

## 2024 MISCELLANEOUS CODE AMENDMENTS – FILE NO., CAM24-00135

For the following code subsections, proposed text changes are indicated by underlining for added text, and ~~striketrough for removed text~~. Any subsections of the KMC or KZC not shown are not proposed to be amended. Note that item numbers correspond to the numbered descriptions in the staff memorandum for the April 25, 2024 Planning Commission public hearing.

### PROPOSED KIRKLAND MUNICIPAL CODE (KMC) AMENDMENTS

#### 1. KMC 1.12.100(d)(3)(A) (Code Enforcement for Tree Code Violations)

(3) In the event the violators cannot restore the unlawfully removed or damaged trees, the violators shall pay a fee in lieu of restoration to the city forestry account.

(A) Fees in lieu of restoration shall be \$450.00 ~~based on the value of the subject trees, utilizing the most recent version of the Pacific Northwest Chapter International Society of Arboriculture (ISA) "Species Ratings for Landscape Tree Appraisal" unit cost for conifer and/or deciduous tree replacement,~~ multiplied by the number of illegally removed tree credits per Table 1.12.101. KZC 95.33(4)

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#### 4. KMC 22.28.30(c) (Lots-Size)

(c) In zoning districts for which the Zoning Code establishes a floor area ratio (FAR) limitation, a covenant is signed prior to recording of the plat ensuring that building on the new lots will comply with an FAR restriction at least ten percentage points less than that required by the zoning district as shown on the Kirkland zoning map; such lots are not eligible for the design-based F.A.R. bonus described in KZC 115.42.4; and

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## PROPOSED KIRKLAND ZONING CODE (KZC) AMENDMENTS

### 2. KZC 5.10.35 and 5.10.910 (Definitions)

#### .035 Alteration

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A change or rearrangement of the structural members or exits in a building; or a change or rearrangement of non-structural components of a building; or an increase in the height or length or depth of the exterior walls of a building; or the movement of a structure from one (1) location to another; or, for office or commercial buildings, the changing by the use of partitions of more than one-third of the gross floor area of a single floor.

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### 3. KZC 5.10.153 (Definitions)

#### .153 Community Facility

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A non-commercial or commercial use which provides public services, such as mental health crisis or other social and human services, food banks, and clothing banks. A use which serves the public and is generally of a public service, noncommercial nature, such as food banks, clothing banks, and other nonprofit social service organizations.

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### 5. KZC 35.10.030 (Commercial Zones)

4. In the BC 1 and BC 2 zones, all required yards for any portion of a structure must be increased one foot for each foot that any portion of the structure exceeds 35 feet above average building elevation (does not apply to Public Park uses).

5. Reserved.

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### 6. KZC 35.30 – Special Regulations DD-8 and DD-11 (Density/Dimensions Table – Commercial Zones)

DD-8. See KZC 35.10.030 (4) ~~and (5)~~.

DD-11. See KZC 35.10.030 ~~(5) and (6)~~.

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### 7. KZC 45.60 (Private College and Related Facilities)

1. The Master Plan, approved by Resolution R-5400 ~~R-4203~~, includes a site plan, standards, and conditions, which are ~~is~~ on file with the City. That site plan, standards, and conditions are ~~is~~, by reference, incorporated as a part of this code as it pertains to the location, configuration and nature of improvements in the PLA 1 zone.

2. In addition to the site plan referenced above, the adopted Master Plan includes the following special regulations:
  - a. Future development permits shall be reviewed by the Planning and Building Director to ensure consistency with the Master Plan.
  - b. The applicant shall indicate all site improvements and landscaping for the areas to be affected by construction which are proposed to accompany the construction of each facility. The Planning and Building Director shall have the authority to require implementation of these related elements of the Master Plan at such time new facilities, structures or additions are being constructed.
  - c. At the time of application for development of the married student housing information relating to the degree of cutting and filling necessitated shall be provided. Plans for stabilization of nearby slopes shall be included in this information. This information shall indicate to what extent the drainage conditions on the eastern portion of the campus will be disturbed, and what measures will be taken to insure that surrounding properties will not be adversely affected by alternate drainage patterns.
  - d. A 30-foot-wide landscape buffer planted as follows:
    - 1) Two rows of trees planted eight feet on center along the entire length of the buffer. No more than 50 percent of the required trees may be deciduous. At the time of planting, deciduous trees must be at least two inches in diameter as measured using the standards of the American Association of Nurserymen; and coniferous trees must be at least five feet in height.
    - 2) Shrubs, 18 inches high, planted to attain coverage of at least 60 percent of the buffer area within two years.
    - 3) The buffer shall be provided around the campus perimeter, except along 108th Ave. NE, 114th Ave. NE, I-405, and between on-campus duplex housing and adjacent single-family sites or I-405. The buffer shall incorporate all existing significant trees and vegetation. Where fencing is proposed, it shall be wood, unless alternative fencing is requested in writing by the adjacent neighbor and agreed to by the applicant.
  - e. A 15-foot-wide landscape buffer planted pursuant to the requirements of subsections (d)(1) and (2) of this section shall be provided between on-campus duplex housing and adjacent single-family sites. The buffer shall incorporate all existing significant trees and vegetation.
  - f. New construction of buildings and parking areas shall preserve existing significant trees to the maximum extent possible.
  - g. Storm drainage plans shall accompany any applications for development permits. Said plans shall comply with the requirements of KMC Title 15.
  - h. Development permits for additional parking areas shall include a lighting plan for review and approval by the Planning and Building Director. The lighting shall be directed such that it does not negatively impact adjacent residential areas.

