

ORDINANCE NO. 4102

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, LAND USE, AND SUBDIVISION OF LAND AND AMENDING ORDINANCE NO. 3705 AS AMENDED, THE KIRKLAND SUBDIVISION ORDINANCE CHAPTER 22.28 DESIGN STANDARDS; AND AMENDING THE KIRKLAND ZONING CODE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE); CHAPTER 75 HISTORIC LANDMARK OVERLAY ZONE, CHAPTER 115 MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS, CHAPTER 15 (SINGLE-FAMILY RESIDENTIAL (RS) ZONES) ALL TO ESTABLISH REGULATIONS FOR SMALL LOT SINGLE-FAMILY AND HISTORIC PRESERVATION SUBDIVISIONS, FILE NO MIS06-00053.

WHEREAS, in regular public meeting on June 19, 2007, the City Council considered the recommendation of the Planning Commission to amend certain portions of the Kirkland Zoning Code (Title 23 of the Kirkland Municipal Code) and to amend certain sections of the text of the Kirkland Subdivision Ordinance, Ordinance 3705 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated June 7, 2007 and bearing Kirkland Department of Planning and Community Development File No. MIS06-00053; and

WHEREAS, prior to making said recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, held a public hearing on April 26, 2007 on the amendment proposals and considered the comments received at said hearings; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents, issued by the responsible official pursuant to WAC 197-11-600; 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; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Subdivision Ordinance text amended: The following specified sections of the text of Ordinance 3705 as amended, the Kirkland Subdivision Ordinance, are amended as follows:

- A. Chapter 22.28 Design Requirements:
Text amendment to add a new Section 22.28.042 Lots- Small Lot Single-Family as set forth in Exhibit A attached to this ordinance and incorporated by reference.
- B. Chapter 22.28 Design Requirements:
Text amendment to add a new Section 22.28.048 Lots- Historic Preservation as set forth in Exhibit B attached to this ordinance and incorporated by reference.

Section 2. Zoning Text amended: The following specified sections of the text of the Kirkland Zoning Code (Title 23 of the Kirkland Municipal Code) are amended as follows:

- C. Chapter 15. Single Family Residential (RS) Zones:
Text amendments to Section 15.10.010 as set forth in Exhibit C attached to this ordinance and incorporated by reference.
- D. Chapter 75. Historic Landmark Overlay Zone:
Text amendments to the title and existing sections, and the addition of new Sections 75.55 through 75.110 pertaining to Historic Residence Designation as set forth in Exhibit D attached to this ordinance and incorporated by reference.
- E. Chapter 115. Miscellaneous Use Development and Performance Standards:
Text amendments to Section 115.07 Accessory Dwelling Units as set forth in Exhibit E attached to this ordinance and incorporated by reference.

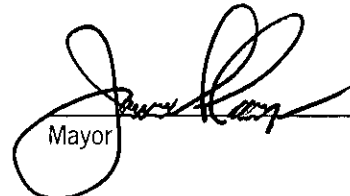
Section 3 If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining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

Section 4. This ordinance shall be in full force and effect on August 31, 2007, pursuant to Kirkland Municipal Code 1.08.017, 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 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 19th day of June, 2007.

SIGNED IN AUTHENTICATION THEREOF this 19th day of June, 2007.



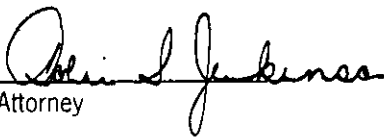
Mayor

Attest:



City Clerk

Approved as to Form:


City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4102

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, LAND USE, AND SUBDIVISION OF LAND AND AMENDING ORDINANCE NO. 3705 AS AMENDED, THE KIRKLAND SUBDIVISION ORDINANCE CHAPTER 22.28 DESIGN STANDARDS; AND AMENDING THE KIRKLAND ZONING CODE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE); CHAPTER 75 HISTORIC LANDMARK OVERLAY ZONE, CHAPTER 115 MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS, CHAPTER 15 (SINGLE-FAMILY RESIDENTIAL (RS) ZONES) ALL TO ESTABLISH REGULATIONS FOR SMALL LOT SINGLE-FAMILY AND HISTORIC PRESERVATION SUBDIVISIONS, FILE NO MIS06-00053.

