

ORDINANCE NO. 4107

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AMENDING PORTIONS OF CHAPTERS 92, 105, 110, 142, USE ZONE CHARTS IN CHAPTERS 25, 40 AND 45 AND ADDING NEW USE ZONE CHARTS FOR THE MARKET STREET CORRIDOR ZONES, MSC 1, MSC 2, MSC 3 AND MSC 4 AND AMENDING THE CITY OF KIRKLAND ZONING MAP (ORDINANCE 3710 AS AMENDED) TO CONFORM TO THE COMPREHENSIVE PLAN AND TO ENSURE CONTINUED COMPLIANCE WITH THE GROWTH MANAGEMENT ACT AND APPROVING A SUMMARY FOR PUBLICATION, FILE NO. ZON07-00007.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, and the Kirkland Zoning Map, Ordinance 3710 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated 6/20/07 and bearing Kirkland Department of Planning and Community Development File No. ZON 07-00007; and

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

WHEREAS, pursuant to the State Environmental Policy Act (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.

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

Section 1. Zoning map and Zoning text amended: As set forth in Attachment A-1 through A-8 attached to this ordinance and incorporated by reference.

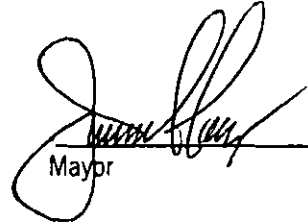
Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining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

Section 3. This ordinance shall be in full force and effect thirty (30) days from and after its passage by the Kirkland City Council and publication, 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 4. 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 July, 2007.

SIGNED IN AUTHENTICATION thereof this 3rd day of July, 2007



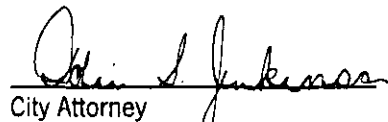
Mayor

Attest:



City Clerk

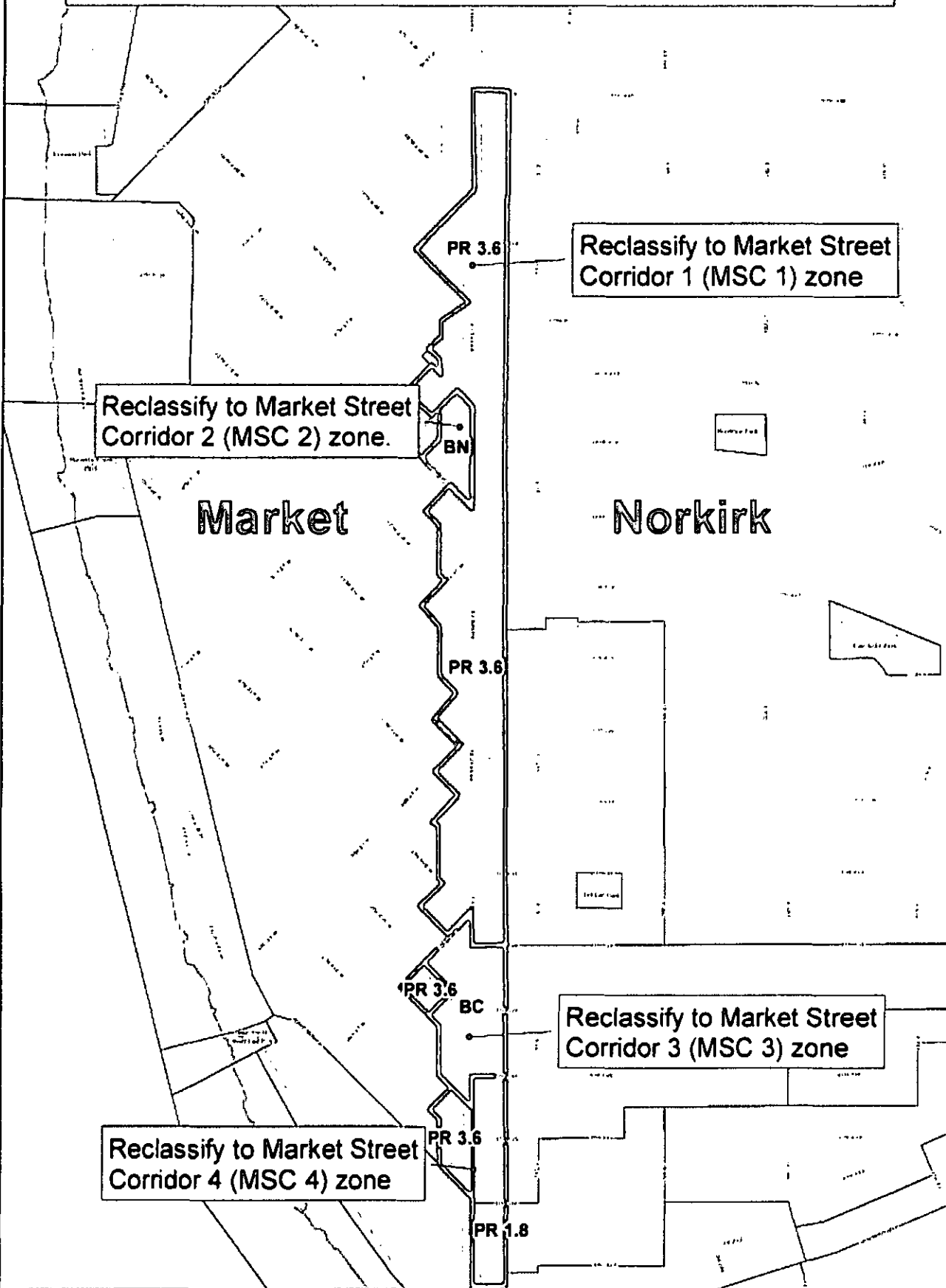
Approved as to Form:



City Attorney

Proposed Changes to Kirkland Zoning Map

0-4107



Legend

- Market neighborhood area
 - tax_parcels
 - parkes
 - row
 - hydro_lakes
- | | |
|----|--------|
| BC | PR 1.8 |
| BN | PR 3.6 |



0 0.04 0.08 Miles



ATTACHMENT A-1
KIRKLAND CITY CLERK

CHAPTER 25 ~~XX~~ – PROFESSIONAL OFFICE RESIDENTIAL (PR) ZONES MARKET STREET CORRIDOR 1 (MSC1) AND MARKET STREET CORRIDOR 4 (MSC4) ZONES

25.05 User Guide.

The charts in KZC 25.10 contain the basic zoning regulations that apply in each PR 8.5, PR 5.0, PR 3.6, PR 2.4 and PR 1.8 the MSC1 and MSC4 zones 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
25.08**



Section 25.08 – 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. If any portion of a structure is adjoining a low density zone, then either:
 - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or
 - b. The horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet.See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.
3. ~~Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements. The required yard of a structure abutting Lake Washington Boulevard or Lake St. S. must be increased two feet for each one foot that structure exceeds 25 feet above average building elevation (does not apply to Public Park uses).~~
4. ~~If the property is located south of NE 85th Street between 124th Avenue and 120th Avenue, to the extent possible, the applicant shall save existing viable significant trees within the required landscape buffers separating nonresidential development from adjacent single family homes.~~

USE ZONE CHART

Section 25.10

DIRECTIONS: FIRST, read down to find use... THEN across for REGULATIONS													
Section 25.10	USE ↓ REGULATIONS ↑	Required Review Process	MINIMUMS			MAXIMUMS		Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
			Lot Size	REQUIRED YARDS (See Ch. 115)									
				Front	Side	Rear							
.010	Detached Dwelling Units	None	8,600 sq. ft. if RR-8.5 zone, 6,000 sq. ft. if RR-6.0 zone, otherwise 3,600 sq. ft.	10' in MSC4, otherwise use 20'	5' but 2 side yards must equal at least 15'.	10'	70%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building	E	A	2.0 per dwelling unit.	<ol style="list-style-type: none"> For this use, only one dwelling unit may be on each lot regardless of lot size. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 	

