

ORDINANCE NO. 3938

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND ADDING CHAPTER 112 (AFFORDABLE HOUSING INCENTIVES – MULTIFAMILY) AND AMENDING CHAPTERS 5, 90, 125 AND 180 OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING CODE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE) (FILE NO. IV-00-13).

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 3719 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated March 27, 2004 and bearing Kirkland Department of Planning and Community Development File No. IV-00-13; and

WHEREAS, prior to making said recommendation, the Planning Commission, following notice thereof as required by RCW 35A.63.070, on February 26, 2004, held a public hearing on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act there has accompanied the legislative proposal and recommendation through the entire consideration process, an addendum to the Environmental Impact Statement for the 1995 Kirkland Comprehensive Plan (including supporting environmental documents) issued by the responsible official pursuant to WAC 197-11-625 and WAC 197-11-630; 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, the City Council of the City of Kirkland do ordain as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Code (Title 23 of the Kirkland Municipal Code) are amended to read as follows:

- A. Chapter 5 Definitions:  
Text amendments to add Sections 5.10.023, 5.10.278 and 5.10.387 and amend Sections 5.10.491 and 5.10.536, as shown in Exhibit A attached to this ordinance and incorporated by reference.
- B. Chapter 90 Drainage Basins:  
Text amendment to Sections 90.135, as shown in Exhibit B attached to this ordinance and incorporated by reference.
- C. Chapter 112 Affordable Housing Incentives - Multifamily:  
Text amendment to add Chapter 112, as shown in Exhibit C attached to this ordinance and incorporated by reference.
- D. Chapter 125 Planned Unit Development:

Text amendment to Sections 125.30, as shown in Exhibit D attached to this ordinance and incorporated by reference.

E. Chapter 180 Plates:

Text amendment to add Plate X, as shown in Exhibit E attached to this ordinance and incorporated by reference.

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.

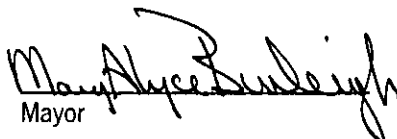
Section 3. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 4. Except as provided in Section 3, this ordinance shall be in full force and effect thirty days from and after its passage by the Kirkland City Council and publication, pursuant to Section 1.08.017 Kirkland Municipal Code, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

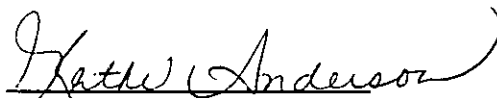
Section 5. A complete copy of this ordinance, including Findings, Conclusions and Recommendations adopted by reference, shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

PASSED by majority vote of the Kirkland City Council in open meeting this 4th day of May, 2004

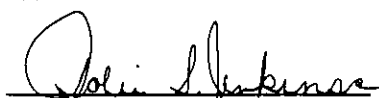
SIGNED IN AUTHENTICATION thereof this 4th day of May, 2004

  
Mayor

Attest:

  
City Clerk

Approved as to Form:

  
City Attorney

## Chapter 5 - Definitions

### New Definitions:

5.10.023 Affordable Housing Unit - (A) an owner-occupied dwelling unit reserved for occupancy by eligible households and affordable to households whose household annual income does not exceed seventy percent of the King County median household income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than thirty percent of the monthly household income is paid for monthly housing expenses, or (B) a renter-occupied dwelling unit reserved for occupancy by eligible households and affordable to households whose household annual income does not exceed fifty percent of the King County median household income, adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use any other method for determining the King County median income, adjusted for household size.

5.10.278 Eligible Household - one or more adults and their dependents who, as set forth in the regulatory agreement referenced in Section 112.35.2, certify that their incomes do not exceed the applicable percent of the median household income for King County, adjusted for household size, as published by the United States Department of Housing and Urban Development (HUD); and who certify that they meet all qualifications for eligibility, including, if applicable, any requirements for recertification on income eligibility.

5.10.387 Household Annual Income - the aggregate annual income of all persons over eighteen years of age residing within the same household for a period of at least four months.

### Revised Definitions:

5.10.491 Low Income Household – One or more adults and their dependents whose income does not exceed 50 percent of the median household income for ~~the Seattle Metropolitan Statistical Area~~ King County, adjusted for household size, as published by the United States Department of Housing and Urban Development.

5.10.536 Moderate Income Household – One or more adults and their dependents whose income exceeds 50 percent, but does not exceed 80 percent, of the median household income for ~~the Seattle Metropolitan Statistical Area~~ King County, adjusted for household size, as published by the United States Department of Housing and Urban Development.