SECTION 1. Adopts new sections 22.28.042 and 22.28.048 of the Kirkland Municipal Code relating to small single family lots and historic preservation.

SECTION 2. Amends section 15.10.010 of the Kirkland Zoning Code relating to single family uses; Amends the title and existing sections of Chapter 75 of the Kirkland Zoning Code relating to historic preservation; Adopts new sections 75.55 through 75.110 of the Kirkland Zoning Code relating to historic residences; and amends Section 115.07 of the Kirkland Zoning Code relating to accessory dwelling units.

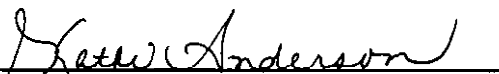
SECTION 3. Provides a severability clause for the ordinance.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

SECTION 5. Provides that a certified copy of the ordinance shall be provided to the 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 19th day of June, 2007.

I certify that the foregoing is a summary of Ordinance 4102 approved by the Kirkland City Council for summary publication.



City Clerk

KMC Title 22 Subdivisions
Chapter 22.28 Design Requirements

New Section 22.28.42

Lots – Small Lot Single Family

In the Market and Norkirk Neighborhoods, as defined in the Comprehensive Plan, for those subdivisions not subject to the lot size flexibility provisions of Sections 22.28.030 and 22.28.040 and historic preservation provisions of Section 22.28.48, the minimum lot area shall be deemed to be met if at least one half of the lots created contain no less than the minimum lot size required in the zoning district in which the property is located. The remaining lots may contain less than the minimum required lot size, provided that such lots meet the following standards:

- (a) Within the RS 6.3 and RS 7.2 zones, the lots shall be at least 5,000 square feet.
- (b) Within the RS 8.5 zone, the lots shall be at least 6,000 square feet.
- (c) The portion of any flag lot that is less than 30 feet wide, and used for driveway access to the buildable portion of the lot may not be counted in the lot area.
- (d) The floor area ratio (FAR) shall not exceed 30 percent of lot size, provided that FAR may be increased up to 35 percent of the lot size if the following criteria are met:
 - 1) The primary roof form of all structures on the site is peaked, with a minimum pitch of 4 feet vertical: 12 feet horizontal; and
 - 2) All structures are set back from side property lines by at least 7.5 feet
- (e) The FAR restriction shall be recorded on the face of the plat.
- (f) Accessory dwelling units are prohibited. This restriction shall be recorded on the face of the plat.

KMC Title 22 Subdivisions
Chapter 22.28 Design Requirements

New Section 22.28.48

Lots – Historic Preservation

In the Market and Norkirk Neighborhoods, as defined in the Comprehensive Plan, for those subdivisions not subject to the lot size flexibility provisions of Sections 22.28.030, 22.28.040, and the small lot single-family provisions of Section 22.28.42, the minimum lot area shall be deemed to be met if no more than two lots are created that contain less lot area than the minimum size required in the zoning district in which the property is located, and if an "historic residence" is preserved on one of the lots, pursuant to the process described in Chapter 75 of the Kirkland Zoning Code. The lots containing less than the minimum required lot area shall meet the following standards:

- (a) Within the RS 6.3 and RS 7.2 zones, the lots shall be at least 5,000 square feet.
- (b) Within the RS 8.5 zone, the lots shall be at least 6,000 square feet.
- (c) Within the WDII zone, the lots shall be at least 7,200 square feet.
- (d) The portion of any flag lot that is less than 30 feet wide, and used for driveway access to the buildable portion of the lot, may not be counted in the lot area.
- (e) Accessory dwelling units are prohibited. The restriction shall be recorded on the face of the plat.

