planning Official

The Planning and Building ~~Department~~ Director or designee.

40.20 Permitted Uses

Permitted Uses Table – Industrial Zones (LIT, PLA 6G)

(See also KZC 40.30, Density/Dimensions Table, and KZC 40.40, Development Standards Table)

| Use | Required Review Process: I = Process I, Chapter 145 KZC DR = Design Review, Chapter 142 IIA = Process IIA, Chapter 150 KZC KZC IIB = Process IIB, Chapter 152 KZC None = No Required Review Process NP = Use Not Permitted # = Applicable Special Regulations (listed after the table) | |
|--|--|---------------------------------------|
| | LIT | PLA 6G |
| 40.20.020 Auction House | None <u>Z, 8</u> | NP |
| 40.20.040 Breweries, Wineries, and Distilleries | None <u>Z, 10</u> | None <u>10, 11, 12, 13, 14, 15</u> |
| 40.20.050 Community Facility | None <u>Z</u> | IIA <u>12</u> |
| 40.20.060 Day-Care Center | See KZC <u>40.20.250</u> , School or Day-Care Center | None <u>16, 17, 18, 19</u> |
| 40.20.080 Entertainment, Cultural and/or Recreational Facility | None <u>Z</u> | NP |
| 40.20.090 Government Facility | None <u>Z</u> | IIA <u>12</u> |
| 40.20.100 Hazardous Waste Treatment and Storage Facilities | None <u>Z, 20</u> | NP |
| 40.20.110 High Technology | None <u>Z, 14, 21</u> | None <u>12, 15, 21</u> |
| 40.20.120 Industrial Laundry Facility | None <u>Z, 14</u> | None <u>11, 12, 13, 14, 15</u> |
| 40.20.130 Kennel | None <u>Z, 23, 24</u> | NP |
| 40.20.140 Manufacturing | NP | None <u>11, 12, 13, 14, 15</u> |
| 40.20.150 Mini-Day-Care Center | None <u>Z, 16, 17, 18</u> | None <u>16, 17, 18, 19</u> |
| 40.20.160 Office Use | None <u>Z</u> | None <u>12, 15</u> |
| 40.20.170 Packaging of Prepared Materials Manufacturing | None <u>Z, 11, 14</u> | NP |
| 40.20.180 Public Park | See KZC 45.50 for required review process. | |

The Kirkland Zoning Code is current through Ordinance 4637, passed January 16, 2018.

| | | | |
|-----------|--|------------------------------|---|
| 40.20.190 | Public Utility | None <u>Z</u> | IIA <u>12</u> |
| 40.20.200 | Recycling Center | None <u>Z, 26</u> | NP |
| 40.20.210 | Restaurant | None <u>Z, 19, 27</u> | NP |
| 40.20.220 | Retail Establishment Providing Banking and Related Financial Services | None <u>Z, 19, 27</u> | NP |
| 40.20.230 | Retail Establishment Providing Rental Services | None <u>Z</u> | NP |
| 40.20.240 | Retail Establishment Providing Storage Services | None <u>Z, 28, 29</u> | None <u>28, 29</u> |
| 40.20.245 | Retail Establishment Selling Marijuana or Products Containing Marijuana | None <u>Z, 30, 31</u> | NP |
| 40.20.250 | School or Day-Care Center | None <u>Z, 16, 17, 18</u> | Schools are NP, see KZC <u>40.20.060</u> for Day-Care Centers |
| 40.20.260 | Vehicle or Boat Repair, Services, Storage, or Washing | None <u>Z, 25</u> | NP |
| 40.20.270 | Warehouse Storage Service | None <u>Z, 14</u> | None <u>11, 12, 13, 14, 15</u> |
| 40.20.280 | Wholesale Establishment or Contracting Services in Building Construction, Plumbing, Electrical, Landscaping, or Pest Control | None <u>Z</u> | None <u>11, 12, 13, 14, 15</u> |
| 40.20.290 | Wholesale Printing or Publishing | None <u>Z, 14</u> | None <u>11, 12, 13, 14, 15</u> |
| 40.20.300 | Wholesale Trade | None <u>Z, 14</u> | None <u>11, 12, 13, 14, 15</u> |

Permitted Uses (PU) Special Regulations:

PU-1 – PU-6. Reserved.

PU-7. Within the NE 85th Street Subarea, D.R., Chapter 142 KZC.

PU-8. Livestock auctions are not permitted.

PU-9. Reserved.

PU-10. May include tasting rooms, accessory retail sales, or office utilizing not more than 20 percent of the gross floor area (50 percent if the property is located within 150 feet of the Cross Kirkland Corridor).

PU-11. The following manufacturing uses are permitted:

- a. Food, drugs, stone, clay, glass, china, ceramic products, electrical equipment,

- scientific or photographic equipment, fabricated metal products;
- b. Fabricated metal products, but not fabrication of major structural steel forms, heavy metal processes, boiler making, or similar activities;
 - c. Cold mix process only of soap, detergents, cleaning preparations, perfumes, cosmetics, or other toilet preparations;
 - d. Packaging of prepared materials;
 - e. Textile, leather, wood, paper and plastic products from pre-prepared material; and
 - f. Other compatible uses which may involve manufacturing, processing, assembling, fabrication and handling of products, and research and technological processes.
- PU-12. Prior to issuance of a development permit, documentation must be provided and stamped by a licensed professional verifying that the expected noise to be emanating from the site adjoining to any residential zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.
- PU-13. Outdoor storage and fabrication are not permitted.
- PU-14. No more than 20 percent of the gross floor area may be utilized for accessory uses such as wholesale, office, retail or service.
- PU-15. Use shall not create noise, glare, light, dust, fumes, and other adverse conditions which disrupt the residential character of the surrounding area.
- PU-16. A six-foot-high fence is required along the property lines adjacent to the outside play areas.
- PU-17. Hours of operation may be limited by the City to reduce impacts on nearby residential uses.
- PU-18. May include accessory living facilities for staff persons.
- PU-19. This use is permitted if accessory to a primary use, and:
- a. It will not exceed 20 percent of the gross floor area of the building; and
 - b. The use is integrated into the design of the building.
- PU-20. Must comply with the state siting criteria adopted in accordance with RCW 70.105.210.
- PU-21. This use may include research and development, testing, assembly, repair or manufacturing or offices that support businesses involved in the pharmaceutical and biotechnology, communications and information technology, electronics and instrumentation, computers and software sectors.
- PU-22. Reserved.
- PU-23. Must provide suitable shelter for the animals.
- PU-24. Must maintain a clean, healthful environment for the animals.

- PU-25. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.
- PU-26. May deal in metal cans, glass, and paper. Other materials may be recycled if the Planning Director determines that the impacts are no greater than those associated with recycling metal cans, glass, or paper. The individual will have the burden of proof in demonstrating similar impacts.
- PU-27. This use is permitted if accessory to a primary use, and there is no vehicle drive-in or drive-through.
- PU-28. May include accessory living facilities for resident security manager.
- PU-29. This use not permitted if any portion of the subject property is located within 150 feet of the Cross Kirkland Corridor.
- PU-30. Permitted only where 50 percent of the boundaries of the LIT zone adjoin commercial zones.
- PU-31. Not permitted on school walk routes shown on Plate 46.
- (Ord. 4494 § 2, 2015; Ord. 4479 § 2, 2015; Ord. 4476 § 2, 2015)

70.15 Standards

Within the parcels shown on the Kirkland Zoning Map with an (HP) suffix, the maximum impervious surface standards set forth in Chapter 48 KZC are superseded by this (HP) suffix, and the following development standards shall be applied to all residential development:

15

1. When review under Chapter 85 KZC (Critical Areas: Geologically Hazardous Areas) or Chapter 90 KZC (Critical Areas: Wetlands, Streams, Minor Lakes, Fish and Wildlife Habitat Conservation Areas and Frequently Flooded Areas) or the City of Kirkland's Surface Water Design Manual is required, the review shall assume the maximum development permitted by this (HP) suffix condition will occur on the subject property, and the threshold of approval shall require a demonstration of no significant adverse impact on properties located downhill or downstream from the proposed development.
2. Total lot coverage shall be limited within every building lot as follows:
 - a. On lots up to 6,500 square feet in size, 2,600 square feet;
 - b. On lots 6,501 to 9,000 square feet in size, 2,600 square feet plus 28 percent of the lot area over 6,500 square feet;
 - c. On lots over 9,000 square feet in size, 3,300 square feet plus 10 percent of the lot area over 9,000 square feet;
 - d. On a lot already developed, cleared or otherwise altered up to or in excess of the limits set forth above prior to July 6, 1999, new impervious surfaces shall be limited to five (5) percent of the area of the lot, not to exceed 750 square feet;
 - e. For purposes of computing the allowable lot coverage within each lot, private streets, joint-use driveways or other impervious-surfaced access facilities required for vehicular access to a lot in easements or within flag lots shall be excluded from calculations.

Summary Table:

| Lot Size | Maximum Lot Coverage |
|--------------------------------|---|
| Less than 6,500 sq. ft. | 2,600 sq. ft. |
| 6,501 sq. ft. to 9,000 sq. ft. | 2,600 sq. ft. plus 28% of the lot area over 6,500 sq. ft. |
| 9,001 sq. ft. or greater | 3,300 sq. ft. plus 10% of the lot area over 9,000 sq. ft. |

| Lot Size | Maximum Lot Coverage |
|------------------------------------|---|
| Developed, cleared or altered lots | New impervious limited to 5% of the total lot area, but not to exceed 750 sq. ft. |

3. In addition to the maximum area allowed for buildings and other impervious surfaces under subsection (2) of this section, up to 50 percent of the total lot area may be used for garden, lawn or landscaping, provided:

- a. All significant trees, as defined in Chapter 95 KZC, must be retained. The area limits set forth in this subsection are to be measured at grade level; the area of allowable garden, lawn or landscaping may intrude into the drip line of a significant tree required to be retained under this subsection if it is demonstrated not to cause root damage or otherwise imperil the tree's health;
- b. Total site alteration, including impervious surfaces and other alterations, shall not exceed 75 percent of the total lot area;
- c. At least 25 percent of the total lot area shall be designated as a Protected Natural Area (PNA), in a location that requires the least alteration of existing native vegetation.

