

ORDINANCE NO. 2777

AN ORDINANCE OF THE CITY OF KIRKLAND PERTAINING TO LAND USE, ZONING AND RELATED MATTERS, AND AMENDING ORDINANCE 2740 AS AMENDED.

WHEREAS, the City Council did adopt a new Zoning Code by Ordinance 2740 on September 20, 1982; and

WHEREAS, the City Council did adopt amendments to this Zoning Code by Ordinances 2729, 2749, and 2756; and

WHEREAS, during the use of this new Zoning Code and related amendments, several problems have come to light which should be corrected; and

WHEREAS, an Environmental Checklist was submitted on this proposed ordinance on October 25, 1983. The Responsible Official evaluated this proposal and issued a Declaration of Non-Significance on August 9, 1983. This environmental information was made part of the record and accompanied this proposed amendment throughout its consideration by the Houghton Community Council, Planning Commission, and City Council; and

WHEREAS, the Houghton Community Council considered this proposed ordinance on October 25, 1983. The Planning Commission held a public hearing and considered this proposed ordinance on November 3 and 17, 1983. The Houghton Community Council and the Planning Commission both recommend that City Council adopt this ordinance; and

WHEREAS, City Council considered this proposed ordinance on November 21, 1983 and concluded that it would be within the public interest consistent with the Comprehensive Plan and said recommendations to adopt it.

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

Section 1: Chapter 5.10.620 of Ordinance 2740 is hereby amended to read as follows: Outdoor - Not contained within a building. ~~or-under-a-covered-space.~~

Section 2: Chapter 5.10 of Ordinance 2740 is hereby amended to add the following new section:

5.10.622 Outdoor Storage - Any material, including items for storage or sale, lease, processing and repair (including vehicles) not in an enclosed building.

Section 3: Chapter 5.10 of Ordinance 2740 is hereby amended to add the following new section:

5.10.881 Solid Screening Fence - A uniformly finished fence at least 6' high which is opaque or perforated provided that no more than 50 percent of the face is open.

Section 4: Section 115.105 of Ordinance 2740 is hereby amended to read as follows:

Section 115.105 Outdoor Use, Activity and Storage

1. General---Subject to the permit requirement of paragraph 2 of this Section, the uses and activities that are allowable on a site may be conducted out of doors unless Chapters 15 through 65 of this Code limit outside activity for a particular use in a particular zone.
2. Required Permit---Outside storage, sale, fabrication and similar activity connected with an industrial or commercial use is only permitted if approved through Process F, described in Chapter 145 of this Code.---The City may approve the application if---
 - a. The outside activity will not create a greater impact on any nearby residential use than would be created by conducting the same activity inside a structure, and
 - b. The outside activity will not detract from the character of nearby uses, and
 - c. The outside activity will not attract vermin or present other health hazards.
3. Structured Areas Included in Square Footage---For the purposes of this Code, an outside use, activity, or storage area will be used in calculating the gross floor area of a use or development if this outside area meets both of the following tests:
 - a. The area has relatively fixed boundaries.
 - b. The area will be used as an outside use, activity or storage area for at least two months in every year.

If an outside use, activity or storage area does not meet both of these tests, it will not be used in calculating the gross floor area of the use or development.
4. Exceptions to Outdoor Use Activity, or Storage---the following outdoor uses and activities when located in commercial zones, are exempt from the permit requirements of this Section:
 - a. Not to exceed 30 days

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- 1) Christmas-tree-lots.
- 2) Fireworks-stands.
- b. Not-to-exceed-5-days
 - 1) Amusement-rides.
 - 2) Carnivals-and-Circuses.
 - 3) Parking-lot-sales-which-are-ancillary
to-the-indeer-sale-of-the-same-goods
and-services.

1. General - Subject to the requirements of paragraphs 2 through 6 of this Section, the uses and activities that are allowable on a site in commercial and industrial zones may be conducted out of doors unless Chapters 15 through 65 of this Code limit outside activity for a particular use in a particular zone.

Uses and activities normally associated with a residential use are allowed in a residential zone. The outdoor storage of fire wood in a required setback in a residential zone is subject to Paragraph 3.h. of this section.

2. Site Plan - The applicant shall submit for approval to the Department of Planning and Community Development, a site plan drawn to scale consisting of the following items:

- a. Locations and dimensions of all structures and fences on site; and,
- b. Locations and dimensions of all parking and driving areas on site; and,
- c. Locations and dimensions of all existing and proposed outdoor use, activity or storage areas; and,
- d. Locations and description of all existing landscape buffering on site; and,
- e. The duration of time for which the outdoor use, activity or storage is intended.