- ~~i. All main interior streets shall maintain a driving width of 24 feet plus curb and gutter improvements on both sides of the streets, for a total of 28 feet. Widths of, and improvements to secondary streets and service roads, shall be subject to the review and approval of the Planning and Building Director. It will be necessary for secondary streets and service roads to provide adequate clearance for emergency vehicle access.~~
- ~~j. The location, material and design of any walkway within the campus shall be at the discretion of the College and its representatives, but will be reviewed by the Planning and Building Director; provided, that the pedestrian/bicycle path in 114th Ave. NE shall be asphalt or concrete, eight feet wide.~~
- ~~k. The "NO PARKING" signs along 110th Avenue NE, east of the men's dormitory, shall remain indefinitely, to discourage future parking along this street.~~
- ~~l. Within 30 feet of all outer edges of the campus (except along 108th Ave. NE, 114th Ave. NE, and I-405), no institutional uses or new parking areas are permitted, including any future redevelopment of the maintenance buildings.~~
- ~~m. The housing unit, south of Gairloch, and west of 114th Ave. NE, shall be separated from abutting properties to the north and east by a dense vegetative buffer of not less than 30 feet.~~
- ~~n. Parking lots shall include landscaping islands as required by Chapter 105 KZC.~~
- ~~o. Where adjacent to existing single-family residences, existing campus roadways and parking areas shall be landscaped as much as possible in the space available to provide a visual screen of the roadways and parking areas from the nearby residences. The amount and type of landscaping shall be subject to the review and approval of the Planning and Building Director. An effort shall be made to reduce the amount of asphalt surfacing wherever possible.~~
- ~~p. Construction of the proposed clock tower shall be subject to the issuance of a Process IIB Permit, to be reviewed by the Kirkland Hearing Examiner and the Kirkland City Council.~~
- ~~q. The two westernmost campus access drives (adjacent to the Seventh Day Adventist Church and opposite 111th Ave. NE) shall be closed to general vehicle use. The driveway serving The Firs married student housing shall be relocated to lie within the 114th Ave. NE right-of-way.~~
- ~~r. The District Office shall have only one access point from 108th Avenue NE.~~
- ~~s. New buildings or building expansions must conform with design guidelines as adopted as part of the Master Plan.~~
- ~~t. The City is authorized to implement measures, identified in the approved Master Plan, to protect the surrounding neighborhood from parking impacts.~~
- ~~u. For other regulations applicable to this use, see the Master Plan approved under Resolution R-4203.~~

~~v. Structure height shall not exceed 30 feet above average building elevation if located within 100 feet of the campus perimeter, or 40 feet above average building elevation if located greater than 100 feet from the campus perimeter.~~

23. Deviations from the approved Master Plan may be administratively approved by the Planning and Building Director:

a. Unless:

- 1) There is a change in the use and the Zoning Code establishes different or more rigorous standards for the new use than for the existing use.
- 2) The Planning and Building Director determines that there will be substantial changes in the impacts on the neighborhood or the City as a result of the change; and

b. The proposed modification or deviation satisfies all of the following:

- 1) No vehicular ingress or egress from surrounding streets may be changed.
- 2) No roadways, parking lots or structures within 100 feet of the site perimeter may be shifted toward the perimeters. Any other shifting or improvements shall be consistent with the design concept of the College.
- 3) No buffers shown in the approved site plan may be reduced, unless specifically authorized by some other special regulation.
- 4) Reconfigurations of the footprint of the structures shown in the approved plan may be permitted; provided, that such changes are not apparent off-site and do not increase building height.
- 5) Minor new structures not shown on the approved site plan may be permitted; provided, that they are at least 200 feet from the site perimeter, are not apparent from off-site and do not require the significant shifting of roadways, parking areas or other improvements.

c. A Process IIB zoning permit review process is required:

- 1) For any change to the Master Plan that does not meet the above criteria;
- 2) For leasing of any campus facilities to long-term tenants;
- 3) For any increase in student population above 2,000 ~~1,200~~; or
- 4) ~~For a change in all or any part of the Seahawks facility to a use other than a professional football team office and practice facility.~~

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## **8. KZC 57.10.040.070.3 (Station Area Form-based Code, Urban Flex District Sign Categories)**

3. Sign Category (Chapter 100 KZC)

All residential uses shall comply with Sign Category A. Institutional uses shall comply with Sign Category B. Industrial uses shall comply with Sign Category E. Commercial uses shall comply with Sign Category E.

