



## Legislation Text

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**File #:** 2010-0552, **Version:** 2

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Clerk 02/10/2011

AN ORDINANCE relating to development regulations in the city of Kirkland Finn Hill/Juanita/Kingsgate annexation area; making technical edits; amending Ordinance 10870, Section 436, and K.C.C. 21A.20.160, Ordinance 10870, Section 492, as amended, and K.C.C. 21A.26.030 and Ordinance 12196, Section 9, as amended, and K.C.C. 20.20.020 and adding a new section to K.C.C. chapter 21A.26.

**SECTION 1. Findings:**

A. The city of Kirkland has initiated the annexation of the Finn Hill/Juanita/Kingsgate Potential Annexation Area.

B. The city of Kirkland has requested King County adopt amended standards related to the development of minor communication facilities and the relocation of billboards in the Finn Hill/Juanita/Kingsgate Potential Annexation Area.

**SECTION 2.** Ordinance 10870, Section 436, and K.C.C. 21A.20.160 are each hereby amended to read as follows:

A. Except as provided in K.C.C. 21A.20.160.D, billboards shall not be altered with regard to size, shape, orientation, height, or location without the prior issuance of a billboard alteration or relocation permit. All such permits shall require full compliance with ~~((the provisions of))~~ K.C.C. 21A.20.130 ~~((--))~~ through 21A.20.180.

B. There shall be no time limit on the eligibility to alter or relocate inventoried billboards; however,

individual alteration and relocation permits shall expire if the approved modifications are not completed within one year of permit issuance. Any project not completed within this period shall be placed in a holding category until a new permit is issued by King County, and no further work on the subject billboard shall occur until a permit is issued.

C. Relocation of inventoried billboards shall also require the issuance of a demolition permit for the removal of the existing billboard. Billboard demolitions shall be completed within ~~((90))~~ ninety days of permit issuance and prior to installation of the relocated billboard.

D. Ordinary and necessary repairs ~~((which))~~ that do not change the size, shape, orientation, height~~((;))~~ or location of an inventoried billboard shall not require alteration permits. Billboard copy replacement may occur at any time and is exempt from the requirement for alteration permits, ~~((provided))~~ but only if:

1. New Type II billboard faces do not exceed the size of previously inventoried faces, or
2. New Type I billboard faces may only exceed the size of the previously inventoried face with temporary cut-out extensions if the billboard is otherwise conforming, and if the extensions do not exceed a total of ~~((125))~~ one hundred twenty-five square feet. Any extension shall be removed with the next change of billboard copy.

E. Single Type I billboard faces may be replaced with two side-by-side Type II billboard faces, and likewise two side-by-side Type II billboard faces may be replaced with a single Type I billboard face, provided each resulting billboard face complies with the location and height standards of K.C.C. 21A.20.130.

F. Any location or orientation alteration of billboards conforming to ~~((the provisions of))~~ K.C.C. 21A.20.130 ~~((-))~~ through 21A.20.180 shall be accompanied by the alteration or relocation of an equal number of billboards under the control of the same applicant ~~((which))~~ that do not fully conform to these provisions, if any nonconforming billboards exist. Whenever more than one nonconforming billboard exists under a single ownership, they shall be made conforming in the following order:

1. Billboards deemed nonconforming pursuant to K.C.C. 21A.20.170;

2. Billboards located in zones (~~(which)~~) that do not allow billboards;
3. Billboards located in billboard free areas;
4. Billboards located in the CB zone district; and
5. Any other nonconforming billboard.

G. A billboard shall not be relocated into the Kirkland Finn Hill/Juanita/Kingsgate Annexation Area, as shown on the map in Attachment A to this ordinance. In accordance with this chapter, a billboard currently located within the city of Kirkland Annexation Area may be relocated to another location with that annexation area.