**90.135 Maximum Development Potential**

1. Dwelling Units – The maximum potential number of dwelling units for a site which contains a wetland, stream, minor lake, or their buffers shall be the buildable area in square feet divided by the minimum lot area per unit as specified by Chapters 15 through 65 KZC, plus the area of the required sensitive area buffer in square feet divided by the minimum lot area per unit as specified by Chapters 15 through 65 KZC, multiplied by the development factor derived from subsection (2) of this section:

$$\text{MAXIMUM DWELLING UNIT POTENTIAL} = (\text{BUILDABLE AREA/THE PRESCRIBED MINIMUM LOT AREA PER UNIT}) + [(\text{BUFFER AREA/THE PRESCRIBED MINIMUM LOT AREA PER UNIT}) \times (\text{DEVELOPMENT FACTOR})]$$

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

For developments providing affordable housing units pursuant to Chapter 112 KZC, the density bonus and resulting maximum density shall be calculated using the maximum dwelling unit potential of this section as the base to which the bonus units will be added.

For multifamily development, if application of the maximum development potential formula results in a fraction, the number of permitted dwelling units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66. For single-family development, if application of the maximum development potential formula results in a fraction, the number of permitted dwelling units (lots) shall not be rounded up, regardless of the fraction. This provision shall not be construed to preclude application of Chapter 22.28 KMC.

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

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

Percentage of Site in Sensitive Area Buffer			Counted at
< 1	to	10%	100%
> 10	to	20%	90%
> 20	to	30%	80%
> 30	to	40%	70%
> 40	to	50%	60%
> 50	to	60%	50%
> 60	to	70%	40%
> 70	to	80%	30%
> 80	to	90%	20%
> 90	to	100%	10%

## Chapter 112 – Affordable Housing Incentives – Multifamily

### Sections:

- 112.05 User Guide
- 112.10 Voluntary Provisions
- 112.15 Applicable Zoning Districts
- 112.20 Defined Affordable Housing Incentives
- 112.25 Additional Affordable Housing Incentives (Non-defined)
- 112.30 Alternative Compliance
- 112.35 Affordability Provisions

### 112.05 User Guide

This chapter offers dimensional standard flexibility and density and economic incentives to encourage construction of affordable housing units in commercial zones, high density residential zones, medium density zones and office zones.

If you are interested in proposing affordable housing units in commercial zones, high density residential zones, medium density zones or office zones, or you wish to participate in the City's decision on a project including affordable housing units, you should read this chapter.

### 112.10 Voluntary Provisions

The provisions of this chapter are available, at the sole discretion of the property owner as incentives to encourage the construction of multifamily affordable housing units. There is a limited stock of land within the City zoned and available for residential development and there is a demonstrated need in the City for housing which is affordable to persons of low and moderate income. Therefore, this chapter provides development incentives in exchange for the public benefit of providing affordable housing units in commercial zones, high density residential zones, medium density zones and office zones.

### 112.15 Applicable Use Zones

The affordable housing incentives described in this chapter may be used in commercial, high density residential, medium density and office zones that allow dwelling units.

### 112.20 Defined Affordable Housing Incentives

#### 1. Approval Process

The City will process an application for the affordable housing incentives identified in this section through the same required review process as if no affordable housing units were provided.

#### 2. Density Bonus

- a. **Bonus Units.** In use zones where the number of dwelling units allowed on the subject property is determined by dividing the lot size by the required minimum lot area per unit, two additional units ('bonus units') may be constructed for each affordable housing unit provided. (See Plate \_\_\_ for example bonus unit calculations.)
- b. **Bonus FAR.** In use zones where the density allowed on the subject property is expressed as a maximum floor area ratio (FAR), two additional square feet of floor area ('bonus FAR') may be constructed for each square foot of floor area constructed in affordable housing units. (See Plate \_\_\_ for example bonus FAR calculations.)

- c. **Alternative Calculation of Density Bonus.** Except in those zones that have an established affordable housing requirement, an applicant may propose alternative affordability levels for the affordable housing units. The ratio of bonus units or bonus floor area per affordable housing unit for alternative affordability levels will be as follows:

AFFORDABILITY LEVEL	DENSITY BONUS TO AFFORDABLE RATIO
<b>Renter Occupied Housing</b>	
60% of median income	1.33 to 1
70% of median income	1 to 1
<b>Owner Occupied Housing</b>	
80% of median income	1.6 to 1
60% of median income	2.67 to 1

Depending on the level of affordability provided, the affordable housing units may not be eligible for the impact fee waivers described in Sections 112.20 4.a and 112.20.4.b of this chapter.

