



CITY OF KIRKLAND
Planning and Community Development Department
123 Fifth Avenue, Kirkland, WA 98033
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MEMORANDUM

To: Kurt Triplett, City Manager
From: Eric Shields, Planning Director
Nancy Cox, Development Review Manager
Date: May 9, 2013
Subject: Miscellaneous Code Amendments, File CAM13-00275

RECOMMENDATION

Staff recommends approval of Kirkland Municipal Code (KMC) and Kirkland Zoning Code (KZC) amendments. The Council may do so by adopting the enclosed ordinances.

BACKGROUND DISCUSSION

These amendments have been reviewed using the "Fast Track" code amendment process, Process IVA, pursuant to Chapter 161 KZC. Process IVA was adopted in 1997 to increase efficiency when enacting minor Zoning Code amendments. A roster of the proposed amendments was approved by the City Council on April 16, 2013 authorizing the review of the proposed amendments through Process IVA.

On April 30, 2013, as required by Chapter 161 KZC, a public hearing was held by the Planning Director on the proposed amendments. The Houghton Community Council chose not to hold a hearing. The staff report discussing the amendments may be found at the following

link: <http://www.kirklandwa.gov/Assets/Planning/Planning+PDFs/Staff+PL+DIR+Hearin+g+04302013.pdf> There was no testimony taken at the hearing.

The Planning Director recommends one change to the amendments last seen by the City Council:

Remove Item 9. from the amendment to the Scope and Exclusions section of the Sign Chapter, KZC 100.15. This addition is beyond the scope of the interpretation that is being incorporated into the code and contradicts an existing provision in the code found in KZC 100.115.

18	KZC 100.15, Signs, Scope and Exclusions	<u>8. Exterior signs or displays not visible from streets or ways open to the public. 9. Signs in the interior of a building more than three feet from the closest window or not facing a window.</u>
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The change is reflected in the ordinance for the Council's consideration.

KZC 161.85 allows the ordinances to be placed on the City Council consent calendar.

DECISIONAL CRITERIA

According to Chapter 161 KZC, a proposed amendment may be approved through Process IVA if it meets the decisional criteria established in the applicable provision of the Zoning Code. Sections 161.15 and 161.25 further establish that Process IVA is only to be used for Zoning Code amendments that:

- Are minor;
- Are not controversial;
- Do not need extensive policy study;
- Promote clarity, eliminate redundancy or correct inconsistencies.

CONCLUSION

The full text of the Zoning Code amendments is presented in Attachment A to the enclosed ordinance. Attachment A incorporates the change described previously in the memo. The full text of the Kirkland Municipal Code amendments is presented in the text of the enclosed ordinance. The proposed amendments satisfy the applicable decisional criteria and may be approved by adopting the enclosed ordinances.

ORDINANCE O-4408

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE; ADOPTING MINOR AMENDMENTS PURSUANT TO CHAPTER 161 OF THE KIRKLAND ZONING CODE (KZC); AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF THE KZC, ORDINANCE 3719 AS AMENDED: CHAPTER 5 – DEFINITIONS; CHAPTER 15 – RS ZONE; CHAPTER 17 – RSX ZONE; CHAPTER 25 – PR AND PRA ZONES; CHAPTER 40 – BN AND BNA ZONES; CHAPTER 45 – BC, BC1 AND BC2 ZONES; CHAPTER 47 – BCX ZONE; CHAPTER 51 – MSC-1,4 ZONES; CHAPTER 55 – TL 4A, 4B, 4C, 5, 6A, AND 6B ZONES; CHAPTER 95 TREE MANAGEMENT AND REQUIRED LANDSCAPING; CHAPTER 100 – SIGNS; CHAPTER 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS; CHAPTER 117 – PERSONAL WIRELESS SERVICE FACILITIES; CHAPTER 118 – HAZARDOUS LIQUID PIPELINES; CHAPTER 127 – TEMPORARY USE; CHAPTER 145 – PROCESS I; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. CAM13-00275.