In general, the PNA shall be located in one (1) contiguous area on each lot unless the City determines that designation of more than one (1) area results in superior protection of existing vegetation. The PNA shall be designated to encompass any critical areas on the lot and, to the maximum extent possible, consist of existing viable trees and native vegetation that meet the minimum vegetation condition standards set forth in subsection (4)(a) of this section.

If the lot does not contain an existing area meeting the vegetation requirements of subsection (4)(a) of this section or if the applicant demonstrates to the satisfaction of the Planning Official that retaining such vegetation area is not feasible because it would significantly restrict the ability to develop the subject property based on applicable zoning regulations, a PNA shall be restored or established to the standards set forth in subsection (4)(b) of this section;

- d. If development on the lot is to be served by an on-site sewage disposal system, any areas required by the Department of Public Health to be set aside for on-site sewage disposal systems shall be contained as much as possible within the portion of the lot altered for garden, lawn or landscaping as provided by this subsection. If elements of the on-site sewage disposal system must be installed

outside the landscaped area, the elements must be installed so as not to damage any significant trees required to be retained under subsection (3)(a) of this section, and any plants that are damaged must be replaced with similar native plants.

4. Minimum Vegetation Conditions in the Protected Natural Area

a. Existing Native Vegetation – Priority is given to designate contiguous areas containing native vegetation meeting the following standards:

1) Trees – Viable trees at a tree density of 150 tree credits per acre within the PNA, calculated as described in KZC 95.33.

Example: A 10,000-square-foot lot requires a 2,500 sq. ft. PNA (10,000 x 25% = 2,500 sq. ft.). Within the 2,500 sq. ft. PNA, nine (9) tree credits are required (2,500 sq. ft./43,560 sq. ft. = 0.057 acres x 150 tree credits = 8.6, rounded to nine (9) tree credits). Note: the tree density for the remaining lot area is 30 tree credits per acre.

2) Shrubs – Predominately 36 inches high, covering at least 60 percent of the PNA.

3) Living Groundcovers – Covering at least 60 percent of the PNA.

b. Vegetation Deficiencies

1) If the PNA contains insufficient existing vegetation pursuant to subsection (4)(a) of this section, the applicant shall restore the PNA with native vegetation to meet minimum supplemental vegetation standards pursuant to subsection (4)(b)(3) of this section.

2) If the Planning Official determines that it is not feasible to retain an existing vegetation area, the applicant shall establish a PNA in a location approved by the Planning Official and planted in accordance with the supplemental vegetation standards in subsection (4)(b)(3) of this section.

3) Supplemental Vegetation Standards – The applicant shall provide at a minimum:

a) Supplemental trees, shrubs and groundcovers selected from the Kirkland Native Plant List, or other native species approved by the Planning Official.

- b) Trees – Planted with a tree density of 150 tree credits per acre as described in KZC 95.33. The minimum size and tree density value for a supplemental tree worth one (1) tree credit in the PNA shall be at least six (6) feet in height for a conifer and at least one (1) inch in caliper (DBH) for deciduous or broad-leaf evergreen trees, measured from existing grade.
 - c) Shrubs – Planted to attain coverage of at least 80 percent of the area within two (2) years, and at the time of planting be between 2- and 5-gallon pots or balled and burlapped equivalents.
 - d) Living Groundcovers – Planted from either 4-inch pot with 12-inch spacing or 1-gallon pot with 18-inch spacing to cover within two (2) years 80 percent of the naturalized area.
- 4) Soil Specifications – Soils in supplemental vegetation areas shall comply with KZC 95.50, particularly those areas requiring decompaction.
- 5) Mulch – Mulch in supplemental vegetation areas shall comply with KZC 95.50.
- 6) Prohibited Plants – Invasive weeds and noxious plants listed on the Kirkland Plant List in the vicinity of supplemental plantings shall be removed in a manner that will not harm trees and vegetation that are to be retained.
- 7) Landscape Plan Required – In addition to the Tree Retention Plan required pursuant to KZC 95.30, application materials shall clearly depict the quantity, location, species, and size of supplemental plant materials proposed to comply with the requirements of this section. Plants installed in the PNA shall be integrated with existing native vegetation and planted in a random naturalistic pattern. The Planning Official shall review and approve the landscape plan.
5. Subdivisions and short subdivisions shall be subject to the following requirements:
- a. Applications for subdivisions and short subdivisions shall provide a comprehensive review of Tree Retention Plans as outlined in KZC 95.30(2) through (5), including the location of the required PNA. Phased review of Tree Retention Plans as described in KZC 95.30(6)(a) is not permitted within the Holmes Point Overlay zone;
 - b. New public or private road improvements shall be the minimum necessary to serve the development on the site in accordance with Chapter 110 KZC. The City

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shall consider granting modifications to the road standards to further minimize site disturbance, consistent with pedestrian and traffic safety, and the other purposes of the road standards; and

- c. Impervious surfaces and other alterations within each lot shall be limited as provided in subsections (2) and (3) of this section. In townhouse or multifamily developments, total impervious surfaces and other alterations shall be limited to 2,600 square feet per lot or dwelling unit in the R-6 and R-8 zones, and 3,300 square feet per lot or dwelling unit in the R-4 zone.
6. Tree Retention Plan – The applicant shall submit a Tree Retention Plan required under KZC 95.30. In addition, it shall include the existing conditions and general locations of all shrubs and groundcover on the subject property.
 7. The Planning and Building Department shall conduct site inspections prior to approving any site alteration or development on parcels subject to this (HP) suffix condition as follows:
 - a. Prior to issuing a permit for alteration or building on any individual lot subject to this (HP) suffix condition, the Planning Official shall inspect the site to verify the existing conditions, tree and other plant cover, and any previous site alteration or building on the site. Prior to this inspection and prior to altering the site, the applicant shall clearly delineate the proposed Protected Natural Area and the area of the lot proposed to be altered and built on with environmental fencing, 4-foot high stakes and high-visibility tape or other conspicuous and durable means, and shall depict this area on a site plan included in the application.
 - b. Prior to approving any subdivision or building permit for more than one (1) dwelling unit on any parcel subject to this (HP) suffix condition, the Planning Official shall inspect the site to verify the conditions, tree and other plant cover, and any previous site alteration or building on the site. Prior to this inspection and prior to altering the site, the applicant shall clearly delineate the proposed Protected Natural Area and the area of the proposed grading for streets, flow control and other common improvements, with environmental fencing, 4-foot high stakes and high-visibility tape or other conspicuous and durable means, and shall depict this area on a plot plan included in the application. Development of individual lots within any approved subdivision or short subdivision shall be subject to an individual inspection in accordance with subsection (7)(a) of this section.

As part of the subdivision application, the applicant shall choose the Tree Retention Plan options as required by KZC 95.30(6). If the applicant chooses

integrated review (rather than phased review) the applicant shall show the Protected Natural Area (PNA) on the face of the plat.

8. Tree and Landscape Maintenance Requirements

a. Protected Natural Area(s) – The PNA(s) shall be retained in perpetuity. Prior to final inspection of a building permit, the applicant shall provide:

- 1) A final as-built landscape plan showing all vegetation required to be planted or preserved; and
- 2) A recorded PNA protection easement, in a form approved by the City Attorney, to maintain and replace all vegetation that is required to be protected by the City. The agreement shall be recorded with the King County Recorder's Office. Land survey information shall be provided for this purpose in a format approved by the Planning Official.
- 3) Plants that die must be replaced in kind or with similar plants contained on the Native Plant List, or other native species approved by the Planning Official.

b. All significant trees in the remaining 75 percent of the lot shall be maintained in perpetuity, and tree removal will be allowed only for hazardous and nuisance trees pursuant to KZC 95.23(5)(d).

9. Pervious areas which are not geologically hazardous areas or do not contain wetlands, streams, minor lakes, fish and wildlife habitat conservation areas and frequently flooded areas, critical areas governed by Chapter 85 or 90 KZC, shall be maintained as open space in an undisturbed state, except for the following activities:

- a. Incidental trimming or removal of vegetation necessary for protection of property or public health and safety, or the incidental removal of vegetation to be used in the celebration of recognized holidays. Replacement of removed hazardous trees may be required;
- b. Noxious weeds may be cleared as long as they are replaced with appropriate native species or other appropriate vegetation and bark mulched to prevent erosion;
- c. Construction of primitive pedestrian-only trails in accordance with the construction and maintenance standards in the U.S. Forest Service "Trails Management Handbook" (FSH 2309.18, June 1987, as amended) and "Standard Specifications for Construction of Trails" (EM-7720-102, June 1996, as amended);

but in no case shall trails be constructed of concrete, asphalt or other impervious surface;

d. Limited trimming and pruning of vegetation for the creation and maintenance of views, and the penetration of direct sunlight, provided the trimming or pruning does not cause root damage or otherwise imperil the tree's health as allowed for in Chapter 95 KZC; and

e. Individual trees or plants may be replaced with appropriate species on a limited basis. Forested hydrological conditions, soil stability and the duff layer shall be maintained.

10. Conformance with this (HP) suffix condition shall not relieve an applicant from conforming to any other applicable provisions of the Zoning Code, Subdivision Ordinance, or Shoreline Master Program.

(Ord. 4619 § 1, 2017; Ord. 4551 § 4, 2017; Ord. 4491 §§ 3, 11, 2015; Ord. 4437 § 1, 2014; Ord. 4196 § 1, 2009)

95.23 Tree Removal – Not Associated with Development Activity

1. Introduction. Tree and vegetation removal in urban areas has resulted in the loss of beneficial functions provided by trees to the public. The majority of tree canopy within the City of Kirkland is on private property. The purpose of this section is to establish a process and standards to slow the loss of tree canopy on private property, contributing towards the City's canopy goals and a more sustainable urban forest.