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**9. Station Area Form-based Code, Regulating Districts**

**KZC 57.10.040.040.1– (CMU) Permitted Uses**

1. Permitted Uses

Table 1 specifies permitted uses for this zone.

Table 1: Commercial Mixed Use District Use Table

General Use	Commercial Mixed Use (CMU) Permitted (P)/Not Permitted (NP)
Commercial	P
Institutional	P
Residential	NP
Industrial	NP

Uses Specifically Prohibited as Primary Use
Automotive Service Station
Vehicle Service Station
Sale, Service, Storage, and/or Rental of Motor Vehicles, Sailboats, Motor Boats, and Recreational Trailers
Drive-Through Facilities
<u>Retail Establishment Providing Storage Services</u>

**KZC 57.10.040.050.1 – (NMU) Permitted Uses**

1. Permitted Uses

Table 2 specifies permitted uses for this zone.

Table 2: Neighborhood Mixed Use District Use Table

General Use	Neighborhood Mixed Use (NMU) Permitted (P)/Not Permitted (NP)
Commercial	P
Institutional	P
Residential	P
Industrial	NP

Uses Specifically Prohibited as Primary Use
Automotive Service Station
Vehicle Service Station
Sale, Service, Storage, and/or Rental of Motor Vehicles, Sailboats, Motor Boats, and Recreational Trailers
Drive-Through Facilities
<u>Retail Establishment Providing Storage Services</u>

**KZC 57.10.040.070.1 – (UF) Permitted Uses**

1. Permitted Uses

Table 3 specifies permitted uses for this zone.

Table 3: Urban Flex District Use Table

General Use	Urban Flex (UF) Permitted (P)/Not Permitted (NP)
Commercial	P
Institutional	P
Residential	P*

Table 3: Urban Flex District Use Table

General Use	Urban Flex (UF) Permitted (P)/Not Permitted (NP)
Industrial	P

Uses Specifically Prohibited as Primary Use
Automotive Service Station
Vehicle Service Station
Sale, Service, Storage, and/or Rental of Motor Vehicles, Sailboats, Motor Boats, and Recreational Trailers
Drive-Through Facilities
<u>Retail Establishment Providing Storage Services</u>

**KZC 57.10.040.080.1 – (CVU) Permitted Uses**

1. Permitted Uses

Table 4 specifies permitted uses for this zone.

Table 4: Civic Mixed Use District Use Table

General Use	Civic Mixed Use (CVU) Permitted (P)/Not Permitted (NP)
Commercial	P
Institutional	P
Residential	P
Industrial	NP

Uses Specifically Prohibited as Primary Use
Automotive Service Station
Vehicle Service Station
Sale, Service, Storage, and/or Rental of Motor Vehicles, Sailboats, Motor Boats, and Recreational Trailers
Drive-Through Facilities
<u>Retail Establishment Providing Storage Services</u>

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**10. KZC 57.05.070 (Station Area Form-based Code, Relationship to Other Regulations)**

- 5. Chapter 92 KZC for design regulations.
  - 6. Chapter 95 KZC for regulations regarding tree retention and landscape standards for development on private property.
  - 7. Chapter 100 KZC for sign regulations.
  - 87. Chapter 105 KZC for parking areas, vehicle and pedestrian access, and related improvements.
  - 98. Chapter 112 KZC for regulations regarding affordable housing standards.
  - 109. Chapter 113 KZC for regulations regarding cottage, carriage, and two-/three-unit homes housing types.
  - 1140. Chapter 115 KZC for applicable miscellaneous use development and performance standards.
  - 1244. KZC 115.24 for development standards adjoining the Cross Kirkland Corridor. Regulating standards of KZC 115.24 govern where provisions in district or district-wide standards conflict.
  - 1342. Chapter 142 KZC for regulations regarding the design review process.
  - 1443. Chapter 162 KZC for regulations regarding nonconformances.
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**11. KZC 5.10.410 (Definitions-Institutional Uses)**

.410 Institutional Uses

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The following uses: schools, churches, colleges, universities, hospitals, parks, governmental facilities, community facilities, and public utilities.

