

ORDINANCE NO. 3956

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING AND LAND USE, AMENDING CHAPTERS 1, 5, 55, 95, AND 142 OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING CODE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE), AND ORDINANCE 3710 AS AMENDED, THE KIRKLAND ZONING MAP (FILE NO. IV-02-70).

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 June 22, 2004 and bearing Kirkland Department of Planning and Community Development File No. IV-02-70;

WHEREAS, prior to making the recommendation the Planning Commission, following notice as required by RCW 35A.63.070, held on February 12, 2004, April 8<sup>th</sup>, 2004, and May 13<sup>th</sup>, 2004, public hearings on the amendment proposals and considered the comments received at the hearings; 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. Table of Contents  
Revisions to Table of Contents to include changes made by this Ordinance.
- B. Chapter 1. User Guide:  
Text amendments to Section 1.05 to add references to TL 2 as shown in Exhibit A attached to this ordinance and incorporated by reference.
- C. Chapter 5 Definitions:  
Text amendments to Sections 5.10.145, and 5.10.960 as shown in Exhibit B attached to this ordinance and incorporated by reference.
- D. Chapter 55 Totem Lake (TL) Zones – TL 2:

Text amendments to add new General Regulations and Use Zone Charts as the new TL 2 Zone in Chapter 55, as shown in Exhibit C attached to this ordinance and incorporated by reference.

- E. Chapter 95 Landscaping  
Text amendment to footnote in Section 95.10, as shown in Exhibit D attached to this ordinance and incorporated by reference.
- F. Chapter 142 Design Review:  
Text amendments to Section 142.35, as shown in Exhibit E attached to this ordinance and incorporated by reference.

Section 2. Zoning Map amended: The following specified zones of the Ordinance 3710 as amended, the Kirkland Zoning Map, are amended as follows:

As set forth in Exhibit F which by this reference is incorporated herein.

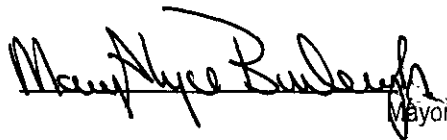
Section 3. Severability: If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date: This ordinance shall be in full force and effect five days from and after its passage by the City Council and publication, as required by law.

Section 5 Ordinance Copy: A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Passed by majority vote of the Kirkland City Council in open meeting this 3rd day of August, 2004.

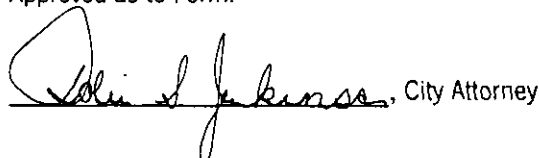
SIGNED IN AUTHENTICATION THEREOF this 3rd day of August, 2004.

  
Mayor

Attest:

  
City Clerk

Approved as to Form:

  
City Attorney

## Chapter 1 – USER GUIDE

### Sections:

1.05 How To Use This Code

1.10 Additional Regulations

### 1.05 How To Use This Code

This code has been designed and drafted to make it as easy as possible for the user to determine all land use regulations that apply to a particular piece of property and to uses, structures, and activities on that piece of property. Follow the step-by-step procedure laid out below to find applicable regulations.

1. Find the subject property on the Zoning Map. The subject property will be within one of the following use zones sequentially listed:

RS	BC	JBD 3	ILC	PLA 13
RSX	BCX	JBD 4	PLA 1	PLA 14
RM	CBD 1	JBD 5	PLA 2	PLA 15
PR	CBD 2	JBD 6	PLA 3	PLA 16
PO	CBD 3	NRH1A	PLA 5	PLA 17
WD I	CBD 4	NRH1B	PLA 6	P
WD II	CBD 5	NRH2	PLA 7	TL 1
WD III	CBD 6	NRH3	PLA 8	<u>TL 2</u>
FC I	CBD 7	NRH4	PLA 9	TL 3
FC II	CBD 8	NRH5	PLA 10	
FC III	JBD 1	NRH6	PLA 11	
BN	JBD 2	LIT		

2. Refer to the text of this code and find the chapter that corresponds to the use zone in which the subject property is located.
3. Each of these use zone chapters contains a series of charts. Read down the first vertical column of each chart to find the use in which you are interested. In some zones, certain uses are listed specifically (e.g., "Retail variety or department store" in Neighborhood Business Zones). In other zones, uses are listed generally (e.g., "Any retail establishment ... selling goods or providing services..." in Community Business Zones). In many cases, the general listing encompasses what could otherwise be numerous separate uses.

Uses and activities that fall under the definition of "adult entertainment use or activity" are not permitted except as allowed in Chapter 72 KZC.

4. After finding the appropriate use, then read across to find a variety of regulations that apply to the subject property. In addition, review "..."

EXHIBIT

A

- .115 Changing Message Center – An electronically controlled public service time and temperature sign where copy changes are shown on the same lamp bank.
- .120 Church – An establishment, the principal purpose of which is religious worship, and for which the principal building or other structure contains the sanctuary or principal place of worship, and which includes related accessory uses.
- .125 City Manager – The chief administrative official of the City.
- .126 Class A Streams – As defined in Chapter 90 KZC.
- .127 Class B Streams – As defined in Chapter 90 KZC.
- .128 Class C Streams – As defined in Chapter 90 KZC.
- .130 Clustered Development – The grouping or attaching of buildings in such a manner as to achieve larger aggregations of open space than would normally be possible from lot by lot development at a given density.
- .135 Code (this) – The code of the City of Kirkland adopted as KMC Title 23.
- .140 Commercial Recreation Area and Use – An area and use operated for profit, with private facilities, equipment or services for recreational purposes, including swimming pools, tennis courts, playgrounds and other similar uses. The use of such an area may be limited to private membership or may be open to the public upon the payment of a fee.
- .145 Commercial Zones – The following zones: BN; BC; BCX; CBD; FC I; FC II; JBD 1; JBD 2; JBD 4; JBD 5; JBD 6; PLA 8; PLA 10A; PLA 13A; NRH 1A; NRH 1B; and NRH 4; and TL 2.
- .150 Common Recreational Open Space Usable for Many Activities – Any area available to all of the residents of the subject property that is appropriate for a variety of active and passive recreational activities, if that area:
- a. Is not covered by residential buildings, parking or driving areas; and
  - b. Is not covered by any vegetation that impedes access; and
  - c. Is not on a slope that is too steep for the recreational activities.
- .153 Community Facility – A use which serves the public and is generally of a public service, noncommercial nature. Such use shall include food banks, clothing banks, and other nonprofit social service organizations; nonprofit recreational facilities; and nonprofit performing arts centers.
- .155 Community Recreation Area or Clubhouse – An area devoted to facilities and equipment for recreational purposes, swimming pools, tennis courts, playgrounds, community club houses and other similar uses maintained and operated by a nonprofit club or organization whose membership is limited to the residents within a specified geographic area.
- .160 Comprehensive Plan – The Comprehensive Plan of the City, listing the goals and policies regarding land use within the city.
- .165 Construction Sign – An informational sign which identifies the architect, engineer, contractor and any other individual or corporation involved with the construction of a building or use.
- .170 Contour Line – The interconnection of points having the same height above sea level.

