

**CITY OF KENMORE
WASHINGTON
ORDINANCE NO. 19-0481**

**AN ORDINANCE OF THE CITY OF KENMORE,
WASHINGTON, RELATING TO THE CITY'S
MANUFACTURED HOUSING COMMUNITIES;
AMENDING CHAPTERS 18.15, 18.20, 18.21, 18.22, 18.23,
18.24, 18.25, 18.25A, 18.25B, 18.26, 18.29, 18.30, 18.35, 18.40,
18.42, 18.45, 18.50, 18.60, 18.77, 18.80, AND 19.25 OF THE
KENMORE MUNICIPAL CODE; AMENDING THE
ZONING MAP; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, over the past year and a half, the City's Planning Commission has reviewed and recommended options related to the preservation of existing mobile home parks, consistent with the City's Housing Strategy Plan and RCW 36.70A.070(2)(c) which requires that sufficient land be available for all types of housing including manufactured housing; and

WHEREAS, on July 9, 2018, the Planning Commission presented recommended options to the City Council related to preservation of existing mobile home parks; and

WHEREAS, on July 9, July 16, July 23, and September 17, 2018 the City Council reviewed the Planning Commission's recommendations, received additional background information, and requested the formulation of new policy options; and

WHEREAS, on September 17, 2018, the City Council requested that amendments be prepared for consideration that would preserve the existing mobile home parks and plan for future growth and housing affordability needs in the City; and

WHEREAS, on October 16, the Planning Commission reviewed Comprehensive Plan amendments to the Land Use Element, including the Land Use Plan Map, the Downtown Sub-Element, and the Housing Element to support preservation of existing mobile home parks; and

WHEREAS, throughout the mobile home park project, a concerted effort has been made to generate public involvement, including holding public open houses; advertising public meetings; providing an interpreter; and creating comprehensive and regularly-updated web pages; and

WHEREAS, the Planning Commission held a public hearing on the related Comprehensive Plan amendments on November 6, 2018; and

WHEREAS, on November 19, 2018, the Planning Commission's recommendations for the proposed Comprehensive Plan amendments were presented to the City Council, and

WHEREAS, the City Council adopted the Comprehensive Plan amendments on November 26, 2018, which created the Manufactured Housing Community (MHC) land use district and

assigned the MHC designation to existing manufactured housing communities within the City proposed for long-term preservation; and

WHEREAS, on March 11, 2019, the City Council reviewed Municipal Code amendments to codify the MHC zoning designation in the zoning code and to rezone the existing manufactured housing communities to the MHC zoning designation; and

WHEREAS, the City's Responsible Official under the State Environmental Policy Act has issued a determination of non-significance for the proposal; and

WHEREAS, the Washington State Department of Commerce was notified of the proposed amendments pursuant to RCW 36.70A.106; and

WHEREAS, the City Council held a public hearing on the Municipal Code amendments on March 25, 2019; and

WHEREAS, the City Council finds that the proposed amendments meet the criteria found in KMC Section 19.20.090; and

WHEREAS, in *Laurel Park Community, LLC v. City of Tumwater*, 698 F.3d 1180 (9th Cir. 2012) the Ninth Circuit Court of Appeals held that Tumwater could similarly preserve existing mobile home parks by rezoning the properties as “Manufactured Home Parks” with permissible land uses consistent with the operation of a mobile home park because the city had a valid public interest in preserving affordable housing and the rezone did not infringe upon the park owners’ property rights, was not an unconstitutional taking of property without just compensation, and was not unlawful spot zoning. The Court held:

- “As a general rule, zoning laws do not constitute a taking, even though they affect real property interests: This Court has upheld land-use regulations that destroy or adversely affect recognized real property interests. Zoning laws are, of course, the classic example, which have been viewed as permissible government action even when prohibiting the most beneficial use of the property.”

- “... the submission that [the mobile home park property owners] may establish a ‘taking’ simply by showing that they have been denied the ability to exploit a property interest that they heretofore had believed was available for development is quite simply untenable ... [the owners] retain the ability to continue operating the properties as manufactured home parks. So the law does not interfere with what must be regarded as [the owners’] primary expectation concerning the use of the parcel.”

- “The [zoning] ordinances restrict to some extent the owners’ ability to *use* their properties, because they can no longer build multi-family housing, for example. But imposing *use* restrictions on property – as distinct from restrictions on alienation – is the essence of zoning.”
And;

WHEREAS, the City Council desires to adopt the amendments to address preservation of existing mobile home parks;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings Adopted. The City Council adopts the foregoing recitals as findings, which are incorporated herein as if set forth in full.

Section 2. Amendments to the Kenmore Municipal Code. The City Council amends Chapters 18.15, 18.20, 18.21, 18.22, 18.23, 18.24, 18.25, 18.25A, 18.25B, 18.26, 18.29, 18.30, 18.35, 18.40, 18.42, 18.45, 18.50, 18.60, 18.77, 18.80, and 19.25 of the Kenmore Municipal Code, as set forth in Exhibit A, attached hereto and incorporated by reference.

Section 3. Amendments to the Zoning Map. The City Council amends the Zoning Map, as set forth in Exhibit B, attached hereto and incorporated by reference.

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

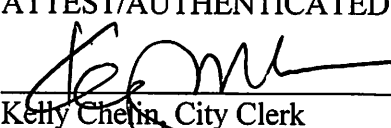
PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 15TH DAY OF APRIL, 2019.

CITY OF KENMORE




David Baker, Mayor

ATTEST/AUTHENTICATED:



Kelly Chelin, City Clerk

Approved as to form:



Rod P. Kaseguma, City Attorney

Filed with the City Clerk: 4/15/19
Passed by the City Council: 4/15/19
Ordinance No.: 2019-0481
Date of Publication: 4/18/19
Effective Date: 4/23/19

PROPOSED ZONING CODE CHANGES

CREATE THE “MANUFACTURED HOUSING COMMUNITY” ZONING DISTRICT:

- Amend Chapter 18.15 Zones, Maps and Designations

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
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

18.15.040 Residential zones.

A. The purpose of the residential zones (R and MHC) is to implement comprehensive plan goals and policies for housing quality, diversity and affordability, and to efficiently use residential land, public services and energy. These purposes are accomplished by:

1. Providing, in the R-1 through R-6 zones, for a mix of predominantly *single detached dwelling units*, with a variety of densities and sizes in locations appropriate for residential use;
2. Providing, in the R-12 through R-48 zones, for a mix of predominantly *apartment and townhouse dwelling units*, with a variety of densities and sizes in locations appropriate for residential use;
3. Providing, in the MHC zone, for continuation of existing *manufactured housing communities*;
34. Allowing only those accessory and complementary nonresidential *uses* that are compatible with residential communities; and
45. Establishing density designations to facilitate advanced area-wide planning for public facilities and services, and to protect environmentally critical sites from overdevelopment.