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#### **12. KZC 70.15.8(b) (Holmes Point Overlay, Tree and Landscape Maintenance Requirements)**

b. All significant trees in the remaining 75 percent of the lot shall be maintained in perpetuity, and tree removal will be allowed only for hazardous and nuisance trees pursuant to KZC ~~95.23(5)(d)~~ 95.25.6.

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#### **13. KZC 90.185.2(a) (Critical Area Nonconformances)**

2. General Standards for Subsections (3) through (6) of This Section
    - a. Except for above ground floor expansions, the provisions of subsections (4) through (6) of this section may each be used one (1) time for the subject property and may be used in combination. Any building permit application utilizing these provisions shall clearly document the proposed location and size relative to the specific provision(s) being utilized. Above ground floor expansions ~~pursuant to subsection (4)(a) of this section~~, may be utilized an unlimited number of times;
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#### **14. KZC 90.120.1(c) (Critical Area Limited Buffer Waivers)**

1. Interrupted Buffer Waiver
  - a. The Planning Official may waive the required critical area buffer in that portion of the buffer isolated from the critical area where an existing legally established and improved public right-of-way or improved easement road interrupts a portion of the critical area buffer from the portion of the buffer adjacent to the critical area. The Planning Official may require a critical area report be prepared to address the criteria in subsection (1)(d) of this section.
  - b. The Planning Official may waive the required critical area buffer in that portion of the buffer isolated from the critical area where an existing legally established building, detached garage, accessory dwelling unit, driveway, commercial parking area or retaining wall over six (6) feet in height divides a portion of the critical area buffer from the portion of the buffer adjacent to the critical area. For the buffer waiver to be approved, the applicant must demonstrate conclusively in a critical area report that all of the criteria in subsection (1)(d) of this section are met.
  - c. A waiver ~~may~~ shall not be ~~requested for such~~ granted due to the presence of improvements such as fences, sheds, patios, decks or other minor structures and impervious surfaces.

- d. The Planning Official may waive the buffer requirement if the waiver request is found to meet the following criteria (see Chapter 180 KZC, Plate 25):
    - 1) The existing legal improvement creates a substantial barrier to the buffer function;
    - 2) The interrupted buffer does not provide additional protection of the critical area from the proposed development; and
    - 3) The interrupted buffer does not provide significant hydrological, water quality and wildlife buffer functions relating to the portion of the buffer adjacent to the critical area.
  - e. If the applicant's consultant prepares the critical area report, the applicant shall also fund peer review of the report by the City's consultant.
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### **15. KZC 90.130 (Vegetative Buffer Standards)**

3. When Vegetative Buffer Standard Applies
  - a. The complete vegetative buffer standard shall be installed either when:
    - 1) The total new net impervious area on the entire subject property exceeds 1,000 square feet, or
    - 2) The cost of new or replacement improvements exceeds 50 percent of the assessed or appraised value of the existing improvements on the entire subject property, whichever is greater. This 50 percent threshold shall not apply to detached dwelling units approved for expansion pursuant to KZC 90.185.
  - b. A partial vegetative buffer shall be installed when:
    - 1) The total new net impervious area is between 50 square feet and 1,000 square feet on the subject property.
      - a) The buffer shall be vegetated at a minimum 1:1 ratio (new net impervious area is equal to the total square feet of buffer vegetation) meeting the vegetated buffer standard at the proportional rate of the standard;
      - b) If the new net impervious area results in removal of a significant tree in a buffer, the tree shall be replaced with two (2) native trees in the buffer. The replacement trees shall be six (6) feet tall for a conifer and two-inch caliper for deciduous or broadleaf. For a removed significant tree in a buffer that is 24 inches in diameter, the tree shall be replaced with three (3) native trees;
      - c) The vegetated buffer area shall be located in the buffer abutting or nearest to the critical area at a minimum width of 10 feet;
      - d) The location of the vegetation in the buffer shall be across from the new structure footprint and approved by the Planning Official;

- 2) When a new net impervious surface on the subject property totals less than 50 square feet, no vegetation is required to be planted in the buffer; and
- 3) For new utility poles the buffer shall be calculated based on the combined area of all new utility pole footprints and be vegetated at a minimum 1:1 ratio (net new impervious area equals total square feet of buffer vegetation), meeting the vegetated buffer standard at a proportional rate.

c. For public facilities in public parks, for net new impervious improvements of any amount, the buffer shall be vegetated at a minimum 1:1 ratio (i.e., net square footage of vegetated buffer area must be planted to meet the standards to match the net new square footage of added impervious surfaces ) meeting the vegetated buffer standard at the proportional rate of the standard, in a location and of dimensions approved by the Planning Official.

de. For permitted activities, improvements and uses subject to development standards pursuant to KZC 90.40, vegetative buffer requirements will be determined as part of mitigation sequencing.

ed. For nonconformances, see KZC 90.185.

