City of Kenmore

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Planning Commission Meeting

ON-SITE

October 4, 2022 - 7:00 PM

In addition, we try to provide access to the meeting virtually:

ZOOM LINK: https://kenmorewa-gov.zoom.us/j/87141078092

Or Telephone: Dial US:+12532158782,,87141078092#

Callers please dial *9 to Raise/Lower Hand

Webinar ID: 871 4107 8092

Technical Difficulties - If the virtual component of the meeting disconnects, and we cannot resolve technical difficulties to reconnect the virtual component, the in-person meeting will continue at City Hall if there is a quorum of the body to conduct business.

1. CALL TO ORDER

2. PUBLIC COMMENTS

This is an opportunity to express your views on issues that are important to you and to the community. Please email comments to Rita Moreno at rmoreno@kenmorewa.gov by 5:00 p.m. on Tuesday, October 4, 2022. All comments received will be forwarded to the Planning Commission for consideration. In a hybrid meeting we will hear from our onsite guests first, followed by our virtual guests. You also may use the "raise hand" feature in Zoom during the Public Comment portion of the meeting or call in at the number listed above. A 3-minute comment limit applies.

3. APPROVAL OF MINUTES

September 20, 2022 Planning Commission Meeting Minutes will be available at the 10/18 Planning Commission meeting

4. AGENDA ITEMS

Transit-Oriented Development (TOD) Regulations

Staff Memo
Attachment 1 - White paper on fee-in-lieu
Attachment 2 - Other Fee-in-Lieu Regulations
Attachment 3 - Fee-in-Lieu Amendments
Attachment 4 -Updated TOD Regulations 100422
Attachment 5 - Draft Zoning Map
RE_ FYA - Parking on 73rd Avenue NE

5. ADJOURNMENT

6. UPCOMING MEETINGS:

October 18, 2022 - public hearingNovember 1, 2022

City Of Kenmore, Washington

Memorandum

Date: September 28, 2022

To: Planning Commission

From: Debbie Bent, Community Development Director
Lauri Anderson, Principal Planner
Mike Stanger, ARCH

Regarding: Transit-Oriented Development (TOD) Code Amendments

On September 20, the Planning Commission preliminarily endorsed the TOD code amendments with four items outstanding:

1. **Along with excluding standalone townhome projects, duplexes and triplexes also should be prohibited.**

   Response: This change will be made upon adoption of the "Missing Middle" housing code amendments by the City Council—targeted to occur before preparation of the final TOD amendments. Several other changes related to the "Missing Middle" housing rules also may be needed (reference to R- zone, renaming of R-6, etc.).

2. **The 90% maximum impervious surface allowance in the Downtown Commercial zone may need adjustment. Is impervious surface addressed in Climate Action Plan (CAP)?**

   Response: Staff has contacted Richard Sawyer, Environmental Services Manager, to get his input on surface water concerns. We also have asked the Development Review Engineer for his perspective. Responses will be provided at your meeting on October 4.

   From the CAP, two related actions have been identified: (1) "Prioritize dense, mixed use, transit-oriented developments and affordable housing," and (2) "Require low-impact development to manage stormwater in new/remodeled construction projects." Proceeding with the increased density and height amendments downtown clearly is consistent with the CAP. Reviewing low-impact development standards is identified as a longer-term action, and the implications of this action for regulating impervious surface in a high-density downtown are unclear. Without further analysis of the tradeoffs between higher density development and reduced impervious surface, staff cannot determine whether reducing the maximum impervious surface is a benefit or a detriment to overall environmental health.

   It may be most appropriate to address impervious surface maximums as part of the Surface Water Element policy review--targeted for next year.

3. **What are the pros and cons of allowing a fee-in-lieu for affordable housing and, if that opportunity is to be retained, how could the code section be strengthened to ensure provision of the housing within a reasonable time period?**

Response: The "white paper" referenced by Commissioner Torres Mehdipour at your September meeting is included as Attachment 1. Benefits identified for an in-lieu fee include creating a revenue source for a local affordable housing efforts (such as the ARCH Housing Trust Fund) and a more streamlined, flexible development process. A significant concern is that allowing in-lieu fees may limit opportunities for affordable housing in opportunity-rich areas. After reviewing the white paper and code sections from Bothell and Redmond (see Attachment 2), ARCH suggests amendments as shown in Attachment 3.

4. **When considering the tenure of a project providing affordable housing under the Residential Density Incentives, what does "life of the project" mean?**

Response: "Life of the project" for an affordable housing development means the duration of the property's residential use. Staff recommends that Section 18.80.040.E.1.g be amended as follows:

> g. Affordable housing units provided under this section shall remain affordable housing for a minimum of 50 years from the date of initial sale, if owner-occupied, or the life of the project (i.e., the duration of the property's residential use), if renter-occupied.

The complete set of recommended code revisions is in Attachment 4. Attachment 5 shows the area of the Zoning Map that would need adjustment for the new Urban Residential (UR) zone.

The public hearing is scheduled for October 18.

(Previously, a Commissioner had asked about impacts to parking on 73rd Avenue NE. Attachment 6 is an email from the City Engineer, John Vicente, responding to that question.)

Attachments
Attachment 1: Fee-in-lieu white paper
Attachment 2: Fee-in-lieu regulations in other jurisdictions
Attachment 3: Proposed fee-in-lieu amendments
Attachment 4: Revised TOD code amendments
Attachment 5: Revised Zoning Map (excerpt)
Attachment 6: Email from John Vicente, City Engineer

RESEARCH TO ACTION LAB

URBAN INSTITUTE

Determining In-Lieu Fees in Inclusionary Zoning Policies

Considerations for Local Governments

Aaron Shroyer

May 2020

Inclusionary zoning policies are an increasingly popular tool for addressing affordable housing challenges, with many cities and counties adopting such policies since 2000 (Thaden and Wang 2017). But the structure and features of these policies vary. Research suggests that the features of inclusionary zoning matter and need to be tailored to local market conditions (Ramakrishnan, Treskon, and Greene 2019; Schuetz, Meltzer, and Been 2008).

Inclusionary zoning encourages or requires developers who are creating market-rate housing to set aside a percentage of the housing to be sold or rented at below-market rates. One common feature of inclusionary zoning policies is "in-lieu fees," which developers can pay as an alternative to building on-site affordable units. (In-lieu fees are the most common name for this method of alternative compliance, but some jurisdictions might refer to this option as "buy-outs," "opt-outs," or "cash contributions.") In-lieu fees are among the most hotly debated parts of inclusionary zoning, in part because little research exists on the variations in their structure and their advantages and disadvantages.

This brief has two goals. The first is to help local decisionmakers determine whether to include an in-lieu fee option in their inclusionary zoning ordinances. The second is to help local decisionmakers understand what variations of in-lieu fees exist and how to structure in-lieu fees. Based on a literature review and interviews with local government staff members, developers, nonprofit practitioners, and advocates, this brief first provides an overview of the goals of inclusionary zoning and the ways that in-lieu fees can advance or undermine those goals. It then discusses the methods that jurisdictions use to set in-lieu fees and details considerations for jurisdictions when they are setting in-lieu fees.

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What Is Inclusionary Zoning?

As housing costs rise in markets across the country, local decisionmakers are looking for tools that create more affordable housing units. Inclusionary zoning enables the delivery of affordable housing in cities that have historically high housing costs or where costs are rapidly going up because of gentrification and property value increases. Andrew Trueblood, director of the Office of Planning in Washington, DC, has said that inclusionary zoning is "not the biggest program that produces affordable housing in the city, but it is the biggest program that produces affordable housing in high-cost areas."[1]

Under inclusionary zoning, developers are encouraged or required to set aside a share of the market-rate housing they're creating to be sold or rented at below-market rates.[2] Inclusionary zoning leverages the private market to create housing units that are affordable to households with lower incomes while allowing development projects to produce a return on investment. For that reason, inclusionary zoning policies are more effective in areas where more development is occurring.[3]

Inclusionary zoning ordinances are popular with policymakers because they create affordable housing units with little to no public subsidy.[4] A 2016 survey found that 886 jurisdictions in 25 states and the District of Columbia have inclusionary zoning programs, although nearly 90 percent of them were in New Jersey, Massachusetts, and California (Thaden and Wang 2017).

Inclusionary zoning often interacts with other tools that jurisdictions use to create affordable housing units. Some jurisdictions do not have affordability requirements for all new developments but instead require that developers create affordable units in exchange for additional density, requests to change the general land use plan, or receipt of public funding.[5] For example, a jurisdiction might allow a developer to build at increased density in exchange for making a portion of those extra units affordable. This is often referred to as voluntary inclusionary zoning.

Goals and Characteristics of Inclusionary Zoning

This section provides an overview of inclusionary zoning before detailing how in-lieu fees relate to the goals of these policies.

Goals

Inclusionary zoning programs typically have three goals.

The first goal is to create more affordable housing units. By requiring that new developments include affordable units, inclusionary zoning policies create more affordable units than the market would have created otherwise. In some cases, jurisdictions allow developers to build the units in a different location from where the new market-rate units are being created or to buy out their obligation by paying "in-lieu" fees into a local affordable housing fund.

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The second goal is to generate flexible revenue for affordable housing, primarily through in-lieu fees. Although revenue that is generated can go toward furthering the first goal of creating more units, jurisdictions often use revenue from inclusionary zoning to fund other high-priority housing needs.[6] Interviewees said local resources for housing are increasingly scarce and susceptible to shifts in economic conditions and support from local elected officials. In-lieu fees create a dedicated, sustainable revenue source for local affordable housing trust funds. The uses of trust fund dollars vary by jurisdiction, but they can provide gap financing to produce or rehabilitate affordable housing units and fund other housing-related programs like rental assistance and capital improvements.[7]

The third goal is to create more mixed-income developments and increase affordable units in opportunity-rich neighborhoods. Recent research demonstrates the importance of place for upward economic mobility, underscoring the need for policies that address segregation (Chetty, Hendren, and Katz 2015; Turner and Gourevitch 2017). Many of the policy levers that enable households to gain access to opportunity-rich neighborhoods, such as housing vouchers and fair housing protections, rely on the federal government for funding and enforcement. Inclusionary zoning policies are one of the main levers that local governments have to create mixed-income developments without additional resources.

Characteristics

Inclusionary zoning policies can differ by jurisdiction but often share certain features. In most jurisdictions with inclusionary zoning, developments that exceed a certain square footage or number of units trigger affordability requirements. Inclusionary zoning can apply to both rental and for-sale development, as well as to both new construction and renovation. Inclusionary zoning policies often mandate that a percentage of units be affordable to households making a certain percentage of area median income (AMI). A majority of jurisdictions with inclusionary zoning require that 6 to 15 percent of a development's units be affordable (Thaden and Wang 2017). The income target typically ranges from 60 to 120 percent of AMI (Williams et al. 2016). Some jurisdictions' requirements have a sliding scale, meaning that developers can include more units affordable to a higher AMI or fewer units affordable to a lower AMI.[8] However, inclusionary zoning rarely brings rents down to the levels needed by households with extremely low incomes, which make less than 30 percent of AMI (Brennan and Greene 2018). Inclusionary zoning policies also typically require that units be affordable long term, usually for 30 years or more (Jacobus 2015).

The affordable units often do not have to be in the same location as the market-rate units. Many jurisdictions provide the option to build the prescribed affordable units off-site. Developers either provide these off-site units directly by constructing them or indirectly by paying in-lieu fees to local housing trust funds. Off-site construction often occurs in neighborhoods where land costs are lower or where there is less opposition to new development. Off-site construction provides flexibility to developers and can increase the production of affordable housing units (Jacobus 2015).

Implementation of inclusionary zoning policies—especially those with in-lieu fee options—brings trade-offs, and some implementation options may not maximize inclusionary zoning goals. For example,

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eliminating the option to pay in-lieu fees could lead to more units being created in hot markets while eliminating a key source of funding for local affordable housing programs. On the other hand, units that result from in-lieu fees are often in neighborhoods that have relatively few amenities or a concentration of affordable housing, which does not promote mixed-income developments (Jacobus 2015; Porter and Davison 2009).

The Role of In-Lieu Fees

According to the Urban Institute's National Longitudinal Land Use Survey, approximately two-thirds of jurisdictions with inclusionary housing policies have in-lieu fees.[9] In-lieu fees can apply to rental or for-sale developments. In-lieu fees are typically paid into a local affordable housing trust fund. How housing trust fund dollars are used often depends on local priorities, but they can go toward housing needs that inclusionary zoning would not otherwise meet. This includes building units that are not typically supplied by the market, such as those that are larger ("family-sized" units) and those for special needs populations (HR&A Advisors 2019) or households with extremely low incomes (Local Government Commission, Western Center on Law and Poverty, and California Rural Legal Assistance Foundation 2018). Revenue from in-lieu fees can vary from hundreds of thousands of dollars over a decade in smaller jurisdictions to tens of millions of dollars per decade in larger jurisdictions (Porter and Davison 2009).

Based on the goals of their inclusionary zoning policy, local decisionmakers must choose whether to allow in-lieu fees as a method of alternative compliance. If they opt to include in-lieu fees, they must set the in-lieu fees in such a way that furthers the goals of their inclusionary zoning policy. In the following section, we highlight the main arguments for and against in-lieu fees and discuss how jurisdictions calculate in-lieu fees.

Arguments for and against In-Lieu Fees

Although in-lieu fees are common features of inclusionary zoning policies, not all local advocates, practitioners, and decisionmakers are in favor of them (table 1). Proponents of in-lieu fees tout their importance as a flexible funding source, especially considering that federal funding for rental assistance has decreased in recent years. For example, the Town of Chapel Hill, North Carolina, uses its in-lieu fees for constructing or rehabilitating housing units; assisting residents with rent, mortgage, or utility payments; and providing local matches to federal affordable housing grants.[10] Often, in-lieu fees are the major source of funding for local affordable housing trust funds. For example, in-lieu fees are the only source of revenue for the Chicago Low-Income Housing Trust Fund, which provides rental assistance to more than 2,000 households making under 30 percent of AMI.[11] In-lieu fees are also an important source of funding for affordable housing developers. And jurisdictions use the trust funds to leverage other funding sources, such as the Low-Income Housing Tax Credit (California Coalition for Rural Housing and the Non-Profit Housing Association of Northern California 2004). Some jurisdictions, including Arlington County, Virginia, report that in-lieu contributions have enabled them to build more units than would have resulted from on-site construction (Arlington County 2015).

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In-lieu fees can also lead to a more streamlined development process. The option to pay in-lieu fees makes the development process faster and more predictable for developers. That is, developers can pay into a fund and proceed with construction instead of going through the potentially time-intensive community vetting process that is often associated with producing affordable units within market-rate projects (Porter and Davison 2009).

In-lieu fees can also promote discussion of local affordable housing policies. Based on interviews, staff in local housing and planning departments say that project-specific discussions around in-lieu fees allow them to have deliberate conversations with developers about affordable housing. As a result, developers better understand the jurisdiction's affordable housing goals and how their projects relate to those goals. In addition, these staff get a better perspective on the factors that developers weigh when deciding whether to build affordable units on site or to pursue alternative compliance options.