945 Uniform Sign Code – The Uniform Sign Code as amended and adopted in Chapter 21.16 KMC.

.955 Use – The nature of the activities taking place on private property or within structures thereon. Each separate listing under the "Use" column in the Chapters 15 through 65 KZC is a separate use.

.960 Use Zone – The zoning designations on the Zoning Map as follows:

RS 35	BC	PLA 6C	
RSX 35	BCX	PLA 6D	
RS 12.5		PLA 6E	
RSX 12.5	CBD 1	PLA 6F	
RS 8.5	CBD 2	PLA 6G	
RSX 8.5	CBD 3	PLA 6H	
RS 7.2	CBD 4	PLA 6I	
RS 5.0	CBD 5	PLA 6J	
RSX 5.0	CBD 6	PLA 6K	
	CBD 7	PLA 7A	
RM 5.0	CBD 8	PLA 7B	
RM 3.6		PLA 7C	
RM 2.4	JBD 1	PLA 8	NRH 3
RM 1.8	JBD 2	PLA 9	NRH 4
	JBD 3	PLA 10A	NRH 5
WD I	JBD 4	PLA 10B	NRH 6
WD II	JBD 5	PLA 10C	
WD III	JBD 6	PLA 11	TL 1A
PR 8.5	LIT	PLA 13A	<u>TL 2</u>
PR 5.0	ILC	PLA 13B	TL 3
PR 3.6	PLA 1	PLA 15A	
PR 2.4	PLA 2	PLA 15B	
PR 1.8	PLA 3A	PLA 16	
	PLA 3B	PLA 17A	
PO	PLA 5A	PLA 17B	
	PLA 5B	PLA 17C	
FC I	PLA 5C		
FC II	PLA 5D	P	
FC III	PLA 5E	NRH 1A	
	PLA 6A	NRH 1B	
BN	PLA 6B	NRH 2	

.965 Vehicle Service Station – A commercial use supplying petroleum products that are for immediate use in a vehicle.

.970 Vehicle Storage Area – An outside area which is used for the storage of operational vehicles.

.973 Vehicular Access Easement or Tract – A privately owned right-of-way, but not including a driveway easement.

.974 View Corridor – An open area that provides an unobstructed view across the subject property to and beyond Lake Washington from the adjacent right-of-way.

.975 Wall Sign – A sign attached to and extending not more than 18 inches from the facade or face of a building with the exposed face of the sign parallel to the facade or face of the building.

CHAPTER 55 – TOTEM LAKE (TL) ZONES

55.17 User Guide. The charts in KZC 55.21 contain the basic zoning regulations that apply in the TL 2 zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section 55.19

Section 55.19 GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provisions of this Code may apply to the subject property.
2. In addition to the height exceptions established in KZC 115.60, the following exceptions to height regulations in TL 2 are established:
  - i. Decorative parapets may exceed the height limit by a maximum of four feet; provided, that the average height of the parapet around the perimeter of the structure shall not exceed two feet.
  - ii. For structures with a sloped roof, the peak may extend eight feet above the height limit if the slope of the roof is equal to or greater than four feet vertical to 12 feet horizontal.



EXHIBIT  
14-02-70  
D

TL 2

USE ZONE CHART

Section 55.21	USE	REGULATIONS		DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS					Special Regulations (See also General Regulations)	
		Required Review Process	Lot Size	MINIMUMS			MAXIMUMS			
				REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure		
		Front	Side	Rear						
10	Development containing retail uses, selling goods or providing services, including restaurants, food restaurants, taverns, and fast food restaurants, banking and other financial services (see special regulations 1, 2 and 3).	D.R., Chapter 142, KZC. If an approved Conceptual Master Plan (CMP) exists, the review process shall be as set forth in the CMP. Otherwise, see special regulations 2 and 3).	1.5 acres (see Special Regulation 8).	As established in the CMP.	80%	75-135' above average building elevation (see Special Regulation 9).	See special regulation 3.	See special regulation 4.	As established in the CMP.	<p>1. May also include one or more of the other uses allowed in this zone. Development regulations of this subsection (1.10) apply to all uses developed within a Conceptual Master Plan (CMP).</p> <p>2. Development must be part of a Conceptual Master Plan (CMP) for the entire property. The proposed CMP shall follow the process established in Chapter 142. Under 142.35.7, the Design Review Board will consider a Conceptual Master Plan for the property. Subsequent development proposals shall follow DR or ADR as set forth in the Notice of Approval for the Conceptual Master Plan.</p> <p>3. The Conceptual Master Plan must establish a circulation system for vehicles and pedestrians. The site plan should be pedestrian oriented, and incorporate the following design principles:</p> <ul style="list-style-type: none"> <li>a. Siting of buildings oriented to the pedestrian network. Isolated building pads should be minimized.</li> <li>b. Storefront orientation to pedestrian and vehicular circulation routes.</li> <li>c. Ground floor spaces designed in a configuration which encourages pedestrian activity and visual interest. Uses other than retail, restaurants, taverns and fast food restaurants may be permitted on the ground floor of structures only if the use and location do not compromise the desired pedestrian orientation and character of the development.</li> <li>d. Pedestrian connections:                             <ul style="list-style-type: none"> <li>i. Between the upper and lower portions of the property (east and west of 120<sup>th</sup> Ave NE).</li> <li>ii. Internal to the site (between 120<sup>th</sup> Ave NE and Totem Lake Blvd), and/or other locations that provide convenient pedestrian mobility and contribute to the pedestrian and</li> </ul> </li> </ul>