USE ZONE CHART
Section 25.10

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

.020	Detached, Attached or Stacked Dwelling Units	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	8,500 sq. ft. if PR-8.5 zone, 5,000 sq. ft. if PR-5.0 zone, otherwise 3,600 sq. ft. with a density as established on the Zoning Map. See Spec. Reg. 1 for density requirements.					elevation.	D		1.7 per unit.	<p>1. Minimum amount of lot area per dwelling unit is as follows:</p> <ul style="list-style-type: none"> a. In PR-8.5 zones, the minimum lot area per unit is 8,500 sq. ft. b. In PR-5.0 zones, the minimum lot area per unit is 5,000 sq. ft. a.e. In PR-3.6 MSC1 zones, the minimum lot area per unit is 3,600 sq. ft. d. In PR-2.4 zones, the minimum lot area per unit is 2,400 sq. ft. b.e. In PR-1.8 MSC4 zone-zones west of Market Street, the minimum lot area per unit is 3,600 sq. ft., and east of Market Street the minimum lot area per unit is 1,800 sq. ft. <p>2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.</p> <p>3. If the subject property contains four or more units, then it must contain at least 200 sq. ft. per unit of common recreational space usable for many activities. This required common recreational open space must have the following minimum dimensions:</p> <ul style="list-style-type: none"> a. For four to 20 units, the open space must be in one or more pieces each having at least 800 sq. ft. and having a length and width of at least 25 feet. b. For 21 units or more, the open space must be in one or more pieces having a length and width of at least 40 feet. The required common recreational open space may be reduced to 150 sq. ft. per unit if permanent outdoor furniture, pool, cooking facilities, playing equipment, and/or a recreation building are provided in the common open space. The City shall determine if these outdoor provisions provide comparable recreational opportunities as would the open space that is reduced, based on the number of residents that they would serve at one time. Also, the required minimum dimension for the open space containing these outdoor provisions may also be reduced in proportion to the reduced open space area.
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0-4107

(Revised 4/07)

Attachment A-2

Kirkland Zoning Code

USE ZONE CHART
Section 25.10

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

		DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS										
.030	Office Uses	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	None	10' in MSC4, otherwise 20'	5' but 2 side yards must equal at least 15'.	10'	70%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	C	D	If medical, dental or veterinary office, then one per each 200 sq. ft. of gross floor area. Otherwise one per each 300 sq. ft. of gross floor area.	<ol style="list-style-type: none"> 1. The following regulations apply to veterinary offices only: <ol style="list-style-type: none"> a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an acoustical engineer, must be submitted with the development permit application. <ul style="list-style-type: none"> <u>c. Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.</u> <u>d. Not permitted in any development containing dwelling units.</u> 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: <ol style="list-style-type: none"> a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.

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(Revised 4/07)

USE ZONE CHART
Section 25-10

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

.040	Development Containing Stacked or Attached Dwelling Units and Office Uses. See Spec. Reg. 1.	Within the NE 85th Street Subarea, D.R., Chapter 142-KZC. Otherwise, none.	3,600 sq. ft. with a residential density as established on the Zoning Map. See Spec. Reg. 2.	20'	5' but 2' side yards must equal at least 15'.	10'	70%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	C	D	See KZC-105.25.	<ol style="list-style-type: none"> 1. A veterinary office is not permitted in any development containing dwelling units. 2. Minimum amount of lot area per dwelling unit is as follows: <ol style="list-style-type: none"> a. In PR 8.5 zones, the minimum lot area per unit is 8,500 square feet. b. In PR 5.0 zones, the minimum lot area per unit is 5,000 square feet. c. In PR 3.6 zones, the minimum lot area per unit is 3,600 square feet. d. In PR 2.4 zones, the minimum lot area per unit is 2,400 square feet. e. In PR 1.8 zones, the minimum lot area per unit is 1,800 square feet. 3. Chapter 115-KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use. 4. If the subject property contains four or more units, then it must contain at least 200 square feet per unit of common recreational space usable for many activities. This required common recreational open space must have the following minimum dimensions: <ol style="list-style-type: none"> a. For four to 20 units, the open space must be in one or more pieces each having at least 800 square feet and having a length and width of at least 25 feet. b. For 21 units or more, the open space must be in one or more pieces having a length and width of at least 40 feet. The required common recreational open space may be reduced to 150 square feet per unit if permanent outdoor furniture, pool, cooking facilities, playing equipment, and/or a recreation building are provided in the common open space. The City shall determine if these outdoor provisions provide comparable recreational opportunities as would the open space that is reduced, based on the number of residents that they would serve at one time. Also, the required minimum dimension for the open space containing these outdoor provisions may also be reduced in proportion to the reduced open space area. 5. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: <ol style="list-style-type: none"> a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
<p><u>THIS LISTING IS NOT NECESSARY. MIXED USE DEVELOPMENT IS ALLOWED IF BOTH USES ARE ALLOWED IN THIS ZONE.</u></p>												

(Revised 4/07)

Attachment A-2

Kirkland Zoning Code

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USE ZONE CHART

Section 25-10

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

.050	Restaurant, or Tavern, or Fast Food Restaurant	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, Process I, Chapter 145 KZC.	8,500 sq. ft. if PR-8.5 zone, otherwise 7,200 sq. ft.	10' in MSC4, otherwise 20'	5' but 2 side yards must equal at least 15'.	10'	70%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	B	E	1 per each 100 sq. ft. floor area.	<ol style="list-style-type: none"> This use is limited to 2000 sq ft maximum, not permitted in a PR-3-6 zone located in the NE 85th Street Subarea. Drive-in or drive-through facilities are not permitted. Fast food Restaurants must provide one outdoor waste receptacle for every eight parking stalls. Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.
.060	Grocery Store, Drug Store, Laundromat, Dry Cleaners, Barber Shop, or Shoe Repair Shop Any retail establishment, other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services.				10' on each side.						1 per each 300 sq. ft. floor area.	<ol style="list-style-type: none"> This use is not permitted in a PR-3-6 zone located in the NE 85th Street Subarea. <ol style="list-style-type: none"> The following uses are not permitted in this zone: <ul style="list-style-type: none"> Vehicle service stations. Automotive service centers. Uses with drive-in facilities or drive-through facilities. Retail establishments providing storage services unless accessory to another permitted use. Retail establishments involving the sale, service or repair of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment and similar vehicles. Storage and operation of heavy equipment, except delivery vehicles associated with retail uses. Storage of parts unless conducted entirely within an enclosed structure. May not be located above the ground floor of a structure. Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property. Gross floor area cannot exceed 32,000 square feet. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: <ol style="list-style-type: none"> 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. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.

(Revised 4/07)

Attachment A-2

Kirkland Zoning Code

USE ZONE CHART
Section 25-10

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

.070	Funeral Home or Mortuary										
.080	Church										
.090	School or DayCare Center	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none. If this use is adjoining a low density	8,500 sq. ft. if PR-8.5 zone, otherwise 7,200 sq. ft.	If this use can accommodate 50 or more students or children, then: 50' 50' on 50' each side If this use can accommodate 13 to 49 students or children, then:	70%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation. See Spec. Reg.	D	B	See KZC 105.25.	1. This use is not permitted in a PR 3.6 zone located in the NE 85th Street Subarea. 1. No parking is required for day-care or school ancillary to this use. 1. A six-foot-high fence is required only along the property lines adjacent to the outside play areas. 2. Structured play areas must be set back from all property lines as follows: a. Twenty feet if this use can accommodate 50 or more students or children. b. Ten feet if this use can accommodate 13 to 49 students or children. 3. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading area on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered	

(Revised 4/07)

Attachment A-2

Kirkland Zoning Code

0-4107

USE ZONE CHART
Section 25.10

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

zone, then
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 Chapter 445-
 KZC.

