

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, 2771, and 2791; 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 February 29, 1984. The Responsible Official evaluated this proposal and issued a Declaration of Non-Significance on March 2, 1984. 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 March 27, 1984. The Planning Commission held a public hearing and considered this proposed ordinance on April 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 May 7, 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: Section 115.75 of Ordinance 2740 is hereby amended to read as follows:

115.75 Land Surface Modification

1. General - The applicant shall comply with this Section with respect to all land surface modifications.
2. Nature of Fill Materials - All materials used as fill must be non-dissolving and non-decomposing. Fill material must not contain organic or in-

organic material that would be detrimental to the water quality, or existing habitat, or create any other significant adverse impacts to the environment.

3. Criteria for a Land Surface Modification Permit Except as listed in Paragraph 4 of this Section, a proposed land surface modification will be decided upon using Process I described in Chapter 145 of this Code. The applicant must submit a soils report which describes any on or off site impacts of the proposed land surface modification on each of the elements listed in Section 4.k.6 below. In addition, the City will grant the land surface modification permit only if it finds that all of the following criteria are met:

- a) The land surface modification does not directly or indirectly alter or adversely affect any property other than the subject property.
- b) The land surface modification is not preparatory for future development of the subject property.
- c) The land surface modification does not violate any expressed policy of the City.

4. Exceptions to Permit Requirement - The following land surface modifications are exempt from the permit requirements of this Section:

- a. A land surface modification that has been approved as part of a valid Development Permit, subdivision, or Substantial Development Permit.
- b. Cemetery graves.
- c. Land surface modification in a right-of-way authorized in writing by the Director of the Department of Public Works.
- d. Mining, quarrying, excavating, processing, stockpiling of rock, sand, gravel, aggregate or clay where a permit has been issued by the State of Washington, Department of Natural Resources.

- e. Exploratory excavations under the direction of a professional engineer licensed in the State of Washington, as long as the extent of the land surface modification does not exceed the minimum necessary to obtain the desired information.
- f. Normal maintenance and repair of the facilities of a common carrier by rail in interstate commerce within its existing right-of-way.
- g. Excavations for utility service connections to serve existing and/or new structures.
- h. Actions which must be undertaken immediately, or within a time too short to allow full compliance with the permit requirements of Paragraph 3, to avoid an imminent threat to public health or safety; to prevent an imminent danger to public or private property; or to prevent an imminent threat of serious environmental degradation. This determination will be made by the Planning Official.
- i. The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12, of the Kirkland Municipal Code and the removal of blackberry vines or dead, dangerous, or diseased trees when authorized by the Building Official.
- j. Placement of fill on land owned or controlled by the City.
- k. Land surface modification that complies with all of the following criteria:
 - 1) The subject property contains a permanent building or an active use.
 - 2) The Land Surface Modification will not change the points where the storm water or groundwater enters or exits the subject property; and will not change the quality, quantity, or velocity of storm water or groundwater.
 - 3) The Land Surface Modification is not in a stream, lake, wetland, or required setback therefrom, is not on or within 25 feet of a regulated slope, and is

not in an area with soft compressible soils.

- 4) In any one year period, not more than 5 healthy trees defined as significant natural vegetation are removed. If the subject property is larger than one acre, the limit is five trees within each acre. See also Chapter 95 of this Code for regulations requiring the retention of significant natural vegetation in some cases.
- 5) In any one year period, not more than 500 cubic yards of fill material is deposited on, excavated and removed from or moved from place to place on the subject property and will not result in more than a two foot increase or one foot decrease in average slope. If the subject property is larger than one acre, the limit is five hundred cubic yards within each acre.
- 6) If the Land Surface Modification is between 100 and 500 cubic yards, the City may require a soils report. If a soils report is required, it shall contain a description of any on or off site impacts of the proposed land surface modification on each of the following elements:
 - a. Slope stability - if the site has an average slope 15% or greater.
 - b. Landslide hazard, sloughing or mud flows.
 - 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.

The soils report also must contain recommended methods for mitigating identified impacts and a description of how these mitigating measures impact adjacent properties. The City may require implementation of recommendations in the soils report to mitigate identified impacts.

5. Bonds -The City may require the following bonds, per Chapter 175:

- a. A performance bond to guarantee that the land surface modification will conform to City standards; and/or
- b) A maintenance bond after the land surface modification is completed.

Section 14: 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 15: 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 16: 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 7th day of May, 1983.

SIGNED IN AUTHENTICATION thereof this 7th day of May, 1983.

Loris Cooper
Mayor

Attest:

Janice Perry Deputy City Clerk for
Director of Administration & Finance
(ex officio City Clerk)

Approved as to Form:

Joseph E. [Signature]
City Attorney

I hereby certify under penalty of perjury that the foregoing ordinance was posted on the 9th day of May, 1983 in accordance with the provisions of RCW 35A.12.160 and City of Kirkland Ordinance No. 2600.

Janice Perry
DEPUTY CITY CLERK

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