SECTION 3. Ordinance 10870, Section 492, as amended, and K.C.C. 21A.26.030 are each hereby amended to read as follows:

The standards and process requirements of this chapter supersede all other review process, setback or landscaping requirements of this title. All communication facilities (~~(which)~~) that are not exempt (~~(pursuant to~~ ) under K.C.C. 21A.26.020 shall comply with (~~(the provisions of)~~) this chapter as follows:

A. New communication facilities, with the exception of consolidations, shall comply with (~~(the provisions of)~~) K.C.C. 21A.26.020 through 21A.26.130 and K.C.C. 1A.26.160 through 21A.26.190(~~(;)~~). (~~(n)~~)New minor communication facilities shall also comply with applicable provisions of this chapter, and, in case of conflict, (~~(the provisions of)~~) this chapter (~~(shall apply)~~) applies;

B. Modified communication facilities, with the exception of consolidations, shall comply with standards as provided in K.C.C. 21A.26.020, K.C.C. 21A.26.060 through 21A.26.140(~~(;)~~) and K.C.C. 21A.26.160 through 21A.26.190, modifications to minor communication facilities shall also comply with the applicable provisions of this chapter, and, in case of conflict, (~~(the provisions of)~~) this chapter (~~(shall apply)~~) applies;

C. Consolidations shall comply with standards as provided in K.C.C. 21A.26.020, K.C.C. 21A.26.060 through 21A.26.130(~~(;)~~) and K.C.C. 21A.26.150 through 21A.26.190, consolidations to minor communication

facilities shall also comply with the applicable provisions of this chapter, and, in the case of conflict, ~~((the provisions of))~~ this chapter ~~((shall apply))~~ applies; and

D. In the Kirkland Finn Hill/Juanita/Kingsgate Annexation Area, as shown on the map in Attachment A to this ordinance, applications for minor communications facilities shall be subject to section 4 of this ordinance in addition to the applicable provisions of this chapter. In the case of conflict between section 4 of this ordinance and this title, section 4 applies.

NEW SECTION. SECTION 4. There is hereby added to chapter 21A.26 a new section to read as follows:

In the Kirkland Finn Hill/Juanita/Kingsgate annexation area, as shown on the map in Attachment A to this ordinance, the following provisions apply to a proposal for a minor communication facility:

A. Antennas mounted to an existing or replacement utility pole shall be subject to the following height limits:

1. In any zone, fifteen feet above the top of a pole not used to convey electrical service;
2. In a residential zone, fifteen feet above the electrical distribution or transmission conductor, as opposed to top of pole, if the pole is used to convey electrical service;
3. In a nonresidential zone, fifteen feet above an electrical distribution conductor or twenty-one feet above an electrical transmission conductor, as opposed to top of pole, if the pole is used to convey electrical service; and
4. On Seattle City Light transmission towers, regardless of zone, fifteen feet above the top of the tower, before any tower extensions, subject to the concealment measures identified in subsection D. of this section.

B.1. Antennas, including panel or directional antennas, may be attached to the sides, parapets, mechanical penthouses or similar elements of buildings, subject to the limitations of this chapter.

2. Antenna height is measured above the top of the roof, not from the parapet or from the average

building elevation of the building, mechanical equipment enclosure or water reservoir.

3. Omnidirectional antennas may be roof-mounted, but may not be mounted on top of rooftop appurtenances. Panel or directional antennas may not be mounted on roofs or project above the roofline, except as provided in subsection B.7. of this section. For the purposes of this subsection B.3, the "roofline" of a water reservoir that incorporates a curved roof means the point at which the vertical wall of the water reservoir ends and the curvature of the roof begins.

4. Whip antennas may exceed the structure height by fifteen feet, and other omnidirectional antennas may exceed the structure height by ten feet.

5. Roof-mounted antennas must be set back from the edge of the roof a distance equal to one-hundred percent of antenna height.

6. Roof-mounted antennas shall be consolidated and centered in the roof to the maximum extent feasible rather than scattered.

7. Antennas, including flush-mounted panel or directional antennas, may be attached to an existing conforming mechanical equipment enclosure or stair or elevator penthouse or similar rooftop appurtenance ((which)) that projects above the roof of the building, but may not project any higher than the enclosure.

8. Except for minor communication facility installed in an existing rooftop penthouse, minor communications facilities shall occupy no more than ten percent of the total roof area of a building. Rooftop conduit shall be excluded from this calculation.

9. Building parapets or other architectural features, including rooftop mechanical equipment enclosures, stair or elevator penthouses, or similar rooftop appurtenances, shall not be increased in size or height solely for the purpose of facilitating the attachment of minor communication facility components.

C.1. An application seeking to locate a tower or antenna in a residential zone is a Type IV Land Use Decision. Minor communication facility support structures shall not exceed forty feet in residential zones, as measured from the average building elevation at the support structure base to the highest point of the support

structure, antenna, or other physical feature attached to or supported by the support structure.