Lots containing historic residences shall also meet the following standards:

- (f) If an historic residence is destroyed, damaged, relocated, or altered inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Rehabilitation) (Code of Federal Regulations, 36 CFR Part 68), the replacement structure shall be reconstructed in accordance with the criteria established in Section 75.105 of the Kirkland Zoning Code. The replacement restriction shall be recorded on the face of the Plat.
- (g) As part of subdivision approval, the City may allow the following modifications to regulations in the Kirkland Zoning Code regarding minimum required yards, maximum lot coverage, and floor area ratio on the lot containing the historic residence if the modifications are necessary to accommodate the historic residence.
- 1) Required yards may be 2 feet less than required by the zoning district as shown on the Kirkland zoning map.
 - 2) Floor area ratio may be 5 percentage points more than allowed by the zoning district as shown on the Kirkland zoning map.
 - 3) Lot coverage may be 5 percentage points more than allowed by the zoning district as shown on the Kirkland zoning map.
- (h) At the time of recording the plat, a notice of applicable restrictions for the lot containing the designated historic residence shall be recorded.

USE ZONE CHART

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

Section .010	USE ↓ REGULATIONS →	Required Review Process	MINIMUMS				Lot Coverage	MAXIMUMS	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Req'd Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)				Height of Structure				
				Front	Side	Rear						
.010	Detached Dwelling Unit	None	As established on the Zoning Map. See Spec. Reg. 1.	20' See Spec. Reg. 3.	5', but 2 side yards must equal at least 15 feet.	10'	50% See Spec. Reg. 5.	25' above average building elevation.	E	A	2.0 per dwelling unit.	<ol style="list-style-type: none"> Minimum lot size per dwelling unit is as follows: <ol style="list-style-type: none"> In RS 35 zones, the minimum lot size is 35,000 square feet. In RS 12.5 zones, the minimum lot size is 12,500 square feet. In RS 8.5 zones, the minimum lot size is 8,500 square feet. In RS 7.2 zones, the minimum lot size is 7,200 square feet. In RS 6.3 zones, the minimum lot size is 6,300 square feet. In RS 5.0 zones, the minimum lot size is 5,000 square feet. In RS 35, 12.5, 8.5, 7.2, 6.3 and 5.0 zones, not more than one dwelling unit may be on each lot, regardless of the size of each lot. Floor Area Ratio (F.A.R.) allowed for the subject property is as follows: <ol style="list-style-type: none"> In RS 35 zones, F.A.R. is 20 percent of lot size. In RS 12.5 zones, F.A.R. is 35 percent of lot size. In RS 8.5 zones, F.A.R. is 50 percent of lot size. In RS 7.2 zones, F.A.R. is 50 percent of lot size. In RS 6.3 zones, F.A.R. is 50 percent of lot size. In RS 5.0 zones, F.A.R. is 50 percent of lot size; provided, that F.A.R. may be increased up to 60 percent of lot size for the first 5,000 square feet of lot area if the following criteria are met: <ol style="list-style-type: none"> The primary roof form of all structures on the site is peaked, with a minimum pitch of four feet vertical: 12 feet horizontal; and A setback of at least 7.5 feet is provided along each side yard. <i>This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.</i> See KZC 115.42, Floor Area Ratio (F.A.R.) Calculation for Detached Dwelling Units in Low Density Residential Zones, for additional information. <u>A reduced F.A.R. may be required pursuant to subdivision design requirements in Chapter 22.28 KMC</u> On corner lots with two required front yards, one may be reduced to the average of the front yards for the two adjoining properties fronting the same street as the front yard to be reduced. The applicant may select which front yard will be reduced (see Plate 24). Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. Residential lots in RS 35 zones within the Bridle Trails neighborhood north of Bridle Trails State Park must contain a minimum area of 10,000 permeable square feet, which shall comply with Special Regulation 6 for large domestic animals in KZC 115.20(4) (chart).

