

ORDINANCE NO. 4040

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION, FILE NO. ZON05-00028.

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, all as set forth in that certain report and recommendation of the Planning Commission dated February 2, 2006 and bearing Kirkland Department of Planning and Community Development File No. ZON05-00028; and

WHEREAS, prior to making said recommendation, the Kirkland Planning Commission, following notice thereof as required by RCW 35A.63.070, on December 15, 2005 and January 26, 2006, held a public hearing, on the amendment proposals and considered the comments received at said hearing; and

WHEREAS, prior to making said recommendation, the Houghton Community Council, following notice thereof as required by RCW 35A.63.070, on December 19, 2005 and January 10, 2006, held a courtesy 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 197-11-600; and

WHEREAS, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendations of the Planning Commission and Houghton Community Council; and.

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, be and they hereby are amended to read 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, including Findings, Conclusions and Recommendations adopted by reference, 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 21st day of February, 2006

SIGNED IN AUTHENTICATION thereof this 21st day of February, 2006



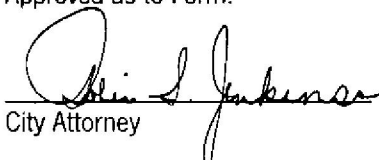
Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

Attachment A

Chapter 127 – TEMPORARY USE

Sections:

- 127.05 User Guide
- 127.10 Process for Deciding Upon a Proposed Temporary Use
- 127.15 Application Information
- 127.20 Criteria for Granting a Temporary Use Permit
- 127.25 Dimensional Requirements and Development and Performance Standards
- 127.30 Frequency and Duration of Temporary Use
- 127.35 Removal of a Temporary Use
- 127.40 Exceptions to Permit Requirement
- 127.42 Notice Requirements for Homeless Encampments
- 125.43 Option to Modify Standards for Homeless Encampments
- 127.45 Appeals

127.05 User Guide

This chapter establishes a mechanism whereby the City may, on a short-term basis, permit a use to be conducted that would not otherwise be allowed in the zone in which it is located. This chapter is intended to permit certain inherently-temporary uses, such as homeless encampments, community festivals and fresh vegetable stands, that would not be allowed in the zone in which they are proposed, but which, if limited in time and strictly controlled, may be in the best interests of the residents of Kirkland.

If you are interested in proposing a short-term use that is not otherwise allowable in the zone in which it is proposed, or if you are interested in participating in the City's decision on a proposed use of this kind, you should read this chapter.

127.10 Process for Deciding Upon a Proposed Temporary Use

An application for a temporary use permit will be reviewed and decided upon by the Planning Director.

127.15 Application Information

The applicant shall submit:

1. A completed application on the form provided by the Planning Department, along with all information listed in that form; and
2. An irrevocable, signed, and notarized statement granting the City permission to summarily abate the temporary use and all physical evidence of that use if it is not removed by the applicant within the period specified as part of the permit, and agreeing to reimburse the City for any expenses incurred by the City in abating the temporary use.

127.20 Criteria for Granting a Temporary Use Permit

The City may grant a temporary use permit only if it finds that:

1. The proposed temporary use will not be materially detrimental to the public welfare, or injurious to the property or improvements in the immediate vicinity; and
2. The proposed temporary use is compatible with existing land use in the immediate vicinity; and
3. The proposed temporary use or site plan is not otherwise allowable in the zone in which it is proposed.

127.25 Dimensional Requirements and Development and Performance Standards

The City shall establish dimensional requirements and development and performance standards as part of the approval of each temporary use permit. The City will use the nature of the proposed use and the character of the surrounding area as guides in establishing these requirements and standards.

In addition to these requirements and standards, the following definitions and standards apply to homeless encampments:

1. Definitions

- a. Homeless Encampment – A group of homeless persons temporarily residing out of doors on a site with services provided by a sponsor and supervised by a managing agency.
- b. Managing Agency – An organization that has the capacity to organize and manage a homeless encampment. A "managing agency" may be the same entity as the sponsor.
- c. Sponsor – A local church or other local, community based organization that has an agreement with the managing agency to provide basic services and support for the residents of a homeless encampment and liaison with the surrounding community and joins with the managing agency in an application for a temporary use permit. A "sponsor" may be the same entity as the managing agency.

2. Standards

- a. The encampment shall be located a minimum of 20 feet from the property line of abutting properties containing residential uses.

- b. Sight obscuring fencing is required around the perimeter of the homeless encampment unless the Planning Director determines that there is sufficient vegetation, topographic variation, or other site condition such that fencing would not be needed.
- c. Exterior lighting must be directed downward and contained within the homeless encampment.
- d. The maximum number of residents within a homeless encampment is 100.
- e. Parking for 5 vehicles shall be provided.
- f. A transportation plan is required which shall include provision of transit services.
- g. The homeless encampment shall be located within ½ mile of transit service.
- h. No children under 18 are allowed in the homeless encampment. If a child under the age of 18 attempts to stay at the homeless encampment, the managing agency shall immediately contact Child Protective Services.
- i. No animals shall be permitted in encampments except for service animals.
- j. A Code of Conduct is required to be enforced by the managing agency. The Code shall contain the following as a minimum:
 - i. No drugs or alcohol.
 - ii. No weapons.
 - iii. No violence.
 - iv. No open flames.
 - v. No loitering in the surrounding neighborhood.
 - vi. Quiet hours.
- k. The managing agency shall ensure compliance with Washington State and City codes concerning but not limited to drinking water connections, human waste, solid waste disposal, electrical systems, and fire resistant materials.
- l. The managing agency shall take all reasonable and legal steps to obtain verifiable identification from prospective encampment residents and use the identification to obtain sex offender and warrant checks from the appropriate agency. All

requirements by the Kirkland Police Department related to identified sex offenders or prospective residents with warrants shall be met.

m. The managing agency shall permit daily inspections by the City and/or Health Department to check compliance with the standards for homeless encampments.