2. Permit Required for Removal of Trees on Private Property or City Right-of-Way. It is unlawful for any person (other than City crews) to remove, prune, trim, modify, alter or damage a tree in a public park or on any other City property.

No person, directly or indirectly, shall remove any significant tree on any property within the City, or any tree in the public right-of-way, without first obtaining a tree removal permit as provided in this chapter, unless the activity is exempted in KZC 95.20 and subsection (5) of this section.

OR

3. Tree Removal Permit Application Form. The Planning and Building Department and Public Works Department shall establish and maintain a tree removal permit application form to allow property owners to request City review of tree removal for compliance with applicable City regulations. The tree removal application form shall include at a minimum the following:

a. A site plan showing the approximate location of significant trees, their size (DBH) and their species, along with the location of structures, driveways, access ways and easements.

b. For required replacement trees, a planting plan showing location, size and species of the new trees in accordance to standards set forth in KZC 95.33(3).

4. Tree Removal Permit Application Procedure and Appeals.

a. Applicants requesting to remove trees must submit a completed permit application on a form provided by the City. The City shall review the application within 21 calendar days and either approve, approve with conditions or modifications, deny the application or request additional information. Any decision to deny the application shall be in writing along with the reasons for the denial and the appeal process.

b. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.

c. Time Limit. The removal shall be completed within one (1) year from the date of permit approval.

5. Tree Removal Allowances.

a. Except in the Holmes Point Overlay zone, any private property owner of developed property may remove up to two (2) significant trees from their property within a 12-month period without having to apply for a tree removal permit; provided, that:

- 1) There is no active application for development activity for the site;
- 2) The trees were not required to be retained or planted as a condition of previous development activity; and
- 3) All of the additional standards for tree removal and tree removal permits as described in subsections (5)(b) through (e) of this section are met.

The Planning and Building Department shall establish and maintain a tree removal request form. The form may be used by property owners to request Department review of tree removal for compliance with applicable City regulations.

b. Tree Retention and Replacement Requirements.

1) Tree Retention. For single-family homes, cottages, carriage units, two/three-unit homes, two (2) trees shall be required to remain on the subject property.

2) Tree Replacement.

a) For every significant tree that is removed and is not required to remain based on subsection (5)(b)(1) of this section, the City encourages the planting of a tree that is appropriate to the site.

b) If a tree removal request is for one (1) or both of the trees required to remain, a tree removal permit and one-for-one replacement is required. the replacement tree shall be six (6) feet tall for a conifer and 2-inch caliper for deciduous or broad-leaf evergreen tree.

c) For all other uses not listed in subsection (5)(b)(1) of this section, a tree removal permit is required and the required tree replacement will be based on the required landscaping standards in KZC 95.40 through 95.45.

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- c. Shoreline Jurisdiction. Properties located within the City's shoreline jurisdiction are subject to additional tree removal and replacement standards if the tree(s) to be removed are located within the required shoreline setback. See Chapter 83 KZC for additional standards.
- d. Removal of Hazard or Nuisance Trees. Any private property owner seeking to remove any number of significant trees which are a hazard or nuisance from developed or undeveloped property or the public right-of-way shall first obtain approval of a tree removal permit and meet the requirements of this subsection.
- 1) Tree Risk Assessment. If the nuisance or hazard condition is not obvious, a tree risk assessment prepared by a qualified professional explaining how the tree(s) meet the definition of a nuisance or hazard tree is required. Removal of nuisance or hazard trees does not count toward the tree removal limit if the nuisance or hazard is supported by a report prepared by a qualified professional and approved by the City.
 - 2) Trees in Critical Areas or Critical Areas Buffers. See Chapter 90 KZC.
 - 3) The removal of any tree in the Holmes Point Overlay Zone requires the planting of a native tree of a minimum of six (6) feet in height in close proximity to where the removed tree was located. Selection of native species and timing of installation shall be approved by the Planning Official.
 - 4) Street Trees. Street trees may only be removed if determined to be a hazard or nuisance. If the removal request is for street trees, the Public Works Official may consider whether the tree(s) are now, or may be in the future, part of the City's plans for the right-of-way. The City shall require a one-for-one tree replacement in a suitable location.
- e. Forest Management Plan.
- 1) A Forest Management Plan must be submitted for developed, significantly wooded sites (over 40 percent canopy coverage) of at least 35,000 square feet in size in which removal of more than two (2) trees is requested and is not exempt under KZC 95.20. A Forest Management Plan must be developed by a qualified professional and shall include the following:
 - a) A site plan depicting the location of all significant trees (a survey identifying tree locations is not required) with a numbering system of the

trees (with corresponding tags on trees in the field). The site plan shall include size (DBH), species, and condition of each tree;

b) Identification of trees to be removed, including reasons for their removal and a description of low impact removal techniques pursuant to subsection (5)(e)(2) of this section;

c) A reforestation plan that includes location, size, species, and timing of installation;

2) The following Forest Management Plan standards shall apply:

a) Trees to remain should be dominant or co-dominant in the stand, healthy and windfirm.

b) No removal of trees from critical areas and their buffers, unless otherwise permitted by this chapter.

c) No removal of specimen trees, unless otherwise permitted by this chapter.

d) No removal of healthy trees that would cause trees on adjacent properties to become hazardous.

e) The reforestation plan ensures perpetuity of the wooded areas. The size of planted trees for reforestation shall be a minimum of three (3) feet tall.

f) Logging operations shall be conducted so as to expose the smallest practical area of soil to erosion for the least possible time. To control erosion, native shrubs, ground cover and stumps shall be retained where feasible. Where not feasible, appropriate erosion control measures to be approved by the City shall be implemented.

g) Removal of tree debris shall be done pursuant to Kirkland Fire Department standards.

h) Recommended maintenance prescription for retained trees with a specific timeline for such management.

(Ord. 4551 § 4, 2017; Ord. 4491 § 3, 2015; Ord. 4437 § 1, 2014; Ord. 4408 § 1, 2013; Ord. 4372 § 1, 2012; Ord. 4238 § 2, 2010)

112.15 Affordable Housing Requirement

1. Applicability –

a. Minimum Requirement – All developments creating four (4) or more new dwelling units in commercial, high density residential, medium density and office zones shall provide at least 10 percent of the units as affordable housing units and comply with the provisions of this chapter as established in the General Regulations or the Special Regulations for the specific use in Chapters 45 through 56 KZC. This subsection is not effective within the disapproval jurisdiction of the Houghton Community Council, except in the HENC 1 and HENC 2 zones.

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b. Voluntary Use – All other provisions of this chapter are available for use within the disapproval jurisdiction of the Houghton Community Council and in developments where the minimum requirement does not apply; provided, however, the provisions of this chapter are not available for use in developments located within the BN zone.

2. Calculation in Density-Limited Zones – For developments in density-limited zones, the required amount of affordable housing shall be calculated based on the number of dwelling units proposed prior to the addition of any bonus units allowed pursuant to KZC 112.20.

3. Calculation in CBD 5A, RH, HENC 2, TL, FHNC and PLA 5C Zones – For developments in the CBD 5A, RH, TL, FHNC, HENC 2 and PLA 5C zones, the required amount of affordable housing shall be calculated based on the total number of dwelling units proposed.

4. Rounding and Alternative Compliance – In all zones, the number of affordable housing units required is determined by rounding up to the next whole number of units if the fraction of the whole number is at least 0.66. KZC 112.30 establishes methods for alternative compliance, including payment in lieu of construction for portions of required affordable housing units that are less than 0.66 units.

(Ord. 4637 § 3, 2018; Ord. 4636 § 3, 2018; Ord. 4476 § 3, 2015; Ord. 4474 § 1, 2015; Ord. 4392 § 1, 2012; Ord. 4390 § 1, 2012; Ord. 4337 § 1, 2011; Ord. 4286 § 1, 2011; Ord. 4222 § 1, 2009; Ord. 3938 § 1, 2004)

115.105 Outdoor Use, Activity and Storage

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

2. Residential Uses

Uses and activities normally associated with a residential use are allowed unless Chapters 15 through 56 KZC limit outside activity for a residential use in a particular zone. The outdoor storage of firewood may be located within setback yards only if (1) it is stacked immediately adjacent to or within a supporting structure, (2) it is visually screened from adjoining properties by a building, solid screening fence, solid screening enclosure, dense evergreen landscaping, rockery or retaining wall, and (3) the height of the firewood stack does not exceed the greater of six (6) feet or the height of either the supporting structure or visual screen.

3. Commercial and Industrial Nonresidential Uses

a. General – Subject to the requirements of subsections (2)(b) through (f) of this section, the uses and activities that are allowable on a site may be conducted out of doors unless Chapters 15 through 56 KZC limit outside activity for a particular use in a particular zone.

b. Site Plan – The applicant shall submit for approval, to the Planning and Building Department, a site plan drawn to scale consisting of the following items:

- 1) Locations and dimensions of all structures and fences on site; and
- 2) Locations and dimensions of all parking and driving areas on site; and
- 3) Locations and dimensions of all existing and proposed outdoor use, activity or storage areas; and
- 4) Locations and description of all existing landscape buffering on site; and
- 5) The duration of time for which the outdoor use, activity or storage is intended.

c. Specific Use and Development Requirements – The City will administratively review and either approve or deny any application for outdoor use, activity and storage based on the following standards:

- 1) All outdoor use, activity and storage areas must comply with required buffers for the primary use.
- 2) A minimum 6-foot-high solid screening fence or other appropriate screening approved by the Planning and Building Department is required around the outside edges of the area devoted to the outdoor use, activity or storage. The fence shall be measured above finished grade except when the

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outdoor storage abuts a sidewalk, in which case the six (6) feet must be above the sidewalk.

3) Outdoor use, activity or storage areas located adjacent to nonresidential zones may be located in the required side and rear setback yards; except, that all outdoor use, activity and storage areas located adjacent to residential zones, or adjacent to residential uses within nonresidential zones, must meet required setbacks for the primary use.

