

ORDINANCE NO. 2904 . . . .

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING AND LAND USE AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE.

Whereas, the City Council has received from the Kirkland Planning Commission a recommendation to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 2740 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated September 5, 1985 and bearing Kirkland Department of Planning and Community Development File No. IV-85-40; and

Whereas, prior to making said recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, on September 5, 1985, held a public hearing on the amendment proposals and considered the comments received at said hearing; and

Whereas, pursuant to the State Environmental Policies Act there has accompanied the legislative proposal and recommendation through the entire consideration process, a final determination of non-significance (including supporting environmental documents) issued by the responsible official pursuant to WAC 197-11-340 and WAC 197-11-390; and

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

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 2740 as amended, the Kirkland zoning ordinance, be and they hereby are amended to read as follows:

325. Floor - The horizontal surface inside a structure designed and intended for human use and occupancy, excluding parking areas.
495. Major Stream - All of the following: Forbes Creek, Juanita Creek, Cochran Creek, ~~Everest-Creek~~-and Yarrow Creek.
595. Office Zones - The following zones: PO; PR 5.0, PR 3.6, PR 2.4; PR 1.8; PLA 3; PLA 5 B, C; PLA 6 B, D; PLA 10; PLA 11; PLA 13B; ~~FC-I; FC-II; FC-III.~~
622. Outdoor Storage - Any material, including items for storage or sale, lease, processing and repair (including vehicles) not in an enclosed ~~building~~ structure.
720. Property Line - Those lines on the King County Assessor's Map enclosing a lot and those lines defining a recorded vehicular access easement. The following are categories of property lines:
1. Front property line is any property line that is adjacent to a street or easement more than 20 feet or more in width.
  2. Rear property line is any property line that is farther from and essentially parallel to each a front property line except on a lot which contains two or more front property lines; and or any property line that is adjacent to a street or easement-less-than 20 feet or less in width.
  3. Side property line is any property line other than a front property line or a rear property line.
  4. North property line is the property line running essentially east to west at the northern end of the lot.
  5. South property line is the property line running essentially east to west at the southern end of the lot.
  6. High Waterline - this term is defined separately in this Chapter.
767. Regulated Slope - An average slope of 15% or greater when measured between any two five-foot contour intervals (see Plate 15).

768. Regulated Wetland - A wetland that serves one or more of the following: serves significant biological functions; serves significant drainage and sedimentation functions; shields other areas from wave action, erosion or storm damage; serves as valuable storage area for storm and flood waters; is a prime natural recharge area; serves significant water purification functions. Although a site specific wetland may not meet the criteria described above, it will be considered a regulated wetland if it is functionally related to another wetland that meets the criteria.
785. Residential Zone - The following zones: RS 35; RS 12.5; RS 8.5; RS 7.2; RS 5.0; RM 3.6; RM 2.4; RM 1.8; WD-I; WD-II; WD III; PLA 2; PLA-3; PLA 5 A, D, E; PLA 6 A, B, C, D, E, F, G, I, J, K; PLA 7 A, B, C; PLA 9; PLA 15 A; and PLA 15 B.
787. Regulated-Slope---An average slope of 15% or greater when measured between any two five-foot contour intervals-(see-Plate-15).
788. Regulated-Wetland---A wetland that serves one or more of the following:--serves significant biological functions;--serves significant drainage and sedimentation functions;--shields other areas from wave action, erosion or storm damage;--serves as valuable storage area for storm and flood waters;--is a prime natural recharge area;--serves significant water purification functions.--Although a site specific wetland may not meet the criteria described above,--it will be considered a regulated wetland if it is functionally related to another wetland that meets the criteria.
790. Restaurant or Tavern - Commercial use (excluding fast food restaurants) which sells prepared food and or beverages and generally offers accommodations for consuming the food or beverage on the premises.
795. Retail Establishment - A commercial enterprise which provides goods or services directly to the consumer; and whose goods are available for immediate purchase and removal from the premises by the purchaser; and or whose service are traditionally not permitted within an office use.
860. Significant Trees - Any evergreen tree of six (6) eight (8) inches in diameter or greater, and any deciduous tree, other than red alder and cottonwood trees, twelve (12) inches in diameter or greater, measured one foot above the root crown; other than red alder and cottonwood trees.

Direction

FIRST, read down to find USE... THEN, across for REGULATIONS.

USE ZONE CHART

Zone  
RS

Section  
15.10.a

USE	REGULATIONS	REQUIRED REVIEW PROCESS	LOT SIZE	MINIMUMS			MAXIMUMS			LANDSCAPE CATEGORY	SIGN CATEGORY	REQUIRED PARKING SPACES	SPECIAL REGULATIONS
				REQUIRED YARDS			LOT COVERAGE	HEIGHT OF STRUCTURE					
				FRONT	SIDE	REAR							
Detached Dwelling Unit		None	As established on the Zoning Map. See Special Regulation #1	20'	5', but 2 side yards must equal at least 15 feet.	10'	50%	25' above average building elevation.	E	A	2.0 per dwelling unit.	<ol style="list-style-type: none"> <li>Minimum lot size per dwelling unit is as follows:                             <ol style="list-style-type: none"> <li>In RS 35 Zones, the minimum lot size is 35,000 square feet.</li> <li>In RS 12.5 Zones, the minimum lot size is 12,500 square feet.</li> <li>In RS 8.5 Zones, the minimum lot size is 8,500 square feet.</li> <li>In RS 7.2 Zones, the minimum lot size is 7,200 square feet.</li> <li>In RS 5.0 Zones, the minimum lot size is 5,000 square feet.</li> </ol>                             In RS 35, 12.5, 8.5, and 7.2 Zones, not more than one dwelling unit may be on each lot, regardless of the size of the lot.                         </li> <li>Chapter 115 contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.</li> <li>Refer to Chapter 1 to determine what other provision of this Code may apply to the subject property.</li> </ol>	
Attached Dwelling Unit. This use is only permitted in an RS 5.0 zone.		Process IIB Chapter 152	5,000 sq ft	20'	5', but 2 side yards must equal at least 15 feet.	10'	50%	25' above average building elevation.	D	A	1.7 per dwelling unit.	<ol style="list-style-type: none"> <li>This use is not allowed at those locations where it is specifically inconsistent with the comprehensive plan.</li> <li>Chapter 115 contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.</li> <li>Any structure's horizontal dimension that is parallel to and within 100 feet of a low density zone may not exceed 50 feet if any part of that structure within 100 feet of the low density zone exceeds 15 feet above average building elevation. See the Section in Chapter 115 entitled <u>Distance Between Structures Regarding Maximum Horizontal Facade Regulation</u> for further details.</li> <li>Refer to Chapter 1 to determine what other provision of this Code may apply to the subject property.</li> </ol>	
Non-Commercial Recreation Area or Club House		Process IIA Chapter 150	As established on the Zoning Map. See Special Regulation #1.	20'	5' but 2 side yards must equal at least 15 feet	10'	50%	25' above average building elevation	C	B	See Section 105.25	<ol style="list-style-type: none"> <li>Minimum lot size per dwelling unit is as follows:                             <ol style="list-style-type: none"> <li>In RS 35 Zones, the minimum lot size is 35,000 square feet.</li> <li>In RS 12.5 Zones, the minimum lot size is 12,500 square feet.</li> <li>In RS 8.5 Zones, the minimum lot size is 8,500 square feet.</li> <li>In RS 7.2 Zones, the minimum lot size is 7,200 square feet.</li> <li>In RS 5.0 Zones, the minimum lot size is 5,000 square feet.</li> </ol> </li> <li>May be permitted only if it will not adversely impact any residential area that it does not serve.</li> <li>Must provide pedestrian access from locations served by the area or clubhouse.</li> <li>Location and site design must minimize the need for parking.</li> <li>Hours of operation may be limited to reduce adverse impact on a residential neighborhood.</li> <li>Any structure's horizontal dimension that is parallel to and within 100 feet of a low density use may not exceed 50 feet if any part of that structure within 100 feet of the low density use exceeds 15 feet above average building elevation. See the Section in Chapter 115 entitled <u>Distance Between Structures Regarding Maximum Horizontal Facade Regulations</u> for further details.</li> <li>Refer to Chapter 1 to determine what other provision of this Code may apply to the subject property.</li> </ol>	

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For other information about parking and parking areas, see Chapter 105.  
 For details of the regulations in this category, see Chapter 100.  
 For information of the regulations in this category, see Chapter 95.  
 For details of what may exceed this height limit, see Chapter 115.  
 For details regarding required yards, see Chapter 115.