B. Use of this zone is appropriate as follows:

1. The R-1 zone on or adjacent to lands with area-wide environmental constraints where *development* is required to cluster away from *critical areas*;
2. The R-4 through R-6 zones on lands that are predominantly environmentally unconstrained and are served at the time of *development* by adequate public sewers, water supply, *streets* and other needed public facilities and services; and
3. The R-12 through R-48 zones next to commercial centers, in areas that are served at the time of *development* by adequate public sewers, water supply, *streets* and other needed public facilities and services; and
4. The MHC zone on existing *manufactured housing communities* planned for either short-term or long-term preservation.

- Amend Chapter 18.21 Residential Zones

18.21.045 Residential zone MHC – Use allowances.

The following *uses* listed in Table D are identified as *permitted*, *conditionally permitted*, or *prohibited uses* in residential zone MHC:

Table D. MHC Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
<i>Day care</i> ¹	<i>Community residential facility</i>	<i>Adult entertainment business</i>
<i>Family child-care home</i> ²	<i>Cemetery, columbarium or mausoleum</i>	<i>Air transportation service</i>
<i>Manufactured housing community</i> ⁸	<i>Educational service</i> ⁵	<i>Ambulatory surgery center</i>
<i>Park</i> ³	<i>Religious institution</i>	<i>Animal kennel/shelter</i>
<i>Single detached dwelling unit</i> ^{4,5}	<i>Supportive living facility</i>	<i>Arts, entertainment, indoor</i>
	<i>Temporary lodging</i> ⁷	<i>Arts, entertainment, outdoor</i>
		<i>Auction house</i>
		<i>Automotive sales and service, marine</i>
		<i>Automotive sales and service, non-marine</i>
		<i>Business service, intensive</i>
		<i>Business service, standard</i>
		<i>College/university</i>
		<i>Construction and trade</i>
		<i>Eating and drinking place</i>
		<i>Fire or police facility</i>
		<i>Funeral home/crematory</i>
		<i>Health care and social assistance</i>
		<i>Hospital</i>
		<i>Laboratory</i>

Table D. MHC Zone Use Allowances

PERMITTED	CONDITIONALLY PERMITTED	PROHIBITED
		<i>Manufacturing, heavy</i>
		<i>Manufacturing, light</i>
		<i>Marijuana business</i>
		<i>Marijuana cooperative</i>
		<i>Mobile food service</i>
		<i>Multiple-family dwelling</i>
		<i>Office</i>
		<i>Personal service</i>
		<i>Recreational facility, indoor</i>
		<i>Recreational facility, outdoor</i>
		<i>Regional land use</i>
		<i>Resource land use</i>
		<i>Retail sales</i>
		<i>Retail sales, bulk</i>
		<i>Secure facility</i>
		<i>Standalone parking</i>
		<i>Transportation</i>
		<i>Utility facility</i>
		<i>Vehicle or equipment rental</i>
		<i>Vehicle refueling station</i>
		<i>Warehousing</i>
		<i>Wholesale trade</i>

1. *Day care I* is permitted. *Day care II* is permitted only as an *accessory use* to a *religious institution, park* or public housing administered by a *public agency*, and:

a. Outdoor play areas shall be completely enclosed by a solid wall or *fence*, with no openings except for gates and have a minimum height of six feet;

b. Outdoor play equipment shall maintain a minimum distance of 20 feet from property lines adjoining residential zones;

c. Direct access to a developed arterial *street* shall be required in any residential zone; and

d. Hours of operation may be restricted to assure compatibility with surrounding *development*.

Otherwise, *day care II* requires a *conditional use permit*.

2. A *family child-care home* is subject to the requirements established by the Washington State Department of Early Learning (DEL) in WAC Title 170. The *family child-care home* shall meet the following requirements:

a. The family child-care provider shall be licensed by DEL to operate a *family child-care home*;

b. A safe passenger loading area shall be provided;

c. The *family child-care home* shall comply with all applicable building, fire, safety, and health codes enforced by the *City*;

d. The *family child-care home* shall comply with all applicable development standards of the *City*, unless determined to be legally nonconforming;

e. All signage shall conform to the applicable requirements of Chapter 18.42 KMC; and

f. The *City* has the authority to limit the hours of operation to facilitate neighborhood compatibility.

3. The following conditions and limitations shall apply, where appropriate:

a. Lighting for *structures* and fields shall be directed away from residential areas;

b. Structures or service yards shall maintain a minimum distance of 50 feet from property lines adjoining residential zones.

4. One single detached dwelling unit only per existing legal lot as of insert effective date of ordinance.

5. Manufactured homes and mobile homes are allowed only in manufactured housing communities. Designated manufactured homes are not restricted to manufactured housing communities.

6. K-12 facilities only. All other educational service uses are prohibited.

7. Bed and breakfast guesthouse only, subject to the following conditions:

a. The guesthouse shall be owner-occupied;

b. Meals shall be served to paying guests only (no restaurant use permitted);

c. The number of guestrooms shall not be greater than that authorized by the International Building and Fire Codes;

d. Parking shall be provided as required by this title; and

e. The guesthouse shall be compatible with the neighborhood character as determined by the city manager, and shall not create significant adverse neighborhood effects that cannot be mitigated.

8. For properties continuing in an existing manufactured housing community use after insert effective date of ordinance, a transfer of density credits shall be permitted. See KMC Chapter 18.80.

