

ORDINANCE O-4371

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND ADDING A NEW CHAPTER 118 HAZARDOUS LIQUID PIPELINES; AND AMENDING CHAPTER 5 DEFINITIONS, CHAPTER 17 SINGLE FAMILY RESIDENTIAL RSX ZONES, CHAPTER 18 SINGLE FAMILY RESIDENTIAL RSA ZONES, CHAPTER 20 MULTI FAMILY RESIDENTIAL RM AND RMA ZONES AND CHAPTER 55 TOTEM LAKE ZONE TL7 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, 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
HAZARDOUS LIQUID PIPELINE ZONING CODE AMENDMENTS
KIRKLAND ZONING CODE (KZC)

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

New Chapter 118 Hazardous Liquid Pipelines

Chapter 118 Hazardous Liquid Pipelines

Sections:

118.010 Purpose
118.020 Applicability
118.030 Development Notice
118.040 Development Application and Submittal Requirements
118.050 Setback Requirements
118.060 Requirements for Land Use Compatibility
118.070 Variances

118.010 Purpose

The purpose of this section is to:

- A. Help prevent and minimize unnecessary risk to the public health, safety, and welfare due to hazardous liquid pipelines;
- B. Minimize the likelihood of accidental damage to hazardous liquid pipelines;
- C. Avoid exposing land uses with either high on-site populations that are difficult to evacuate or that provide emergency response functions to risk of injury or damage in the event of a pipeline failure;
- D. Help reduce adverse impacts in the event of a pipeline failure;
- E. Supplement existing federal and state regulations related to hazardous liquid pipeline corridor management; and
- F. Improve communication between property owners and pipeline operators to minimize the risk of inadvertent damage to hazardous liquid pipelines and to provide guidance to property owners about minimizing further risk through site design or construction.

The provisions of this section are intended to protect the health, safety and welfare of the general public and are not intended to protect any particular individual, class of individuals, or organization.

118.020 Applicability

The provisions of this chapter shall apply to all development activity, landfilling, excavation and construction on properties within 150 feet of any hazardous liquid pipeline corridor, as defined in KZC 5.10.348. This chapter does not apply to the conduct of pipeline operators. The conduct of pipeline operators is regulated by the Federal Pipeline Safety Act, 49 U.S.C. § 60101, et seq., and the Washington State Pipeline Safety Act, RCW 81.88. Pipelines within public rights-of-way are also regulated by the terms and conditions of franchise agreements between the City and pipeline operators. Modifications to existing structures are exempt from this chapter if they do not involve landfilling, excavation or high consequence land uses, as defined in KZC 5.10.358.

118.030 Development Notice

Prior to conducting any development activity, landfilling, excavation, or construction located within 150 feet of a hazardous liquid pipeline corridor identified on the official City of Kirkland Olympic Pipeline Map, the applicant shall provide notification to the pipeline operator using a form provided by the City.

118.040 Development Permit Application Submittal Requirements

For all activities requiring a development permit:

- A. The applicant shall show the hazardous pipeline corridor and applicable setbacks on site plans, subdivisions and short subdivisions for proposed development on properties to which this chapter applies.
- B. The applicant shall provide verification that the pipeline operator has received and reviewed the development notice required in section 115.52.030. All comments provided by the operator shall be submitted or the operator shall confirm in writing that the operator has no comments.

118.050 Setback Requirements

- A. Hazardous Liquid Pipeline Corridor: No landfilling or excavation and no construction or expansion of structures is allowed within the corridor other than those authorized by the pipeline operator.
- B. Areas Adjacent to the Hazardous Liquid Transmission Pipeline Corridor.
 - 1. All development activity, landfilling, excavation and construction shall be setback a minimum of 25 feet from the edge of the corridor.

2. The Planning Official may expand the setback when necessary to meet the purpose of this section due to site-specific conditions, such as proposed major land surface modification or proximity of the pipeline.
 3. The Planning Official may reduce the setback due to site-specific conditions and an applicant's demonstration that the purpose of this section will be met. Factors to be considered shall include but are not limited to:
 - a. Pipeline location as determined using the pipeline operator's normal locating procedures; and
 - b. Type of construction proposed.
 4. If the Planning Official reduces the setback from the corridor, the following applies:
 - a. The setback shall be a minimum of 30 feet from the nearest edge of the pipeline.
 - b. The setback shall be measured from the nearest edge of the hazardous liquid pipeline.
 - c. The location of the pipeline and the reduced setback shall be shown on all approved site plans and subdivisions.
- C. Exemptions: Streets, utilities, trails and similar uses shall be exempt from subsections B1 and 2 above, provided that the pipeline operator shall be notified prior to landfilling, excavation or construction.
- D. Emergency Work: In the event of any emergency in which a pipeline breaks, is damaged, or is otherwise in such a condition as to immediately endanger the life, health, safety, or property of any person, the pipeline operator shall not be required to comply with this chapter or obtain permits prior to taking corrective action. The pipeline operator shall, however, call 911 immediately upon learning of the emergency.
- E. Setback Protection: Setbacks shall be identified and protected during construction by placement of a temporary barricade and on-site notices. Barricades and on-site notices are subject to review by the Planning Official.

118.060 Requirements for Land Use Compatibility

- A. High Consequence Land Uses.
1. New high consequence land uses, as defined in KZC 5.10.358, proposed to be located within 500 feet of a hazardous liquid pipeline corridor are prohibited.
 2. Proposed expansions to existing high consequence land uses located within 500 feet of a corridor shall be reviewed by the Planning Official to ensure that they are designed to avoid increasing the level of risk in the event of a pipeline failure, and where feasible,

reduce the risk compared to the existing development. Potential techniques to minimize risk include but are not limited to:

- a. Site design features, such as maintaining or increasing the distance between occupied structures, or structures that provide critical lifeline functions, and the pipeline and anticipated flow paths for leaking hazardous materials.
 - b. Building features, which do not result in a significant increase in on-site population or which expedite evacuation.
 - c. Technological features which provide accelerated notice of a pipeline failure to high consequence land uses to facilitate evacuation or which help avoid damage in the event of a failure of the pipeline.
 - d. Operational features, such as emergency plans and education programs developed in consultation with the Fire Department including:
 - 1) The level of emergency planning and procedures appropriate for the proposed development. Based on the nature, occupancy, or location of a proposed development, the Fire Department may require emergency plans and procedures for any occupancy classifications.
 - 2) Plans and programs for occupants and employees concerning pipeline safety, such as what to be aware of and how to respond in the event of a problem and drills,
 - 3) Emergency plans and procedures shall be consistent with the Kirkland Fire Code and shall be approved by the Fire Department.
- B. Location: Prior to commencing any development activity, landfilling, excavation or construction on properties that abut a corridor, notification shall be given through the one-call locator service prior to commencement of any of the permitted work.

118.070 Variances:

Relief from the setback requirements of this chapter shall be in accordance with the standards and procedures found in KZC 120 - Variances. The City shall provide written notice of the variance proposal to the pipeline operator and any comments provided shall be incorporated into the findings of the decision.

New Chapter 5 Definitions For Hazardous Liquid Pipelines

Chapter 5 Definitions
Section 5.05 User Guide (No change)
Section 5.10 Definitions

5.10. ~~350-346~~ Ground-Mounted Sign (no change)

5.10. 347 Hazardous Liquid Pipeline:

- As defined by RCW 81.88.040, Hazardous liquid means: (a) Petroleum, petroleum products, or anhydrous ammonia as those terms are defined in 49 C.F.R. Part 195 in effect March 1, 1998; and (b) carbon dioxide. Pipeline, pipeline system, or hazardous liquid pipeline mean all parts of a pipeline facility through which a hazardous liquid moves in transportation, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe, pumping units, fabricated assemblies associated with pumping units, metering and delivery stations and fabricated assemblies therein, and breakout tanks. Pipeline or pipeline system does not include process or transfer pipelines.

5.10. 348 Hazardous Liquid Pipeline Corridor

- The pipeline corridor in which the pipelines and facilities of a hazardous liquid pipeline operator are located, including public rights-of-way and easements over and through public or private property

5.10. 358 High Consequence Land Use

- A land use that if located in the vicinity of a hazardous liquid pipeline represents an unusually high risk in the event of a pipeline failure due to characteristics of the inhabitants or functions of the use. High consequence land uses include:

(1) Land uses that involve a high-density on-site population that are more difficult to evacuate. These uses include:

- schools (through grade 12),
- hospitals, clinics, and other facilities primarily for use by the elderly or handicapped, other than those within single family residences.
- stadiums or arenas,
- day care centers, and does not extend to family day care or adult family homes.

(2) Land uses that serve critical "lifeline" or emergency functions, such as fire and police facilities, utilities providing regional service, or water supplies if exposed to a significant risk that will curtail its lifeline function for a critical period of time.

(3) Uses with similar characteristics as determined by the Planning Official.

Chapter 55 Zone Totem Lake TL7 Zone

Section 55.49 General Regulations

55.47 User Guide.

The charts in KZC 55.51 contain the basic zoning regulations that apply in the TL 7 zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

**Section
55.49**

Zone
TL 7

Section 55.49 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:

1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
2. [A Hazardous Liquid Pipeline extends through the TL 7 zone. Refer to KZC 118 for regulations pertaining to properties near Hazardous Liquid Pipelines.](#)
- 2.3 Any development activities requiring Design Review approval pursuant to KZC 142.15 in this zone shall be reviewed administratively (ADR), pursuant to KZC 142.25.
- 3.4 Access for drive-through facilities must be approved by the Public Works Official. See Chapter 105 KZC for requirements.
- 4.5 Some development standards or design regulations may be modified as part of the design review process. See Chapters 92 and 142 KZC for requirements.

CHAPTER 17 – SINGLE-FAMILY RESIDENTIAL X (RSX) ZONES

17.05 User Guide.

The charts in KZC [17.10](#) contain the basic zoning regulations that apply in each RSX 35, RSX 12.5, RSX 8.5, RSX 7.2 and RX 5.0 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section
17.08

Section 17.08 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:



1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
2. If any portion of a structure is adjoining a detached dwelling unit in a low density zone, then either:
 - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation, or
 - b. The maximum horizontal facade shall not exceed 50 feet.

See KZC [115.30](#), Distance Between Structures/Adjacency to Institutional Use, for further details.
(Does not apply to Detached Dwelling Unit and Mini-School or Mini-Day-Care Center uses).

- 3 **A Hazardous Liquid Pipeline** is located near the RSX 35 **zone** in the Bridle Trails neighborhood along the eastern boundary of the city. **Refer to KZC 118 for regulations pertaining to properties near Hazardous Liquid Pipelines.**

[link to Section 17.10 table](#)

CHAPTER 18 – SINGLE-FAMILY RESIDENTIAL A (RSA) ZONES

18.05 User Guide.

The charts in KZC 18.10 contain the basic zoning regulations that apply in each RSA 1, RSA 4, RSA 6 and RSA 8 zones of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section
18.08

Section 18.08 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:



1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
 2. If any portion of a structure is adjoining a detached dwelling unit in a low density zone, then either:
 - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation; or
 - b. The maximum horizontal facade shall not exceed 50 feet.
- See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.
(Does not apply to Detached Dwelling Unit and Mini-School or Mini-Day-Care Center uses).
3. All subdivisions and short subdivisions in the RSA-1 zone shall be clustered such that development is located away from critical areas. The open space resulting from such clustering shall be placed in a separate tract that includes at least 50 percent of the subject property. Open space tracts shall be permanent and shall be dedicated to a homeowner's association or other suitable organization for purposes of maintenance. Passive recreation, with no development of recreational facilities, and natural-surface pedestrian and equestrian trails are acceptable uses within the open space tract. If access to the open space is provided, the access shall be located in a separate tract. A greenbelt protection or open space easement shall be dedicated to the City to protect the designated open space tract resulting from lot clustering.
 4. For properties within the Holmes Point (HP) Overlay Zone, see Chapter 70 KZC for additional regulations.
 5. May not use lands waterward of the ordinary high water mark to determine lot size or to calculate allowable density.
 6. For properties within the jurisdiction of the Shoreline Management Act, see Chapter 83 KZC for permitted uses, shoreline setback regulations and other additional regulations.
 7. A Hazardous Liquid Pipeline extends through or near the RSA 1, 4, 6, and 8 zones in the vicinity of 136th Avenue NE. Refer to KZC 118 for regulations pertaining to properties near Hazardous Liquid Pipelines.

[link to Section 18.10 table](#)

CHAPTER 20 – MULTIFAMILY RESIDENTIAL (RM AND RMA) ZONES

20.05 User Guide.

The charts in KZC 20.10 contain the basic zoning regulations that apply in each RM 5, RMA 5, RM 3.6, RMA 3.6, RM 2.4, RMA 2.4, RM 1.8 and RMA 1.8 zone of the City. Use these charts by reading down the left hand column entitled Use. Once you locate the use in which you are interested, read across to find the regulations that apply to that use.

Section
20.08

Section 20.08 – GENERAL REGULATIONS

The following regulations apply to all uses in this zone unless otherwise noted:



1. Refer to Chapter 1 KZC to determine what other provisions of this code may apply to the subject property.
2. Developments creating four or more new dwelling units shall provide at least 10 percent of the units as affordable housing units as defined in Chapter 5 KZC. Two additional units may be constructed for each affordable housing unit provided. In such cases, the minimum lot size listed in the Use Regulations shall be used to establish the base number of units allowed on the site, but shall not limit the size of individual lots. See Chapter 112 KZC for additional affordable housing incentives and requirements.
3. If any portion of a structure is adjoining a low density zone or a low density use in PLA 17, then either:
 - a. The height of that portion of the structure shall not exceed 15 feet above average building elevation; or
 - b. The maximum horizontal facade shall not exceed 50 feet in width.

See KZC 115.30, Distance Between Structures/Adjacency to Institutional Use, for further details.

(Does not apply to Piers, Docks, Boat Lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units and Detached Dwelling Units uses).

4. If the subject property is located east of JBD 2 and west of 100th Avenue NE, the following regulation applies:
Must provide a public pedestrian access easement if the Planning Official determines that it will furnish a pedestrian connection or part of a connection between 98th Avenue NE and 100th Avenue NE. Pathway improvements will also be required if the easement will be used immediately. No more than two complete connections shall be required.
5. If the subject property is located within the North Rose Hill neighborhood, east of Slater Avenue NE and north of NE 116th Street, the minimum required front yard is 10 feet. Ground floor canopies and similar entry features may encroach into the front yard; provided, the total horizontal dimension of such elements may not exceed 25 percent of the length of the structure. No parking may encroach into the required 10-foot front yard.
6. Any required yard abutting Lake Washington Boulevard or Lake Street South must be increased two feet for each one foot the structure exceeds 25 feet above average building elevation.
(Does not apply to Piers, Docks, Boat Lifts and Canopies Serving Detached, Attached or Stacked Dwelling Units and Public Park uses).

7. If the subject property is located between NE Juanita Drive and Lake Washington or 98th Avenue NE and Lake Washington, refer to Chapter [83](#) KZC for regulations regarding shoreline setbacks and public pedestrian walkways.

(GENERAL REGULATIONS CONTINUED ON NEXT PAGE)

(GENERAL REGULATIONS CONTINUED FROM PREVIOUS PAGE)

8. If the property is located in the NE 85th Street Subarea, the following shall apply:
- If the subject property is located south of NE 85th Street between 124th Avenue NE and 120th Avenue NE, the applicant shall to the extent possible save existing viable significant trees within the required landscape buffer separating nonresidential development from adjacent single-family homes.
 - If the subject property is located directly north of the RH 4 zone, the applicant shall install a through-block pedestrian pathway pursuant to the standards in KZC [105.19](#) to connect an east-west pedestrian pathway designated in the Comprehensive Plan between 124th Avenue NE and 120th Avenue NE. (See Plate 34K).
9. May not use lands waterward of the ordinary high water mark to determine lot size or to calculate allowable density.
10. For properties within the jurisdiction of the Shoreline Management Act, see Chapter [83](#) KZC for permitted uses, shoreline setback regulations and other additional regulations.
11. Residential uses may have an associated private shoreline park that is commonly owned and used by residents and guests.
12. For properties within the jurisdiction of the Shoreline Management Act that have a shoreline setback requirement as established in Chapter [83](#) KZC and the setback requirement is met, the minimum required front yard is either: 10 feet or the average of the existing front yards on the properties abutting each side of the subject property. For the reduction in front yard, the shoreline setback is considered conforming if a reduction in the required shoreline setback is approved through KZC [83.380](#). This regulation does not pertain to the School or Day-Care Center uses that accommodate 50 or more students or children.
13. [A Hazardous Liquid Pipeline extends through or near the RMA 2.4 and RMA 3.6 zones in the vicinity of 136th Avenue NE. Refer to KZC 118 for regulations pertaining to properties near Hazardous Liquid Pipelines.](#)

[link to Section 20.10 table](#)