10' in 20' on 20'
 MSC4, each
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7.

- loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses.
4. May include accessory living facilities for staff persons.
 5. To reduce impacts on nearby residential uses, hours of operation of the use may be limited and parking and passenger loading areas relocated.
 6. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
 7. For school use, structure height may be increased, up to 35 feet, if:
 - a. The school can accommodate 200 or more students; and
 - b. The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by one foot for each additional one foot of structure height; and
 - c. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan; and
 - d. The increased height will not result in a structure that is incompatible with surrounding uses or improvements.

This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.
 8. For a Mini-School or Mini-Day-Care-Center use, electrical signs shall not be permitted and the size of signs may be limited to be compatible with nearby residential uses.
 89. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).

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USE ZONE CHART
Section 25-10

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

-100	Mini-School or Mini-Day-Care	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC. Otherwise, none.	8,500 sq. ft. if RR-8.5 zone, 7,200 sq. ft. if RR-7.2 zone, 6,000 sq. ft. if RR-6.0 zone, otherwise 3,600 sq. ft.	10' in MSC4, otherwise use 20'	5' but 2 side yards must equal at least 15'.	10'	70%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	E	B	See KZC 105.25.	<ol style="list-style-type: none"> 1. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 2. Structured play areas must be set back from all property lines by five feet. 3. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 4. To reduce impacts on nearby residential uses, hours of operation of the use may be limited and parking and passenger loading areas relocated. 5. Electrical signs shall not be permitted. Size of signs may be limited to be compatible with nearby residential uses. 6. May include accessory living facilities for staff persons. 7. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
-110	Assisted Living Facility								D	A	1.7 per independent unit. 1 per assisted living unit.	<ol style="list-style-type: none"> 1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility. 2. If a nursing home use is combined with an assisted living facility use in order to provide a continuum of care for residents, the required review process shall be the less intensive process between the two uses. 2.3. For density purposes, two assisted living units shall constitute one dwelling unit. Total dwelling units may not exceed the number of stacked dwelling units allowed on the subject property. Through Process 11B, Chapter 152 KZC, up to 1 1/2 times the number of stacked dwelling units allowed on the property may be approved if the following criteria are met: <ol style="list-style-type: none"> a. Project is of superior design, and b. Project will not create impacts that are substantially different than would be created by a permitted multifamily development. 3.4. The assisted living facility shall provide usable recreation space of at least 100 square feet per unit, in the aggregate, for both assisted living units and independent dwelling units, with a minimum of 50 square feet of usable recreation space per unit located outside. 4.5. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use.

0-4107

USE ZONE CHART

Section 25.10

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

-120	Convalescent Center or Nursing Home	Within the NE 85th Street Subarea, D.R., Chapter 142 KZC.	8,500 sq. ft. if PR-8-5 zone, otherwise 7,200 sq. ft.	10' in MSC4, otherwise 20'	10' on each side	10'	70%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	C	B	1 for each bed.	1. If a nursing home use is combined with an assisted living facility use in order to provide a continuum of care for residents, the required review process shall be the less intensive process between the two uses.
-130	Public Utility	Otherwise, Process 1, Chapter 145 KZC.	None		20' on each side	20'			A		See KZC 105.25.	
-140	Government Facility Community Facility				10' on each side	10'			C See Spec. Reg. 2.			1. Site design must minimize adverse impacts on surrounding residential neighborhoods. 2. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.
-150	Public Park	Development standards will be determined on case-by-case basis. See Chapter 49 KZC for required review process.										

(Revised 4/07)

Attachment A-2

Kirkland Zoning Code

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0-4107

CHAPTER 40-XX- NEIGHBORHOOD BUSINESS (BN) ZONES MARKET STREET CORRIDOR 2 (MSC2)

40.05—User Guide.

The charts in KZC 40.10 contain the basic zoning regulations that apply in each of the BN-MSC2 zones 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
40.08**



Section 40.08— 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. If any portion of a structure is adjoining a low density zone, then either:
 - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or
 - b. The horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet in width.See KZC 115.30, Distance Between Structures Regarding Maximum Horizontal Facade Regulation, for further details.
3. ~~Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements. 3. The required yard of a structure abutting Lake Washington Blvd. or Lake Street South must be increased two feet for each one foot that structure exceeds 25 feet above average building elevation (does not apply to Public Park uses).~~

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USE ZONE CHART
Section 40.10

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

Section 40.10	USE ↓ REGULATIONS ↓	Required Review Process	MINIMUMS			MAXIMUMS		Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required 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						
.010	Any retail establishment, other than those specifically listed, limited or prohibited in this zone, selling goods or providing services, including banking and related financial services. Retail Establishment Selling Groceries and Related Items	None <u>D.R. Chapter 142 KZC.</u>	None	20'	10' on each side	10'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	B	D	1 per each 300 sq. ft. of gross floor area.	<ol style="list-style-type: none"> Gross floor area for this use may not exceed 10,000 4,000 square feet. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served. The following uses are not permitted in this zone: <ul style="list-style-type: none"> Vehicle service stations. Automotive service centers. Uses with drive-in facilities or drive-through facilities, except those existing as of June 15, 2007. Retail establishments providing storage services unless accessory to another permitted use. Retail establishments involving the sale, service or repair of automobiles, trucks, boats, motorcycles, recreational vehicles, heavy equipment and similar vehicles. Storage and operation of heavy equipment, except delivery vehicles associated with retail uses.

(Revised 4/07)

Attachment A-3

Kirkland Zoning Code

04107

USE ZONE CHART
Section 40.10

DIRECTIONS: FIRST, read down to find use, THEN, across for REGULATIONS											
.020	Retail Establishment Selling Drugs, Books, Flowers, Liquor, Hardware Supplies, Garden Supplies or Works of Art										<ul style="list-style-type: none"> • <u>Storage of parts unless conducted entirely within an enclosed structure.</u> <p>3. A delicatessen, bakery, or other similar use may include, as part of this use, accessory seating if:</p> <ul style="list-style-type: none"> a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of this use; and b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded. <p>4. <u>Ancillary assembly and manufacture of goods on the premises of this use are permitted only if:</u></p> <ul style="list-style-type: none"> a. <u>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.</u> b. <u>The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.</u> <p>5. <u>Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.</u></p>
.030	Retail Variety or Department Store										
.040	Retail Establishment Providing Banking and Related Financial Services										<ul style="list-style-type: none"> 1. <u>Gross floor area for this use may not exceed 10,000 square feet.</u> 2. <u>Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.</u> 3. <u>Ancillary assembly and manufactured goods on the premises of this</u>

(Revised 4/07)

Attachment A-3

USE ZONE CHART
Section 40.10

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

.060	Retail- Establishment Providing Laundry, Dry- Cleaning, Barber, Beauty or Shoe Repair Services											use are permitted only if: a. 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. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other retail uses.
.060	Restaurant- Restaurant, Tavern or Fast Food Restaurant										1 per each 100 sq. ft. of gross floor area.	1. <u>Restaurant, taverns and fast food restaurants are limited to 4000 sq ft maximum.</u> 2. <u>Drive-in and drive-through facilities are not permitted.</u> 3. <u>Fast Food Restaurants must provide one outdoor waste receptacle for every eight parking stalls.</u> 4. <u>Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.</u>
.070	Private Lodge or Club									B	1 per each 300 sq. ft. of gross floor area.	
.080	Vehicle Service Station	Process- HA, Chapter 160.	22,500- sq. ft.	40'	15' on each- side- See Spec. Reg- 3.	15'	80%	If adjoining a low density- zone other than RSX, then 25' above average- building- elevation- Otherwise, 30' above average-	A	D	See KZC- 106.25.	1. Hours of operation may be limited to reduce impact on residential areas. 2. May not be more than two vehicle service stations at any intersection. 3. Gas pump islands may extend 20 feet into the front yard. Canopies or 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.