TABLE 1

Advantages and Disadvantages of In-Lieu Fees

Advantages	Disadvantages
▪ Create mechanism to fund housing units that inclusionary policies do not produce (e.g., units for households with extremely low incomes) or fund other local housing priorities ▪ Provide leverage for other funding sources ▪ Increase flexibility for developers, particularly for smaller developments ▪ Make development process more predictable ▪ Provide important source of funding for nonprofit developers	▪ May result in fewer on-site units and less mixed-income development ▪ Could lead to construction activity that reinforces patterns of segregation ▪ May result in on- or off-site units that are of lower quality

In-lieu fees also have their detractors, however. Critics see them as a loophole that allows developers to avoid contributing on-site units.[12] If in-lieu fees are set below the cost of on-site construction, for instance, developers will pay the fee instead of building new units. Although a low in-lieu fee might be the result of an obsolete formula or of developer influence in the legislative process, jurisdictions may have legitimate reasons to intentionally set a low fee. For example, if a jurisdiction's goal is to create flexible revenue sources for affordable housing, it might set a low in-lieu fee that would help seed those funds.[13] But in-lieu fees may undermine a jurisdiction's inclusionary zoning policy if the primary goal is to create mixed-income developments. And the units that are eventually created from in-lieu fees might be of lower quality or built in lower-cost neighborhoods, which could reinforce historic patterns of segregation.

Calculating In-Lieu Fees

For jurisdictions with in-lieu fees, creating the in-lieu formula is the most important component of their policy. In theory, the in-lieu fee should be similar to the cost of producing a unit on site, but the in-lieu fee is typically lower than that (California Coalition for Rural Housing and the Non-Profit Housing Association of Northern California 2004). A formula that results in fees that are too high or too low can

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distort the market, affect developers' decisions, and ultimately affect where and how much affordable housing is built. But in-lieu fee formulas are tricky to set. They must weigh numerous factors, including real estate market trends, construction financing, and the need for affordable housing at various income levels.

Three main methods are used to calculate in-lieu fees: the affordability gap method, the production cost method, and indexed fees based on project characteristics. These methods can apply to both rental and for-sale units. The section below highlights these methods.

Affordability Gap Method

In this approach, the in-lieu fee is the difference between the fair market price and what a low- or moderate-income household can afford (MAPC 2018). The gap is calculated per unit. For example, the calculation subtracts the maximum housing expense of an affordable unit from the market rent of an equivalent unit. To get the total amount, the per unit figure is multiplied by the number of affordable units that a developer would have been required to build. Some calculations also divide the difference by the current market capitalization rate, which measures the rate of return on total capital invested and is used to derive a present-day asset value (David Paul Rosen & Associates 2018).[14]

This method relies on the availability of local data. For example, jurisdictions often have access to data on market-rate sales or rental prices. Local jurisdictions also have data on affordable rents by AMI through local sources or the US Department of Housing and Urban Development.[15] Where data are available, some jurisdictions adjust the fee based on the development's neighborhood or submarket (Porter and Davison 2009). Examples of jurisdictions that use this method include the City of Santa Fe, New Mexico, and the City of Santa Barbara, California.[16]

Production Cost Method

The affordability gap method represents the market-rate developer's perspective, while the production cost method represents the nonprofit developer's perspective.[17] With the production cost method, the in-lieu fee is the difference between the cost of developing a comparable affordable unit and the income generated by an affordable unit. As with the affordability gap model, the per unit fee is multiplied by the total number of units required to determine the total cost of the in-lieu fee to the developer.

This method relies on surveys of recent affordable housing projects with similar characteristics (e.g., land, construction, and other costs), so it helps to have nonprofit developers who are willing to share information on costs of construction and rents.[18] For that reason, this method is better suited for jurisdictions with a robust nonprofit development community (MAPC 2018). Like the affordability gap method, it necessitates frequent updates to ensure that the fees are accurate. For example, the inclusionary zoning regulations in the Town of Chapel Hill, North Carolina, require the town council to annually establish the dollar amount of subsidy needed to make units affordable.[19]

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Indexed Fees Based on Project Characteristics

Other jurisdictions set fees based on the density of the project, location of the project, or whether the project meets other local priorities. With these formulas, the in-lieu fee is the product of a square foot charge and the gross floor area. In contrast to other methods that set fees on a per unit basis, this method uses a per project calculation. Examples of jurisdictions that use this method are Arlington County, Virginia, and the City of San Diego. San Diego set its rate at $10.82 per square foot for developments with more than 10 units, and that rate is multiplied by the gross floor area of a project.[20] Arlington County has a similar formula, but the rates vary based on the density of the project (denser projects trigger higher in-lieu fees).[21]

Regardless of the method, some jurisdictions vary in-lieu fees by neighborhood. Boston has three fee levels based on the average cost of housing in a neighborhood.[22] In some jurisdictions, the in-lieu fee can be reduced if developers provide units to the public housing authority. The City of Chicago typically has a 10 percent requirement for on-site affordable units. If developers sell or lease at least 2.5 percent of the total on-site units (25 percent of required affordable units) to the Chicago Housing Authority, the in-lieu fees are reduced by $25,000 per remaining required unit.[23]

No research has been conducted on which method of calculating in-lieu fees is more effective, in part because outcome measures vary across local contexts. For example, jurisdictions can define effectiveness in terms of affordable units built or dollars raised for affordable housing. The affordability gap method is probably the most commonly used because it is easier to understand conceptually and relies on more readily available data.[24] The appendix provides basic examples of how to calculate in-lieu fees using each of the three methods. It also outlines how jurisdictions might compare their in-lieu formulas with those of their peers.

Regardless of which methods jurisdictions use, they should tie the fee to regional consumer price indexes or other measures of economic conditions. By doing so, jurisdictions can help ensure that their fee structure adjusts for local markets, is predictable for developers, and remains consistent with overarching policy goals.

Guidance for Jurisdictions Considering Inclusionary Zoning and In-Lieu Fees

Effective inclusionary zoning policies must consider local development patterns, affordability needs, political feasibility, and local development capacity (MAPC 2018). Successful policies also incorporate the perspectives of all parties: city staff members, nonprofits, advocacy groups, residents, and developers. Below are some specific suggestions for communities to consider when creating or revising inclusionary zoning policies.

ASSESS WHAT THE MARKET CAN BEAR

Inclusionary zoning changes the cost of private development by using market-rate development to subsidize below-market units. Market dynamics are driven by income generated through rents or sales, construction costs, and the availability and price of land (Williams et al. 2016). If the market is not

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robust, reducing rents or income received could prevent projects from penciling out. Therefore, testing what level of affordability (i.e., both percentage of units and level of AMI affordability for each unit) is feasible for the market to support and in which neighborhoods is important. One way to do this is to analyze how on-site or in-lieu requirements would have affected the financial calculations of recent development projects in the jurisdiction. These analyses can compare what percentage of affordable units recent developments could have incorporated and at what percentage of AMI. The results can guide policymakers' decisions on how to set the requirements, whether to vary by neighborhood, and whether to allow a sliding scale between units and affordability (i.e., the option to provide more units at a lower per unit subsidy or fewer units at a higher per unit subsidy).

ADJUST THE FEE TO ALIGN WITH LOCAL POLICY PRIORITIES

When setting an in-lieu fee, jurisdictions should consider whether their top priority is to build more affordable housing generally, create flexible funding for affordable housing, or create mixed-income developments.[25] The conventional wisdom is that in-lieu fees set below the cost to construct units on site will reduce the number of developers who will build on-site units. Jurisdictions should weigh the relative costs of compliance for developers and how the different costs would influence developers' consideration of the available options. If building more affordable units or creating mixed-income developments is the most important policy goal, jurisdictions might want to set a higher in-lieu fee to prevent developers from buying out their obligations.

CREATE AN EVIDENCE-BASED, INCLUSIVE, AND TRANSPARENT PROCESS TO BUILD CONSENSUS AND SECURE BUY-IN

In some places, the political process can dilute policies by making them more favorable to developers or other local interests. To counteract this, government staff members and elected officials should collaborate with community members to shape inclusionary zoning policies. By doing so either through a task force or similar efforts, jurisdictions can ground their decisions in available evidence, local feasibility studies, and resident and stakeholder buy-in.

CONSIDER POLITICAL CONTEXT

Local political contexts necessarily affect inclusionary zoning policies. Jurisdictions can only go as far as their councils and state legislatures let them. Nine states have preempted local governments from enacting inclusionary zoning policies.[26] Cities in states considering preemption might enact less stringent policies to avoid backlash that could prompt the state to remove the local authority to enact inclusionary zoning policies.

REFLECT THE AVAILABILITY OF KEY RESOURCES

Jurisdictions with other locally controlled and available financing sources can leverage in-lieu fees to produce affordable units. The ability to create such leverage depends on the capacity of local government staff members, as well as nonprofit and private partners such as community development financial institutions, who can identify opportunities and deploy other resources (Jacobus 2015). In addition, jurisdictions without much available land might prefer on-site units because they have relatively few opportunities to use in-lieu fees to build elsewhere.[27]

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ALIGN INCLUSIONARY ZONING WITH OTHER ZONING OR POLICY CHANGES

Some jurisdictions have created inclusionary zoning policies as they rezoned neighborhoods. The logic behind this is that higher densities enable the production of more affordable units. As a result, inclusionary zoning captures the increased land values created by rezoning and ensures that the benefits accrue to a greater number of residents through the provision of affordable housing (Local Government Commission, Western Center on Law and Poverty, and California Rural Legal Assistance Foundation 2018).

Conclusion

Inclusionary zoning is one tool that local governments can use to increase the production of affordable housing units, especially in areas where they are not typically delivered. Based on discussions with local policymakers and a review of the available evidence, this brief probes one component of inclusionary zoning, alternative compliance via in-lieu fees. Jurisdictions face trade-offs when they allow developers to pay in-lieu fees instead of building on-site units. In-lieu fees, if they are not set at an appropriate level, can undermine jurisdictions' affordable housing goals. To avoid potential negative outcomes, jurisdictions looking to create new inclusionary zoning policies and revise existing policies should carefully weigh factors like local market and political contexts, as well as feedback from nonprofit developers and residents.

Appendix. Calculating In-Lieu Fees and Comparing across Jurisdictions

Below are basic examples of how to calculate in-lieu fees using each of the three methods explained earlier in this brief (table 2). The results should not be interpreted as a value statement on a preferred method. Rather, they show how the calculations compare given our assumptions. For this example, the following are assumed:

- The maximum housing expense affordable to a household making the area median income is $1,500 per month.
- The project is a 100-unit rental development with an average unit size of 1,000 square feet.
- The jurisdiction policy is that 10 percent of rental units must be affordable to those making 50 percent of AMI.
- The capitalization rate is 5 percent.
- The cost to construct one unit of housing is $250,000.
- Monthly operating expenses (e.g., owner-paid utilities, fire insurance, and trash removal) are $5,000 per unit per year.

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TABLE 2

Comparison of Sample Projects by Calculation Method

Affordability gap method	Production cost method	Indexed based on project characteristics (using San Diego rate)
▪ Rent loss per unit per month: $1,500 – $750 = $750 ▪ Rent loss per year: $750 x 12 = $9,000 ▪ Rent loss divided by capitalization rate: $9,000 / 0.05 = $180,000 ▪ In-lieu fee per unit = $180,000	▪ Maximum housing expense per month: $750 ▪ Operating, administrative, and maintenance expenses: $5,000 (annually); $417 (monthly) ▪ Net operating income per month: $750 – $417 = $333 ▪ Net operating income per year: $333 x 12 = $3,996 ▪ Capitalized value: $3,996 / 0.05 = $79,920 ▪ In-lieu fee per unit: $250,000 – $79,920 = $170,080	▪ Total square footage: 100 units x 1,000 sq. ft. = 100,000 sq. ft. ▪ Square footage x fee rate: 100,000 x $10.82 = $1,082,000 ▪ In-lieu fee per unit: $1,082,000 / 10 = $108,200

In addition to calculating how in-lieu fees might differ depending on the formula selected, jurisdictions might find it useful to compare their in-lieu fees and formulas with those of other jurisdictions. To do this, a jurisdiction could first create a sample project (e.g., a 100-unit development that is 100 percent residential) and then calculate in-lieu fees based on publicly available information about other jurisdictions' formulas. This would enable jurisdictions to get a sense of how the amount of in-lieu fees that result from a given project compares with amounts in peer jurisdictions. However, it is important to keep in mind that the dollar figures would reflect the jurisdictions' basic formulas and no other factors, such as density bonuses, location considerations, and negotiated payments, that can influence in-lieu fees.

Notes

[1] Ally Schweitzer, "Bowser Calls for More Affordable Units in New Housing Developments," WAMU, January 3, 2020, https://wamu.org/story/20/01/03/bowser-calls-for-more-affordable-units-in-new-housing-developments/.

[2] "Inclusionary Zoning," Local Housing Solutions, accessed November 14, 2019, https://www.localhousingsolutions.org/act/housing-policy-library/inclusionary-zoning-overview/inclusionary-zoning/.

[3] "Inclusionary Zoning," Local Housing Solutions.

[4] Benjamin Schneider, "CityLab University: Inclusionary Zoning," July 17, 2018, https://www.citylab.com/equity/2018/07/citylab-university-inclusionary-zoning/565181/.

[5] Schneider, "CityLab University: Inclusionary Zoning."

[6] "Setting the In-Lieu Fee," Inclusionary Housing, accessed November 14, 2019, https://inclusionaryhousing.org/designing-a-policy/off-site-development/in-lieu-fees/setting-the-in-lieu-fee/.

[7] "Affordable Housing Opportunity Fund," City of Chicago, accessed February 5, 2020, https://www.chicago.gov/city/en/depts/doh/provdrs/developers/svcs/ahof.html.

4. Transit-Oriented Development (TOD) Regulations

[8] "Inclusionary Zoning Policy," City of Atlanta, accessed January 23, 2020, https://www.atlantaga.gov/government/departments/city-planning/office-of-housing-community-development/inclusionary-zoning-policy.

[9] "National Longitudinal Land Use Survey," Urban Institute Data Catalog, last modified February 23, 2020, https://datacatalog.urban.org/dataset/national-longitudinal-land-use-survey-nllus.

[10] "A Resolution Modifying the Guidelines of the Affordable Housing Fund," Town of Chapel Hill, North Carolina, September 29, 2014, https://www.townofchapelhill.org/home/showdocument?id=28455.

[11] "Rental Subsidy Program," Chicago Low-Income Housing Trust Fund, accessed November 14, 2019, http://www.clihtf.org/programs-and-initiatives/rental-subsidy-program/.

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4. Transit-Oriented Development (TOD) Regulations

ATTACHMENT 2

Fee-in-Lieu Code Sections – Bothell and Redmond

Bothell

D. For payments in lieu of construction of affordable housing as alternative compliance, the director may approve cash payments in lieu of providing actual affordable units with the following parameters:

1. The director shall establish a generally applicable formula for determining the payment amount, which may be modified as frequently as once per year.

2. The director shall determine the payment obligation for a particular applicant and the applicant must enter into an agreement with the city agreeing to payment of the fee, all prior to issuance of any building permits for the project.

3. Payment shall be due prior to issuance of any certificate of occupancy for the project.

4. The city shall deposit collected payments in an affordable housing fund established by the city and used for affordable housing development.

5. The subarea generating the affordable housing requirement is the priority location for affordable housing funded wholly or in part with in-lieu fees. However, the city may authorize the use of these funds for affordable housing projects in other subareas of the city (as a second priority) or within another jurisdiction (as a third priority) with close proximity to commercial uses, transit services, and/or employment opportunities.

E. The director may consider other alternative compliance methods for satisfying the affordable housing requirements, as proposed by the project proponent, such as fewer affordable units at greater affordability (e.g., 50 percent of area median income instead of 60 percent of area median income). (Ord. 2255 § 1, 2018).

Redmond

Housing units provided through the alternative compliance method must be based on providing the same type and tenure of units as the units in the project that give rise to the requirement.

