

ORDINANCE NO. 3479

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE (FILE NO. IV-94-79), AMENDING SECTION 5.10, SECTION 115.65 AND ADDING A NEW SECTION 115.65.6.

WHEREAS, the City Council has received from the Kirkland Planning Commission a recommendation to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 2740 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated May 2, 1995 and bearing Kirkland Department of Planning and Community Development File No. IV-94-79; and

WHEREAS, prior to making said recommendation, the Planning Commission, following notice thereof as required by RCW 35A.63.070, on April 13, 1995, held a public hearing on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, pursuant to the State Environmental Policies Act there has accompanied the legislative proposal and recommendation through the entire consideration process, a final determination of nonsignificance, including supporting environmental documents, issued by the responsible official pursuant to WAC 197-11-340 and WAC 197-11-390; 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; and

WHEREAS, The Housing Policy Act, enacted in 1993, mandates that cities with populations exceeding 20,000 allow accessory apartments (RCW 43.63A.215); and

WHEREAS, the Housing Element of the Growth Management Commission's draft Comprehensive Plan supports the provision of accessory dwelling units in single family homes, in order to provide opportunities to more efficiently use the existing housing stock, and to allow for the development of a range of housing types to meet the diverse housing needs of its citizens, at prices that are affordable.

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 text of Ordinance 2740 as amended, the Kirkland Zoning Ordinance, be and they hereby are amended to read as follows:

As set forth in Attachment A which by this reference is incorporated herein.

Section 2. Report: For a period of ten (10) years from the year of passage of this Ordinance, the Planning Department shall report biennially (every other year) to the City Council, the Houghton Community Council and formally established neighborhood associations on accessory dwelling unit registration, number of units and distribution throughout the City, average size of units, and number and type of complaint and enforcement-related actions.


Section 3. 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 4. 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.

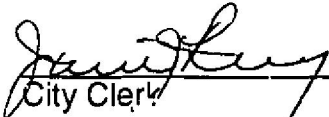
Section 5. Except as provided in Section 4, this ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Section 1.08.017 Kirkland Municipal Code, in summary form attached to the original of this ordinance and by this reference approved by the City Council, as required by law.

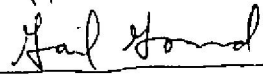
PASSED by majority vote of the Kirkland City Council in regular, open meeting this 20th day of June, 1995.

SIGNED IN AUTHENTICATION thereof this 20th day of June, 1995.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Clerk

Approved as to form :  
  
\_\_\_\_\_  
City Attorney

DRAFT  
ATTACHMENT A

5.10. Definitions

20. Accessory Dwelling Unit - A subordinate dwelling unit added to, created within, or detached from a single family structure, that provides basic requirements for living, sleeping, eating, cooking and sanitation.

115.65 Home Occupations, Accessory Dwelling Units and other Accessory Components of Residential Uses

6. Accessory Dwelling Units - One accessory dwelling unit (ADU) is permitted as subordinate to a single-family dwelling, provided that the following criteria are met:
- a. Number of Occupants. The total number of occupants in the principal dwelling unit and the ADU combined shall not exceed the maximum number established for a single-family dwelling as defined in Chapter 5.10.300 of the Kirkland Zoning Code.
  - b. Owner Occupancy. One of the units must be owner occupied. Owner occupancy is defined as a person with an ownership interest in the property.
  - c. Subdivision. Accessory dwelling units shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit.
  - d. Scale. The square footage of the accessory dwelling unit shall not exceed 40 percent of the primary residence and accessory dwelling unit combined. If the accessory unit is completely located on a single floor, the Planning Director may allow increased size in order to efficiently use all floor area.
  - e. Location. The accessory dwelling unit may be added to or included within the principal unit, or located in a detached structure, provided however that a detached structure may not be permitted within an RS 35 zone. Detached structures must conform with the setbacks, height restrictions, lot coverage and other applicable zoning regulations required for a principal dwelling unit in a single-family residential zone.

In addition, detached ADUs must be located to the rear of the primary residence and situated so as to be clearly secondary and accessory to the principal residence from the street side; provided that, ADUs

garage which was built prior to January 1, 1995, pursuant to a valid permit.