TL 2

# USE ZONE CHART

Section 55.21	USE	REGULATIONS	Required Review Process	MINIMUMS			MAXIMUMS			Landscape Category (See Ch. 95)	Sign Category (See Ch. 95)	Req'd Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
				Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure				
				Front	Side	Rear							
(10 cont.)												<p>retail character of the development.</p> <p>and</p> <p>iii. To surrounding developments including the hospital campus, the transit center and the mixed use area to the north in TL 1A. The alignment of the pedestrian connection to properties in TL 1A should be designed to coincide with the alignment of 119<sup>th</sup> Avenue NE to the north.</p> <p>e. Clearly identifiable building and pedestrian access points and entryways.</p> <p>f. Provision of useable public spaces, plazas or pocket parks, and public amenities, such as art, sculptures, fountains or benches.</p> <p>g. Use of landscaping to emphasize entries into buildings and pedestrian areas, to enhance public spaces, and to screen blank walls and service areas. Landscaping should also be provided in plazas, along pedestrian circulation routes, and in parking areas.</p> <p>h. Design techniques to prevent the dominance of large single occupant structures, such as smaller building footprints and multiple tenant spaces on the ground floor at the street.</p> <p>i. Placement of parking areas behind buildings located on pedestrian-oriented streets and pathways.</p> <p>j. Placement of loading and service areas away from 120<sup>th</sup> Avenue NE and pedestrian areas.</p> <p>k. Location of drive-through facilities to not compromise the pedestrian orientation of the development.</p> <p>4. Signs for a development approved under this provision must be proposed within a Master Sign Plan application (subsection 100.80) for all signs within the project.</p>	





# USE ZONE CHART

<b>DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS</b>													
Section 55.21	USE	REGULATIONS	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 95)	Req'd Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
				Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
					Front	Side	Rear						
(.10 cont.)												5. Any vehicle service or repair activity must be entirely contained within an enclosed structure, and the orientation of the use and activity must be away from pedestrian circulation routes and spaces. 6. Vehicle sales are permitted only if the vehicles are displayed in an indoor showroom, and the showroom does not occupy more than 10,000 square feet. 7. The following uses are not permitted in this zone a. Retail establishments providing storage services unless accessory to another permitted use. b. Outdoor storage of bulk commodities, except in the following circumstances: 1) If the square footage of the storage area is less than 5 percent of the total square footage of the retail structure, or as provided for in the CMP, or 2) If the commodities represent growing stock in connection with horticultural nurseries, whether the stock is in open ground, pots, or containers. c. Storage and operation of heavy equipment except normal delivery vehicles associated with retail uses. 8. Parcels smaller than 1.5 acres may be added to a previously approved Conceptual Master Plan (CMP), if the applicable criteria set forth in the Notice of Approval for the approved CMP are met. 9. Building height may exceed 75' above average building elevation if approved through a CMP, provided that no more than five percent (5%) of the gross site area included within the CMP may have increased building height, and the increased building height does not exceed 135' above average building elevation.	
.20	Any retail establishment,	D.R., Chapter	Less than 1.5 acres.	0'	0'	0'	80%	30' above average building elevation.	D (see special	E	1 per 300	1. Must be developed to be compatible with the approved Conceptual Master Plan for adjacent	

USE ZONE CHART

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS													
Section 55.21	USE	REGULATIONS	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 95)	Req'd Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
				Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
					Front	Side	Rear						
(.20 cont.)	other than those specifically listed in this zone, selling goods or providing services including banking and other financial services.	142, KZC.							reg 5).		<p>properties, with respect to signs, parking and pedestrian and vehicular access.</p> <ol style="list-style-type: none"> <li>2. Any vehicle service or repair activity must be entirely contained within an enclosed structure, and the orientation of the use and activity must be away from pedestrian circulation routes and spaces.</li> <li>3. Vehicle sales are permitted only if the vehicles are displayed in an indoor showroom, and the showroom does not occupy more than 10,000 square feet.</li> <li>4. Location of drive-through facilities must not compromise the pedestrian orientation of the development. The location and specific design of the facilities requires Planning Official approval.</li> <li>5. Landscape Category B will be required if the use includes drive-through facilities.</li> <li>6. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if:               <ol style="list-style-type: none"> <li>d. The assembled or manufactured goods are directly related to and are dependent upon this use, and are available for purchase and removal from the premises.</li> <li>e. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.</li> </ol> </li> <li>7. The following uses are not permitted in this zone:               <ol style="list-style-type: none"> <li>f. Retail establishments providing storage services unless accessory to another permitted use.</li> <li>g. Outdoor storage of bulk commodities, except in the following circumstances:                   <ol style="list-style-type: none"> <li>i. If the square footage of the storage area is less than 5 percent of the total square footage of the retail structure, or;</li> <li>ii. If the commodities represent growing stock in connection with horticultural nurseries, whether the stock is in open ground, pots, or containers.</li> </ol> </li> <li>h. Storage and operation of heavy equipment</li> </ol> </li> </ol>		

0-3956

USE ZONE CHART

Section 55.21	USE	REGULATIONS		MINIMUMS				MAXIMUMS			Landscape Category (See Ch. 95)	Sign Category (See Ch. 95)	Req'd Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
		Required Review Process	Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure						
				Front	Side	Rear								
.30	Restaurant or Tavern.													except normal delivery vehicles associated with retail uses.
.40 (.40 cont.)	A retail establishment providing entertainment, recreational, or cultural activities.													(Special Regulations apply to Uses .20-.40)
.50	Office Use	D.R., Chapter 142, KZC.	Less than 1.5 acres.	0'	0'	0'	80%	30' above average building elevation.	B	D	See special regulation n 4.		<ol style="list-style-type: none"> <li>Must be developed to be compatible with the approved Conceptual Master Plan for adjacent properties, with respect to signs, parking and pedestrian and vehicular access.</li> <li>Ancillary assembly and manufacture of goods on the premises of this use are permitted only if:                             <ol style="list-style-type: none"> <li>The assembled or manufactured goods are subordinate to and are dependent upon this use.</li> <li>The outward appearance and impacts of this use with ancillary assembly or manufacturing must be no different from other office uses.</li> </ol> </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 noise from this use is not audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the development permit application</li> <li>A veterinary office is not permitted if the subject property contains dwelling units</li> </ol> </li> <li>If a medical, dental or veterinary office, then 1 per each 200 square feet of gross floor area.</li> </ol>	

