

ORDINANCE NO. 2430

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO WATER RUNOFF AND POLLUTION DURING CONSTRUCTION.

WHEREAS, it is in the public interest to protect the quality of water courses, bodies of water and the ground water in Kirkland; and

WHEREAS, it is in the public interest to control the runoff and erosion that occurs when vegetation is removed or the natural state of land is altered; and

WHEREAS, construction activities, if not regulated, can reduce water quality and increase runoff; and

WHEREAS, an Environmental Checklist was prepared and a Final Declaration of Non-Significance was made pursuant to the requirements of the State Environmental Policy Act (RCW 43.21C; WAC 197-10; and Kirkland Ordinance No. 2319). This Checklist and Declaration of Non-Significance were available to the Development Code Commission at the public hearing held on this issue. The Development Code Commission considered this information in formulating its recommendation to City Council, and City Council considered this information in taking final action on this recommendation.

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

Section 1. Purpose. The purpose of this Ordinance is to establish criteria and standards and procedures that will be applied to the development of land in Kirkland to prevent the following types of adverse effects which can result from construction phase activities:

- a. Increased runoff of water from construction sites.
- b. Pollution of ground water, water courses and other bodies of water.
- c. Increased sedimentation of water courses and bodies of water, and erosion of land.
- d. Alteration of the temperature of water courses and other bodies of water.

Section 2. Applicability. This Ordinance applies to each development action --

- a. That requires any of the following:
 - 1) A Building Permit that will involve any physical modification to land.
 - 2) A Grading or Land Surface Modification Permit.
 - 3) An Intent to Rezone.
 - 4) A Short Subdivision.

- 5) Formal Subdivision.
- 6) A Substantial Development Permit.
- 7) A Conditional Use Permit.
- 8) A Planned Unit Development.
- 9) An Unclassified Use Permit.
- 10) Any other permit or approval that will result in physical modification of land; and

b. That the City engages in either directly or through a contractor, that will result in the physical modification of land.

Section 3. Definition. Unless a contrary meaning is clearly indicated from the context, the following definitions apply in this Ordinance:

Applicant means any person, corporation, business entity, association, or governmental or public body that is applying for any of the permits or approval or is engaged in any activity within the scope of this Ordinance.

Construction phase activity means any activity requiring a permit or approval within the scope of this Ordinance that results in any physical change to the subject property.

Construction phase water control measures means the steps that the City will require an applicant to take to meet the standards and criteria of this Ordinance.

Construction site means that portion of the subject property on which any construction phase activity will occur.

Subject property means the entire lot or parcel of land on which any construction phase activity will occur.

Section 4. General Statement. Each applicant shall fully comply with this Ordinance.

Section 5. Standards and Criteria. The City will apply the following standards and criteria to each development action within the scope of this Ordinance:

- a. Construction phase activities must be conducted so that the rate of surface water runoff leaving the construction site does not increase above the rate that existed prior to commencing any construction phase activities.
- b. Construction phase activities must be conducted so that the volume of surface water runoff is not increased on any property that has been designated as environmentally sensitive in Ordinance No. 2319 above the volume that existed prior to commencing any construction phase activities.

- c. Construction phase activities must be conducted so that no organic or inorganic pollutants enter the ground water, any water course or body of water as a result of those construction phase activities.
- d. Construction phase activities must be conducted so that there is no significant increase in the sedimentation of water that leaves the construction site.
- e. Construction phase activities must be conducted so that the temperature of any water course or body of water is not significantly altered as a result of those construction phase activities.
- f. Construction phase activities must be conducted so that the points where any water course enters or exits the subject property are not altered or relocated.

Section 6. Procedures - Submittal of Drainage Plan. When an applicant files an application for a development action within the scope of this Ordinance he/she must submit a Drainage Plan for the subject property. The Drainage Plan --

- a. Must show the following information:
 - 1) The topography of the subject property,
 - 2) The corner elevations of the subject property,
 - 3) The corner elevations of proposed structures,
 - 4) The location of all existing natural or artificial drainage facilities which transport or impound surface water across or on the subject property including natural water courses, artificial channels, drainpipes, culverts, and natural and artificial basins.
 - 5) The boundaries of the construction site; and
- b. May include proposed construction phase water control measures that the applicant proposed to meet the standards and criteria of this Ordinance.

