

ORDINANCE NO. 2847

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING AND LAND USE AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE.

Whereas, the City Council has received from the Kirkland Planning Commission a recommendation to amend certain sections of the text of the Kirkland zoning ordinance, Ordinance 2740 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated December 12, 1984 and bearing Kirkland Department of Planning and Community Development File No. IV-84-74; and

Whereas, prior to making said recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, on November 15, 1984, held a public hearing on the amendment proposals and considered the comments received at said hearing and

Whereas, pursuant to the State Environmental Policies Act there has accompanied the legislative proposal and recommendation through the entire consideration process, a final declaration of non-significance (including supporting environmental documents) issued by the responsible official pursuant to WAC 197-11-340 and WAC 197-11-390; and

Whereas, in a regular public meeting the City Council considered the report and recommendation of the Planning Commission, now, therefore,

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1. The following specified subsections relating to definitions of Section 5.10 of Ordinance 2740 as amended, the Kirkland zoning ordinance, be and they hereby are amended to read as follows:

5.10.787 Regulated Slope - An average slope of 15% or greater when measured between any two five foot contour intervals (see Plate 15).

5.10.497 Major Wetland - A wetland that is contiguous with a major stream or lake Washington.

5.10.535 Minor Stream --- Either a watercourse shown on the Environmentally Sensitive Areas Map, as adopted by the City Council and on file with the Planning Department, which is not defined as a major stream, or any watercourse flowing within natural, reconstructed, rehabilitated or relocated banks during at least six (6) months of a year of normal precipitation.

5.10.788 Regulated Wetland - A wetland that serves one or more of the following: significant biological functions; significant drainage and sedimentation functions; shields other areas from wave action, erosion or storm damage; serves as valuable storage area for storm and flood waters; is a prime natural recharge area; significant water purification functions. Although a site specific wetland may not meet the criteria described above, it will be considered a regulated wetland if it is functionally related to another wetland that meets the criteria.

5.10.985 Wetland - Lands where saturation with water is the dominant factor determining the nature of soil development and the resultant biological communities. Land must meet one of the following two conditions in order to be classified wetland:

- a. At least periodically, the land supports predominantly hydrophytes (a plant which lives and grows in water or very wet earth).
- b. The substrate is predominantly undrained hydric soil (soil that is wet long enough to periodically produce anaerobic conditions, thereby influencing the growth of plants.)

Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Section 2. Chapter 85 of Ordinance 2740 as amended, the Kirkland Zoning Ordinance, be and it hereby is amended to read as follows:

CHAPTER 85 SLOPES

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

85.05 User Guide

1. This Chapter establishes special regulations that apply to development on property containing average slopes 15% or greater (regulated slope - see Plate 15); or areas with soft compressible soils. These regulations add to and, in some cases, supersede 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.

85.10 Applicability

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, prepared by a licensed surveyor, if it is necessary to determine whether or not a slope is 15% or greater.

85.15. Required Information

The City may require the applicant to submit a soils report prepared by a qualified professional and a tree retention plan for any development on a regulated slope; within 25 feet of a regulated slope; or within areas 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 subclassifications 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 including size and type of significant trees
- 2. Recommended foundation design and proposed location of roadways and improvements.
- 2-3. Recommended methods for mitigating identified impacts and a description of how these mitigating measures may impact adjacent properties.



~~3.4. 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 administratively review and decide upon any development on a regulated slope or soft compressible soils. ~~using Process 17 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's~~ Funding of a qualified Professional Engineer, selected and retained by the City, to review the soils report;
3. ~~The applicant's~~ a qualified professional engineer be present on site during all land surface modification activities;
4. The retention of Any and all trees, shrubs and groundcover be retained and additional vegetation added;
5. Planting of additional vegetation;
- 5.6. The review of all access and circulation plans be reviewed for approval by the Department of Public Works.
7. Limitation or restriction of any development activity that:
  - a. may significantly impact slope stability and drainage patterns on the subject property or adjacent properties; or
  - b. causes serious erosion hazards, sedimentation problems or landslide hazards on the subject property or adjacent properties; or
  - c. causes a reduction in significant habitat areas; or
  - d. destroys natural features that have recognized aesthetic, cultural or educational value to the community.