**Directions:** FIRST, read down to find USE... THEN, across for REGULATIONS.

**USE ZONE CHART**

Zone <b>PR</b>	Section <b>25.10.a</b>
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USE	REGULATIONS	REQUIRED REVIEW PROCESS	MINIMUMS			MAXIMUMS			LANDSCAPE CATEGORY	SIGN CATEGORY	REQUIRED PARKING SPACES	SPECIAL REGULATIONS
			REQUIRED YARDS			LOT COVERAGE	HEIGHT OF STRUCTURE	STRUCTURE				
			LOT SIZE	FRONT	SIDE							
Detached Dwelling Units		None	5,000 sq ft	20'	5', but 2 side yards must equal at least 15'	10'	50%	If adjoining a low density zone, then 25' above average building elevation. Otherwise, 30' above average building elevation.	E	A	2.0 per unit	<ol style="list-style-type: none"> <li>For this use, only one dwelling unit may be on each lot regardless of lot size.</li> <li>Chapter 115 contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.</li> <li>The required yard of a structure abutting Lake Washington Blvd. or Lake Street South must be increased 2 feet for each 1 foot that structure exceeds 25 feet above average building elevation.</li> <li>Refer to Chapter 1 to determine what other provision of this Code may apply to the subject property.</li> </ol>
Detached, or Attached Dwelling Units		None	7,200 sq ft with a density as established on the Zoning Map. See Special Regulation #1	20'	5', but 2 side yards must equal at least 15'	10'	60%	If adjoining a low density zone, then 25' above average building elevation. Otherwise, 30' above average building elevation.	D	A	1.7 per unit	<ol style="list-style-type: none"> <li>Minimum amount of lot area per dwelling unit is as follows:                             <ol style="list-style-type: none"> <li>In PR 5.0 zones, the minimum lot area per unit is 5,000 sq.ft.</li> <li>In PR 3.6 zones, the minimum lot area per unit is 3,600 sq.ft.</li> <li>In PR 2.4 zones, the minimum lot area per unit is 2,400 sq.ft.</li> </ol> </li> <li>Chapter 115 contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.</li> <li>The subject property must contain at least 200 sq. ft. per unit of common open space suitable for many activities. If the subject property contains six or more units, this required open space must be in one or more pieces each having a length and width of at least 20 feet. In addition, if the subject property contains 30 or more units, at least 50% of this required open space must be in one or more pieces each having a length and width of at least 40 feet.</li> <li>Any structure's horizontal dimension that is parallel to and within 100 feet of a low density zone may not exceed 50 feet if any part of that structure within 100 feet of the low density zone exceeds 15 feet above average building elevation. See the Section in Chapter 115 entitled <u>Distance Between Structures Regarding Maximum Horizontal Facade Regulation</u> for further details.</li> <li>The required yard of a structure abutting Lake Washington Blvd. or Lake Street South must be increased 2 feet for each 1 foot that structure exceeds 25 feet above average building elevation.</li> <li>Refer to Chapter 1 to determine what other provision of this Code may apply to the subject property.</li> </ol>
Stacked Dwelling Units. This use is not permitted in PR(RS 5.0) Zones		None	7,200-sq-ft NONE	20'	5', but 2 side yards must equal at least 15'	10'	70%	If adjoining a low density zone, then 25' above average building elevation. Otherwise, 30' above average building elevation.	C	D	If medical dental, or veterinary office, then one per each 200 sq.ft. gross floor area. Otherwise, one per each 300 sq.ft. of gross floor area	<ol style="list-style-type: none"> <li>Any structure's horizontal dimension that is parallel to and within 100 feet of a low density zone may not exceed 50 feet if any part of that structure within 100 feet of the low density zone exceeds 15 feet above average building elevation. See the Section in Chapter 115 entitled <u>Distance Between Structures Regarding Maximum Horizontal Facade Regulation</u> for further details.</li> <li>The required yard of a structure abutting Lake Washington Blvd. or Lake Street South must be increased 2 feet for each 1 foot that structure exceeds 25 feet above average building elevation.</li> <li>Refer to Chapter 1 to determine what other provision of this Code may apply to the subject property.</li> <li>The following regulations apply to veterinary offices only:                             <ol style="list-style-type: none"> <li>May only treat small animals on the subject property.</li> <li>Outside runs and other outside facilities for the animals are not permitted.</li> <li>Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the development permit application.</li> </ol> </li> </ol>
Office Uses		None	7,200-sq-ft NONE	20'	5', but 2 side yards must equal at least 15'	10'	70%	If adjoining a low density zone, then 25' above average building elevation. Otherwise, 30' above average building elevation.	C	D	If medical dental, or veterinary office, then one per each 200 sq.ft. gross floor area. Otherwise, one per each 300 sq.ft. of gross floor area	<ol style="list-style-type: none"> <li>Any structure's horizontal dimension that is parallel to and within 100 feet of a low density zone may not exceed 50 feet if any part of that structure within 100 feet of the low density zone exceeds 15 feet above average building elevation. See the Section in Chapter 115 entitled <u>Distance Between Structures Regarding Maximum Horizontal Facade Regulation</u> for further details.</li> <li>The required yard of a structure abutting Lake Washington Blvd. or Lake Street South must be increased 2 feet for each 1 foot that structure exceeds 25 feet above average building elevation.</li> <li>Refer to Chapter 1 to determine what other provision of this Code may apply to the subject property.</li> <li>The following regulations apply to veterinary offices only:                             <ol style="list-style-type: none"> <li>May only treat small animals on the subject property.</li> <li>Outside runs and other outside facilities for the animals are not permitted.</li> <li>Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the development permit application.</li> </ol> </li> </ol>

For other information about parking and parking areas, see Chapter 105.  
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**Directions:** FIRST, read down to find USE... THEN, across for REGULATIONS.