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Attachment A-3

Kirkland Zoning Code

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USE ZONE CHART
Section 40.10

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS												
.090	Office Use	None <u>D.R., Chapter 142 KZC.</u>	None	20'	5', but 2 side yards must equal at least 15'.	20'		building elevation. If adjoining a low density zone, then 25' above average building elevation. Otherwise, 30' above average building elevation.	C		If a Medical, Dental or Veterinary office, then one per each 200 sq. ft. of gross floor area. Otherwise one per each 300 sq. ft. of gross floor area.	<ol style="list-style-type: none"> 1. The following regulations apply to veterinary offices only: <ol style="list-style-type: none"> a. May only treat small animals on the subject property. b. Outside runs and other outside facilities for the animals are not permitted. c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the development permit application. c. Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property. 2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: <ol style="list-style-type: none"> a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use. b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
.100	Stacked Dwelling Unit. See Special Regulation 1.			Same as the regulations for the ground floor use. See Special Regulation 1.					A		1.7 per Per unit.	<ol style="list-style-type: none"> 1. This use may not be located on the ground floor of a structure. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.
.110	Church	None <u>D.R., Chapter 142 KZC.</u>	None	20'	10' on each side	10'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building	C	B	1 for every 4 people based on maximum occupancy load of any area of worship. See also Special Reg. 2.	<ol style="list-style-type: none"> 1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to this use.

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Kirkland Zoning Code

USE ZONE CHART
Section 40.10

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

						elevation.				
R120	School or Day-Care Center					<p>If this use can accommodate 50 or more students or children, then:</p> <p>50' 50' on 50' each side</p> <p>If this use can accommodate 13 to 49 students or children, then:</p>	<p>If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation. See Spec. Reg.</p>	D	See KZC 105.25.	<ol style="list-style-type: none"> 1. A six-foot-high fence is required only along the property lines adjacent to the outside play areas. 2. Hours of operation may be limited to reduce impacts on nearby residential uses. 3. Structured play areas must be setback from all property lines as follows: <ol style="list-style-type: none"> a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 4. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading areas on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered

USE ZONE CHART
Section 40.10

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS												
				20'	20' on each side	20'		8.				loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 5. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 6. May include accessory living facilities for staff persons. 7. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388). 8. For school use, structure height may be increased, up to 35 feet, if: a. The school can accommodate 200 or more students; and b. The required side and rear yards for the portions of the structure exceeding the basic maximum structure height are increased by one foot for each additional one foot of structure height; and c. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan. d. The increased height will not result in a structure that is incompatible with surrounding uses or improvements. <i>This special regulation is not effective within the disapproval jurisdiction of the Houghton Community Council.</i>
430	Mini-School or Mini-Day-Care	None <u>D.R., Chapter 142 KZC.</u>	None	20'	5', but 2 side yards must equal at least 15'	10'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	D	B	See KZC 105.25.	1. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 2. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 3. Structured play areas must be setback from all property lines by five feet. 4. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 5. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 6. May include accessory living facilities for staff persons. 7. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).

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Kirkland Zoning Code

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Section 40.10

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

		DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS						
.180	Public Park	See Special Regulations 1 and 2.	None	<p>Will be determined on case-by-case basis.</p> <p><u>Development standards will be determined on case-by-case basis. See Chapter 49 KZC for required review process.</u></p>	--	B	See KZC-105.26.	<p>1. Except as provided for in Special Regulation 2 below, any development or use of a park must occur consistent with a Master Plan. A Master Plan shall be reviewed through a community review process, established by the Parks and Community Services Director, which shall include at a minimum:</p> <ul style="list-style-type: none"> a. One formal public hearing, conducted by the Parks Board, preceded by appropriate public notice. b. The submittal of a written report on the proposed Master Plan from the Parks Board to the City Council, containing at least the following: <ul style="list-style-type: none"> 1) A description of the proposal; 2) An analysis of the consistency of the proposal with adopted Comprehensive Plan policies, including the pertinent Park and Recreation Comprehensive Plan policies; 3) An analysis of the consistency of the proposal with applicable developmental regulations, if any; 4) A copy of the environmental record, if the proposal is subject to the State Environmental Policy Act; 5) A summary and evaluation of issues raised and comments received on the proposed Master Plan; and 6) A recommended action by the City Council. c. City Council review and approval. The City Council shall approve the Master Plan by resolution only if it finds: <ul style="list-style-type: none"> 1) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and 2) It is consistent with the public health, safety, and welfare. <p>In addition to the features identified in KZC 5.10.505, the Master Plan shall identify the following:</p> <ul style="list-style-type: none"> a. Location, dimensions, and uses of all active and passive recreation areas; b. Potential users and hours of use; c. Lighting, including location, hours of illumination, lighting intensity, and height of light standards; d. Landscaping; e. Other features as appropriate due to the character of the neighborhood or characteristics of the subject property. <p>2. Development and use of a park does not require a Master Plan under this code if it will not involve any of the following:</p> <ul style="list-style-type: none"> a. Lighting for outdoor nighttime activities;

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CHAPTER 45XX – COMMUNITY BUSINESS (BC) ZONES MARKET STREET CORRIDOR (MSC3) ZONE

45.05 User Guide.

The charts in KZC 45.10 contain the basic zoning regulations that apply in each of the BC MSC3 zones 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
45.08**



Section 45.08 – 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. If any portion of a structure is adjoining a low density zone, then either:
 - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or
 - b. The horizontal length of any facade of that portion of the structure which is parallel to the boundary of the low density zone shall not exceed 50 feet in width.See KZC 115.30, Distance Between Structures Regarding Maximum Horizontal Facade Regulation, for further details.
3. Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.
3. ~~The required front yard of any portion of the structure must be increased one foot for each foot that any portion of the structure exceeds 30 feet above average building elevation (does not apply to Public Park uses).~~
4. ~~Except if adjoining a low density zone, structure height may be increased above 30 feet in height through a Process IIA, Chapter 150 KZC, if:
 - a. It will not block local or territorial views designated in the Comprehensive Plan; and
 - b. The increased height is not specifically inconsistent with the applicable neighborhood plan provisions of the Comprehensive Plan. (Does not apply to Public Park uses).~~

USE ZONE CHART
Section 45.10

DIRECTIONS: FIRST, read down to find use. THEN, across for REGULATIONS														
Section 45.10	USE ↓ REGULATIONS ↑	Required Review Process	MINIMUMS			MAXIMUMS		Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)	
			Lot Size	REQUIRED YARDS (See Ch. 115)										
				Front	Side	Rear								
.010	Vehicle Service Station	Process 1, Chapter 145 KZC.	22,500 sq. ft.	40'	15' on each side	15'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	A	F	See KZC 105.25.	<ol style="list-style-type: none"> May not be more than two vehicle service stations at any intersection. Gas pump islands may extend 20 feet into the front yard. Canopies or 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. 		
.020	A retail establishment providing new vehicle or boat sales or vehicle or boat service or repair. See Spec. Reg. 2.	None D.R. Chapter 142 KZC.	None	20'	0'	0'						<ol style="list-style-type: none"> Outdoor vehicle or boat parking or storage areas must be buffered as required for a parking area in Chapter 105 KZC. See KZC 115.105, Outdoor Use, Activity and Storage, for further regulations. Vehicle and boat rental and used vehicles or boat sales are allowed as part of this use. 		
.030	Restaurant or Tavern Restaurant, Tavern or Fast Food Restaurant								B		1 per each 100 sq. ft. of gross floor area.	<ol style="list-style-type: none"> This use is limited to 4000 sq ft maximum. Drive-in or drive-through facilities are not permitted. Fast Food restaurants must provide one outdoor waste receptacle for every eight parking stalls. Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from 		

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USE ZONE CHART
Section 45.10

