

ORDINANCE O-4720

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING AND LAND USE AND AMENDING THE CITY OF KIRKLAND ZONING CODE, ORDINANCE 3719 AS AMENDED, INCLUDING CHAPTERS 5, 50, AND 115 REGARDING DEVELOPMENT STANDARDS FOR ROOFTOP APPURTENANCES AND ROOFTOP AMENITIES, AND RELATED DEFINITIONS, AND APPROVING A SUMMARY FOR PUBLICATION, FILE NO. CAM19-00502.

1 WHEREAS, the City Council has received a recommendation
2 from the Kirkland Planning Commission to amend a portion of the City
3 of Kirkland Zoning Code, Ordinance 3719, as amended, as set forth in
4 the report and recommendation of the Planning Commission dated July
5 23, 2020 and bearing Kirkland Planning and Building Department File
6 No. CAM19-00502; and
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8 WHEREAS, prior to making the recommendation, the Planning
9 Commission and Houghton Community Council, following notice thereof
10 as required by RCW 35A.63.070, held a joint public hearing on February
11 13, 2020, on the amendment proposals. The Houghton Community
12 Council considered the comments received at the hearing and developed
13 a recommendation to the Planning Commission at its deliberation
14 meeting on February 13, 2020, and the Planning Commission considered
15 the comments received at the hearing and the recommendation of the
16 Houghton Community Council and developed its recommendation to the
17 City Council on February 27, 2020; and
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19 WHEREAS, pursuant to the State Environmental Policy Act
20 (SEPA), there has accompanied the legislative proposal and
21 recommendation through the entire consideration process, a SEPA
22 addendum to Existing Environmental Documents issued by the
23 responsible official pursuant to WAC 197-11-625; and
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25 WHEREAS, in open public meeting on August 4, 2020 the City
26 Council considered the environmental documents received from the
27 responsible official, together with the report and recommendation of the
28 Planning Commission.
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30 NOW, THEREFORE, the City Council of the City of Kirkland do
31 ordain as follows:
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33 Section 1. Zoning Code Amended: The specified sections in
34 Chapters 5, 50, and 115 of the Kirkland Zoning Code are amended as
35 set forth in **Exhibit A** to this ordinance and incorporated by reference.
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37 Section 2. Severability: If any section, subsection, sentence,
38 clause, phrase, part or portion of this ordinance, including those parts
39 adopted by reference, is for any reason held to be invalid or
40 unconstitutional by any court of competent jurisdiction, such decision
41 shall not affect the validity of the remaining portions of this ordinance.

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Section 3. To the extent that the subject matter of this Ordinance is subject to the disapproval jurisdiction of the Houghton Community Council as created by Ordinance 2001, the Ordinance shall become effective within the Houghton community either upon approval of the Houghton Community Council, or upon failure of the Community Council to disapprove this Ordinance within 60 days of its passage.

Section 4. Effective Date: Except as to Section 3 above, this ordinance shall be in full force and effect five days from and after its passage by the 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. Ordinance Copy: 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 _____, 2020.

Signed in authentication thereof this ____ day of _____, 2020.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4720

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING AND LAND USE AND AMENDING THE CITY OF KIRKLAND ZONING CODE, ORDINANCE 3719 AS AMENDED, INCLUDING CHAPTERS 5, 50, AND 115 REGARDING DEVELOPMENT STANDARDS FOR ROOFTOP APPURTENANCES AND ROOFTOP AMENITIES, AND RELATED DEFINITIONS, AND APPROVING A SUMMARY FOR PUBLICATION, FILE NO. CAM19-00502.

SECTION 1. Amends Chapters 5, 50 and 115 to the Kirkland Zoning Code relating to rooftop appurtenances and amenities.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Provides that the effective date of the ordinance is affected by the disapproval jurisdiction of the Houghton Community Council.

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 five days after publication of the summary.

SECTION 5. Establishes certification by City Clerk and notification of King County Department of Assessments.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ____ day of _____, 2020.

I certify that the foregoing is a summary of Ordinance 4720 approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk

Kirkland Zoning Code – Chapter 5 - Definitions

5.10.816 Rooftop Amenities

Structures such as landscape planters, guards or railings, decking material, seating, play equipment, kitchen and/or barbeque elements, hot tubs, animal runs, fire pits, umbrellas, trellises, and similar temporary or permanent items that are on a building rooftop, available to all building occupants, and do not provide exclusive use to any specific units/suites or group of units/suites.