18.21.050 Residential zones R-12, R-18, R-24, and R-48, and MHC – Development standards.

The following zone-specific development standards in Table DE apply in the R-12, R-18, R-24, and R-48, and MHC residential zones:

Table DE. R-12, R-18, R-24, and R-48, and MHC Residential Zones Development Standards

STANDARDS	Z O N E S					
		R-12	R-18	R-24	R-48	MHC ¹²
Base Density: <i>Dwelling Unit/Acre</i> ¹		12 du/ac	18 du/ac	24 du/ac	48 du/ac	12 du/ac
Maximum Density: <i>Dwelling Unit/Acre</i> ²		18 du/ac	27 du/ac	36 du/ac	72 du/ac	18 du/ac
Minimum Density ¹¹		80%	75%	70%	65%	80%
Minimum Lot Width ⁴		30 ft.	30 ft.	30 ft.	30 ft.	--
Minimum <i>Street Setback</i>		10 ft. ⁵	10 ft. ⁶	10 ft. ⁶	10 ft. ⁶	10 ft.
Minimum <i>Side Setback</i> ^{3,5}		5 ft. ⁷	5 ft. ⁷	5 ft. ⁷	5 ft. ⁷	5 ft.
Minimum <i>Rear Setback</i> ^{3,5}		5 ft. ⁷	5 ft. ⁷	5 ft. ⁷	5 ft. ⁷	5 ft.
Base Height ⁸		60 ft.	60 ft. 80 ft. ⁹	60 ft. 80 ft. ⁹	60 ft. 80 ft. ⁹	35 ft.
Maximum <i>Impervious Surface</i> : Percentage ¹⁰		85%	85%	85%	90%	85%
Minimum Lot Size		--	--	--	--	--

¹ Density applies only to *dwelling units* and not to sleeping units.

² This maximum density may be achieved only through the application of residential density incentives pursuant to Chapter [18.80](#) KMC or *transfers of density credits*, or any combination of density incentive or density transfer. Maximum density may only be exceeded pursuant to KMC [18.80.040\(E\)\(1\)\(f\)](#).

³ These standards may be modified under the provisions for *zero-lot-line developments*.

⁴ The *building envelope* is determined through meeting minimum lot size and minimum lot width measurement requirements (KMC [18.30.110](#)).

⁵ Vehicle access points from garages, carports or fenced parking areas shall be set back from the property line on which a *joint use driveway* is located to provide a straight line length of at

least 26 feet as measured from the centerline of the garage, carport or fenced parking area, from the access point to the opposite side of the *joint use driveway*.

⁶ At least 20 linear feet of driveway shall be provided between any garage, carport or other fenced parking area and the *street* property line. The linear distance shall be measured along the centerline of the driveway from the access point to such garage, carport or fenced area to the *street* property line.

⁷ a. For *developments* consisting of three or more single detached dwellings located on a single parcel, the *setback* shall be 10 feet along any property line abutting R-1 through R-6, except for *structures* in on-site recreation areas required in KMC [18.30.130](#), which shall have a *setback* of five feet.

b. For *townhouse* and *apartment development*, the *setback* shall be 20 feet along any property line abutting R-1 through R-6, except for *structures* in on-site recreation areas required in KMC [18.30.130](#), which shall have a *setback* of five feet, unless the *townhouse* or *apartment development* is adjacent to property upon which an existing *townhouse* or *apartment development* is located.

⁸ In the R-12, R-18, R-25 and R-48 zones, height limits may be increased when portions of the *structure* 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 may not exceed 75 feet. Netting or fencing and support *structures* for the netting or fencing used to contain golf balls in the operation of golf courses or golf driving ranges are exempt from the additional interior *setback* requirements; provided, that the maximum height shall not exceed 75 feet.

⁹ The base height to be used only for projects as follows:

a. In R-18, R-24 and R-48 zones using residential density incentives and *transfer of density credits* pursuant to this title.

¹⁰ Applies to each individual *lot*. *Impervious surface* area standards for:

a. Regional *uses* shall be established at the time of permit review;

b. Nonresidential *uses* in residential zones shall comply with KMC [18.21.060](#) and [18.30.170](#);

c. *Lots* may be increased beyond the total amount permitted in this chapter subject to approval of a *conditional use permit*.

¹¹ Minimum density is determined by multiplying the allowable number of *dwelling units*, as calculated using KMC [18.30.020](#), by the percentage shown for each zone.

¹² See also the standards in KMC [18.50.140](#).

CREATE A ZONING EXCEPTION FOR THE MANUFACTURED HOUSING COMMUNITY ZONING DISTRICT

- Add new section 18.21.055 MHC Zoning Exception

18.21.055 MHC zoning exception.

A. A *manufactured housing community* landowner may request an exception from the application of the MHC zoning to their property through a Type 4 permit process as described in KMC Chapter 19.25.

B. Along with other information required by the *department*, the application shall include information demonstrating that:

1. There is no *reasonable use* of the MHC property under the MHC zoning;
2. The *uses* authorized by the MHC zoning are not economically viable at the property's location; and
3. The proposal meets the zone reclassification criteria in KMC [18.115.060](#).

If, based on the information provided, the request is granted by the city council, the property shall revert to the zoning designation in place on [insert effective date of ordinance](#) without further action by the council. If necessary, a comprehensive plan map amendment to recognize that zoning designation shall be initiated by the *City*.

MAKE EXISTING MANUFACTURED HOUSING COMMUNITIES “CONFORMING” IN THEIR FUTURE ZONING DISTRICT:

- Amend KMC Section 18.25.020 (DC, Downtown Commercial zone use allowances) and KMC Section 18.24.020 (DR, Downtown Residential

zone use allowances) to make “manufactured housing community” a permitted rather than a prohibited use with the following footnote:

XX. Limited to *manufactured housing communities* in existence as of insert effective date of ordinance.

CONSOLIDATE AND REVISE AFFORDABLE HOUSING CODE SECTIONS, INCLUDING DISCUSSION OF FEE-IN-LIEU AND NEW OPPORTUNITY FOR PRESERVATION OF EXISTING AFFORDABLE HOUSING:

- Delete KMC Section 18.23.055—Affordable housing - Juanita subarea and amend KMC Section 18.23.040 as follows:

Table B. Community Business Zone Development Standards

STANDARD	REQUIREMENT
Base Density: <i>Dwelling Units/Gross Acre</i>	24
Minimum Density: <i>Dwelling Units/Gross Acre</i>	18
Maximum Density: <i>Dwelling Units/Gross Acre</i> :	
West Subarea	36 for <i>mixed use development</i> .
Juanita Subarea	36 if affordable housing <i>or a fee-in-lieu</i> is provided as described in KMC 18.23.055 Chapter 18.77.

* * *

- Amend KMC Section 18.29.060, Affordable housing requirements as follows:

18.29.060 Affordable housing requirements.

For properties choosing to develop under the TOD district overlay, *development* shall provide affordable housing *as described in KMC Chapter 18.77*. *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.