DIRECTIONS: FIRST, read down to find use. THEN, across for REGULATIONS												
											the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.	
.040	Fast Food Restaurant								A		1 per each 80 sq. ft. of gross floor area.	<ol style="list-style-type: none"> 1. Must provide one outdoor waste receptacle for every 8 parking stalls. 2. Access for drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic while waiting in line to be served.
.060	A retail establishment providing storage services. See also Spec. Reg. 4.										See KZC-105.25.	<ol style="list-style-type: none"> 1. May include accessory living facilities for resident security manager.
.060	Any retail establishment other than those specifically listed in this zone, selling goods, or providing services including banking and related financial services	D.R., Chapter 142 KZC, None	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	B	E	1 per each 300 sq. ft. of gross floor area.	<ol style="list-style-type: none"> 1. Gross floor area for this use may not exceed 4,000 square feet maximum. 2. The following uses are not permitted in this zone: <ul style="list-style-type: none"> • <u>Vehicle service stations.</u> • <u>Automotive service centers.</u> • <u>Uses with drive-in facilities or drive-through facilities.</u> • <u>Retail establishments providing storage services unless accessory to another permitted use.</u> • <u>Retail establishments involving the sale, service or repair of boats, recreational vehicles, heavy equipment and similar vehicles except those existing as of June 15, 2007.</u> • <u>Storage and operation of heavy equipment, except delivery vehicles associated with retail uses.</u> • <u>Storage of parts unless conducted entirely within an enclosed structure.</u> 3. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if: <ol style="list-style-type: none"> a. 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. b. The outward appearance and impacts of this use with ancillary

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USE ZONE CHART
Section 45.10

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS											
											<p>assembly or manufacturing activities must be no different from other retail uses.</p> <p>2. Access from drive-through facilities must be approved by the Public Works Department. Drive-through facilities must be designed so that vehicles will not block traffic in the right-of-way while waiting in line to be served.</p> <p>4.3. A delicatessen, bakery, or other similar use may include, as part of the use, accessory seating if:</p> <p>a. The seating and associated circulation area does not exceed more than 10 percent of the gross floor area of the use; and</p> <p>b. It can be demonstrated to the City that the floor plan is designed to preclude the seating area from being expanded.</p> <p>5. <u>Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.</u></p>
.070	Office Use								C	D	<p>If a Medical, Dental or Veterinary office, then 1 per each 200 sq. ft. of gross floor area. Otherwise, 1 per each 300 sq. ft. of gross floor area.</p> <p>1. The following regulations apply to veterinary offices only:</p> <p>a. May only treat small animals on the subject property.</p> <p>b. Outside runs and other outside facilities for the animals are not permitted.</p> <p>c. <u>Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.</u></p> <p>c. Site must be designed so that noise from this use will not be audible off the subject property. A certification to this effect, signed by an Acoustical Engineer, must be submitted with the development permit application.</p> <p>2. Ancillary assembly and manufacture of goods on the premises of this use are permitted only if:</p> <p>a. The ancillary assembled or manufactured goods are subordinate to and dependent on this use.</p>

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USE ZONE CHART
Section 45.10

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS												
												b. The outward appearance and impacts of this use with ancillary assembly or manufacturing activities must be no different from other office uses.
.080	Hotel or Motel	D.R. Chapter 142 KZC, None	None	20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	B	E	1 per each room. See also Spec. Reg. 2.	<ol style="list-style-type: none"> 1. May include ancillary meeting and convention facilities. 2. Excludes parking requirements for ancillary meeting and convention facilities. Additional parking requirement for these ancillary uses shall be determined on a case-by-case basis. 3. Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.
.090	A retail establishment providing entertainment, recreational or cultural activities										1 per every 4 fixed seats.	<ol style="list-style-type: none"> 1. Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.

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USE ZONE CHART
Section 45.10

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS														
.100	Private Lodge or Club									C	B	1 per each 300 sq. ft. of gross floor area.	1. Prior to issuance of a development permit, documentation must be provided by a qualified acoustical consultant, for approval by the Planning Official, verifying that the expected noise to be emanating from the site adjoining any residentially zoned property complies with the standards set forth in WAC 173-60-040(1) for a Class B source property and a Class A receiving property.	
.110	Stacked Dwelling Unit. See Special Regulation 1.										A	1.7 perPer unit.	1. This use may not be located on the ground floor of a structure. 2. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities and activities associated with this use.	
.120	Church					20'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	C	B	1 for every four people based on maximum occupancy load of any area of worship. See also Special Reg. 2.	1. May include accessory living facilities for staff persons. 2. No parking is required for day-care or school ancillary to this use.

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Section 45.10

DIRECTIONS: FIRST, read down to find use... THEN, across for REGULATIONS												
.130	School or Day-Care Center	D.R. Chapter 142 KZC None	None	30'	0'	0'	80%	low-density-zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	D	B	See KZC 105.25.	<ol style="list-style-type: none"> 1. A six-foot-high fence is required only along the property lines adjacent to the outside play areas. 2. Hours of operation may be limited to reduce impacts on nearby residential uses. 3. Structured play areas must be setback from all property lines as follows: <ol style="list-style-type: none"> a. 20 feet if this use can accommodate 50 or more students or children. b. 10 feet if this use can accommodate 13 to 49 students or children. 4. An on-site passenger loading area must be provided. The City shall determine the appropriate size of the loading areas on a case-by-case basis, depending on the number of attendees and the extent of the abutting right-of-way improvements. Carpooling, staggered loading/unloading time, right-of-way improvements or other means may be required to reduce traffic impacts on nearby residential uses. 5. May include accessory living facilities for staff persons. 6. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 7. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).
.140	Mini-School or Mini-Day-Care											<ol style="list-style-type: none"> 1. A six-foot-high fence is required along the property lines adjacent to the outside play areas. 2. Hours of operation may be limited by the City to reduce impacts on nearby residential uses. 3. Structured play areas must be setback from all property lines by five feet. 4. An on-site passenger loading area may be required depending on the number of attendees and the extent of the abutting right-of-way improvements. 5. The location of parking and passenger loading areas shall be designed to reduce impacts on nearby residential uses. 7. May include accessory living facilities for staff persons. 8. These uses are subject to the requirements established by the Department of Social and Health Services (WAC Title 388).

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USE ZONE CHART
Section 45.10

DIRECTIONS: FIRST, read down to find use. THEN, across for REGULATIONS																										
.150	Assisted Living Facility	D.R. Chapter 142 KZC, None	None	Same as the regulations for the ground floor use. See Spec. Reg. 4.				A	1.7 per independent unit. 1 per assisted living unit.	<p>1. A facility that provides both independent dwelling units and assisted living units shall be processed as an assisted living facility.</p> <p>2. If a nursing home use is combined with an assisted living facility use in order to provide a continuum of care for residents, the required review process shall be the least intensive process between the two uses.</p> <p>2.3. For density purposes, two assisted living units shall constitute one dwelling unit. Total dwelling units may not exceed the number of stacked dwelling units allowed on the subject property. Through Process IIB, Chapter 152 KZC, up to 1 1/2 times the number of stacked dwelling units allowed on the property may be approved if the following criteria are met:</p> <p>a. Project is of superior design, and</p> <p>b. Project will not create impacts that are substantially different than would be created by a permitted multifamily development.</p> <p>3.4. This use may not be located on the ground floor of a structure.</p> <p>4.6. Chapter 115 KZC contains regulations regarding home occupations and other accessory uses, facilities, and activities associated with this use.</p>																
													.160	Convalescent Center or Nursing Home	30'	0'	0'	80%	If adjoining a low density zone other than RSX, then 25' above average building elevation. Otherwise, 30' above average building elevation.	C	B	1 for each bed.	1. If a nursing home use is combined with an assisted living facility use in order to provide a continuum of care for residents, the required review process shall be the least intensive process between the two uses.			
															.170	Public Utility	20'							A	See KZC 105.25.	1. Landscape Category A or B may be required depending on the type of use on the subject property and the impacts associated with the use on the nearby uses.

