

ORDINANCE O-4369

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING CHAPTER 117 PERSONAL WIRELESS SERVICE FACILITIES OF THE KIRKLAND ZONING ORDINANCE 3719 AS AMENDED; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION , FILE NO. ZON12-00002.

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 3719 as amended, and certain sections of the text of the Kirkland Municipal Code, as amended all as set forth in that certain report and recommendation of the Planning Commission dated July 26, 2012 and bearing Kirkland Department of Planning and Community Development File No.ZON12-00002; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission and Houghton Community Council , following notice thereof as required by RCW 35A.63.070, on June 14, 2012, held a joint 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 Commission.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Zoning text amended: The following specified sections of the text of Ordinance 3719 as amended, the Kirkland Zoning Ordinance, 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 five days from and 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 7th day of August, 2012.

Signed in authentication thereof this 7th day of August, 2012.




Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

ATTACHMENT A
FILE NO. ZON12-00002
2012 MISCELLANEOUS CODE AMENDMENTS
KIRKLAND ZONING CODE (KZC)
***- Subject to Houghton Community Council review**

How to read this document:

- New text is underlined
- Existing text to be deleted is covered by a ~~strike-through~~
- ***Italicized*** text identifies the amendment topic

*** Chapter 117 Personal Wireless Service Facilities**

117.15 Definitions

3. "Approved PWSF antenna or tower" shall mean any personal wireless service facility (PWSF) that has received all required permits, ~~for the installation, maintenance, and reconfiguration of the facility.~~
8. ~~"Existing structure" shall mean, but is not limited to, any existing building, utility pole, water reservoir, other support structure, and structures accessory thereto.~~
13. ~~"Replacement structure shall mean a structure that replaces or is intended to replace an existing structure of a similar design and similar primary purpose, to enable the installation of or additional PWSF on that structure. If a "replacement structure" meets the definition of "tower," it shall be regulated as a new tower.~~

(Definitions to be renumbered accordingly)

117.20 Applicability

1. ~~New Antennas and Towers~~ PWSF – All new antennas and towers PWSF shall comply with this chapter unless the applicant had a vested application to site said PWSF under a prior version of this chapter, or unless specifically exempted by KZC 117.25. See also 2.c. of this section.
2. ~~Approved Antennas and Towers~~ PWSF — ~~Reconfiguration of or additions to an approved antenna or tower is permitted as noted in this chapter. Reconfiguration of or additions to an antenna or tower that was not approved are not allowed unless the entire facility obtains approval as a new facility through the appropriate review process.~~
3. ~~Existing Antennas and Towers~~
 - a. ~~The usage of existing antennas and towers~~ approved PWSF shall be allowed to continue as they exist as of the effective date of this chapter. Routine maintenance and repair reconfiguration of PWSF antennas shall be permitted on such existing antennas and towers, subject to the limitations below. Activity not included in routine maintenance and repair requires compliance with this chapter except as stated in 2.b and 2.c of this section.

- ~~b. Any reconfiguration pursuant to subsection (3)(a) of this section that increases the height or number of antennas shall be treated and processed as a new facility. PWSF Existing antennas that conform to the provisions of this chapter may be replaced by new PWSF antennas, if such new PWSF antennas are approved as a minor modification pursuant to KZC 117.105. However, the replacement of an existing tower, whether that tower conforms or does not conform to the provisions of this chapter, shall be treated and processed as a new facility.~~
- ~~c. New antenna may be added to existing platforms or arms that are appended to approved towers if such new antenna are approved as a minor modification pursuant to KZC 117.105. However, new platforms or arms on approved towers will require compliance with this chapter.~~
- ~~d. The replacement of existing antennas that do not conform to the provisions of this chapter shall be treated and processed as a new facility.~~
- ~~e. The replacement of an existing tower, whether that tower conforms or does not conform to the provisions of this chapter, shall be treated and processed as a new facility.~~

~~4. Equipment Structures~~

- ~~a. The usage of existing equipment structures shall be allowed to continue as it exists as of the effective date of this chapter. Routine maintenance, reconfiguration of, or additions to equipment structures shall be permitted, subject to the limitations below.~~
- ~~b. Existing equipment structures may be replaced, and new equipment structures may be added to an approved antenna and/or tower; provided, that the new equipment structures conform with the provisions of this chapter, and are approved as a minor modification pursuant to KZC 117.105.~~
- ~~c. Reconfiguration or addition of equipment structures that increases the size of the equipment structure enclosure shall be treated and processed as a new facility.~~

~~3. Not Approved PWSF – Any PWSF for which there is no record of a permit must be removed or receive a permit to comply with this chapter.~~

~~4. Equipment Structures~~

- ~~a. The usage of existing equipment structures shall be allowed to continue as it exists as of the effective date of this chapter. Routine maintenance, reconfiguration of, or additions to equipment structures shall be permitted, subject to the limitations below.~~
- ~~b. Existing equipment structures may be replaced, and new equipment structures may be added to an approved antenna and/or tower; provided, that the new equipment structures conform with the provisions of this chapter, and are approved as a minor modification pursuant to KZC 117.105.~~
- ~~c. Reconfiguration or addition of equipment structures that increases the size of the equipment structure enclosure shall be treated and processed as a new facility.~~

~~45. Other Wireless Communication Facilities – All of the provisions of this chapter, which address personal wireless services and PWSF, shall also be deemed to cover other wireless communications facilities (and, in particular, but without limitation, television,~~

satellite radio, global positioning systems (GPS), and AM/FM radio towers not covered by KZC 115.60.c to the maximum extent allowed by law.

117.35 Permit Required

In all instances, a permit must be obtained from the City before any PWSF may be constructed on any public or private land or right-of-way, including I-405, and SR 520, ~~and the Burlington Northern Railroad right-of-way within the City limits.~~

117.80 Departures from Chapter Provisions

Provisions of this chapter shall not be subject to variances described in Chapter 120 KZC. However, through Process IIB, Chapter 152 KZC, the City may consider departures from chapter provisions for new PWSF, except for the following:

1. The 40-foot height limit for personal wireless service towers in residential zones; and/or
2. The 15-foot limit for antennas projecting above an existing or replacement utility pole or electrical distribution or transmission conductor in residential zones.

117.105 Complete Compliance Required

1. General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of all prior approvals in order to do everything authorized by that approval.
2. Exception – Subsequent or Minor Modification – The Planning Official may approve a subsequent or minor modification to the permit approved for the PWSF if:
 - a. The modification is minor and will not substantially change the PWSF; proposed facility; and
 - b. ~~The proposed modification will comply with the provisions of this chapter in effect at the time of the modification request; and~~ There will not be any substantial changes in the impacts on the neighborhood or the City as a result of the change.

Any modification, other than as specified in subsection (2) of this section, must be reviewed and decided upon as a new PWSF ~~approval~~ under this chapter.

PUBLICATION SUMMARY
OF ORDINANCE O-4369

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING CHAPTER 117 PERSONAL WIRELESS SERVICE FACILITIES OF THE KIRKLAND ZONING ORDINANCE 3719 AS AMENDED; AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION , FILE NO. ZON12-00002.

SECTION 1. Amends Kirkland Zoning Ordinance 3719 Chapter 117 relating to personal wireless service facilities.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. Provides that the ordinance is subject to the disapproval jurisdiction of the Houghton Community Council.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Kirkland Municipal Code 1.08.017 and establishes the effective date as five days after publication of 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 7th day of August, 2012.

I certify that the foregoing is a summary of Ordinance O-4369 approved by the Kirkland City Council for summary publication.



City Clerk