**Chapter 75 – HISTORIC LANDMARK OVERLAY ZONE AND HISTORIC RESIDENCE
DESIGNATION**

Sections:

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75.10	<u>Historic Landmark Overlay Zone Designation – Required Review</u>
75.15	<u>Historic Landmark Overlay Zone Designation – Who May Apply/Special Fee Provision</u>
75.20	<u>Historic Landmark Overlay Zone Designation – Criteria</u>
75.25	<u>Historic Landmark Overlay Zone Designation – Required Elements of Recommendation</u>
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75.95	<u>Historic Residence Effect – Secretary of the Interior's Standards for the Treatment of Historic Properties (Rehabilitation)</u>
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75.105	<u>Historic Residence Effect – Demolition, Alteration or Damage</u>
75.110	<u>Historic Residence Effect – Bonds</u>

75.05 User Guide

This chapter establishes mechanisms for designating certain areas or improvements in the City as historic landmarks or historic residences. This chapter also contains regulations that govern the use and alteration of any area or improvement that has been designated as an historic landmark or historic residence.

1. Historic Landmarks: Various places on the Zoning Map contain an "HL" within a dashed line. This indicates that this area has been designated as an Historic Landmark Overlay Zone where special regulations apply. These special regulations add to and in some cases supersede the other regulations of this code.

If you are interested in proposing that an area or structure be designated as an historic landmark or if you wish to participate in the City's decision on a proposed designation you should read KZC 75.10 through 75.25.

If you are interested in conducting a use or altering the appearance of an area or structure that has been designated as an historic landmark or if you wish to participate in the City's decision on a proposed use or alteration of a designated historic landmark, you should read KZC 75.30 through 75.50.

2. Historic Residences: In the Norkirk and Market Neighborhoods, where an historic residence has been designated, special regulations apply. These special regulations add to and in some cases supersede the other regulations of this code.

If you are interested in proposing that a structure be designated as an historic residence or if you wish to participate in the City's decision on a proposed designation you should read KZC 75.55 through 75.70.

If you are interested in altering the appearance of a structure that has been designated as an historic residence, or if you wish to participate in the City's decision on a proposed alteration of a designated historic residence, you should read KZC 75.75 through 75.110.

75.10 Historic Landmark Overlay Zone Designation – Required Review

The City will review and decide upon each proposal to designate an area as an Historic Landmark Overlay Zone on the Zoning Map using the nonproject quasijudicial rezone provisions of Chapter 130 KZC.

75.15 Designation – Who May Apply/Special Fee Provision

The City, the person holding fee title to the subject property, or any member of the general public may apply to designate a property as an Historic Landmark Overlay Zone. To the extent that these provisions are inconsistent with the provisions of Chapter 130 or 152 KZC, the provisions of this section govern.

75.20 Historic Landmark Overlay Zone Designation – Criteria

1. The City may approve the designation of an area as an Historic Landmark Overlay Zone only if it finds that:

a. The applicable criteria of Chapter 130 KZC are met; and

b. Either:

1) The property contains an object, improvement, or site that is more than 40 years old, and that possesses integrity of location, design, setting, materials, workmanship, feeling and association, and:

a) Is associated with events that have made a significant contribution to the broad patterns of national, state or local history; or

b) Is associated with the lives of persons significant in national, state or local history; or

c) Embodies the distinctive characteristics of a type, period, style or method of design or construction, or that represents a significant and distinguishable entity whose components may lack individual distinction; or

d) Has yielded, or may be likely to yield, information important in prehistory or history; or

e) Is an outstanding work of a designer or builder who has made a substantial contribution to the art; or

- 2) The property contains an object, improvement or site which does not meet the criteria listed in subsection (1)(b)(1) of this section but which is:
- a) A religious property deriving primary significance from architectural or artistic distinction or historic importance; or
 - b) A building or structure removed from its original location but which is significant primarily for its architectural value, or which is the surviving structure most importantly associated with an historic person or event; or
 - c) A birthplace, grave or residence of an historic figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life; or
 - d) A cemetery that derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
 - e) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
 - f) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own historic significance; or
 - g) A property achieving significance within the past 40 years if it is of exceptional importance.