127.30 Frequency and Duration of Temporary Use

1. The City may not grant a temporary use permit ~~to the same user at the same site~~ more frequently than once in every 365-day period. The City may only grant a temporary use permit for a specified period of time, not to exceed 60 days.

2. Exceptions

a. Temporary staging facilities for public projects may be approved for a time period not to exceed the duration of their construction.

b. Homeless encampments may be approved for a time period not to exceed 92 days.

127.35 Removal of a Temporary Use

The City shall designate, as part of the temporary use permit, a period following the expiration of the permit within which the temporary use must be terminated and all physical evidence of the use must be removed by the applicant. If the temporary use and all physical evidence of the use are not removed within the time specified, the City will remove it under the authority provided in KZC 127.15(2).

127.40 Exceptions to Permit Requirement

The following temporary uses, when located in commercial and industrial zones, are exempt from the permit requirements of this chapter:

1. Not to exceed 90 days:

a. Farm and gardener produce stands selling fruit and vegetables.

2. Not to exceed 30 days:

a. Christmas tree lots.

~~b. Fireworks stands.~~

3. Not to exceed five days:

- a. Amusement rides.
- b. Carnivals and circuses.
- c. Parking lot sales which are ancillary to the indoor sale of the same goods and services.

127.42 Notice Requirements for Homeless Encampments

1. Public Meeting

A minimum of 14 calendar days prior to the anticipated start of the encampment, the sponsor and/or managing agency shall conduct a public informational meeting by providing mailed notice to owners of property within 500 feet of the subject property and residents and tenants adjacent to the subject property. The purpose of the meeting is to provide the surrounding community with information regarding the proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and to answer questions regarding the homeless encampment.

2. A Notice of Application for Homeless Encampment shall be provided prior to the Planning Director's decision. The purpose of the notice is to inform the surrounding community of the application. Due to the administrative and temporary nature of the permit, there is no comment period. The notice shall contain at a minimum the date of application, project location, proposed duration and operation of the homeless encampment, conditions that will likely be placed on the operation of the homeless encampment, requirements of the written code of conduct, and how to get more information (i.e. City website). The Planning Department shall distribute this notice as follows:

- a. A copy of the notice, or summary thereof, will be published in the official newspaper of the City at least 7 calendar days prior to the Planning Director's decision.
- b. A copy of the notice, or summary thereof, will be mailed to owners of all property within 500 feet of any boundary of the subject property and residents and tenants adjacent to the subject property at least 14 calendar days prior to the Planning Director's decision.
- c. If located within the jurisdiction of the Houghton Community Council, a copy of the notice shall be mailed to the members of the Community Council at least 14 calendar days prior to the Planning Director's decision.

3. A Notice of Decision for Homeless Encampment, or summary thereof, shall contain the decision of the Planning Director and appeal procedure and be mailed as required for Notice of Application within four business days after the decision.

127.43 Option to Modify Standards for Homeless Encampments

The applicant may apply for a temporary use permit that applies standards that differ from those in KZC 127.25. If a modification is proposed, then the application will be processed according to Process I, KZC Chapter 145 including a comment period and appeal to the Hearing Examiner. In addition to all other permit application requirements, the applicant shall submit a description of the standard to be modified and shall demonstrate how the modification will result in a safe homeless encampment under the specific circumstances of the application. In considering

whether the modification should be granted, the Planning Director shall consider the effects on health and safety of residents and the community.

127.45 Appeals

~~The decision of the Planning Director in approving or denying a temporary use may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110.~~

There is no administrative appeal of the Planning Director's decision for a Temporary Use Permit. The action of the City in granting or denying an application under this chapter may be reviewed pursuant to the standards set forth in RCW 35.70C.130 in the King County Superior Court. The land use petition must be filed within 21 calendar days of the issuance of the final land use decision of the City. For more information on the judicial review process for land use decision, see Chapter 36.70C RCW.

PUBLICATION SUMMARY
OF ORDINANCE NO. 4040

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 3719 AS AMENDED, THE KIRKLAND ZONING ORDINANCE, FILE NO. ZON05-00028.

SECTION 1. Provides for the zoning text amended that is set forth in Attachment A attached to the ordinance and incorporated by reference.

SECTION 2. Provides a severability clause for the ordinance.

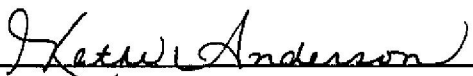
SECTION 3. Provides that the effective date of the ordinance is affected by the disapproval jurisdiction of the Houghton Community Council.

SECTION 4. Establishes certification by City Clerk and notification of King County Department of Assessments.

SECTION 5. 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.

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 21st day of February, 2006

I certify that the foregoing is a summary of Ordinance 4040 approved by the Kirkland City Council for summary publication.



City Clerk