

Chapter 84-74 - -K KENSINGTON COMBINING DISTRICT

Sections:

Article 84-74.2. General.

84-74.202 - Kensington (-K) combining district.

All land within a land use district combined with the Kensington (-K) combining district shall be subject to the following additional regulations set forth in this chapter.

(Ord. 2004-46 § 2).

84-74.204 - Purpose and intent.

- (a) The purpose of this chapter is to provide specific regulation to fairly and efficiently implement the Contra Costa County general plan policies for the Kensington Area so that future development recognizes the rights of property owners to improve the value and enjoyment of their property while minimizing impacts upon surrounding neighbors and not substantially impairing the value and enjoyment of their neighbors' property; maintains the community's property values; and promotes the general welfare, public health and safety.
- (b) It is a further purpose of this chapter to promote the community's values of preservation of views, light and solar access, privacy, parking, residential noise levels and compatibility with the neighborhood with regard to bulk and scale.
- (c) Features of a development that could influence these values include but are not limited to siting, size, bulk, building envelope, height, setbacks, relative scale, off-street parking spaces, window placement, artificial lighting and location of mechanical devices such as motors, fans and vents.

(Ord. 2004-46 § 2).

84-74.206 - Priority.

Where there is any conflict between the regulations of this chapter and those of the underlying zoning district, the requirements of this chapter shall govern. Otherwise, the regulations found in Division 82 and Chapter 84-4 shall apply to the Kensington combining district.

(Ord. 2004-46 § 2).

Article 84-74.4. Definitions

84-74.402 - General.

Unless specified in this article, the terms used in this chapter are defined as in other chapters of this title.

(Ord. 2004-46 § 2).

84-74.404 - Definitions.

For purposes of this chapter, the following words and phrases have the following meanings:

- (a) "Attic" means the space between the ceiling of the top story or top half-story, and the roof, of a building.
- (b) "Basement" means any area in a building or structure where the finished floor directly above the area is less than four feet above preconstruction grade or finished grade, whichever is lower.
- (c) "Bulk" means the volume of the building or structure, including interior courtyard, if any, with height of said courtyard measured to the top plate of the adjoining top story.
- (d) "Crawl space" means an area at, just above, or just below grade and enclosed within the building or structure, which is unconditioned, unfinished and not habitable as a result of insufficient ceiling height to meet applicable building code standards.
- (e) "Design" means the physical characteristics of the building or structure, such as bulk, fenestration, hipped roof and eaves.
- (f) "Development," for the purposes of this chapter, means any building or structure that requires a building permit, unless exempted under Section 84-74.604.
- (g) "Envelope" means a building's or structure's three-dimensional solid figure as defined by the exterior faces of the enclosing walls and roofs and including vertical extensions to the ceiling of the top story of eaves, balconies, decks, fenestration and interior courtyards.
- (h) "Gross floor area" means the total horizontal area in square feet of each floor inclusive of the exterior walls of all buildings on a parcel, as measured at the exterior face of the enclosing wall. Gross floor area includes attached and detached primary and accessory buildings, interior courtyards, garages and carports with roof covering. Gross floor area does not include the area in attics, crawl spaces, basements, and uncovered balconies, decks and patios.
- (i) "Interior courtyard" means an unroofed area contained within a building that is bounded on at least three sides by roofed interior space, provided the two opposing walls are each at least ten feet in depth.
- (j) "Light" means a living area's access to open sky unobstructed by buildings or structures.
- (k) "Living areas" mean rooms in the residential buildings on a parcel that have at least one exterior window or door. Living areas do not include attics, crawl spaces, basements, accessory buildings, garages and carports.
 - (1) "Neighborhood" and "neighboring" mean real properties within three hundred feet of the subject property. "Sounding neighbors" and "neighbors" mean owners of real properties within three hundred feet of the subject property.
- (m) "Obstruction" means any substantial blockage or diminution by the proposed development on surrounding neighbors' light, solar access, view, or preexisting solar energy systems. An obstruction may be caused by a building, a structure, or by attached appendages, such as fire escapes, open stairways, chimneys, sills, belt-courses, cornices, eaves, trellises or other nonvegetative ornamental features.
- (n) "Parcel area" means the total horizontal area included within the property lines of a parcel.
- (o) "Scale" means the relative size of a building as compared to other buildings in the neighborhood.
- (p) "Siting" means the location of the envelope of a building or structure on a parcel.
- (q) "Solar access" means a living area's direct sunlight unobstructed by buildings or structures.
- (r) "View" means a scene from a window in habitable space of a neighboring residence. The term "view" includes both up-slope and down-slope scenes, but is distant or panoramic range in nature, as opposed to short range. Views include but are not limited to scenes of skylines, bridges, distant cities, distinctive geologic features, hillside terrain, wooded canyons, ridges and bodies of water.