USE ZONE CHART

Section 55.21	USE	REGULATIONS	MINIMUMS				MAXIMUMS			Special Regulations (See also General Regulations)			
			Required Review Process	Lot Size	REQUIRED YARDS (See Ch. 11.5)			Lot Coverage	Height of Structure		Landscape Category (See Ch. 95)	Sign Category (See Ch. 95)	Req'd Parking Spaces (See Ch. 105)
					Front	Side	Rear						
.60	Attached or Stacked Dwelling Units	D.R., Chapter 142, KZC.	Less than 1.5 acres.	0'	0'	0'	80%	30' above average building elevation.	D	A	See KZC 105.25.	<p>Otherwise, 1 per 300 square feet of floor area. A reduction in the number of parking stalls required will be considered per KZC 105.103, due to the proximity to the transit center.</p> <ol style="list-style-type: none"> <li>Must be developed to be compatible with the approved Conceptual Master Plan for adjacent properties, with respect to signs, parking and pedestrian and vehicular access.</li> <li>This use may not be located on the ground floor of a structure.</li> <li>Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.</li> </ol>	
.70	Vehicle Service Station	D.R., Chapter 142, KZC.	Less than 1.5 acres.	See spec. reg. 4	See spec. reg. 4	See spec. reg. 4	80%	30' above average building elevation.	A	E	See KZC 105.25	<ol style="list-style-type: none"> <li>Must be developed to be compatible with the approved Conceptual Master Plan for adjacent properties, with respect to signs, parking and pedestrian and vehicular access.</li> <li>May not be more than two vehicle service stations at any intersection.</li> <li>This use may not front exclusively on 120<sup>th</sup> Avenue NE.</li> <li>Gas pump islands must be setback at least 20 feet from all property lines. Canopies and covers over gas pump islands may not be closer than 10 feet to any property line. Outdoor parking and service areas may not be closer than 10 feet to any property line. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations.</li> </ol>	
.80	Hotel or Motel	D.R., Chapter 142, KZC.	Less than 1.5 acres.	0	0	0	80%	30' above average building elevation.	D	E	1 per each room. See spec reg. 3.	<ol style="list-style-type: none"> <li>Must be developed to be compatible with the approved Conceptual Master Plan for adjacent properties, with respect to signs, parking and pedestrian and vehicular access.</li> <li>May include ancillary meeting and convention facilities</li> <li>Excludes parking requirements for ancillary meeting</li> </ol>	

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS

TL 2



# USE ZONE CHART

<b>DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS</b>													
Section 55.21	USE	REGULATIONS	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 95)	Req'd Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
				Lot Size	REQUIRED YARDS (See Ch. 115)			Lot Coverage					Height of Structure
					Front	Side	Rear						
												and convention facilities. Additional parking requirement for these ancillary uses shall be determined on a case-by-case basis	
.90	Church	D.R., Chapter 142.	Less than 1.5 acres.	0'	0'	0'	80%	30' above average building elevation.	D	B	See Spec. Reg. 3.	<ol style="list-style-type: none"> <li>1. Must be developed to be compatible with the approved Conceptual Master Plan for adjacent properties, with respect to signs, parking and pedestrian and vehicular access.</li> <li>2. May include accessory living facilities for staff persons.</li> <li>3. One for every four people based on maximum occupancy load of any area of worship. No parking is required for day-care or school ancillary to the use.</li> </ol>	

# USE ZONE CHART

**DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS**

Section 55.21	USE	REGULATIONS	MINIMUMS		REQUIRED YARDS (See Ch. 115)			Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 95)	Req'd Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	Front	Side	Rear							

.100	School, Day-care Center or Mini-School or Mini-day-care	D.R., Chapter 142, KZC.	Less than 1.5 acres.	10' See Special Reg. 4.	0' See Special Reg. 4.	0' See Special Reg. 4.	0' See Special Reg. 4.	80%	30' above average building elevation.	D	B	See KZC 105.25. See Spec. Reg. 5.	<ol style="list-style-type: none"> <li>Must be developed to be compatible with the approved Conceptual Master Plan for adjacent properties, with respect to signs, parking and pedestrian and vehicular access.</li> <li>A six foot high fence is required along property lines adjacent to outside play areas.</li> <li>Hours of operation may be limited by the City to reduce impacts on nearby residential uses.</li> <li>Structured play areas must be setback from all property lines by at least five feet.</li> <li>An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting r-o-w improvements.</li> <li>These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388.</li> </ol>
.110	Assisted Living Facility	DR., Chapter 142, KZC.	Less than 1.5 acres.	0'	0'	0'	0'	80%	30' above average building elevation.	B	A	1 per assisted living unit.	<ol style="list-style-type: none"> <li>Must be developed to be compatible with the approved Conceptual Master Plan for adjacent properties, with respect to signs, parking and pedestrian and vehicular access.</li> <li>This use may not be located on the ground floor of a structure.</li> <li>The development must be designed to limit potential impacts from surrounding commercial uses on residents of the subject property.</li> <li>Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use.</li> </ol>
.120	Convalescent Center or Nursing Home	D.R., Chapter 142.	Less than 1.5 acres.	0'	0'	0'	0'	80%	30' above average building elevation.	C	B	1 for each bed.	<ol style="list-style-type: none"> <li>Must be developed to be compatible with the approved Conceptual Master Plan for adjacent properties, with respect to signs, parking and pedestrian and vehicular access.</li> <li>This use may not be located on the ground floor of a structure.</li> </ol>

TL 2

USE ZONE CHART

Section 55.21	USE	REGULATIONS		DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS				Special Regulations (See also General Regulations)				
		Required Review Process	Lot Size	MINIMUMS			MAXIMUMS					
				Front	Side	Rear	Lot Coverage		Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 95)	Req'd Parking Spaces (See Ch. 105)
.130	Public Utility, Government Facility and Community Facility	D.R., Chapter 142, KZC.	Less than 1.5 acres.	0'	0'	0'	80%	30' above average building elevation.	D See Spec. Reg. 2.	B	See KZC 105.25.	<ol style="list-style-type: none"> <li>Must be developed to be compatible with the approved Conceptual Master Plan for adjacent properties, with respect to signs, parking and pedestrian and vehicular access.</li> <li>Landscape category B or C may be required depending on the type of use on the subject property and the impacts associated with this use.</li> </ol>
.140	Public Park	DESIGN REVIEW Chapter 142	None	Will be determined on a case by case basis.						B	See KZC 105.25.	

NOTE: FINAL PRODUCTION OF CHARTS WILL INCLUDE REFORMATING TO ALLOW FOR CONSOLIDATION OF USES AND REGULATIONS ON FEWER PAGES.

**95.10 Minimum Landscaping Requirements**

The applicant shall comply with the provisions specified in the following chart. Certain requirements apply to all uses. Other requirements, which pertain to buffering, may apply to the subject property, depending on what permitted use exists on the adjoining property or, if no permitted use exists, depending on the zone that the adjoining property is in.