A. Definitions. For purposes of the TOD district overlay, the following affordable housing definitions shall apply:

1. "Affordable housing unit" means housing reserved for occupancy by eligible households and affordable to households whose annual income does not exceed the percentage of median income types described in the subsections below, adjusted for household size, and no more than 30 percent of the monthly household income is paid for monthly housing expenses. (Housing expenses for ownership housing include mortgage and mortgage insurance, property taxes, property insurance, and homeowners dues. Housing expenses for rental housing include rent and appropriate utility allowance.)

2. "Bonus units" means dwelling units achieved through the TOD district overlay that exceed the number of units allowed by the base density of the underlying zoning district.

3. Moderate Income Affordable Housing. For rental housing, "moderate income affordable housing" is defined as affordable at 70 percent of median income, adjusted for household size. For ownership housing, "moderate income affordable housing" is defined as affordable at 80 percent of median income, adjusted for household size.

4. Low Income Affordable Housing. For rental housing, "low income affordable housing" is defined as affordable at 50 percent of median income, adjusted for household size. For ownership housing, "low income affordable housing" is defined as affordable at 65 percent of median income, adjusted for household size.

5. Very Low Income Affordable Housing. For rental housing, "very low income affordable housing" is defined as affordable at 35 percent of median income, adjusted for household size. For ownership housing, "very low income affordable housing" is defined as affordable at 50 percent of median income, adjusted for household size.

6. "Median income" means the median income for the Seattle MSA as most recently determined by the Secretary of Housing and Urban Development under Section 8(f)(3) of the United States Housing Act of 1937, as amended, or if programs under said Section 8(f)(3) are terminated, median income is determined under the method used by the Secretary prior to such termination. In the event that HUD no longer publishes median income figures for the Seattle MSA or King County, the

City may use any other method for determining the King County 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 subsection A, 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.

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

5. 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 ($8 \times .25 = 2$).

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.

D. Alternative Compliance. The city manager may approve a request for satisfying all or part of the affordable housing requirements with alternative compliance methods if they meet the following requirements:

1. The project proponent may propose an off-site alternative, and must demonstrate that any alternative compliance method achieves a result equal to or better than providing affordable housing on-site.

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

3. Affordable housing units may be provided off site if the location chosen does not lead to undue concentration of affordable housing in any particular area of the transit oriented development district or downtown.

4. Priority is for the project to be located within the transit oriented development district. However, the city manager may approve a project located outside the transit oriented development district if the location has access to commercial uses, transit, and does not result in an undue concentration of affordable housing.

5. 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, or provide such other assurances as approved by the city manager.

Applications for alternative compliance shall be submitted at the time of application, and must be approved prior to issuance of any building permit. The proposal must describe a specific location, type, and amount of affordable housing and how and when it will be developed. Any proposal for providing off-site affordable housing must also address the timing for providing the off-site housing, which, unless otherwise approved by the City, shall be built simultaneously with or prior to the construction of housing for the subject property. 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.

E. Affordability Agreement. 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.

F. Implementation Provisions. The following requirements shall be met for all affordable units:

1. 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 referenced in subsection E of this section, is recorded, or the date when the affordable housing becomes available for occupancy as determined by the City.

2. 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:

a. 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.

b. 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.

c. Size (bedroom). The affordable housing units shall consist of a range of number of bedrooms that are comparable to units in the overall development.

d. 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.

e. 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 design standards specified in KMC 18.29.080. 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.

3. 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.

G. Monitoring and Fees. The City reserves the right to establish, in the affordability agreement referred to in subsection E 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.

- Amend Figure 18.29.020.1 to remove the existing manufactured housing community from the TOD overlay.
- Amend Chapter 18.77, Affordable Housing
Sections:

18.77.010 Affordable housing – Purpose and intent.

18.77.015 General provisions.

18.77.020 Applicability Downtown Residential and Downtown Commercial zones.

18.77.030 Requirements Transit Oriented Development (TOD) District Overlay.

18.77.040 Community Business zone, Juanita Subarea.

18.77.045 Alternative compliance.

18.77.050 Affordability agreement.

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 (Bbedroom). The affordable housing units shall consist of a range of number of bedrooms that are comparable to units in the overall *development*.

4. Size (Ssquare Ffootage). 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 referenced in subsection D of this section 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 Applicability Downtown Residential and Downtown Commercial zones.

The provisions of this chapter 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*.

18.77.030 Requirements.

A. Affordable housing units amounting to 25Twenty-five (25) percent of the total number of units in the *development* shall be provided moderate income affordable housing units. Housing shall be

affordable to those who make equal to or less than 85 percent of the King County median household income adjusted for household size.

B. Unit size mix shall be comparable to the market mix, units shall be integrated into the whole *development*, and affordable units shall match the tenure of the whole *development*, unless otherwise authorized by the *City*.

CB. 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. Units may be either rented or sold. Off-site affordable housing may be provided if the *City* finds that:

1. The location chosen does not lead to undue concentration of affordable housing in any particular area of the *City*; and
2. The *site* is within close proximity to employment opportunities and/or transit services; and
3. Adequate infrastructure and municipal services can be provided.

D. Monthly rents, including utilities where applicable, shall be no greater than 30 percent of the monthly income for households earning up to 85 percent of the King County median household income adjusted for household size. Home prices considered affordable for buyers earning up to 85 percent of the King County median household income adjusted for household size shall be determined by the *City*. Covenants shall be established which guarantee the fulfillment of this obligation.

18.77.030 Transit Oriented Development (TOD) District Overlay.

A. Properties developed under the TOD district overlay, KMC Chapter 18.29, 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 ($8 \cdot .25 = 2$).

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, **KMC Chapter 18.23**, 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 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* for the purpose of satisfying the affordable unit requirement under subsection (A)(1) of this section.

Example: Proposed *development* would achieve 36 *dwelling units* on a 1-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 *moderate income affordable housing units*.

Alternatively, the project could provide two *low income affordable housing units* (rounded).

18.77.045 Alternative compliance.

A. Alternative Compliance. The *city manager* may approve a request for satisfying all or part of the affordable housing requirements with alternative compliance methods **if they meet the following requirements as follows:**

B. 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.

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

1. The project proponent may propose an off-site alternative, and must demonstrate that any alternative compliance method 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 the alternative compliance 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 transit oriented development same zoning district as the development responsible for providing affordable housing. However, the city manager may approve a project located outside the transit-oriented development zoning district if the location has access to commercial uses, and transit, and 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, or provide such other assurances as approved by the city manager. 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.

D. 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.

E. Fee-in-Lieu. Cash payments in lieu of providing actual housing units may be proposed and, if approved by the City, will 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. 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 for the project.

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 EA 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.

