



## CITY OF KIRKLAND

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**To:** Houghton Community Council

**From:** Eric R. Shields, AICP, Planning Director 

**Date:** February 13, 2007

**Subject:** Miscellaneous Zoning Code Amendments, File No. ZON05-00001

### **RECOMMENDATION**

Approve Ordinance No. 4072. The Community Council may do so by adopting Resolution 2007-1 by a majority of its entire membership.

An alternative resolution has been provided should the Community Council elect to disapprove the ordinance.

### **BACKGROUND**

On February 6, 2007 the City Council adopted Ordinance No. 4072 (see Attachment 1). This ordinance amends a wide array of zoning code provisions, ranging from simple text clarifications to more complex policy issues.

Adoption of this Ordinance is a legislative action, reviewed through Process IV (Chapter 160 KZC). Because the Ordinance applies city-wide, and therefore within the jurisdiction of the Houghton Municipal Corporation, KZC 160.95 provides that the Ordinance is not effective within Houghton until either (a) A majority of the entire membership of the Houghton Community Council votes by resolution to approve it; or (b) The Houghton Community Council fails to disapprove it, by majority vote of the entire membership, within 60 days after City Council approval.

### **CHANGES TO PROPOSAL**

A courtesy hearing on the proposed amendments was held with the Houghton Community Council on July 24, 2006. At that hearing, the Council asked questions about several of the amendments, and provided direction on others. Following is a summary of the changes that were made to the proposal as a result of that hearing and subsequent hearings and meetings with the Planning Commission and City Council. These changes are reflected in the adopted Ordinance No. 4072. Only the changes made to regulations that apply in Houghton are summarized below.

#### **Chapter 5 - Definitions**

5.10.072 "Bay Window": Minor wording change to clarify basis for measurement of required glazing.

5.10.720 "Rear Property Line": Amendment was deleted.

## **Chapter 20 - RM Zones**

20.10.010 – Detached Dwelling Units: This amendment changes the side yard requirement in RM 3.6, 2.4, and 1.8 zones from a combined 15' to 5' on each side. Following the July 24 Community Council meeting it was revised to reinstate the 15' requirement for any lot (or assemblage of lots) containing 5,000 sq. ft. or more.

20.10.020 – Detached, Attached, or Stacked Dwelling Units: This amendment allows an increase in multifamily height (from 25' to 30') where that use will adjoin a low density zone occupied by a school that has been granted a height of at least 30'. The wording of the amendment was revised to clarify that this exception applies only in situations where the sole reason for the 25' height limitation is due to the adjoining school. It was broadened to apply to all zones that allow "Detached, Attached, or Stacked Dwelling Units".

## **Chapter 90 – Drainage Basins**

90.20.5 – General Exceptions: This amendment was intended to clarify the meaning of "normal and routine maintenance or repair." It has been removed from the proposal to allow time to fully study and understand its consequences.

90.140 – Reasonable Use: Courts have ruled that taking of private property occurs when a land use regulation restricts the landowner's rights to such an extent that the landowner is denied all- or nearly all- economically viable use of his or her property. In such a case, the municipality must pay "just compensation," usually the fair market value of the property. To avoid a constitutional challenge, Chapter 90 includes a provision that allows property owners who are unable to develop under normal regulations to propose a "reasonable use" of their property. The City Council asked that current reasonable use regulations be clarified.

Changes made to the regulations after the previous draft was reviewed by the Community Council are:

90.140.3 The review process for reasonable use requests involving more than 3000 square feet of site disturbance was changed from a Process IIB to a Process IIA. This was done because the new standards crafted by elected policy makers are clearer, more specific and provide for greater regulatory certainty, while the application of these standards to individual reasonable use proposals is better left to a professional Hearing Examiner. Reasonable use exceptions, as previously discussed, deal with the protection of constitutional property rights. The legal and technical complexity of these applications makes them particularly well suited to having the Hearing Examiner make a decision with the City Council sitting in its appellate capacity.

90.140.5 The decisional criteria for granting a reasonable use was changed as follows:

90.140.5.a. specifies that the least impacting use is a single family dwelling in a residential zone and an office in a commercial zone.

90.140.5.c. allows a maximum sensitive area disturbance of 50% of the area of a lot that is less than or equal to 6000 square feet in area.

90.140.5.i. is a new criterion that prohibits a reasonable use that confers a special privilege to the applicant.

90.140.8 The lapse of approval section was restructured and changed to allow the Planning Official to grant an extension rather than through a formal permit process.

### **Chapter 105 – Parking and Access**

105.47 – Location of Parking Areas – Garages in Low Density Zones: Unnecessary wording removed from proposed amendment. No change to effect of amendment.