WHEREAS, the City Council has received a recommendation Kirkland Planning Director to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, all as set forth in that certain report and recommendation of the Planning Director dated May 9, 2013, and bearing Kirkland Department of Planning and Community Development File No. CAM13-00275; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Director, following notice thereof as required by RCW 35A.63.070, on April 30, 2013, held a public hearing, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policy Act (SEPA), there has accompanied the legislative proposal and recommendation through the entire consideration process, a SEPA Addendum to Existing Environmental Documents issued by the responsible official pursuant to WAC 197-11-625; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Director;

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, be and they hereby are amended to read as

set forth in Attachment A attached to this Ordinance and incorporated by reference.

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

Section 3. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Community Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 4. Except as provided in Section 3, this ordinance shall be in full force and effect on July 22, 2013, after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in the summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

Section 5. A complete copy of this ordinance shall be certified by the City Clerk, who shall then forward the certified copy to the King County Department of Assessments.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2013.

Signed in authentication thereof this ____ day of _____, 2013.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

Attachment A

	CODE SECTION	AMENDMENT
1	KZC 5.10.100 Definitions	<u>Building Official</u> - " Building Official " as that term is defined in the Uniform Building Code as adopted in KMC Title 21 <u>The Building Services Manager or his/her designee.</u>
2	KZC 5.10.110 Definitions	<u>Certificate of Occupancy</u> - " Certificate of Occupancy, " as that term is defined <u>used</u> in the Uniform Building Code as adopted in KMC Title Chapter 21.06, Construction Administration Code.
3	KZC 5.10.210 Definitions	<u>Development Activity</u> - Any work, condition or activity which requires a permit or approval under this code or the Uniform Building Code KMC Title 21, Buildings and Construction.
4	KZC 5.10.720.1 Definitions	...Neither the Burlington Northern <u>Cross Kirkland Corridor</u> railbanked rail corridor, the <u>Eastside Rail Corridor</u> , nor the I-405, nor SR-520 rights-of-way shall be considered front property lines.
5	KZC 15.10.10 Special Regulation 6. RS Zone, Detached Dwelling Unit	6. Residential lots in RS 35 zones within the Bridle Trails neighborhood north of Bridle Trails State Park must contain a minimum area of 10,000 permeable square feet, which <u>and</u> shall comply with Special Rregulations 6 for <u>horses</u> large domestic animals in KZC 115.20.5.d(4) (chart) .
6	KZC 17.10.010 Special Regulation 6. RSX Zone, Detached Dwelling Unit	6. Residential lots in RSX <u>35</u> zones within the Bridle Trails neighborhood north and northeast of Bridle Trails State Park must contain a minimum area of 10,000 permeable square feet, which <u>and</u> shall comply with Special Rregulations 6 for <u>horses</u> large domestic animals in KZC 115.20.5.d(4) (chart) .
7	KZC 17.10.010 Special Regulation 7. RSX Zone, Detached Dwelling Unit	Garages shall comply with the requirments of KZC 115.43, including required front yard. These requirements are not effective within the disapproval jurisdiction of the Houghton Community Council.
8	KZC 25.08.3 General Regulation for PR, PRA Zones	3. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or b. The maximum horizontal façade shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details. <u>(Does not apply to detached dwelling units).</u>

Attachment A

9	KZC 40.10.055, BN, BNA Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	1 per every 4 fixed seats See KZC 105.25
10	KZC 45.10.090, BC, BC 1 & BC 2 Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	1 per every 4 fixed seats See KZC 105.25
11	KZC 47.10.090, BCX Zone, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	1 per every 4 fixed seats See KZC 105.25
12	KZC 51.08.3, MSC-1, 4 Zones, General Regulation	3. If any portion of a structure is adjoining a low density zone, then either: a. The height of that portion of the structure shall not exceed 15 feet above average building elevation; or b. The maximum horizontal façade shall not exceed 50 feet in width. See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details. (Does not apply to detached dwelling units).
13	KZC 55.33.080, TL 4A, 4B, 4C Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	1 per every 4 fixed seats See KZC 105.25
14	KZC 55.39.090, TL 5 Zone, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	1 per every 4 fixed seats See KZC 105.25
15	KZC 55.45.080, TL 6A, 6B Zones, Entertainment, Cultural and/or Recreational Facility - Required Parking Spaces column	1 per every 4 fixed seats See KZC 105.25