**USE ZONE CHART**

Zone  
**PLA 8**  
Section  
**60.45.b**

USE	REGULATIONS	REQUIRED REVIEW PROCESS	MINIMUMS						MAXIMUMS				SPECIAL REGULATIONS
			LOT SIZE	REQUIRED YARDS			LOT COVERAGE	HEIGHT OF STRUCTURE	LANDSCAPE SIGN CATEGORY	REQUIRED PARKING SPACES			
				FRONT	SIDE	REAR							
Restaurant or Tavern	Process IIA Chapter 150	7,200 sq.ft.	20'	10' on each side	10'	80%	30' above average building elevation.	B See Spc. Reg. #5	E	1 per each 100 sq.ft. of gross floor area	<ol style="list-style-type: none"> <li>1. Development must emphasize Totem Lake as the focal point of this zone.</li> <li>2. No grading, filling or other development activity may occur below the 120 foot contour line, based on the King County datum point.</li> <li>3. Refer to Chapter 90 regarding restriction on development and around Totem Lake and wetland areas.</li> <li>4. Shared access points must be used to the maximum extent possible. Curb cuts must be limited to minimize traffic congestion.</li> <li>5. Must install a landscape berm on the subject property adjacent to 120th Avenue N.E. and Totem Lake Way consistent with existing landscaped berms along these rights-of-way.</li> <li>6. Refer to Chapter 1 to determine what other provision of this Code may apply to the subject property.</li> </ol>		
Multi-Use Complex or Mixed Use Building Containing 7 or more Restaurants, Taverns, or Retail uses allowed in this zone.	Process IIB Chapter 152	None	20'	20-10' on each side	20'	80%	30' above average building elevation.	B See also Spc. Reg. #6	E	See Section 105.25	<ol style="list-style-type: none"> <li>1. The applicant may develop the subject property under this use listing or under individual use listings in this zone.</li> <li>2. Development must emphasize Totem Lake as the focal point of this zone.</li> <li>3. No grading, filling or other development activity may occur below the 120 foot contour line, based on the King County datum point.</li> <li>4. Refer to Chapter 90 regarding restriction on development and around Totem Lake and wetland areas.</li> <li>5. Shared access points must be used to the maximum extent possible. Curb cuts must be limited to minimize traffic congestion.</li> <li>6. Must install a landscape berm on the subject property adjacent to 120th Avenue N.E. and Totem Lake Way consistent with existing landscaped berms along these rights-of-way.</li> <li>7. Refer to Chapter 1 to determine what other provision of this Code may apply to the subject property.</li> </ol>		
Office Use	Process IIA Chapter 150	7,200 sq.ft.	20'	5', but 2 side yards must equal at least 15'	10'	70%	30' above average building elevation.	C See Also Spc. Reg. #5	D	If a Medical, Dental or Veterinary Office, then 1 per each 200 sq.ft. of gross floor area ----- Otherwise, 1 per each 300 sq.ft. of gross floor area	<ol style="list-style-type: none"> <li>1. Development must emphasize Totem Lake as the focal point of this zone.</li> <li>2. No grading, filling or other development activity may occur below the 120 foot contour line, based on the King County datum point.</li> <li>3. Refer to Chapter 90 regarding restriction on development and around Totem Lake and wetland areas.</li> <li>4. Shared access points must be used to the maximum extent possible. Curb cuts must be limited to minimize traffic congestion.</li> <li>5. Must install a landscape berm on the subject property adjacent to 120th Avenue N.E. and Totem Lake Way consistent with existing landscaped berms along these rights-of-way.</li> <li>6. Refer to Chapter 1 to determine what other provision of this Code may apply to the subject property.</li> <li>7. The following regulations apply to veterinary offices only:               <ol style="list-style-type: none"> <li>a. May only treat small animals on the subject property.</li> <li>b. Outside runs and other outside facilities for the animals are not permitted.</li> <li>c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the development permit application.</li> </ol> </li> </ol>		

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**Footnotes**

- For other information about parking and parking areas, see Chapter 105.
- For details of the regulations in this category, see Chapter 100.
- For information of the regulations in this category, see Chapter 95.
- For details of what may exceed this height limit, see Chapter 115.
- For details regarding required yards, see Chapter 115.

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105.40 Location of Parking Areas - General

The applicant shall provide the required number of parking spaces either--

1. On the subject property; or
2. On a lot ~~that is adjacent to or across a right-of-way~~ from adjoining the subject property if that lot is in a zone that permits the use conducted on the subject property.

If the parking for a use is located on a lot, other than the lot upon which the use is located, the owner of the lot containing the parking must sign a statement in a form acceptable to the City Attorney, stating that the lot is devoted in whole or in part to required parking for the use on another lot. The applicant must file this statement with the King County Bureau of Elections and Records to run with the property.

105.75 Parking Area Design - Landscaping

1. General - Except as specified in paragraph 2 of this section, the applicant shall arrange the spaces so that there are no more than 8 contiguous spaces in each row of spaces. An island or peninsula of the same dimensions as the adjacent parking stalls, must separate each adjacent groups of spaces from one another and each row of spaces from any adjacent driveway which runs perpendicular to the row. This island or peninsula must be surrounded by a 6" high ~~east-in-place~~ vertical curb and must be landscaped with at least one deciduous tree, 2" in diameter as measured using the standards of the American Association of Nurserymen or a coniferous tree 5' in height.
2. Exception - The requirements of paragraph 1 of this section do not apply to any parking area that--
  - a. Is within the CBD zone; or
  - b. Is within or under a building; or
  - c. Contains less than 14 parking spaces.
3. Modification - ~~The applicant may request a~~ A modification of the requirements of paragraph 1 of this Section will be allowed through Process I, described in Chapter 145 of this Code,--The City may approve a

~~modification~~ if the applicant demonstrates to the satisfaction of the Planning Official that either:

- a. The modification will result in an innovative and efficient use of space; or
- b. The modification will result in increased retention of significant natural vegetation.

105.77 Parking Area Design - Curbing

All parking areas must be surrounded by a 6" high vertical concrete curb;

105.80 Parking Area Design - Buffering

1. General - Except as specified in paragraph 2 of this section, the applicant shall buffer the area from the right-of-way and from adjacent property with a 5-foot wide strip along the perimeter of the parking area planted as follows:
  - a. One row of trees, 2" in diameter as measured using the standards of the American Association of Nurserymen, planted 30 feet on center along the entire length of the strip. No more than 25% of the required trees may be deciduous.
  - b. Ground cover planted to attain a coverage of at least 60% of the strip area within 2 years.
2. Exception - The requirements of paragraph 1 of this section do not apply to any parking area that--
  - a. Is within the CBD zone; or
  - b. Is within or under a building; or
  - c. Serves detached dwelling units exclusively.
3. Overlapping Requirements - If buffering is required under Chapter 95 of this Code and by this Section, the applicant shall utilize the more stringent buffering requirement.
4. Significant Natural Vegetation
  - a. General - The applicant may use significant natural vegetation to meet all or part of the requirements of paragraph 1 of this Section.

- b. Protection Techniques - The applicant shall use the protection techniques described in Chapter 95 of this Code to ensure the protection of significant natural vegetation.
  - c. Supplement - The City may require the applicant to plant trees and shrubs according to the requirements of paragraph 1 of this Section to supplement the retained significant natural vegetation in order to provide a buffer at least as efficient as the required standard.
5. Modification - The applicant may request a modification of the requirements of paragraph 1 of this Section through Process I, described in Chapter 145 of the Code. The City may approve a modification if--
- a. The existing topography of or adjacent to the subject property decreases or eliminates the need for buffering visual screening; or
  - b. The modification will be of more benefit to the adjoining property by causing less impairment of view or sunlight; or
  - c. The modification will provide a visual screen that is comparable or superior to the buffer required by paragraph 1 of this Section.

## CHAPTER 110 - REQUIRED PUBLIC IMPROVEMENTS

110.05	User Guide
110.10	General
110.15	Special Regulations Applicable in Certain Areas
110.20	Right-of-Way Designation Map Adopted
110.25	Required Public Improvements
110.30	Cul-de-Sac Street
110.35	Neighborhood Access Streets
110.40	Neighborhood Collector Streets
110.45	Commercial Collector Streets
110.50	Collector Arterial Streets
110.55	Secondary Arterial Streets
110.60	Primary Arterial Streets
110.65	Additional Requirements
110.70	Engineering Standards
110.75	Modifications, Deferments and Waivers
<u>110.80</u>	<u>Bonds</u>

110.35 Neighborhood Access Streets

The chart below and diagrams on the next page establish the extent and nature of the improvements that must be provided on a Neighborhood Access Street. See Also Sections 65 through 70 of this Chapter for other requirements that apply to improvements in the rights-of-way.

RIGHT-OF-WAY CATEGORY ↓	REGULATIONS						
	RIGHT OF WAY WIDTH	PAVEMENT WIDTH	CURB/STORM SEWER	LANDSCAPE STRIP PLACEMENT AND WIDTH	STREET TREES	SIDEWALK PLACEMENT WIDTH	UTILITY STRIP PLACEMENT AND WIDTH
Neighborhood Access with Landscape Strip See also Special Regulation #1	50' *a (#2)	28' See also Spc. Reg. #2	Must install vertical curb and underground storm sewer with through curb inlets and bicycle grates.	Must install a 5' wide landscape strip adjacent to the curb.	Must plant street trees approximately 30' on center in the landscape strip.	A sidewalk, 5 foot wide, must be installed adjacent to the landscape strip.	Must provide a utility strip adjacent to the property line. All excess right-of-way width must be in this utility strip. See also Special Regulation #3. #2.
Neighborhood Access without Landscape Strip See also Special Regulation #1	50' *a (#2)	28' See also Spc. Reg. #2	Must install vertical curb and underground storm sewer with through curb inlets and bicycle grates.	None required	Must plant street trees approximately 30' on center on the property line.	A sidewalk, 5 foot wide, must be installed adjacent to the curb.	