Section 7. Procedures - Action by the City

- a. General. The City will evaluate the information contained in the drainage plan and determine what construction phase water control measures must be taken by the applicant to meet the standards and criteria of this Ordinance. The City may only require those construction phase water control measures that are feasible using the best available technology.
- b. If the decision on the application is made by a City Official. If an official of the City, acting in an administrative capacity, is authorized to approve or deny the application for the proposed development action, that official shall evaluate the Drainage Plan and, after consultation with the Director of the Public Service Department, take one of the following actions:

- 1) The official may determine that no construction phase water control measures are necessary to meet the standards and criteria of this Ordinance.
 - 2) The official may determine that some construction phase water control measures are necessary to meet the standards and criteria of this Ordinance and require those measures as a condition of approval of the development action.
 - 3) The official may decide that the information contained in the Drainage Plan is not sufficient to determine what, if any, construction phase water control measures are necessary to meet the standards and criteria of this Ordinance, and require the applicant to provide whatever additional information is necessary to make those determinations. After the applicant has submitted any additional required information, the official shall make a determination under paragraphs b. 1) or b. 2) of this section.
- c. If the decision on the application is made by a Board, Commission, or Committee. If a multi-member Board, Commission, or Committee is authorized to approve or deny the application for the proposed development action, the following procedure will be followed:
- 1) The Public Service Department shall determine if the Drainage Plan contains sufficient information for the Board, Commission, or Committee to determine what, if any, construction phase water control measures are necessary for the proposed development to meet the standards and criteria of this Ordinance. If the Public Service Department determines that additional information is necessary, it shall require the applicant to provide this additional information as a condition for consideration of the proposed development action by the Board, Commission, or Committee.
 - 2) After the Public Service Department has received all required information, it shall prepare a written drainage report containing the following information:
 - a) A summary of the present topography of and drainage on the subject property.
 - b) A summary of what, if any, effects the construction phase activities will have in relation to the standards and criteria of this Ordinance.
 - c) A proposed list of any construction phase water control measures that the Public Service Department determines are or may be necessary for the proposed development to meet the standards and criteria of this Ordinance.

This report will be included in the materials submitted to the Board, Commission, or Committee for their consideration of the proposed development action.

3) The Board, Commission, or Committee shall either --

- a) Determine what, if any, construction phase water control measures are necessary for the proposed development to meet the standards and criteria of this Ordinance, and require these measures as a condition of approval of the development action; or
- b) Determine the general nature of the construction phase water control measures that are necessary for the proposed development to meet the standards and criteria of this ordinance, and direct the Public Service Department to determine the specific measures that are necessary. The specific measures determined as necessary by the Public Service Department will become conditions of approval of the development action.

Section 8. Phased Applications. If the applicant applies for approval of a development action that requires both preliminary and final approval from the City --

- a. The City will only require those construction phase water control measures as part of the preliminary approval, that are necessary to meet the standards and criteria of this Ordinance for those construction phase activities that may go forward as a result of that preliminary approval; and
- b) The City will require those construction phase water control measures, as part of the final approval, that are necessary to meet the standards and criteria of this Ordinance for those construction phase activities that may go forward as a result of that final approval.

In addition the City may establish the general nature of the construction phase water control measures that will be required as part of the final approval during the preliminary approval process.

Section 9. Modification of Required Measures. The City may modify any determination made under Section 7 of this Ordinance if any condition or circumstance comes to the attention of the City, after that determination is made, that requires the modification for the development action to meet the standards and criteria of this Ordinance.

Section 10. One Drainage Plan Required. If an applicant proposes to engage in construction phase activities that require more than one of the permits or approval within the scope of this Ordinance, he/she may submit the Drainage Plan used in the first permit or approval application in any subsequent permit or approval application covering the same construction phase activities. Subject to modification under Section 9 of this Ordinance, the applicant shall follow the construction phase water control measures required by the City in connection with the first application in any subsequent application covering the same construction phase activities.

Section 11. Source of Construction Phase Water Control Measures. The City may consult with any individual and use technical manuals and other information material developed by the City, by other units of government, and by private organizations and industry in determining

what if any construction phase water control measures to require in connection with a proposed development action.

Section 12. Assistance by the City. The Public Service Department keeps on file technical manuals and other information material covering construction phase water control measures. This information is available for public use at City Hall. The Public Service Department is available for informal consultation on any matter covered by this Ordinance.

Section 13. Requirements Part of the Approved Application. Determinations made and requirements imposed by the City under this Ordinance are part of the permit or approval for the development action with which these determinations and requirements are associated.

Section 14. Enforcement - General. The City shall enforce this Ordinance in the manner for enforcing any portion of the permit or approval for the development action.

Section 15. Stop Work Orders and Correction of Immediate or Serious Problems.

- a. When these powers can be used. The Director of the Public Service Department or the Building Official may take either or both of the actions listed in paragraph b. of this section if he/she finds that --
 - 1) A condition exists on the construction site that does not conform to the standards and criteria of this Ordinance; and
 - 2) This condition is causing or threatens to cause irreparable or serious harm to the property of another or to the quality of any water course, body of water or the ground water.
- b. Powers of the City. If the Director of the Public Service Department or the Building Official finds that the conditions listed in paragraph a. of this section exist on any construction site, he/she may take either or both of the following actions:
 - 1) Issue a Stop Work Order. If a Stop Work Order has been issued, no work may be done on the construction site until it will conform to the standards and criteria of this Ordinance, and then only with the express permission of the official who issued the Stop Work Order.
 - 2) Order that specific measures or actions be taken to correct the conditions described in paragraph a. of this section. The official who ordered the corrective measures or actions shall determine when these must be completed. If they have not been completed in the specified time, the official shall cause the City to undertake the corrective measures or actions. If this occurs, the City will assess the applicant for the City's actual costs in taking these corrective measures or actions.

c. Appeals. The applicant may appeal any action taken by the City under this Section to the Board of Appeals as established in Section 21.08A.010 of the Kirkland Municipal Code. (Section 204 of the Uniform Building Code).

Section 16. Security Device. The City may require the applicant to post a bond or a cashier's check, execute an assignment of funds, or establish any similar security device sufficient to insure compliance with this Ordinance.

Section 17. Appeals. Except as indicated under Section 15.C., of the Ordinance, the determinations made and requirements imposed under this Ordinance may be appealed as follows:

- a. If the decision on the permit or approval for this proposed development action is appealable to any body of the City, the determinations made and requirements imposed under this Ordinance may be appealed to the extent and in the manner for an appeal of the proposed development action.
- b. In all other cases, the applicant may appeal the determinations made and requirements imposed under this Ordinance to the Board of Appeals as established in Section 21.08A.010 of the Kirkland Municipal Code (Section 204 of the Uniform Building Code).

Section 18. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance 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 19. To the extent that the subject matter and provisions of this Ordinance are within the disapproval jurisdiction of the Houghton Community Council, as created by Ordinance No. 2001, this Ordinance shall become effective within the Houghton Community either upon approval of the Houghton Community Council or failure of said Community Council to disapprove within sixty (60) days from the date of passage of this Ordinance.

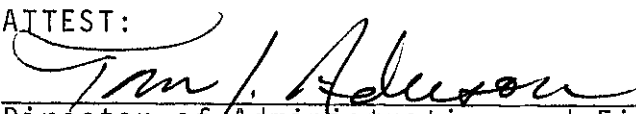
Section 20. Except as indicated in Section 19 of this Ordinance, this Ordinance shall be in force and take effect five (5) days from and after its passage by the City Council and publication as required by law.

PASSED by the Kirkland City Council in regular meeting on the 15th day of January , 1979.

SIGNED IN AUTHENTICATION thereof on the 15th day of January, 1979:


MAYOR

ATTEST:


Director of Administration and Finance
(ex officio City Clerk)

Ord. 2430

APPROVED AS TO FORM:


City Attorney