NOTE: The criteria listed in subsection (1)(b) of this section are, with slight modification, the criteria used in evaluating entries to the National Register under the National Historic Preservation Act of 1966.

~~3) This subsection applies only to those areas annexed to the City on January 1, 1988, by Ordinance 3062, 3063, and 3064 (known as the Lower Juanita, North Rose Hill and South Rose Hill areas).~~

~~For a 12-month period beginning January 1, 1988, and ending December 31, 1988, the City shall approve the designation of an area as an Historic Landmark Overlay Zone if the site has been proposed by the King County Landmarks Commission subject to the conditions of Chapter 130 KZC.~~

75.25 Historic Landmark Overlay Zone Designation - Required Elements of Recommendation

If City Council adopts an ordinance designating an area as an Historic Landmark Overlay Zone on the Zoning Map, this ordinance must include the following information:

1. The boundaries of the area and description of the improvement, object, or site or significance, sufficient to identify its location.
2. The significant features of the improvement, object, or site to which the restrictions of KZC 75.30 through 75.50 apply.

75.30 Historic Landmark Overlay Zone Effect - General

If the City Council enacts an ordinance to designate an area as an Historic Landmark Overlay Zone, an "HL" will be placed on the area on the Zoning Map. This will have the following effects:

1. No feature identified as significant under KZC 75.25(2) may be altered in any manner except as provided in KZC 75.35 through 75.50.
2. The City may require that a sign be conspicuously posted on the subject property identifying the historic landmark.
3. The other requirements of this code apply to the subject property unless they conflict with a specific provision of this section through KZC 75.50. Where a conflict exists, the provisions of this chapter govern.

| 75.35 Historic Landmark Overlay Zone Effect – Review Requested To Alter

The City will review and decide upon any proposal to alter a designated significant feature of an Historic Landmark Overlay Zone using Process IIB, described in Chapter 152 KZC.

| 75.40 Historic Landmark Overlay Zone Effect – Criteria for Alteration

The City will review any proposed alteration to a significant feature of an historic landmark using the following criteria:

1. The extent to which the proposed alteration would adversely affect the significant features or site as an historic landmark; and
2. The reasonableness of the proposed alteration in light of other alternatives available to achieve the objectives of the applicant; and
3. The extent to which the proposed alteration may be necessary to meet the requirements of any other law, statute, ordinance, regulation, code or ordinance.

| 75.45 Historic Landmark Overlay Zone Effect – Nonconforming Elements

Nonconformance on the subject property need not be corrected if correcting the nonconformance would require altering a feature designated as significant or the acquisition of additional property or facilities.

| 75.47 Historic Landmark Overlay Zone Effect – Modification of Code Provisions

1. General – The provisions of this section establish the circumstances under which the City may modify any of the provisions of this code for an historic landmark, except:
 - a. The City may not modify any of the provisions of this chapter; and
 - b. The City may not modify any provision of this code that specifically states that its requirements are not subject to modifications under this chapter; and
 - c. The City may not modify any of the procedural provisions of this code; and
 - d. The City may not modify any provision that specifically applies to development on a wetland, flood plain, or regulated slope; and

- e. The City may not allow any use in a low density zone that is not specifically allowed in that zone unless the subject property contains at least 35,000 square feet.
2. Review Procedure – The City will review and decide upon any proposal to modify the provisions of this code for an historic landmark using Process IIB, described in Chapter 152 KZC. Modifications may be proposed in conjunction with or subsequent to a proposal to designate the subject property as an Historic Landmark Overlay Zone as provided in KZC 75.10 through 75.25.
 3. Criteria for Modification – The City may approve a modification under the provisions of this section only if it finds that the following requirements are met:
 - a. The proposed modification would promote or aid in the preservation or rehabilitation of an historic landmark; and
 - b. Either:
 - 1) The historic landmark for which the modification is proposed is located on property which abuts one of the following rights-of-way:
 - a) Market Street between Central Way and N.E. 106th Street.
 - b) State Street between N.E. 68th Street and 2nd Avenue South.
 - c) Lake Washington Blvd. and Lake Street South between Northup Way and Third Avenue South; or
 - 2) The proposed modification would not promote traffic, noise, light view blockage or other impacts which are incompatible with adjacent properties or the surrounding neighborhood.