2. An application seeking to locate in a non-residential zone a support structure or antenna that does not exceed forty feet in height is a Type II Land Use Decision as provided in K.C.C. 20.20.020 and is subject to the procedures for approving Type II Land Use Decisions. An application seeking to locate in a non-residential zone a tower or antenna that exceeds forty feet in height is a Type III Land Use Decision as provided in K.C.C. 20.20.020 and is subject to the procedures for approving Type III Land Use Decisions.

3. An applicant for a minor communication facility support structure or antenna shall demonstrate, to the satisfaction of the department, that the support structure and antenna are the minimum height required to function satisfactorily. Examples of information that can be used to demonstrate that the support structure and antennas are the minimum height necessary include, but are not limited to, propagation maps showing the necessity of the height to provide the required coverage, and a letter from a radio frequency engineer stating and explaining the necessity of the proposed height.

D. One or more of the following concealment measures must be employed unless the department determines through the applicable review process that alternative measures would be more appropriate given the contextual setting of the minor communication facility:

1. For minor communication facility support structures that are not a utility pole:

a. If within an existing stand of trees, the support structure shall be painted a dark color, and be made of wood or metal. A greenbelt easement is required to ensure permanent retention of the surrounding trees.

b. Support structures in a more open setting shall have a backdrop, including, but not limited to, trees, a hillside or a structure, on at least two sides, be a color compatible with the backdrop, be made of materials compatible with the backdrop, and provide architectural or landscape screening for the remaining sides. If existing trees are the backdrop, then a greenbelt easement is required to ensure permanent retention of the surrounding trees. The greenbelt easement shall be the minimum necessary to provide screening and may be removed at the landowner's request in the event the facility is removed.

c. Antennas shall be integrated into the design of any support structure to which they are attached. External projections from the support structure shall be limited to the greatest extent technically feasible. Where antennas are completely enclosed within the support structure, the need for the backdrop described in subsection E.1.b. of this section may be reduced or eliminated, depending on the support structure design and context;

2. For rooftop antennas or antennas mounted on other structures:

a. Omnidirectional antennas mounted on the roof shall be of a color compatible with the roof, structure or background.

b. Other antennas shall use compatible colors and architectural screening or other techniques approved by the department.

c. Antennas shall be integrated into the design of the structure to which they are attached. External projections from the structure shall be limited to the greatest extent technically feasible;

3. An antenna mounted on one or more building facades shall:

a. use color and materials to provide architectural compatibility with the building;

b. be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible; and

c. not project above the wall on which it is mounted;

4. Where feasible, cable and conduit shall be routed through the inside of any new support structure or utility pole. Where this is not feasible, or where such routing would result in a structure of a substantially different design or substantially greater diameter than that of other similar structures in the vicinity or would otherwise appear out of context with its surroundings, the department may allow or require that the cable or conduit be placed on the outside of the structure. The outside cable or conduit shall be the color of the support structure or utility pole and the department may require that the cable be placed in conduit;

5. Alternative measures for concealment may be proposed by the applicant and approved by the

department, if the department determines through the applicable review process that the optional measures will be at least as effective in concealing the minor communication facility as the measures required in this subsection; and

6. The manner of concealment for any minor communication facility that is a Type II or Type III land use decision shall be reviewed and determined as part of that process.

SECTION 5. Ordinance 12196, Section 9, as amended, and K.C.C. 20.20.020 are each hereby amended to read as follows:

A. Land use permit decisions are classified into four types, based on who makes the decision, whether public notice is required, whether a public hearing is required before a decision is made and whether administrative appeals are provided. The types of land use decisions are listed in subsection E. of this section.

1. Type 1 decisions are made by the director, or his or her designee, ("director") of the department of development and environmental services ("department"). Type 1 decisions are nonappealable administrative decisions.

2. Type 2 decisions are made by the director. Type 2 decisions are discretionary decisions that are subject to administrative appeal.

3. Type 3 decisions are quasi-judicial decisions made by the hearing examiner following an open record hearing. Type 3 decisions may be appealed to the county council, based on the record established by the hearing examiner.

4. Type 4 decisions are quasi-judicial decisions made by the council based on the record established by the hearing examiner.

B. Except as provided in K.C.C. 20.44.120A.7. and 25.32.080 or unless otherwise agreed to by the applicant, all Type 2, 3 and 4 decisions included in consolidated permit applications that would require more than one type of land use decision process may be processed and decided together, including any administrative appeals, using the highest-numbered land use decision type applicable to the project application.