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#### **16. KZC 100.50.1.c (Designated Corridors)**

1. General – KZC 100.45 contains limitations on sign area along the following designated corridors:
    - a. Market Street between Central Way and Forbes Creek Drive.
    - b. State Street, between NE 68th Street and 2nd Avenue South.
    - c. Lake Washington Boulevard and Lake Street South between NE 38<sup>th</sup> Place Street and 3rd Avenue South.
    - d. Lakeview Drive and NE 60th Street.
  2. Electrical Signs Prohibited – Electrical signs shall not be located along designated corridors.
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#### **17. KZC 105.19.2(a) and (b) (Public Pedestrian Walkways)**

2. Required Improvements – The applicant shall install public pedestrian walkways pursuant to the following standards:
  - a. General:
    - 1) Pedestrian access shall be provided by means of dedicated rights-of-way, tracts, or easements at the City's option;

- 2) The width of the access right-of-way, tract, or easement, and the walkway material and width, shall be determined per the Public Works Pre-Approved Plans;
  - 3) The height of solid (blocking visibility) fences along a pedestrian walkway that is not directly adjacent to a public or private street right-of-way shall be limited to 42 inches unless otherwise approved by the Planning or Public Works Directors;
  - 4) All new building structures shall be set back a minimum of five (5) feet from any pedestrian access right-of-way, tract, or easement that is not directly adjacent to a public or private street right-of-way;
  - 5) The alignment of walkways shall consider the location of proposed and existing buildings (preferably located along building fronts or property lines);
  - ~~6) Adequate pedestrian lighting at a maximum of 12 feet in height shall be provided along the pathway;~~
  - 7) Overhead weather protection shall be installed consistent with KZC 105.18(3).
- b. Through-Block Pathway Standards – General – If a through-block pathway is designated to be installed on the subject property, it shall be installed pursuant to the following standards. See subsection (2)(c) of this section for standards within specified Design Districts.
- 1) A minimum unobstructed pavement width of eight (8) feet, paved with decorative concrete. A minimum of five (5) feet may be approved for residential uses.
  - 2) Trees placed at an average of 30 feet on-center between the pathway and any parking or vehicular access area (see Figure 105.19.A). Exceptions:
    - a) To increase business visibility and accessibility, the City may allow modifications in the required tree coverage adjacent to primary building entries; however, no less than one (1) tree per 60 lineal feet of the required pathway shall be provided.
    - b) The required trees must be placed in planting strips at least 4.5 feet in width or within tree grates.
  - 3) Adequate pedestrian lighting at a maximum of 12 feet in height ~~shall~~ may be required to be provided along the pathway at the discretion of the Public Works Director.
  - 4) Barriers that will limit pedestrian access between the subject property and adjacent properties are not permitted.
  - 5) The through-block pathway may be retained within dedicated rights-of-way, tracts, or easements at the City's option. The width of the pathway right-of-way, tract, or easement will be determined by the Planning Official.

- 6) If subject to Design Review the City will specifically review and approve the material and configuration of all through-block pathways as part of the Design Review decision.
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#### **18. KZC 112.20 (Basic Affordable Housing Incentives)**

##### KZC 112.20.2.c (Bonus)

- c. Bonus Units – For uses in zones where the number of dwelling units allowed on the subject property is determined by dividing the lot size by the required minimum lot area per unit, two additional units (“bonus units”) may be constructed for each affordable housing unit provided or paid for in lieu of construction. (See Plate 32 for example of bonus unit calculations.)
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#### **19. KZC 115.43.3 (Additional Requirements for Garages with Garage Doors on the Front Façade of a Detached Dwelling Unit)**

##### 3. Additional Requirements for Garages with Garage Doors on the Front Façade of the Detached Dwelling Unit

- a. The garage may not extend closer to the abutting right-of-way than any other ground floor portion of the front façade of the detached dwelling unit (not including covered entry porches approved under KZC 115.115(3)(n)).
  - b. The garage width shall not exceed 50 percent of the total width of the front façade. (This standard shall not apply if the lot width, as measured at the back of the required yard for the front façade, is less than 55 feet.). The garage width shall be measured between the outermost edges of all garage doors on the front façade.
  - c. For purposes of this section, the width of the front façade shall not include those items located along the side façades described in KZC 115.115(3)(d), even if they are outside of a required yard.
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#### **20. KZC 115.42.4 (Floor Area Ratio Calculation in Low Density Residential and PLA 3C)**

##### 4. Design-Based F.A.R. Bonus

- a. An additional five percent F.A.R. above the maximum F.A.R. for the zone will be allowed for a subject property if at least two of the design elements below are used in the design and construction of ~~a detached~~ dwelling units on the subject property:

- 1) With the exception of accessory features, all roof forms for all structures consist of ridgelines peaked near the center of the structure, with a minimum pitch of four feet vertical to 12 feet horizontal.