75.50 Effect – Bonds

The City may require a bond under Chapter 175 KZC to ensure that any alteration to an historic landmark complies with the conditions of its approval.

75.55 Historic Residence Designation – Intent

The Norkirk and Market Neighborhoods contain many historic houses representing a variety of architectural styles and historic time periods, and providing a record of Kirkland's residential development. The loss of any historic houses in these neighborhoods would constitute an irreparable diminishment of community character. Preventing this loss and protecting community character and historic resources are consistent with and supported by the Community Character Element and by the Norkirk and Market Neighborhood Plans within the Comprehensive Plan. It is in the public interest to preserve this rich architectural diversity and tangible connections with Kirkland's past. The historic residence designation process provides an opportunity for historic houses in the Market and Norkirk Neighborhoods to be preserved.

A house may be considered for historic residence designation if it retains its overall original form, massing and sufficient original architectural elements to convey its historic character. This could include, for example, a house that has been moved, changes to windows that do not significantly

change the original window placement or form, and replacement of siding. Additions and alterations to the historic house will be evaluated on a case by case basis.

75.60 Historic Residence Designation – Required Review

The City will review and decide upon each proposal to designate a house as an Historic Residence using the provisions of Process I, Chapter 145 KZC. Noticing is required pursuant to the noticing provisions of Chapter 150 KZC. The review process will include an assessment to determine eligibility for designation as an historic residence. The assessment, funded by the applicant, must be conducted by staff or consultants meeting the Secretary of the Interior's Historic Preservation Professional Qualification Standards (Code of Federal Regulations, 36 CFR Part 61).

75.65 Historic Residence Designation – Who May Apply

The person holding fee title to the subject property in the Market or Norkirk Neighborhoods, as defined in the Comprehensive Plan, may apply to designate a home as an Historic Residence.

75.70 Historic Residence Designation – Criteria

The City may approve the designation of an Historic Residence if it finds the criteria of Section 75.20 1.b are met.

75.75 Historic Residence Designation – Required Elements of Recommendation

The approval must include the following information:

1. The address of the historic residence.
2. The gross floor area of the historic residence and dimensioned drawings of each floor.
3. A digital photograph of each building elevation and significant feature.
4. A description of the historic residence and its significant features to which the restrictions of KZC 75.80 through 75.110 apply.

75.80 Historic Residence Effect – General

The City designation of an Historic Residence will have the following effects:

1. No feature identified as significant under KZC 75.75 may be altered in any manner except as provided in KZC 75.85 through 75.110
2. All other requirements of this code shall apply to the subject property unless they conflict with a specific provision of KZC 75.55 through KZC 75.110. Where a conflict exists, the provisions of this chapter govern.

75.85 Historic Residence Effect – Review Request To Alter

The Planning Official will review and decide upon any proposal to alter a designated Historic Residence. This decision is appealable using applicable appeal provisions of Chapter 145 KZC.

75.90 Historic Residence Effect – Criteria for Alteration

1. The Planning Official shall review all proposed alterations to a designated historic residence. No further review is required if the alteration constitutes:
 - a. Ordinary repairs and maintenance that do not alter the appearance of an exterior significant feature and do not utilize substitute materials, or
 - b. Repairs or replacement of utility systems, provided that such work does not alter an exterior significant feature.

The Planning Official shall document the proposed alteration. If the proposed alteration does not meet the criteria of 1a or 1b then the criteria in KZC 75.90.2 below must be met.