C. Certain development proposals are subject to additional procedural requirements beyond the standard procedures established in this chapter.

D. Land use permits that are categorically exempt from review under SEPA do not require a threshold determination (determination of nonsignificance ["DNS"] or determination of significance ["DS"]). For all other projects, the SEPA review procedures in K.C.C. chapter 20.44 are supplemental to the procedures in this chapter.

E. Land use decision types are classified as follow:

TYPE 1	(Decision by director, no administrative appeal)	Temporary use permit for a homeless encampment under K.C.C. 21A.45.010, 21A.45.020, 21A.45.030, 21A.45.040, 24A.45.050, 21A.45.060, 21A.45.070, 21A.45.080 and 21A.45.090; building permit, site development permit, or clearing and grading permit that is not subject to SEPA, that is categorically exempt from SEPA as provided in K.C.C. 20.20.040, or for which the department has issued a determination of nonsignificance or mitigated determination of nonsignificance; boundary line adjustment; right of way; variance from K.C.C. chapter 9.04; shoreline exemption; decisions to require studies or to approve, condition or deny a development proposal based on K.C.C. chapter 21A.24, except for decisions to approve, condition or deny alteration exceptions; approval of a conversion-option harvest plan; a binding site plan for a condominium that is based on a recorded final planned unit development, a building permit, an as-built site plan for developed sites, a site development permit for the entire site.
TYPE 2 <sup>1,2</sup>	(Decision by director appealable to hearing examiner, no further administrative appeal)	Short plat; short plat revision; short plat alteration; zoning variance; conditional use permit; temporary use permit under K.C.C. chapter 21A.32; temporary use permit for a homeless encampment under K.C.C. 21A.45.100; shoreline substantial development permit <sup>3</sup> ; <u>location of an antenna under section 4.C.1. of this ordinance</u> ; <u>location of minor communication facility support structure less than forty feet high in a non-residential zone under section 4.C.2. of this ordinance</u> ; building permit, site development permit or clearing and grading permit for which the department has issued a determination of significance; reuse of public schools; reasonable use exceptions under K.C.C. 21A.24.070.B; preliminary determinations under K.C.C. 20.20.030.B; decisions to approve, condition or deny alteration exceptions under K.C.C. chapter 21A.24; extractive operations under K.C.C. 21A.22.050; binding site plan; waivers from the moratorium provisions of K.C.C. 16.82.140 based upon a finding of special circumstances.
TYPE 3 <sup>1</sup>	(Recommendation by director, hearing and decision by hearing examiner, appealable to county council on the record)	<u>Preliminary plat; plat alterations; preliminary plat revisions; location of a tower or antenna that exceeds forty feet in height in a nonresidential zone under section 4.C.2. of this ordinance.</u>
TYPE 4 <sup>1,4</sup>	(Recommendation by director, hearing and recommendation by hearing examiner decision by county council on the record)	Zone reclassifications; shoreline environment redesignation; urban planned development; special use; amendment or deletion of P suffix conditions; plat vacations; short plat vacations; deletion of special district overlay.

1 See K.C.C. 20.44.120.C. for provisions governing procedural and substantive SEPA appeals and appeals of Type 3 and 4 decisions to the council.

2 When an application for a Type 2 decision is combined with other permits requiring Type 3 or 4 land use decisions under this chapter or under K.C.C. 25.32.080, the examiner, not the director, makes the decision.

3 A shoreline permit, including a shoreline variance or conditional use, is appealable to the state Shorelines Hearings Board and not to the hearing examiner.

4 Approvals that are consistent with the Comprehensive Plan may be considered by the council at any time. Zone reclassifications that are not consistent with the Comprehensive Plan require a site-specific land use map amendment and the council's hearing and consideration shall be scheduled with the amendment to the Comprehensive Plan under K.C.C. 20.18.040 and 20.18.060.

F. The definitions in K.C.C. 21A.45.020 apply to this section.

G. In the Kirkland Finn Hill/Juanita/KingsgateAnnexation Area, as shown on the map in Attachment A to this ordinance, the manner of concealment for any minor communication facility that is a Type II or Type III land use decision shall be reviewed and determined as part of that process.

SECTION 6. This ordinance expires December 31, 2012.