LANDSCAPING CATEGORY Y	ADJOINING PROPERTY Z	*Public park or low density residential use or if no permitted use exists on the adjoining property then a low density zone.	Medium or high density residential use or if no permitted use exists on the adjoining property then a medium density or high density zone.	Institutional or office use or if no permitted use exists on the adjoining property then an institutional or office zone.	A commercial use or an industrial use or if no permitted use exists on the adjoining property then a commercial or industrial zone.
A		Must comply with <u>KZC 95.15</u> , <u>95.20</u> and <u>95.25(1)</u> (Buffering Standard 1)	Must comply with <u>KZC 95.15</u> , <u>95.20</u> and <u>95.25(1)</u> (Buffering Standard 1)	Must comply with <u>KZC 95.15</u> , <u>95.20</u> and <u>95.25(3)</u> (Buffering Standard 3)	Must comply with <u>KZC 95.15</u> and <u>95.20</u>
B		Must comply with <u>KZC 95.15</u> , <u>95.20</u> and <u>95.25(2)</u> (Buffering Standard 2)	Must comply with <u>KZC 95.15</u> , <u>95.20</u> and <u>95.25(2)</u> (Buffering Standard 2)	Must comply with <u>KZC 95.15</u> and <u>95.20</u>	Must comply with <u>KZC 95.15</u> and <u>95.20</u>
C		Must comply with <u>KZC 95.15</u> , <u>95.20</u> and <u>95.25(2)</u> (Buffering Standard 2)	Must comply with <u>KZC 95.15</u> , <u>95.20</u> and <u>95.25(3)</u> (Buffering Standard 3)	Must comply with <u>KZC 95.15</u> and <u>95.20</u>	Must comply with <u>KZC 95.15</u> and <u>95.20</u>
D		Must comply with <u>KZC 95.15</u> , <u>95.20</u> and <u>95.25(3)</u> (Buffering Standard 3)	Must comply with <u>KZC 95.15</u> and <u>95.20</u>	Must comply with <u>KZC 95.15</u> and <u>95.20</u>	Must comply with <u>KZC 95.15</u> and <u>95.20</u>
E	Must comply with <u>KZC 95.15</u>				
Footnotes:	*If the adjoining property is zoned Central Business District or is located in Totem Center, <u>KZC 95.25</u> does not apply.				

EXHIBIT D  
IV-02-70



## Chapter 142 – DESIGN REVIEW

### Sections:

- 142.05 User Guide
- 142.15 Development Activities Requiring D.R. Approval
- 142.17 Design Review Process
- 142.20 Timing
- 142.25 Administrative Design Review (A.D.R.)
- 142.35 Design Board Review (D.B.R.)
- 142.40 Appeals of Design Review Board Decisions
- 142.50 Modifications
- 142.55 Lapse of Approval
- 142.60 Bonds

### 142.05 User Guide

Various places in this code indicate that certain developments, activities, or uses are required to be reviewed through design review or D.R. Design review may either be administrative design review (A.D.R.) or design board review (D.B.R.). This chapter describes these design review processes.

### 142.15 Development Activities Requiring D.R. Approval

1. All development activities subject to KZC 92.35(2) and (5) need not be reviewed through D.R., but shall comply with this chapter.
2. The following development activities are subject to D.R. unless subsection (3) of this section applies:
  - a. The development of an undeveloped site.
  - b. The addition of new floor area to an existing building.
  - c. A change to the exterior appearance of over 25 percent of a facade visible from a street or park.
3. The following activities are not subject to D.R.:
  - a. Any activity which does not require a building permit; or
  - b. Any activity on the exterior of a building of which the total cost or fair market value, whichever is higher, does not exceed \$10,000; or
  - c. Interior work which does not alter the exterior of the structure; or
  - d. Normal building maintenance including the repair or maintenance of structural members.
4. See also KZC 162.35, Certain Nonconformances Specifically Regulated, for additional information regarding the application of design regulations to existing development and remodels. The City encourages voluntary compliance with the design regulations, the Comprehensive Plan, and design guidelines even for

projects which do not require D.R. approval according to the terms of this subsection.

#### 142.17 Design Review Process

1. The following development activities shall be reviewed administratively pursuant to KZC 142.25:
  - a. All new one-story buildings containing less than 10,000 square feet of gross floor area.
  - b. The following additions to existing buildings:
    - 1) To one-story buildings where the existing and new floor area total less than 10,000 square feet of gross floor area; or
    - 2) To buildings greater than one-story or 10,000 square feet of gross floor area where the gross floor area is expanded by less than 10 percent.
  - c. Renovations to existing facades, unless the building is identified by the City as a historic structure.
2. All other development activities shall be reviewed by the Design Review Board pursuant to KZC 142.35.

#### 142.20 Timing

For any development activity that requires D.R. approval, the applicant must comply with the provisions of this chapter before a building permit can be approved; provided, that an applicant may submit a building permit application at any time during the design review process. An applicant may request early design review, but such review shall not be considered a development permit or to in any way authorize a use or development activity.

An application for D.R. approval may be considered withdrawn for all purposes if the applicant has not submitted information requested by the City within 60 calendar days after the request and the applicant does not demonstrate reasonable progress toward submitting the requested information.

#### 142.25 Administrative Design Review (A.D.R.)

1. Pre-Design Conference – Before applying for A.D.R. approval, the applicant shall schedule and attend an A.D.R. pre-design meeting with the Planning Official. The meeting will be scheduled by the Planning Official upon written request by the applicant. The purpose of this meeting is to provide an opportunity for an applicant to discuss the project concept with the Planning Official and:
  - a. For the Planning Official to designate which design regulations apply to the proposed development based primarily on the location and nature of the proposed development;
  - b. To discuss how the design guidelines and other applicable provisions of this code and Comprehensive Plan affect or pertain to the proposed development;

- c. For the Planning Official to determine what models, drawings, perspectives, 3-D CAD model, or other application materials the applicant will need to submit with the A.D.R. application.

This pre-design meeting may be combined with a pre-submittal meeting, if applicable.

2. Application – Following the pre-design meeting, the applicant shall submit an A.D.R. application on a form provided by the Planning Department. The application shall include all documents and exhibits listed on the application form, as well as all application materials required as a result of the pre-design meeting.
3. Decision – The Planning Official shall review the A.D.R. application for compliance with the design regulations of this code, using the design guidelines and Comprehensive Plan to interpret how the regulations apply to the subject property. After reviewing the A.D.R. application and other application materials, the Planning Official may grant, deny or conditionally approve subject to modifications the A.D.R. approval for the proposed development. No development permit for the subject property requiring A.D.R. approval will be issued until the proposed development is granted A.D.R. approval or conditional approval. The terms of A.D.R. approval or conditional approval will become a condition of approval on each subsequent development permit and no subsequent development permit will be issued unless it is consistent with the A.D.R. approval or conditional approval. The Planning Official shall send written notice of the A.D.R. decision to the applicant. If the A.D.R. is denied, the decision shall specify the reasons for denial.
4. Requests for Reconsideration
  - a. Only the applicant may request reconsideration of the A.D.R. decision.
  - b. Only the City and the applicant may participate in the request for reconsideration.
  - c. The applicant may request the Planning Director to reconsider any aspect of the Planning Official's A.D.R. decision by delivering a written request for reconsideration to the Planning Department within seven calendar days following the postmarked date of distribution of the Planning Official's written decision. The applicant shall specify in the request what aspect of the decision he/she wishes to have reconsidered and the reason for the request.
  - d. Within seven calendar days after receiving a request for reconsideration, the Planning Director shall notify the applicant whether or not the Planning Director will reconsider the decision. The Planning Director may reconsider the decision only if he/she concludes that there is substantial merit in the request.
  - e. If the Planning Director reconsiders the decision, the Planning Director shall send written notice of the final A.D.R. decision to the applicant. The decision shall specify the reasons for modifications, if applicable.
5. Design Departure and Minor Variations
  - a. General – This section provides a mechanism for obtaining approval to depart from strict adherence to the design regulations or for requesting minor

variations from setback requirements in the CBD, and from setback, floor plate maximums and building separation requirements in Totem Center. This section does not apply when a design regulation permits the applicant to propose an alternate method for complying with it or the use zone chart allows the applicant to request a reduced setback administratively.