Detached accessory dwelling units may not exceed 1,000 square feet, and must also comply with paragraph 4 of this section.

- f. Entrances. The primary entrance to the accessory dwelling unit shall be located in such a manner as to be unobtrusive from the same view of the building which encompasses the entrance to the principal unit.
- g. Parking. There shall be one off-street parking space provided for the accessory dwelling unit.
- h. WDI and WDIII Zones. Properties located in the WDI and WDIII zones which develop accessory dwelling units must provide public pedestrian access consistent with the regulations continued in Sections 30.10.a. and 30.20.b. for attached or stacked dwelling units.
- i. Applicable Codes. The portion of a single family dwelling in which an accessory dwelling unit is proposed must comply with all standards for health and safety contained in all applicable codes, with the following exception for ceiling height. Space need not meet current Uniform Building Code (UBC) ceiling height requirements if it was legally constructed as habitable space.
- j. Permitting
  - 1) Application.
    - a) The property owner shall apply for an accessory dwelling unit permit with the Building Department. The application shall include an affidavit signed by the property owner agreeing to all the general requirements outlined in this Section.

In the event that proposed improvements in the accessory dwelling unit do not require a building permit, a registration form for the unit must be completed and submitted to the Planning Department.
    - b) The registration form as required by the City shall include a property covenant. The covenant must be filed by the property owner with the City for recording with the King County

Department of Records and Elections to indicate the presence of the accessory dwelling unit, and reference to other standards outlined in this section. The covenant shall run with the land as long as the accessory dwelling unit is maintained on the property.

- c) If an ADU was or is created without being part of a project for which a building permit was or is finalized, an ADU inspection will be required for issuance of an ADU permit. The ADU inspection fee will cover a physical inspection of the ADU. This fee will be waived if the ADU existed on January 1, 1995 and the ADU permit is applied for within six (6) months of the effective date of this ordinance (by 12/31/95 ).
- 2) Eliminating an accessory dwelling unit. Elimination of a registered accessory dwelling unit may be accomplished by the owner filing a certificate with the Planning Department, or may occur as a result of enforcement action.
  - 3) Pre-existing units. That portion of a single family residence which meets the definition of accessory dwelling unit which existed on January 1, 1995, may be legally established, and not subject to zoning violation fines, if the following requirements are met:
    - a) An application for an accessory dwelling permit is filed within eighteen (18) months of the effective date of this ordinance;
    - b) The accessory dwelling unit is determined to meet the requirements of this Section, as well as the other Code requirements referred to in Section 115.65.6.g.
  - 4) Appeals. The decision of the Planning Official in approving or denying a request to construct an accessory dwelling unit may be appealed using the appeal provision, as applicable, of Process I, Sections 145.60 through 145.110.

115.65 Home Occupations, Accessory Dwelling Units and other  
Accessory Components of Residential Uses

4. Accessory Structure - Structures, to be used as a tool shed, greenhouse, private garage, accessory dwelling unit, or similar use ~~and not designed or used for human habitation~~ are permitted. The total size of all such structures may not exceed 1,000 square feet. Accessory dwelling units must also comply with paragraph 6 of this section.

OR94-79.OCT/DC:rk

PUBLICATION SUMMARY OF ORDINANCE NO. 3479

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE (FILE NO. IV-94-79), AMENDING SECTION 5.10, SECTION 115.65 AND ADDING A NEW SECTION 115.65.6.

Section 1. Amends or adds to the following Chapters and Sections of the Zoning Code:

Chapter 5 - Definitions  
5.10.20 Accessory Dwelling Units

Chapter 115 - Miscellaneous Use Development and Performance Standards  
115.65 Home Occupations, Accessory Dwelling Units, and Other Accessory Components of Residential Uses

Section 2. 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 3. Provides that the ordinance shall not be effective within the Houghton Municipal Corporation if disapproved by the Houghton Community Council within sixty days of the date of adoption of this ordinance.

Section 4. Authorizes 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 summary, except as provided in Section 3.

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 regular meeting on the 20th day of June, 1995.

I certify that the foregoing is a summary of Ordinance 3479 approved by the Kirkland City Council for summary publication.

  
City Clerk