(Ord. 2004-46 § 2).

Article 84-74.6. Exemptions

84-74.602 - General.

All land within a land use district combined with the -K district is exempt from the provisions of Section 82-10.002(c), Small Lot Occupancy.

(Ord. 2004-46 § 2).

84-74.604 - Exemptions.

The following developments are exempt from the requirements of this chapter:

- (a) Commercial buildings, churches, public buildings, or schools that meet all applicable code requirements.
- (b) One story accessory buildings with an area of less than one hundred twenty square feet sited within the applicable setbacks.
- (c) Repair or replacement of legally constructed residences destroyed or damaged by fire, explosion, act of God or the public enemy, or other accident or catastrophe, if both of the following conditions are satisfied:
 - (1) The siting and envelope are the same; and
 - (2) The application for repair or replacement is submitted within two years of the destruction.
- (d) Developments within the -K District for which application was accepted as complete before the effective date of this chapter.
- (e) Development within an existing building or structure that does not expand its envelope.

(Ord. 2004-46 § 2).

(Ord. No. 2011-05, § VI, 3-15-11)

84-74.606 - Residential second units.

The following provisions govern the review of permit applications for second units within the -K District:

- (a) An application for a second unit permit that does not expand the envelope of an existing building or structure, meets the location and development standards specified in Chapter 82-24, and meets all applicable building standards in Title 7 is exempt from the requirements of Chapter 84-74 and will be approved ministerially pursuant to subsection (a) of Section 82-24.006.
- (b) An application for a second unit permit that does not expand the envelope of an existing building or structure and does not meet the development standards specified in Section 82-24.012 is exempt from the requirements of Chapter 84-74 and will be considered under the procedure specified in subsection (b) of Section 82-24.006.
- (c) An application for a second unit permit that expands the envelope of an existing building or structure is subject to the review procedure specified in Chapter 84-74. If a hearing is not required under the provisions of Section 84-74.1006, the application will be approved ministerially pursuant to subsection (a) of Section 82-24.006. If a hearing is required under the provisions of Section

84-74.1006, the application will be considered under the procedure specified in subsection (b) of Section 82-24.006 and under the provisions of Article 84-74.12.

(Ord. No. 2011-05, § VII, 3-15-11)

Article 84-74.8. Hearing Requirement

84-74.802 - Threshold standard triggering hearing requirement.

- (a) If the proposed development results in a gross floor area that exceeds the threshold standard set forth in this section, a hearing is required in accordance with Section 84-74.1006.
- (b) The threshold standard is the product of the values of PA and X, increased to the next highest one hundred unless the product of PA and X is evenly divisible by one hundred.
- (c) In calculating the threshold standard, the value of PA is the parcel area in square feet. The value of X is determined by one of the following formulas:
 - (1) For parcels with an area of fewer than five thousand square feet, X equals 0.500.
 - (2) For parcels with an area of five thousand square feet or more but fewer than seven thousand square feet, X is calculated by subtracting the product of 0.00005 and PA from 0.750 [$X = 0.750 - 0.00005(PA)$].
 - (3) For parcels with an area of seven thousand square feet or more but fewer than ten thousand square feet, X is calculated by subtracting the product of 0.00002 and PA from 0.540 [$X = 0.540 - .00002(PA)$].
 - (4) For parcels with an area of ten thousand square feet or more but fewer than twenty thousand square feet, X is calculated by subtracting the product of 0.000013 and PA from 0.470 [$X = 0.470 - 0.000013(PA)$].
 - (5) For parcels with an area of twenty thousand square feet or more, X equals 0.220.