**Special Regulations**

1. A landscaping strip must be provided unless one of the following applies:
  - a. A sidewalk is neither required nor proposed.
  - b. The subject property is in other than a low density residential zone.
  - c. The average slope of the ground from the right-of-way to the front yard setback line is more than 50% (22.5°).
  - d. The Public Services Director determines, in writing, that the frontage of the subject property is too short to provide a useful landscape strip; and it is unlikely that development on adjacent property will increase this strip in the future.
2. The improvements must be centered in the right-of-way.

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110.60 Primary Arterial Streets

The Public Services Director shall determine the extent and nature of improvements required in Primary Arterial Streets on a case-by-case basis. See also Sections 65 through 75 of this Chapter for other requirements that apply to improvements in the right-of-way.

110.65 Additional Requirements

This Section contains a series of requirements that apply to improvements required or proposed to be installed in the right-of-way.

1. Dedication of Right-of-Way - If a right-of-way abutting the subject property is not wide enough to contain the required improvements, the applicant shall dedicate as right-of-way a strip of land adjacent to the existing right-of-way equal to one-half of the needed additional width.
2. Fire Hydrants - The applicant shall install fire hydrants where and in the manner specified by the Department of Fire Services.
3. Incompatible Improvements - If improvements required by this Chapter will connect with existing improvements in the same right-of-way that do not conform to this Chapter, the following regulations apply:
  - a. If the improvements will connect with existing improvements of a greater dimension, the new improvement must be built at the greater dimension unless the Public Services Director determines that the dimensions of the existing improvement will be decreased in the future.
  - b. If the improvements will connect with existing improvements of a lesser dimension, the following regulations apply.
    - 1) If the Public Services Director determines that the dimension of the existing improvement will not be increased in the future, the new improvement must be permanently flared or tapered to match the existing improvements.

- 2) If the Public Services Director determines that the dimensions of the existing improvements will be increased in the future, the applicant shall install the required improvements in the full length of the right-of-way abutting the subject property with temporary flaring or tapering on the existing improvements.
4. Landscaped Islands in Cul-de-Sacs - All curbing shall be vertical cast in place curb. The applicant shall plant all landscaped islands in cul-de-sacs with vegetation approved by the City. The owners of properties abutting the island shall maintain the vegetation. The owner of the subject property shall sign a maintenance agreement in a form acceptable to the City Attorney to run with the subject property. The applicant shall record the agreement in the King County Bureau of Elections and Records. The City may also require a Bond under Chapter 175 of this Code for the maintenance of this vegetation for a two-year period.
5. Landscape Strip - The applicant shall plant all Landscape strips with vegetation approved by the City. The owner of the subject property shall maintain the vegetation in the strip. The owner of the subject property shall sign a maintenance agreement, in a form acceptable to the City Attorney, to run with the subject property. The applicant shall record this agreement in the King County Bureau of Elections and Records. It is a violation of this Code to pave or cover the landscape strip with impervious material or to park motor vehicles on this strip.
6. Mailboxes - The applicant shall, to the maximum extent possible, group mailboxes for all units or uses in the development.
7. Street Signs and Traffic Control Devices - The applicant shall install all street signs and traffic control devices in the location and manner established by the Department of Public Services.

8. Trees - All trees planted in the right-ofway must be approved as to species by the City, and must be two inches in diameter at the time of planting as measured using the standards of the American Association of Nurserymen with a canopy that starts at least eight feet above finished grade.
9. Utility Lines and Appurtenances - The location of sanitary sewer lines and water mains shall be as approved or required by the Public Works Director. Water meters, Utility lines, water meters and other utility appurtenances must be located within the utility strip, unless an alternate location is approved or required by the Public Services Works Director. All utility lines must be undergrounded. Any Utility appurtenances located in the landscape strip must be no higher than the finish grade whenever feasible. Telephone and cablevision lines must be placed in conduit under the sidewalk or, if this is not feasible, buried in the utility strip or the landscape strip as designated by the Public Services Director.
10. Other Necessary Improvements - The applicant shall install any other improvements that are necessary for the installation or proper operations or maintenance of the improvements required by this Code.

110.80 Bonds

The City may require or permit a bond under Chapter 175 of this Code to ensure compliance with any of the requirements of this Chapter.

115.40 Fences

1. General

- a. Fences not over 6 feet in height may be anywhere on the subject property except:
- i. A fence may not be within 15 feet of any street curb, or the edge of the street pavement, if no curb exists; or
  - ii. If the applicant can show with a survey, or other reasonable means, the location of his/her property line, the fence can be placed on the property line regardless of the distance from a street curb or the edge of the pavement.

iii. A fence may not violate the provisions of Section 115.135 of this Code.

~~iii.~~ v. No fence may be placed within a high waterline setback yard or within any portion of a north or south property line yard which is coincident with the high waterline setback yard unless the applicant demonstrates to the satisfaction of the Planning Official that the fence will not significantly block views of the lake from adjacent properties.

b. Fences over 6 feet in height may not be located in a required setback yard.

2. Barbed Wire - Barbed wire is permitted only atop a fence or a wall at least 6 feet in height.
3. Electrified Fences - Electrified Fences are not permitted in Kirkland.

#### 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 65 of this Code.
2. Exceptions and Limitations in Some Zones - Chapters 15 through 65 contain specific regulations regarding what may be in or take place in required yards. 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 sections 115.115.5.a and 115.115.5.b.
  - b. Any improvement or structure, other than a driveway and/or parking area, that is not more than 4 inches above finished grade may be anywhere in a required setback yard.

- c. An improvement or structure, that is not more than 18 inches above finished grade may extend not more than 5 feet into a required yard.
  - d. Chimneys, bays, greenhouse windows, and similar elements of a structure that customarily extend beyond the exterior walls of a structure may extend up to 18 inches into any required yard. The total horizontal dimension of the elements that extend into a required yard, excluding eaves, may not exceed 25% of the length of the facade of the structure. See Plate 10.
  - e. Fences may be located in required yards subject to the fence regulations contained within this Chapter.
  - f. Rockeries and retaining walls may be located in required yards if--
    - 1) The rockery or retaining wall is not being used as a direct structural support for a major improvement; and
    - 2) The rockery or retaining wall is reasonably necessary to provide support to a cut or slope.
  - g. In WD I and CBD D, improvements associated with public use and access areas may be located in any required yard. In WD I, WD II and CBD D, the landward end of a pier may be located in the High Water Line Yard.
  - h. See paragraph 5 of this Section for regulations on parking areas.
  - i. Those structures and improvements permitted in required yards by Section 115.105 of this chapter.
  - j. Signs may be located in required yards subject to Section 115.135 of this Code.
4. Outdoor Uses, Activities and Storage - Areas devoted to outdoor use, storage or structured activities, including structured recreation activities, may not be located in required yards except that, in CBD D, and in WD I, public use and access areas may be located in any required yard.

5. Driveways and Parking Areas - Vehicles may not be parked in required yards except as follows:

a. Residential-Uses

a.1) Detached Dwelling Units - Vehicles may be parked in the required front and rear and north property line yards if parked on a driveway and/or parking area. A driveway and/or parking area shall not exceed 20 feet in width in any required front and/or rear yard, and shall not be closer than 5 feet to any side property line (see Plate 14).

b.2) Other-Uses Attached and stacked Dwelling Units in Residential Zones -

1) Vehicle parking areas and/or parking lots shall have a minimum 20' setback from all front property lines and meet the minimum required setbacks from all other property lines for that use.

• Vehicle parking areas and/or parking lots, for schools and day care centers greater than 12 students shall have a minimum 20' setback from all property lines.