...

2. Cash payments in lieu of providing actual housing units may be provided and will be used only for the subsequent provision of affordable housing units by the City or other housing provider approved by the Administrator. Payments in lieu shall be based on the difference between the cost of construction for a prototype affordable housing unit on the subject property, including land costs and development fees, and the revenue generated by an affordable housing unit. The

payment obligation will be established at the time of issuance of building permits or preliminary plat approval for the project.

3. The Administrator may consider other options for satisfying the affordable housing requirements, as proposed by the project proponent.

4. In making a decision on alternative compliance, the Administrator will consider the value of any City incentives available to the project, such as property tax exemptions established in RMC Chapter 3.38.

C. Timing.

1. Application for and approval by the Administrator for alternative compliance must be made prior to issuing a building permit for the project, unless otherwise permitted by the Administrator.

2. Application for off-site alternative compliance must document the timing that off-site affordable housing units will be made available and provide assurances to ensure completion of the off-site affordable housing units. The intent is for affordable housing units to be provided before or at the same time as the on-site market rate housing.

(Ord. 2883, Ord. 2978)

ATTACHMENT 3

Proposed Fee-in-lieu Amendments

18.77.045 Alternative compliance.

~~Alternative Compliance. The~~While the *City* prefers to achieve affordable housing on-site, the *city manager* may approve a request for satisfying all or part of the affordable housing requirements with alternative compliance methods as follows:

. . .

D. Fee in Lieu. Cash payments in lieu of providing actual housing units may be proposed and, if approved by the ~~*City*~~*city manager*, shall be used only for the subsequent preservation or provision of affordable housing units by the *City* or other housing provider approved by the *city manager*.

1. Payments in lieu shall be based on the difference between the cost of construction for a prototype affordable housing unit on the subject property, including land costs and development fees, and the revenue generated by an affordable housing unit.

2. Prior to issuance of building permits for the project, the *City* and *applicant* shall execute a written agreement that establishes the *applicant*'s~~The~~ payment obligations (amounts and due dates) ~~will be established at the time of issuance of building permits~~ for the project. The *City* may require the *applicant* to secure its payment obligations by irrevocable letter of credit or other form acceptable to the *City*.

3. The *City* shall deposit collected payments in an affordable housing fund established by the *City*.

4. Before the *city manager* approves or executes an agreement to accept payment in lieu of affordable housing, the *City* must have a plan for investing funds in an affordable housing project that supports *City* objectives.

5. The highest priority location for affordable housing funded wholly or in part with in-lieu fees is the subarea location of the project that generated the in-lieu fee; however, the *city manager* may authorize the use of these funds for affordable housing projects in other subareas of the *City* (as a second priority) or within another jurisdiction (as a third priority) with close proximity to commercial uses, transit services, and/or employment opportunities.

new or deleted text
changes since September 20 meeting

Zoning District Changes

Urban Corridor (UC) Zone Changes

18.25A.040 Use allowances – Urban corridor east subarea.

The following *uses* listed in Table B are identified as permitted, conditionally permitted, or *prohibited uses* in the urban corridor east subarea:

Table B. Urban Corridor East Subarea Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
Adult entertainment business[1] *Ambulatory surgery center* *Animal kennel/shelter*[2] *Arts, entertainment, indoor* *Arts, entertainment, outdoor*[3] *Business service, standard* *Cemetery, columbarium or mausoleum*[4] *Community residential facility*[5] *Day care* *Eating and drinking place*[6] *Educational service* *Funeral home/crematory* *Health care and social assistance* *Laboratory*[7] *Manufacturing, light* *Marijuana business* *Mobile food service*[8] *Multiple-family dwelling*[13] *Office* *Park* *Personal service* *Recreational facility, indoor* *Recreational facility, outdoor*[3,9] *Religious institution* *Retail sales* *Retail sales, bulk*[5,10] *Standalone parking*[11] *Supportive living facility* *Temporary lodging* *Vehicle refueling station*[12]	*College/university* *Fire or police facility* *Hospital*[5] *Laboratory*[7] *Regional land use*[5] *Retail sales, bulk*[5,10]	*Air transportation service* *Arts, entertainment, outdoor*[3] *Auction house* *Automotive sales and service, marine* *Automotive sales and service, nonmarine* *Business service, intensive* *Community residential facility*[5] *Construction and trade* *Family child-care home* *Hospital*[5] *Manufactured housing community* *Manufacturing, heavy* *Marijuana cooperative* *Recreational facility, outdoor*[3] *Regional land use*[5] *Resource land use* *Retail sales, bulk*[5] *Secure facility* *Single detached dwelling unit* *Standalone parking*[11] *Transportation* *Utility facility* *Vehicle or equipment rental* *Vehicle refueling station*[12] *Warehousing* *Wholesale trade*

. . .

[13] A standalone townhouse development is prohibited.

18.25A.060 Zoning standards.

The following zone-specific development standards in Table C apply in the urban corridor zone:

Table C. Urban Corridor Zone Development Standards

STANDARD	REQUIREMENT
Urban Corridor west subarea Base Density: *Dwelling Units*/Acre	48 du/ac
Urban Corridor west subarea Maximum Density: *Dwelling Units*/Acre	72 du/ac[1]
Urban Corridor east subarea Minimum Density: *Dwelling Units*/Acre	60 du/ac
Urban Corridor east subarea Maximum Density: *Dwelling Units*/Acre	150 du/ac
Minimum *Street Setback*	10 ft.[2]
Minimum Interior *Setback*	20 ft.[3]
Maximum Height:	
Urban corridor east subarea	~~55~~85 ft.[5,6]
Urban corridor west subarea:	
• south of SR-522	35 ft.
• north of SR-522 west of 63rd Ave. NE	35 ft.
• north of SR-522 east of 63rd Ave. NE	35 ft.[4]
Maximum *Impervious Surface*: Percentage	90%

[1] This density may only be achieved through the application of residential density incentives or *transfer of density credits* in *mixed use developments*. See Chapter 18.80 KMC.

[2] Gas station pump islands shall be placed no closer than 25 feet to *street* front lines.

[3] Required on property lines adjoining residential zones.

[4] The maximum height on a *site* north of SR-522 east of 63rd Avenue NE may be increased up to a maximum of 55 feet if (1) there is no intervening parcel between the *site* and the NE 181st Street right-of-way, and (2) if the *applicant* can demonstrate, based on ground elevation data, that a topographic change is adequate to protect views of Lake Washington from uphill lots. The measurement shall be taken as follows: a) determine average existing ground elevation along the centerline of the NE 181st Street right-of-way abutting the *site*; b) determine average existing ground elevation along an artificial east-west line 60 feet north of and paralleling the SR-522 right-of-way abutting the *site*; c) subtract the elevation calculated in b) from the elevation calculated in a). If this difference is more than 35 feet, the maximum height for the *site* may be increased to that difference. In no case, however, shall the maximum allowable height exceed 55 feet.

[5] Portions of any property that are within 50 feet of an R-1, R-4, ~~or~~ R-6, or MHC zoning district shall have a maximum height of 35 feet within that area to provide a transition in height to the lower intensity uses.

[6] Building heights and orientation for proposals within the great blue heron rookery buffer shall be carefully assessed through the required habitat management plan (see KMC 18.55, Articles XIII through XV). In particular, potential impacts related to the flyway and shadowing of nest trees shall be evaluated. The *city manager* may require adjustments to maximum building height and/or building orientation to protect the rookery.

18.25A.070 Additional development standards. *(changes made for clarity)*

A. Where the urban corridor zone abuts a residential zone, the *city manager* may require additional landscaping pursuant to Chapter 18.35 KMC, blank wall treatments pursuant to Chapter 18.52 KMC, and/or measures to address building mass and bulk pursuant to KMC 18.52.310 and/or 18.52.330 in order to mitigate impacts of new development on neighboring residential areas.

~~B. In the urban corridor west subarea, parcels on the south side of SR-522 shall provide a public view corridor from SR-522 to Lake Washington. The intent of the corridor is to provide an unobstructed view from SR-522 to the lake. A minimum view corridor equivalent to 30 percent~~

~~of the average east-west dimension of the development proposal site shall be maintained. The location of the view corridor shall be designed to meet the following standards and must be approved by the *city manager*:~~

~~1. The view corridor must be adjacent to one of the two side property lines, whichever will result in the widest view corridor, considering the following in order of priority:~~

~~a. Locations of existing view corridors;~~

~~b. Existing development or potential development on adjacent properties, given the topography, access and likely location of future improvements;~~

~~c. Locations of existing sight-obscuring structures, parking areas or vegetation that are likely to remain in place in the foreseeable future.~~

~~2. The view corridor must be in one continuous piece.~~

~~3. For land divisions, the view corridor shall be established as part of the land division and shall be located to create the largest view corridor on the subject property.~~

~~4. The following shall be permitted within a view corridor:~~

~~a. Areas provided for public access, such as public pedestrian walkways, public use areas, or viewing platforms;~~

~~b. Parking lots for passenger vehicles and subsurface parking structures; provided, that the parking does not completely obstruct the view of the lake from the public right-of-way;~~

~~c. Structures, if the slope of the subject property permits full, unobstructed views of the lake over the structures from the public right-of-way;~~

~~d. Vegetation, including required vegetation screening, provided it is designed and of a size that will not obscure the view from the public right-of-way to the lake at the time of planting or upon future growth. Low growing, native vegetation is encouraged. In the event of a conflict between required landscaping and view preservation, view preservation shall take precedence over landscaping requirements;~~

~~e. Open fencing that is designed not to obscure the view from the public right-of-way to the lake.~~

~~5. The *applicant* shall execute a covenant or similar legal agreement, in a form acceptable to the city attorney, and record the agreement with the county records and elections~~

~~division to protect the view corridor. Land survey information shall be provided by the *applicant* for this purpose in a format approved by the *city manager*.~~

~~C~~B. *Drive-through service* is permitted as an *accessory use*. *Drive-through service* shall be oriented to the side and/or rear of the *building*, and integrated into the exterior wall. Drive-through lanes shall not be located between the *street* and the main pedestrian access to the *buildings*. Modifications to these requirements may be reviewed through the site plan or building permit review process when meeting the intent of pedestrian orientation pursuant to Chapter 18.52 KMC, ~~Downtown~~ Design Standards.

~~D~~C. Outdoor storage is prohibited in the urban corridor zone, west subarea, and in the urban corridor zone, east subarea, east of 80th Avenue NE. In the urban corridor zone, east subarea, west of 80th Avenue NE, accessory outdoor storage is limited to a maximum of 50 percent of the site area.

18.25.075 View corridors in the Urban Corridor zone, west subarea. *(changes made for clarity)*

A. In the urban corridor west subarea, parcels on the south side of SR-522 shall provide a public view corridor from SR-522 to Lake Washington. The intent of the corridor is to provide an unobstructed view from SR-522 to the lake. A minimum view corridor equivalent to 30 percent of the average east-west dimension of the development proposal site shall be maintained. The location of the view corridor shall be designed to meet the following standards and must be approved by the *city manager*:

1. The view corridor must be adjacent to one of the two side property lines, whichever will result in the widest view corridor, considering the following in order of priority:

a. Locations of existing view corridors;

b. Existing development or potential development on adjacent properties, given the topography, access and likely location of future improvements;

c. Locations of existing sight-obscuring structures, parking areas or vegetation that are likely to remain in place in the foreseeable future.

2. The view corridor must be in one continuous piece.

3. For land divisions, the view corridor shall be established as part of the land division and shall be located to create the largest view corridor on the subject property.

4. The following shall be permitted within a view corridor:

a. Areas provided for public access, such as public pedestrian walkways, public use areas, or viewing platforms;

b. Parking lots for passenger vehicles and subsurface parking structures; provided, that the parking does not completely obstruct the view of the lake from the public right-of-way;

c. Structures, if the slope of the subject property permits full, unobstructed views of the lake over the structures from the public right-of-way;

d. Vegetation, including required vegetation screening, provided it is designed and of a size that will not obscure the view from the public right-of-way to the lake at the time of planting or upon future growth. Low growing, native vegetation is encouraged. In the event of a conflict between required landscaping and view preservation, view preservation shall take precedence over landscaping requirements;

e. Open fencing that is designed not to obscure the view from the public right-of-way to the lake.

5. The *applicant* shall execute a covenant or similar legal agreement, in a form acceptable to the city attorney, and record the agreement with the county records and elections division to protect the view corridor. Land survey information shall be provided by the *applicant* for this purpose in a format approved by the *city manager*.

18.25A.090 Connectivity requirements in the Urban Corridor zone, east subarea.

The urban corridor zone, east subarea, should remove impediments to pedestrian use of the district and the downtown area by fostering the creation of an extensive network of sidewalks and pedestrian walkways.

Development proposals shall:

A. Provide any direct pedestrian connections between proposed development and transit facilities, or arterials providing transit access in order to minimize walking distances to transit.

B. Comply with the ~~downtown~~ design standards pertaining to pedestrian walkways, as set forth in KMC 18.52.100.

C. Properties abutting water bodies (i.e., wetlands or streams) shall provide a public access trail paralleling the water body from one property line to the next with setbacks that are consistent with the requirements of KMC Title 16 and Chapter 18.55 KMC. The public access trail shall connect to a public right-of-way.

1. Where a development proposal abuts a property with a public access trail segment, the public access segment on the subject property shall connect to abutting property public access segment(s).

2. The public access easement for public access trails shall be documented on the face of the plat or plan and recorded with the King County Department of Records and Elections. Public access easements shall run with the land in perpetuity.

18.25A.100 Affordable housing requirements in the Urban Corridor zone, east subarea.

Development in the urban corridor zone, east subarea, containing residential units shall provide affordable housing as described in Chapter 18.77 KMC.

18.25A.~~080~~105 ~~Conflict with design standards~~Design requirements.

Development within the Urban Corridor zone shall comply with the provisions of the design standards, as set forth in Chapter 18.52 KMC. In the event of a conflict between Chapter 18.52 KMC, ~~Downtown~~ Design Standards, and urban corridor zone standards, the Kenmore ~~downtown~~ design standards shall prevail.

Note to Planning Commission: 18.52.070.A.1, map of design districts, will be changed to show UC East as Design Standard 1 (most stringent).

18.25A.~~075~~110 Wireless communication facilities.

Use allowances and development regulations for *wireless communication facilities* are located in Chapter 18.60 KMC.

Downtown Commercial (DC) Zone Changes

18.25.040 Zoning standards.

The following zone-specific development standards in Table B apply in the downtown commercial zone:

Table B. Downtown Commercial Development Standards

STANDARD	REQUIREMENT
~~Base Density: *Dwelling Units*/Gross Acre~~	~~48; applies east of 68th Avenue NE~~
Maximum Density: *Dwelling Units*/Gross Acre ~~with Density Bonus Incentives~~	~~72; density incentives or bonuses not required west of 68th Avenue NE~~150
Minimum Density: *Dwelling Units*/Net Acre for Stand-Alone Multifamily Proposals	~~36~~60
Street Setback	Minimum 10 ft. from SR-522, unless otherwise allowed through Chapter 18.52 KMC, Downtown Design Standards; other *streets* 0 ft. Maximum 10 ft. unless otherwise allowed through Chapter 18.52 KMC, Downtown Design Standards The *City* may authorize intrusions of structural elements into the public right-of-way, including awnings, columns, bay windows, or others, through the design review, site plan review, building permit review, or right-of-way use permit processes, if such intrusions would not impede safe travel by pedestrians, solar access is not significantly diminished, and *City* liability is limited
Minimum Interior *Setback*	0 ft.; except when property adjoins R-1 to R-12 property, then 20 ft.
Base Height	~~35~~65 ft.[1]
Maximum Height Applicable to ~~*mixed use developments* containing residential dwellings at a minimum 50 percent of square footage to a maximum of 75 percent square footage; or to *developments* achieving density bonus; or to~~ *developments* providing structured parking	~~65~~85 ft.[1]
Maximum *Impervious Surface*: Percentage	90%
Pedestrian Connections	Pedestrian connections are required to be provided in accordance with Chapter 18.52 KMC, Downtown Design Standards

[1] Building heights and orientation for proposals within the great blue heron rookery buffer shall be carefully assessed through the required habitat management plan (see KMC 18.55, Articles XIII through XV). In particular, potential impacts related to the flyway and shadowing of nest trees shall be evaluated. The *city manager* may require adjustments to maximum building height and/or building orientation to protect the rookery.