- d. **Maximum Bonuses.** The maximum number of bonus units or amount of bonus FAR achieved through a defined affordable housing incentive shall be 25% of the number of units or floor area allowed based on the underlying zone of the subject property.
- e. **Density Bonus for Assisted Living Facilities.** The affordable housing density bonus may be used for assisted living facilities to the extent that the bonus for affordable housing may not exceed 25% of the base density of the underlying zone of the subject property.

3. Dimensional Standards Modification

The following requirements of the Kirkland Zoning Code may be modified through the procedures outlined in this subsection, to the extent necessary to accommodate the bonus units on-site. These modifications may not be used to accommodate the units resulting from the base density or FAR calculation.

- a. **Maximum Lot Coverage.** The maximum lot coverage may be increased by up to five percentage points over the maximum lot coverage permitted by the underlying use zone. Maximum lot coverage may not be modified through this provision on properties with streams, wetlands, minor lakes or their buffers.
- b. **Parking Requirement.** The required parking may be reduced to 1.0 space per affordable housing unit. No additional guest parking is required for affordable housing units. If parking is reduced through this provision, the owner of the affordable housing unit shall sign a covenant, in a form acceptable to the City Attorney, restricting the occupants of each affordable housing unit to a maximum of one automobile.

- c. **Structure Height.** Maximum height for structures containing affordable housing units may be increased by up to six feet for those portions of the structure(s) that are at least 20 feet from all property lines. Maximum structure height may not be modified through this provision for any portion of a structure that is adjoining a low density zone.
- d. **Required Yards.** Structures containing affordable housing units may encroach up to five feet into any required yard except that in no case shall a remaining required yard be less than five feet.
- e. **Common Recreational Space.** Common recreational open space per unit, when required, may be reduced by 50 square feet per affordable housing unit.

4. Permit Fee Calculation

- a. Applicants proposing affordable housing units may request an exemption from payment of road impact fees for the affordable housing units as established by Kirkland Municipal Code Section 27.04.050.
- b. Applicants proposing affordable housing units may request an exemption from payment of park impact fees for the affordable housing units as established by Kirkland Municipal Code Section 27.06.050.
- c. Applicants proposing affordable housing units are eligible for exemption from various planning, building, plumbing, mechanical and electrical permit fees and sewer capital facility charges for the bonus units as established in Kirkland Municipal Code Sections 5.74.070 and 15.12.063 and Kirkland Municipal Code Title 21.

5. Property Tax Exemption

A property providing affordable housing units may be eligible for a property tax exemption as established in Kirkland Municipal Code Chapter 5.88.

112.25 Additional Affordable Housing Incentives (Non-defined)

1. Approval Process for Additional Affordable Housing Incentives (Non-Defined)

An applicant may request that the City grant affordable housing incentives in addition to or in place of the defined affordable housing incentives allowed in Section 112.20 due to specific site conditions. Such a request shall be reviewed and decided upon using Process IIA, described in Chapter 150 KZC. If the development, use, or activity requires approval through Process IIB or Process III, the entire proposal will be decided upon using that other process.

2. Density Bonus

An applicant may propose more than two bonus units or two additional square feet of floor area for every affordable housing unit or square foot of affordable housing unit, as applicable. However, in no event may a project receive a bonus that would result in a total number of units or floor area that exceeds 50% of the number of units or floor area allowed based on the underlying zone of the subject property.

3. Dimensional Standards Modification

An applicant may request further modification from the dimensional standards listed in 112.20 (3). Approval of any further modification of the dimensional standards will be

based on the applicant's demonstration that the subject property cannot reasonably achieve the permitted density, including the bonus units.

4. Criteria for Approving Additional Affordable Housing Incentives (Non-defined)

The City may approve one or more of the additional affordable housing incentives listed in Section 112.25.2 or 112.25.3, in addition to or in place of the defined affordable housing incentives, if one or more of the following requirements are met:

- a. The additional incentive is necessary to provide sufficient economic incentive to the applicant to offset the cost of providing the affordable housing units.
- b. The additional incentive is necessary to reasonably achieve the permitted density, including the bonus units.
- c. The additional incentive is necessary to achieve a greater number of affordable housing units than the defined affordable housing incentives would prescribe or a greater level of affordability than is defined by the term affordable housing unit.

In making its decision on additional incentives, the City will consider the value of any property tax exemptions available to the project from the City as established in Kirkland Municipal Code Chapter 5.88, as well as other fee waivers or reductions as established in the Kirkland Municipal Code.