2) Driveways shall have a minimum 5' setback from all property lines; except for the portion of any driveway which connects with an adjacent street.

c.b. Office-Zones, Commercial-Zones and Light-Industrial-Zones Other Uses - Parking areas and driveways for uses other than those addressed in paragraphs a. and b. above, Detached Dwelling Units in the following zones may be located within required setback yards, but; except for the portion of any driveway which connects with an adjacent street; not closer than 5 feet to the any property line;

- 1) ---PR-Zones-----12) --PLA-5D
- 2) ---PO-Zones-----13) --PLA-6B
- 3) ---BN-Zones-----14) --PLA-6D
- 4) ---BC-Zones-----15) --PLA-6G
- 5) ---CBD-Zones-----16) --PLA-6H
- 6) ---LI-Zones-----17) --PLA-8
- 7) ---WD-I-----18) --PLA-10

- 8)---PLA-3-----19)---PLA-11
- 9)---PLA-4-----20)---FC-Zones
- 10)---PLA-5B-----21)---LI-Zones
- 11)---PLA-5C

If the parking serves two adjacent uses, the parking area may be anywhere in the required setback yard between the uses.

115.125 Rounding of Fractions of Dwelling Units

In many zones, the number of dwelling units allowed on the subject property is determined by dividing the lot size by the number of square feet this Code requires per unit. When this results in a fraction, the number of permitted dwelling units shall be rounded up to the next whole number (unit) if both of the following criteria are met:

{1}--The fraction of the whole number is at least 0.66 $\frac{2}{3}$  and:

{2} The resulting number of units on the subject property does not exceed the density established for the subject property in the Comprehensive Plan.

145.45 Planning Director's Decision

1. General - Within 14 days after the deadline for submitting comments and after considering all of the information and comments submitted on the matter, the Planning Director shall issue a written decision either--
  - a. Granting the application; or
  - b. Modifying and granting the application; or
  - c. Denying the application.
2. Decisional Criteria - The Planning Director shall use the criteria listed in the provision of this Code describing the requested decision in deciding upon the application. In addition, the Planning Director may approve the application only if:
  - a. It is consistent with the goals and policies of the Comprehensive Plan;

- b. It is not inconsistent with any specific provision of the Comprehensive Plan; and
  - c. It is consistent with the public health, safety and welfare.
3. Conditions and Restrictions - The Planning Director shall include in the written decision any conditions and restrictions that he/she determines are necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision.
4. Contents - The Planning Director shall include in the written decision--
  - a. A statement granting, modifying and granting, or denying the application.
  - b. Any conditions and restrictions that are imposed.
  - c. A statement of facts presented to him/her that support the decision, including any conditions and restrictions that are imposed; and
  - d. A statement of the Director's conclusions based on those facts;
  - e. A statement of the criteria used by the Director in making the decision; and
  - f. A summary of the rights, as established in this Chapter, of the applicant and others to appeal the decision of the Director.
5. Issuance of Written Decision - Within two working days after the Planning Director's written decision is issued the Director shall distribute the decision as follows:
  - a. A copy will be mailed to the applicant.
  - b. A copy will be mailed to each any person who submitted written comments to the Director and who requests a copy of the decision.

145.75 Staff Report on the Appeal

1. Content - The Planning Official shall prepare a staff report containing the following:
  - a. The written decision of the Planning Director.
  - b. All written comments submitted to the Planning Director.
  - c. The letter of appeal.
  - d. All written comments on the appeal received by the Planning Department from persons entitled to participate in the appeal and within the scope of the appeal.
  - e. An analysis of the specific factual findings and conclusions disputed in the letter of appeal.
2. Distribution - ~~Prior to~~ At least seven (7) days before the hearing, the Planning Official shall distribute copies of the staff report as follows:
  - a. A copy will be sent to the Hearing Examiner.
  - b. A copy will be sent to the applicant.
  - c. A copy will be sent to the person who filed the appeal.
  - d. A copy will be sent to any person who received a copy of the Director's decision and who requests a copy of the report on appeal.

145.110 Lapse of Approval

1. The applicant must begin or submit to the City a complete Building Permit application for the development activity, use of land, or other actions approved under this Chapter within one year after the final decision on the matter or the decision becomes void.

## 2. Time Extension

### a. Application

The applicant may apply for a one time extension of up to one year by submitting a letter to the Planning Department, along with any other supplemental documentation, which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and that circumstances beyond his/her control prevent timely compliance.

### b. Fee

The applicant shall include with the letter of request the fee as established by ordinance.

### c. Review Process

An application for a time extension will be reviewed by the Planning Official.

## 3. Appeals

a. Who Can Appeal - Any person who is aggrieved by a time extension or denial of a time extension may appeal that determination.

b. 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.

c. Applicable Procedures - All appeals of time extensions in this Chapter will be reviewed and decided upon using Process IIA, described in Chapter 150 of this Code.

## 145.120 Complete Compliance Required

1. General - Except as specified in paragraph 2 of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this Chapter in order to do everything authorized by that approval.

2. Exception - Subsequent Modification - If a specific use or site plan is approved through this Process, or any quasi-judicial process under previous zoning codes, the applicant is not required to apply for and obtain approval through this Process for a subsequent change in use or site plan unless--
- a. ~~The subject property is redeveloped and the value of the redevelopment exceeds 50% of the value of any structures that existed on the subject property immediately prior to the redevelopment; or~~
  - b. a. There is a change in use and this Code establishes different or more rigorous standards for the new use than for the existing use; or
  - c. ~~There will be a change to a site plan that was specifically approved less than five years from the date of the proposed modification; or exceeds 25% of the replacement cost of all structures on the subject property; or~~
  - d. b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change.

150.35 Staff Report

1. Contents - The Planning Official shall prepare a staff report containing the following information:
- a. All pertinent application materials.
  - b. All comments regarding the matter received by the Planning Department prior to distribution of the staff report.
  - c. An analysis of the application in relation to the applicable provisions of this Code and the Comprehensive Plan.
  - d. A statement of the facts found by the Planning Official and the conclusions drawn from those facts.

- e. A recommendation on the matter.
- 2. Distribution - Prior-to At least seven (7) days before the hearing, the Planning Official shall distribute the staff report as follows:
  - a. A copy will be sent to the Hearing Examiner.
  - b. A copy will be sent to the applicant.

150.65 Hearing Examiner's Decision

- 1. General - After considering all of the information and comments submitted on the matter, the Hearing Examiner shall issue a written decision either--
  - a. Granting the application; or
  - b. Modifying and granting the application; or
  - c. Denying the application.

If the Hearing Examiner will issue the decision more than 10 working days after the public hearing, he/she shall state in writing or on the record, the reason for the delay and the approximate date of issuing the decision. In no event may the Hearing Examiner take more than 20 working days after the public hearing to issue his/her decision unless agreed to by the applicant.
- 2. Decisional Criteria - The Hearing Examiner shall use the criteria listed in the provision of this Code describing the requested decision in deciding upon the application. In addition, the Hearing Examiner may approve the application only if:
  - a. It is consistent with the goals and policies of the Comprehensive Plan;
  - b. It is not inconsistent with any specific provision of the Comprehensive Plan; and
  - c. It is consistent with the public health, safety and welfare.
- 3. Conditions and Restrictions - The Hearing Examiner shall include in the written decision any conditions and restrictions that he/she determines are necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision.

4. Contents - The Hearing Examiner shall include the following in his/her written decision--
  - a. A statement granting, modifying and granting, or denying the application.
  - b. Any condition and restrictions that are imposed.
  - c. A statement of facts presented to him/her that support the decision, including any conditions and restrictions that are imposed.
  - d. A statement of the Hearing Examiner's conclusions based on those facts.
  - e. A statement of the criteria used by the Hearing Examiner in making the decision.
  - f. A summary of the rights, as established in this Chapter, of the applicant and others to appeal the decision of the Hearing Examiner.
  
5. Issuance of Written Decision - Within ~~one~~ two working days after the Hearing Examiner's written decision is issued, the ~~Hearing Examiner~~ Planning Official shall distribute the decision as follows:
  - a. A copy will be mailed to the applicant.
  - b. A copy will be mailed to each any person who submitted written or oral comments to the Hearing Examiner and who requests a copy of the decision.

150.100 Staff Report on the Appeal

1. Contents - The Planning Official shall prepare a staff report on the appeal containing the following:
  - a. The staff report prepared for the public hearing before the Hearing Examiner.
  - b. The written decision of the Hearing Examiner.
  - c. All written comments submitted to the Hearing Examiner.