### **Chapter 115 – Miscellaneous Use Development and Performance Standards**

115.23 – Common Recreational Space Requirements for Certain Residential Units: This amendment removes the common open space requirements from each individual zone and centralizes them in a new Section 115.23. No changes to the open space requirements were made.

115.25 – Development Activities and Heavy Equipment Operation – Limitations On: Subsection 2.a.i was revised to clarify that there should be no impact on any residential use, not just any adjoining residential use.

115.30 – Distance Between Structures/Adjacency to Institutional Use: Subsection 1.c was revised to add new subsections 3) and 4), exempting detached dwelling units approved as a “Detached, Attached, or Stacked Dwelling Unit” from horizontal façade regulations, and allowing exemptions for porches and stairs meeting certain requirements.

115.59 – Height Regulations – Calculating Average Building Elevation (ABE): Subsection 3, which addressed the use of “historic” grade in determining Average Building Elevation and would have codified Interpretation 04-2, was removed from the proposed amendment. This issue may be addressed as part of a future code amendment package.

115.60 – Height Regulations – Exceptions: The scope of the amendment was narrowed, to allow only skylights to exceed the height limit by a maximum of six inches on all buildings.

115.65 – Home Occupations: Several changes were made, including:

115.65.2 – Applicability: Clarifies that home occupations are allowed in single-family, multi-family, and accessory dwelling units.

115.65.4 – Standards for Home Occupations: The following changes were made. This section was re-ordered, so subsections do not necessarily appear in the order that they did on July 24, 2006. The lower case letter preceding each item corresponds to the enumeration in Ordinance 4072:

- a. Clarifies who can participate in the operation of the home occupation.
- b. The prohibition on outdoor activity was removed.
- c. No change.
- d. Adds traffic and parking to the list of impacts of concern.
- e. Establishes allowances/limits on the number and hours of commercial/courier pickups and deliveries.
- f. Removes limit on indoor inventory storage. As adopted, the total space that can be occupied by a home occupation is 500 square feet.
- g. Clarifies the number and hours of client/customer visits that are allowed.

115.65.5 – (Review process for Home Occupation not meeting basic standards): Establishes Process I as the review process for any home occupation not meeting the standards of KZC 115.65.4, but with public notice distributed as required by Process IIA.

In addition, KZC 115.65.5.e requires that any Home Occupation reviewed through Process I locate and screen any required or proposed site improvements in a manner that minimizes its view from surrounding properties or adjacent streets.

Inspections: An earlier provision allowing City inspection of premises was deleted.

115.90 – Calculating Lot Coverage: This amendment was shortened to reduce redundancy. There was no change to the effect.

115.95 – Noise Regulations: Minor wording changes.

115.115 – Required Yards: Several revisions occurred, including:

115.115.3.m (Structures and Improvements in required yards): This section was revised to (1) apply this provision to “residential uses in other zones” (not just low density zones), and (2) specifically prohibit storage sheds in a required front yard. In addition, the earlier proposal to allow such sheds up to 200 sq. ft. in size was deleted.

115.115.3.p (HVAC equipment): This section as revised to remove the previously-proposed language that would have required a noise consultant and mitigating actions in the event of a persistent noise problem. Instead, the City’s noise regulations and enforcement provisions will be enforced in the event of a violation.

115.115.5 – Driveways and Parking Areas: Subsection a(1) was revised to clarify allowed interruptions in the landscape strip separating hard-surfaced areas.

As requested by the Houghton Community Council, the amendments affecting Subsections a(3)(c) and (d) (driveway modification allowance based on provision of a fence, or based on landscape buffer modification) were removed from the proposal.

115.142 – Transit Shelters and Centers, Public: This section was revised to retain the current 15 foot height limit in low density zones.

### **Chapter 180 – Plates**

Plate 10, which illustrates “Intrusions into Required Setback Yards”, was revised to reflect recent changes to FAR/setback encroachment provisions adopted under Ordinance No. 4065 (NOTE: the FAR/setback encroachment provisions adopted by Ordinance 4065 are not effective in Houghton, but Plate 10 applies city-wide; clarifying language was added to Plate 10).

### **COMMUNITY COUNCIL OPTIONS**

The Community Council has the following three options for action on this ordinance.

- A. Approve the ordinance. A vote by the majority of the entire membership of the Community Council approving Resolution 2007-1 would document your support of this amendment.
- B. Disapprove the ordinance. A vote by the majority of the entire membership of the Community Council approving alternative Resolution 2007-1 would disapprove the ordinance. Disapproval means the entire ordinance will have no effect in Houghton.
- C. Take no action. No action would allow the amendment to go into effect within the Houghton jurisdiction 60 days following the adoption of the ordinance by the City Council.

Attachments:

- 1. Ordinance No. 4072
- 2. Resolution 2007-1 Approving Ordinance No. 4072
- 3. Alternative Resolution 2007-1 Disapproving Ordinance No. 4072