Attachment A

16	KZC 95.23.4.b Tree Removal - Not Associated with Development Activity	b. An applicant may appeal an adverse determination to the Hearing Examiner. A written notice of appeal shall be filed with the City within 14 calendar days following the date of distribution of a City's decision. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least 17 calendar days prior to the hearing. The applicant shall have the burden of proving that the City made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, the Hearing Examiner may affirm, reverse or modify the decision being appealed. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.
17	KZC 95.40.1.d., Required Landscaping	d. Chapter 110 KZC and Chapter 19.36 KMC address vegetation within rights-of-way, except for the I-405, and SR-520 rights-of-way, and the Burlington Northern Cross Kirkland Corridor railbanked rail corridor or the Eastside Rail Corridor rights-of-way.
18	KZC 100.15, Signs, Scope and Exclusions	<u>8. Exterior signs or displays not visible from streets or ways open to the public.</u>
19	KZC 100.50.1.a, Signs, Designated Corridors	a. Market Street between Central Way and N.E. 106th StreetForbes Creek Drive.
20	KZC 100.65.1, Signs,	1. Wall-Mounted and Marquee Signs: Shall not project above the roofline of the building, parapet or similar architecture feature to which they are attached.
21	KZC 100.115, Signs, Temporary/Special Signs	Must remove <u>after being displayed 60 days or at end of use, event or condition, whichever comes first.</u>
22	KZC 115.07.10.c, Accessory Dwelling Units	c. Appeals. An applicant may appeal to the Hearing Examiner the decision of the Planning Official in denying a request to construct an accessory dwelling unit. A written notice of appeal shall be filed with the Planning Department within 14 calendar days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The City shall give notice of the hearing to the applicant at least 14 calendar days prior to the hearing. The applicant shall have the burden of proving the Planning Official made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, he or she may affirm, reverse, or modify the decision being appealed. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.

Attachment A

23	KZC 115.80.2, Legal Building Site	<p>2. Exception, Detached Dwelling Units – An applicant may build one (1) detached dwelling unit on a lot or parcel regardless of the size of the lot or parcel if:</p> <p>a. The applicant applies for necessary permits to construct the unit within five (5) years of the date the lot or parcel is annexed into the City and the lot or parcel was a lawfully created lot under King County subdivision and zoning laws; or</p> <p>b. There is or ever has been a residence on the subject property. At any time, the applicant may remodel, rebuild, or enlarge that one (1) residence; provided, that all other Zoning Code requirements are met; or</p> <p>c. <u>The lot size was approved pursuant to all applicable laws, ordinances and regulations; or</u></p> <p><u>ed.</u> The lot lines defining the lot or parcel were recorded in the King County Assessors Office prior to May 17, 1972, and the lot or parcel has not simultaneously been owned by the owner of a contiguous lot or parcel which fronts on the same right of way subsequent to May 17, 1972.</p>
24	KZC 117.95, Personal Wireless Service Facilities, Appeals and Judicial Review	<p>1. An applicant may appeal a Planning Official decision to the Hearing Examiner. A written notice of appeal shall be filed with the Planning Department within 14 days of the date the Planning Official's decision was mailed or otherwise delivered to the applicant. The office of the Hearing Examiner shall give notice of the hearing to the applicant at least 14 days prior to the hearing. The applicant shall have the burden of proving that the Planning Official made an incorrect decision. Based on the Hearing Examiner's findings and conclusions, he or she may affirm, reverse, or modify the decision being appealed. The decision of the Planning Official is appealable using the applicable appeal provisions of Chapter 145 KZC.</p>
25	KZC 118.20, Hazardous Liquid Pipelines	<p><u>Applicability</u> The provisions of this chapter shall apply to all development activity, landfilling, excavation and construction on properties within 150500 feet of any hazardous liquid pipeline corridor, as defined in KZC 5.10.348.</p>
26	KZC 127, Temporary Use	<p>See following text of KZC Chapter 127 - Temporary Use</p>