- b. Process – If a design departure or minor variation is requested, the D.R. decision, including the design departure or minor variation, will be reviewed and decided upon using the D.B.R. process.
- c. Application Information – The applicant shall submit a complete application on the form provided by the Planning Department, along with all information listed on that form, including a written response to the criteria in subsection (5)(d) of this section.
- d. Criteria – The DRB may grant a design departure or minor variation only if it finds that all of the following requirements are met:
  - 1) The request results in superior design and fulfills the policy basis for the applicable design regulations and design guidelines;
  - 2) The departure will not have any substantial detrimental effect on nearby properties and the City or the neighborhood.

#### 142.35 Design Board Review (D.B.R.)

- 1. Public Meetings – All meetings of the Design Review Board shall be public meetings and open to the public.
- 2. Authority – The Design Review Board shall review projects for consistency with the following:
  - a. Design guidelines for pedestrian-oriented business districts, as adopted in Chapter 3.30 KMC.
  - b. The design regulations contained in Chapter 92 KZC, except as provided for in 142.35.2.c, below. To the extent that the standards of the design guidelines or design regulations address the same issue but are not entirely consistent or contain different levels of specificity, the Design Review Board shall determine which standard results in superior design.
  - c. The design regulations contained in Chapter 92 KZC do not apply to development in TL 2, where development is proposed within a Conceptual Master Plan.
  - de. The downtown plan, Juanita Business District Plan, the Totem Lake Neighborhood Plan and goals and policies contained in the North Rose Hill Neighborhood Plan for the North Rose Hill Business District contained in the Comprehensive Plan.

The Design Review Board is authorized to approve minor variations in minimum required yards, and from setback, floor plate maximums and building separation

requirements in Totem Center; provided, that the variation complies with the criteria of KZC 142.25(5)(d).

3. Pre-Design Conference – Before applying for D.B.R. approval, the applicant shall attend a pre-design conference with the Planning Official. The conference will be scheduled by the Planning Official upon written request by the applicant. The purpose of this conference is for the Planning Official to discuss how the design regulations, design guidelines, and other applicable provisions of this code and the Comprehensive Plan relate to the proposed development and to assist the applicant in preparing for the conceptual design conference.
4. Conceptual Design Conference – Before applying for design review approval, the applicant shall attend a conceptual design conference with the Design Review Board. The conference will be scheduled by the Planning Official to occur within 30 days of written request by the applicant. The purpose of this conference is to provide an opportunity for the applicant to discuss the project concept with the Design Review Board and:
  - a. To discuss how the design regulations, design guidelines and other applicable provisions of the Comprehensive Plan affect or pertain to the proposed development;
  - b. For the Design Review Board to designate which design regulation, design guidelines and other applicable provisions of the Comprehensive Plan apply to the proposed development based primarily on the location and nature of the proposed development; and
  - c. For the Design Review Board to determine what models, drawings, perspectives, 3-D CAD model, or other application materials the applicant will need to submit with the design review application.
5. Application – Following the conceptual design conference, the applicant shall submit the design review application on a form provided by the Planning Department. The application shall include all documents and exhibits listed on the application, as well as all application materials required as a result of the conceptual design conference.
6. Public Notice
  - a. Contents – On receipt of a complete design review application, the Planning Official shall schedule a design response conference with the Design Review Board to occur within 60 calendar days of receiving the complete application. The Planning Official shall provide public notice of the design response conference. Public notice shall contain the name of the applicant and project, the location of the subject property, a description of the proposed project, time and place of the first design response conference, and a statement of the availability of the application file.
  - b. Distribution – The Planning Official shall distribute this notice at least 14 calendar days before the first design response conference as follows:
    - 1) By mail to owners of all property within 300 feet of any boundary of the subject property based on records of the King County Assessor.

2) Publish once in the official newspaper of the City

3) Post conspicuously on the subject property on a public notice sign. The Department of Planning and Community Development is authorized to develop standards and procedures for public notice signs.

7. Design Response Conference – The design response stage allows the Design Review Board to review the design plans and provide direction to the applicant on issues to be resolved for final approval. The applicant shall present a summary of the project to the Design Review Board. The Planning Official shall present a review of the project for consistency with the requirements specified in subsection (2) of this section. Public comment relevant to the application of the design guidelines, design regulations, downtown plan, Juanita Business District Plan, the Totem Lake Neighborhood Plan or goals and policies in the North Rose Hill Plan for the North Rose Hill Business District shall be taken. Persons commenting must provide their full name and mailing address. The Design Review Board may reasonably limit the extent of comments to facilitate the orderly and timely conduct of the conference.

The Design Review Board shall decide whether the application complies with the requirements specified in subsection (2) of this section. The Design Review Board shall make its decision by motion that adopts approved project drawings in addition to changes or conditions required by the Design Review Board. If the Design Review Board finds that the application does not meet those requirements, it shall specify what requirements have not been met and options for meeting those requirements. The Design Review Board may continue the conference if necessary to gather additional information necessary for its decision on the design review application. If the conference is continued to a specific date, no further public notice is required; otherwise notice shall be mailed to all parties participating in the design response conference.

Conceptual Master Plan Conference for TL 2 – The Design Review Board shall consider a Conceptual Master Plan (CMP) for properties over one and one half acres (1.5) in size in TL 2. The CMP shall incorporate the design principles set forth in the special regulations for the use in the TL 2 zoning chart.