112.30 Alternative Compliance

1. Approval Process for Alternative Compliance.

As an alternative to providing some or all of the affordable housing units on the subject property, the Planning Director may approve a request for alternative compliance. Alternative compliance may include providing affordable housing units at another location within the City of Kirkland or such other means proposed by the applicant and approved at the discretion of the Planning Director, consistent with the following criteria for alternative compliance.

2. Criteria for Alternative Compliance.

The City may approve a request for alternative compliance if both of the following requirements are met:

- a. The applicant demonstrates that the proposed alternative compliance method achieves an affordable housing benefit to the City equal to or better than providing the affordable housing units on-site.
- b. The affordable housing units provided through the alternative compliance will be based on providing the same type of ownership of units as would have been provided on-site.

3. Requirements for Off-Site Alternative Compliance.

Off-site affordable housing units are subject to the following requirements:

- a. The off-site location chosen for the affordable housing units shall not lead to an undue concentration of affordable housing either at the off-site location or in any particular area of the City.



- b. Any building permits required for off-site affordable housing units shall be submitted prior to submittal of building permits for the subject property. Certificates of occupancy for off-site affordable housing units shall be issued prior to issuance of the final certificate of occupancy for the subject property.

112.35 Affordability Provisions

1. Approval of Affordable Housing Units.

Prior to the issuance of any permit(s), the City shall review and approve the location and unit mix of the affordable housing units consistent with the following standards:

- a. The affordable housing units shall be intermingled with all other dwelling units in the development.
- b. The type of ownership of the affordable housing units shall be the same as the type of ownership for the rest of the housing units in the development.
- c. The affordable housing units shall consist of a range of number of bedrooms that are comparable to units in the overall development.
- d. The size of the affordable housing units, if smaller than the other units with the same number of bedrooms in the development, must be approved by the Planning Director. In no case shall the affordable housing units be more than 10% smaller than the comparable dwelling units in the development, based on number of bedrooms, or less than 600 square feet for a one bedroom unit, 800 square feet for a two bedroom unit, or 1,000 square feet for a three bedroom unit, whichever is less.
- e. The affordable housing units shall be available for occupancy in a time frame comparable to the availability of the rest of the dwelling units in the development.
- f. The exterior design of the affordable housing units must be compatible and comparable with the rest of the dwelling units in the development.
- g. The interior finish and quality of construction of the affordable housing units shall at a minimum be comparable to entry level rental or ownership housing in the City of Kirkland.

2. Affordability Agreement

Prior to issuing a certificate of occupancy, an agreement in a form acceptable to the City Attorney that addresses price restrictions, homebuyer or tenant qualifications, long-term affordability, and any other applicable topics of the affordable housing units shall be recorded with King County Department of Records and Elections. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant.

Affordable housing units that are provided under this section shall remain as affordable housing for a minimum of 30 years from the date of initial owner occupancy for ownership affordable housing units and for the life of the project for rental affordable housing units.

112.40 Regulatory Review and Evaluation

At least every two years, the Planning Department shall submit a report that tracks the use of these regulations to the Houghton Community Council, Planning Commission and City Council.

**125.30 Decision on the PUD – Density**

The maximum residential densities that the City may approve in a PUD are as follows:

1. Except as allowed under subsections (2) and (3) of this section, the maximum permitted residential density is the greater of that recommended by the Comprehensive Plan or 110 percent of that permitted in the zone in which the PUD is located.
2. If the PUD is designed, developed and maintained as "special needs housing," additional density may be permitted on the following basis:
  - a. Housing for senior citizens households, or for mentally, physically or emotionally impaired persons, except for assisted living facilities, may be permitted a maximum density of up to 1.5 times the maximum density recommended by the Comprehensive Plan or, if the development includes affordable housing units approved pursuant to Chapter 112 KZC, the maximum density allowed for the development through Chapter 112 KZC, whichever is greater; provided, that traffic impacts, impacts to public services and utilities, and impacts to adjacent properties are comparable to the impacts of the project if it were not providing special needs housing and if it were developed at the maximum density permitted in the zone in which the project is located.
  - b. Housing for low or moderate income households in low density zones may be permitted a maximum density above the density permitted under subsections (1) and (2)(a) of this section based upon the percentage of dwelling units which are low or moderate income units, using the following multipliers:

## Density

% of Low or Moderate Income Units = Multiplier

5 – 9%	= 1.1
10 – 14%	= 1.2
15 – 19%	= 1.3
20 – 24%	= 1.4
25% +	= 1.5

3. If a project consists of special needs housing, the applicant shall prepare a document, to be approved by the City Attorney, stating that the PUD will become void and use and occupancy must cease if the development is used for any purpose other than that for which it was specifically approved. This document, which will run with the subject property, must be recorded in the King County Department of Elections and Records.
4. If the PUD is proposed in an RS 35, RSX 35, RS 12.5, RSX 12.5, RS 8.5, RSX 8.5, RS 7.2, RSX 7.2, RS 5.0 or RSX 5.0 Zone, the City will subtract the area actually used for vehicular circulation and surface parking areas that serve more than one dwelling unit, before determining the maximum number of dwelling units potentially permitted under this section.