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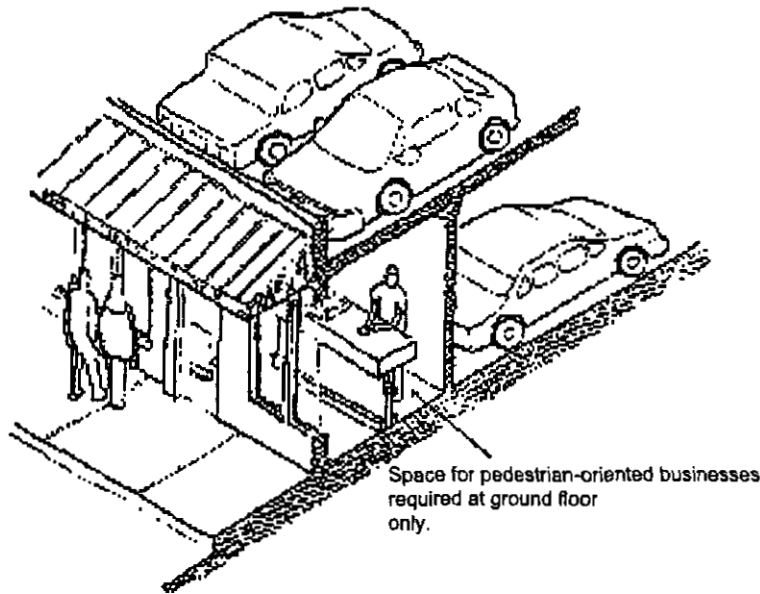
USE ZONE CHART
Section 45.10

DIRECTIONS: FIRST, read down to find use. THEN, across for REGULATIONS							
190	Public Park	See Special Regulations 1 and 2.	None	Will be determined on case-by-case basis. <u>Development standards will be determined on case-by-case basis. See Chapter 49 KZC for required review process.</u>	--	B See KZC 105.25.	<p>1. Except as provided for in Special Regulation 2 below, any development or use of a park must occur consistent with a Master Plan. A Master Plan shall be reviewed through a community review process, established by the Parks and Community Services Director, which shall include at a minimum:</p> <p>a. One formal public hearing, conducted by the Parks Board, preceded by appropriate public notice. The required public hearing on a Master Plan proposed within the Houghton Community Municipal Corporation shall be conducted by the Houghton Community Council, which may be a joint hearing with the Parks Board;</p> <p>b. The submittal of a written report on the proposed Master Plan from the Parks Board to the City Council, containing at least the following:</p> <ol style="list-style-type: none"> 1) A description of the proposal; 2) An analysis of the consistency of the proposal with adopted Comprehensive Plan policies, including the pertinent Park and Recreation Comprehensive Plan policies; 3) An analysis of the consistency of the proposal with applicable developmental regulations, if any; 4) A copy of the environmental record, if the proposal is subject to the State Environmental Policy Act; 5) A summary and evaluation of issues raised and comments received on the proposed Master Plan; and 6) A recommended action by the City Council. <p>c. City Council review and approval. The City Council shall approve the Master Plan by resolution only if it finds:</p> <ol style="list-style-type: none"> 1) It is consistent with all applicable development regulations and, to the extent there is no applicable development regulation, the Comprehensive Plan; and 2) It is consistent with the public health, safety, and welfare; 3) If the Master Plan is proposed within the Houghton Community Municipal Corporation, it shall become effective according to the procedure in KMC 2.12.040. <p style="text-align: right;">REGULATIONS CONTINUED ON NEXT PAGE</p>

92.15. 4. Parking Garages

- a. All zones - Each facade of a garage or a building containing ground floor parking must either:
 - 1) Provide and maintain a ground floor area of the garage or building extending along the entire facade of the garage or building (excluding vehicle access points) which is developed as and made available for pedestrian-oriented businesses (see Figure 92.15.E); or

Providing Space for Pedestrian-Oriented Business



Providing space for pedestrian-oriented business along parking garage frontage facing pedestrian-oriented street.

FIGURE 92.15.E

- 2) Provide and maintain a *pedestrian-oriented space*, at least 10 feet in depth and extending along the entire facade of the garage or building (excluding vehicle access points); or
 - 3) Treat the facade consistent with KZC 92.15.3.e. 1) 2) or 3), Treatment of Building Facades; or
 - 4) A combination of methods described above.
- b. All zones - There must be architectural screening or other treatment of openings above the ground level for the facades of parking garages along *pedestrian-oriented streets, through-block pathways and major pedestrian sidewalks.* *the Market Street Corridor,*
 - c. RHBD and TLN Zones - Structures containing parking on the ground floor:
 - 1) Parking structures on designated *pedestrian-oriented streets* shall provide space for ground-floor commercial uses along street frontages at a minimum of 75 percent of the frontage width. The entire facade facing a *pedestrian-oriented street* must feature a *pedestrian-oriented facade*.

Recessed windows, mullions and tripartite window walls are prohibited used as an accent, such as in this building:



FIGURE 92.30.K

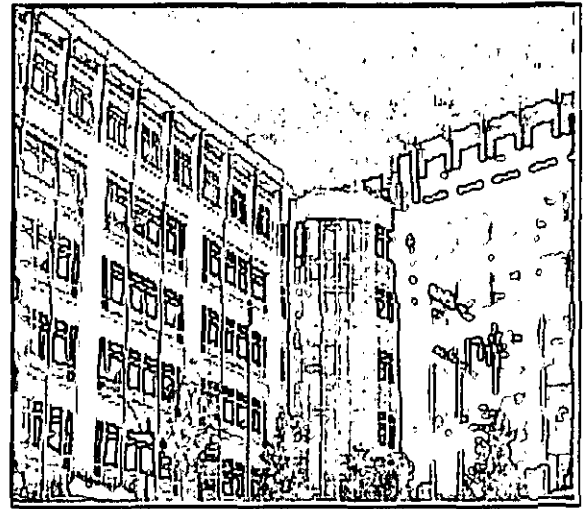


FIGURE 92.31

92.30. 6. Achieving Human Scale in All Zones

a. General

- 1) CBD - Except as provided in subsection ^b 5. a. 3. of this section, the applicant shall use at least two of the elements or techniques listed in subsection 5.b. of this section in the design and construction of each facade of a building facing a street or public park.
- 2) JBD, NRHBD, TC, RHBD and TLN - Except as provided in subsection ^b 5. a. 3. of this section, the applicant shall use at least one of the elements or techniques listed in subsection 5b. of this section in the design and construction of each facade of a one-story building facing a street or *through-block pathway*, and at least two of the elements or techniques for a two-story building facing a street or *through-block pathway* (see Plate 34 in Chapter 180, KZC).
- 3) ALL Zones - The applicant shall use at least three of the elements or techniques listed in subsection 5b. of this section in the design and construction of any facade of a building facing a street, *through-block pathway* or public park, if:
 - a) The facade has a height of three or more stories; or
 - b) The facade is more than 100 feet long.

b. Techniques To Achieve Human Scale in All Zones - The techniques to be used in the design and construction of building facades under subsection ^b 5. a. of this section are listed below. As an alternative, the applicant may propose other techniques, elements or methods which provide human scale to the building and are consistent with the applicable design guidelines and the Comprehensive Plan.

- 1) On each story above the ground floor, provide balconies or decks, at least six feet wide and six feet deep.
- 2) On each story above the ground floor, provide bay windows that extend out at least one foot, measured horizontally, from each facade of the building.