3. Specific Use and Development Requirements - The City will administratively review and either approve or deny any application for outdoor use, activity and storage based on the following standards:

- a. All outdoor use, activity and storage areas must comply with required buffers for the primary use.

- b. A minimum 6 foot high solid screening fence or other appropriate screening approved by the Department of Planning and Community Development is required around the outside edges of the area devoted to the outdoor use, activity or storage. The fence shall be measured above finished grade except when the outdoor storage abuts a sidewalk, in which case the 6 feet must be above the sidewalk.
 - c. Outdoor use, activity or storage areas located adjacent to non-residential zones may be located in the required side and rear setback yards. All outdoor use, activity and storage areas located adjacent to residential zones must meet required setbacks for the primary use.
 - d. If the outdoor storage area is surrounded on all sides by property zoned for industrial use, then the height of the outdoor storage shall not exceed the height of the primary structure. In all other cases, the height of items related to outdoor use, activity or storage shall not exceed six feet above finished grade.
 - e. The outdoor use, activity or storage area shall not inhibit the safe vehicular and pedestrian movement to, from and on the subject property in accordance with the requirements of the Zoning Code and standards of the Fire Department, Building Department and the Public Works Department.
 - f. For the purposes of this Code, an outdoor use, activity or storage area will be used in calculating the gross floor area of a use or development if this area will be used as an outdoor use, activity or storage area for at least two months in every year.
 - g. If located on an unimproved area of the site, the underlying ground must be improved as required by the Department of Public Works and Planning and Community Development, and no trees over 6" in caliper may be cut.
 - h. Residential uses may store firewood on the subject property. The firewood may be located within setback yards only if it is stacked immediately adjacent to a structure, fence or comparable visual screen, and if the height does not exceed that structure, fence or comparable visual screen.
4. Exceptions to Outdoor Use, Activity or Storage - The following outdoor uses and activities when located in commercial and industrial zones, are exempt from the requirement of this section as stated below:
- a. Exceptions to paragraphs 3.a, .b, .c, .d, and .f, of this section provided that a temporary certificate of occupancy from the Building Department is obtained:

- (1) Outdoor Christmas tree lots and fireworks stands if these uses will not exceed 30 days.
- (2) Outdoor amusement rides; carnivals and circuses; and parking lot sales which are ancillary to the indoor sale of the same goods and services if these uses will not exceed 7 days.

b. Exception to paragraphs 3.a and 3.b of this Section:

- (1) That portion of an outdoor use, activity or storage area which abuts another outdoor use, activity or storage area which is located on property zoned for commercial or industrial use.
- (2) Outdoor use, activity and storage areas which are located adjacent to a fence or structure which is a minimum of 6' above finished grade; and do not extend outward from the fence or structure more than 5 feet provided that the total horizontal dimensions of these areas shall not exceed 50% of the length of the facade or fence (see Plate 11).
- (3) If there is an improved path or sidewalk in front of the outdoor storage area, the outdoor use activity or storage may extend beyond 5' if a clearly defined walking path at least 3' in width is maintained and there is adequate pedestrian access to and from the primary use. The total horizontal dimension of these areas shall not exceed 50% of the length of the facade of the structure or fence (see Plate 11).
- (4) Outdoor dining areas. In addition to being exempt from paragraphs 3a and 3b of this section, table umbrellas may exceed the 6 foot height limitation of paragraph 3d of this section.
- (5) Outdoor display of vehicle sales or lease provided that they meet all of the standards of Section 105.80.1.a and .b of this Code.

5. Modification. The applicant may request a modification of the requirements of paragraphs 2 through 4 of this section by submitting a written request with their site plan to the Department of Planning and Community Development for review. The Planning Official may approve a modification if --

- a. The modification will not create a greater impact on any nearby residential use than would be created without the modification; and
- b. The modification will not detract from the character of nearby uses; and
- c. The modification will not be injurious to public health, safety or welfare; and

d. The modification complies with the Land Use Policies Plan.

6. Appeals of Outdoor Use, Activity and Storage Modification Requests.

a. Who Can Appeal - Any person who is aggrieved by a determination regarding a modification for outdoor use, activity or storage may appeal that determination at any time.

b. How to Appeal - The applicant must file a letter of appeal indicating how the determination affects his/her property and present any relevant arguments or information on the correctness of the determination. The applicant shall include the appeals fee as established by Ordinance.

c. Applicable Procedures - All appeals and determinations of this Chapter will be reviewed and decided upon using Process IIA described in Chapter 150 of this Code.