2. The Planning Official shall review and may approve restorations, major repairs, alterations in appearance, replacement of historic materials and new construction to a designated historic residence, considering the following factors:
 - a. The extent to which the proposal would utilize in-kind materials,
 - b. The extent to which the proposal would adversely affect the significant character defining features of an historic residence.
 - c. The reasonableness of the proposed alteration in light of other alternatives available to achieve the objectives of the applicant; and
 - d. The extent to which the proposed alteration may be necessary to meet the requirements of any other law, statute, ordinance, regulation or code.

The review by the Planning Official shall be based on The Secretary of the Interior's Standards for the Treatment of Historic Properties (Rehabilitation) in KZC 75.95. The Planning Official shall arrange for an analysis funded by the applicant to determine if the Criteria for Alteration are met. The person conducting the analysis shall meet the Secretary of the Interior's Historic Preservation Professional Qualification Standards (Code of Federal Regulations, 36 CFR Part 61);

75.95. Historic Residence Effect – The Secretary of the Interior's Standards for the Treatment of Historic Properties (Rehabilitation)

In determining the adverse impact of an alteration on the significant features of an historic residence, the Planning Official shall consider the following Secretary of the Interior's Standards for the Treatment of Historic Properties (Rehabilitation) (Code of Federal Regulations, 36 CFR Part 68):

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

75.100 Historic Residence Effect – Nonconforming Elements

Any nonconformance on the subject property shall not be required to be corrected if doing so would require the alteration of a feature designated as significant or the acquisition of additional property or facilities.

75.105 Historic Residence Effect – Demolition, alteration or damage

1. If an historic residence is destroyed, relocated, or altered as a result of the action of the property owner, and such action is inconsistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Rehabilitation), the following standards apply:

- a. The structure shall be reconstructed pursuant to the Secretary of Interior's Standards for the Treatment of Historic Properties (Reconstruction) (Code of Federal Regulations, 36 CFR Part 68) to replicate the footprint and exterior of the historic residence; or
 - b. The maximum Floor Area Ratio (F.A.R.) of any altered or new structure shall not exceed 25 percent of the lot size, or 75% of the gross floor area of the historic residence, whichever is less.
2. If an historic residence is destroyed for any reason outside the control of the property owner, the maximum FAR of the resulting structure shall not exceed 30 percent of the lot size, provided that FAR may be increased up to 35 percent of the lot size if the following criteria are met:
 - a. The primary roof form of all structures is gabled, with a minimum pitch of 4 feet vertical: 12 feet horizontal; and
 - b. A setback of at least 7.5 feet is provided along each side yard.
 3. Accessory dwelling units shall be prohibited in connection with the resulting structure.
 4. The historic residence designation shall be removed from the resulting structure.

75.110 Historic Residence Effect – Bonds

The City may require a bond under Chapter 175 KZC to ensure that any alteration to an historic residence complies with the conditions of its approval.

115.07 Accessory Dwelling Units

One accessory dwelling unit (ADU) is permitted as subordinate to a single-family dwelling; provided, that the following criteria are met:

1. Number of Occupants – The total number of occupants in the principal dwelling unit and the ADU combined shall not exceed the maximum number established for a single-family dwelling as defined in KZC 5.10.300.
2. Owner Occupancy – One of the units must be the principal residence of the property owner(s).
3. Subdivision – Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.
4. Scale – The square footage of the accessory dwelling unit shall not exceed 40 percent of the primary residence and accessory dwelling unit combined. If the accessory unit is completely located on a single floor, the Planning Director may allow increased size in order to efficiently use all floor area.