105.58 Location of Parking Areas Specific To Design Districts

If the subject property is located in a Design District, the applicant shall locate parking areas on the subject property according to the following requirements:

1. Location of Parking Areas In the CBD, TC (TL1, TL2, TL3) zones-
 - a) Parking areas shall not be located between a *pedestrian-oriented street* and a building unless specified in a Conceptual Master Plan in TL 2. (See Plate 34 in Chapter 180 and Chapter 92 and 110 for additional requirements regarding pedestrian oriented streets),
 - b) On all other streets, parking lots shall not be located between the street and the building on the subject property unless no other feasible alternative exists.
2. Location of Parking Areas in the JBD 2 and the NRHBD zones shall not be located between the street and the building unless no other feasible alternative exists on the subject property.
3. Parking areas in the MSC zones shall not be located between the street and the building unless the Planning Official determines that the proposed landscape design provides superior visual screening of the parking area.
3. Location of Parking Areas In Certain TLN and RHBD zones- Parking areas and vehicular access may not occupy more than 50 percent of the street frontage in the following zones (see Figure 105.58.A)
 - a) TL 4, only properties fronting on 120th Avenue NE;
 - b) TL 5;
 - c) TL 6A, only properties fronting on 124th Avenue NE. Auto dealers in this zone are exempt from this requirement;
 - d) TL 6B, only properties fronting on NE 124th Street;
 - e) TL 10E.

Alternative configurations may be considered through the Design Review process, if the project meets the objectives of the KMC Design Guidelines for the Totem Lake Neighborhood.

- f) In the Regional Center (RH 1A, RH2A, RH3 and RH5A zones west of 124th Avenue). For parcels over two acres in size, parking lots and vehicular access areas may not occupy more than 50 percent of the NE 85th Street property frontage (see Figure 105.58.A). Alternative configurations will be considered through the Design Review process, if the project meets the intent of the KMC Design Guidelines for the Rose Hill Business District.

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Additional Requirements

This section contains a series of requirements that apply to improvements required or proposed to be installed.

1. Dedication of Right-of-Way – If a right-of-way abutting the subject property is not wide enough to contain the required improvements, the applicant shall dedicate as right-of-way a strip of land adjacent to the existing right-of-way wide enough to encompass the required half-street improvements. The Public Works Director may require the applicant to make land available, by dedication, for new rights-of-way and utility infrastructure if this is reasonably necessary as a result of the development activity.
2. Fire Hydrants – The applicant shall install fire hydrants where and in the manner specified by the Department of Fire Services.
3. Incompatible Improvements – If improvements required by this chapter will connect with existing improvements in the same right-of-way that do not conform to this chapter, the following regulations apply:
 - a. If the improvements will connect with existing improvements of a greater dimension, the new improvement must be built at the greater dimension unless the Public Works Director determines that the dimensions of the existing improvement will be decreased in the future.
 - b. If the improvements will connect with existing improvements of a lesser dimension, the following regulations apply:
 - 1) If the Public Works Director determines that the dimensions of the existing improvements will not be increased in the future, the new improvement must be permanently flared or tapered to match the existing improvements.
 - 2) If the Public Works Director determines that the dimensions of the existing improvements will be increased in the future, the applicant shall install the required improvements in the full length of the right-of-way abutting the subject property with temporary flaring or tapering on the existing improvements.
4. Landscape Strip and Street Trees – Landscape strips are typically found between the curb and the sidewalk and are planted with grass and street trees spaced 30 feet on-center. When improving landscape strips, the following regulations apply:
 - a. The applicant shall plant all landscape strips with vegetation approved by the City.
 - b. Trees shall be planted per the details outlined in Public Works Pre-Approved Plans and Policies Notebook.
 - c. The abutting property owner shall be responsible for keeping the sidewalk and landscaping abutting the subject property clean and litter-free, and any vegetation there shall be maintained. The City may require the owner of the subject property to sign a maintenance agreement in a form acceptable to the City Attorney, to run with the subject property. If an agreement is required, the applicant shall record this agreement in the King County Bureau of Elections and Records.
 - d. It is a violation of this code to pave or cover the landscape strip with impervious material or to park motor vehicles on this strip.

- e. If a landscape strip or street trees in tree grates is not required, street trees planted 30 feet on-center 2.5 feet behind the sidewalk will be required, where feasible.
 - f. All trees planted in the right-of-way must be approved as to species by the Public Works Director. In the vicinity of overhead lines, tree species shall be selected based on City guidelines that will not interfere with those lines in the future. All trees must be two inches in diameter at the time of planting as measured using the standards of the American Association of Nurserymen with a canopy that starts at least six feet above finished grade and does not obstruct any adjoining sidewalks or driving lanes.
5. Mailboxes – The applicant shall, to the maximum extent possible, group mailboxes for units or uses in the development. The mailbox location and type shall be approved by the Kirkland U.S. Post Master.
 6. Street Signs and Traffic Control Devices – The applicant shall install all street signs and traffic control devices in the location and manner established by the Department of Public Works.
 7. Utility Lines and Appurtenances
 - a. The location of sanitary sewer, storm drainage, and water main lines shall be as approved or required by the Public Works Director. All other utility lines, water meters and other utility appurtenances must be undergrounded within the utility strip, unless an alternate location is approved or required by the Public Works Director. Utility appurtenances must be no higher than finished grade unless this is determined by the Public Works Director to be infeasible.
 - b. All overhead service utility lines on the subject property must be undergrounded to the nearest primary source; undergrounding to a secondary service pole will not be allowed unless approved by the Public Works Director. All existing overhead utility lines in the public right-of-way adjacent to the subject site must be undergrounded unless the Public Works Director determines that this is infeasible. If undergrounding is determined to be infeasible, the property owner shall sign an agreement, in a form acceptable to the City Attorney, that waives the property owner's right to protest formation of a Local Improvement District (LID) for conversion of overhead utility lines to underground, in the public right-of-way adjacent to the subject property, consistent with RCW 35.43.182.
 8. Engineering Design – The applicant shall do preliminary engineering and provide construction design for the improvements required by this chapter.
 9. Other Necessary Improvements – The applicant shall install any other improvements that are necessary for the installation or proper operations or maintenance of the improvements required by this code.
 10. Replacement of Damaged or Substandard Existing Street Improvements – For properties that have existing street improvements, the owner shall remove and replace any damaged or substandard improvements in conjunction with the development of the property. Replacement shall include, but not be limited to, cracked curb, gutter, landscape strip, sidewalk, storm drainage infrastructure, barrier free ramps at street intersections, and installation of street trees.
 11. Entry or Gateway Features in Design Districts- In Design Districts, if the Comprehensive Plan or Design Guidelines designate the subject property for an entry or gateway feature, then the applicant shall design and install an entry feature area on the subject property. The size of the entry feature area shall be at least 100 square feet, and may include landscaping, art, signage or lighting. The design shall be reviewed by the City and decided upon as part of

the Design Review for the proposed development. The applicant shall provide an ⁰⁻⁴¹⁰⁷ easement or dedication of property surrounding the entry feature.

Chapter 142 – DESIGN REVIEW

Sections:

- 142.05 User Guide
- 142.15 Development Activities Requiring D.R. Approval
- 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. Approval1. Design Board Review (D.B.R.)

- a. The following development activities shall be reviewed by the Design Review Board pursuant to KZC 142.35:

- 1). New buildings greater than one story in height or greater than 10,000 square feet of gross floor area, or in the Market Street Corridor Historic District (MSC 3 Zone).

- 2). Additions to existing buildings where:

- a) The new gross floor area is greater than 10% of the existing building's gross floor area; and

- b) The addition is greater than 2,000 square feet of gross floor area; and

- c) Either:

- 1) The existing building and addition total more than 10,000 square feet of gross floor area; or

- 2) The addition adds another story.

- d) or in the Market Street Corridor Historic District (MSC 3 Zone).

- 3). Renovations to existing facades, where the building is identified by the City as an historic structure or is in the market Street Corridor Historic District (MSC 3 Zone).