Section 5. Section 115.115 of Ordinance 2740 is hereby amended to read as follows:

3. Structures and Improvements - No improvement or structure may be in a required setback yard except as follows:

a. An improvement or structure, other than a parking area, that is not more than 4 inches above finished grade may be anywhere in a required setback yard.

b. An improvement or structure, that is not more than 18 inches above finished grade may extend not more than 5 feet into a required setback yard.

c. Chimneys, bays, greenhouse windows, and similar elements of a structure that customarily extend beyond the exterior walls of a structure may extend up to 18 inches into any required setback yard. The total horizontal dimension of the elements that extend into a required setback yard, excluding eaves, may not exceed 25% of the length of the facade of the structure. See Plate 10.

d. Fences may be located in required setback yards subject to the fence regulations contained within this Chapter.

e. Rockeries and retaining walls may be located in required setback yards if--

1) The rockery or retaining wall is not being used as a direct structural support for a major improvement; and

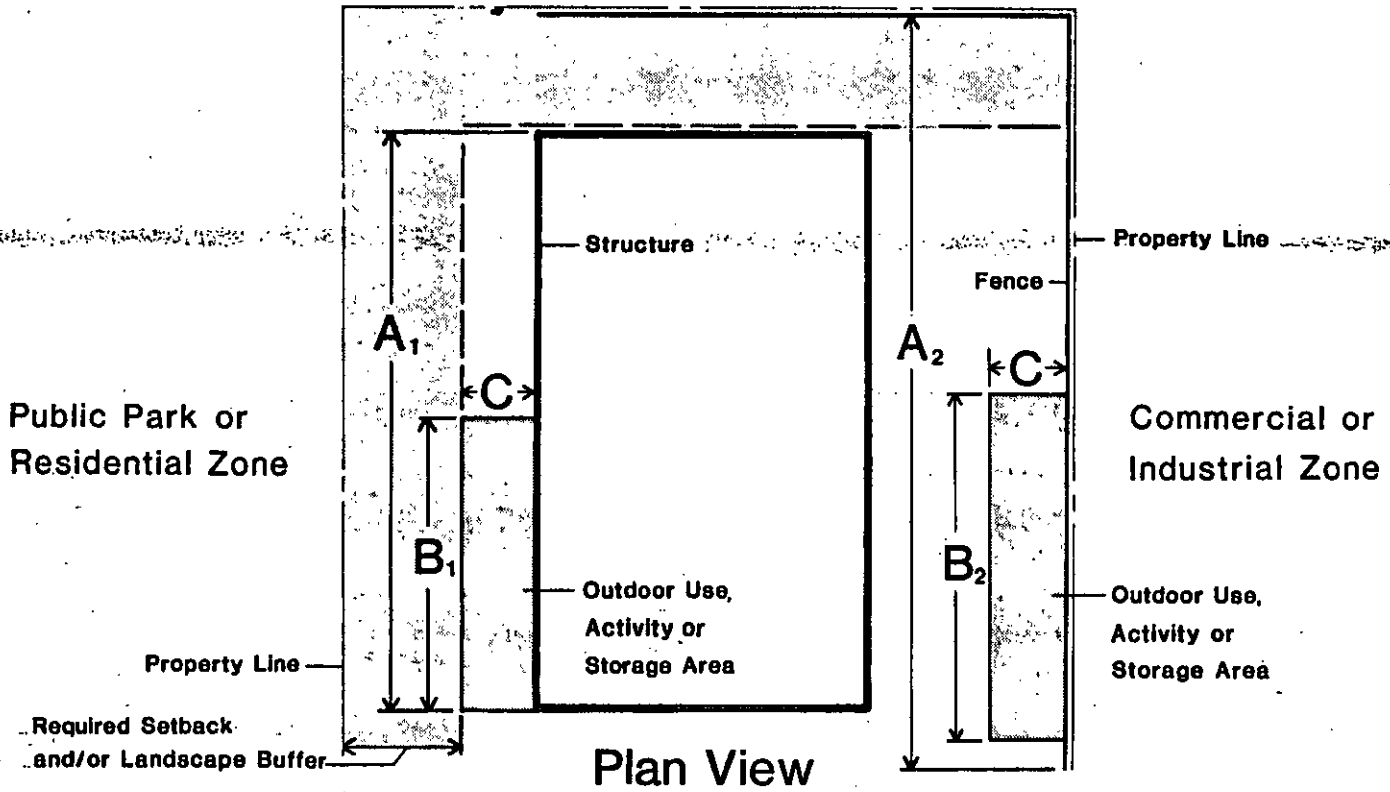
- 2) The rockery or retaining wall is reasonably necessary to provide support to a cut or slope.
- f. In WD I and CBD D, improvements associated with public use and access areas may be located in any required yard. In WD I, WD II and CBD D, the landward end of a pier may be located in the High Water Line Yard.
- g. See paragraph 5 of this Section for regulations on parking areas.
- h. Those structures and improvements permitted in required setback yards by Section 115.105 of this chapter.