(Ord. 2004-46 § 2).

Article 84-74.10. Review Procedure

84-74.1002 - Administrative decision or hearing.

Any application for a permit submitted to the community development department for a building permit for development or expansion of the envelope of a building or structure on a parcel within the -K district that is not exempt under Article 84-74.6 is subject to the review procedure under this article. This article does not exempt an application from any applicable variance requirements of Article 26-2.20.

(Ord. 2004-46 § 2).

84-74.1004 - Notice.

Notwithstanding the provisions of Section 26-2.2104, before the zoning administrator decides any application pursuant to this article, the community development department shall mail or deliver notice of intent to decide the application, pursuant to Government Code Section 65091 and the notice provisions of Section 26-2.2004 of the code. The notice shall state the last day to request a public hearing on the application (which shall be no fewer than thirty-four days after date of mailing), the general nature of the

application (including any subdivision exception requested), the review process, and the street address, if any, of the property involved or its legal or boundary description if it has no street address.

(Ord. 2004-46 § 2).

84-74.1006 - Determination of whether hearing is required.

- (a) A public hearing on an application is not required unless:
 - (1) The threshold standards in Section 84-74.802 are exceeded; or
 - (2) A written request for public hearing is filed with the community development department within thirty-four calendar days after the notice is mailed.
- (b) If a public hearing is required, the community development department will schedule a public hearing on the application in accordance with applicable provisions of Chapter 26-2.

(Ord. 2004-46 § 2).

Article 84-74.12. Standards of Consideration

84-74.1202 - Where no hearing is held.

If a hearing is not required under the provisions of Section 84-74.1006, the application shall be approved.

(Ord. 2004-46 § 2).

84-74.1204 - Where a hearing is held.

If a hearing is held pursuant to the provisions of Section 84-74.1006, the zoning administrator shall consider the application in accordance with the provisions of this article.

(Ord. 2004-46 § 2).

84-74.1206 - Standards of consideration at hearing.

- (a) To ensure the development will promote the values articulated in Section 84-74.204 and promote the general welfare, public health and safety of the community, the zoning administrator shall evaluate siting, size, bulk, building envelope, height, setbacks, relative scale, off-street parking spaces, window placement, artificial lighting, and location of mechanical devices, such as motors, fans and vents. These features of the development shall be evaluated on the basis of their impacts on the neighboring properties, with regard to view protection, obstructions, privacy in living areas, parking, light and solar access, maintaining residential noise levels, and compatibility with the neighborhood with regard to bulk and scale.
- (b) In reaching a decision, the zoning administrator shall apply a standard that balances the following factors: (1) recognizing the rights of property owners to improve the value and enjoyment of their property; (2) recognizing the rights of property owners of vacant lots to establish a residence that is compatible with the neighborhood in terms of bulk, scale and design; (3) minimizing impacts upon surrounding neighbors; (4) protecting the value and enjoyment of the neighbors' property; (5) maintaining the community's property values; (6) maximizing the use of existing interior space; and (7) promoting the general welfare, public health, and safety. Balancing of these factors will not result in

the prohibition of development that is compatible with the neighborhood with regard to bulk and scale on parcels that have not been developed.

- (c) To assess solar access impacts, when appropriate, the community development director may require the applicant to provide sun shadow analyses showing the impact of the proposed development on neighboring properties. The review process shall evaluate the impacts in accordance with the purpose and intent of this chapter as set forth in Section 84-74.204(a). The zoning administrator may condition approval of the development by requiring mitigation through design and siting.

(Ord. 2004-46 § 2).

84-74.1208 - Approval.

If the zoning administrator finds that the criteria stated in Section 84-74.1206 and other applicable requirements are satisfied, the zoning administrator may approve the development plan.

(Ord. 2004-46 § 2).

84-74.1210 - Appeal.

Any interested party may appeal a decision made by the zoning administrator under this chapter in accordance with the provisions of Article 26-2.24.

(Ord. 2004-46 § 2).