- b. Exemptions from D.B.R.: The following development activities shall be reviewed through the Administrative Design Process in KZC 142.25:

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- 1) Any development where administrative design review is indicated in the applicable Use Zone Chart.
 - 2) Any development in the following zones within the NE 85th Street Subarea: RH8, PR 3.6, RM, PLA 17A.
 - 3) Any development in the MSC 1, MSC 2, and MSC 4 Zones located within the Market Street Corridor.
2. Administrative Design Review (A.D.R.) All other development activities not requiring D.B.R. review under Section 1 above shall be reviewed through the A.D.R. process pursuant to KZC 142.25.
 3. Exemptions from Design Review The following development activities shall be exempt from either A.D.R. or D.B.R. and compliance with the design regulations of Chapter 92, KZC:
 - a. Any activity which does not require a building permit; or
 - b. Interior work that does not alter the exterior of the structure; or
 - c. Normal building maintenance including the repair or maintenance of structural members; or
 - d. Any development listed as exempt in the applicable Use Zone Chart.

Sections 142.17 and 142.20 deleted.

142.25

Administrative Design Review (A.D.R.) Process

1. Authority - The Planning Official shall conduct A.D.R. in conjunction with a related development permit pursuant to KZC 142.25.

The Planning Official shall review the A.D.R. application for compliance with the design regulations contained in Chapter 92 KZC. In addition, the following guidelines and policies shall be used to interpret how the regulations apply to the subject property:

- a. Design guidelines for pedestrian-oriented business districts, as adopted in KMC 3.30.040.
 - b. Design guidelines for the Rose Hill Business District (RHBD) and the Totem Lake Neighborhood (TLN) as adopted in KMC 3.30.040.
 - c. The neighborhood plans contained in the Comprehensive Plan for areas where Design Review is required, such as the Downtown Plan, Juanita Business District Plan, the Totem Lake Neighborhood Plan, the North Rose Hill Neighborhood Plan for the North Rose Hill Business District (NRHBD), and the NE 85th Street Subarea Plan for the Rose Hill Business District (RHBD), and the Market Street Corridor Plan for the Market Street Corridor (MSC).
 - d. For review of attached or stacked dwelling units within the NE 85th Street Subarea and the Market Street Corridor, Appendix C, Design Principles for Residential Development contained in the Comprehensive Plan.
2. Application - As part of any application for a development permit requiring A.D.R., the applicant shall show compliance with the design regulations in Chapter 92, KZC by

submitting 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 application materials required as a result of a pre-design conference.

3. Pre-Design Conference – Before applying for A.D.R. approval, the applicant may schedule a 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 the Planning Official to designate which design regulations apply to the proposed development based primarily on the location and nature of the proposed development.
4. A.D.R. Approval
 - a. The Planning Official may grant, deny, or conditionally approve the A.D.R. application.. The A.D.R. approval or conditional approval will become conditions of approval for any related development permit and no development permit will be issued unless it is consistent with the A.D.R. approval or conditional approval.
 - b. Additions Or Modifications To Existing Buildings -
 - 1) Applications involving additions or modifications to existing buildings shall comply with the design regulations of Chapter 92 to the extent feasible depending on the scope of the project. The Planning Official may waive compliance with a particular design regulation if the applicant demonstrates that it is not feasible given the existing development and scope of the project.
 - 2) The Planning Official may waive the A.D.R. process for applications involving additions or modifications to existing buildings if the design regulations are not applicable to the proposed development activity.
5. Lapse of Approval- The lapse of approval for the A.D.R. decision shall be tied to the development permit and all conditions of the A.D.R. approval shall be included in the conditions of approval granted for that development permit.
6. 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 requirements in the following zones:
 - 1) In the CBD: minimum required yards; and
 - 2) In the Totem Center: minimum required yards , floor plate maximums and building separation requirements; and
 - 3) In the RHBD and the TLN: minimum required yards, landscape buffer and horizontal facade requirements.
 - 4) In the MSC 1 and MSC 4 zones of the Market Street Corridor: minimum required front yards and horizontal facade requirements.

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- 5) In the MSC 2 zone of the Market Street Corridor: height (up to an additional 5 feet), minimum required front yards and horizontal façade requirements.
- 6) In the MSC 3 zone of the Market Street Corridor: horizontal façade requirements.

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 (6)(d) of this section.
- d. Criteria – The Design Review Board 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.) Process

1. Timing of D.B.R. - For any development activity that requires D.B.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.
2. Public Meetings – All meetings of the Design Review Board shall be public meetings and open to the public.
3. 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. Design Guidelines for the Rose Hill Business District (RHBD) and the Totem Lake Neighborhood (TLN) as adopted in Chapter 3.30 KMC.
 - c. The applicable neighborhood plans contained in the Comprehensive Plan for areas where Design Review is required.

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- d. The Design Principles for Residential Development contained in Appendix C of the Comprehensive Plan for review of attached and stacked dwelling units located within the NE 85th Street Subarea and the Market Street Corridor.
4. The Design Review Board is authorized to approve minor variations in development standards within certain Design Districts described in Section 142.25.(6)(a) provided the variation complies with the criteria of KZC 142.25(6)(b):
5. 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. A pre-design conference may be combined with a pre-submittal meeting.
6. 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 regulations, 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.
7. 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.
8. 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 mailing the notice or a summary thereof to owners of all property within 300 feet of any boundary of the subject property.
 - 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.
9. 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 (3) of this section. Public comment relevant to the application may 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 (3) 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 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.

Conceptual Master Plan Conference for TL 5 – The Design Review Board shall consider a Conceptual Master Plan (CMP) for properties over four acres in size in TL 5. The CMP shall incorporate the design principles set forth in the special regulations for the use in the TL 5 zoning chart.

Conceptual Master Plan Conference for RHBD – The Design Review Board shall consider a Conceptual Master Plan (CMP) in the RH 3 zone within the NE 85th Street Subarea. The CMP shall incorporate the design considerations for the RH 3 zone set forth in the Design Guidelines for the Rose Hill Business District.

10. 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

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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 and TL 5 – The Notice of Approval for a Conceptual Master Plan (CMP) shall set thresholds for subsequent D.B.R. or A.D.R. review of projects following approval of a CMP in TL 2 or TL 5. The Notice of Approval shall also include a phasing plan for all improvements shown or described in the CMP.

Additional Approval Provision for RHBD – The Design Review Board shall determine the thresholds for subsequent D.B.R. or A.D.R. review of projects following approval of a Conceptual Master Plan (CMP) in the RHBD. The Notice of Approval for the CMP will state the thresholds for future review of projects and 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(23) and (4) 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

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- 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 or a summary 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.

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- 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 business 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;

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- 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 For Design Review Board Decisions

1. General – Unless otherwise specified in the decision granting D.B.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.B.R. approval within one year after the final decision granting the D.B.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.B.R. approval decision within three years after the final decision on the D.B.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.B.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.

0-4107

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.

PUBLICATION SUMMARY
OF ORDINANCE NO. 4107

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AMENDING PORTIONS OF CHAPTERS 92, 105, 110, 142, USE ZONE CHARTS IN CHAPTERS 25, 40 AND 45 AND ADDING NEW USE ZONE CHARTS FOR THE MARKET STREET CORRIDOR ZONES, MSC 1, MSC 2, MSC 3 AND MSC 4 AND AMENDING THE CITY OF KIRKLAND ZONING MAP (ORDINANCE 3710 AS AMENDED) TO CONFORM TO THE COMPREHENSIVE PLAN AND TO ENSURE CONTINUED COMPLIANCE WITH THE GROWTH MANAGEMENT ACT AND APPROVING A SUMMARY FOR PUBLICATION, FILE NO. ZON07-00007.

SECTION 1. Identifies the specific amendments to Ordinance 3719, as amended, the Kirkland Zoning Code and to Ordinance 3710, as amended, the Kirkland Zoning Map.


SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Kirkland Municipal Code 1.08.017 and establishes the effective date as thirty (30) days after publication of summary.

SECTION 4. Establishes certification by City Clerk and notification of King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 3rd day of July, 2007

I certify that the foregoing is a summary of Ordinance 4107 approved by the Kirkland City Council for summary publication.



City Clerk