5.10.817 Rooftop Appurtenances

HVAC equipment, mechanical or elevator equipment and penthouses, roof access stair enclosures, and similar equipment or appurtenances that extend above the roofline of a building, but not including personal wireless service facilities as defined by KZC 117.15 or solar panels as defined by KZC 5.10.881.1. (Ord. 4350 § 1, 2012; Ord. 3919 § 1, 2003)

5.10.818 Rooftop Common Room

An exterior covered area or an interior enclosed space on a building rooftop that is available to all building occupants and does not provide exclusive space to any specific units/suites or group of units/suites.

Kirkland Zoning Code – Section 115.120 – Rooftop Appurtenances

The intent of these rooftop appurtenance regulations is to specify height allowances for such items above the maximum height of structure. Regulations for rooftop appurtenances recognize that the rooftop can be a practical place for building utilities and that access to rooftops often requires additional height.

1. Scope – The regulations contained in this section apply to all construction except: (a) single-family residential, and (b) personal wireless service facilities regulated by Chapter 117 KZC.

For properties within jurisdiction of the Shoreline Management Act, see Chapter 83 KZC.

2. Abandonment – Rooftop appurtenances which are abandoned or no longer serve the building or tenant space with which they are associated shall be removed by the building owner within 90 days of the date they were abandoned or discontinued service.
Appurtenances associated with buildings or tenant spaces which are vacant but which are undergoing renovation and/or are available for lease or rent shall not be considered abandoned.
3. Required Screening for Rooftop Appurtenances
 - a. New construction shall, to the extent feasible, visually screen rooftop appurtenances by incorporating them into the roof form, or by using architectural designs such as clerestories having a slope of at least three (3) feet vertical to 12 feet horizontal or roof wells. Such roof forms and architectural designs may extend five (5) feet above the height limit (see Plate 30).
 - b. New or replacement appurtenances on existing buildings and new appurtenances on new buildings where compliance with subsection (3)(a) of this section is not feasible shall be surrounded by a solid screening enclosure equal in height to the appurtenances being screened. The screen must be integrated into the architecture of the building.
 - c. A rooftop appurtenance screened by alternative measures, including but not limited to landscaping maintained at a height equal to the height of the appurtenance, painting to match the building roof and/or façade, or the use of pre-manufactured self-screening appurtenances, is exempt from the requirements of subsections (3)(a) and (b) of this section if the Planning Official determines that such alternative screening will be as effective in minimizing rooftop clutter as a solid screening enclosure.**
 - d. Exemptions**
 - 1) Rod, wire, and dish antennas approved pursuant to KZC 115.60(2) are exempt from the requirements of subsections (3)(a) and (b) of this section where screening would interfere with the effective operation of these antennas.

~~2) A rooftop appurtenance screened by alternative measures, including but not limited to landscaping maintained at a height equal to the height of the appurtenance, painting to match the building roof, or the use of pre-manufactured self-screening appurtenances, is exempt from the requirements of subsections (3)(a) and (b) of this section if the Planning Official determines that such alternative screening will be as effective in minimizing rooftop clutter as a solid screening enclosure.~~

4. Allowable Height and Size – **Rooftop Appurtenances**

a. **Any** rooftop appurtenances may exceed the ~~applicable height limitation~~ **maximum height of structure** by a maximum of four (4) feet if the area of all appurtenances and screening does not exceed 10 percent of the total area of the building footprint (see Plate 31). **Elevators and equipment and/or stair enclosures allowed under subsection 4(b), below, shall be included in the area calculation towards the maximum 10%.**

b. **For stacked dwelling units and commercial buildings, rooftop appurtenances necessary to access rooftop amenities, such as elevators and associated equipment and/or stair enclosures, may extend above the maximum height of structure for the zone beyond the allowance in subsection 4(a), provided:**

1) The elevator and associated equipment and/or stair enclosure height is the minimum necessary for rooftop access and does not exceed 15 feet above the maximum height of structure; and

2) Elevators and associated equipment may include an enclosed entry/exit vestibule matching the height of the elevator, but not exceeding the minimum area required by the building code.