4) If the outdoor storage area is surrounded on all sides by property zoned for industrial use, then the height of the outdoor storage shall not exceed the height of the primary structure. In all other cases, the height of items related to outdoor use, activity or storage shall not exceed six (6) feet above finished grade.

5) The outdoor use, activity or storage area shall not inhibit the safe vehicular and pedestrian movement to, from and on the subject property in accordance with the requirements of the Zoning Code and standards of the Fire Department, Planning and Building Department and the Public Works Department.

6) For the purposes of this code, an outdoor use, activity or storage area will be used in calculating the gross floor area of a use or development if this area will be used as an outdoor use, activity or storage area for at least two (2) months in every year; except, that outdoor cafes may be operated for six (6) months before being used in calculating the gross floor area of the use or development.

7) If located on an unimproved area of the site, the underlying ground must be improved as required by the Department of Public Works and Planning and Building Department, and no trees over six (6) inches in caliper may be cut.

d. Exceptions to Outdoor Use, Activity or Storage – The following outdoor uses and activities, when located in commercial and industrial zones, are exempt from the requirements of this section as stated below:

1) Exceptions to subsections (2)(c)(1) through (5) of this section; provided, that a temporary certificate of occupancy from the Planning and Building Department is obtained:

- a) Outdoor Christmas tree lots and fireworks stands if these uses will not exceed 30 days.
 - b) Outdoor amusement rides, carnivals and circuses, and parking lot sales which are ancillary to the indoor sale of the same goods and services if these uses will not exceed seven (7) days.
- 2) See KZC 95.43 for exceptions to subsections (2)(c)(1) and (2)(c)(2) of this section.
- e. Modification – The applicant may request a modification of the requirements of subsections (b) through (d) of this section by submitting a written request with their site plan to the Planning and Building Department for review. The Planning Official may approve a modification if:
- 1) The modification will not create a greater impact on any nearby residential use than would be created without the modification; and
 - 2) The modification will not detract from the character of nearby uses; and
 - 3) The modification will not be injurious to public health, safety or welfare; and
 - 4) The modification complies with the Comprehensive Plan.
- f. Appeals of Outdoor Use, Activity and Storage Modification Requests
- 1) Who Can Appeal – Any person who is aggrieved by a determination regarding a modification for outdoor use, activity or storage may appeal that determination at any time.
 - 2) How To Appeal – The applicant must file a letter of appeal indicating how the determination affects his/her property and present any relevant arguments or information on the correctness of the determination. The applicant shall include the appeals fee as established by ordinance.
 - 3) Applicable Procedures – All appeals and determinations of this chapter will be reviewed and decided upon using Process IIA described in Chapter 150 KZC.

(Ord. 4491 § 3, 2015; Ord. 4476 § 3, 2015; Ord. 4238 § 2, 2010; Ord. 4010 § 3, 2005; Ord. 3858 § 1, 2002)

162.55 Special Provisions for Continued Uses – Lot Coverage

As used in this chapter, the term "continued use" shall mean an existing lawful use of land (and structures) which became nonconforming as to use solely as a result of this amendatory Ordinance No. 2347 or which becomes nonconforming solely as a result of the maximum lot coverage provision of this code, Ordinance No. 2678, effective on October 2, 1982.

A continued use shall be permitted to exist as a lawful use subject only to the following conditions:

1. Any change in use shall conform to the Comprehensive Plan and zoning regulations in effect at the time such change is made.
2. Ordinary repairs and maintenance may be carried out consistent with the provisions of this chapter; provided, that there shall be no limitation on the amount or cost of such repairs and maintenance.
3. A continued use shall not be subject to the provisions of this chapter relating to destruction by fire or other casualty. In the event a structure so designated as a continued use is destroyed to any extent by fire or other casualty, the structure may be rebuilt; provided, however, that the gross floor area of the structure and major exterior dimensions of the structure shall not exceed the same dimensions or standards of the previous structure. This provision shall not reduce any requirements of the building or fire codes in effect when such structure may be rebuilt.

The provisions of this section shall only be available if any application for a building permit is filed within 12 months of such fire or other casualty and construction is commenced and completed in conformance with the provisions of the building code then in effect.

4. A continued use shall be subject to the provisions of this chapter relating to the abandonment of structure or use.
5. The owner of a continued use may request the issuance of a "certificate of continued use" which shall identify the property, existing use, density and site characteristics for which the certificate is issued and which shall include the provisions of this chapter.

115.42 Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones and Attached Dwelling Units in PLA 3C

1. Gross floor area for purposes of calculating F.A.R. and maximum floor area for detached dwelling units in low density residential zones and attached dwelling units in PLA 3C shall include the entire area within the exterior walls for each level of the structure. It shall also include the area of all carports, measured as the area of the carport roof. It shall not include the following:
 - a. Attic area with less than five (5) feet of ceiling height, as measured between the finished floor and the supporting members for the roof.
 - b. Floor area with a ceiling height less than six (6) feet above finished grade. The ceiling height will be measured to the top of the structural members for the floor above. The finished grade will be measured along the outside perimeter of the building (see Plate 23).
 - c. On lots less than 8,500 square feet, the first 500 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see subsection (3) of this section for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R. For purposes of this section, "behind" means located behind an imaginary plane drawn at the back of the main structure at the farthest point from, and parallel to, the street or access easement serving the residence.
 - d. On lots greater than or equal to 8,500 square feet, the first 800 square feet of an accessory dwelling unit or garage contained in an accessory structure, when such accessory structure is located more than 20 feet from and behind the main structure (see subsection (3) of this section for additional information on the required distance between structures); provided, that the entire area of an accessory structure, for which a building permit was issued prior to March 6, 2007, shall not be included in the gross floor area used to calculate F.A.R.
 - e. Uncovered and covered decks, porches, and walkways.
 - f. One hundred square feet if the dwelling unit has an internal staircase and/or an area with a ceiling height greater than 16 feet.



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2. Floor area with a ceiling height greater than 16 feet shall be calculated at twice the actual floor area toward allowable F.A.R. The ceiling height for these areas will be measured to the top of the structural members for the floor above or, if there is no floor above, to the bottom of the structural members for the roof.
3. Separate structures will be regulated as one (1) structure if any elements of the structures, except for the elements listed in subsection (3)(b) of this section, are closer than 20 feet to each other.
 - a. Two (2) structures connected by a breezeway or walkway will be regulated as one (1) structure if any element of the breezeway or walkway is higher than 10 feet above finished grade.
 - b. Elements of structures that may be closer than 20 feet to each other are:
 - 1) Elements of a structure no higher than 18 inches above finished grade;
 - 2) Chimneys, bay windows, greenhouse windows, eaves, cornices, awnings and canopies extending no more than 18 inches from the wall of a structure;
 - 3) Stairs extending no more than five (5) feet from the wall of a structure;
 - 4) Porches extending no more than five (5) feet from the wall of a structure if:
 - i) The porch is no higher than one (1) story and the finished floor of the porch is no more than four (4) feet above finished grade;
 - ii) Three (3) sides of the porch are open other than railings and solid walls no higher than 42 inches;
 - iii) No deck, balcony, or living area is placed on the roof of the porch;
 - iv) The length of the porch does not exceed 50 percent of the wall of the structure to which it is attached;
 - v) Porch eaves may extend an additional 18 inches from the edge of the porch.

This section is not effective within the disapproval jurisdiction of the Houghton Community Council, except for those lots in PLA 3C that are less than 7,200 square feet or lots that have less than the minimum lot size created through the small lot provisions of KMC 22.28.042, subdivisions.

(Ord. 4437 § 1, 2014; Ord. 4372 § 1, 2012; Ord. 4333 § 1, 2011; Ord. 4121 § 1, 2008; Ord. 4087 § 1, 2007;
Ord. 4072 § 1, 2007; Ord. 4065) § 1, 2006

115.105 Outdoor Use, Activity and Storage

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

2. Residential Uses

Uses and activities normally associated with a residential use are allowed unless Chapters 15 through 56 KZC limit outside activity for a residential use in a particular zone. The outdoor storage of firewood may be located within setback yards only if (1) it is stacked immediately adjacent to or within a supporting structure, (2) it is visually screened from adjoining properties by a building, solid screening fence, solid screening enclosure, dense evergreen landscaping, rockery or retaining wall, and (3) the height of the firewood stack does not exceed the greater of six (6) feet or the height of either the supporting structure or visual screen.

3. Commercial and Industrial Nonresidential Uses

a. General – Subject to the requirements of subsections (2)(b) through (f) of this section, the uses and activities that are allowable on a site may be conducted out of doors unless Chapters 15 through 56 KZC limit outside activity for a particular use in a particular zone.

b. Site Plan – The applicant shall submit for approval, to the Planning and Building Department, a site plan drawn to scale consisting of the following items:

- 1) Locations and dimensions of all structures and fences on site; and
- 2) Locations and dimensions of all parking and driving areas on site; and
- 3) Locations and dimensions of all existing and proposed outdoor use, activity or storage areas; and
- 4) Locations and description of all existing landscape buffering on site; and
- 5) The duration of time for which the outdoor use, activity or storage is intended.

c. Specific Use and Development Requirements – The City will administratively review and either approve or deny any application for outdoor use, activity and storage based on the following standards:

- 1) All outdoor use, activity and storage areas must comply with required buffers for the primary use.
- 2) A minimum 6-foot-high solid screening fence or other appropriate screening approved by the Planning and Building Department is required around the outside edges of the area devoted to the outdoor use, activity or storage. The fence shall be measured above finished grade except when the outdoor storage abuts a sidewalk, in which case the six (6) feet must be above the sidewalk.
- 3) Outdoor use, activity or storage areas located adjacent to nonresidential zones may be located in the required side and rear setback yards; except, that all outdoor use, activity and storage areas located adjacent to residential zones, or adjacent to residential uses within nonresidential zones, must meet required setbacks for the primary use.
- 4) If the outdoor storage area is surrounded on all sides by property zoned for industrial use, then the height of the outdoor storage shall not exceed the height of the primary structure. In all other cases, the height of items related to outdoor use, activity or storage shall not exceed six (6) feet above finished grade.
- 5) The outdoor use, activity or storage area shall not inhibit the safe vehicular and pedestrian movement to, from and on the subject property in accordance with the requirements of the Zoning Code and standards of the Fire Department, Planning and Building Department and the Public Works Department.
- 6) For the purposes of this code, an outdoor use, activity or storage area will be used in calculating the gross floor area of a use or development if this area will be used as an outdoor use, activity or storage area for at least two (2) months in every year; except, that outdoor cafes may be operated for six (6) months before being used in calculating the gross floor area of the use or development.
- 7) If located on an unimproved area of the site, the underlying ground must be improved as required by the Department of Public Works and Planning and Building Department, and no trees over six (6) inches in caliper may be cut.