Section 6. Chapter 180 of Ordinance 2740 is hereby amended to add a new Plate 11 as shown below:

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Outdoor Use, Activity and Storage Areas

Public Park or Residential Zone



Plan View

A - Horizontal Dimension of Structure, Building or Fence

B - Permitted Length of Outdoor Use, Activity and Storage Area as Determined by Horizontal Dimension of Adjacent Structure or Fence

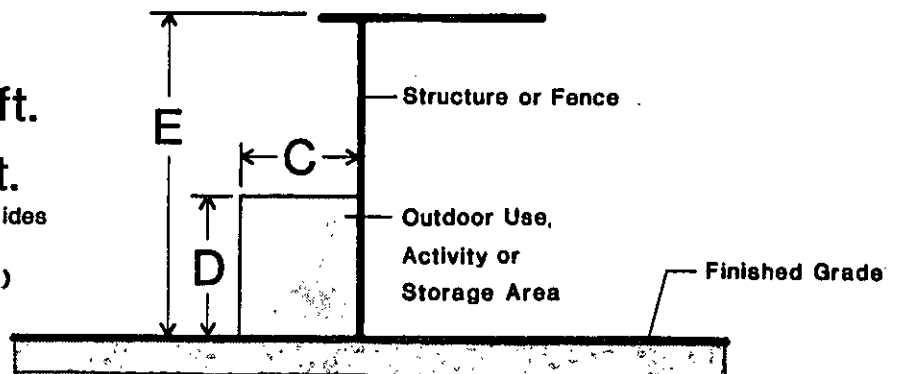
B (Less Than or Equal To) $50\%A$.

C (Less Than or Equal To) 5 ft.

E (Greater Than or Equal To) 6 ft.

D (Less Than or Equal To) 6 ft.

(If Subject Property is Surrounded on All Sides by Property Zoned For Industrial Use, Please Refer to Section 115.105 Paragraph 3.d)



Section

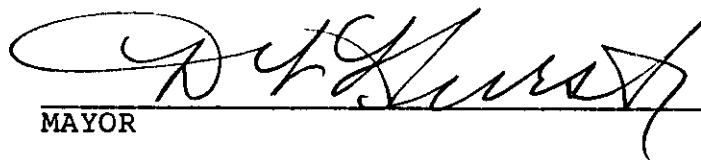
Section 7. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 8. To the extent that the subject matter and provisions of this Ordinance are within the disapproval jurisdiction of the Houghton Community Council, as created by Ordinance No. 2001, this Ordinance shall become effective within the Houghton Community either upon approval of the Houghton Community Council or failure of said Community Council to disapprove within sixty (60) days from the date of passage of this Ordinance.


Section 9. This Ordinance shall be in force and take effect five (5) days from and after its passage by the City Council and publication as required by law.

PASSED BY MAJORITY VOTE of the Kirkland City Council in regular, open meeting this 21st day of November, 1983.

SIGNED IN AUTHENTICATION thereof this 21st day of November, 1983.


MAYOR

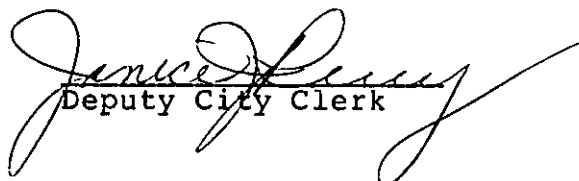
ATTEST:


Director of Administration and Finance
(ex officio City Clerk)

APPROVED AS TO FORM:


City Attorney

I hereby certify under penalty of perjury that the foregoing ordinance was posted on the 23rd day of November, 1983 in accordance with the provisions of RCW 35A.12.160 and City of Kirkland Ordinance No. 2600.


Deputy City Clerk

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