

ORDINANCE NO. 2791

AN ORDINANCE OF THE CITY OF KIRKLAND PERTAINING TO LAND USE, ZONING AND RELATED MATTERS, AND AMENDING ORDINANCE 2740 AS AMENDED.

WHEREAS, the City Council did adopt a new Zoning Code by Ordinance 2740 on September 20, 1982; and

WHEREAS, The City Council did adopt amendments to this Zoning Code by Ordinances 2729, 2749, 2756 and 2771; and

WHEREAS, during the use of this new Zoning Code and related amendments, several problems have come to light which should be corrected; and

WHEREAS, an Environmental Checklist was submitted on this proposed ordinance on November 1, 1983. The Responsible Official evaluated this proposal and issued a Declaration of Non-Significance on November 4, 1983. This environmental information was made part of the record and accompanied this proposed amendment throughout its consideration by the Houghton Community Council, Planning Commission, and City Council; and

WHEREAS, the Houghton Community Council held a public hearing and considered this proposed ordinance on November 22, 1983. The Planning Commission held a public hearing and considered this proposed ordinance on January 5, 1984. The Houghton Community Council and the Planning Commission both recommend that City Council adopt this ordinance; and

WHEREAS, City Council considered this proposed ordinance on January 16, 1984 and February 6, 1984, and concluded that it would be within the public interest consistent with the Comprehensive Plan and said recommendations to adopt it.

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

Section 1. User Guide - Additional Regulations - Section 1.10 of Ordinance 2740 is hereby amended to read as follows:

1. Overlay "S" "AE" - Is there an "S" "AE" on the Zoning Map within a dashed line that contains the subject property? If so, see Chapter 70 72.

Section 2: Chapter 5.10 of Ordinance 2740 is hereby amended to add the following new section:

5.10.67 Average Slope - The average grade of a site within each land area representing a distinct topographic change.

Section 3: Section 5.10.680 of Ordinance 2740 is hereby repealed:

~~5.10.680--Potentially-Unstable-Slope---An-area-having an-incline-generally-less-than-15%where, because-of-soil-condition, slope-and underlying-geologic-formations, the-natural stability-of-the-area-may-be-upset-as-a result-of-development-activities-on-or adjacent-to-the-slope.~~

Section 4: Chapter 5.10 of Ordinance 2740 is hereby amended to add the following new section:

5.10.787 Regulated Slope - An average slope of 15% or greater.

Section 5: Chapter 5.10 of Ordinance 2740 is hereby amended to add the following new section:

5.10.881 - Soft Compressible Soils - Soils susceptible to a decrease in volume when subjected to load.

Section 6: Section 5.10.95 of Ordinance 2740 is hereby repealed:

~~5.10.950--Unstable-Slope---An-area-having-an-incline generally-greater-than-15%where-landslides are-probable, even-in-the-absence-of development-activities,--The-following characteristics, individually-or-in combination-characterize-an-unstable-slope:~~

~~a.---Trees-are-at-irregular-angles-to-each other-or-with-intermeshing-upper-branches, indicative-of-soil-movement.~~

~~b.---Pinched-streams, in-which-sections-of the-normal-downcut-cross-sections-are missing, indicating-that-the-stream-banks have-collapsed-inwardly.~~

~~c.---Hummocky-or-irregular-ground-surface.~~

~~d.---Abundant-surface-or-ground-water, and silty-or-sandy-soils.~~

~~e.---A-six-inch-or-more-thick, wet-mat-of organic-material-in-hillside-areas, indicating-a-high-ground-water-level-or ground-water-outflow.~~

~~f.---Soil-sloughs, areas-where-the-surficial soil-mantle-has-sloughed-or-slipped-leaving exposed-subsoil.~~

g.---A-history-of-construction-or-landslide problems.

h.---Phases-of-geologic-formations-such-as fissured-clay.

i.---Concave-slope-areas, where-the-grade-is changing-from-relatively-steep-to-somewhat flatter-terrain-below.--These-areas frequently-accumulate-slope-wash-from-above or-indicate-a-change-in-soil-or-ground-water conditions-to-a-less-stable-or-resistant condition.

j.---Terrain-irregularities, including-scoop-or bowl-shaped-depressions.