2) All structures are set back from side property lines by at least seven and one-half feet.

3) The gross floor area of any floor above ground floor, including any accessory structures with floors above ground floor, shall be reduced by a minimum of 15 percent of the floor area of the ground floor on a per-structure basis.

b. The above design-based F.A.R. bonus cannot be combined with any other F.A.R. incentive in this code or the Kirkland Municipal Code.

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## **21. KZC 117.30.11 (Wireless Service Facility Regulations – Pole Replacements)**

11. Pole Replacements. Pole replacements requests that do not exceed the height of the existing pole may be processed concurrently with an eligible facilities modification permit pursuant to KZC 117.60, and if in the right-of-way, may also be subject to a right-of-way permit pursuant to KMC Title ~~26~~ 19.

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## **22. KZC 117.40.3(b) (Wireless Service Facility Regulations – Macro Facility Permit Review Procedures)**

b. Public Notice. Applications for macro facilities on new towers shall be noticed in accordance with ~~KZC 150.30~~ 150.22. Hearings for macro facilities on new towers shall be noticed in accordance with KZC 150.30. The Hearing Examiner's decision shall be noticed in accordance with KZC 150.65.

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## **23. KZC 117.60.2(g)(2) (Wireless Service Facility Regulations – Substantial Change Criteria)**

2) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than ~~40 feet~~ twenty (20) feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

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## **24. KZC 160.90 (Process IV)**

### 160.90 Publication and Effect

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1. Publication – If City Council adopts an ordinance, the City Clerk shall post or publish the ordinance as required by law.

2. Effect – ~~Except as stated in KZC 160.95, t~~ The ordinance will be in effect from and after five days after it is posted or published as required by law.

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## 25. KZC 161.90 (Process IVA)

### 161.90 Publication and Effect

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1. Publication – If the City Council adopts an ordinance, the City Clerk shall post or publish the ordinance as required by law.
  2. Effect – ~~Except as stated in KZC 161.95, t~~ The ordinance will be in effect on the date specified in the ordinance.
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## 26. KZC 50.60 (Special Parking Provisions in the CBD 1A, 1B, 2, and 8 Zones)

### 1. General

The provisions of this section govern parking for uses in the CBD 1A, 1B, 2, and 8 Zones. To the extent that these provisions conflict with the provisions of Chapter 105 KZC, the provisions of this section prevail. Where no conflict exists, the provisions of Chapter 105 KZC apply to parking for uses in the CBD 1A, 1B, 2, and 8 Zones.

### 2. Number of Spaces

To the extent that subsections (3) and (4) of this section require that uses in the CBD 1A, 1B, 2, and 8 Zones provide parking, the following establishes the number of spaces required:

- a. Residential uses must provide a minimum of 1.2 stalls per studio unit, 1.3 stalls per one (1) bedroom unit, 1.6 stalls per two (2) bedroom unit, and 1.8 stalls per three (3) or more bedroom unit. One (1) parking space is required for each assisted living unit. See KZC 105.20 for visitor parking requirements.
- b. Restaurants and taverns must provide one (1) parking space for each 125 square feet of gross floor area, except as provided in subsection (3)(a) of this section.
- c. All other uses must provide one (1) parking space for each 350 square feet of gross floor area.

### 3. Certain Floor Area Exempt from Parking Requirements

The following paragraphs establish several situations under which properties within the CBD 1A, 1B, 2, and 8 Zones are exempt in whole or in part from providing parking spaces:

- a. Regardless of use, the owner need not increase the number of parking spaces for any existing floor area ~~that existed prior to May 12, 2002~~; provided, that the owner may not decrease the number of parking stalls on the subject property below the number of stalls that was required by any previous development permit, unless the owner complies with the provisions of subsection (4) of this section. Any new floor area is subject to the parking standards in subsection (2) of this section.

- b. The parking obligation of the subject property is reduced as follows:
  - 1) If new floor area was created or existing floor area converted to a more parking intensive use between September 20, 1976, and October 4, 1982, the number of stalls required for the subject property is reduced by the amount of the subject property's assessment under LID #119 divided by \$2,300.
  - 2) If new floor area is created or existing floor area is converted to a more parking intensive use after October 4, 1982, the number of stalls required for the subject property is reduced by the amount of the subject property's assessment under LID #119 divided by \$6,000.
  - 3) If the subject property was vacant as of September 18, 1978, the number of parking stalls required for the subject property is reduced by one (1) for each 350 square feet of gross floor area created on the ground floor of the subject property.
- c. Any property that paid into the special parking fund specified in subsection (4)(b) of this section shall be credited toward any parking obligations incurred in the future in the amount of one (1) stall for each stall originally paid into the fund.

