



CITY OF KIRKLAND
Planning and Building Department
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MEMORANDUM

To: Houghton Community Council

From: Jeremy McMahan, Planning and Building Deputy Director

Date: May 13, 2022

Subject: CODE AMENDMENTS ASSOCIATED WITH SUNSETTING OF HOUGHTON COMMUNITY COUNCIL, FILE NO. CAM22-00322

RECOMMENDATION:

Review attached materials from City staff regarding amendments to Kirkland Municipal Code (KMC) and Kirkland Zoning Code (KZC) related to the sunseting of the Houghton Community Council. The City Council will consider these materials at their meeting of July 17.

Attachments

1. Staff memo
2. Map of Houghton Municipal Corporation Boundaries

cc: File Number CAM22-00322



CITY OF KIRKLAND
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MEMORANDUM

To: Kurt Triplett, City Manager

From: Adam Weinstein, Director of Planning & Building
Jeremy McMahan, Deputy Director of Planning & Building
Kevin Raymond, City Attorney

Date: May 10, 2022

Subject: CODE AMENDMENTS ASSOCIATED WITH SUNSETTING OF HOUGHTON
COMMUNITY COUNCIL, FILE NO. CAM22-00322

RECOMMENDATION:

Provide feedback to staff on a draft approach for undertaking amendments to the Kirkland Municipal Code (KMC) and Kirkland Zoning Code (KZC) related to the sunseting of the Houghton Community Council (HCC).

BACKGROUND:

On March 11, 2022, Governor Inslee signed into law House Bill (HB) 1769, which sunsets community municipal corporations in Washington state. The general effective date of HB 1769 will be June 9, 2022. However, the new law section that provides for the sunseting of these corporations becomes effective 30 days later, on July 9, 2022.

There are only two existent community municipal corporations in Washington – the HCC in Kirkland and the East Bellevue Community Council in Bellevue.

Metropolitan municipals corporations are creatures of state law. Consistent with state law, Title 2 of the KMC (Community Municipal Corporation) established the HCC and recognized its approval and disapproval authority over the “adoption, approval, enactment, amendment, granting or authorization by the Kirkland city council of any ordinance or resolution applying to land, buildings or structures within the community municipal corporation” with respect to the Comprehensive Plan; KZC; conditional use permits, special exceptions, or variances; subdivision ordinances; subdivisions; and planned unit developments.

With the adoption of HB 1769, however, metropolitan municipal corporations are no longer authorized in Washington. While the sunseting of the HCC would effectively render null and void many of the provisions in the KMC and KZC related to the HCC’s prior jurisdictional authority, it would be desirable to amend these sections of the codes to reflect that the HCC is no longer part of the land use process in Kirkland and to help ensure that they are consistent with state law.

In addition, there are many provisions of the KZC that establish different regulatory approaches in the area of HCC jurisdiction compared to the rest of the City. A map of the Municipal Corporation is included as Attachment 1, with an overlay showing the relationship to existing neighborhood associations. Because a fundamental purpose of HB 1769 is to ensure equity and fairness in city regulations, staff recommends a phased approach to amending the KMC and KZC to reflect the sunset of the HCC, conform to changes in state law, and to generally achieve a more uniform regulatory approach throughout Kirkland. This recommended phased approach is described below.

RECOMMENDED APPROACH:

Phase 1: Repeal KMC Title 2 (Community Municipal Corporation)

Description: Title 2 of the KMC details the formation of the HCC, the applicability of ordinances that were originally adopted by the City of Houghton prior to incorporation into the City of Kirkland in 1968 (and conversely, the status of ordinances adopted by the Kirkland City Council in the area of HCC jurisdiction), the jurisdictional authority of the HCC in land use and other matters, and the rules for extending the terms of the HCC's existence.

Process and Timing: As noted above, the provisions in Title 2 would effectively become null and void when the HCC sunsets on July 9, 2022. However, the KMC should be amended to reflect that the governing body is no longer in existence and to remove references in the KZC to the "Houghton Community Municipal Corporation" or "Houghton Community Council," substituting references to the "territory within the boundaries of the former city of Houghton as the boundaries existed on July 30, 1968." This last code amendment is necessary for the period of time when there may be substantive regulatory differences in the KZC that apply only to the geographic jurisdiction of the former HCC. Because the boundaries of the Houghton Municipal Corporation are included on the official Zoning Map, the distinction in regulations will remain clear to applicants and staff until such time as those regulations may be changed by the Council.

The Phase 1 amendments would not require a public hearing and should be accomplished prior to July 9, 2022 (with an effective date of July 9, 2022).

Phase 2a: Repeal HCC Process/Authority Provisions in the KZC

Description: Reflecting the HCC's jurisdictional authority established in Title 2 and described above, the KZC includes various provisions that establish the authority of the HCC to participate in hearings, make recommendations, and disapprove certain quasi-judicial and legislative actions of the City.

Process and Timing: Staff recommends that the Phase 2a amendments, which require a public hearing and Planning Commission recommendation to the City Council, be accomplished soon after July 13, 2022 and combined with Phase 2b (described below).