REQUIRE A RELOCATION PLAN AT THE TIME OF PARK CLOSURE:

- Add a new section to Chapter 18.30 Development Standards - General

18.30.290 Relocation plan for manufactured housing communities.

Any development proposal to convert an existing *manufactured housing community* to another use shall include a relocation plan, detailing, at a minimum, the pertinent laws related to *manufactured housing community* closure (city, county or state), an explanation of tenants' rights according to state law, a list of potential sources of assistance (governmental, financial, etc.), a list of nearby *manufactured housing communities* with available spaces, and a list of companies that move *manufactured, designated manufactured or mobile homes*. The time period for the required state notice of closure of a *manufactured housing community* shall not commence until the relocation plan is approved by the *city manager* and copies are distributed to each tenant household in the *manufactured housing community*. An affidavit verifying such distribution shall be submitted to the *City*.

CREATE A TRANSFER OF DENSITY OPTION FOR THE MANUFACTURED HOUSING COMMUNITIES:

- Amend Chapter 18.80, Residential Incentives and Transfer of Density

Chapter 18.80

RESIDENTIAL DENSITY INCENTIVES AND TRANSFER OF DENSITY

Sections:

- 18.80.010 Purpose.
- 18.80.020 Permitted locations of residential density incentives.
- 18.80.030 Maximum densities permitted through residential density incentive review.
- 18.80.040 Public benefits and density incentives.
- 18.80.050 Rules for calculating total permitted dwelling units.
- 18.80.060 Review process.
- 18.80.070 Minor adjustments in final site plans.
- 18.80.080 Applicability of development standards.
- 18.80.090 Transfer rules of density credits.

18.80.010 Purpose.

The purpose of this chapter is to:

A. Provide density incentives to *developers* of residential property, in exchange for public benefits to help achieve comprehensive plan goals of affordable housing, *open space* protection, and parkland acquisition, by:

A1. Defining in quantified terms the public benefits that can be used to earn density incentives;

B2. Providing rules and formulae for computing density incentives earned by each benefit;

CB. Provide a method to realize the development potential of:

1. Sites containing *critical areas* or of unique features of size, topography, environmental features or shape;
2. Specific sites preserved in order to achieve comprehensive plan goals as identified by the city council; and.

DC. Provide a review process to allow evaluation of proposed density increases using residential density incentives and the public benefits offered to earn them, and to give the public opportunities to review and comment.

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

18.80.030 Maximum densities permitted through residential density incentive review.

The maximum density permitted through RDI review shall be 150 percent of the base density of as specified in the underlying zone of the *development site*.

18.80.040 Public benefits and density incentives.

A. The public benefits eligible to earn increased densities, and the maximum incentive to be earned by each benefit, are in subsection E of this section. The density incentive is expressed as additional bonus *dwelling units*, or fractions of *dwelling units*, earned per amount of public benefit provided.

B. Bonus *dwelling units* may be earned through any combination of the listed public benefits.

C. Bonus *dwelling units* may also be earned and transferred to the project *site* through the *transfer of density credit (TDC)* process by providing any of the *open space, park site* public benefits set forth in subsection (E)(2) of this section on from *sites* other than that of the RDI *development*.

D. Residential *development* in R-4 through R-24 and downtown residential zones with property-specific development standards requiring any public benefit enumerated in this chapter shall be eligible to earn bonus *dwelling units* in accordance with subsection E of this section if the public benefits provided exceed the basic development standards of this title. If a *development* is located in a special overlay district, bonus units may be earned if the *development* provides public benefits exceeding corresponding standards of the special district.

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

BENEFIT	DENSITY INCENTIVE
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1. AFFORDABLE HOUSING

- a. Benefit units consisting of rental housing permanently priced to serve low-income households (i.e., no greater than 30 percent of gross income for households at or
- 2.0 bonus units per benefit unit.

BENEFIT	DENSITY INCENTIVE
<p>below 50 percent of King County median income, adjusted for household size). A covenant on the <i>site</i> that specifies the income level being served, rent levels and requirements for reporting to the <i>City</i> shall be recorded at final approval.</p>	
<p>b. Benefit units consisting of assisted housing units 600 square feet or less.</p>	<p>1.0 bonus unit per benefit unit.</p>
<p>c. Benefit units consisting of rental housing permanently priced to serve moderate-income households (i.e., no greater than 30 percent of gross income for households at or below 70 percent of King County median income, adjusted for household size). A covenant on the <i>site</i> that specifies the income level being served, rent levels and requirements for reporting to the <i>City</i> shall be recorded at final approval.</p>	<p>1.0 bonus unit per benefit unit.</p>
<p>d. Benefit units consisting of moderate income housing reserved for income- and asset-qualified 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 <i>site</i> that specifies the income level and other aspects of buyer eligibility, price levels and requirements for reporting to the <i>City</i> shall be recorded at final approval.</p>	<p>1.0 bonus unit per benefit unit.</p>
<p>e. Projects in which units are reserved for moderate-income- 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</p>	<p>2.0 bonus units per benefit unit.</p>

BENEFIT	DENSITY INCENTIVE
<p>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.</p>	
<p>f. Benefit units consisting of <i>mobile home park</i> <i>manufactured housing community</i> space or pad reserved for the relocation of an insignia or noninsignia <i>mobile home</i>, that has been or will be displaced due to closure of a <i>mobile home park</i> <i>manufactured housing community</i> located in the City.</p>	<p>1.0 bonus unit per benefit unit.</p>
<p>2. OPEN SPACE, TRAILS AND PARKS</p>	
<p>a. Dedication of <i>park</i> site or <i>trail</i> right-of-way meeting the City location and size standards for neighborhood, community or regional <i>park</i>, or <i>trail</i>, and accepted by the department.</p>	<p>0.5 bonus unit per acre of <i>park</i> area or quarter-mile of <i>trail</i> exceeding the minimum requirement of Chapter 18.30 KMC for on-site recreation space or <i>trail</i> corridors, computed on the number of <i>dwelling units</i> permitted by the site's base density.</p>
<p>b. Improvement of dedicated <i>park</i> site to City standards for developed <i>parks</i>.</p>	<p>0.75 bonus unit per acre of <i>park</i> improvement. If the applicant is dedicating the site of the improvements, the bonus units earned by improvements shall be added to the bonus units earned by the dedication.</p>
<p>c. Improvement of dedicated <i>trail</i> segment to City standards.</p>	<p>1.8 bonus units per quarter-mile of <i>trail</i> constructed to City standard for pedestrian <i>trails</i>; or</p> <p>2.5 bonus units per quarter-mile of <i>trail</i> constructed to City standard for multipurpose <i>trails</i> (pedestrian/bicycle/equestrian).</p> <p>Shorter segments shall be awarded bonus units on a pro rata basis. If the applicant is dedicating the site of the improvements, the bonus units earned by</p>

BENEFIT	DENSITY INCENTIVE
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	improvements shall be added to the bonus units earned by the dedication.
d. Dedication of <i>open space</i> , meeting <i>City</i> acquisition standards to the <i>City</i> or a qualified public or <i>private</i> organization such as a nature conservancy.	0.5 bonus unit per acre of <i>open space</i> .