Section 7: Section 10.30 of Ordinance 2740 is hereby amended to read as follows:

10.30 Overlay Designations Adopted

The following Overlay Zones apply in various areas:

	<u>Overlay Zoning Category</u>	<u>Symbol</u>
±:	Unstable-Slope-Overlay-Zone	"S"
1.	<u>Adult Activities Overlay Zone</u>	"AE"
2.	Historic Landmark Overlay Zone	"HL"
3.	Equestrian Overlay Zone	"EQ"

Section 8: Chapter 70 of Ordinance 2740 is hereby repealed.

Section 9: Chapter 85 of Ordinance 2740 is hereby repealed and replaced with the following new Chapter 85:

CHAPTER 85 SLOPES

<u>85.05</u>	<u>User Guide</u>
<u>85.10</u>	<u>Applicability</u>
<u>85.15</u>	<u>Required Information</u>
<u>85.20</u>	<u>Required Review Process</u>
<u>85.25</u>	<u>Specific Use and Development Requirements</u>
<u>85.30</u>	<u>Appeals of Determination of Regulated Slopes</u>
<u>85.35</u>	<u>Bonds</u>
<u>85.40</u>	<u>Dedication</u>
<u>85.45</u>	<u>Documents to be Recorded</u>

1. This Chapter establishes special regulations that apply to development on property containing average slopes 15% or greater (regulated slope); or areas with soft compressible soils. These regulations add to and, in some cases, supercede other regulations of this Code. Regulated slopes will be determined at the time a permit application is accepted for filing using topographic information submitted by an applicant as part of other permit requirements and/or from topographic information shown on the City's maps. Unless more specific information is provided by an applicant, areas of soft compressible soils will be determined by using the City's Environmentally Sensitive Areas Map.
2. If you are interested in developing property that meets the criteria described in Section 10 paragraph 1 of this chapter, or if you wish to participate in the City's decision on a proposed development on any of these areas, you should read this Chapter.
3. Conflict with Other Provisions of the Code - The provisions of this Chapter supersede any conflicting provisions of this Code. The other provisions of this Code that do not conflict with the provisions of this Chapter apply to property that contains a regulated slope or areas with soft compressible soils.

1. General - This Chapter applies to any property that contains any of the following:
  - a. An average slope 15% or greater, unless no development activity or revegetation is proposed on or within 25 feet of the slope; or
  - b. Land surface modification, improvements or utilities which are on or within 25 feet of an average slope 15% or greater; or
  - c. Areas of soft compressible soils including peat and/or alluvium.

2. Topographic Information Required - The City may require surveyed topographic information if it is necessary to determine whether or not a slope is 15% or greater.

85.15. Required Information

The City may require a soils report and a tree retention plan for any development on a regulated slope, within 25 feet of a regulated slope, or area with soft compressible soils. The soils report shall contain the following information:

1. A description of how the proposed development will or will not impact each of the following on the subject property and adjoining properties:
  - a. slope stability with the proposed action
  - b. landslide hazard or sloughing
  - c. seismic hazards (based on sub-classifications within the Class III risk zone)
  - d. erosion hazards
  - e. drainage
  - f. springs or seeps or any other surface water
  - g. groundwater
  - h. flood hazard
  - i. existing vegetation
2. Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent properties.
3. If the soils report is prepared by a professional engineer, any additional information determined to be relevant by the professional engineer.

85.20 Required Review Process - The City will review and decide upon any development on a regulated slope or soft compressible soils using Process I, described in Chapter 145 of this Code.