3) The stair enclosure, including the top landing of stairs, does not exceed the minimum area required by the building code.

4) Rooftop appurtenances necessary to access rooftop amenities, such as elevators and associated equipment and/or stair enclosures, proposed where the subject

property is partially, or wholly, adjoining low-density residential zones may only be approved through the modification process in KZC 115.120.4(c) below.

bc. The Planning Official may approve a modification to the standards of subsection (4)(a) of this section if:

- 1) No reasonable alternatives to the increased height or size **exists**, such as utilizing alternative equipment design or technology or locating the appurtenances at or below grade or within the structure, ~~exists~~, and the amount of increase and the size of the appurtenance and its screening is the minimum amount necessary; and
- 2) The applicant submits accurate graphic representations or other information that demonstrates that:
 - a) Views from ~~adjacent~~ **adjoining** properties will not be significantly blocked **by the appurtenance(s)**; and
 - b) Visibility of the appurtenances from ~~adjacent~~ **adjoining** properties and streets will be minimized; and
 - c) Aesthetic impacts resulting from the increased height and/or area will be minimized through appropriate screening, architectural integration, and/or location or consolidation of the appurtenance(s); and
- 3) The height of the appurtenance, ~~including the combined height of mechanical equipment or elevator penthouse overrun and appurtenances mounted on top of the penthouse overrun~~, shall in no event exceed ~~the lesser of the following~~:
 - a) ~~The~~ the height of the story immediately below the appurtenance, ~~or~~
 - b) ~~Fifteen feet above the applicable height limitation~~; and
- 4) In no event shall the total area occupied by rooftop appurtenances or enclosed within their screening exceed 25 percent the total area of the building footprint.

ed. The Planning Official shall not approve or deny a modification pursuant to subsection (4)(~~bc~~) of this section without first providing notice of the modification request to the

owners and residents of each adjoining property and providing opportunity for comment. ~~The Planning Official shall use mailing labels provided by the applicant, or, at the discretion of the Planning Official, by the City.~~ Said comment period shall not be less than seven (7) calendar days. The fee for processing a modification request shall be as established by City ordinance.

5. Optional Locations – As an option to placing appurtenances on the roof, appurtenances may be located as follows:

~~a. At or below grade, subject to the following:~~

~~1) The appurtenances are surrounded by landscaping or a solid screening enclosure, or is located in such a manner that they are not visible from adjacent properties or rights of way; and~~

~~2) The appurtenances will not violate KZC 115.95 (Noise Regulations) or KZC 115.100 (Odor), or create undue heat or vibration on the adjoining property; and~~

~~3) The appurtenances may be located in a required side or rear yard, if:~~

~~a) The appurtenances comply with subsections (5)(a)(1) and (2) of this section; and~~

~~b) The appurtenances are reviewed as part of a Process I or II zoning permit for the use or structure they will serve; and~~

~~c) If the use or structure the appurtenance will serve does not require review through Process I or II, the Planning Official may allow an appurtenance to be located in a required side or rear yard using the process described in subsection (4)(c) of this section. In such event, only the owners and residents of the property located immediately adjacent to the required yard in which the appurtenance is proposed to be located shall be provided notice; and~~

~~d) Insufficient at or below grade space exists elsewhere on the site to locate the appurtenances; and~~

~~e) The required yard is not adjacent to a residential zone; and~~

- f) ~~The appurtenances are the minimum size necessary.~~
- 4) ~~Appurtenances located at or below grade shall not be counted toward allowable lot coverage.~~

[continued from above...] in a parking structure, subject to the following:

- 1) The appurtenances are located or screened in such a manner that they are not visible from ~~adjacent~~ **adjoining** properties or rights-of-way; and
- 2) The appurtenances will not violate KZC 115.95 (Noise Regulations) or KZC 115.100 (Odor) or create undue heat or vibration on the adjoining property.
- 3) If the parking structure would otherwise contain 10 or more parking stalls, the parking may be reduced by the amount necessary, but by no more than two (2) parking stalls, to provide the physical space required to accommodate the appurtenances.

See also KZC 115.115.3(p).