18.80.050 Rules for calculating total permitted dwelling units.

A. The formula for calculating the total number of *dwelling units* permitted through RDI review is as follows:

$$\begin{array}{rclcl}
 \text{DUs} & + & \text{Bonus} & + & \text{DUs} & = & \text{TOTAL} \\
 \text{allowed} & & \text{DUs} & & \text{allowed by} & & \text{RDI} \\
 \text{by RDI} & & & & \text{sending} & & \text{DUs} \\
 \text{site base} & & & & \text{site density} & & \\
 \text{Density} & & & & \text{(if any)} & &
 \end{array}$$

B. The total *dwelling units* permitted through RDI review shall be calculated using the following steps:

1. Calculate the number of dwellings permitted by the base density of the *site* in accordance with Chapter [18.30](#) KMC;
2. Calculate the total number of bonus *dwelling units* earned by providing the public benefits listed in KMC [18.80.040](#);
3. Add the number of bonus *dwelling units* earned to the number of *dwelling units* permitted by the base density;
4. Add the number of *dwelling units* permitted by the base density of the *site* sending *TDCs*, if any;
5. Round fractional *dwelling units* to the nearest whole number; 0.49 or less *dwelling units* are rounded down; and
6. On *sites* with more than one zone or zone density, the maximum density shall be calculated for the *site area* of each zone. Bonus units may be reallocated within the zones in the same manner set forth for base units.

18.80.060 Review process.

A. All RDI proposals shall be reviewed concurrently with a primary proposal to consider the proposed site plan and methods used to earn extra density ~~as follows:~~

~~1. For the purpose of this section, a "primary proposal" is defined as a proposed subdivision, short subdivision of more than four lots, conditional use permit or commercial building permit;~~

12. When the primary proposal requires a public hearing under this code or KMC Title 17, the public hearing on the primary proposal shall serve as the hearing on the RDI proposal, and the reviewing authority shall make a consolidated decision on the proposed *development* and use of RDI;

23. When the primary proposal does not require a public hearing under this code or KMC Title 17, the RDI proposal shall be processed as a Type 2 land use decision subject to the decision criteria for *conditional use permits* outlined in Chapter 18.115 KMC ~~and to the procedures set forth for city manager/hearing examiner review in this title;~~ and

34. The notice for the RDI proposal also shall include the *development's* proposed density and a general description of the public benefits offered to earn extra density.

B. RDI applications which propose to earn bonus units by dedicating real property or public facilities shall include a letter from the receiving agency certifying that the proposed dedication qualifies for the density incentive and will be accepted by the agency or other qualifying organization.

18.80.070 Minor adjustments in final site plans.

When issuing building permits in an approved RDI *development*, the *department* may allow minor adjustments in the approved site plan involving the location or dimensions of *buildings* or *landscaping*, provided such adjustments shall not:

- A. Increase the number of *dwelling units*;
- B. Decrease the amount of perimeter *landscaping* (if any);
- C. Decrease residential parking facilities (unless the number of *dwelling units* is decreased);
- D. Locate *structures* closer to any *site* boundary line; or
- E. Change the locations of any points of ingress and egress to the *site*.

18.80.080 Applicability of development standards.

A. RDI *developments* shall comply with dimensional standards of the zone with a base density most closely comparable to the total approved density of the RDI *development*; provided, that an RDI proposal in the R-4 through R-6 zones shall conform to the height requirements of the underlying zone in which it is located.

B. RDI *developments* in the R-4 through R-6 zones shall be landscaped as follows:

1. When 75 percent or more of the units in the RDI *development* consist of *townhouses* or *apartments*, the *development* shall provide perimeter *landscaping* and *tree* retention in accordance with Chapters [18.35](#) and [18.57](#) KMC for *townhouse* or *apartment* projects.

2. When less than 75 percent of the units in the RDI consist of *townhouses* or *apartments*, the *development* shall provide *landscaping* and *tree* retention in accordance with Chapters [18.35](#) and [18.57](#) KMC for *townhouses* or *apartments* on the portion(s) of the *development* containing such units; provided, that if *buildings* containing such units are more than 100 feet from the *development's* perimeter, the required *landscaping* may be reduced by 50 percent.

3. All other portions of the RDI shall provide *landscaping* or retain *trees* in accordance with Chapters [18.35](#) and [18.57](#) KMC.

C. RDI *developments* in all other zones shall be landscaped or retain *trees* in accordance with Chapters [18.35](#) and [18.57](#) KMC.

D. RDI *developments* shall provide parking as follows:

1. Projects with 100 percent affordable housing shall provide one off-street *parking space* per unit. The *city manager* may require additional parking, up to the maximum standards for attached *dwelling units*, which may be provided in common parking areas.

2. All other RDI proposals shall provide parking for:

a. Market rate/bonus units at levels consistent with Chapter [18.40](#) KMC; and

b. Benefit units at:

(1) One or two bedrooms: one *parking space* per unit;

(2) Three bedrooms: 1.5 *parking spaces* per unit;

(3) Parking may be further reduced if a parking demand analysis is provided per KMC [18.40.030\(B\)](#).

E. RDI *developments* shall provide on-site recreation space as follows:

1. Projects with 100 percent affordable housing shall provide recreation space at 50 percent of the levels required in Chapter [18.30](#) KMC.
2. All other RDI proposals shall provide recreation space for:
 - a. Market rate/bonus units at levels consistent with Chapter [18.30](#) KMC; and
 - b. Benefit units at 50 percent of the levels required for market rate/bonus units.

18.80.090 Transfer rules of density credits.

In order to realize the development potential of *sites* containing *critical areas* or of unique size or shape, or *sites* preserved in order to attain comprehensive plan goals, an opportunity to transfer unused density from one *site* to another shall be provided. *Transfer of density credit* transactions shall be handled between the private parties, with documentation provided to the *City*, until such time as the *City* enters into a formalized transfer of development rights (TDR) process through King County or another agency.