85.25 Specific Use and Development Requirements - As part of any approval of development on a regulated slope or soft compressible soils, the City, in addition to the provisions of Chapter 145, may require the following:

1. Implementation of recommendations in the soils report to mitigate identified impacts;
2. The applicant funding a Professional Engineer, selected and retained by the City, to review the soils report;
3. The applicant's professional engineer be present on site during all land surface modification activities.
4. Any and all trees and groundcover be retained and additional vegetation added;
5. All access and circulation plans be reviewed for approval by the Department of Public Works.

85.30 Appeals of Determination of Regulated Slopes

1. Who Can Appeal - Any person who is aggrieved by a determination that a slope is a regulated slope or that the soils are soft and compressible may appeal that determination at any time prior to a decision on the Process I permit.
2. How to Appeal - The applicant must file a letter of appeal indicating how the determination affects his/her property and present any relevant arguments or information on the correctness of the determination. The applicant shall include the appeals fee as established by Ordinance.
3. Applicable Procedures - All appeals of determinations of this Chapter will be reviewed and decided upon using Process IIA, described in Chapter 150 of this Code.

85.35 Bonds

The City may require a bond under Chapter 175 of this Code to ensure compliance with any aspect of this Chapter.

85.40 Dedication

The City may require that the applicant dedicate development rights, air space, or an open space easement to the City to ensure the protection of that portion of a site demonstrated to exhibit any of the criteria listed in Section 10, paragraph 1 of this Chapter.

85.45 Documents to be Recorded

1. Liability - Prior to issuance of a grading permit, the applicant shall enter into an agreement with the City, which runs with the property, in a form acceptable to the City Attorney, indemnifying the City for any damage resulting from development activity on the subject property which is related to the physical condition of the property. The applicant shall record this agreement with the King County Department of Elections and Records.
  
2. Identification - Prior to the issuance of a Building Permit, the applicant shall file a statement with the King County Department of Elections and Records, to run with the property, identifying any regulated slopes or areas with soft compressible soils.

Section 10: The Director of the Department of Planning and Community Development is herewith directed to remove all Unstable Slope Overlay Zone ("S") designations presently designated thereon from the Official Zoning Map of the City.

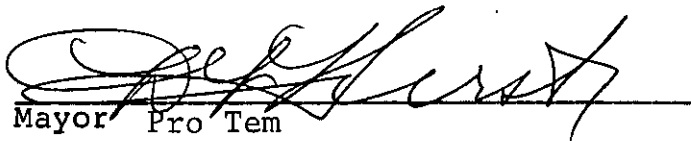
Section 11. If any section, subsection, sentence, clause, phrase, part or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

Section 12. 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.

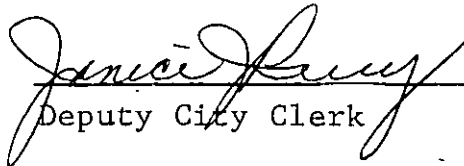
Section 13. This Ordinance shall be in force and take effect five (5) days from and after its passage by the City Council and publication as required by law.

PASSED by majority vote of the Kirkland City Council in regular, open meeting this 6th day of February, 1984.


SIGNED IN AUTHENTICATION thereof this 6th day of February, 1984.

  
Mayor Pro Tem

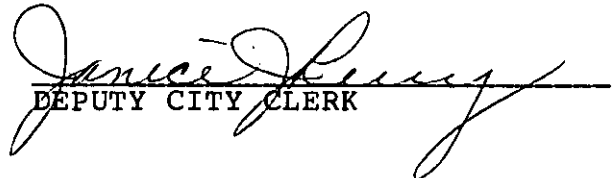
Attest:

  
Deputy City Clerk

Approved as to Form:

  
City Attorney (Assistant)

I hereby certify under penalty of perjury that the foregoing ordinance was posted on the 7th day of February, 1983 in accordance with the provisions of RCW 35A.12.160 and City of Kirkland Ordinance No. 2600.

  
DEPUTY CITY CLERK

6357B/0185A/SW:lf