8. Approval – After reviewing the D.B.R. application and other application materials, the Design Review Board may grant, deny or conditionally approve subject to modifications the D.B.R. application for the proposed development. No development permit for the subject property requiring D.B.R. approval will be issued until the proposed development is granted D.B.R. approval or conditional approval. The terms of D.B.R. approval or conditional approval will become a condition of approval on each subsequent development permit and no subsequent development permit will be issued unless it is consistent with the D.B.R. approval or conditional approval. The Planning Official shall send written notice of the D.B.R. decision to the applicant and all other parties who participated in the conference(s) within 14 calendar days of the approval. If the D.B.R. is denied, the decision shall specify the reasons for denial. The final D.B.R. decision of the City on the D.B.R. application shall be the postmarked date of the written D.B.R. decision or, if the D.B.R. decision is appealed, the date of the City's final decision on the appeal. Notwithstanding any other provision of this code, if an applicant submits a complete application for a building permit for the approved

D.B.R. development within 180 days of the final D.B.R. decision, the date of vesting for the building permit application shall be the date of the final D.B.R. decision.

Additional Approval Provision for TL 2 – The Notice of Approval for a Conceptual Master Plan (CMP) shall set thresholds for subsequent DBR or ADR review of projects following approval of a CMP in TL 2. The Notice of Approval shall also include a phasing plan for all improvements shown or described in the CMP.

#### 142.40 Appeals of Design Review Board Decisions

1. Jurisdiction – Appeals of the decision of the Design Review Board will be heard as follows:
  - a. If a related development permit requires an open record public hearing, then the appeal shall be heard at that hearing and decided upon by the hearing body or officer or officer hearing the related development permit.
  - b. If there are no other open record hearings required for related development permits, then the decision of the Design Review Board shall be heard at an open record hearing by the City Council.

Only those issues under the authority of the Design Review Board as established by KZC 142.35(2) are subject to appeal.
2. Who May Appeal – The decision of the Design Review Board may be appealed by the applicant or any other individual or entity who submitted written or oral comments to the Design Review Board.
3. Time To Appeal/How To Appeal – The appeal, in the form of a letter of appeal, must be delivered to the Planning Department within 14 calendar days following the postmarked date of the distribution of the Design Review Board decision. It must contain a clear reference to the matter being appealed and a statement of the specific elements of the Design Review Board decision disputed by the person filing the appeal.
4. Fees – The person filing the appeal shall include with the letter of appeal the fee as established by ordinance.
5. Notice
  - a. Content – The Planning Official shall prepare a notice of the appeal containing the following:
    - 1) The file number and a brief written description of the matter being appealed.
    - 2) A statement of the scope of the appeal including a summary of the specific matters disputed in the letter of appeal.
    - 3) The time and place of the public hearing on the appeal.

- 4) A statement of who may participate in the appeal.
- 5) A statement of how to participate in the appeal.
- b. Distribution – At least 14 calendar days before the hearing on the appeal, the Planning Official shall send a copy of this notice to the applicant, appellant(s), and Design Review Board. The notice of appeal may be combined with the hearing notice for the related development permit, if applicable.
6. Participation in the Appeal – Only the person(s) who filed the appeal, the applicant, and the chair (or designee) of the Design Review Board may participate in the appeal. These persons may participate in the appeal in either or both of the following ways:
  - a. By submitting written comments or testimony to the hearing body or officer prior to commencement of the hearing.
  - b. By appearing in person, or through a representative, at the hearing and submitting oral testimony directly to the hearing body or officer. The hearing body or officer may reasonably limit the extent of oral testimony to facilitate the orderly and timely conduct of the hearing.
7. Scope of the Appeal – The scope of the appeal is limited to the specific elements of the Design Review Board decision disputed in the letter of appeal and the hearing body or officer may only consider comments, testimony, and arguments on these specific elements.
8. Staff Report on the Appeal
  - a. Content – The Planning Official shall prepare a staff report containing the following:
    - 1) The written decision of the Design Review Board
    - 2) All written comments received by the Design Review Board
    - 3) The letter of appeal
    - 4) All written comments on the appeal received by the Planning Department from the appellant or applicant and within the scope of the appeal.
    - 5) An analysis of the specific element(s) of the Design Review Board's decision disputed in the letter of appeal.

The Planning Official may present the staff report orally to the hearing body or officer.
  - b. Distribution – At least seven calendar days before the hearing, the Planning Official shall distribute copies of the staff report to the hearing body or officer, the appellant, and the applicant.
9. Electronic Sound Recordings – The hearing body or officer shall make a complete electronic sound recording of each hearing.



10. Continuation of the Hearing – The hearing body or officer may continue the hearing if, for any reason, it is unable to hear all of the testimony on the appeal or if it determines that it needs more information within the scope of the appeal. If, during the hearing, the hearing body or officer announces the time and place of the continued hearing on the matter, no further notice of that hearing need be given.

11. Decision on the Appeal

- a. Criteria – Unless substantial relevant information is presented which was not considered by the Design Review Board, the decision of the Design Review Board shall be accorded substantial weight. The decision may be reversed or modified if, after considering all of the evidence in light of the design regulations, design guidelines, and Comprehensive Plan, the hearing body or officer determines that a mistake has been made. Specific allowances established by the applicable use zone charts may not be appealed unless the Design Review Board has approved exceptions to those allowances.
- b. General – The hearing body or officer shall consider all information and material within the scope of the appeal submitted by the appellant. The hearing body or officer shall adopt findings and conclusions and either:
- 1) Affirm the decision being appealed; or
  - 2) Reverse the decision being appealed; or
  - 3) Modify the decision being appealed.
- c. Issuance of Written Decision – Within eight calendar days after the public hearing, the hearing body or officer shall issue a written decision on the appeal. Within four calendar days after it is issued, the hearing body or officer shall distribute the decision by mail to the appellant and the applicant.
- d. Effect – If the appeal hearing is combined with an open record hearing for a related development permit, the decision on the appeal shall become part of the decision on the related development permit. The final decision of the City on the appeal of the Design Review Board decision shall occur at the same stage as the final decision of the City on the related development permit. Any appeal or challenge of the action of the hearing body or officer on the appeal of the Design Review Board decision shall be limited to the scope of the initial appeal.

**142.50 Modifications**

1. The Planning Official may approve a modification to the D.R. approval for the proposed development if:
  - a. The need for the modification was not known and could not reasonably have been known before the D.R. approval was granted;
  - b. The modification is minor and will not, in any substantial way, change the proposed development or violate any requirement imposed by the Design

Review Board. The Planning Official may consult with the Design Review Board in his/her decision; and

- c. The development that will result from the modification will be consistent with the design regulations, design guidelines, and Comprehensive Plan.
2. Any modification, other than as specified in subsection (1) of this section, must be reviewed and decided upon as a new D.R. approval under this chapter.

