

ORDINANCE NO. 2431

AN ORDINANCE OF THE CITY OF KIRKLAND RELATED TO PUBLIC IMPROVEMENTS ASSOCIATED WITH CONSTRUCTION WITHIN THE CITY OF KIRKLAND.

WHEREAS, certain areas of the City of Kirkland are inadequately served by paved roadways, sidewalks and walkways, curbs and gutters, storm drainage systems and other public improvements; and

WHEREAS, those individuals constructing buildings within the City of Kirkland should be responsible for the provision of public improvements made necessary by their construction; 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:

- a. Authority of the City to require a building permit applicant to make public improvements.
- b. Procedures that will be used to require public improvements by building permit applicants.
- c. Criteria that will be used to determine the nature, extent and location of the required public improvements.

Section 2. Scope: This Ordinance applies to each applicant for a building permit except the following:

- a. An applicant for a permit for a building approved --
 - 1) as part of a Planned Unit Development;
 - 2) as a Conditional Use;
 - 3) under an Intent to Rezone Resolution; or
 - 4) as an Unclassified Use.
- b. An applicant for a permit for a building on a lot legally subdivided after the effective date of this ordinance.

- c. An applicant for a permit to make an addition, alteration or repairs to a single family residence.
- d. An applicant for a permit to make an alteration, repair or minor addition to any structure other than a single family residence.

Section 3. General:

Based on the criteria of Section 5 of this Ordinance, the City of Kirkland may require each applicant for a building permit within the scope of this Ordinance to install or otherwise provide for the following public improvements within the public right-of-way:

- a. Paved roadways.
- b. Sidewalks and walkways.
- c. Curbs and gutters.
- d. Storm drainage systems.
- e. Landscaping.
- f. Any other improvements that are reasonably associated with and benefit the proposed building.

Section 4. Procedure:

- a. General: After consultation with representatives of the departments listed in paragraph (b) of this Section, the Director of the Public Services Department (hereafter, the Director) shall tentatively determine --
 - 1) whether to require the applicant to install any public improvements; and
 - 2) the nature, extent and location of the public improvements that are required.

The Director shall discuss his/her tentative determination with the applicant in relation to the criteria of Section 5 of this Ordinance. After any necessary modifications, the Director shall inform the applicant of his/her final determination.

- b. Interdepartmental Review: Before making the determination required by paragraph (a) of this Section, the Director shall consult with and shall be guided by the recommendations of representatives from the following departments of the City:
 - 1) The Police Department.
 - 2) The Department of Fire Services.
 - 3) The Department of Community Development.

4) The Department of Parks and Recreation.

These representatives shall use the criteria established in Section 5 of this Ordinance to formulate their recommendations.

Section 5. Criteria: The Director shall use the following criteria in making the determinations required by Section 4 of this Ordinance:

- a. If City Council, through an approved plan or policy, has, by Ordinance or by Resolution, established the nature, extent and location of public improvements to be provided in the immediate vicinity of the property in question, the Director shall require public improvements consistent with the nature, extent, and location as established by City Council.
- b. If the City Council has not established the nature, extent, and location of public improvements in the vicinity of the property in question --
 - 1) The Director shall require the appropriate public improvements if he/she finds that --
 - a) The public improvements exist in the immediate vicinity of the property in question. However, the public improvements will not be required if the Director determines that extension of those public improvements will not be in the best interests of the residents of the City, or
 - b) The proposed use of the subject property necessitates the installation of the public improvements, or
 - c) The subject property is located in close proximity to an activity center as defined in the Land Use Policies Plan; and that the required improvements will enhance access to this activity center; and that it is in the best interests of the residents of the City of Kirkland to enhance access to this activity center.
 - d) Physical characteristics of the subject property, such as but not limited to, topography, slope, soil type, drainage pattern or vegetation, necessitate the installation of public improvements, or
 - e) The public improvements are necessary to maintain water quality, or
 - f) For any other reason, the public improvements are necessitated by a compelling public interest. If the Director requires the provision of public improvements under this subparagraph 1) f), he/she shall make written findings and conclusions specifying the compelling public interest that necessitates the improvements and the manner in which these improvements will fulfill this compelling public interest;

and

- 2) If an applicant applies for a building permit to construct one single family residence, the Director may require a public improvement only if --
 - a) He/she has explored alternatives to requiring the applicant to provide for the improvement and has found these alternatives not to be feasible; and
 - b) He/she finds that the public improvement will complete or substantially extend an existing public improvement or is essential to fulfill an important public purpose.

The Director must make written findings and conclusions specifying these two criteria.

Section 6. Enforcement:

- a. General: Public improvements required by the Director shall be listed as an attachment to and become part of the approved building permit.
- b. Procedure: Public improvements required by the Director will be enforced as part of the approved building permit.

Section 7. Appeals:

- a. General: A determination of the Director required by Section 4 of this Ordinance may be appealed by the applicant to the Board of Adjustment by filing a written notice of appeal with the Department of Community Development within twenty (20) calendar days of the date the Director informs the applicant of his/her final determination made under Section 4. a. of this Ordinance.
- b. Procedure: The procedures of Chapter 23.58 of the Kirkland Zoning Ordinance (Ordinance No. 2183, as amended) apply to appeals made to the Board of Adjustment under this Ordinance.
- c. Fee: A fee equivalent to that required for a variance under Ordinance 2311 shall be paid at the time of filing the written notice of appeal. The appeal will not be accepted unless accompanied by full payment.

Section 8. 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 9. 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

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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 10. Except as provided in Section 9, 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.

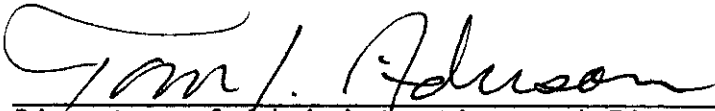
PASSED BY THE KIRKLAND CITY COUNCIL IN REGULAR MEETING on the 18th day of December, 1978.

SIGNED IN AUTHENTICATION thereof on the 18th day of December, 1978.



MAYOR

ATTEST:



Director of Administration and Finance
(ex officio City Clerk)

APPROVED AS TO FORM:



City Attorney