- d. A summary of the comments and discussion at the hearing of the Hearing Examiner and a statement of the availability of the electronic sound recording of the hearing.
  - e. The letter of appeal.
  - f. All written comments received by the Planning Department from persons entitled to participate in the appeal and within the scope of the appeal.
  - g. An analysis of the specific factual findings and conclusions disputed in the letter of appeal.
2. ~~Distribution - Prior to the hearing;~~ The Planning Official shall distribute copies of the staff report as follows:
- a. ~~Prior to the hearing;~~ A copy will be sent to each member of City Council.
  - b. ~~At least seven (7) days before the hearing;~~ A copy will be sent to:
    - 1) the applicant; and
    - 2) A copy will be sent to the person who filed the appeal.
    - 3) A copy will be sent to any person who received a copy of the Director's decision and who requests a copy of the report on appeal.

#### 150.125 Decision on the Appeal

After considering all comments within the scope of the appeal submitted by persons entitled to participate in the appeal, City Council shall, by motion approved by a majority of its total membership, take one of the following actions:

- 1. If City Council determines that disputed findings of fact and conclusions of the Hearing Examiner are the correct findings of fact and conclusions, the Council shall affirm the decision.

2. If City Council determines that the disputed findings of fact and conclusions of the Hearing Examiner are not correct and that correct findings of fact and conclusions do not support the decision of the Hearing Examiner, the Council shall modify or reverse the decision.
3. In all other cases, the Council shall either direct the Hearing Examiner to hold a re-hearing on the matter or decide to hold a City Council hearing on the matter. The motion may limit the scope of the matters to be considered at this re-hearing or City Council hearing.

With the exception listed below, the provisions of Sections 25 through 75 of this Chapter apply to a re-hearing or City Council hearing under this paragraph:

- a. If City Council holds a hearing on the matter, it may either grant or deny the permit or approval only by motion approved by a majority of its total membership. This motion replaces the written decision required in Section 65 of this Chapter. City Council shall issue a written notice containing its decision.
- b. If City Council holds a hearing on the matter, their decision is the final decision of the City.

4. Notice of Final Decision -

- a. General - Following the final decision of the City Council, the Planning Official shall prepare a notice of the City's final decision on the application.
- b. Distribution - Within two working days after the City Council's decision is made, the Planning Official shall distribute a copy of the notice of the decision as follows:
  - 1) A copy will be sent to the applicant.
  - 2) A copy will be sent to the person who filed the appeal.
  - 3) A copy will be sent to any person who submitted written or oral comments to the City Council and who requests a copy of the notice.

4.5. Effect - The decision of City Council is the final decision of the City.

150.135 Lapse of Approval

1. The applicant must begin or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under this Chapter within one year after the final decision on the matter or this decision becomes void.

2. Time Extension

a. Application

The applicant may apply for a one time extension of up to one year by submitting a letter to the Planning Department, along with any other supplemental documentation, which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and that circumstances beyond his/her control prevent timely compliance.

b. Fee

The applicant shall include with the letter of request the fee as established by ordinance.

c. Review Process

An application for a time extension will be reviewed by the Planning Official.

3. Appeals

a. Who Can Appeal - Any person who is aggrieved by a time extension or denial of a time extension may appeal that determination.

b. 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.

- c. Applicable Procedures - All appeals of time extensions in this Chapter will be reviewed and decided upon using Process IIA, described in Chapter 150 of this Code.

150.145 Complete Compliance Required

1. General - Except as specified in paragraph 2 of this Section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this Chapter in order to do everything authorized by that approval.
2. Exception - Subsequent Modification

If a specific use or site plan is approved through this Process, or any quasi-judicial process under previous zoning codes, the applicant is not required to apply for and obtain approval through this Process for a subsequent change in use or site plan unless--

- a. ~~The subject property is redeveloped and the value of the redevelopment exceeds 50% of the value of any structures that existed on the subject property immediately prior to the redevelopment; or~~
- b. a. There is a change in use and this Code establishes different or more rigorous standards for the new use than for the existing use; or
- c. ~~There will be a change to a site plan that was specifically approved less than 5 years from the date of the proposed modification; or exceeds 25% of the replacement cost of all structures on the subject property; or~~
- d. b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change.

152.35 Staff Report

1. Contents - The Planning Official shall prepare a staff report containing the following information:
  - a. All pertinent application materials.

- b. All comments regarding the matter received by the Planning Department prior to distribution of the staff report.
  - c. An analysis of the application in relation to the applicable provisions of this Code and the Comprehensive Plan.
  - d. A statement of the facts found by the Planning Official and the conclusions drawn from those facts.
  - e. A recommendation on the matter.
2. Distribution - ~~Prior to~~ At least seven (7) days before the hearing, the Planning Official shall distribute the staff report as follows:
- a. A copy will be sent to the Hearing Examiner
  - b. A copy will be sent to the applicant.

#### 152.70 Request for Reconsideration

1. General - Any person who has a right to challenge a recommendation of the Hearing Examiner under Section 80 of this Chapter may request the Hearing Examiner to reconsider any aspects of his/her recommendation by delivering a written request for reconsideration to the Planning Department within 4 working days of the issuance of the Hearing Examiner's written ~~decision~~ recommendation. The person requesting the reconsideration shall specify in the request what aspect of the recommendation he/she wishes to have reconsidered and the reason for the request.
2. Decision to Reconsider - Within 14 working days after receiving a request for reconsideration, the Hearing Examiner shall notify the person requesting the reconsideration whether or not the Hearing Examiner will reconsider the recommendation. The Hearing Examiner may reconsider the recommendation only if he/she concludes that there is substantial merit in the request.
3. Effect - If the Hearing Examiner grants a request to reconsider any aspect of the recommendation, the matter will not be taken to City Council until the matter has been reconsidered as established in paragraph 4 of this Section.

4. Process - If the Hearing Examiner reconsiders the decision, the provision of Section 30 through 65 of this Chapter will be followed except that--
- a. The Hearing Examiner may limit the reconsideration by--
    - 1) Limiting the persons who may participate in the reconsideration to the persons who have a right to challenge the recommendation of the Hearing Examiner; and
    - 2) Limiting the aspects of the decision that will be reconsidered; and
    - 3) Limiting the nature of the reconsideration by only receiving written comments and by not holding a new public hearing.

Any limitations will be included in the notice given under Section 30 of this Chapter; and

- b. If the Hearing Examiner limits the persons who may participate in the reconsideration under paragraph 4.a.1) of this Section, the Planning Official shall send notice under Section 30 of this Chapter only to those persons. In all other cases, the Planning Official shall send this notice to the persons described in paragraph 4.a.1) of this Section in addition to the persons described in Section 30.2 of this Chapter.

#### 152.75 Distribution of Hearing Examiner's Recommendation

The Planning Official shall distribute copies of the recommendation of the Hearing Examiner as follows:

- a. At least 7 days before the meeting at which City Council considers the matter, a copy will be sent to the applicant; and
- b. ~~A copy will be promptly sent~~ to any person who submitted written or oral comments to the Hearing Examiner and who requests it a copy.

-e.-b. Prior to the meeting where City Council considers the application, a copy will be sent to each member of City Council. The Planning Official shall include the following material with the copy of the recommendation sent to each City Council member:

- 1) A draft resolution or ordinance that embodies the Hearing Examiner's recommendation.
- 2) Any challenge to the Hearing Examiner's recommendation filed under Section 80 of this Chapter and received by the Planning Department before the Hearing Examiner's recommendation is sent to the members of City Council.

#### 152.80 Challenge to the Hearing Examiner's Recommendation

1. Who May Challenge - The recommendation of the Hearing Commission may be challenged by--
  - a. The applicant; and
  - b. Any person who submitted written or oral comments to the Hearing Examiner.
2. Contents of a Challenge - The challenge must be in writing and contain a statement of the factual findings and conclusions made by the Hearing Examiner that are contested. The challenge will be considered only on the record developed in the hearing before the Hearing Examiner.
3. How and When to File a Challenge - The challenge may be filed by delivering it to the Planning Department, together with the fee established by ordinance; by 5 p.m. on the fourth day prior to the beginning day of the meeting at which City Council first considers the matter or to the Planning Official at the beginning of that meeting.
4. Request to Reconsider Not Required - The recommendation of the Hearing Examiner may be challenged whether or not there was a request for the Hearing Examiner to reconsider his/her recommendation.