6. Review Authority

If a rooftop appurtenance modification requiring approval through a Planning Official decision pursuant to subsection 4(c), is part of a proposal that requires additional approval through Design Review, Process I, Process IIA or Process IIB, the entire proposal shall be decided upon using that other process.

115.122 Rooftop Amenities and Rooftop Common Rooms

The intent of these rooftop amenity and common room regulations is to specify height and size allowances for such items above the maximum height of structure. These regulations do not apply to rooftop amenities and rooftop common rooms that are below the maximum height of structure. These additional height allowances for rooftop amenities and rooftop common rooms are intended to encourage the provision of common space on the rooftop to

serve stacked dwelling units and commercial building occupants while protecting adjoining low-density residential uses from possible adverse impacts.

1. Scope – The regulations contained in this section apply only to structures containing stacked dwelling units and/or commercial uses, where no portion of the subject property is adjoining a low-density residential zone.
2. Noise – Rooftop amenities and amenity spaces, and rooftop common rooms, are subject to the noise regulations described in KZC 115.95.
3. Lighting – Rooftop amenities and amenity spaces, and rooftop common rooms, are subject to the below lighting standards:
 - a. Lighting regulations described in KZC 115.85.1;
 - b. All exterior light fixtures shall be directed downward and use “fully shielded cut off” fixtures as defined by the Illuminating Engineering Society of North America (IESNA), or other appropriate measure to conceal the light source from adjoining uses. Manufacturer specification sheets for the lighting fixtures including photometric data shall be included with lighting plans; and
 - c. All exterior lighting associated with rooftop amenities and amenity spaces, and rooftop common rooms, shall be turned off after business hours or 10:00 p.m., whichever is later, with the exception of necessary lighting for site security. On portions of property adjoining low density residential zones, such lighting shall be turned off after business hours or 10:00 p.m., whichever is earlier. Outdoor lighting used to illuminate walkways and building entrances may remain on after 10:00 p.m.
4. Access – Rooftop amenities and rooftop common rooms that exceed the maximum structure height shall be available to all residents of a multi-family structure or to all tenants of a commercial structure, with no additional fee for access required. For mixed-use structures, access requirements shall be based on the predominant use of that structure. Rooftop amenities and rooftop commons rooms that exceed the maximum structure height shall not provide exclusive use to any specific units/suites or group of units/suites.

5. Allowable Height and Size – Rooftop Amenities

- a. Rooftop amenities surrounded by approved guards or railings may exceed the maximum height of the structure for the zone by a maximum of four (4) feet.
- b. Guards or railings enclosing rooftop amenities space may exceed the maximum height of the structure for the zone by a maximum of four (4) feet and shall be setback from the building edge a minimum of 5 feet. Railings shall be of a transparent or majority-open design such as glass, cabling, picket, or other similar types of railings. Where the applicable zone allows parapets to exceed the maximum height of structure, setback and transparency standards do not apply to the parapet when it is used as the railing.
- c. Rooftop amenities may not exceed the maximum structure height if any portion of the subject property adjoins a low-density residential zone.

6. Allowable Height and Size – Rooftop Common Room

Provided that no portion of the subject property adjoins a low density residential zone, the Planning Official may approve the addition of a rooftop common room if:

- a. The applicant submits accurate graphic representations or other information that demonstrates that:
 - 1) Views from adjoining properties will not be significantly blocked by the rooftop common room; and
 - 2) The location and orientation of the rooftop common room is such that the visibility of the rooftop common room from adjoining properties and streets will be minimized; and
 - 3) All walls of the rooftop common room must contain transparent windows comprising at least 75 percent of the area of the facade between two feet and seven feet above floor level. This requirement does not apply to elevators and stair enclosures attached to a rooftop common room; and
 - 4) The rooftop common room is architecturally integrated with the building design; and

- b. The height of the rooftop common room shall not exceed 15 feet or the height of the story immediately below the rooftop common room, whichever is less; and
- c. The area of the rooftop common room, measured to the outermost exterior element, shall not exceed 500 square feet or 10% of building footprint, whichever is less. The minimum floor area required by building code for elevators and associated equipment and/or stair enclosures shall be exempt from the maximum area calculation for the rooftop common room; and
- d. The rooftop common room is setback from any building edge at a distance equal to the height of tallest point of the room above the roof deck; and
- e. The applicant provides one of the following public benefit items in addition to the rooftop common room:

 - 1)) A landscaped and vegetated area, or an area designed and constructed as a green roof, equal to the square footage of the rooftop common room and showing the landscape plan requirements set forth in KZC 95.40.3, or
 - 2) A street-level public plaza equal to the square footage of the rooftop common room, or
 - 3) Public use of the rooftop common room, either as public access or as use of the rooftop common room as publicly accessible retail, restaurant, or similar space
- f. The Planning Official shall not approve or deny the addition of a rooftop common room pursuant to this subsection without first providing notice of the modification request to the owners and residents of each adjoining property and providing opportunity for comment. Said comment period shall not be less than seven (7) calendar days. The fee for processing a modification request shall be as established by City ordinance.

7. Review Authority

If a rooftop common room requiring approval through a Planning Official decision pursuant to subsection 3, is part of a proposal that requires additional approval through Design Review,

Process I, Process IIA or Process IIB, the entire proposal shall be decided upon using that other process.

Kirkland Zoning Code – Section 115.115.3 – Required Yards, Structures and Improvements

p. HVAC and similar types of mechanical equipment may be placed no closer than five (5) feet to a side or rear property line, and shall not be located within a required front yard; provided, that such equipment may be located in a storage shed approved pursuant to subsection (3)(m) of this section or a garage approved pursuant to subsection (3)(o)(2) of this section. All HVAC and similar types of mechanical equipment shall ~~be baffled, shielded, enclosed, or placed on the property in a manner that will ensure compliance with the noise provisions of KZC 115.95~~ **meet the standards below:** ~~Also see KZC 115.120(5) concerning alternative locations for mechanical equipment.~~

1) For properties other than single-family residential, HVAC and similar types of mechanical equipment shall be surrounded by landscaping or a solid screening enclosure, or located in such a manner that they are not visible from adjoining properties or rights-of-way; and

2) The HVAC and similar types of mechanical equipment shall not violate KZC 115.95 (Noise Regulations) or KZC 115.100 (Odor), or create undue heat or vibration on the adjoining property.

Kirkland Zoning Code – Section 50.62 – Building Height Provisions in the CBD

1. Height shall be measured above the point of measurement (e.g, above average building elevation, or above right-of-way) as specified in the particular use zone charts. For purposes of measuring building height above the abutting right(s)-of-way, alleys shall be excluded.
2. Where retail frontage is required along an abutting street and along pedestrian-oriented streets (see Plate 34H), the minimum ground floor story height for retail; restaurant and tavern; entertainment, cultural, and/or recreational facility uses shall be 15 feet; provided, however, that in CBD 1A and CBD 1B, any buildings proposed and built after April 1, 2009, or buildings that existed prior to April 1, 2009, which are 10 feet or more below the permitted maximum height of structure, shall be required to provide a minimum 13-foot ground floor story height.

3. The following exceptions to height regulations in CBD zones are established:
- a. Decorative parapets may exceed the height limit by a maximum of four (4) feet; provided, that the average height of the parapet around the perimeter of the structure shall not exceed two (2) feet.
 - b. For structures with a peaked roof, the peak may extend five (5) feet above the height limit if the slope of the roof is greater than three (3) feet vertical to 12 feet horizontal and eight (8) feet above the height limit if the slope of the roof is equal or greater than four (4) feet vertical to 12 feet horizontal.
 - c. Within CBD 1A and 1B, the height of rooftop appurtenances and related screening shall not exceed the maximum applicable height limitation beyond the height exceptions established in subsections (3)(a) and (3)(b) of this section. **Rooftop** ~~In addition, the~~ appurtenances and screening shall be integrated into the design of the parapet or peaked roof form. **However, the City may approve modifications for elevators and associated equipment and/or stair enclosures subject to the standards in KZC 115.120.4(b) and the rooftop appurtenance modification criteria and procedures in KZC 115.120.4(c) and (d) and 115.120.6.** The height of **any other** rooftop appurtenances and the height of related screening may not be modified through KZC 115.120.
 - d. Within CBD 1A and 1B, the height of rooftop amenities or rooftop common rooms that exceed the maximum applicable height limitation established in subsections (3)(a) and (3)(b) of this section shall be reviewed pursuant to the standards and modification process described in KZC 115.122.5 through 7.**