- d. Exceptions to Outdoor Use, Activity or Storage – The following outdoor uses and activities, when located in commercial and industrial zones, are exempt from the requirements of this section as stated below:
- 1) Exceptions to subsections (2)(c)(1) through (5) of this section; provided, that a temporary certificate of occupancy from the Planning and Building Department is obtained:
 - a) Outdoor Christmas tree lots and fireworks stands if these uses will not exceed 30 days.
 - b) Outdoor amusement rides, carnivals and circuses, and parking lot sales which are ancillary to the indoor sale of the same goods and services if these uses will not exceed seven (7) days.
 - 2) See KZC 95.43 for exceptions to subsections (2)(c)(1) and (2)(c)(2) of this section.
- e. Modification – The applicant may request a modification of the requirements of subsections (b) through (d) of this section by submitting a written request with their site plan to the Planning and Building Department for review. The Planning Official may approve a modification if:
- 1) The modification will not create a greater impact on any nearby residential use than would be created without the modification; and
 - 2) The modification will not detract from the character of nearby uses; and
 - 3) The modification will not be injurious to public health, safety or welfare; and
 - 4) The modification complies with the Comprehensive Plan.
- f. Appeals of Outdoor Use, Activity and Storage Modification Requests
- 1) Who Can Appeal – Any person who is aggrieved by a determination regarding a modification for outdoor use, activity or storage may appeal that determination at any time.
 - 2) How To Appeal – The applicant must file a letter of appeal indicating how the determination affects his/her property and present any relevant arguments or information on the correctness of the determination. The applicant shall include the appeals fee as established by ordinance.

- 3) Applicable Procedures – All appeals and determinations of this chapter will be reviewed and decided upon using Process IIA described in Chapter 150 KZC.

(Ord. 4491 § 3, 2015; Ord. 4476 § 3, 2015; Ord. 4238 § 2, 2010; Ord. 4010 § 3, 2005; Ord. 3858 § 1, 2002)

162.55 Special Provisions for Continued Uses – Lot Coverage

As used in this chapter, the term "continued use" shall mean an existing lawful use of land (and structures) which became nonconforming as to use solely as a result of this amendatory Ordinance No. 2347 or which becomes nonconforming solely as a result of the maximum lot coverage provision of this code, Ordinance No. 2678, effective on October 2, 1982.

A continued use shall be permitted to exist as a lawful use subject only to the following conditions:

1. Any change in use shall conform to the Comprehensive Plan and zoning regulations in effect at the time such change is made.
2. Ordinary repairs and maintenance may be carried out consistent with the provisions of this chapter; provided, that there shall be no limitation on the amount or cost of such repairs and maintenance.
3. A continued use shall be not be subject to the provisions of this chapter relating to destruction by fire or other casualty. In the event a structure so designated as a continued use is destroyed to any extent by fire or other casualty, the structure may be rebuilt; provided, however, that the gross floor area of the structure and major exterior dimensions of the structure shall not exceed the same dimensions or standards of the previous structure. This provision shall not reduce any requirements of the building or fire codes in effect when such structure may be rebuilt.

The provisions of this section shall only be available if any application for a building permit is filed within 12 months of such fire or other casualty and construction is commenced and completed in conformance with the provisions of the building code then in effect.

4. A continued use shall be subject to the provisions of this chapter relating to the abandonment of structure or use.
5. The owner of a continued use may request the issuance of a "certificate of continued use" which shall identify the property, existing use, density and site

characteristics for which the certificate is issued and which shall include the provisions of this chapter.

115.105 Outdoor Use, Activity and Storage

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

2. Residential Uses

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3. Commercial and Industrial Nonresidential Uses

(3)

a. General – Subject to the requirements of subsections ~~(2)~~(b) through (f) of this section, the uses and activities that are allowable on a site may be conducted out of doors unless Chapters 15 through 56 KZC limit outside activity for a particular use in a particular zone.

b. Site Plan – The applicant shall submit for approval, to the Planning and Building Department, a site plan drawn to scale consisting of the following items:

- 1) Locations and dimensions of all structures and fences on site; and
- 2) Locations and dimensions of all parking and driving areas on site; and
- 3) Locations and dimensions of all existing and proposed outdoor use, activity or storage areas; and
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- 5) The duration of time for which the outdoor use, activity or storage is intended.

c. Specific Use and Development Requirements – The City will administratively review and either approve or deny any application for outdoor use, activity and storage based on the following standards:

- 1) All outdoor use, activity and storage areas must comply with required buffers for the primary use.
- 2) A minimum 6-foot-high solid screening fence or other appropriate screening approved by the Planning and Building Department is required around the outside edges of the area devoted to the outdoor use, activity or storage. The fence shall be measured above finished grade except when the outdoor storage abuts a sidewalk, in which case the six (6) feet must be above the sidewalk.
- 3) Outdoor use, activity or storage areas located adjacent to nonresidential zones may be located in the required side and rear setback yards; except, that all outdoor use, activity and storage areas located adjacent to residential zones, or adjacent to residential uses within nonresidential zones, must meet required setbacks for the primary use.
- 4) If the outdoor storage area is surrounded on all sides by property zoned for industrial use, then the height of the outdoor storage shall not exceed the height of the primary structure. In all other cases, the height of items related to outdoor use, activity or storage shall not exceed six (6) feet above finished grade.
- 5) The outdoor use, activity or storage area shall not inhibit the safe vehicular and pedestrian movement to, from and on the subject property in accordance with the requirements of the Zoning Code and standards of the Fire Department, Planning and Building Department and the Public Works Department.
- 6) For the purposes of this code, an outdoor use, activity or storage area will be used in calculating the gross floor area of a use or development if this area will be used as an outdoor use, activity or storage area for at least two (2) months in every year; except, that outdoor cafes may be operated for six (6) months before being used in calculating the gross floor area of the use or development.
- 7) If located on an unimproved area of the site, the underlying ground must be improved as required by the Department of Public Works and Planning and Building Department, and no trees over six (6) inches in caliper may be cut.

- d. Exceptions to Outdoor Use, Activity or Storage – The following outdoor uses and activities, when located in commercial and industrial zones, are exempt from the requirements of this section as stated below:
- 1) Exceptions to subsections (2)(c)(1) through (5) of this section; provided, that a temporary certificate of occupancy from the Planning and Building Department is obtained:
 - a) Outdoor Christmas tree lots and fireworks stands if these uses will not exceed 30 days.
 - b) Outdoor amusement rides, carnivals and circuses, and parking lot sales which are ancillary to the indoor sale of the same goods and services if these uses will not exceed seven (7) days.
 - 2) See KZC 95.43 for exceptions to subsections (2)(c)(1) and (2)(c)(2) of this section.
- e. Modification – The applicant may request a modification of the requirements of subsections (b) through (d) of this section by submitting a written request with their site plan to the Planning and Building Department for review. The Planning Official may approve a modification if:
- 1) The modification will not create a greater impact on any nearby residential use than would be created without the modification; and
 - 2) The modification will not detract from the character of nearby uses; and
 - 3) The modification will not be injurious to public health, safety or welfare; and
 - 4) The modification complies with the Comprehensive Plan.
- f. Appeals of Outdoor Use, Activity and Storage Modification Requests
- 1) Who Can Appeal – Any person who is aggrieved by a determination regarding a modification for outdoor use, activity or storage may appeal that determination at any time.
 - 2) How To Appeal – The applicant must file a letter of appeal indicating how the determination affects his/her property and present any relevant arguments or information on the correctness of the determination. The applicant shall include the appeals fee as established by ordinance.

3) Applicable Procedures – All appeals and determinations of this chapter will be reviewed and decided upon using Process IIA described in Chapter 150 KZC.

(Ord. 4491 § 3, 2015; Ord. 4476 § 3, 2015; Ord. 4238 § 2, 2010; Ord. 4010 § 3, 2005; Ord. 3858 § 1, 2002)

162.55 Special Provisions for Continued Uses – Lot Coverage

As used in this chapter, the term “continued use” shall mean an existing lawful use of land (and structures) which became nonconforming as to use solely as a result of this amendatory Ordinance No. 2347 or which becomes nonconforming solely as a result of the maximum lot coverage provision of this code, Ordinance No. 2678, effective on October 2, 1982.

A continued use shall be permitted to exist as a lawful use subject only to the following conditions:

1. Any change in use shall conform to the Comprehensive Plan and zoning regulations in effect at the time such change is made.
2. Ordinary repairs and maintenance may be carried out consistent with the provisions of this chapter; provided, that there shall be no limitation on the amount or cost of such repairs and maintenance.
3. A continued use shall be not be subject to the provisions of this chapter relating to destruction by fire or other casualty. In the event a structure so designated as a continued use is destroyed to any extent by fire or other casualty, the structure may be rebuilt; provided, however, that the gross floor area of the structure and major exterior dimensions of the structure shall not exceed the same dimensions or standards of the previous structure. This provision shall not reduce any requirements of the building or fire codes in effect when such structure may be rebuilt.

The provisions of this section shall only be available if any application for a building permit is filed within 12 months of such fire or other casualty and construction is commenced and completed in conformance with the provisions of the building code then in effect.

4. A continued use shall be subject to the provisions of this chapter relating to the abandonment of structure or use.
5. The owner of a continued use may request the issuance of a “certificate of continued use” which shall identify the property, existing use, density and site

characteristics for which the certificate is issued and which shall include the provisions of this chapter.

115.115 Required Yards

1. **General** – This section establishes what structures, improvements, and activities may be in or take place in required yards as established for each use in each zone in Chapters 15 through 56 KZC.
2. **Exceptions and Limitations in Some Zones** – Chapters 15 through 56 KZC contain specific regulations regarding what may be located in required yards. Chapter 83 KZC contains specific regulations regarding what may be located in the required shoreline setback. Where applicable, those specific regulations supersede the provisions of this section.
3. **Structures and Improvements** – No improvement or structure may be in a required yard except as follows:
 - a. A driveway and/or parking area subject to the standards of KZC 115.115(5).
 - b. Any improvement or structure, other than a driveway and/or parking area, that is not more than four (4) inches above finished grade may be anywhere in a required setback yard; provided, that minor utility structures such as transformers, telephone poles, guide wires, and electrical boxes may be located anywhere within a required setback if there is no feasible location within the public right-of-way and prior approval of the City is obtained; and provided further, that any franchise agreement between the City and a utility company shall supersede this section. A bridge is allowed anywhere in a required setback yard regardless of its height above finished grade.
 - c. An improvement or structure that is not more than 18 inches above finished grade may extend not more than five (5) feet into a required yard.
 - d. Chimneys, bay windows, greenhouse windows, eaves, cornices, awnings, and canopies may extend up to 18 inches into any required yard, subject to the limitations of this section. Eaves on bay windows may extend an additional 18 inches beyond the bay window. The total horizontal dimension of the elements that extend into a required yard, excluding eaves and cornices, may not exceed 25 percent of the length of the facade of the structure. Except for properties located within the disapproval jurisdiction of the Houghton Community Council, chimneys, bay windows, greenhouse windows, cornices, awnings, and/or canopies attached to dwelling units and their accessory structures located in low density zones in which the floor area ratio regulations of KZC 115.42 apply may not extend closer than four (4) feet to any property line. See Plate 10.

- e. Minor improvements such as garden sculpture, light fixtures, trellises and similar decorative structures may be located in required yards if it is determined by the Planning Official that they will not have any substantial detrimental effect on abutting properties or the City as a whole.
- f. Fences and railings may be located in required yards subject to the fence regulations contained within this chapter.
- g. Rockeries and Retaining Walls

- 1) Rockeries and retaining walls may be a maximum of four (4) feet high in a required yard.

The Planning Official may approve a modification to that height limit if it is necessary because of the size, configuration, topography or location of the subject property, and either:

- a) The design of the rockery or retaining wall includes terraces deep enough to incorporate vegetation, or other techniques that reduce the visual mass of the wall; or
- b) The modification will not have any substantial detrimental effect on abutting properties or the City as a whole.

- 2) The combined height of fences and retaining walls within five (5) feet of each other in a required yard may be a maximum of six (6) feet.

The Planning Official may approve a modification to the combined height limit for fences and retaining walls if:

- a) An open guard railing is required by the Building Code and the height of the guard railing does not exceed the minimum required; or
- b) The modification is necessary because of the size, configuration, topography or location of the subject property, and either:
 - i. The design of the rockery or retaining wall includes terraces deep enough to incorporate vegetation or other techniques that reduce the visual mass of the wall, and the fence is designed to be no more than 50 percent solid; or
 - ii. The modification will not have any substantial detrimental effect on abutting properties or the City as a whole.

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- h. Improvements associated with shoreline public use and access areas may be located in any required yard and the shoreline setback. The landward end of a pier may be located in the shoreline setback.
- i. See subsection (5) of this section for regulations on parking areas.
- j. Those structures and improvements permitted in required yards by KZC 115.105.
- k. Signs may be located in required yards subject to KZC 100.75 and 115.135.
- l. Covered walkways in commercial, office, and industrial zones may be permitted in required yards. Covered walkways may be no more than eight (8) feet wide and 10 feet tall and may not be enclosed along the sides.
- m. For uses in low density residential zones, and for residential uses in other zones, the applicant may request a modification to locate no more than one (1) storage shed in a required yard; provided, that no storage sheds are allowed in a required front yard. The Planning Official may approve a modification if:
- 1) The proposed structure is no more than eight (8) feet tall; and
 - 2) The maximum length of the side of the proposed structure parallel to the affected property line(s) shall not exceed 10 feet. The structure shall not exceed 120 square feet in total area; and
 - 3) No reasonable alternative location may be found due to special circumstances regarding the size, shape, topography, or location of the subject property or the location of legal or legally nonconforming preexisting improvements of the subject property; and
 - 4) The modification will not create a significant negative impact on the character of nearby residential properties.
- If approved, the Planning Official may require the storage shed to be screened by a solid screening fence or dense vegetation.
- The decision of the Planning Official in approving or denying a modification for a storage shed may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110.
- n. In residential zones, covered entry porches on dwelling units may be located within 13 feet of the front property line, if:

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- 1) The porch is covered and no higher than one (1) story and the finished floor of the porch is no more than four (4) feet above finished grade;
- 2) Three (3) sides of the porch are open;
- 3) The porch roof form is architecturally compatible with the roof form of the dwelling unit to which it is attached;
- 4) No deck, balcony, or living area is placed on the roof of the porch within the required front yard;
- 5) If on attached or stacked dwelling units, the width of the porch does not exceed 50 percent of the facade to which it is attached;
- 6) Allowed exceptions to the above criteria are:
 - a) Solid walls or railings may extend up to 42 inches above the porch floor;
 - b) Eaves on the porch roof may extend an additional 18 inches into the required front yard;
 - c) Stairs may extend an additional five (5) feet into the required front yard.

For the purpose of this section, covered parking areas or driveways shall not be considered an entry porch.

This subsection (KZC 115.115(3)(n)) is not effective within the disapproval jurisdiction of the Houghton Community Council.

- o. In low density residential zones:
 - 1) Detached garages, including second story uses, utilizing an alley for their primary vehicular access may be located within five (5) feet of the rear property line, if:
 - a) Garage doors will not extend over the property line when open; and
 - b) The garage complies with KZC 115.135, which regulates sight distance at intersections.
 - 2) Detached garages, including second story uses, utilizing an alley for their primary vehicular access may extend to the rear property line, if:

- a) The lot is 50 feet wide at the rear property line on the alley;
 - b) The garage has side access with garage doors that are perpendicular to the alley;
 - c) The garage eaves do not extend over the property line; and
 - d) The garage complies with KZC 115.135, which regulates sight distance at intersections.
- 3) Garages without alley access may be located within five (5) feet of the rear property line; provided, that:
- a) The portion of the structure that is located within the required rear yard is no taller than 15 feet above average building elevation; and
 - b) The rear yard does not abut an access easement that is regulated as a rear property line.
- p. HVAC and similar types of mechanical equipment may be placed no closer than five (5) feet to a side or rear property line, and shall not be located within a required front yard; provided, that such equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC and similar types of mechanical equipment shall be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95. ← Also see Section 115.120.5 concerning alternative locations for mechanical equipment.
- q. Insulation, installed in or on an existing structure, may encroach eight (8) inches into a required yard unless precluded by fire or building codes.
4. Outdoor Uses, Activities and Storage – For regulations on outdoor uses, activities and storage, see KZC 115.105.
5. Driveways and Parking Areas – Driveways and parking areas are not allowed in required yards except as follows:
- a. Detached Dwelling Units, Duplexes, and Two-Unit Homes and Three-Unit Homes Approved Under Chapter 113 KZC
 - 1) General – Vehicles may be parked in the required front, rear, and north ~~property line yards~~ or if parked on a driveway and/or parking area. For the purpose of this section, vehicles are limited to those devices or contrivances

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which can carry or convey persons or objects and which are equipped as required by federal or state law for operation on public roads. A driveway and/or parking area shall not exceed 20 feet in width in any required front yard, and shall be separated from other hard-surfaced areas located in the required front yard by a landscape strip at least five (5) feet in width. This landscape strip may be interrupted by a walkway or pavers providing a connection from the driveway to other hard-surfaced areas, as long as such walkway or pavers cover no more than 20 percent of the landscape strip. A driveway and/or parking area located in a required front yard shall not be closer than five (5) feet to any side property line (see Plate 14); provided:

- a) That where access to a legally established lot is provided by a panhandle or vehicle access easement measuring less than 20 feet in width, a driveway not exceeding 10 feet in width, generally centered in the panhandle or access easement, shall be permitted (see Plate 14A); and
 - b) That for flag lots, a 5-foot setback is not required from any side property line that abuts a neighboring lot that was part of the same plat.
 - c) That any driveway which generally parallels a right-of-way or easement road shall be set back at least five (5) feet from the right-of-way or easement, except for a 20-foot-wide section where the driveway connects with the right-of-way or easement. Such driveway shall not have a width of more than 10 feet within the front or rear yard (see Plate 14B) and shall be separated from other hard-surfaced areas located in the front or rear yard by a landscape strip at least five (5) feet in width. Where more than one (1) driveway is permitted within a front or rear yard, those driveways shall be separated by a landscape strip at least five (5) feet in width.
- 2) Exception – Driveways and/or parking areas may exceed 20 feet in width if:
- a) The driveway/parking area serves a 3-car garage; and
 - b) The subject property is at least 60 feet in width; and
 - c) The garage(s) is (are) located no more than 40 feet from the front property line; and

- d) The driveway/parking area flares from 20 feet at the property line to a maximum of 30 feet in width.
- 3) The Planning Official may approve a modification to the driveway and/or setback requirements in subsection (5)(a)(1) of this section if:
 - a) The existing topography of the subject property or the abutting property decreases or eliminates the need for the setback; or
 - b) The location of pre-existing improvements or vegetation on the abutting site eliminates the need for or benefit of a setback; and
 - c) The modification will not have any substantial detrimental effect on abutting properties or the City as a whole.
- b. Attached and Stacked Dwelling Units (Except Duplexes) and Assisted Living Facilities in Residential Zones
 - 1) Vehicle parking areas shall have a minimum 20-foot setback from all front property lines and meet the minimum required setbacks from all other property lines for that use.
 - 2) Driveways shall have a minimum 5-foot setback from all property lines, except for the portion of any driveway which connects with an adjacent street.
 - c. Vehicle parking areas for schools and day-care centers greater than 12 students shall have a minimum 20-foot setback from all property lines.
 - d. Other Uses – Parking areas and driveways for uses other than those addressed in subsections (5)(a), (b), and (c) of this section may be located within required setback yards, but, except for the portion of any driveway which connects with an adjacent street, not closer than five (5) feet to any property line. Where this provision conflicts with a regulation of a specific zone, the regulation of the specific zone shall govern.
 - e. Shared Parking and Shared Driveways – If a parking area or driveway serves two (2) adjacent uses, the shared parking area or driveway may be anywhere in the required setback yard between the uses.
 - f. Exceptions for Projects Requiring Design Review – If a project is reviewed through design review pursuant to Chapter 142 KZC, the driveway shall comply

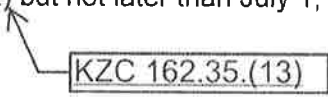
with parking area location and design requirements as determined by the Design
Review Board.

(Ord. 4476 § 3, 2015; Ord. 4437 § 1, 2014; Ord. 4372 § 1, 2012; Ord. 4350 § 1, 2012; Ord. 4252 § 1, 2010;
Ord. 4121 § 1, 2008; Ord. 4120 § 1, 2007; Ord. 4072 § 1, 2007; Ord. 4065 § 1, 2006; Ord. 3954 § 1, 2004;
Ord. 3852 § 1, 2002; Ord. 3814 § 1, 2001)

115.138 Temporary Storage Containers

1. The temporary outdoor use of storage, moving, shipping, or freight containers, including but not necessarily limited to ISO (International Shipping Organization) standard containers, is permitted in all zones if accessory to a permitted use. Containers shall be considered temporary if they do not require a building, electrical, plumbing or mechanical permit, and are not secured, or required to be secured, to a permanent foundation. If the use of a temporary storage container is associated with the construction or remodel of a building, the container shall be removed prior to final inspection approval or issuance of a certificate of occupancy for the building. In all other cases, the container may remain on site for a period not to exceed 14 days.
2. An existing temporary storage container may not be replaced unless the replacement temporary storage container complies fully with these regulations.
3. Any temporary storage container existing on or before the effective date of these regulations shall be removed subject to ~~KZC 162.35(12)~~ but not later than July 1, 2021.

(Ord. 4196 § 1, 2009; Ord. 3852 § 1, 2002)

KZC 162.35.(13)

Chapter 140 – AMENDMENTS TO THE COMPREHENSIVE PLAN

Sections:

- 140.05 User Guide
- 140.10 Applicable Process
- 140.15 Initiation of Proposals
- 140.20 Threshold Determination for Citizen-Initiated Proposals ← Requests
- 140.25 Factors to Consider in Approving an Amendment to the Comprehensive Plan
- 140.30 Criteria for Amending the Comprehensive Plan
- 140.35 Emergency Plan Amendment
- 140.40 Response to a Court or Growth Management Hearings Board Appeal or Decision
- 140.45 Responsibility To Review

140.05 User Guide

This chapter establishes a mechanism for the City to amend the Comprehensive Plan, Title 17 of the Kirkland Municipal Code. If you are interested in proposing an amendment to the Comprehensive Plan, or if you want to participate in the decision on a proposed amendment, you should read this chapter.

(Ord. 3975 § 2, 2004)

140.10 Applicable Process

The City will use Process IV described in Chapter 160 KZC to review and decide upon a proposal to amend the Comprehensive Plan.

A proposal to amend the Shoreline Area Chapter of the Comprehensive Plan requires formal review and approval by the Washington State Department of Ecology as described in Chapter 160 KZC.

(Ord. 4303 § 1, 2011; Ord. 3975 § 2, 2004)

140.15 Initiation of Proposals

An amendment to the Comprehensive Plan may be initiated by the City or by the public.

(Ord. 3975 § 2, 2004)

140.20 Threshold Determination for Citizen-Initiated Proposals ← Requests

1. General – The Planning and Building Department can establish a deadline for submitting citizen-initiated proposals. Applicants will be required to submit an

↑
requests

application, a review fee and any other pertinent information determined necessary to consider the request. The citizen-initiated proposals shall only be considered in conjunction with the City's regular review of the Comprehensive Plan described in KZC 140.45.

requests

2. Process – Citizen-initiated proposals require a 2-step review process using Process IV described in Chapter 160 KZC:

- a. A threshold review to determine those proposals that are eligible for further consideration; and
- b. A final decision.

3. Criteria – The City shall use the following criteria in selecting proposals for further consideration. Proposals must meet subsection (3)(a) of this section, and either subsection (3)(b) or (3)(c) of this section:

- a. The City has the resources, including staff and budget, necessary to review the proposal; and
- b. The proposal would correct an inconsistency within or make a clarification to a provision of the Comprehensive Plan; or
- c. All of the following:
 - 1) The proposal demonstrates a strong potential to serve the public interest by implementing specifically identified goals and policies of the Comprehensive Plan; and
 - 2) The public interest would best be served by considering the proposal in the current year, rather than delaying consideration to a later neighborhood plan review or plan amendment process; and
 - a) The proposal is located in a neighborhood for which a neighborhood plan has not been recently adopted (generally not within two (2) years); and
 - b) The proposal is located in a neighborhood for which a neighborhood plan will not be reviewed in the near future (generally not in the next two (2) years).

(Ord. 4491 § 3, 2015; Ord. 3975 § 2, 2004)

140.25 Factors to Consider in Approving an Amendment to the Comprehensive Plan

For both City and citizen-initiated amendments, the City shall take into consideration, but is not limited to, the following factors when considering approval of a proposed amendment to the Comprehensive Plan:

1. The effect upon the physical, natural, economic, and/or social environments.
2. The compatibility with and impact on adjacent land uses and surrounding neighborhoods.
3. The adequacy of and impact on public facilities and services, including utilities, roads, public transportation, parks, recreation, and schools.
4. The quantity and location of land planned for the proposed land use type and density.
5. The effect, if any, upon other aspects of the Comprehensive Plan.

(Ord. 3975 § 2, 2004)

140.30 Criteria for Amending the Comprehensive Plan

The City may amend the Comprehensive Plan only if it finds that:

1. The amendment must be consistent with the Growth Management Act.
2. The amendment must be consistent with the countywide planning policies.
3. The amendment must not be in conflict with other goals, policies, and provisions of the Kirkland Comprehensive Plan.
4. The amendment will result in long-term benefits to the community as a whole, and is in the best interest of the community.
5. When applicable, the proposed amendment must be consistent with the Shoreline Management Act and the City's adopted shoreline master program.

(Ord. 4303 § 1, 2011; Ord. 3975 § 2, 2004)

140.35 Emergency Plan Amendment

1. General – The City may initiate an emergency plan amendment to the Comprehensive Plan outside of the annual plan amendment process. An emergency amendment is an amendment necessary for the immediate protection of public health, safety, property or peace.

2. Process

- a. The City Council shall hold a public hearing using the process described in KZC 160.40 for notice; KZC 160.45 for staff report; KZC 160.55, 160.65 and 160.70 for public hearing; and KZC 160.90 for publication and effect.
- b. The Planning Official shall notify the Planning Commission in writing about the proposed emergency amendment at least 14 days before the public hearing. If the amendment is within the jurisdiction of the Houghton Community, the Houghton Community Council shall also be notified.
- c. If the proposed amendment is within the jurisdiction of the Houghton Community Council, the Houghton Community Council shall hold a joint hearing with the City Council.
- d. The City Council shall adopt an emergency plan amendment by an appropriate resolution or ordinance that includes a statement of the facts justifying the emergency.
- e. If the City Council approves a resolution or ordinance, it shall become effective within the jurisdictional area of the Houghton Community Council only upon:
 - 1) Approval by a majority of the entire membership of the Houghton Community Council. Such approval shall be by resolution; or
 - 2) Failure of the Houghton Community Council to disapprove the resolution ordinance within seven calendar days after City Council approval. The vote to disapprove the resolution or ordinance must be approved by resolution by a majority of the entire membership of the Community Council.

(Ord. 4072 § 1, 2007; Ord. 3975 § 2, 2004)

140.40 Response to a Court or Growth Management Hearings Board Appeal or Decision

The City may use the process described in KZC 140.35 to make an amendment to the Comprehensive Plan in response to a court or Growth Management Hearings Board appeal or decision.

(Ord. 3975 § 2, 2004)

162.35 Certain Nonconformances Specifically Regulated

1. General – The provisions of this section specify when and under what circumstances certain nonconformances must be corrected. If a nonconformance must be corrected under this section, the applicant must submit all information necessary for the City to review the correction as part of the application for any development permit. In addition, the City will not permit occupancy until the correction is made.

If KZC 162.25 applies to a specific nonconformance, then the provisions of this section do not apply to that same nonconformance.

2. Nonconforming Use

a. For the purpose of determining a nonconforming use, the word “use” refers to the specific activity being conducted and not the definition of use set forth in KZC 5.10.955. A nonconforming use may be continued by successive owners or tenants.

b. Any nonconforming use except for a detached dwelling unit must be brought into conformance or discontinued if:

- 1) The applicant is making a structural alteration or increasing the gross floor area of any structure that houses or supports the nonconforming use; or
- 2) The nonconforming use has ceased for 90 or more consecutive days; or
- 3) The nonconforming use is replaced by another use; the City may allow a change from one (1) nonconforming use to another such use if, through Process IIA, the City determines that the proposed new use will not be more nonconforming and will have a less adverse effect on the neighborhood than does the existing use.

3. Expansion or Modification of an Existing Use or Structure or the Addition of New Structures

If the expansion or modification of an existing use or structure or the addition of a new structure(s) requires review of the application by any one (1) of the processes described in Chapters 145 through 152 KZC, the proposal shall be reviewed pursuant to such process; unless:

a. The gross floor area of the use is expanded by less than 10 percent; and

- b. The Planning Director determines that the change or alteration will not have significantly more or different impact on the surrounding area than does the present development.
4. Nonconforming Parking
 - a. If there are fewer parking spaces for the uses conducted on the subject property than are required under this code, this additional required number of spaces must be provided if the applicant is going to change the use conducted on the subject property and the new use requires more parking spaces than the former use.
 - b. Existing parking stalls which conformed to the code effective at the time of construction are not required to meet the parking area dimensional requirements of Chapter 180 KZC, Plates 1 through 4.
5. Nonconforming Signs
 - a. All nonconforming signs are defined as either major nonconforming signs or minor nonconforming signs.
 - 1) Major nonconforming signs include the following:
 - a) Any pole sign associated with a pole which is not entitled to Sign Category F.
 - b) Any pole sign which exceeds 20 feet or monument sign which exceeds 12 feet in height above average ground elevation.
 - c) Any sign attached to the building and which extends above the building roofline.
 - d) Any projecting sign except those allowed by KZC 100.115.
 - e) Any sign listed as a prohibited device by KZC 100.85.
 - f) Any sign which has exposed structural supporting elements such as angle irons, guy wires and braces.
 - g) Any sign located off-site which does not meet the provisions of KZC 100.75.
 - 2) Minor nonconforming signs are those, other than listed above in subsection (1) of this section, which violate any provision of the Zoning Code.

- b. Nonconforming signs must be brought into conformance as specified below:
- 1) Notwithstanding the provisions of KZC 162.30, any major nonconforming sign must be brought into conformance if:
 - a) Structural alteration is made to the sign; or
 - b) The color, design, lettering or shape of the sign is altered. Change in temporary message on a readerboard is excluded from this requirement; or
 - c) Structural alteration or an increase in the gross floor area is made to any structure that houses or supports the use that has the major nonconforming sign.
 - 2) In addition to the provisions of subsection (5)(b)(1) of this section, any major nonconforming sign by subsection (5)(a)(1)(g) of this section shall be brought into conformance or removed within 18 months after the effective date of this subsection, or within 18 months after the effective date of annexation of the location at which the sign is erected, whichever is later.

Nothing in this subsection shall relieve the property owner and owner of the sign of the duty to immediately remove such sign if it was not erected in compliance with federal, state and local law, or if it does not meet the requirements to be a nonconforming sign.

Nonconforming signs may remain in a nonconforming state for a greater period of time than the amortization period provided above if such extension is applied for no later than six (6) months prior to the otherwise applicable deadline. The Hearing Examiner, through Process IIA, Chapter 150 KZC, may grant discretionary extensions of the amortization period a maximum of two (2) times for up to three (3) years at a time. In addition to the criteria listed in KZC 150.65(2), the Hearing Examiner shall consider the following criteria in making this decision:

- a) Any hazard to traffic or pedestrian safety.
- b) The detriment to the appearance of a neighborhood, or the impinging upon a view of scenic interest.
- c) The demonstration of need for an even greater depreciation period, such as because the date of erection of the billboard was less than four

(4) years and more than six (6) months before the annexation. However, it is not the intent of this provision that the nonconformance necessarily be allowed to remain for the length of amortization period satisfactory to the applicant.

- 3) Nonconforming signs must be brought into conformance or removed immediately if there is a change in land use or change in business name on the sign structure or ownership of the sign.
- 4) Nothing in this section shall relieve the owner or user of a nonconforming sign or owner of the property on which the nonconforming sign is located from the provisions of this code regarding safety, maintenance, and repair of signs.
- 5) Notwithstanding the provisions of KZC 162.30, any minor nonconforming sign must be brought into complete conformance when either:
 - a) The fair market value of any nonstructural alteration (such as color, design) of the sign exceeds 35 percent of the replacement value of that sign (change in temporary message on a readerboard is excluded from this requirement); or
 - b) Structural alteration is made to the sign. In such event, the applicant must sign and record a concomitant agreement to run as a covenant with the property, in a form acceptable to the City Attorney. Said agreement shall describe the minor nonconforming elements involved and state that they will be brought into conformance within 10 years of the date of issuance of the building or sign permit. The applicant shall also grant to the City license to enter the property and shall also sign an agreement to reimburse the City for the cost of removing the sign(s) if, after the specified time, the prescribed minor nonconforming element(s) is not brought into conformance; or
 - c) Structural alteration or an increase is made to the gross floor area of any structure that houses or supports the use that has the minor nonconforming sign.
- c. Any sign which can be classified as both a major nonconforming sign and a minor nonconforming sign shall be regulated as a major nonconforming sign.
- d. Exception for Repair and Maintenance

Repair and maintenance work to any nonconforming sign is excepted from the provisions of this chapter, subject only to the following:

- 1) The repair or maintenance work will not increase the degree or magnitude of nonconformance.
- 2) If the repair or maintenance work requires a building or sign permit, the applicant must sign and record a concomitant agreement to run as a covenant with the property, in a form acceptable to the City Attorney. Said agreement shall describe the minor nonconforming elements involved and state that they will be brought into conformance within 10 years of the date of issuance of the building or sign permit. The applicant shall also grant to the City license to enter the property and shall also sign an agreement to reimburse the City for the cost of removing the sign(s) if, after the specified time, the prescribed minor nonconforming element(s) is not brought into conformance.
- 3) For purposes of this section, "repair" shall mean the work that is necessary to restore a sign to its former appearance subsequent to a sudden, accidental event.

6. Nonconforming Landscaping, Buffers and Paving

- a. See KZC 95.47 for nonconforming landscaping and buffering requirements.
- b. Parking lot surfaces must be brought into conformance in any of the following situations:
 - 1) An increase in gross floor area of any use except detached dwelling units; or
 - 2) A change in use on the subject property and the new use requires more parking than the former use; or
 - 3) An alteration to any structure, the cost of which exceeds 50 percent of the replacement cost of the structure.

7. Nonconforming Height, Yards, and View Corridors

Any structural alteration of a roof or exterior wall which does not comply with height, required yard, or view corridor standards will require that the nonconforming height, setback or view corridor be brought into conformance. Excepted from this section is

the repair or maintenance of structural members. For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

8. Nonconformances to Design Regulations in Design Districts

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

9. Personal Wireless Service Facilities

KZC 117.20

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

10. Vehicular Access Easement or Tract Standards

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

11. Nonconforming Paddock Areas

a. Paddock areas as required under KZC 115.20 must be brought into conformance if a proposed alteration or replacement of an existing dwelling unit on the subject property in any 12-month period exceeds 50 percent of the replacement cost of that dwelling unit.

b. See KZC 162.45, Prohibition on Increasing Nonconformance, for proposed modifications, alterations, or replacements of any other improvements on the subject property.

12. Nonconforming Density – Multifamily Structures in Multifamily Zones

Within areas designated by the Zoning Code for multifamily use, a structure with nonconforming density may be maintained, repaired, remodeled or redeveloped consistent with other provisions of this chapter; provided, that the density within the structure is no greater than the density contained in the structure prior to maintenance, repair, remodeling or redevelopment and that any expansion of the structure complies with all applicable zoning regulations.

13. Any Other Nonconformance

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

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

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

(Ord. 4399 § 1, 2013; Ord. 4252 § 1, 2010; Ord. 4238 § 2, 2010; Ord. 4193 § 1, 2009; Ord. 4097 § 1, 2007; Ord. 4037 § 1, 2006; Ord. 4030 § 1, 2006; Ord. 4010 § 3, 2005; Ord. 3972 § 1, 2004; Ord. 3954 § 1, 2004; Ord. 3889 § 2, 2003; Ord. 3833 § 1, 2002; Ord. 3814 § 1, 2001)

162.55 Special Provisions for Continued Uses – Lot Coverage

As used in this chapter, the term "continued use" shall mean an existing lawful use of land (and structures) which became nonconforming as to use solely as a result of this amendatory Ordinance No. 2347 or which becomes nonconforming solely as a result of the maximum lot coverage provision of this code, Ordinance No. 2678, effective on October 2, 1982.

A continued use shall be permitted to exist as a lawful use subject only to the following conditions:

1. Any change in use shall conform to the Comprehensive Plan and zoning regulations in effect at the time such change is made.
2. Ordinary repairs and maintenance may be carried out consistent with the provisions of this chapter; provided, that there shall be no limitation on the amount or cost of such repairs and maintenance.
3. A continued use shall be not be subject to the provisions of this chapter relating to destruction by fire or other casualty. In the event a structure so designated as a continued use is destroyed to any extent by fire or other casualty, the structure may be rebuilt; provided, however, that the gross floor area of the structure and major exterior dimensions of the structure shall not exceed the same dimensions or standards of the previous structure. This provision shall not reduce any requirements of the building or fire codes in effect when such structure may be rebuilt.

The provisions of this section shall only be available if any application for a building permit is filed within 12 months of such fire or other casualty and construction is commenced and completed in conformance with the provisions of the building code then in effect.

4. A continued use shall be subject to the provisions of this chapter relating to the abandonment of structure or use.
5. The owner of a continued use may request the issuance of a "certificate of continued use" which shall identify the property, existing use, density and site characteristics for which the certificate is issued and which shall include the provisions of this chapter.

PUBLICATION SUMMARY
OF ORDINANCE O-4650

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND MAKING NONSUBSTANTIVE CHANGES TO THE KIRKLAND ZONING CODE (ORDINANCE 3719 AS AMENDED) SUCH AS TO CORRECT TYPOGRAPHICAL ERRORS, UNINTENTIONAL MISTAKES AND CHANGES IN DEPARTMENTS.

SECTION 1. Amends Kirkland Zoning Code Chapters 5, 40, 70, 95, 112, 115, 140, and 162.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. 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 five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 3rd day of July, 2018.

I certify that the foregoing is a summary of Ordinance O-4650 approved by the Kirkland City Council for summary publication.



Anja Mullin, Deputy City Clerk