Phase 2b: Repeal Regulatory Differences in the KZC

Description: The KZC contains numerous instances where the HCC has exercised disapproval authority over regulations that apply in the rest of Kirkland, meaning that (until and unless changed) different zoning regulations would continue to apply within the geographic boundaries of former HCC's jurisdiction, even after the HCC sunsets. A list of these regulatory differences (with associated code sections and brief description noted) is below:

1. School heights (various code sections; height allowances for schools are more restrictive in HCC jurisdiction)
2. Reasonable use exceptions (KZC 90.180; allowances for developing projects on properties encumbered by critical areas, such as wetlands, streams, and their buffers are more permissive in HCC jurisdiction)
3. Inclusionary zoning requirements for affordable housing (KZC 112; affordable housing set-asides are not required within multi-family projects in HCC jurisdiction except in the HENC zones)
4. Missing middle housing (KZC 113; new, more permissive regulations and streamlined permitting adopted by City Council in March 2020 to foster the production of more compact and affordable housing units such as duplexes, triplexes, carriage houses, and cottages do not apply in HCC jurisdiction)
5. Height allowances for solar panels on flat roofs (KZC 115.60.2.a.4; a 6-inch height bonus for solar panels on flat roofs does not apply in HCC jurisdiction, making it more difficult to install solar panels)
6. Setbacks for bay window and other projections in single-family zones (KZC 115.115.3.d; regulations for building projections such as bay windows, chimneys, and canopies are more permissive in HCC jurisdiction)
7. Marijuana business buffers from childcare centers (KZC 115.155; State regulations enabling jurisdictions to allow licenses within 1,000 feet of childcare centers were approved by the City and but HCC retained the 1,000-foot buffer)
8. Sponsored homeless encampments (KZC 127.25, 127.42, and 127.44; managed homeless encampments in HCC jurisdiction can only be sponsored by a local church and not by other community organizations – as is allowed in the rest of Kirkland; in addition, the Planning Official is required to send notice of applications to HCC members before approving the permit)
9. Garage design (KZC 115.43; regulations to minimize the appearance of the garage when viewing the front facade of a house in order to foster a pedestrian-friendly environment do not apply in HCC jurisdiction)
10. Porches in setbacks (KZC 115.115.3.n; regulations allowing porches to project into front setbacks to encourage a pedestrian-friendly environment do not apply in HCC jurisdiction)
11. Floor Area Ratio (FAR) limits (KZC 115.42; there are no FAR limits in single-family zoning districts, meaning that the bulk and scale and size of single-family residences are governed by other development regulations like building setbacks and maximum height allowances)
12. Boat and trailer parking (KZC 115.150; regulations allowing for boat and trailer parking on private property are more permissive in HCC jurisdiction)

13. Trees and Landscaping (KZC 95; recently-adopted amendments to this chapter were vetoed by the HCC, leaving previous regulations in effect in HCC jurisdiction)

Process and Timing. As noted above, a key intent of HB 1769 is to promote equity and fairness in city regulations. With these objectives in mind, staff believes that all of the regulatory differences listed above eventually should be eliminated within the geographic boundaries of the former HCC jurisdiction. Eliminating these differences would create more housing choices in Kirkland, facilitate construction of educational facilities, more effectively protect environmentally-sensitive areas such as wetlands, create more opportunities for renewable energy, and foster a more pedestrian-friendly environment that aligns with Comprehensive Plan goals for the community. In the opinion of staff, there are likely no differences in the physical or community conditions of the HCC's geographic area that warrant the continuation of these regulatory differences. At the same time, staff recognizes that in some important instances third parties may have invested time and money on projects based on these present differences.

Therefore, staff recommends that the Phase 2b amendments, which require a public hearing and Planning Commission recommendation to City Council, be accomplished after July 9, 2022 and combined with many of the Phase 2a amendments (described above). However, staff recommends that a subset of the regulatory differences listed above, in particular those related to the design of single-family residences (Numbers 9-11 in the list above), should have a delayed effective date such that in-progress (but not-yet-submitted) permit applications for single-family houses which assumed the existence of regulatory differences of Numbers 9-11 can be completed and vest to the existing regulations. The same approach could be taken for Number 12, to allow ample time for owners of boats and trailers to comply with the amended regulations. For instance, the effective date for the elimination of regulatory differences summarized in Numbers 9-12 could be delayed 6-9 months. It is staff's recommendation that the application of the recently amended KZC 95, Number 13, should have a delayed effective date of two months, which is the delay applied for the remainder of the City following City Council adoption.

QUESTIONS FOR COUNCIL:

Staff would appreciate feedback from City Council on the following questions:

1. Is there any other information that would be useful to Council in evaluating the approach to the code amendments described above?
2. Does Council have any initial feedback on the proposed approach?

Attachment 1: Map of Houghton Municipal Corporation Boundaries

Cc: Planning Commission and Houghton Community Council

HCC Jurisdiction and Neighborhoods