#### 4. Options for Meeting Parking Obligations

The applicant may meet his/her parking obligation, computed using subsection (2) of this section, by providing the required number of parking stalls in the building or on the building site containing the primary use conducted on the subject property. The applicant may propose to meet all or a portion of the parking obligation by paying a fee-in-lieu of parking for each required parking stall or fraction of a stall into a special fund that will be used to provide and upgrade municipal off-street parking within the CBD, Planned Areas 6 or 7 Zones, or park/public use zones located adjacent to the CBD. The per-stall fee shall be \$20,000 in 2006 dollars and shall be adjusted annually in November of each subsequent year based on the "Engineering News Record" Construction Cost Index 20-City average (ENR CCI) for November. The actual fee-in-lieu amount shall be established at the time of payment.

The City may consider the applicant's proposal and shall base its decision whether to grant approval on whether the City has current plans or programs in place to provide or upgrade municipal off-street parking within the CBD, Planned Area 6 or 7 Zones, or park-public use zones located adjacent to the CBD. Plans and programs shall include capital improvement program projects for future off-street parking. The City's decision will be made by the Planning and Building Director as part of the permit process for the applicant's project. The Director may approve the request, reject the request, or approve a lesser number of in-lieu parking stalls than requested.

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## 27. KZC 70.15.4.b.3.b (Tree Replacement Standards)

- b) Trees – Planted with a tree density of 150 tree credits per acre as described in KZC 95.33. The minimum size and tree density value for a supplemental tree worth one (1) tree credit in the PNA shall be at least six (6) feet in height for a conifer and at least ~~one (1) inch in caliper (DBH)~~ two (2) inch caliper for deciduous or broad-leaf evergreen trees, measured from existing grade.
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**28. KZC 95.10(17)(c) (Definitions)**

- c. Hedge Trees – Five or more trees of the same species with overlapping or touching crowns ~~that are in fair or poor condition~~; have been planted and maintained in a linear formation at maximum eight-foot spacing, typically to function as a screen or barrier.
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**29. KZC 95.10(17) (Definition of Dead/Dying Trees)**

17. Trees – A tree or a group of trees may fall under one of the following definitions for purposes of this chapter:
- k. Dead Trees. The tree is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, roots or branches exist to sustain life; and/or
  - l. Dying Trees. The tree is in an advanced stage of decline due to disease, insect infestation, or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent the spread of a disease/pest that would cause catastrophic decline in tree health and failure.
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**30. KZC 95.23(3)(d) (Landmark Tree Mitigation)**

- d. The applicant shall sign a five-year maintenance agreement, on a form provided by the City and approved by the City Attorney, to maintain the mitigation trees for a period of five years from final inspection. The agreement shall be recorded with the King County Recorder's office.
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**31. KZC 95.23(4) (Landmark Tree Mitigation)**

4. If a landmark tree(s) meets the definition of ~~is obviously~~ dead or dying, ~~and/or hazardous~~, as evident in a photograph provided to the Planning Official, it will not be subject to ~~a tree removal permit~~ or mitigation requirements.
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**32. KZC 95.25.8.a (Table 95.25.3) (Private Property – Tree Removal, Not Associated with Development Activity)**

*Staff Note: Only showing relevant row from Table 95.25.3.*

Location of Tree Removal	Tree Replacement Standards
Public trees in parks or City right-of-way per KZC <del>95.21(2)</del> <u>95.20</u>	Minimum 1:1 tree replacement

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**33. KZC 95.25(6) (Private Property – Tree Removal, Not Associated with Development Activity)**

6. Removal of Hazard or Nuisance Trees. Removal of hazard or nuisance trees does not count toward the tree removal allowances if the nuisance or hazard is supported by a tree risk assessment report prepared by a qualified professional arborist and approved by the City. The City may approve the removal of dead, dying, and/or diseased trees from private property as hazard trees without the submission of a tree removal permit if the applicant provides photographic evidence demonstrating that the tree meets the definition of dead or dying. Tree risk assessment reports shall follow the method for developing a tree risk rating set forth in the most current edition of the ISA Tree Risk Assessment (TRAQ) Manual and include the following:

- a. Explanation of how the tree or tree parts meet the definition of a hazard pursuant to KZC 95.10(15)(b); and
- b. Overall tree risk rating with correlating mitigation measures as follows:
  - 1) If a potential target does not exist, applicants should consider routine pruning and maintenance to abate the tree issue;
  - 2) If a tree/tree part is found to have a low or moderate overall risk rating, the Planning Official may approve mitigation measures to reduce the risk; or
  - 3) If a tree/tree part is found to have a high or extreme overall risk rating and mitigation of the risk through pruning or moving potential targets is not feasible, the Planning Official may approve the removal of the tree as a hazard tree.