85.30 Appeals of Determination of Regulated Slopes

1. Who Can Appeal - The City will notify an applicant in writing when a determination is made that a regulated slope exists on their site. 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 within 14 days of the date of the written determination.
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.

Section 3. Chapter 90 of Ordinance 2740 as amended, the Kirkland Zoning Ordinance, be and it hereby is amended to read as follows:

CHAPTER 90 - STREAMS, MINOR LAKES AND WETLANDS

- 90.05 User Guide
- 90.10 Applicability
- 90.15 Development Activity and Improvements in or Near a Stream, Lake or Major Regulated Wetland
- 90.20 Development and Density Prohibited in Major Regulated Wetlands
- 90.25 Minimum Setbacks From Streams, Lakes and Major Regulated Wetlands
- 90.30 Development Activity Within the Minimum Setbacks
- 90.35 Site Design Requirements for the Subject Property
- 90.40 Access to a Water Related Environmentally Sensitive Area
- 90.45 Additional Protection Techniques
- 90.50 Bonds
- 90.55 Dedication
- 90.60 Liability
- 90.65 Appeals of Stream, Lake or Wetland Determination

90.05 User Guide

This Chapter establishes special regulations that apply to development in or near any stream or major regulated wetland in the City and to any lake other than Lake Washington. These regulations add to and in some cases supersede other regulations of this Code. Regulations applicable to development on or near Lake Washington are included in the use zone regulation for the zones that include Lake Washington.

If you are interested in conducting any development activity on or near a stream, lake, other than Lake Washington, or major regulated wetland, or if you wish to participate in the City's decision on a proposed development on or near any of these areas, you should read this Chapter.

90.10 Applicability

1. General - This Chapter applies to any property that contains or is within 100 feet of any of the following:
  - a. A major stream.
  - b. A ~~minor~~ stream.
  - c. A minor lake.
  - d. A major regulated wetland.

2. Conflict with Other Provisions of this 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 stream, a minor lake or a ~~major~~ regulated wetland.
3. Other Jurisdictions - Nothing in this Chapter eliminates the responsibility of the applicant to comply with all other applicable local, state and federal laws regulating development activity in or near a stream, lake or ~~major~~ regulated wetland as determined by the Planning Official. Appeals of this determination shall be made in accordance with Section 90.65 of this Chapter.

90.15 Development Activity and Improvements in or Near a Stream, Lake or Wetland

1. General - No development activity may take place in and no improvements may be located in a stream, lake or ~~major~~ regulated wetland except as specifically provided in this Section.
2. Rehabilitation - The ~~City~~ Planning Official may permit or require the applicant to rehabilitate and maintain a stream, lake or ~~major~~ regulated wetland by removing material detrimental to the area such as debris, sediment, or vegetation or by the adding of landscaping, ~~ether-material detrimental-to-the-area.~~ Rehabilitation may be required at any time that a condition detrimental to water quality or habitat exists. This decision may be appealed in accordance with Section 90.65 of this Chapter.
3. Watercourse Relocation
  - a. General - Relocation of a ~~major-or-minor~~ stream on the subject property is permitted subject to all of the conditions and restrictions of this Section. In addition, if a proposed development requires approval through Process IIB or III described in Chapter 152 and 155 of this code, the ~~City~~ Planning Official may require that a culverted major stream on the subject property be opened and relocated subject to all of the conditions and restrictions of this section.