152.85 City Council Action

1. General - The City Council shall consider the application at a scheduled meeting within 90 days of the date of issuance of the Hearing Examiner's recommendations on the proposal. This time period may be extended upon written concurrence of the Planning Director and the applicant.
2. City Council Decision - After consideration of the entire matter on the record before the Hearing Examiner, the City Council shall, by motion, approved by a majority of the total membership, take one of the following actions:
  - a. Adopt an ordinance or resolution ~~that is consistent with the Hearing Examiner's recommendation~~ to either--
    - 1) Grant the application; or
    - 2) Modify and grant the application; or
    - 3) Deny the application.
  - b. If the City Council concludes that significant issues have been raised in a challenge or if they are unsatisfied with the Hearing Examiner's recommendation for any other reason, they may by motion either direct the Hearing Examiner to hold a rehearing on the matter or decide to hold a City Council hearing on the matter. The motion may limit the scope of the issues to be considered at this rehearing or City Council hearing.
3. Decisional Criteria - The City Council shall use the criteria listed in the provision of this Code describing the requested decision in deciding upon the application. In addition, the City Council may approve the application only if:
  - a. It is consistent with the goals and policies of the Comprehensive Plan;
  - b. It is not inconsistent with any specific provisions of the Comprehensive Plan; and
  - c. It is consistent with the public health, safety and welfare.

4. Condition and Restriction - The City Council shall include in the ordinance or resolution granting the application any conditions and restrictions they determine are necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision.
5. Findings of Fact and Conclusion - The City Council shall include in their ordinance or resolution:
  - a. A statement of the facts presented to the City Council that support the decision, including any conditions and restrictions they they impose; and
  - b. The City Council's conclusions based on those facts.
6. Effect - Subject to the provisions of Sections 90 and 95 of this Chapter, the ordinance or resolution of City Council is the final decision of the City.

#### 152.100 Notice of Final Decision

1. General - Following the final decision by City Council, or if applicable, the Houghton Community Council, the Planning Official shall prepare a notice of the City's final decision on the application.
2. Distribution - Within two working days after the City Council's decision is made, the Planning Official shall distribute a copy of this notice of the decision as follows:
  - a. A copy will be sent to the applicant.
  - b. A copy will be sent to any person who submitted written or oral comments to the Hearing Examiner and who requestings it a copy of the notice.

#### 152.110 Lapse of Approval

1. The applicant must begin or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under this Chapter within one year after the final decision on the matter or the decision becomes void.

## 2. Time Extension

### a. Application

The applicant may apply for a one time extension of up to one year by submitting a letter to the Planning Department, along with any other supplemental documentation which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and circumstances beyond his/her control prevent timely compliance.

### b. Fee

The applicant shall include with the letter of request the fee as established by ordinance.

### c. Review Process

An application for a time extension will be reviewed by the Planning Official.

## 3. Appeals

a. Who Can Appeal - Any person who is aggrieved by a time extension or denial of a time extension may appeal that determination.

b. 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.

c. Applicable Procedures - All appeals of time extensions in this Chapter will be reviewed and decided upon using Process IIA, described in Chapter 150 of this Code.

## 152.120 Complete Compliance Required

1. General - Except as specified in paragraph 2 of this Section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this Chapter in order to do everything authorized by that approval.

2. Exception - Subsequent Modification

If a specific use or site plan is approved through this Process, or any quasi-judicial process under previous zoning codes, the applicant is not required to apply for and obtain approval through this Process for a subsequent change in use or site plan unless--

- ~~a. The subject property is redeveloped and the value of the redevelopment exceeds 50% of the value of any structures that existed on the subject property immediately prior to the redevelopment; or~~
- b.a. There is a change in use and this Code establishes different or more rigorous standards for the new use than for the existing use; or
- ~~c. There will be a change to a site plan that was specifically approved less than 5 years from the date of the proposed modifications; or exceeds 25% of the replacement cost of all structures on the subject property; or~~
- d.b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change.

155.35 Staff Report

- 1. Contents - The Planning Official shall prepare a staff report containing the following information:
  - a. All pertinent application materials,
  - b. All comments regarding the matter received by the Planning Department prior to distribution of the staff report.
  - c. An analysis of the application in relation to the applicable provisions of this Code and the Comprehensive Plan.
  - d. A statement of the facts found by the Planning Official and the conclusions drawn from those facts.
  - e. A recommendation on the matter.
- 2. Distribution in General - ~~Prior to~~ At least seven

(7) days before the hearing, the Planning Official shall distribute the staff report as follows:

- a. A copy will be sent to each member of the Planning Commission.
- b. A copy will be sent to the applicant.
- ~~c. A copy will be sent to the owners of the subject property.~~

155.80 Planning Commission Report

1. General - At least 7 days before the City Council considers the application, the Planning Official shall prepare a Planning Commission report containing the Planning Commission's recommendation to City Council. If applicable, the Planning Official shall include in the report the recommendations of the Houghton Community Council.
2. Distribution - The Planning Official shall distribute copies of the report of the Planning Commission as follows:
  - a. At least 7 days before the meeting at which City Council considers the matter, a copy will be sent to the applicant, and
  - ~~b. A copy will be promptly sent to any person who submitted written or oral comments to the Planning Commission and who requests it a copy of the report.~~
  - c.b. Prior to the meeting where City Council considers the application, a copy will be sent to each member of City Council. The Planning Official shall include the following material with the copy of the Planning Commission report sent to each City Council member:
    - (1) A draft resolution or ordinance that embodies the Planning Commission's recommendation.
    - (2) Any challenge to the Planning Commission's recommendation filed under Section 85 of this Chapter and received by the Planning Department before the Planning Commission report is sent to the members of City Council.

155.85 Challenge to the Planning Commission's Recommendation

1. Who May Challenge - The recommendation of the Planning Commission may be challenged by--
  - a. The applicant; and
  - b. Any person who submitted written or oral comments to the Planning Commission.
2. Contents of a Challenge - The challenge must be in writing and contain a statement of the factual findings and conclusions made by the Planning Commission that are contested. The challenge will be considered only on the record developed in the hearing before the Planning Commission.
3. How and When to File a Challenge - The challenge may be filed by delivering it to the Planning Department, together with the fee established by ordinance, by 5 p.m. on the fourth day prior to the beginning day of the meeting at which City Council first considers the matter ~~or to the Planning Official at the beginning of that meeting.~~
4. Request to Reconsider Not Required - The recommendation of the Planning Commission may be challenged whether or not there was a request for the Planning Commission to reconsider the recommendation.

155.90 City Council Action

1. General - The City Council shall consider the application at a scheduled meeting within 90 days of the date on which the Planning Commission makes its final recommendations on the proposal. This time period may be extended upon written concurrence of the Planning Director and the applicant.
2. City Council Decision - After consideration of the entire matter on the record before the Hearing Examiner, the City Council shall, by motion approved by a majority of its total membership, take one of the following actions:
  - a. Adopt an ordinance or resolution ~~that is consistent with the Planning Commission's recommendation~~ to either--

- (1) Grant the application;
  - (2) Modify and grant the application; or
  - (3) Deny the application.
- b. If the City Council concludes that significant issues have been raised in a challenge or if they are unsatisfied with the Planning Commission's recommendation for any other reason, they may by motion either direct the Planning Commission to hold a rehearing on the matter or decide to hold a City Council hearing on the matter. The motion may limit the scope of the issues to be considered at this rehearing or City Council hearing.

### 3. Decisional Criteria

The City Council shall use the criteria listed in the provisions of this Code describing the requested decision in deciding upon the application. In addition, the City Council may approve the application only if:

- a. It is consistent with the goals and policies of the Comprehensive Plan;
- b. It is not inconsistent with any specific provisions of the Comprehensive Plan; and
- c. It is consistent with the public health, safety and welfare.