~~The City may approve the removal of dead, dying, and/or diseased trees from private property as hazard trees without the submission of a tree removal permit if the applicant provides photographic evidence demonstrating that at least one of the following applies:~~

- ~~a. Dead Trees. The tree is dead or has been damaged beyond repair or where not enough live tissue, green leaves, limbs, roots or branches exist to sustain life; and/or~~
- ~~b. Dying Trees. The tree is in an advanced stage of decline due to disease, insect infestation, or rotting and cannot be saved by reasonable treatment or pruning, or must be removed to prevent the spread of a disease/pest that would cause catastrophic decline in tree health and failure.~~

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**34. KZC 95.30(2) (Tree Retention Associated with Development Activity)**

2. Tree Retention Plan Review Authority. The authority to make decisions under this chapter resides with the Planning Official for building permit; land surface modification permit; demolition permit; and/or with the applicable review authority for Design Review, Process I, IIA, or IIB, described in Chapters 142, 145, 150 and 152 KZC. To retain regulated trees, the City shall review for consistency with the provisions set forth in this chapter.

a. Based on the tree retention plan information submitted by the applicant, subject to the Planning Official's verification of accuracy, the Planning Official shall designate trees on the subject property as viable high retention value trees, including landmark trees and groves, and/or trees with a moderate retention value using the definitions provided in KZC 95.10, Definitions.

b. The City does not require tree retention efforts that either (a) would reduce maximum allowed density, number of allowed lots, maximum allowed floor area ratio (FAR) or lot coverage, (b) preclude the ability to construct ADUs consistent with KZC 115.07, or (c) preclude required access and utility connections.

c. No trees may be removed from a development site until a Tree Retention Plan is approved and permits are issued for the development activity. Tree removal is not authorized during the demolition permitting phase unless approved in writing by the Planning Official.

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### **35. KZC 95.51(2) (Tree and Landscape Maintenance Requirements)**

2. Maintenance Duration. Maintenance shall be ensured in the following manner except as set forth in subsections (3), (4) and (5) of this section:

a. Single-Family Dwellings, Short Plats, Subdivisions, Two/Three-Unit Homes, Cottage/Carriage Dwellings, and/or Accessory Structures Development. Any existing trees or trees planted pursuant to KZC 95.34 or other existing vegetation designated for preservation in a tree retention plan shall be maintained for a period of five years following issuance of the certificate of occupancy. A five-year tree maintenance agreement shall be recorded with the King County Recorder's office on the document approved by the City Attorney. After five years, all trees on the property are subject to KZC 95.25 unless:

- 1) Trees are in a grove that is protected pursuant to subsection (3) of this section;
- 2) The tree or vegetation is considered to be a public benefit related to approval of a planned unit development;
- 3) The tree or vegetation was retained to partially or fully meet requirements of KZC 95.40 through 95.45, Required Landscaping and Zoning.

b. Multifamily, Commercial, and/or Mixed Use Development.

- 1) Any existing trees or trees planted with the development designated for preservation in a tree retention plan shall be maintained for a period of five years following issuance of the certificate of occupancy. A five-year tree maintenance

agreement shall be recorded with the King County Recorder's office on the document approved by the City Attorney.

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### **36. KZC 115.08 (Accessory Structure (Detached Dwelling Unit Uses Only))**

The gross floor area shall not include area with less than five (5) feet of ceiling height, as measured between the finished floor and the supporting members for the roof. The height (roof peak elevation) of an accessory structure, including ADUs, in all residential zones, may not exceed the maximum height allowed by the underlying zone or 15 feet above the existing height (roof peak elevation) of the primary residence, whichever is less. This height limitation may be more restrictive than KCZ 83.180.2 for ADUs in the shoreline jurisdiction and in the event of a conflict between this provision and KZC 82.180.2, this provision shall prevail based on KZC 83.70.2.

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### **37. KZC 127.30 (Frequency and Duration of Temporary Use)**

1. The City may not grant a temporary use permit at the same site more frequently than once in every 365-day period. The City may only grant a temporary use permit for a specified period of time, not to exceed 60 days.
2. Exceptions
  - a. Temporary staging facilities for public projects may be approved for a time period not to exceed the duration of their construction.
  - b. Homeless encampments may be approved for a time period not to exceed 92 days. An extension to the allowed duration may be granted in certain circumstances at the discretion of the Planning and Building Director if the use meets the following:
    - 1) The use is compliant with the applicable performance standards in this chapter;
    - 2) The organization demonstrates the need to stay longer than 92 days;
    - 3) The extension is no more than 92 days in duration beyond the original approved duration; and,
    - 4) The applicant provides documentation that the property owner, and sponsor and/or managing agency agree to the extension.