- b. Required Process - A proposal to relocate any stream except major streams will be reviewed by the Planning Official. The decision of the Planning Official may be appealed using Section 90.65. The City will review and decide upon an private application to relocate a major stream using Process I, described in Chapter 145 of this Code.
- c. Criteria - Relocation of Major Stream - The City will allow a major stream to be relocated only if water quality, habitat, and storm water retention capability of the watercourse will be significantly improved by the relocation. Convenience to the applicant in order to facilitate general site design may not be considered.
- d. Plan Required. As-part-of Prior to issuance of a Building and/or Grading Permit the-relocation-of-a-stream, the-City-shall-require the City may require the applicant to submit to the Planning Official a stream relocation plan prepared by a qualified professional approved by the City. This plan shall be reviewed and approved by the Planning Official prior to issuance of any building and/or grading permits and shall show the following:
- (1) The creation of a natural meander pattern.
  - (2) The formation of gentle side slopes, at least 2 feet horizontally, to one foot vertically, including the installation of erosion control features for stream side slopes.
  - (3) The creation of a narrow subchannel, where feasible, against the south or west bank.
  - (4) The utilization of natural materials, wherever possible.
  - (5) ~~The-planting-of-~~Vegetation normally associated with the streams including primarily native riparian vegetation.
  - (6) The creation of spawning and nesting areas, wherever possible appropriate.

- (7) The re-establishment of the fish population, wherever possible appropriate.
- (8) The restoration of water flow characteristics compatible with fish habitat areas, wherever appropriate.
- (9) The filling and revegetation of the prior channel.
- ~~(10) The on-site presence of a consultant approved by the city who is qualified to advise the applicant on watercourse ecology and water quality--~~
  - ~~(a) To inspect the new channel following its completion and to issue a written report to the Planning Department stating that the channel complies with the requirements of this Section, and~~
  - ~~(b) To supervise the actual diversion of the stream into the new channel.~~
- (10) A proposed Phasing Plan specifying time of year for all project phases.

- e. Prior to diverting water into the new channel, a qualified professional approved by the City shall To inspect the new channel following its completion and to issue a written report to the Planning Department Official stating that the channel complies with the requirements of this Section. and
- f. The amount of flow and velocity of the stream shall not be increased or decreased as the stream enters or leaves the subject property.
- g. Land Surface Modification Permit - A Land Surface Modification Permit pursuant to Section 30.1 of this Chapter is not required for stream relocation.

#### 4. Bulkheads

- a. General - Bulkheads are not permitted along streams and lakes subject to all of the conditions and restrictions of this section, except as specified below.
- b. Required Permit - The City will review and decide upon an application for a bulkhead using Process I, described in Chapter 145 of this Code.

- c. Criteria - The City will allow a bulkhead to be constructed only if--
- (1) It is needed to prevent significant erosion and
  - (2) The use of vegetation will not sufficiently stabilize the shoreline or bank to prevent significant erosion.
- d. Prohibited Location - A bulkhead may not be located within a major regulated wetland or between a regulated wetland and a lake.
- e. Design and Construction - The bulkhead must be designed to minimize the transmittal of wave energy or water current to other properties. ~~The bulkhead must be constructed using rock in a sloping riprap design.~~
- f. Change in Configuration of the Land - Change in the horizontal or vertical configuration of the land must be kept to a minimum.

#### 5. Culverts

- a. General - Culverts are not permitted in streams ~~subject to all of the conditions and restrictions of this section~~ except as specified below.
- b. Required Permit - The City Planning Official will review and decide upon an application for a culvert under an access drive, driveway, or street using Process I, described in Chapter 145 of this Code. (Where a culvert enters into or crosses a public right-of-way, a permit is required from the Department of Public Works.) The City will review and decide upon other culvert applications using Process IIB, described in Chapter 152 of this Code.
- c. Criteria - The City will allow a stream to be put in a culvert only if--
- ~~(1) The applicant provides the City with a written evaluation of alternative means for dealing with the watercourse, and the City determines that it is not reasonable to maintain the watercourse in an open condition, and~~
  - ~~(2) No significant habitat area will be destroyed.~~ (1) and (2) No significant habitat area will be destroyed.

(2) It is necessary for some reasonable use of the subject property. Convenience to the applicant in order to facilitate general site design will not be considered. The applicant can demonstrate, by submitting alternative site plans showing the stream in an open condition, that no other reasonable site design exists.

- d. Design and Construction - The culvert must be designed and installed to allow passage of fish inhabiting or using the stream. The culvert must be large enough to accommodate a 100-year storm.
- e. Maintenance - The applicant shall, at all times, keep the culvert free of debris and sediment so as to allow free passage of water and, if applicable, fish. The City shall require a bond under Chapter 175 of this Code to ensure maintenance of the culvert.