A. Transfer of density from *sites* constrained by *critical areas* or of unique size and shape. A *development* proponent may apply to transfer unused density from a *site* constrained by *critical areas* or of unique size or shape to another *site* through a Type 2 land use decision.

1. The number of density credits that a *sending site* is eligible to send to a *receiving site* shall be determined by applying the base density of the zone the *sending site* is located in to the total *sending site area*, less any portion of the *sending site* already in a conservation easement or other encumbrance, or any land area already used to calculate residential density for other *development* on the *sending site*. A plot plan showing *critical areas* and *buffers*, conservation easements or other encumbrances shall be submitted as part of the development application to demonstrate compliance with the density calculation rules set forth in Chapter [18.30](#) KMC.

B2. *Sending sites* with *critical areas* that have been declared unbuildable under Chapter [18.30](#) KMC shall be considered to have a base density calculated in accordance with that chapter, except that the areas of the *sending* and *receiving sites* shall be combined to calculate the overall *site* percentage of *critical areas* and *buffers* necessary for determining the allowable density credit as set forth in Chapter [18.55](#) KMC.

D3. When the *sending site* consists only of a portion(s) of an unsubdivided parcel, said portion(s) shall be segregated from the remainder of the *lot* pursuant to KMC Title 17 or deed restrictions documenting the density credit transfers shall be recorded with the title to both the *sending* and *receiving sites*. A parcel need not segregate a *sending site* from the remainder of the parcel when the entire parcel is subject to a conservation easement pursuant to subsection **E5** of this section.

E4. Conservation easements shall be required for land contained in the *sending site*, whether or not such land is dedicated, as follows: a conservation easement **as defined in the open space plan** shall be recorded on the *sending site* to indicate development limitations on the *sending site*.

B. **Transfer of density from sites in order to attain comprehensive plan goals. A development proponent may apply to transfer unused density from a sending site to a receiving site to achieve comprehensive plan goals as specified by the city council. The city council shall identify by ordinance circumstances in which this code section may be applied.**

1. **As of insert effective date of ordinance, the city council has determined that unused density may be transferred from a property zoned MHC to a receiving site if long-term preservation of the manufactured housing community is assured. Unused density shall be defined as the number of dwelling units allowable under existing zoning as of insert date prior to effective date of ordinance less the number of existing dwelling units on the property as of insert effective date of ordinance multiplied by 2.5.**

2. **Density shall not be transferred to projects in the R-1, R-4 or R-6 zoning districts.**

C. **Density credits from one sending site may be allocated to more than one receiving site. The credit from each segment shall be allocated to a specified receiving site.**

D. **The transfer of density request shall be processed as part of the underlying permit for the project on the receiving site.**

FE. **Upon submitting an application to develop a receiving site under the provisions of this chaptersection, the applicant shall provide evidence of ownership or full legal control of all sending sitesthe density credits proposed to be used in calculating total density on the receiving site. It shall be the applicant's responsibility, prior to application, to ascertain what form of permanent protection of the sending site will be acceptable to the City.**

GF. **Density credits from a sending site shall be considered transferred to a receiving site when the sending site is permanently protected by a completed and recorded land dedication, or conservation**

easement or preservation agreement submitted to and approved by the *city manager*. This document shall be recorded with King County prior to approval of the *receiving site permit*.

HG. *TDC developments* shall comply with dimensional standards of the zone with a base density most closely comparable to the total approved density of the *TDC development*.

MAKE MISCELLANEOUS AMENDMENTS THROUGHOUT THE ZONING CODE TO ENSURE CONSISTENCY:

- Replace the term “mobile home park” with “manufactured housing community” throughout the Zoning Code (KMC Sections 18.20.2325, 18.21.020, 18.21.030, 18.21.040, 18.22.010, 18.23.020, 18.23.025, 18.25A.030, 18.25A.040, 18.25B.020, 18.26.030, 18.26.040, 18.26.050, 18.29.040, 18.35.030, 18.40.030, 18.45.090, 18.45.100, 18.50.140, 18.50.150, 18.50.160).

- Amend Chapter 18.20 Definitions

18.20.17601675.1 Manufactured housing community~~obile home park.~~

“~~Manufactured housing community~~~~obile home park~~” means a *development* with two or more improved pads or spaces designed to accommodate *mobile homes, manufactured homes, or designated manufactured homes*.

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** ~~affordable to households whose annual income does not exceed the percentage of median income types described in the subsections below, adjusted for household size, and no more than 30 percent of the monthly household income is paid for monthly housing expenses.~~ (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.)

1. **For rental housing:**

- a. A “moderate income affordable housing unit” is affordable at 70 percent of median income, adjusted for household size.
- b. A “low income affordable housing unit” is affordable at 50 percent of median income, adjusted for household size.
- c. A “very low income affordable housing unit” is affordable at 35 percent of median income, adjusted for household size.

2. For ownership housing:

- a. A “moderate income affordable housing unit” is affordable at 80 percent of median income, adjusted for household size.
- b. A “low income affordable housing unit” is affordable at 65% of median income, adjusted for household size.
- c. A “very low income affordable housing unit” is affordable at 50% 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 subsection, 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.

18.20.308 Bonus unit

“Bonus units” means a dwelling units achieved that exceeds the number of units allowed by the base density of the CB Juanita-subarea underlying zoning district.

18.20.1690. Median income.

“King County Median income” means the median family income for the Seattle-Bellevue, WA HUD Metro FMR Area MSA as most recently determined by the Secretary of Housing and Urban Development under Section 8(f)(3) of the United States Housing Act of 1937, as amended, or if programs under said Section 8(f)(3) are terminated, median family income is determined under the method used by the Secretary prior to such termination. In the event that HUD no longer publishes median family income figures for the Seattle-Bellevue, WA HUD Metro FMR Area MSA or King County, the City may use any other method for determining the King County median income, adjusted for household size.

- Amend miscellaneous code sections to address new MHC zone (18.21.075 and 18.21.078—residential zones; 18.30.230.B, G—structures in setbacks; 18.42.090—signs; 18.60—wireless communication facilities):

18.21.075 Drive-through service.

Drive-through service is prohibited in ~~this~~these zoning districts.

18.21.078 Outdoor storage.

Outdoor storage is prohibited in ~~this~~these zoning districts.

