

Repealed By 2408 Date: _____ORDINANCE NO. 2293

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND SURFACE MODIFICATION, INCLUDING VEGETATION REMOVAL, GRADING AND FILLING AND AMENDING SECTION 5 OF ORDINANCE 2266.

BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Section 21.08.010 of the Kirkland Municipal Code is hereby amended to read as follows:

"Section 21.08.010. Building Code adopted: The Uniform Building Code and Standards, issued by the International Conference of Building Officials 1973 Edition, together with amendments and/or additions thereto, hereafter made, is hereby amended in its entirety, including the Appendix Chapter No. 13, 23, 38, 48, 49, [and] 57 and 70, by this reference as a part of the Building Code for the City."

Section 2. Chapter (Appendix 70, Uniform Building Code, 1973 Edition amended.

21.08.200 UBC Section 7003 Amended: Section 7003 of the Uniform Building 1973 Edition is hereby amended and supplemented to read:

"Section 7003. No person shall do any land surface modification or grading without first having obtained a grading permit from the Building Official except for the following:

"(1) Land surface modification performed in the normal course of maintaining existing landscaping on a lot associated with an existing building or buildings, provided such work does not modify any drainage course.

"(2) An excavation below finished grade for basements and footings of a building, retaining wall or other structure authorized by a valid building permit.

This shall not exempt any fill made with the material from such excavation having an unsupported height greater than 5 feet after the completion of such structure.

"(3) Cemetery graves

"(4) Fill deposited on previously approved disposal sites under the control of other City Administrative Departments.

"(5) Excavations for wells or tunnels, or utilities or other work performed within a public right-of-way and supervised by the City of Kirkland.

"(6) Mining, quarrying, excavating, processing, stock piling of rock, sand, gravel, aggregate or clay where a permit has been issued by the State of Washington, Department of Natural Resources.

"(7) Exploratory excavations under the direction of soil engineers or engineering geologist.

"(8) Normal maintenance and repair of the facilities of a common carrier by rail in interstate commerce within its existing right-of-way.

"(9) Excavations for utility service connections to serve existing and/or new structures."

21.08.201 UBC Section 7005 Amended. Section 7005 of the Uniform Building Code 1973 Edition is hereby amended by the addition of the following definition:

"Land surface modification" shall include the clearing or removal of trees, shrubs, ground cover and other vegetation, and all grading, excavation and filling of materials. The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12 shall not be deemed to be land surface modification."

21.08.202 UBC Section 7006 Amended. Section 7006(a) of the Uniform Building Code 1973 Edition is hereby amended to read:

"Section 7006(a) Permits required. Except as exempted in Section 7003 of this code, no person shall do any land surface modification or grading without first obtaining a grading permit from the Building Official. No land surface modification or grading permit shall be issued:

"(1) Prior to the approval of a preliminary plat. Subsequent to the approval of a preliminary plat, a land surface modification or grading permit may be issued for land surface modification or grading work to be done within rights-of-way or utility easements as designated on the approved preliminary plat drawing.

"(2) Prior to the issuance of a building permit. Subsequent to the issuance of a building permit, a land surface modification or grading permit may issue only for the minimum land surface modification or grading necessary to locate structures or other associated improvements designated on the approved building permit plans.

"(3) In areas served by inadequate water, sewer, storm drainage or transportation systems as determined by the Public Service Department, unless such action proposes the improvement of any deficient system to minimum city standards and at the expense of the private sponsor and such improvements are associated with the issuance of a valid building permit.

"(4) Prior to compliance with Ordinance No. 2183, as amended, where no building permit is required."

21.08.203 UBC Section 7008 Amended. Section 7008 of the Uniform Building Code, 1973 Edition is hereby amended by the addition of the following paragraph:

"A bond shall be filed with the Building Official adequate in amount and conditions to guarantee restoration of the site and to prevent erosion, hazards to adjacent properties, or an increase of sediments in water courses in the event the site is modified and construction does not occur within the time required to complete such project as specified by Section 302(d) as amended and pursuant to other appropriate Kirkland Ordinances."

Section 3. Section 5 of Ordinance 2266 is hereby repealed.

Section 4. Savings Clause.

Should any section, paragraph, sentence or word of this Ordinance or the codes herein adopted be declared for any reason to be invalid, it is the intent of the City Council that it would have passed all other portions of this Ordinance independent of the elimination herefrom of any such section, subsection, paragraph, sentence or word as may be declared invalid.

Section 5. Houghton Community Council Jurisdiction.

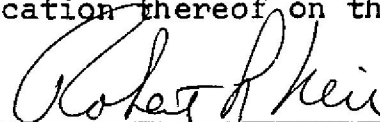
To the extent that the subject matter or any portion thereof of this Ordinance is subject to the disapproval, jurisdiction of the Houghton Community Council as created by Ordinance 2001, this Ordinance shall become effective within the Houghton Municipal Community, either on approval of the Houghton Community Council, or failure of said Community Council to disapprove within sixty days of the date of passage of this Ordinance.

Section 6. Effective date.


Except as provided in Section 5, this Ordinance shall be in full force and effect five days from and after its passage by the Council and publication as required by law.

PASSED by the Kirkland City Council in regular meeting on the 7th day of July, 1975.

SIGNED in authentication thereof on the 7th day of July, 1975.