Attachment A

27	KZC 145.60.1.b., Process I Appeals	1. <u>Who May Appeal</u> - The decision of the Planning Director may be appealed by: a. The applicant, or b. Any person who submitted written comments or information to the Planning Director on the application <u>during the comment period established in the Notice of Application.</u>
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Chapter 127 – TEMPORARY USE

(Only sections that are proposed for amendment are shown)

127.10 Process for Deciding Upon a Proposed Temporary Use

An application for a temporary use permit will be reviewed and decided upon by the Planning ~~Director~~Official.

127.42 Notice Requirements for Homeless Encampments in New Locations

1. Applicability - The following notice requirements apply only to new locations for homeless encampments. If an encampment has previously located at a site, the provisions of KZC 127.44 apply.

24. Public Meeting

A minimum of 14 calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall conduct a public informational meeting by providing mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the meeting is to provide the surrounding community with information regarding the proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and to answer questions regarding the homeless encampment.

32. A Notice of Application for Homeless Encampment shall be provided prior to the Planning ~~Director's~~Official's decision. The purpose of the notice is to inform the surrounding community of the application. Due to the administrative and temporary nature of the permit, there is no comment period. The notice shall contain at a minimum the date of application, project location, proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and how to get more information (i.e., City website). The Planning Department shall distribute this notice as follows:

- a. The notice, or a summary thereof, will be published in the official newspaper of the City at least seven calendar days prior to the ~~Director's~~Official's decision.
- b. The notice, or a summary thereof, will be distributed to owners of all property within 500 feet of any boundary of the subject property and residents and tenants adjacent to the subject property at least 14 calendar days prior to the ~~Director's~~Official's decision.
- c. If located within the jurisdiction of the Houghton Community Council, the notice shall be distributed to the members of the Community Council at least 14 calendar days prior to the Planning ~~Director's~~Official's decision.
- d. The notice will be posted on the City's website.

43. A Notice of Decision for Homeless Encampment, or summary thereof, shall contain the decision of the Planning ~~Director~~Official and appeal procedure and be distributed as required for notice of application within four business days after the decision.

127.44 Notice Requirements for Homeless Encampments at Repeat Locations

1. A minimum of 14 calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall provide mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the notice is to inform the surrounding community of the proposed duration and operation of the homeless encampment, applicable standards, requirements of the written code of conduct, and how to get more information.
2. A minimum of 14 calendar days prior to the anticipated start of the encampment, the City shall update the City's website with the date of application, project location, proposed duration and operation of the homeless encampment, the conditions that will be placed on the operation of the homeless encampment, requirements of the written code of conduct and how to get more information.
3. If the encampment is proposed with the jurisdiction of the Houghton Community Council, the City shall notify the Houghton Community Council no later than 14 calendar days prior to the anticipated start of the encampment.

127.45 Appeals

There is no administrative appeal of the Planning ~~Director's~~ Official's decision for a temporary use permit. The action of the City in granting or denying an application under this chapter may be reviewed pursuant to the standards set forth in RCW 35.70C.130 in the King County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision of the City. For more information on the judicial process for land use decision, see Chapter 36.70C RCW.