18.25.041 Affordable housing requirements.

Development containing residential units shall provide affordable housing as described in Chapter 18.77 KMC.

Public and Semi-Public (PSP) Zone Changes

18.27.020 Public and semi-public zone – Use allowances.

A. The following *uses* listed in Table A are identified as *permitted*, conditionally permitted, or *prohibited uses* in the public and semi-public zone:

Table A. Public and Semi-Public Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
Arts, entertainment, indoor	*College/university*	*Marijuana business*
Arts, entertainment, outdoor[1]	*Construction and trade*[4]	*Marijuana cooperative*
Educational service		*Regional land use*[5]
Fire or police facility		*Secure facility*
Multiple-family dwelling[6,7]		
Office[2]		
Park		
Recreational facility, indoor		
Recreational facility, outdoor		
Standalone parking[3]		
Utility facility		

1. Except outdoor performance center which is conditionally permitted.

2. Limited to *public agency offices.*

3. Limited to commuter parking facilities for users of transit, carpools or ride-share programs. Standalone parking garages shall be part of a *mixed use development* and shall use techniques such as architectural screening treatments and/or “wrapping” of the building with other uses to mitigate the visual impacts of the garage.

4. Limited to *public agency* maintenance yards or facilities.

5. Landfill and transfer station are specifically prohibited. Consideration of all other *regional land uses* shall follow the process outlined in KMC Section 18.27.060.

6. Limited to: (1) developments sponsored by a *public agency* on properties abutting SR-522 containing at least 25% *very-low* or *low-income affordable housing units*; or (2) developments on surplus *public agency* property. Developments containing *very-low* or *low-income affordable housing units* shall meet the standards of Chapter 18.77 KMC.

[7] A standalone townhouse development is prohibited on properties abutting SR-522.

B. Classified land *uses* not listed or prohibited in Table A may be allowed through completion of a site plan review process pursuant to KMC 18.27.060 and Chapter 18.105 KMC.

C. *Uses* Established by *Master Plan*. Adopted *master plans* that specify *uses* include the following:

1. Bastyr University Master Plan, December 2009, approved by *City* Ordinance 09-0304.

18.27.040 Public and semi-public zone – Development standards.

A. Specific zone-based development standards for the public and semi-public zone in Table B shall apply to the public and semi-public zone as follows:

Table B. Public and Semi-Public Zone Development Standards

Standard	Requirement
Maximum Density: *Dwelling Units*/Gross Acre	~~0.10[1]~~ 150[1]
Minimum Lot Size	4,500 sq. ft.[2]
Minimum Lot Width	35 ft.
Minimum *Street Setback*	0 ft., 10 ft., or 20 ft.[3]
Minimum Interior *Setback*	0 ft., 5 ft., or 20 ft.[3]
Base Height	35 ft.[4,5]
Maximum *Impervious Surface*: Percentage	70%, 90%~~[5]~~[6]

[1] ~~*Dwelling unit, single detached uses*: limited to one *single detached dwelling unit* per existing legal *lot* as of December 16, 2008.~~Maximum density allowed only for development

projects abutting SR-522 and containing at least 25% *very low-income* or *low-income affordable housing units*. Permitted densities for other housing projects shall be consistent with permitted residential densities in adjoining zoning districts.

[2] The minimum lot size may be reduced if the *city manager* determines *use* on the *site* is compatible with adjoining property, does not impair *development* of adjoining property and does not adversely affect the public health, safety or welfare.

[3] a. *Street setbacks*: the minimum *street setback* for nonresidential or *mixed use development* varies depending on the adjacent zoning:

(1) Zero feet if adjacent zoning is downtown commercial or downtown residential.

(2) Twenty feet if adjacent zoning is R-1 to R-6.

(3) Ten feet in all other cases.

b. Interior *setbacks* for nonresidential or *mixed use development*: zero feet if adjacent zoning is downtown commercial or downtown residential; 20 feet if adjacent zoning is R-1 to R-6; five feet in all other cases.

c. *Setbacks* for residential development shall match those of the adjoining zoning district.

[4] Height limits may be increased when portions of the *building* which exceed the base height limit provide one additional foot of *street* and interior *setback* for each foot above the base height limit, provided the maximum height does not exceed 75 feet. Properties abutting downtown commercial or downtown residential zones or regional business zones may achieve the heights allowed by those abutting zones if meeting conditions for the maximum height as expressed in those abutting zones.

[5] Building heights and orientation for proposals within the great blue heron rookery buffer shall be carefully assessed through the required habitat management plan (see KMC 18.55, Articles XIII through XV). In particular, potential impacts related to the flyway and shadowing of nest trees shall be evaluated. The *city manager* may require adjustments to maximum building height and/or building orientation to protect the rookery.

[~~5~~6] a. Ninety percent if abutting properties are zoned downtown commercial or downtown residential or regional business. Seventy percent in all other cases.

b. Measures to reduce *impervious surfaces* and to promote *low impact development* shall be employed unless infeasible, consistent with adopted Kenmore stormwater management standards.

B. Standards may be varied through a *variance* process pursuant to Chapter 19.25 KMC and KMC 18.115.030, or through the site plan review process in KMC 18.27.060.

18.27.052 Connectivity requirements for properties abutting SR-522.

Properties in the public/semi-public zone abutting SR-522 should remove impediments to pedestrian use of the area by fostering the creation of an extensive network of sidewalks and pedestrian walkways.

Development proposals shall:

A. Provide any direct pedestrian connections between proposed development and transit facilities, or arterials providing transit access in order to minimize walking distances to transit.

B. Comply with the ~~downtown~~ design standards pertaining to pedestrian walkways, as set forth in KMC 18.52.100.

C. Properties abutting water bodies (i.e., wetlands or streams) shall provide a public access trail paralleling the water body from one property line to the next with setbacks that are consistent with the requirements of KMC Title 16 and Chapter 18.55 KMC. The public access trail shall connect to a public right-of-way.

1. Where a development proposal abuts a property with a public access trail segment, the public access segment on the subject property shall connect to abutting property public access segment(s).

2. The public access easement for public access trails shall be documented on the face of the plat or plan and recorded with the King County Department of Records and Elections. Public access easements shall run with the land in perpetuity.

Urban Residential (UR) Zone

(new zoning district based on TOD overlay standards)

Chapter 18.29

~~TOD DISTRICT OVERLAY~~URBAN RESIDENTIAL ZONE

Sections:

18.29.010 Intent.

The purpose of the ~~transit oriented development (TOD) district overlay~~Urban Residential zone is to reinforce the City's planned concentration of pedestrian-oriented mixed use residential development at intensities that support and are supported by multi-modal transportation options, including high capacity transit. The ~~TOD district overlay~~Urban Residential zone ~~revitalizes the City's core by creating incentives and~~ provides opportunities for a mix of jobs and high-density residences, cultivates a respectful relationship among development within the ~~district~~area, the natural environment, and nearby traditional neighborhoods, and provides a framework for future infrastructure and service decisions. The ~~TOD district overlay~~Urban Residential zone provides public benefits in the form of ~~encouraging housing~~ affordable ~~to all economic groups~~housing, increased pedestrian connectivity, quality design, and incentives to preserve significant tree groves where they exist.

~~18.29.020 Area.~~

~~The area of the TOD district overlay is shown on Figure 18.29.020.1. In order to develop under the TOD district overlay, at least 50 percent of a parcel shown on Figure 18.29.020.1 shall be located within the TOD district overlay.~~

~~18.29.030 Applicability.~~

~~A. The TOD district overlay is an incentive-based zoning overlay. Applicants who elect to develop under the provisions of the TOD district overlay shall adhere to all development standards set forth in this chapter; except that development standards not addressed in this chapter shall be governed by provisions of the underlying zone.~~

~~B. In order to be eligible to develop under the TOD district overlay regulations, a development application shall meet the following criteria:~~

~~1. The property must be located within the TOD district overlay area as described in KMC 18.29.020;~~

~~2. The proposed development must either:~~

~~a. Be considered a mixed use development as defined in KMC 18.20.1740; or~~

~~b. Be a residential-only development or mixed use development with commercial permitted only on the ground floor if located in the R-12, R-18, or R-24 underlying zones, which are areas designated as primarily residential.~~

~~C. Eligible properties within the TOD district overlay that do not choose to develop under the provisions of this chapter shall comply with the provisions of the underlying zone in their entirety. [Ord. 15-0406 § 1 (Att. A).]~~

18.29.040 Use allowances.

The following uses listed in Table A are identified as *permitted*, conditionally permitted or *prohibited uses* ~~for properties electing to develop under provisions of~~in the ~~TOD district overlay~~Urban Residential zone.

All uses not specifically listed in this section shall be prohibited.

Table A – ~~TOD Overlay~~~~District~~Urban Residential Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
Day care	*Arts, entertainment, indoor*[1]~~,3~~	*Adult entertainment business*
Eating and drinking place[1]	*Business service, standard*[1]~~,3~~	*Air transportation service*

ATTACHMENT 4

Table A – ~~TOD OverlayDistrict~~Urban Residential Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
Educational service[1]	*Health care and social assistance*[1,~~3~~]	*Ambulatory surgery center*[~~2~~]
Mobile food service[~~4~~2]	*Manufacturing, light*[1,~~3,5~~3]	*Animal kennel/shelter*[~~2,5~~]
Multiple-family dwelling[~~4~~]	*Park*	*Arts, entertainment, outdoor*
Office[1]	*Personal service*[1,~~3~~]	*Auction house*
	Recreational facility, indoor[1,~~3~~]	*Automotive sales and service, marine*
	Regional land use	*Automotive sales and service, non-marine*
	Retail sales[1,~~3,5~~3]	*Business service, intensive*
	Temporary lodging[1,~~3~~]	*Cemetery, columbarium or mausoleum*
		College/university[~~2~~]
		Community residential facility
		Construction and trade
		Family child-care home
		Fire or police facility[~~2~~]
		Funeral home/crematory
		Hospital
		Laboratory[~~2~~]
		Manufactured housing community
		Manufacturing, heavy
		Marijuana business
		Marijuana cooperative
		Recreational facility, outdoor
		Religious institution[~~2~~]
		Resource land use
		Retail sales, bulk
		Secure facility
		Single detached dwelling unit
		Standalone parking
		Supportive living facility[~~2~~]

Table A – ~~TOD OverlayDistrict~~Urban Residential Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
		Transportation
		Utility facility
		Vehicle or equipment rental
		Vehicle refueling station
		Warehousing
		Wholesale trade

1 ~~Commercial use limitations in residentially oriented underlying zones: If these uses are proposed for property with underlying zoning of R-12, R-18, or R-24, then e~~Each use is limited to maximum 5,000 square feet per use and 15,000 square feet total contiguous nonresidential area within the development.

~~2 Conditional use permit required in underlying urban corridor, downtown commercial, and public/semi-public zones. Prohibited in all other underlying zones within the TOD district overlay area.~~

~~3 Conditional use permit required in underlying R-12, R-18, R-24 zones. Permitted in underlying urban corridor, downtown commercial, and public/semi-public zones within the TOD district overlay area.~~

~~4~~2 *Mobile food service* is permitted subject to the following requirements:

a. For a stand, location shall be on a sidewalk or near a storefront consistent with barrier-free regulations;

b. For a stand, location on the sidewalk or near a storefront shall provide for at least four feet of unobstructed sidewalk between the stand and the sidewalk edge for pedestrian movement;

c. No permanent fencing, walls, or other structures are installed which hinder removal of the structure from the site;

d. No required parking stall shall be blocked or rendered unusable as a result of the mobile *food service*;

e. Safe ingress and egress to the site shall be maintained. Visibility for transportation and pedestrian access shall be maintained;

f. The limited duration of the *mobile food service* shall be established as a condition of approval of any applicable permits; if accessory to a use, such operation is removed daily at the time of or prior to the close of business hours;

g. A sign permit is required for exterior signage in accordance with the sign code, Chapter 18.42 KMC.

[~~5~~3] No *outdoor storage* of materials shall be permitted.

[4] A standalone *townhouse* development is prohibited.

18.29.045 Accessory uses.

Accessory uses, when consistent with the definition in Chapter 18.20 KMC, are allowed as determined by the *city manager*.

18.29.050 Zoning standards.

The following development standards in Table B apply ~~to properties electing to develop under provisions of~~in the ~~TOD district overlay~~Urban Residential zone:

Table B – ~~TOD Overlay District~~Urban Residential Zone Development Standards

STANDARD	REQUIREMENT
Minimum Density: *Dwelling Units*/Gross Acre	60[~~1~~]
Maximum Density: *Dwelling Units*/Gross Acre	150[~~1~~]
Maximum Height	~~65~~85'[~~2~~12]
Minimum Lot Width	30'[3]
Street Setback	Minimum 10' from SR-522 unless otherwise allowed through Chapter 18.52 KMC, ~~Downtown~~ Design Standards; other *streets* 0' Maximum 10 ' unless otherwise allowed through Chapter 18.52 KMC, ~~Downtown~~ Design Standards.
Minimum Side Setback[4]	5'
Minimum Rear Setback[4]	5'
Maximum Impervious Surface	90%

~~1 Portions of any property developing under the TOD district overlay regulations with an underlying zoning of R-1 shall cluster development away from critical areas or corridors such as urban separators or the wildlife habitat network to the extent possible and the open space shall be placed in a separate tract that includes at least 50 percent of the site. The open space tract shall be permanent and meet the provisions of KMC 17.20.130(B).~~

~~2~~1 Portions of any property ~~developing under the TOD district overlay regulations~~ that are within 50 feet of an ~~single-family zone (~~R-1, R-4, R-6, or MHC zoning district shall have a maximum height of 35 feet within that area to provide a transition in height to the lower intensity uses.

2 Building heights and orientation for proposals within the great blue heron rookery buffer shall be carefully assessed through the required habitat management plan (see KMC 18.55, Articles XIII through XV). In particular, potential impacts related to the flyway and shadowing of nest trees shall be evaluated. The *city manager* may require adjustments to maximum building height and/or building orientation to protect the rookery.

3 Minimum lot width measurement is described in KMC 18.30.110.

~~4 In addition, the following design requirements shall apply:~~

~~Relational Setback Requirements.~~ Any proposed development ~~within the TOD district overlay~~ adjacent to an ~~existing single-family zone~~ ~~(~~R-1, R-4, ~~or~~ R-6, or MHC~~)~~ zoning district shall be required to provide a~~n interior ground-level~~ setback of 15 feet on the side of the property facing ~~the single-family~~that zone~~, unless a larger setback is required in the underlying zone. In that event, the larger of the two setback requirements shall govern.~~ The setback ~~required by this subsection~~ shall be landscaped with Type II landscaping as ~~defined~~described in KMC ~~18.35.040(B)~~18.35.045 to provide a visual buffer.

18.29.060 Affordable housing requirements.

~~For properties choosing to develop under the TOD district overlay, d~~D*evelopment* containing residential units shall provide affordable housing as described in Chapter 18.77 KMC. ~~*Development* choosing to develop under the TOD district overlay shall not utilize the provisions of residential density incentives found in Chapter 18.80 KMC to achieve maximum densities.~~

18.29.080 Design requirements.

Development within the ~~TOD district overlay~~urban residential zone shall comply with Standard 1 provisions of the ~~downtown~~ design standards, as set forth in Chapter 18.52 KMC.

Note to Planning Commission: 18.52.070.A.1, map of design districts, will be changed to show UR as Design Standard 1 (most stringent).

18.29.090 Connectivity requirements.

Development in ~~T~~the ~~TOD district overlay~~urban residential zone should remove impediments to pedestrian use of the district and the downtown area by fostering the creation of an extensive network of sidewalks and pedestrian walkways.

Development proposals ~~within the boundaries of the TOD district overlay that elect to develop under the provisions of this chapter~~ shall:

A. Provide any direct pedestrian connections between proposed development and transit facilities, or arterials providing transit access in order to minimize walking distances to transit.

B. Comply with the ~~downtown~~ design standards pertaining to pedestrian walkways, as set forth in KMC 18.52.100.

C. Properties abutting water bodies (i.e., wetlands, ~~rivers, lakes,~~ or streams) shall provide a public access trail paralleling the water body from one property line to the next with setbacks that are consistent with the requirements of KMC Title 16 and Chapter 18.55 KMC. The public access trail shall connect to a public right-of-way.

1. Where a development proposal abuts a property with a public access trail segment, the public access segment on the subject property shall connect to abutting property public access segment(s).

2. The public access easement for public access trails shall be documented on the face of the plat or plan and recorded with the King County Department of Records and Elections. Public access easements shall run with the land in perpetuity.

Amendments Related to Affordable Housing

Definitions:

18.20.098 Affordable housing unit.

"Affordable housing unit" means housing reserved for occupancy by eligible households and having monthly housing expenses less than or equal to 30 percent of the monthly household income described in the subsections below, adjusted for household size. (Housing expenses for ownership housing include mortgage and mortgage insurance, property taxes, property insurance, and homeowner's dues. Housing expenses for rental housing include rent, ~~and appropriate utility allowance~~utilities, expenses required by the landlord, and parking to the extent that the city requires the property or development to provide off-street parking.)

~~A. For rental housing:~~

1. A "~~moderate~~low-income affordable housing unit" is affordable at or below ~~70~~80 percent of median income, adjusted for household size;

2. A "very low-income affordable housing unit" is affordable at or below 50 percent of median income, adjusted for household size;

3. ~~A~~An "extremely~~very~~ low-income affordable housing unit" is affordable at or below ~~35~~30 percent of median income, adjusted for household size.

~~B. For ownership housing:~~

~~1. A "moderate-income affordable housing unit" is affordable at 80 percent of median income, adjusted for household size;~~

~~2. A "low-income affordable housing unit" is affordable at 65 percent of median income, adjusted for household size;~~

~~3. A "very low-income affordable housing unit" is affordable at 50 percent of median income, adjusted for household size.~~

Pursuant to the authority of RCW 36.70A.540, the City finds that the higher income levels specified in the definition of "affordable housing" under this section, rather than those stated in the definition of "low-income households" in RCW 36.70A.540, are needed to address local housing market conditions in the City.

Chapter 18.77
AFFORDABLE HOUSING

Sections:

18.77.010 Affordable housing – Purpose and intent.

The purpose of this chapter is to implement, through regulations, the responsibility of the *City* under the Washington State Growth Management Act to consider the housing needs of all economic segments of the community, and to assure an adequate affordable housing supply in the *City*. The *City* recognizes that the marketplace is the primary supplier of adequate housing for those in the upper economic groups, but that some combination of appropriately zoned land, regulatory incentives, innovative planning techniques, and requirements will be necessary to make adequate provisions for the needs of households whose incomes are at or below median income.

18.77.015 General provisions.

A. Determination of Number of Affordable Housing Units Required – Rounding. See KMC 18.30.020(D) for method of rounding to determine the number of affordable housing units required.

B. Adjacent Developments. Adjacent *developments* by the same or affiliated *developer* will be considered as a single *development* for the purpose of applying the thresholds for compliance.

C. Designation of Affordable Housing Units. Prior to the issuance of any permit(s), the *City* shall review and approve the location and unit mix of the affordable housing units consistent with the following standards:

1. Location. The location of the affordable housing units shall be approved by the *City*, with the intent that they generally be intermingled with all other *dwelling units* in the *development*.

2. Tenure. The tenure of the affordable housing units (ownership or rental) shall be the same as the tenure for the rest of the housing units in the *development*.

3. Size (Bedroom). The affordable housing units shall consist of a range of number of bedrooms that is comparable to units in the overall *development*.

4. Size (Square Footage). The size of the affordable housing units, if smaller than the other units with the same number of bedrooms in the *development*, shall be approved by the *city manager*. If there is a proposal that the affordable units be smaller than the market rate units, in no case shall the affordable housing units be less than 500 square feet for a studio unit, 600 square feet for a one-bedroom unit, 800 square feet for a two-bedroom unit, or 1,000 square feet for a three-bedroom unit.

5. Design. The exterior design of the affordable housing units shall be compatible and comparable with the rest of the *dwelling units* in the *development* and shall comply with any applicable design standards. The interior finish and quality of construction of the affordable housing units shall at a minimum be comparable to entry level rental or ownership housing in the *City*.

D. Duration. Housing shall serve only income-eligible households for a minimum period of 50 years from the latter of the date when the affordability agreement between the housing owner and the *City*, as described in KMC 18.77.050, is recorded, or the date when the affordable housing becomes available for occupancy as determined by the *City*.

E. Timing/Phasing. The affordable housing units shall be available for occupancy in a time frame comparable to the availability of the rest of the *dwelling units* in the *development*.

18.77.020 Downtown residential ~~and downtown commercial~~ zones.

The provisions of this section shall apply to multifamily residential *developments* proposed on property four acres or greater in size within the downtown residential ~~or downtown commercial~~ zones that lie west of 68th Avenue NE, and which are providing for more than 20 *multiple-family dwelling units*.

A. Twenty-five percent of the total number of units in the *development* shall be reserved for eligible households and affordable to households with incomes no greater than 70 percent of the King County median income, if renter-occupied, or affordable to households with incomes no greater than 80 percent of median income, if owner-occupied~~*moderate-income affordable housing units*~~.

B. Subject to *City* authorization, the affordable units need not be provided within the *development*, but must be provided within the downtown commercial, downtown residential, urban corridor, waterfront commercial, or regional business zone.

18.77.025 Downtown commercial zone.

A. *Multifamily* or *mixed-use development* proposed within the downtown commercial zone east of 73rd Avenue NE shall provide affordable housing as follows:

Twenty-five percent of the total number of residential units in the development shall be *very low-income affordable housing units* if renter-occupied or *low-income affordable units* if owner-occupied.

B. *Multifamily* or *mixed-use development* proposed within the downtown commercial zone west of 73rd Avenue NE shall provide affordable housing as follows:

Twenty-five percent of the total number of units in the *development* shall be reserved for eligible households and affordable to households with incomes no greater than 70 percent of the King County median income, if renter-occupied, or affordable to households with incomes no greater than 80 percent of median income, if owner-occupied.

18.77.030 ~~Transit oriented development (TOD) district overlay~~Urban corridor zone, east subarea.

Multifamily or *mixed use development* proposed within the urban corridor zone, east subarea, shall provide affordable housing as follows:

Twenty-five percent of the total number of residential units in the development shall be *very low-income affordable housing units* if renter-occupied or *low-income affordable housing units* if owner-occupied.

~~A. Properties developed under the TOD district overlay, Chapter 18.29 KMC, shall include affordable housing units.~~

~~B. Cap on Total Number of Affordable Housing Units Required. Affordable housing requirements shall be capped at 10 percent of the total number of *dwelling units* being provided.~~

~~C. Number of Affordable Housing Units Required. Affordable housing units shall be provided for any *development* exceeding the base density of the underlying zone as follows:~~

~~1. Tier 1. If the number of bonus units is less than or equal to 30 percent of the total number of *dwelling units*, then for every three bonus units, one *dwelling unit* shall be a *moderate-income affordable housing unit* and two bonus *dwelling units* may be bonus market rate *dwelling units*.~~

~~2. Tier 2. If the number of bonus units is greater than 30 percent of the total number of *dwelling units* and if the overall project density is less than or equal to 120 *dwelling units* per acre, then a combination of *low-income affordable housing units* and *moderate-income affordable housing units* shall be provided as follows: For every four bonus units allowed beyond that needed to achieve the 10 percent *moderate-income affordable housing units*, one of the *moderate-income affordable housing units* shall be made into a *low-income affordable housing unit* up to a maximum of 33 percent of the affordable housing units (or 3.3 percent of the total *dwelling units* in the *development*).~~

~~3. Tier 3. If the overall development density is greater than 120 *dwelling units* per acre, a combination of *very low-income affordable housing units, low-income affordable housing units* and *moderate-income affordable housing units* shall be provided as follows: The required numbers of *low-income affordable housing units* and *moderate-income affordable housing units* shall be equivalent to those that would be required under Tier 2, assuming~~

~~that the project were to be developed at a density of 120 *dwelling units* per acre. An amount of *very low-income affordable housing* shall be required so that the total combined amount of *very low-income, low-income* and *moderate-income affordable housing units* is equal to 10 percent of the total number of *dwelling units* in the *development*.~~

~~4. Affordable Housing Example. Example is a one-and-one-half-acre property with a base density of 48 *dwelling units* (du)/acre. Without the TOD district overlay, the property could achieve up to 72 *dwelling units*.~~

~~Tier 1 example: Proposed TOD *development* would achieve 93 *dwelling units* on *site* for 62 du/acre. This provides 21 "bonus" *dwelling units* above the 48 du/acre base density of the zone. Since the number of bonus units (21) is less than 30 percent of the total units (93), seven of the 21 bonus units must be affordable to moderate-income households, meeting Tier 1 affordability requirements.~~

~~Tier 2 example: Proposed TOD *development* would achieve 113 *dwelling units* on *site* for 75 du/acre. This provides 41 "bonus" *dwelling units* above the 48 du/acre base density of the zone.~~

~~Since the number of bonus units (41) is greater than 30 percent of the total units (113), 11 of the 41 bonus units must be affordable, meeting the 10 percent affordability cap. Nine of these are affordable to moderate-income households and two are affordable to low-income households (33 of the bonus units used toward achieving 10 percent affordable units (11*3) plus eight of the bonus units applied toward making two of the affordable units low-income affordable units (8*.25=2).~~

~~Tier 3 example: Proposed TOD *development* would achieve 210 *dwelling units* on *site* for 140 du/acre. The first step is to determine how many affordable units would have been required assuming 120 du/acre using the Tier 2 formula This calculation results in 13 *moderate-income affordable housing units* and five *low-income affordable housing units*. To achieve the requirement that 10 percent of the total units in the *development* be affordable, three additional affordable housing units would be needed (21-18=3). These three units would be required to be *very low-income affordable housing units*. In summary, the *development* would provide 13 *moderate-income affordable housing units*, five *low-income affordable housing units*, and three *very low-income affordable housing units*.~~

18.77.040 Community business zone, Juanita subarea.

A. For properties choosing to develop at higher residential densities in the CB Juanita subarea, Chapter 18.23 KMC, affordable housing units shall be provided for any *development* exceeding the base density of 24 *dwelling units* per acre as follows:

1. For every four *bonus units*, one bonus *dwelling unit* shall be reserved for eligible households and affordable to households with incomes no greater than 70 percent of the King County median income, if renter-occupied, or affordable to households with incomes

no greater than 80 percent of median income, if owner-occupied,~~a *moderate-income affordable housing unit*~~ and three bonus *dwelling units* may be bonus market rate *dwelling units*.

2. ~~Each *low-income affordable housing unit* provided counts as two *moderate-income affordable housing units* f~~For the purpose of satisfying the affordable unit requirement under ~~subsection (A)(1) of~~ this section:

a. Each *very low-income affordable housing unit* provided counts as two renter-occupied affordable units required by subsection (A)(1).

b. Each unit provided, affordable at 65 percent of the King County median income, counts as two owner-occupied affordable units required by subsection (A)(1).

Example: Proposed *development* would achieve 36 *dwelling units* on a one-acre *site* for a density of 36 du/acre. This provides 12 "bonus" *dwelling units* above the 24 du/acre base density of the zone. Three of the 12 *bonus units* must be affordable units as described in subsection (A)(1)~~*moderate-income affordable housing units*~~. Alternatively, the project could provide ~~two~~one affordable unit as described in subsection (A)(2) and one affordable unit as described in subsection (A)(1) ~~*low-income affordable housing units* (rounded)~~.

18.77.042 Urban residential zone.

Multifamily or *mixed use development* proposed within the urban residential zone shall provide affordable housing as follows:

Twenty-five percent of the total number of residential units in the development shall be *very low-income affordable housing units* if renter-occupied or *low-income affordable housing units* if owner-occupied.

18.77.045 Alternative compliance.

~~Alternative Compliance. The~~While the *City* prefers to achieve affordable housing on-site, the *city manager* may approve a request for satisfying all or part of the affordable housing requirements with alternative compliance methods as follows:

A. Application. Applications for alternative compliance shall be submitted at the time of permit application, and must be approved prior to issuance of any building permit.

B. Off-Site Provision. A project proponent may propose to satisfy all or part of affordable housing requirements off site.

1. The project proponent must demonstrate that off-site provision of new affordable housing achieves a result equal to or better than providing affordable housing on site.

2. Affordable housing units provided through this method must be the same type of units as the units in the project which gave rise to the requirement.

3. Priority is for the project to be located within the same zoning district as the *development* responsible for providing affordable housing. However, the *city manager* may approve a project located outside the zoning district if the location has access to commercial *uses* and transit, does not result in an undue concentration of affordable housing, and has adequate infrastructure.

4. The proposal must demonstrate that the affordable units provided off site will be completed before or within the same time period as the *development* generating the affordable housing requirement. For projects approved for off-site affordable housing, there will be a recorded agreement on both the "sending" property and the "receiving" property. The covenant on the sending site will be released once the affordable housing is completed on the receiving property.

C. Contribution to Preservation of Existing Affordable Housing. A project proponent may propose to satisfy all or part of affordable housing requirements through purchase and long-term preservation of existing affordable housing, particularly in the *City's manufactured housing communities*. The *applicant* shall provide information demonstrating affordability of the units to be preserved and a long-term covenant shall be placed over the preserved units, ensuring preservation and maintenance of the affordable units.

D. Fee in Lieu. Cash payments in lieu of providing actual housing units may be proposed and, if approved by the ~~*City*~~*city manager*, shall be used only for the subsequent preservation or provision of affordable housing units by the *City* or other housing provider approved by the *city manager*.

1. Payments in lieu shall be based on the difference between the cost of construction for a prototype affordable housing unit on the subject property, including land costs and development fees, and the revenue generated by an affordable housing unit.

2. Prior to issuance of building permits for the project, the *City* and *applicant* shall execute a written agreement that establishes the *applicant*'s~~The~~ payment obligations (amounts and due dates) ~~will be established at the time of issuance of building permits~~ for the project. The *City* may require the *applicant* to secure its payment obligations by irrevocable letter of credit or other form acceptable to the *City*.

3. The *City* shall deposit collected payments in an affordable housing fund established by the *City*.

4. Before the *city manager* approves or executes an agreement to accept payment in lieu of affordable housing, the *City* must have a plan for investing funds in an affordable housing project that supports *City* objectives.

5. The highest priority location for affordable housing funded wholly or in part with in-lieu fees is the subarea location of the project that generated the in-lieu fee; however, the *city manager* may authorize the use of these funds for affordable housing projects in other subareas of the *City* (as a second priority) or within another jurisdiction (as a third priority) with close proximity to commercial uses, transit services, and/or employment opportunities.

18.77.050 Affordability agreement.

A. Prior to issuing any building permit, an agreement in a form approved by the *city manager* that addresses price restrictions, homebuyer or tenant qualifications, phasing of construction, monitoring of affordability, duration of affordability, and any other applicable topics of the affordable housing units shall be recorded with King County Department of Records and Elections. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the *applicant*. The City may agree, at its sole discretion, to subordinate any affordable housing regulatory agreement for the purpose of enabling the owner to obtain financing for *development* of the property.

B. Monitoring and Fees. The *City* reserves the right to establish, in the affordability agreement referred to in subsection A of this section, monitoring fees for the affordable housing unit, which can be adjusted over time to account for inflation. The purpose of any monitoring fee is for the review and processing of documents to maintain compliance with income and affordability restrictions of the affordability agreement.

18.77.060 Expedited permit processing.

A. Certain projects containing *~~very~~extremely low-income* or *very low-income affordable housing units* in the R-12, R-18, R-24, NB, CB, DR, DC, UC, UR, WC, RB, and PSP zones that require a Type 2 land use decision as described in KMC 19.25.020 may have that process reduced to a Type 1 land use decision unless the proposal includes any of the following:

1. Short subdivision, including revisions and alterations;

2. Zoning variance;

3. Conditional use permit;

4. Shoreline permit; or

5. Critical area exceptions, variances or modifications under Chapter 18.55 KMC.

B. Any applicant for a project containing ~~*very*~~*extremely low-income* or *very low-income affordable housing* units may request that review of the project be expedited. The request may be made on forms provided by the *City*. If a determination is made by the *city manager* that *City* staffing or other permit priorities do not allow expedited permit review, the *applicant* may request that the project be reviewed by a consultant working for the City at the *applicant's* expense.

Miscellaneous amendments

(includes TOD parking and significant tree grove retention standards)

3.65.040 Project eligibility. (MFTE)

To be eligible for exemption from property taxation under this chapter, the property shall satisfy all of the following requirements:

A. The property must be located in a residential targeted area.

B. A building or buildings in the project on the property shall have at least four dwelling units. Any project may be proposed in phases. If applicable, the *affordable housing* units may be located in all or some of the buildings in the project.

C. For new construction, a minimum of four new dwelling units must be created; for rehabilitation or conversion of existing occupied structures, a minimum of four additional dwelling units must be added.

D. Existing dwelling units proposed for rehabilitation shall have been unoccupied for a minimum of 12 months prior to submission of an application and shall fail to comply with one or more requirements of the building code as set forth in KMC Title 15.

E. No application may result in the net loss of existing *affordable housing* which receives housing assistance through Federal low- or moderate-income housing programs (e.g., HUD Section 8 program).

F. Prior to issuing a certificate of occupancy, an agreement in a form acceptable to the city attorney that addresses *eligible household* qualifications and any other applicable topics of the *affordable housing* units shall be recorded with the King County department of records and elections. This agreement shall be a covenant running with the land and shall be binding on the assigns and successors of the *owners*.

G. The project shall comply with all applicable zoning, land use, building and housing requirements contained in this code~~, including, but not limited to, if the project is on property located in the transit oriented development district overlay, the project shall comply with Chapter 18.29 KMC and all other applicable zoning regulations~~.

18.15.010 Zones and map designations established.

In order to accomplish the purposes of this title, the following zoning designations and zoning map symbols are established:

ZONING DESIGNATIONS	MAP SYMBOL
Residential	R (base density in dwellings per acre)
Manufactured Housing Community	MHC
Neighborhood Business	NB
Community Business	CB
Downtown Residential	DR
Downtown Commercial	DC
Urban Corridor	UC
Urban Residential	UR
Waterfront Commercial	WC
Regional Business	RB
Public and Semi-Public	PSP
Parks	P
Golf Course	GC
Property-Specific Development Standards	P-suffix
Special District Overlay	SO

18.30.040 Fences.

Fences are permitted as follows:

A. *Fences* exceeding a height of eight feet shall comply with the applicable *street* and interior *setbacks* of the zone in which the property is located;

B. *Fences* located on a rockery, *retaining wall*, or *berm* within a required *setback* area are permitted subject to the following requirements:

1. In R-1 through R-18, P and GC zones:

a. The total height of the *fence* and the rockery, *retaining wall* or *berm* upon which the *fence* is located shall not exceed a height of 12 feet. This height shall be measured from the top of the *fence* to the ground on the low side of the rockery, *retaining wall* or *berm*; and

b. The total height of the *fence* itself, measured from the top of the *fence* to the top of the rockery, *retaining wall* or *berm*, shall not exceed eight feet;

2. In the R-24, R-48, UR, DR, PSP, and commercial zones, the height of the *fence*, measured from the top of the *fence* to the top of the rockery, *retaining wall* or *berm*, shall not exceed eight feet;

3. Any portion of the *fence* above a height of eight feet, measured to include both the *fence* and the rockery, *retaining wall*, or *berm* (as described in subsection (B)(1)(a) of this section), shall be an *open-work fence*;

C. *Fences* located on a rockery, *retaining wall* or *berm* outside required *setback* areas shall not exceed the building height for the zone, measured in accordance with the standards established in the *City* building code, KMC Title 15;

. . .

18.30.112 Marijuana businesses – Standards.

Nothing in this code or the ordinances of the City shall be construed as an authorization to violate any federal law. Affirmative terminology used in this section regarding permitting, licensing, authorization, and similar terms shall not be construed as approval, support, endorsement, or encouragement of the activities addressed in this code or City ordinances with regard to *marijuana businesses*. Such terms shall instead be construed only to describe circumstances under which there is conditional absence of local prohibition. The City does not intend to aid, abet, counsel, command, induce or procure any offense against the United States. The City also does not intend to conspire with any *marijuana producer*, *processor*, *researcher*, or *retailer* to commit any offense against the United States. The purpose of all regulations relating to *marijuana businesses* is to establish local laws which protect public safety, health and welfare to the greatest extent allowed by a Washington State law that cannot be reconciled with federal law. Nothing herein shall be construed to supersede federal law prohibiting the possession, use, manufacture, or sale of *marijuana*.

The following standards shall apply to *marijuana businesses*:

A. No person or entity may apply for, receive or maintain a permit to locate a *marijuana business* in the City unless that person or entity holds a valid marijuana business license from the Washington State Liquor and Cannabis Board verifying that the business complies with Chapter 314-55 WAC and all State laws relating to *marijuana businesses*. A *marijuana business* with an active administrative violation notice from the Washington State Liquor and Cannabis Board and/or a suspended license shall not be permitted to locate in the City until the violation is resolved and/or any associated fines have been paid or suspensions concluded.

B. *Marijuana businesses* shall maintain a 1,000-foot separation from the perimeter of the grounds of any of the following entities:

1. Elementary or secondary school;

2. Playground;

3. Recreation center or facility;

4. Child care center;

5. Public park;

6. Public transit center;

7. Library;

8. Any game arcade (where admission is not restricted to persons age 21 or older);

9. Properties owned or under contract by a public entity such as a school district or the City where a future elementary or secondary school or public park is planned when such plans have been approved or adopted by the public entities' governing authority; or

10. Another *marijuana business*, except that a *marijuana researcher* shall not have this particular separation requirement.

Definitions of subsections (B)(1) through (8) of this section, and the methodology for measuring the buffers outlined above, shall be as provided in Chapter 314-55 WAC.

C. *Marijuana businesses* shall not be located on a parcel any portion of which is within 200 feet of a residential zone (R-1, R-4, R-6, R-12, R-18, R-24, ~~or~~ R-48, or UR).

. . .

18.30.130 Recreation space – On-site areas.

A. Excluding age restricted *senior citizen* housing, ~~S~~single-family detached subdivisions~~,~~; *apartment*, *townhouse* and *mixed use development* of more than nine units in the R-4 through R-48, UR, and DR zones; and standalone *apartment* or *townhouse developments* in the NB, UC or DC zone of more than nine units~~, excluding age restricted *senior citizen* housing,~~ shall provide a common recreational open space area on site, except when facilities are available to the public that meet all of the following requirements:

1. Are developed as a county, municipal or regional *park*;

2. Are located within one-quarter mile walking distance; and

3. Are accessible without crossing any arterial *street*.

. . .

18.30.230 Setbacks – Projections and structures allowed.

. . .

B. Uncovered porches and decks which exceed 18 inches above the finished grade may project:

1. Eighteen inches into interior *setbacks* in the NB, CB, UR, DR, DC, UC, WC, RB, PSP, P, and GC zones;

2. Eighteen inches into side *setbacks* in the R and MHC zones;

3. Eighteen inches into rear *setbacks* in the R-12 through R-24 and MHC zones;

4. Five feet into rear *setbacks* in the R-1 through R-6 zones; and

5. Five feet into *street setbacks*;

. . .

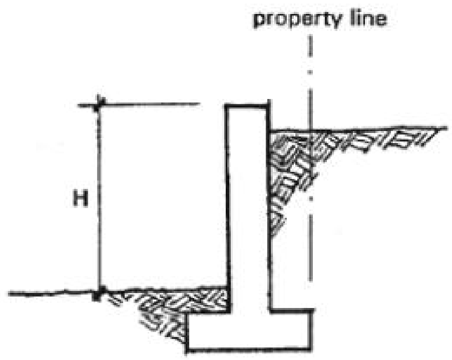
G. Rockeries, *retaining walls* and curbs may project into or be located in any *setback*, provided these *structures*:

1. Do not exceed a height of six feet in the R-1 through R-18, parks and golf course zones;

2. Do not exceed a height of eight feet in the R-24, R-48, MHC, urban residential, and downtown residential zones; and

3. Do not exceed the building height for the zone in commercial and public/semi-public zones, measured in accordance with the standards established in the *City* building code,

RETAINING WALL IN SETBACK



H maximum 6' in R-1– R18, P and GC zones

H maximum of 8' in R-24, R-48 and DR zones

H not to exceed building height requirement in commercial and PSP zones

KMC Title [15](15);

Note to staff: illustration must be revised to add UR zone.

18.35.045 Landscaping – General requirements.

	Street frontage perimeter landscaping (average width)[9]	**Interior lot line perimeter landscaping (average width)**[14]	**Surface parking lots of 10 or more stalls**
Residential development[1]	10' Type III[8]	5' Type II[8] 10' Type II[11]	20 sq. ft. per stall in common parking areas.
Commercial development[2]	10' Type III	20' Type I[10]	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.
Industrial development[3]	10' Type II	10' Type II[12] 20' Type I[10]	20 sq. ft. per stall if 10 – 30 stalls provided;

	Street frontage perimeter landscaping (average width)[9]	Interior lot line perimeter landscaping (average width)[14]	Surface parking lots of 10 or more stalls
			25 sq. ft. per stall if 31 or more stalls provided.
Institutional development[4]	20' Type II[6]	10' Type II	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.
Utility development[5]	10' Type II[7]	10' Type II[13]	20 sq. ft. per stall if 10 – 30 stalls provided; 25 sq. ft. per stall if 31 or more stalls provided.

[1] As described in KMC 18.35.030(A).

[2] As described in KMC 18.35.030(D).

[3] As described in KMC 18.35.030(E).

[4] As described in KMC 18.35.030(F).

[5] As described in KMC 18.35.030(G).

[6] Excluding playgrounds and playfields.

[7] For an above-ground *utility facilities development* only, excluding distribution and transmission corridors.

[8] Only for attached/group residence *development* as described in KMC 18.35.030(B).

[9] For all zones except the UR, DC and DR zones. In the CB zone, where *street frontage setbacks* are required, the area within the *setback* must contain Type II *landscaping*.

[10] Along any portion adjacent to a residential *development* as described in KMC 18.35.030(A).

[11] Along portions of an attached/group residence *development* as described in KMC 18.35.030(B) adjacent to property developed with single detached residences or vacant property that is zoned R-1 through R-6.

[12] Along any portion adjacent to a commercial or institutional *development* as described in KMC 18.35.030(D) and (F).

[13] Excluding distribution or transmission corridors.

[14] In the DC zone, where interior *setbacks* are required and/or provided, *setbacks* shall be landscaped with Type II *landscaping*. In the CB zone, where interior *setbacks* are required and/or provided, *setbacks* shall be landscaped with Type II *landscaping*.

18.35.070 Landscaping – Surface parking areas.

. . .

D. Landscaping around the perimeter of a *site* that is in addition to the perimeter *landscaping* required by KMC 18.35.045 may count toward 10 percent of the required surface parking area *landscaping* in all zones except the DC~~, and~~ DR, and UR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street (see subsection F of this section), if it is adjacent to the parking area;

. . .

F. Standards for perimeter *landscaping* and screening of surface parking lots for the DC, ~~and~~ DR, and UR zones, or RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street, are defined in Chapter 18.52 KMC, ~~Downtown~~ Design Standards. All other landscape requirements for surface parking lot landscaping in this section apply to the DC~~, and~~ DR, and UR zones, and RB-zoned properties that are not subject to P-suffix condition NS-P4, and which lie north of NE 175th Street.

18.40.030 Computation of required off-street parking spaces.

A. Except as modified in KMC 18.40.035, 18.40.040, 18.40.050 or 18.40.090, off-street parking areas shall contain at a minimum the number of *parking spaces* as stipulated in the following table. Off-street parking ratios expressed as number of spaces per square feet means the usable or net square footage of floor area, exclusive of nonpublic areas. Nonpublic areas include but are not limited to building maintenance areas, storage areas, closets, restrooms and exterior walls. If the formula for determining the number of off-street *parking spaces* results in a fraction, the number of off-street *parking spaces* shall be rounded to the nearest whole number with fractions of 0.50 or greater rounding up and fractions below 0.50 rounding down.

. . .

~~F. Exceedance of Minimum Parking – Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE. Provision of parking in excess of the minimum parking requirements shall require the excess parking be included in a structured parking garage, or under *building* and screened from the *street frontage*, unless the additional parking is associated with a phased, *mixed use development* and is interim in nature.~~

~~G~~F. Exceedance of Minimum Parking – Zones Other Than Downtown Commercial and Downtown Residential Zones West of 68th Avenue NE. Provision of parking shall not exceed 30 percent more than the minimum parking requirements unless the excess parking spaces are included in a structured parking garage, or under building and screened from the street frontage, unless the additional parking is associated with a phased, mixed use development and is interim in nature.

~~H~~G. Tree Retention – DC and DR Zones. Where an applicant proposes retention of *trees* in accordance with KMC 18.35.100(G) in the DC and DR zones, the *city manager* may reduce parking requirements by one *parking space* for every two *significant trees* that are saved in excess of the significant tree ordinance requirements.

~~I~~H. Critical Area or Buffer Protection. When unavoidable, the *city manager* may reduce minimum parking requirements in order to maximize the protection of a *critical area* or its *buffer*. The reduction in the number of parking stalls or alternative stall or drive aisle dimensional requirements shall be in proportion to the area to be retained in the *buffer* or *critical area*.

~~18.29.070 Parking~~18.40.035 Parking in the Urban Residential zone, Downtown Commercial zone east of 73rd Avenue NE, Public and Semi-Public zone abutting SR-522, and the Urban Corridor zone, east subarea

Parking in the ~~TOD district overlay~~urban residential zone, the downtown commercial zone east of 73rd Avenue NE, the public and semi-public zone abutting SR-522, and the urban corridor zone, east subarea should be sufficient to support local businesses and residential development, while at the same time promoting transit ridership, walkable streets, and efficient use of land. Proposed development ~~choosing to develop under the TOD district overlay~~ shall provide parking as follows:

A. Minimum parking requirements for nonresidential uses may be reduced to 75 percent of the minimum requirement computed according to the provisions of KMC 18.40.030.

B. Minimum residential parking shall be supplied at the following ratios:

1. ~~1.0~~0.50 *parking spaces* per ~~market-rate~~ *dwelling unit*.~~, except as follows:~~

   ~~a. Pioneer Project Incentive. For purposes of this section, a pioneer project consists of the first 100 bonus housing units provided in the city under the TOD district overlay regulations. The first 100 bonus housing units in a pioneer project(s) may elect to provide parking spaces for market rate bonus units at 0.6 parking spaces per dwelling unit.~~

2. ~~1.0~~0.50 additional *parking space* per every five ~~market rate~~ *dwelling units* shall be provided and designated as guest parking for use by all guests.

3. ~~0.60 parking spaces per dwelling unit for *affordable* or *senior dwelling units*.~~There are no minimum parking requirements for multifamily residential developments specifically for housing *senior citizens* or people with disabilities.

~~4. Affordable housing shall be as defined under KMC 18.29.060. Senior housing shall be defined as housing restricted to those meeting the definition of "senior citizen" as found in KMC 18.20.2500.~~

C. The following factors shall count towards minimum parking standards for residential and nonresidential development:

1. On-street parking immediately adjoining a property proposed for development or provided as part of the proposed development may be counted toward the minimum parking requirement.

~~2. Minimum on-site parking may be reduced further by provisions of KMC 18.40.090(B) for properties within the TOD district overlay that meet the requirements of KMC 18.40.090(B) for accessibility to high frequency transit service.~~

~~3~~2. Shared parking among uses is encouraged ~~within the TOD district overlayas described in KMC 18.40.040~~. Developments that propose shared parking arrangements shall submit a *parking management plan* ~~as defined in KMC 18.20.1995~~ that describes the terms and conditions of shared parking arrangements on site.

~~D. Parking Provided in Excess of Minimum. Provision of parking in excess of the minimum parking requirements outlined in subsections A and B of this section shall require the excess parking be included in a structured parking garage, or under building and screened from the street frontage, unless the additional parking is associated with a phased, mixed use development, is interim in nature, and is temporarily located on land reserved for future phases not yet built.~~

~~E~~D. Maximum parking ~~within the TOD district overlay~~ shall not exceed the minimum requirement calculated under the provisions of KMC 18.40.030.

1. Applicants may be allowed to exceed the maximum parking if the applicant can produce a parking study that demonstrates probable on-site parking needs that are significantly higher than similar uses. This traffic study shall be subject to review by the city manager before approval for additional parking is granted. All parking granted in excess of the maximum shall be provided in a structured parking garage or under building and screened from the street frontage.

~~F~~E. All other parking requirements shall be as provided in ~~Chapter 18.40 KMC~~this chapter.

18.40.038 Exceedance of Minimum Parking – Downtown Commercial Zone, Downtown Residential Zone, Urban Corridor Zone, East Subarea, and Urban Residential Zone.

Provision of parking in excess of the minimum parking requirements shall require the excess parking be included in a structured parking garage, or under *building* and screened from the *street frontage*, unless the additional parking is associated with a phased, *mixed use development* and is interim in nature.

18.42.090 Residential zone signs.

Signs in the downtown residential, urban residential, R and MHC zones are limited as follows:

A. Nonresidential *Use*.

1. One *sign* identifying nonresidential *uses*, not exceeding 25 square feet and not exceeding six feet in height, is permitted;

2. Schools are permitted one *sign* per school or school facility entrance, which may be located in the *setback*. Two additional *wall signs* attached directly to the school or school facility are permitted;

3. *Home occupation* and *home industry signs* are limited to *wall signs* not exceeding six square feet.

B. Residential *Use*.

1. One *sign* not exceeding two square feet is permitted; and

2. One *permanent residential development identification sign* not exceeding 32 square feet is permitted per neighborhood, subdivision, manufactured housing community, apartment/condominium complex, or other residential area. The maximum height for the *sign* shall be six feet. The *sign* may be freestanding or mounted on a wall, *fence*, or other *structure*.

Chapter 18.52
~~DOWNTOWN~~ DESIGN STANDARDS

Note to staff: eliminate "Downtown" from references to the design standards

ATTACHMENT 4

Sections:

Article I. Introduction and Applicability

Article II. Site Design – Standards for All Uses

Article III. Building Design – Standards for All Uses

Article IV. Building Design – Standards for Commercial/Mixed Use Buildings

Article V. Building Design – Standards for Residential/Primarily Residential Uses

Article I. Introduction and Applicability

18.52.010 Purpose and intent.

The Kenmore ~~downtown~~ design standards are intended to implement the *City's* comprehensive plan and vision for the creation of "…a community ~~with an attractive, vital, pedestrian-oriented *City* center offering commercial, civic, cultural and *park* spaces, integrated with higher density housing…" and "…a community with~~… that has clear design standards creating attractive, functional, and enduring *buildings* and places…"

The purpose of the ~~downtown~~ design standards is to create ~~a~~ pedestrian-oriented ~~downtown~~mixed use areas by identifying appropriate *site* and development standards, including green infrastructure, for new *development*.

The Kenmore design standards are structured in the following manner.

. . .

18.52.030 Scale of ~~downtown~~ development.

18.52.050 Recommended guiding principles – ~~General~~Downtown.

18.52.070 Applicability.

A. Design standards shall apply as depicted in Figure 18.52.070.A.1.

~~B. A property owner or developer electing to develop under Chapter 18.29 KMC, Transit Oriented Development (TOD) District Overlay, shall comply with Standard 1 as described in subsection C of this section.~~

. . .

D. In the event of conflict between the ~~downtown~~ design standards and any other applicable code, the *city manager* shall determine the appropriate application of the conflicting codes, recognizing the need to protect public health, safety, and welfare, any specific interpretation criteria, as well as furtherance of the intent of the comprehensive plan and these ~~downtown~~ design standards.

. . .

G. The degree to which each standard applies to a redevelopment project shall be evaluated on a case-by-case basis in an effort to achieve an overall design which meets the purpose and intent of the ~~downtown~~ design standards. In determining the degree of applicability, the *city manager* shall give priority to design standards which address *building* placement, parking standards, window/door treatments, and *first floor facades*.

H. For proposed existing *structure* exterior remodels, or existing *structure* expansions, parking reconfigurations, or other activities subject to design standards that are less than new construction, the *city manager* shall determine the extent of compliance with the design standards as appropriate to recognize current conditions and further the intent of the ~~downtown~~ design standards. The required design or development standards shall be related to the improvement proposed. For example, if a parking reconfiguration is proposed, the required design standards should address *pedestrian walkways* between parking lots and building entrances or parking lot screening; or if a building entrance is modified, visible building entrance requirements should be applied.

18.52.100 Pedestrian walkways.

. . .

B. Standards – Required.

1. Locations. Clear and visible *pedestrian walkways* shall be provided in the following locations:

a. Through Block Connections.

(1) Northwest Quadrant. If the property abuts a proposed pedestrian route designated in the Northwest Quadrant circulation plan, see KMC 18.52.110. In areas not identified on the circulation plan, one *pedestrian walkway* shall be provided for an average of every 300 feet or less of *street frontages* in the north-south and east-west directions to create a linked *pedestrian walkway* system around and through the Northwest Quadrant. Distances may vary from exactly 300 feet to accommodate linking adjacent *development* on a case-by-case basis.

(a) *Public spaces* shall be linked to adjacent *streets* and *developments*.

(b) Exact locations of *pedestrian walkways* shall be determined at the time of *development* to accommodate linkages between adjacent *developments*.

(2) Northeast Quadrant ~~and TOD District Overlay~~, Urban Corridor zone, east subarea, Urban Residential zone, and Public/Semi-Public properties abutting SR-

522. In the Northeast Quadrant, Urban Corridor zone, east subarea, Urban Residential zone, and Public/Semi-Public properties abutting SR-522 ~~and for properties electing to develop under Chapter 18.29 KMC in the TOD district overlay~~, one *pedestrian walkway* shall be provided between the north and south end of the property, spaced an average of every 300 feet or less of *street frontages*. The walkway must connect with walkways located on other properties established in accordance with this condition. Distances may vary from exactly 300 feet to accommodate linking adjacent *developments* on a case-by-case basis. The comprehensive plan downtown circulation concept shall be a general guide to priority pedestrian links.

(a) *Public spaces* shall be linked to adjacent *streets* and *developments*.

(b) Exact locations of *pedestrian walkways* shall be determined at the time of *development* to accommodate linkages between adjacent *developments*.

. . .

18.52.150 Building location/setbacks (for commercial/mixed use buildings).

A. Intent.

1. Retail Visibility. To ensure visibility of retail businesses, to establish active, lively uses along the sidewalk, and to encourage strolling ~~in the downtown~~.

18.52.160 Building setbacks (for residential/primarily residential uses).

A. Intent.

1. Pedestrian Orientation and Densities. To ensure pedestrian orientation and desired densities ~~in downtown~~.

18.52.210 Corner features.

A. Intent.

1. To ensure architectural interest and pedestrian-scaled detail ~~in downtown~~.

2. To allow for comfortable pedestrian queuing space.

18.52.220 Roof form.

. . .

C. Not Allowed.

1. Flat, Unadorned Roofs. Flat roofs without architectural embellishments are not allowed ~~on *buildings* in the downtown~~.

18.52.230 Structured parking.

A. Intent.

1. Visually Integrated. To visually integrate parking garages with other ~~downtown~~ *uses* through active *ground floor uses*, and the use of architectural treatments, such as materials, treatments of openings, and *human-scaled* facade *elements*.

18.52.250 Pedestrian bridges.

. . .

2. *Building* and Landscape Treatments. Pedestrian bridges shall be designed as unique *structures* which serve as a key gateway feature ~~to the~~in downtown.

18.52.290 Weather protection.

A. Intent.

1. *Weather Protection*. To provide *weather protection* for pedestrians ~~throughout downtown~~.

18.52.300 Building materials.

A. Intent.

1. To develop a visual downtown identity and to ensure that ~~downtown~~ *development* in Kenmore's commercial and higher-density residential areas forms a cohesive visual whole over time. This shall be accomplished through the use of a primarily masonry materials palette.

2. To provide a materials palette which allows for individual and creative architectural expression in individual *development*.

B. Standards – Required.

1. Primary Materials Palette. Commercial and mixed use *buildings* shall be built with materials which will form a visually cohesive identity over time. Facades of commercial and commercial levels of mixed use *buildings* shall be primarily of the following masonry materials:

a. Brick;

b. Stone;

c. Ceramic Tile. Alternate coursing with changes in color and/or texture is required with use of tile. Alternate coursing can be vertical, horizontal, or both;

d. Split Face Alternate Course Concrete Masonry Units. Alternate coursing with changes in color and/or texture is required with use of split face masonry units. Alternate coursing can be vertical, horizontal, or both;

e. Stucco, if limited to a maximum 50 percent of total building surface area.

2. On any facade adjoining a public sidewalk, at the first two stories above the public sidewalk level, and at exposed stories below the public sidewalk level, primary materials must cover 85 percent of the opaque surfaces on any elevation. On other facades in the public view (from adjacent public *streets*, *pedestrian walkways*, or *public spaces*), primary materials must cover more than 50 percent of the opaque surfaces.

Exceptions:

a. Transparent glass may cover 75 percent of the first story of any one facade. Transparent glass may cover 40 percent of the second story of any one facade.

b. Where there are two front property lines, transparent glass may cover 75 percent of a second facade if the facade is within 15 feet of the property line.

3. Residential Floors, Mixed Use *Buildings*. Nonmasonry materials may be used as a primary material in the residential portions of mixed use *buildings* subject to any applicable restrictions in this section.

4. Vinyl Siding. Vinyl siding is only permitted on floors three and above, and shall not exceed 15 percent of the total building surface area of those floors.

C. Not Allowed.

1. Plain Faced and/or Uncolored Concrete Masonry Units. Plain faced and/or uncolored concrete masonry units shall not cover an area greater than five percent of any facade.

2. Siding Materials Not Allowed. The following siding materials are not allowed on any *building facade*:

a. Asphalt siding;

b. Aluminum lap siding;

c. Siding grade plywood. [Ord. 11-0329 § 3 (Exh. 1).]

18.52.310 Upper level stepbacks, mass, and bulk.

A. Intent.

1. Develop Pedestrian Scale. To ensure that multiple-storied *building facades* do not overwhelm ~~the~~ pedestrian orientation and scale ~~of downtown~~.

18.52.320 Primary residential entrances.

A. Intent.

1. Active and Lively *Street*. To face residential entrances onto *streets* to create and maintain a lively and active ~~downtown~~environment.

18.52.330 Building mass and bulk.

A. Intent.

1. Reduce Building Bulk with Smaller Architectural Components. To reduce the apparent bulk of *buildings* by breaking them down into smaller components which are consistent with ~~the~~ pedestrian scale ~~of downtown~~.

18.52.350 Windows.

A. Intent.

1. Active and Lively *Street*. To face windows onto *streets* to create and maintain a lively and active ~~downtown~~environment.

18.57.065 Significant tree grove retention in the Urban Residential zone, Downtown Commercial zone east of 73rd Avenue NE, Public and Semi-Public zone abutting SR-522, and the Urban Corridor zone, east subarea

~~18.29.100 Significant tree grove retention.~~

A. Definitions.

1. Significant Tree Grove Definition. A "significant tree grove" shall consist of two or more trees with a minimum of five and one-half tree units total. A qualifying tree has two tree units minimum. The maximum distance measured in feet between qualifying trees shall be equal to two times the critical root zone in order to be defined as a significant tree grove. For example a 24-inch d.b.h. tree must be within 24 feet of another tree in the grove to be included in the significant tree grove. A tree of any size that is topped or considered a "hazard tree" as defined in KMC 18.20.3084 may not qualify as part of a significant tree grove as herein defined. For purposes of this chapter, a significant tree grove may not contain trees that are located within a critical area or critical area buffer protected under Chapter 18.55 KMC. A significant tree grove is not the same as a "grove," as defined in KMC 18.20.1273.

2. Tree Units. See KMC 18.57.060(A) for translation of *diameter at breast height* (d.b.h.) to tree units.

B. Applicability.

~~1. If the underlying zone within the TOD district overlay requires tree retention as provided in Chapter 18.57 KMC, then the provisions of Chapter 18.57 KMC shall be retained. If Chapter 18.57 KMC exempts a property from tree retention then it shall remain exempt.~~

~~2~~1. Development proposals ~~within the boundaries of the TOD district overlay that elect to develop under the provisions of this chapter~~in the urban residential zone, downtown commercial zone east of 73rd Avenue NE, public and semi-public zone abutting SR-522, and the urban corridor zone, east subarea shall be eligible to benefit from providing less parking or more dwelling units or any combination of the two if the development retains one or more significant tree grove(s) as defined in this section in perpetuity. A development may be able to benefit from both reduced parking and additional dwelling units by preserving a significant tree grove so long as the same tree credits are not counted towards both reductions in parking and additional bonus dwellings. Trees or groves retained through ~~the~~ other provision of ~~Chapter 18.57 KMC~~this chapter may count towards the significant tree grove retention if they meet the definitions found in subsection A of this section.