18.30.230 Setbacks – Projections and structures allowed.

Provided that the required *setbacks* from *regional utility corridors* of KMC [18.30.200](#), the adjoining half-street or designated arterial *setbacks* of KMC [18.30.220](#) and the sight distance requirements of KMC [18.30.240](#) are maintained, *structures* may extend into or be located in required *setbacks*, including *setbacks* as required by KMC [18.21.060](#)(B), as follows:

* * *

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, 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** 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, KMC Title [15](#);

* * *

18.42.090 Residential zone signs.

Signs in the downtown residential, **and-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 residential identification *sign* not exceeding two square feet is permitted; and

2. One *permanent residential development identification sign* not exceeding 32 square feet is permitted per *development*. The maximum height for the *sign* shall be six feet. The *sign* may be freestanding or mounted on a wall, *fence*, or other *structure*.

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 Use⁵

Exhibit A

Type of wireless communication facility	Residential zones R-1 through R-6 and MHC	Residential zones R-12 through R-24, 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 :	P Maximum height ³ :	P	P Maximum height: 35'	P

Exhibit A

Type of wireless communication facility	Residential zones R-1 through R-6 and MHC	Residential zones R-12 through R-24, 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
	Ground-mounted facility – 65'. Rooftop facility – 30' above the roof height at the antenna location	Ground-mounted facility – 65'. Rooftop facility – 30' above the roof height at the antenna location	Maximum height ² : Ground-mounted facility – 65'. Rooftop facility – 30' above the roof height at the antenna location		Maximum height ² : 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 underlying zoning district	P Maximum height: 55'
Satellite dish	C ² if no more than 2 meters (6.6') in diameter; otherwise X Maximum height: Ground-	P if no more than 2 meters (6.6') in diameter and limited to a maximum of 1 dish per <i>site</i> ; otherwise C ²	P if no more than 2 meters (6.6') in diameter and limited to a maximum of 3 dishes per <i>site</i> ; otherwise C ²	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

Type of wireless communication facility	Residential zones R-1 through R-6 and MHC	Residential zones R-12 through R-24, 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
	mounted dishes – 15'. Rooftop dishes – 15' above the roof height at the dish location	Maximum height: Ground-mounted dishes – 15'. Rooftop dishes – 15' above the roof height at the dish location	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

¹If on a nonresidential *building* such as a *religious institution*, school, or *utility facility*, or on a multifamily or mixed use *building*.

²In addition to satisfying the criteria listed in KMC [18.115.040](#), the *conditional use permit* shall be granted by the *City* only if the *applicant* also demonstrates that:

- a. Alternative *sites*, or facilities with less impact to the community have been considered and have been determined to be not feasible per KMC [18.60.080](#); and

b. Visual impacts of the facility are minimized and the proposal does not significantly impact views to Lake Washington.

³*Amateur (ham) radio facilities* exceeding 65 feet in height may be permitted only through a *conditional use permit*. In addition to satisfying the criteria listed in KMC [18.115.040](#), the *conditional use permit* shall be granted by the *City* only if the *applicant* also demonstrates that:

- a. The proposal in the proposed location is necessary to support *emergency* radio operations in Kenmore; and
- b. Smaller facilities, with less impact to the community, have been considered and have been determined to be infeasible per KMC [18.60.080](#); and
- c. Visual impacts of the facility are minimized and the proposal does not significantly impact views to Lake Washington.

⁴Prohibited on properties within the jurisdiction of the Shoreline Management Act as set forth in KMC Title [16](#), Division 1.

⁵Unless a major adjustment has been granted pursuant to KMC [18.60.200](#).

⁶*Lattice towers* shall not be permitted.

⁷*Small cells* only, limited to a maximum of three antennas per utility/light pole, facade or rooftop. A *conditional use permit* will be required to locate more than three small cell antennas on a utility/light pole, facade or rooftop, including any additional requirements in applicable footnotes.

⁸*Small cells* only, limited to a maximum of three antennas per utility/light pole. A *conditional use permit* will be required to locate more than three small cell antennas on a utility/light pole, including the additional requirements in the applicable footnote.

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, 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.

B. When a security *fence* is used to prevent access to a *tower* or ground equipment, any *landscaping* required pursuant to subsection A of this section shall be placed outward of such security *fence*.

In the R **and MHC** zones, climbing *evergreen* shrubs or vines capable of growing on the *fence* shall supplement any *landscaping* required pursuant to subsection A of this section.

* * *

- Amend 18.21.060 Nonresidential land uses in residential zones.

18.21.060 Nonresidential land uses in residential zones.

Except for *utility facilities*, *regional land uses*, and nonresidential *uses* regulated by KMC [18.21.070](#), all nonresidential *uses* located in the R zones shall be subject to the following requirements:

A. *Impervious surface* coverage shall not exceed:

1. Seventy percent of the *site* in the R-1 through R-6 zones.
2. Eighty percent of the *site* in the R-12 through R-48 **and MHC** zones.

B. *Buildings* and *structures*, except *fences* and wire or mesh backstops, shall not be closer than 30 feet to any property line, except as provided in subsection C of this section.

C. A single detached dwelling allowed as accessory to a church or school shall conform to the *setback* requirements of the zone.

D. Parking areas are permitted within the required *setback* area from property lines, provided such parking areas are located outside of the required landscape area.

E. *Sites* shall abut or be accessible from at least one public *street* functioning at a level consistent with the *City street* design standards. New *high school sites* shall abut or be accessible from a public *street* functioning as an arterial per the *City* design standards.

F. The base height shall conform to the zone in which the *use* is located.

G. *Building* illumination and lighted *signs* shall be designed so that no direct rays of light are projected into neighboring residences or onto any *street* right-of-way.

- Amend 19.25.020 Classifications of Land Use Decision Processes

Exhibit A

LAND USE DECISION TYPES

<p>TYPE 2</p>	<p>Decision by <i>city manager</i>, appealable to <i>hearing examiner</i>, no further administrative appeal^{1, 5}</p>	<p>Home industry; short subdivision; preliminary short subdivision revision; short plat alteration; zoning variance; conditional use permit; shoreline substantial development permit; shoreline variance; shoreline conditional use permit; site plan review for uses allowed by zone; wireless communication facility minor adjustment under Chapter 18.60 KMC; approval of residential density incentives under KMC 18.80.060.A.2 or transfer of development credits under KMC 18.80.090.A; reuse of public schools; reasonable use exceptions under KMC 18.55.180; public agency and utility exceptions under KMC 18.55.160; other critical areas exceptions, variances and decisions to require studies or to approve, condition or deny a development proposal based on Chapter 18.55 KMC.</p>
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