PUBLICATION SUMMARY
OF ORDINANCE O-4408

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE; ADOPTING MINOR AMENDMENTS PURSUANT TO CHAPTER 161 OF THE KIRKLAND ZONING CODE (KZC); AMENDING PORTIONS OF THE FOLLOWING CHAPTERS OF THE KZC, ORDINANCE 3719 AS AMENDED: CHAPTER 5 – DEFINITIONS; CHAPTER 15 – RS ZONE; CHAPTER 17 – RSX ZONE; CHAPTER 25 – PR AND PRA ZONES; CHAPTER 40 – BN AND BNA ZONES; CHAPTER 45 – BC, BC1 AND BC2 ZONES; CHAPTER 47 – BCX ZONE; CHAPTER 51 – MSC-1,4 ZONES; CHAPTER 55 – TL 4A, 4B, 4C, 5, 6A, AND 6B ZONES; CHAPTER 95 TREE MANAGEMENT AND REQUIRED LANDSCAPING; CHAPTER 100 – SIGNS; CHAPTER 115 – MISCELLANEOUS USE DEVELOPMENT AND PERFORMANCE STANDARDS; CHAPTER 117 – PERSONAL WIRELESS SERVICE FACILITIES; CHAPTER 118 – HAZARDOUS LIQUID PIPELINES; CHAPTER 127 – TEMPORARY USE; CHAPTER 145 – PROCESS I; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. CAM13-00275.

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

SECTION 2. Addresses severability.

SECTION 3. Establishes that this ordinance, to the extent it is subject to disapproval jurisdiction, will be effective within the disapproval jurisdiction of the Houghton Community Council Municipal Corporation upon approval by the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

SECTION 4. Authorizes the publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as July 22, 2013.

SECTION 5. Directs the City Clerk to certify and forward a complete certified copy of this ordinance to the King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ____ day of _____, 20__.

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

City Clerk

ORDINANCE O-4409

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO MINOR KIRKLAND MUNICIPAL CODE AMENDMENTS IN CONNECITON WITH ZONING AND LAND USE UPDATES AND AMENDING SECTIONS 1.12.050, 3.30.010, and 24.02.038 OF THE KIRKLAND MUNICIPAL CODE, FILE NO. CAM13-00275.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code ("KMC") subsection 1.12.050(e) is hereby amended to read as follows:

1.12.050 Hearing before the hearing examiner.

(e) Failure to Appear. If the person to whom the notice of civil violation was issued fails to appear at the scheduled hearing, the examiner will enter an order finding that the violation ~~appeared~~ occurred and assessing the appropriate monetary penalty. The city will carry out the hearing examiner's order and recover all related expenses, plus the cost of the hearing and any monetary penalty from that person.

Section 2. KMC Section 3.30.010 is hereby amended to read as follows:

3.30.010 Membership—Appointment—Compensation—Removal.

The design review board shall be composed of seven appointed members. ~~In addition, the director of planning and community development shall sit on the design review board ("DRB") as a nonvoting member for purposes of advising the board on regulatory and urban design issues.~~ Members shall be appointed by a majority vote of the city council, without regard to political affiliation. The members of the DRB shall serve without compensation. Each member shall be appointed to a four-year term; provided, that as to the two positions added in 2003, one new member's initial term shall expire March 31, 2005, and the other new member's initial term shall expire March 31, 2007. Any vacancy shall be filled for the remainder of the unexpired term of the vacant position. When a member misses three or more consecutive meetings not excused by a majority vote of the DRB, the DRB will consider recommending removal of that member. The board shall recommend removal if the absences have negatively affected the board's abilities to perform its duties. The recommendation will be forwarded to city council. Members finding themselves unable to attend regular meetings are expected to tender their resignations. A member may be removed by a majority vote of the city council.

Section 3. KMC Section 24.02.038(e) is hereby amended to read as follows:

24.02.038 SEPA policies.

(e) The Kirkland Municipal Code (KMC), including but not limited to Title 15 (Water and Sewage), Title 19 (Streets and Sidewalks), Title 21 (Buildings and Construction), Title 22 (Subdivisions), Title 24 (Environmental Procedures, ~~including the Shoreline Master Program~~), Title 25 (Concurrency Management), and Title 28 (Landmarks);

Section 4. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 5. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in open meeting this ____ day of _____, 2013.

Signed in authentication thereof this ____ day of _____, 2013.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney