ORDINANCE O-4474

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COMPREHENSIVE PLANNING AND LAND USE AND AMENDING THE KIRKLAND ZONING CODE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE), TO EDIT THE CBD5A ZONING TEXT (FILE NO. CAM14-02188).

WHEREAS, the City Council has received a recommendation from the Kirkland Planning Commission to amend certain portions of the Kirkland Zoning Code, Title 23 of the Kirkland Municipal Code, as set forth in the report and recommendation of the Planning Commission dated February 6, 2015, and bearing Kirkland Department of Planning and Community Development File No. CAM14-02188; and

WHEREAS, prior to making the recommendation, the Planning Commission, following notice as required by RCW 35A.63.070, held a public hearing on January 29, 2015, on the amendment proposals and considered the comments received at the 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, the City Council of the City of Kirkland do ordain as follows:

Section 1. Zoning Text amended: The following specified sections of the text of the Kirkland Zoning Code, Title 23 of the Kirkland Municipal Code, are amended as follows:

A. Chapter 5. Definitions:
Text amendment to Section 5.023: Affordable Housing Unit definition as set forth in **Exhibit A.**

B. Chapter 112. Affordable Housing Incentives-Multifamily:
Text amendments to Sections 112.15 and 112.20 as set forth in **Exhibit B**.

C. Chapter 50. Central Business District (CBD) Zones:
Text amendments to Sections 50.37 and 50.38 of the CBD 5A zone as set forth in **Exhibit C**.

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. 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 summary form attach 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 open meeting this 17th day of February, 2015.

Signed in authentication thereof this 17th day of February, 2015.

MAYOR

Attest:

Publication Date: February 23, 2015

City Clerk

Approved as to Form:

City Attorney

Chapter 5 – DEFINITIONS

Sections:

5.05 User Guide
5.10 Definitions

5.05 User Guide

The definitions in this chapter apply for this code. Also see definitions contained in Chapter 83 KZC for shoreline management, Chapter 90 KZC for drainage basins, Chapter 95 KZC for tree management and required landscaping, and Chapter 113 KZC for cottage, carriage and two/three-unit homes that are applicable to those chapters.

5.10 Definitions

The following definitions apply throughout this code unless, from the context, another meaning is clearly intended:

.023 Affordable Housing Unit

1. An owner-occupied dwelling unit reserved for occupancy by eligible households and affordable to households whose household annual income does not exceed the following percent of the King County median household income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than 30 percent of the monthly household income is paid for monthly housing expenses (mortgage and mortgage insurance, property taxes, property insurance and homeowners dues):

a. Eighty percent in the CBD5A, RH, TL and PLA5C zoning districts ~~where additional building height is allowed in exchange for the creation of affordable housing units~~; or

b. One hundred percent in density limited zoning districts ~~where additional dwelling units are allowed in exchange for the creation of affordable housing units~~.

2. A renter-occupied dwelling unit reserved for occupancy by eligible households and affordable to households whose household annual income does not exceed 50 percent of the King County median household income, adjusted for household size, as determined by HUD, and no more than 30 percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance).

In the event that HUD no longer publishes median income figures for King County, the City may use any other method for determining the King County median income, adjusted for household size.

Chapter 112 – AFFORDABLE HOUSING INCENTIVES – MULTIFAMILY

Sections:

112.05 User Guide
112.10 Purpose
112.15 Affordable Housing Requirement
112.20 Basic Affordable Housing Incentives
112.25 Additional Affordable Housing Incentives
112.30 Alternative Compliance
112.35 Affordability Provisions
112.40 Regulatory Review and Evaluation

112.05 User Guide

This chapter offers dimensional standard flexibility and density and economic incentives to encourage construction of affordable housing units in commercial zones, high density residential zones, medium density zones and office zones.

If you are interested in proposing four (4) more residential units in commercial zones, high density residential zones, medium density zones or office zones, or you wish to participate in the City's decision on such a project, you should read this chapter.

112.10 Purpose

There is a limited stock of land within the City zoned and available for residential development and there is a demonstrated need in the City for housing which is affordable to persons of low and moderate income. Therefore, this chapter provides development incentives in exchange for the public benefit of providing affordable housing units in commercial zones, high density residential zones, medium density zones and office zones.

112.15 Affordable Housing Requirement

1. Applicability –

   a. Minimum Requirement – All developments creating four (4) or more new dwelling units in commercial, high density residential, medium density and office zones shall provide at least 10 percent of the units as affordable housing units and comply with the provisions of this chapter as established in the General Regulations for the Use Zone or the Special Regulations in the Use Zone Chart for the specific use. This subsection is not effective within the disapproval jurisdiction of the Houghton Community Council.

   b. Voluntary Use – All other provisions of this chapter are available for use within the disapproval jurisdiction of the Houghton Community Council and in developments where the minimum requirement does not apply; provided, however, the provisions of this chapter are not available for use in developments located within the BN zone.

2. Calculation in Density-Limited Zones – For developments in density-limited zones, the required amount of affordable housing shall be calculated based on the number of dwelling units proposed prior to the addition of any bonus units allowed pursuant to KZC 112.20.

3. Calculation in CBD 5A, RH, TL and PLA 5C Zones – For developments in the CBD 5A, RH, TL and PLA 5C Zones, the required amount of affordable housing shall be calculated based on the total number of dwelling units proposed.

4. Rounding and Alternative Compliance – In all zones, the number of affordable housing units required is determined by rounding up to the next whole number of units if the fraction of the whole number is at least 0.66. KZC 112.30 establishes methods for alternative compliance, including payment in lieu of construction for portions of required affordable housing units that are less than 0.66 units.

112.20 Basic Affordable Housing Incentives

1. Approval Process – The City will use the underlying permit process to review and decide upon an application utilizing the affordable housing incentives identified in this section.

2. Bonus

a. Height Bonus. In RH, PLA 5C, and TL use zones where there is no minimum lot size per dwelling unit, additional building height has been granted in exchange for affordable housing, as reflected in each Use Zone Chart.

b. Development Capacity Bonus. In the CBD 5A use zone where there is no minimum lot size per dwelling unit, additional residential development capacity has been granted in exchange for affordable housing as reflected in the Use Zone Chart.

~~b.~~c. Bonus Units. In use zones where the number of dwelling units allowed on the subject property is determined by dividing the lot size by the required minimum lot area per unit, two (2) additional units ("bonus units") may be constructed for each affordable housing unit provided. (See Plate 32 for example of bonus unit calculations.)

~~c.~~d. Maximum Unit Bonuses. The maximum number of bonus units achieved through a basic affordable housing incentive shall be 25 percent of the number of units allowed based on the underlying zone of the subject property.

~~d.~~e. Density Bonus for Assisted Living Facilities. The affordable housing density bonus may be used for assisted living facilities to the extent that the bonus for affordable housing may not exceed 25 percent of the base density of the underlying zone of the subject property.

3. Alternative Affordability Levels – An applicant may propose affordability levels different from those defined in Chapter 5 KZC for the affordable housing units.

a. In use zones where a density bonus is provided in exchange for affordable housing units, the ratio of bonus units per affordable housing unit for alternative affordability levels will be as follows:

Affordability Level	Bonus Unit to Affordable Unit Ratio
Renter-Occupied Housing	
60% of median income	1.9 to 1
70% of median income	1.8 to 1
Owner-Occupied Housing	
90% of median income	2.1 to 1
80% of median income	2.2 to 1

b. In the CBD 5A, RH, TL and PLA5C use zones ~~where additional height is provided in exchange for affordable housing units~~, the percent of affordable units required for alternative affordability levels will be as follows:

Affordability Level	% of Project Units Required to Be Affordable
Renter-Occupied Housing	
60% of median income	13%
70% of median income	17%

Affordability Level	% of Project Units Required to Be Affordable
Owner-Occupied Housing	
70% of median income	8%
90% of median income	13%
100% of median income	21%

c. To encourage "pioneer developments" in the Rose Hill and Totem Lake business districts, the definition of affordable housing for projects in the RH and TL zones shall be as provided in the following table. This subsection shall apply only to those projects which meet the affordability requirements on site or off site. This subsection shall not apply to those projects which elect to use a payment in lieu of constructing affordable units as authorized in KZC 112.30(4).

The affordable housing requirements for projects vested on or after the effective date of the ordinance codified in this section must be targeted for households whose incomes do not exceed the following:

Number of Total Units		Affordability Level	
RH Zones	***TL Zones***	***Renter-Occupied***	***Owner-Occupied***
First 50 units	First 150 units	70% of median income	100% of median income
Second 50 units	Second 150 units	60% of median income	90% of median income
All subsequent units	All subsequent units	50% of median income	80% of median income

"Number of Total Units" shall mean the total number of housing units (affordable and otherwise) permitted to be constructed within the RH and TL zones where affordable housing units are required and which have not received funding from public sources.

d. Depending on the level of affordability provided, the affordable housing units may not be eligible for the impact fee waivers described in subsections (5)(a) and (5)(b) of this section.

4. Dimensional Standards Modification – To the extent necessary to accommodate the bonus units allowed under subsection (2)~~(b)~~(c) of this section on site, the following requirements of the Kirkland Zoning Code may be modified through the procedures outlined in this subsection. These modifications may not be used to accommodate the units resulting from the base density calculation.

a. Maximum Lot Coverage. The maximum lot coverage may be increased by up to five (5) percentage points over the maximum lot coverage permitted by the underlying use zone. Maximum lot coverage may not be modified through this provision on properties with streams, wetlands, minor lakes or their buffers. In addition, this modification would require a shoreline variance as set forth in Chapter 141 KZC for properties within jurisdiction of the Shoreline Management Act. See Chapter 83 KZC.

b. Parking Requirement. The required parking may be reduced to 1.0 space per affordable housing unit. No additional guest parking is required for affordable housing units. If parking is reduced through this provision, the owner of the affordable housing unit shall sign a covenant, in a form acceptable to the City Attorney, restricting the occupants of each affordable housing unit to a maximum of one (1) automobile.

c. Structure Height. Maximum height for structures containing affordable housing units may be increased by up to six (6) feet for those portions of the structure(s) that are at least 20 feet from all property lines. Maximum structure height may not be modified through this provision for any portion of a structure that is adjoining a low density zone. This modification may be permitted or may require a shoreline variance as set forth in Chapter 141 KZC for properties within jurisdiction of the Shoreline Management Act. See Chapter 83 KZC.

d. Required Yards. Structures containing affordable housing units may encroach up to five (5) feet into any required yard except that in no case shall a remaining required yard be less than five (5) feet. A modification to the shoreline setback would require a shoreline variance set forth in Chapter 141 KZC for properties within jurisdiction of the Shoreline Management Act. See Chapter 83 KZC.

e. Common Recreational Space. Common recreational open space per unit, when required, may be reduced by 50 square feet per affordable housing unit.

5. Impact Fee and Permit Fee Calculation

a. Applicants providing affordable housing units may request an exemption from payment of road impact fees for the affordable housing units as established by KMC 27.04.050.

b. Applicants providing affordable housing units may request an exemption from payment of park impact fees for the affordable housing units as established by KMC 27.06.050.

c. Applicants providing affordable housing units are eligible for exemption from various planning, building, plumbing, mechanical and electrical permit fees for the bonus units allowed under subsection (2)~~(b)~~(c) of this section as established in KMC 5.74.070 and KMC Title 21.

6. Property Tax Exemption – A property providing affordable housing units may be eligible for a property tax exemption as established in Chapter 5.88 KMC.

112.25 Additional Affordable Housing Incentives

1. Approval Process for Additional Affordable Housing Incentives – An applicant may request that the City grant affordable housing incentives in addition to or in place of the basic affordable housing incentives allowed in KZC 112.20 due to specific site conditions. Such a request shall be reviewed and decided upon as outlined below.

2. Density Bonus – An applicant may propose more than two (2) bonus units for every affordable housing unit or a density bonus exceeding 25 percent of the number of units allowed in the underlying zone of the subject property. However, in no event may a project receive a bonus that would result in a number of bonus units that exceeds 50 percent of the number of units allowed based on the underlying zone of the subject property. Such a request shall be reviewed and decided upon by the Planning Director. The decision of the Planning Director in approving or denying a modification under this subsection may be appealed using the appeal provision, as applicable, of Process I, KZC 145.60 through 145.110.

3. Dimensional Standards Modification – An applicant may request further modification from the dimensional standards listed in KZC 112.20(4). Approval of any further modification of the dimensional standards will be based on the applicant's demonstration that the subject property cannot reasonably achieve the permitted density, including the bonus units. Such a request shall be reviewed and decided upon using Process I, described in Chapter 145 KZC. If the development, use, or activity requires approval through Process IIA or IIB, the entire proposal will be decided upon using that other process.

4. Criteria for Approving Additional Affordable Housing Incentives – The City may approve one (1) or more of the additional affordable housing incentives listed in subsection (2) or (3) of this section, in addition to or in place of the basic affordable housing incentives, if one (1) or more of the following requirements are met:

a. The additional incentive is necessary to provide sufficient economic incentive to the applicant to offset the cost of providing the affordable housing units.

b. The additional incentive is necessary to reasonably achieve the permitted density, including the bonus units.

c. The additional incentive is necessary to achieve a greater number of affordable housing units than the affordable housing requirements would prescribe or a greater level of affordability than is defined by the term affordable housing unit.

In making its decision on additional incentives, the City will consider the value of any property tax exemptions available to the project from the City as established in Chapter 5.88 KMC, as well as other fee waivers or reductions as established in the Kirkland Municipal Code.

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Exhibit C

50.36 User Guide – CBD 5A zones.

The charts in KZC 50.38 contain the basic zoning regulations that apply in the CBD 5A 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 50.37

Zone CBD-5A

Section 50.37 – 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. See KZC 50.62 for additional building height provisions.

link to Section 50.38 table

3. 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. See Chapter 112 KZC for additional affordable housing incentives and requirements.

Section 50.38 Zone CBD-5A **USE ZONE CHART**

20%

Provided, that the gross floor area does not exceed 10 percent of the total gross floor area for the Master Plan; and

DIRECTIONS: FIRST, read down to find use...THEN, across for REGULATIONS

Section 50.38	USE / REGULATIONS	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115) Front	Side	Rear	MAXIMUMS: Lot Coverage	Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations) 30%
.010	Mixed Use Development Containing Office, Retail and Restaurant Uses. See Spec. Regs. 1, 2, 3 and 4	See Chapter 142 KZC. See Spec. Reg. 1.	See Plate 5, Chapter 180 KZC.				100%	See Spec. Reg. 5 and Plates 6 and 7, Chapter 180 KZC.	None	E See Spec. Reg. 6.	See Spec. Reg. 7.	1. Development under this use shall be pursuant to the Parkplace Master Plan and Design Guidelines contained in Chapter 3.30 KMC. Compliance with the Master Plan and Design Guidelines shall be determined through DR, Chapter 142 KZC. 2. The gross floor area of retail and restaurant uses in this zone shall be equal to or greater than 25 percent of the gross floor area of office uses in this zone. Retail uses may include accessory short term drop-off children's play facilities. 3. The following additional uses are allowed subject to restrictions listed: a. Hotel or Athletic Club. Accessory retail or restaurant uses shall be included as retail uses under Special Regulation 2, provided they are open to the public. b. Movie theater. This use may be included as a retail use under Special Regulation 2, provided, that the gross floor area of this use shall not count toward more than 10 percent of the required minimum gross floor area of retail and restaurant uses. c. Private Lodge or Club; Church; School, Day-care Center, or Mini-School or Day-care Center; Public Utility, Government Facility, or Community Facility; Public Park. d. Assisted Living Facility (including a nursing home if part of the facility); Stacked or Attached Dwelling Units; provided, that the gross floor area of these uses does not exceed 10 percent of the total gross floor area for the Master Plan. 4. The following uses are prohibited: a. Any retail establishment exceeding 70,000 square feet. b. At grade drive-through facilities. c. The outdoor storage, sale, service and/or rental of motor vehicles, sailboats, motor boats, and recreational trailers. 5. Rooftop appurtenances may exceed the applicable height limitation by a maximum of 16 feet if the area of all appurtenances and screening does not exceed 25 percent of the total area of the building rooftop. All other regulations for rooftop appurtenances in Chapter 115 KZC shall apply. 6. Prior to installation of permanent signs, the development must submit and receive approval of a Master Sign Plan pursuant to Chapter 100 KZC. REGULATIONS CONTINUED ON NEXT PAGE

Exception: one drive through facility for banking or related financial services is permitted if the facility does not compromise the pedestrian orientation of traffic circulation of the development. The drive-through shall be on the eastern portion of the site accessed from 6th Street. The location and design of the facility requires Planning Official and Public Works Department approval.

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Section 50.38 Zone CBD-5A **USE ZONE CHART**

Section 50.38	USE ⇩ / REGULATIONS ⇨	Required Review Process	MINIMUMS: Lot Size	MINIMUMS: REQUIRED YARDS (See Ch. 115): Front	Side	Rear	MAXIMUMS: Lot Coverage	MAXIMUMS: Height of Structure	Landscape Category (See Ch. 95)	Sign Category (See Ch. 100)	Required Parking Spaces (See Ch. 105)	Special Regulations (See also General Regulations)
.010	Mixed Use Development Containing Office, Retail and Restaurant Uses (continued)											REGULATIONS CONTINUED FROM PREVIOUS PAGE 7. The following establishes the number of parking spaces required: a. Residential uses must provide 1.7 parking spaces for each dwelling unit and one parking space for each assisted living unit. b. Restaurants and taverns must provide one parking space for each 125 square feet of gross floor area. c. All other uses must provide one parking space for each 350 square feet of gross floor area. A mix of uses with different peak parking times makes a project eligible for applying a shared parking methodology to parking calculations. Further parking reductions may be appropriate through a transportation management plan (TMP) and parking management measures. The development may propose and the Planning Official may permit a reduction in the required number of parking spaces based on a demand and utilization study prepared by a licensed transportation engineer. The study shall include an analysis of shared parking demonstrating that the proposed parking supply is adequate to meet the peak parking demand of all uses operating at the same time. A TMP and parking management measures shall be incorporated into the analysis. An analysis of the effectiveness of the TMP and parking management measures shall be provided for City review. The City's transportation engineer shall approve the scope and methodology of the study as well as the effectiveness of the TMP and parking management measures.

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PUBLICATION SUMMARY
OF ORDINANCE O-4474

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO COMPREHENSIVE PLANNING AND LAND USE AND AMENDING THE KIRKLAND ZONING CODE (TITLE 23 OF THE KIRKLAND MUNICIPAL CODE), TO EDIT THE CBD5A ZONING TEXT (FILE NO. CAM14-02188).

SECTION 1. Amends the following specific portions of the Kirkland Zoning Code:

A. Amends Chapter 5. Definitions Section 5.023;
B. Amends Chapter 112. Affordable Housing Incentives-Multifamily Sections 112.15 and 112.20;
C. Amends Chapter 50. Central Business District (CBD) Zones Sections 50.37 and 50.38.

SECTION 2. Provides a severability clause for the ordinance

SECTION 3. Authorizes the 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.

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 17th day of February, 2015.

I certify that the foregoing is a summary of Ordinance 4474 approved by the Kirkland City Council for summary publication.

Kathy Anderson
City Clerk