~~3~~2. Tree on Property Line. In instances where one or more trees that would qualify as part of a significant tree grove is located on a property line such that the tree is on more than one property, and the properties are in separate ownerships, the tree shall qualify to be counted as part of a separate tree grove by each property owner.

C. Reduced Parking. In order to retain qualifying significant tree groves, required parking may be reduced at the maximum rate of one stall per each five and one-half tree units. Parking quantities may be reduced up to a maximum of 20 percent from the parking requirement after other reductions are applied, if any.

D. Residential Bonus Units. In order to retain qualifying significant tree groves, residential units are offered at the rate of one bonus unit per each 11 tree units preserved. Grove bonus units are not included in maximum unit density calculations. Grove bonus units are not subject to the affordability requirements of KMC ~~18.29.060~~18.27.020 and 18.77.

E. Significant Tree Grove Preservation Requirements.

1. Tree Protection Plan Required. A tree protection plan as identified in KMC 18.57.050 shall be required for any development application proposing to protect one or more significant tree groves through this section.

2. Recorded on Title. The map of significant tree groves preserved through this section, along with a covenant preventing removal, shall be recorded and shown on the property title.

3. Subject to Tree Protection Measures of Chapter 18.57 KMC. Significant tree groves protected under this section shall be subject to the tree protection measures during construction found in KMC 18.57.090, the post-construction replacement, financial guarantee, and maintenance requirements of KMC 18.57.100, and the penalties and enforcement of KMC 18.57.110.

18.60.050 Wireless communication facility review processes and maximum allowable heights.

P – Permitted Use

C – Conditional Use – reviewed through Type 2 process outlined in KMC 19.25.020.

X – Prohibited Use[5]

Type of wireless communication facility	Residential zones R-1 through R-6 and MHC	Residential zones R-12 through R-24, UR, and DR	Nonresidential zones RB, UC east, DC, CB Juanita, and NB	Nonresidential zones UC west, WC, and CB west (view zones)	Other nonresidential zones PSP, P, and GC
Antenna collocation on an existing conforming tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower	P Maximum height: same as existing tower
Rooftop antenna	X, C[1,2], P[1,7] Maximum height: 15' above the roof height at the antenna location	P Maximum height: 15' above the roof height at the antenna location	P Maximum height: 15' above the roof height at the antenna location	X	P Maximum height: 15' above the roof height at the antenna location
Facade antenna	X, C[1,2], P[1,7] Maximum height: 2' above the roofline or parapet wall	P Maximum height: 2' above the roofline or parapet wall	P Maximum height: 2' above the roofline or parapet wall	P Maximum height: May not extend above the roofline or parapet wall	P Maximum height: 2' above the roofline or parapet wall
Amateur (ham) radio facilities	P Maximum height[3]: Ground-mounted facility – 65'. Rooftop facility – 30' above the roof height at the antenna location	P Maximum height[3]: Ground-mounted facility – 65'. Rooftop facility – 30' above the roof height at the antenna location	P Maximum height[3]: Ground-mounted facility – 65'. Rooftop facility – 30' above the roof height at the antenna location	P Maximum height: 35'	P Maximum height[3]: Ground-mounted facility – 65'. Rooftop facility – 30' above the roof height at the antenna location
Antennas on utility or light poles. (Nearest abutting zone is used to determine process if in the right-of-way.)	C[2], P[7] Maximum height: 55'	P Maximum height: 55'	P Maximum height: 55'	C[2], P[8] Maximum height: up to the building height limit as specified in the	P Maximum height: 55'

Type of wireless communication facility	Residential zones R-1 through R-6 and MHC	Residential zones R-12 through R-24, UR, and DR	Nonresidential zones RB, UC east, DC, CB Juanita, and NB	Nonresidential zones UC west, WC, and CB west (view zones)	Other nonresidential zones PSP, P, and GC
				underlying zoning district	
Satellite dish	C[2] if no more than 2 meters (6.6') in diameter; otherwise X Maximum height: Ground-mounted dishes – 15'. Rooftop dishes – 15' above the roof height at the dish location	P if no more than 2 meters (6.6') in diameter and limited to a maximum of 1 dish per site; otherwise C[2] Maximum height: Ground-mounted dishes – 15'. Rooftop dishes – 15' above the roof height at the dish location	P if no more than 2 meters (6.6') in diameter and limited to a maximum of 3 dishes per site; otherwise C[2] Maximum height: Ground-mounted dishes – 15'. Rooftop dishes – 15' above the roof height at the dish location	P if ground-mounted; otherwise X Maximum height: Ground-mounted dishes – 15'	C[2] Maximum height: Ground-mounted dishes – 15'. Rooftop dishes – 15' above the roof height at the dish location
Tower[6]	X	X	X in the DC zone; otherwise C[2,4] Maximum height: up to the building height limit as specified in the underlying zoning district	X	C[2,4] Maximum height: up to the building height limit as specified in the underlying zoning district

18.60.110 Landscaping requirements.

A *wireless communication facility site*, with the exception of an *amateur (ham) radio facility*, shall provide *landscaping* as follows:

A. When the facility is located in:

1. The NB, CB, PSP, RB, WC, UC, DC, UR, or DR zone, the base of any *tower* and any ground equipment, whether or not in a *structure* or cabinet, shall be landscaped with eight feet of

Type II *landscaping* as defined by KMC 18.35.040(B). This landscaped area shall be increased to 10 feet of Type I *landscaping* as defined by KMC 18.35.040(A) in areas adjacent to residential development as described in KMC 18.35.030(A). For *satellite dishes*, the visual screen may be reduced to the height of the center of the dish on the transmitting side.

2. The R, MHC, GC, and P zones, the base of any *tower* and any ground equipment, whether or not in a *structure* or cabinet, shall be landscaped with 10 feet of Type I *landscaping* as defined by KMC 18.35.040(A). For *satellite dishes*, the visual screen may be reduced to the height of the center of the dish on the transmitting side.

. . .

18.73.120 Home industry.

In all zones except R-12, R-18, R-24, UR, CB Juanita subarea, and NB, a resident may establish a *home industry* as an accessory activity, provided:

. . .

18.80.020 Permitted locations of residential density incentives.

Residential density incentives (RDIs) shall be used only on *sites* served by public sewers and only in the following zones:

A. In R-4 through R-24, ~~and~~ downtown residential, and urban residential zones; and

B. In DC, NB, CB, UC, WC, and RB zones when part of a *multiple-family dwelling* or *mixed use development*.

18.80.040 Public benefits and density incentives.

E. The following are the public benefits eligible to earn density incentives through RDI review:

BENEFIT	DENSITY INCENTIVE
1. AFFORDABLE HOUSING	
a. Benefit units consisting of rental housing permanently affordable to very low-income households, as defined in KZC 18.20.098~~priced to serve low-income~~	2.0 bonus units per benefit unit.

~~households (i.e., no greater than 30 percent of gross income for households at or below 50 percent of King County median income, adjusted for household size)~~. A covenant on the site that specifies the income level being served, rent levels, and requirements for reporting to the City shall be recorded at final approval.	
b. Benefit units consisting of assisted housing units 600 square feet or less.	1.0 bonus unit per benefit unit.
c. Benefit units consisting of rental housing permanently affordable (as defined in KZC 18.20.098)~~priced to serve moderate-income households (i.e., no greater than 30 percent of gross income for~~ to households with incomes at or below 70 percent of King County median income, adjusted for household size~~)~~. A covenant on the site that specifies the income level being served, rent levels, and requirements for reporting to the City shall be recorded at final approval.	1.0 bonus unit per benefit unit.
d. Benefit units consisting of ~~moderate~~low-income, owner-occupied housing (as defined in KZC 18.20.098), reserved for ~~income- and asset-qualified~~ eligible home buyers ~~(total household income at or below 80 percent of King County median, adjusted for household size). Benefit units shall be limited to owner-occupied housing, with prices restricted to same income group, based on current underwriting ratios and other lending standards for 30 years from date of first sale~~. A covenant on the site that specifies the income level and other aspects of buyer eligibility, price levels, and requirements for reporting to the City shall be recorded at final approval.	1.0 bonus unit per benefit unit.
e. ~~Projects in which units are reserved for moderate-~~Benefit units consisting of very	2.0 bonus units per benefit unit.

low~~-~~income, owner-occupied housing (as defined in KZC 18.20.098), reserved for eligible home ~~and asset-qualified~~ buyers. ~~(total household income at or below 50 percent of the King County median, adjusted for household size). All units shall be limited to owner-occupied housing with prices restricted based on current underwriting ratios and other lending standards, and with prices restricted to same income group, for 30 years from date of first sale. Final approval conditions shall specify requirements for reporting to the City on both buyer eligibility and housing prices.~~ A covenant on the site that specifies the income level and other aspects of buyer eligibility, price levels, and requirements for reporting to the City shall be recorded at final approval.

. . .

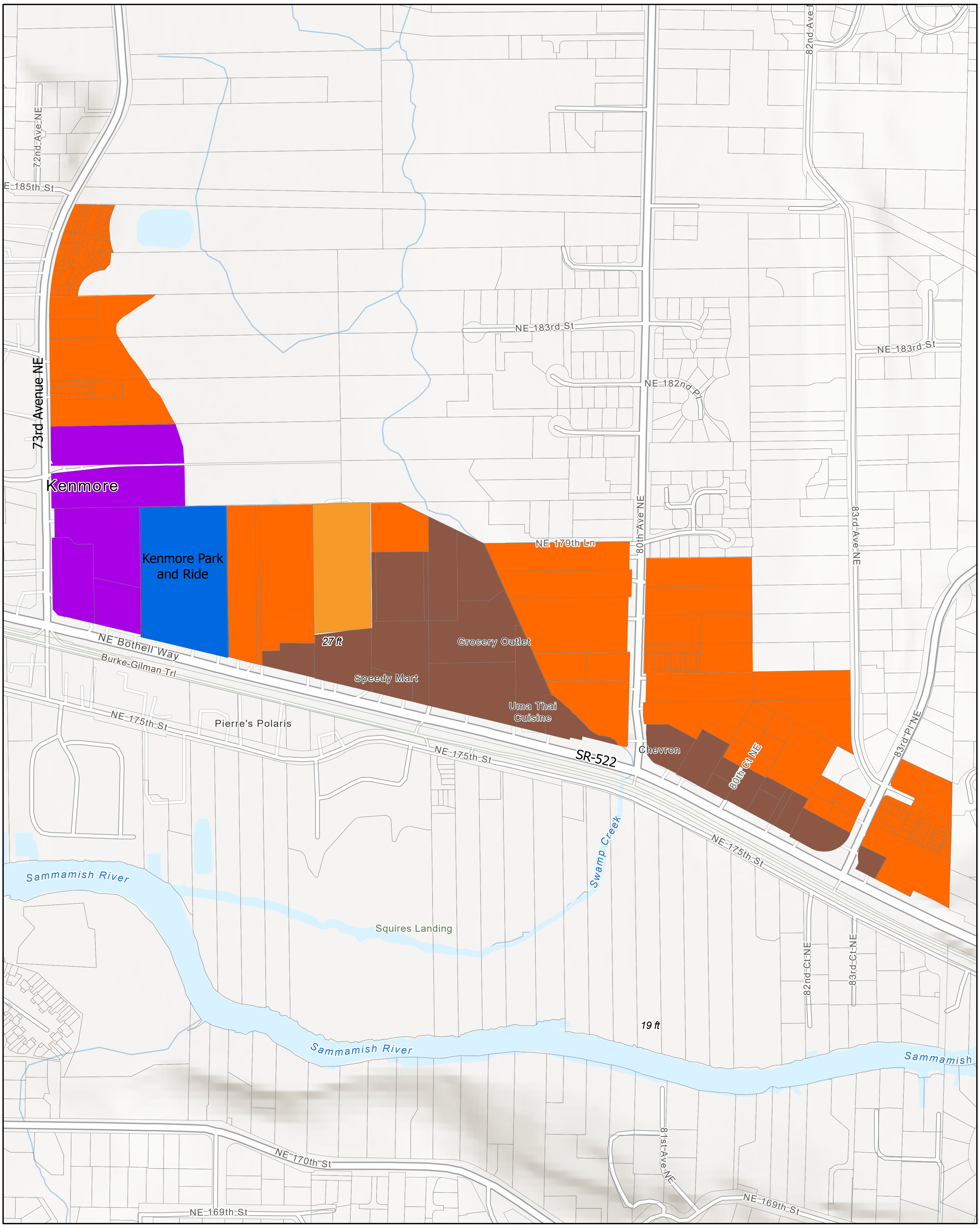
g. Affordable housing units provided under this section shall remain affordable housing for a minimum of 50 years from the date of initial sale, if owner-occupied, or the life of the project (i.e., the duration of the property's residential use), if renter-occupied.

g. Affordable housing units provided under this section shall remain affordable housing for a minimum of 50 years from the date of initial sale, if owner-occupied, or the life of the project (i.e., the duration of the property's residential use), if renter-occupied

18.110.020 General provisions.

D. A *development agreement* may be proposed and approved only for the following properties:

1. Properties in the downtown commercial (DC), regional business (RB), waterfront commercial (WC), urban corridor (UC), urban residential (UR), downtown residential (DR), community business (CB), neighborhood business (NB), public and semi-public (PSP), parks (P) and golf course (GC) zones.



Draft Zoning Map | City of Kenmore

- Downtown Commercial
- Manufactured Housing Community
- Public/Semi-Public
- Urban Residential
- Urban Corridor

* Portions of the Burke-Gilman Trail & Tolt Pipeline occur in rights-of-way and not as separate parcels. However, these facilities are considered to be Parks along their full length.

0 1,300
Feet

This map is intended for planning purposes only and is not guaranteed to show accurate measurements.

Map Date: 2022

From:	John Vicente
To:	Lauri Anderson; Tobin Bennett-Gold
Subject:	RE: FYA - Parking on 73rd Avenue NE
Date:	Friday, September 16, 2022 10:57:09 AM

Hi Lauri

Most of 73rd is "no parking". The only significant parking is along the west side of the street between 181st and 182nd. This will most have an impact but is already heavily used so I don't think we will see any significant impacts with the parking requirements in the TOD. We may have an issue with parking enforcement as 181st as it is time limited parking, but I don't think that should limit our desire to bring in affordable housing.

John

From: Lauri Anderson <landerson@kenmorewa.gov>
Sent: Friday, September 16, 2022 9:19 AM
To: Tobin Bennett-Gold <tbennettgold@kenmorewa.gov>
Cc: John Vicente <JVicente@kenmorewa.gov>
Subject: FYA - Parking on 73rd Avenue NE

Good morning! The Planning Commission is considering reducing parking requirements in the area of the TOD (along Bothell Way between 73rd and the east edge of the City) to .50 stalls per residential unit versus .75 stalls. This helps achieve the income level of required affordable housing that the Council desires.

The Commissioners have asked about related parking impacts on 73rd Avenue NE. I believe that most of the area along 73rd is already developed and parking has been provided. I suppose if the former Fire station, Montessori School, or St. Vincent de Paul redeveloped this could be an issue. However, isn't 73rd Avenue NE already signed for no parking?

Any insights would be much appreciated.

Thanks!

Lauri