Detached accessory dwelling units shall not exceed 800 square feet of gross floor area. The gross floor area shall not include area with less than five feet of ceiling height, as measured between the finished floor and the supporting members for the roof. When calculating the square footage of the ADU (see KZC 5.10.340, definition of “gross floor area”), covered exterior elements such as decks and porches will not be included; provided, the total size of all such covered exterior elements does not exceed 200 square feet. An accessory dwelling unit will be considered to be “detached” from the principal unit if it has any of the following characteristics:

- a. It does not share a common roof structure with the principal unit.
 - b. It is not integrated into the footprint of the principal unit.
 - c. The design is inconsistent with the existing roof pitch, siding treatment, and window style of the principal unit.
5. Location. The accessory dwelling unit may be added to or included within the principal unit, or located in a detached structure. Detached structures must conform with the setbacks, height restrictions, lot coverage and other applicable zoning regulations required for single-family dwellings in the applicable use zone; provided, that an accessory dwelling unit shall not be considered a “dwelling unit” in the context of Special Regulations in Chapters 15 through 60 KZC which limit the number of detached dwelling units on each lot to one.

6. Entrances. The primary entrance to the accessory dwelling unit shall be located in such a manner as to be clearly secondary to the main entrance to the principal unit and shall not detract from or alter the single-family character of the principal unit.
7. Parking. There shall be one off-street parking space provided for the accessory dwelling unit.
8. WD I and WD III Zones. Properties located in the WD I and WD III Zones which develop accessory dwelling units must provide public pedestrian access consistent with the regulations contained in KZC 30.15.020 and 30.35.020 for attached or stacked dwelling units.
9. Market and Norkirk Neighborhoods. Within the Market and Norkirk Neighborhoods, as defined in the Comprehensive Plan, accessory dwelling units are prohibited on lots smaller than the required minimum lot size approved using the Small Lot Single-family and Historic Preservation subdivision regulations contained in KMC Sections 22.28.42 and 22.28.48.
9. Applicable Codes. The portion of a single-family dwelling in which an accessory dwelling unit is proposed must comply with all standards for health and safety contained in all applicable codes, with the following exception for ceiling height. Space need not meet current Uniform Building Code (UBC) ceiling height requirements if it was legally constructed as habitable space.
10. Permitting
 - a. Application
 - 1) The property owner shall apply for an accessory dwelling unit permit with the Building Department. The application shall include an affidavit signed by the property owner agreeing to all the general requirements outlined in this section.

In the event that proposed improvements in the accessory dwelling unit do not require a building permit, a registration form for the unit must be completed and submitted to the Planning Department.
 - 2) The registration form as required by the City shall include a property covenant. The covenant must be filed by the property owner with the City for recording with the King County Department of Records and Elections to indicate the presence of the accessory dwelling unit, and reference to other standards outlined in this section. The covenant shall run with the land as long as the accessory dwelling unit is maintained on the property.
 - 3) If an ADU was or is created without being part of a project for which a building permit was or is finalized, an ADU inspection will be required for issuance of an ADU permit. The ADU inspection fee will cover a physical inspection of the ADU. This fee will be waived if the ADU existed on January 1, 1995, and the ADU permit is applied for by December 31, 1995.

- b. Eliminating an Accessory Dwelling Unit – Elimination of a registered accessory dwelling unit may be accomplished by the owner filing a certificate with the Planning Department, or may occur as a result of enforcement action.
- c. Preexisting Units – That portion of a single-family residence which meets the definition of accessory dwelling unit which existed on January 1, 1995, may be legally established, and not subject to zoning violation fines, if the following requirements are met:
 - 1) An application for an accessory dwelling permit is filed by December 31, 1997;
 - 2) The accessory dwelling unit is determined to meet the requirements of this section, as well as the other code requirements referred to in KZC 115.65(5)(g).
- d. Appeals. An applicant may appeal to the Hearing Examiner the decision of the Planning Official in denying a request to construct an accessory dwelling unit. A written notice of appeal shall be filed with the Planning Department within 14 calendar days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The City shall give notice of the hearing to the applicant at least 17 calendar days prior to the hearing. The applicant shall have the burden of proving the Planning Official made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, he or she may affirm, reverse, or modify the decision being appealed.