#### 142.55 Lapse of Approval

1. General – Unless otherwise specified in the decision granting D.R. approval, the applicant must begin construction or submit to the City a complete building permit application for development of the subject property consistent with the D.R. approval within one year after the final decision granting the D.R. approval or that decision becomes void. The applicant must substantially complete construction consistent with the D.R. approval and complete all conditions listed in the D.R. approval decision within three years after the final decision on the D.R. approval or the decision becomes void. "Final decision" means the final decision of the Planning Official or Design Review Board.
2. Extensions
  - a. Application – The applicant may apply for a one-time extension, of up to one year, of the time limits under subsection (1) of this section. The application for the extension must be submitted by letter prior to the expiration of the applicable time limit under subsection (1) of this section. The letter of application must be submitted to the Planning Department and, along with any other supplemental documentation, must demonstrate that the applicant is making substantial progress toward developing the subject property consistent with the D.R. approval and that circumstances beyond his/her control prevent compliance with the applicable time limit under subsection (1) of this section.
  - 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 under this section may appeal that determination.
  - b. How To Appeal – The applicant must file a letter of appeal within 14 days of the approval or denial of the time extension indicating how the determination affects his/her property and presenting any relevant arguments or information on the correctness of the determination. The applicant shall include the appeal fee as established by ordinance.
  - c. Applicable Procedures – All appeals of decisions under this section will be reviewed and decided upon using Process IIA, described in Chapter 150 KZC.

**142.60 Bonds**

The Planning Official may require a bond under Chapter 175 KZC to ensure compliance with any aspect of a D.R. approval.

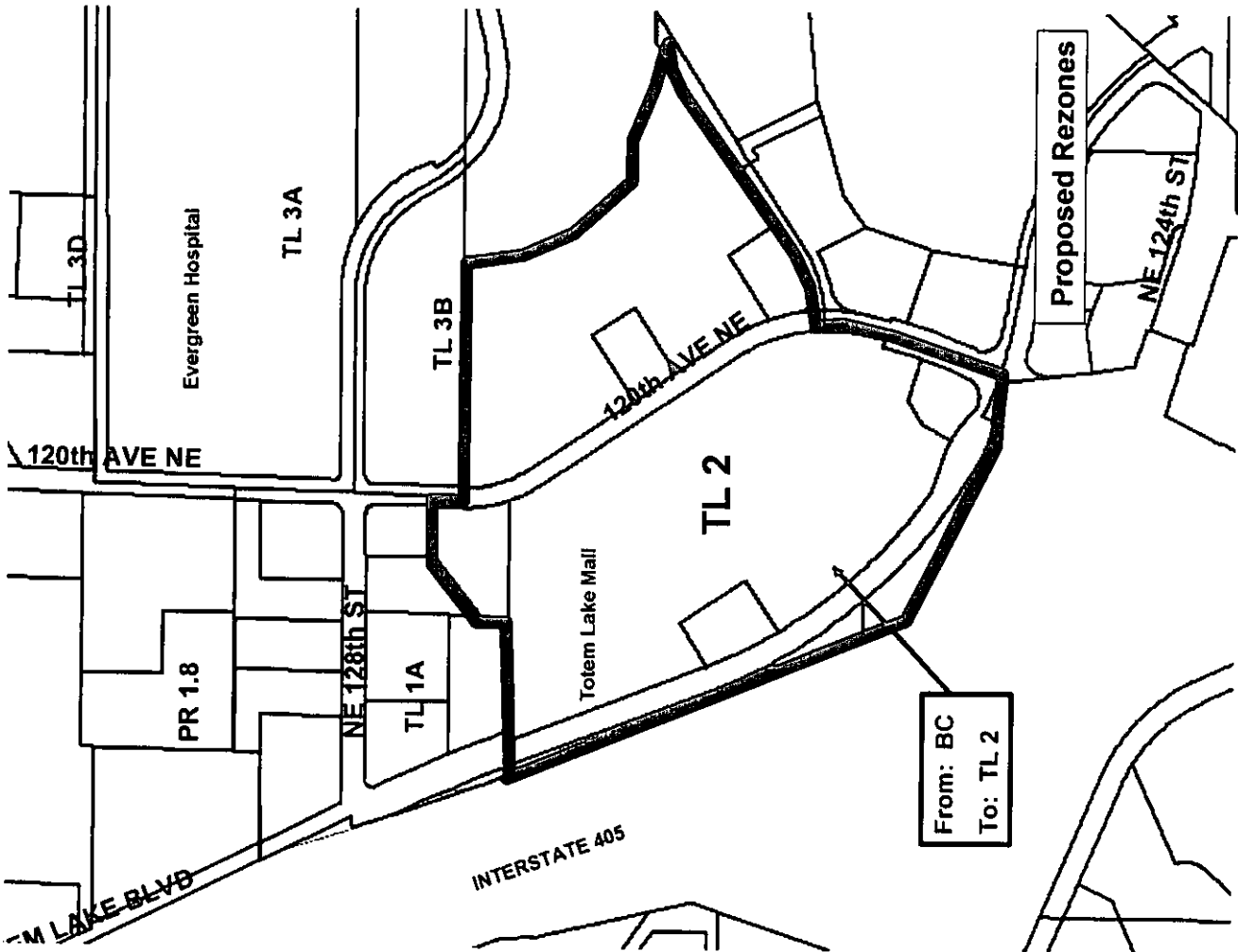


EXHIBIT     F      
    1V-02-70

PUBLICATION SUMMARY  
OF ORDINANCE NO. 3956

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING AND LAND USE, AMENDING CHAPTERS 1, 5, 55, 95, AND 142 OF ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING CODE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE), AND ORDINANCE 3710 AS AMENDED, THE KIRKLAND ZONING MAP (FILE NO. IV-02-70).

Section 1. Amends the following specific portions of the Kirkland Zoning Code.

- A. Amends text in the Table of Contents
- B. Amends text in Chapter 1, User Guide
- C. Amends text in Chapter 5, Definitions
- D. Amends text in Chapter 55, adding a new TL 2 Zone
- E. Amends text in Chapter 95, Landscaping
- F. Amends text in Chapter 142, Design Review

Section 2. Amends the Kirkland Zoning Map as set forth in Exhibit F.

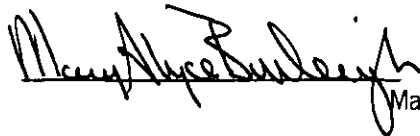
Section 3. Provides a severability clause for the ordinance.

Section 4. Establishes the effective date for the ordinance.

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

Passed by majority vote of the Kirkland City Council in open meeting this 3rd day of August, 2004.

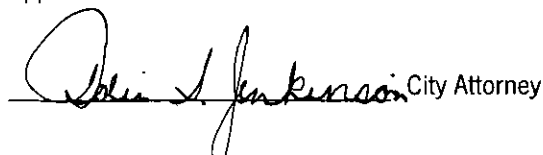
SIGNED IN AUTHENTICATION THEREOF this 3rd day of August, 2004.

  
Mayor

Attest:

  
City Clerk

Approved as to Form:

  
City Attorney