EXHIBIT

D

**Chapter 180, Plate X****Affordable Housing Incentives – Multifamily****112.20.2 Defined Affordable Housing Incentives - Density Bonus:**

In use zones where the number of dwelling units allowed on the subject property is determined by dividing the lot size by the required minimum lot area per unit, two bonus units may be constructed for each affordable housing unit provided (**see Example 1**). In areas where the density allowed on the subject property is expressed as a floor area ratio (FAR), bonuses will be calculated as an equivalent FAR bonus (**see Example 2**). These examples are for properties that do not contain a wetland, stream, minor lake or their buffers. For properties that contain a wetland, stream, minor lake or their buffers, the base density allowed shall be established using the maximum development potential calculation in Kirkland Zoning Code Section 90.135.

**Example 1 – Density Bonus**

Property Size (Net Acres)	3 Acres
Zoned Density	2,400 square feet of land area required per unit
Base Density Allowed	(3 Acres x 43,560 sq. ft. per acre) / 2,400 sq. ft. per unit = 54.45 units (Rounds to 54 units)
Proposed Number of Affordable Housing Units	5 Units
Proposed Bonus Units	5 Units x 2 = 10 Units
Total Units Allowed	54 Base Units + 10 Bonus Units = 64 Units (including 5 Affordable Housing Units)
Maximum Bonus Units (25% of Base Density)	54 Units x 0.25 = 13.5 Units (Rounds to 13)*

\*Note: If seven affordable housing units were provided, only 13 bonus units (instead of 14 bonus units) could be achieved through the defined affordable housing incentives process due to the maximum bonus provision (Section 112.20 2.c.) An applicant may apply through the additional affordable housing incentives (non-defined) process (Section 112.25) for a larger number of bonus units.

**Example 2 – FAR Bonus**

Property Size (Net Acres)	1 Acre
Zoned Density	2.5 maximum Floor Area Ratio (FAR)
Base Density Allowed	(1 Acre x 43,560 sq. ft. per acre) x 2.5 FAR = 108,900 square feet
Proposed Number and Size of Affordable Housing Units	6 Units each containing 1,200 square feet of gross floor area
Affordable Housing Floor Area	6 Units x 1,200 square feet per unit = 7,200 square feet
Proposed Bonus Floor Area	7,200 square feet x 2 = 14,400 square feet*
Total Square Footage Allowed	108,900 Base Square Feet + 14,400 Bonus Square Feet = 123,300 square feet (including 6 Affordable Housing Units)
Maximum Bonus Floor Area (25% of Base FAR)	108,900 square feet x 0.25 = 27,225 square feet

\*Note: The 14,400 square feet of bonus floor area can be used on the subject property as the applicant feels best meets project needs.

ORDINANCE NO. 3938  
PUBLICATION SUMMARY

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND ADDING CHAPTER 112 (AFFORDABLE HOUSING INCENTIVES - MULTIFAMILY) AND AMENDING CHAPTERS 5, 90, 125 AND 180 OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING CODE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE) (FILE NO. IV-00-13).

Section 1. Provides amendments related to development regulations for affordable multifamily housing to the following specific portions of the Kirkland Zoning Code:

- A. Chapter 5 Definitions
- B. Chapter 90 Drainage Basins
- C. Chapter 112 Affordable Housing Incentives - Multifamily
- D. Chapter 125 Planned Unit Development
- E. Chapter 180 Plates

Section 2. Provides a severability clause for the ordinance.

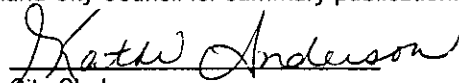
Section 3. Provides that the effective date of the ordinance is affected by the disapproval jurisdiction of the Houghton Community Council.

Section 4. Establishes the effective date as thirty days after publication of summary.

Section 5. Establishes certification by City Clerk and notification of King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 4th day of May, 2004.

I certify that the foregoing is a summary of Ordinance 3938 approved by the Kirkland City Council for summary publication.

  
City Clerk