Mayor

ATTEST:


Director of Administration & Finance
(ex officio City Clerk)

Approved as to form:



City Attorney

ENVIRONMENTAL ASSESSMENT

ADOPTION AND AMENDMENTS TO CHAPTER 70 OF THE UNIFORM BUILDING CODE, 1973 EDITION

Proposed Action

The proposed legislative action is to adopt, with certain amendments, Chapter 70 from the UBC 1973 Edition. The purpose of this legislation is to update the currently adopted grading codes, which are designed to provide minimum standards to safeguard life, limb, property and public welfare by regulating grading on private and public property.

This legislation is proposed to update our current grading ordinance and to include the wishes of the Kirkland City Council by virtue of Resolution No. R-2292. The proposed amendment to the grading code, as submitted, will implement into law the intent of this resolution.

Currently in effect in the City of Kirkland is a grading ordinance taken from Chapter 70 of the 1970 Edition of the Uniform Building Code. When the code was adopted certain amendments were then made, which have been found to be difficult to enforce. It has been found from past experience that as well as controlling grading, so must land clearing be controlled to protect the environment and to control erosion.

This proposed ordinance would adopt Chapter 70 from the 1973 Edition of the Uniform Building Code and would repeal Chapter 70 as adopted from the 1970 edition. There have been no changes to this portion of the Uniform Building Code. The edition change, therefore, becomes a matter of having building code books which are currently in print. This proposed ordinance will also repeal the adopting legislation for the 1970 grading code and would replace that legislation with a new administrative section responsive to the current needs of the City of Kirkland. At this time a bill is before the state legislature to adopt Chapter 70 of the 1973 Edition of the Uniform Building Code statewide.

To implement this particular code as proposed would require the adoption of the proposed ordinance and would therefore permit the staff to implement the intent of Resolution No. R-2292.

This proposed legislation is an attempt to modernize City of Kirkland's building codes and land development policies. The action was started in 1974 with the implementation of the 1973 Edition of the Uniform Building Code, 1973 Edition of the Mechanical Code, and 1973 Edition of the Uniform Housing Code. Since that time the 1973 Edition of the Uniform Plumbing Code has been adopted. However, during these adopting ordinances, Chapter 70 was omitted from the 1973 edition and remains intact from the 1970 Edition of the Uniform Building Code, as indicated by ordinances No. 2266, 2282 and 2291.

The planning that has taken place in producing this grading and land surface modification ordinance was done by staff. Public input to the planning staff has been gained through various review boards. This ordinance has been reviewed by the city attorney.

EXISTING CONDITIONS

The existing legislation that now covers grading was adopted by ordinance and has since been codified to the Kirkland Municipal Code. This legislation has been in effect five years.

Due to this legislation as currently adopted, land surface modification as defined by the proposed ordinance can take place with virtually no control. A combination of the existing ordinance and the resolution make it extremely difficult to administer a grading permit.

ENVIRONMENTAL IMPACT OF THE PROPOSED ACTION

It is possible that controversy could arise over this ordinance.

However, there is a greater possibility a greater controversy would arise over not implementing this ordinance or not implementing some other ordinance of a similar nature that is responsible to Resolution No. R-2292.

This proposed legislation would have an effect of helping to maintain Kirkland's character by regulating grading and land surface modification. Social patterns should not be affected by this legislation.

The potential changes to existing land use that may result from this legislation would be better regulated because the ordinance requires that, before a grading permit may be issued, certain preliminary steps must be taken.

This proposed legislation, as previously discussed, will repeal the grading code as is now in existence and replace it with a new code that is more responsive to our current needs. The groups or individuals that may feel adversely affected by this action are groups or individuals who are property owners and wish to do land surface modification to their property with no specific purpose in mind. It is the intent of Resolution R-2292 to prevent this type of action. It would have the effect on the adjacent lands that may or may not be developed, as grading or land surface modification tends to change watercourse patterns.

This proposed legislation would reduce the degree of uncertainty by staff persons in making decisions of whether or not grading permits can be issued or should be issued on certain proposed projects. This will result in more efficient administration of grading and land surface modification.

This legislation in itself is a minor action and is not a phase of an action that might constitute a major action and total. A precedent is not being established, as the City of Kirkland at this time has a grading code in effect.

Alternates to the Proposed Action

There are several alternatives to the proposed action which are:

- a. The grading as a portion of the building code.
- b. Establish an ordinance of grading that would be administered by the Department of Public Service.
- c. Adopt the 1973 Edition of Chapter 70 with no amendments.
- d. Take no action.

If this grading code were approved as part of the zoning code, the Department of Community Development would then need to also provide for enforcement of this code. Under the Department of Public Services would be a logical choice for the control of grading, as this department currently works in the area of storm drainage planning in control facilities that handle normal run-off. To adopt the code with no amendments is felt not to be responsive to the current needs of the City of Kirkland. The no-action approach would have in effect the grading code which is now difficult to administer as adopted. It is felt by staff that grading is best handled by the building department who has facilities for inspection built into its operation.

Short term use - Versus long term productivity

This ordinance is designed as a long term ordinance in that it sets up criteria for land surface modifications and can be administered with little difficulty.

Irreversible Commitments

The adoption of this ordinance is not an irreversible commitment. The ordinance may be amended or repealed at any time with negligible effect beyond that point.