### 4. Condition and Restriction - The City Council shall include in the ordinance or resolution granting the application any conditions and restrictions they determine are necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision.

### 5. Findings of Fact and Conclusion - The City Council shall include in their motion--

- a. A statement of the facts presented to City Council that support the decision, including any conditions and restrictions that they impose; and
- b. The City Council's conclusions based on those facts.

6. Effect - Subject to the provision of Section 100 of this Chapter, the ordinance or resolution of City Council is the final decision of the City.

#### 155.105 Notice of Final Decision

1. General - Following the final decision by City Council, or if applicable, the Houghton Community Council, the Planning Official shall prepare a notice of the City's final decision on the application.
2. Distribution - Within two working days after the City Council's decision is made, the Planning Official shall distribute a copy of this notice as follows:
  - a. A copy will be sent to the applicant;
  - b. A copy will be sent to any person who submitted written or oral comments to the Planning Commission and who requests it a copy of the notice.

#### 155.115 Lapse of Approval

1. The applicant must begin or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under this Chapter within one year after the final decision on the matter or the decision becomes void.
2. Time Extension
  - a. Application  
The applicant may apply for a one time extension of up to one year by submitting a letter to the Planning Department, along with any other supplemental documentation which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and circumstances beyond his/her control prevent timely compliance.
  - b. Fee  
The applicant shall include with the letter of request the fee as established by ordinance.

c. Review Process

An application for a time extension will be reviewed by the Planning Official.

3. Appeals

- a. Who Can Appeal - Any person who is aggrieved by a time extension or denial of a time extension may appeal that determination.
- b. 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.
- c. Applicable Procedures - All appeals of time extensions in this Chapter will be reviewed and decided upon using Process IIA, described in Chapter 150 of this Code.

155.125 Complete Compliance Required

1. General - Except as specified in paragraph 2 of this Section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this Chapter in order to do everything authorized by that approval.

2. Exception - Subsequent Modification

If a specific use or site plan is approved through this Process, or any quasi-judicial process under previous zoning codes, the applicant is not required to apply for and obtain approval through this Process for a subsequent change in use or site plan unless--

- a. ~~The subject property is redeveloped and the value of the redevelopment exceeds 50% of the value of any structures that existed on the subject property immediately prior to the redevelopment; or~~

b. a. There is a change in use and this Code

establishes different or more rigorous standards for the new use than for the existing use; or

c. ~~There will be a change to a site plan that was specifically approved less than 5 years from the date of the proposed modification; or exceeds 25% of the replacement cost of all structures on the subject property; or~~

d.b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change.

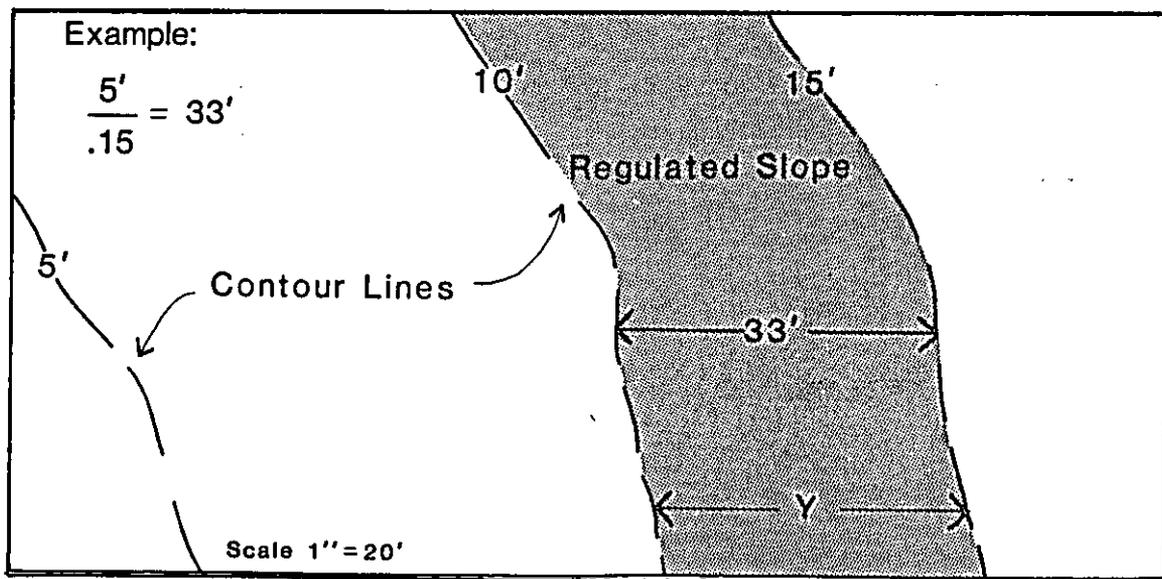
## Measuring Regulated Slopes

Formula:  $\frac{5}{.15} = Y$

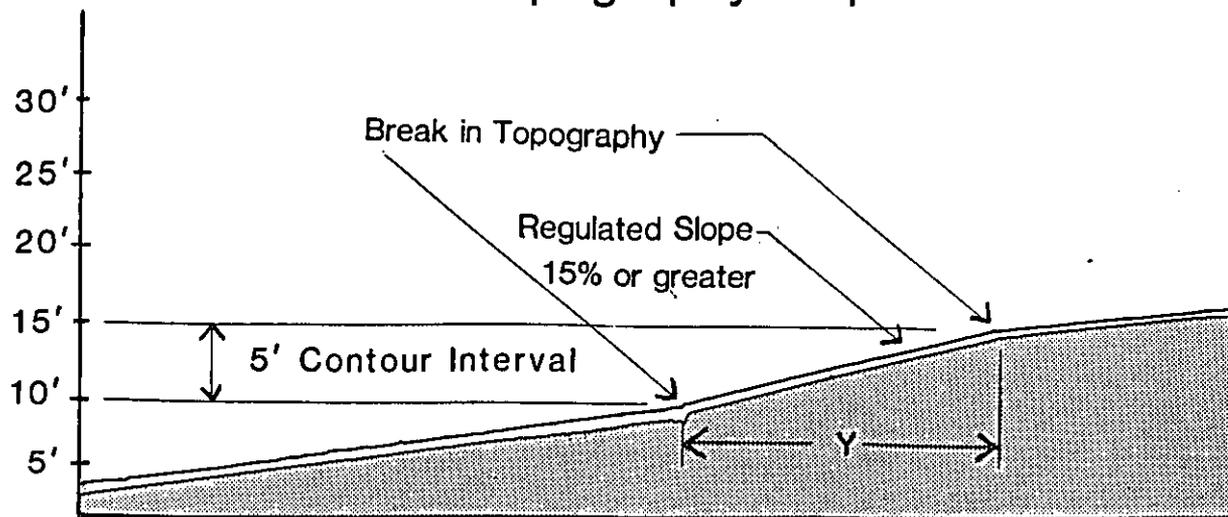
5=Contour Interval (Feet)

.15=Minimum Grade (15%) for Regulated Slope

Y=Maximum Map Distance Between Contour Lines for Regulated Slopes



## Topography Map



## Profile

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

Section 3. To the extent that the subject matter of this ordinance is subject to the disapproval jurisdiction of the Houghton Community Council as created by Ordinance 2001, said plan shall become effective within the Houghton community either upon approval of the Houghton Community Council, or upon failure of said community council to disapprove this ordinance within 60 days of its passage.

Section 4. Except as provided in Section 3, This ordinance shall be in full force and effect five days from and after its passage by the City Council and publication or posting as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 16th day of September 1985.

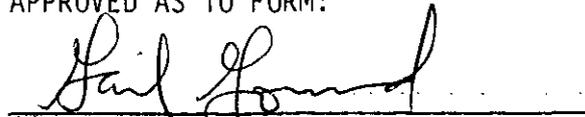
Signed in authentication thereof this 16th day of September, 1985.

  
MAYOR

ATTEST:

  
Director of Administration & Finance  
(ex officio City Clerk)

APPROVED AS TO FORM:

*Acting*   
City Attorney

681C/144A(682C):ES:dc