#### 6. Moorage Structure

- a. General - Moorage structures are permitted in minor lakes subject to all of the conditions and restrictions of this section.
- b. Required Permit - The City will review and decide upon an application for a moorage structure using Process I, described in Chapter 145 of this Code.
- c. Criteria - The City will allow a moorage structure to be constructed only if--
  - (1) It is accessory to a dwelling unit or public park on the subject property; and
  - (2) No significant habitat area will be destroyed.
- d. Design and Construction.
  - (1) A moorage structure may not extend more than 200 feet waterward of the high waterline.
  - (2) A moorage structure may not be treated with creosote, oil base or toxic substances.



- (3) Dock and pier decks and the top of other moorage structures may not be more than 2 feet above the high water level.

90.20 Development and-Density Prohibited in Wetlands

1. General - Except as otherwise provided in Sections 30 and 40 of this Chapter no development activity may take place in and no improvement may be located in a major regulated wetland.
2. Determination of a Regulated Wetland
  - a. Following a site inspection, the planning official shall make an initial determination as to whether or not any portions of a site may meet the criteria for a regulated wetland.
  - b. If the initial inspection indicates that a regulated wetland may exist on a site the applicant shall be required to submit a report prepared by a biologist, botanist, plant ecologist or similarly qualified professional approved by the City including the following:
    - i. An overview of the methodology used to conduct the study;
    - ii. A description of the wetland, (including a map identifying the edge of the wetland and plant communities) wetland classification (U.S. Fish and Wildlife Service "Classification of Wetlands and Deepwater Habitats in the U.S.) and surrounding area;
    - iii. A list of observed plant and wildlife species, using both scientific and common names, and a description of their relative abundance;
    - iv. A list of potential plant or animal species based on signs or other observations;
    - v. A list of soil types and descriptions;
    - vi. A detailed description of the method used to identify the wetland edge;
    - vii. An assessment of the potential impact of proposed development on the wetland including loss of flood storage potential, loss of habitat, changes in species diversity or quantity, impacts

to water quality, increases in human intrusion and impacts on associated wetlands or downstream sensitive areas.

- c. The final determination of whether or not a wetland is a regulated wetland shall be made by the Planning Official after review of the report prepared in accordance with paragraph 2.a above.
- 3. The City may require the applicant to fund a qualified professional, selected and retained by the City, to review the wetlands report.
- 4. If the initial site inspection by the Planning Official does not indicate the existence of a regulated wetland, no additional wetlands studies will be required.

90.25 Minimum Setbacks From Streams, Lakes and Wetlands.

- 1. General - Except as otherwise provided in Section 30 and 40 of this Chapter, no development activity may take place in and no improvement may be located in the following setback for streams, lakes and major regulated wetlands.
  - a. 50 feet from each side of the thread top of the banks of a major stream (see Plate 16).
  - b. 20 feet from each side of the thread top of the bank of a-minor-stream all other streams.
  - c. 50 feet from the ordinary high water line of a minor lake.
  - d. 50 feet from the edge of a major regulated wetland as determined in the report required by Section 90.20.2a of this chapter.
- 2. Culverted Streams - The setback requirements for major streams and-minor-stream in paragraph 1 of this Section do not apply to any stream that is in a culvert unless the stream will be taken out of the culvert as part of development of the subject property.
- 3. Limitation on Variances - The minimum setbacks of paragraph 1 of this Section may not be varied. An exception to these minimum setbacks may be permitted through Section 30 of this Chapter.

90.30 Development Activity Within the Minimum Setbacks.1. Land Surface Modification.

- a. General - Land surface modification within the minimum setbacks established in Section 25 of this Chapter is permitted subject to all of the conditions and restrictions of this Section.
- b. Required Process - The City will review and decide upon an application for land surface modification using Process ~~¶~~ IIA, described in Chapter ~~±45~~ 150 of this Code.
- c. Criteria - The City will approve a land surface modification only if the applicant submits a report prepared by a qualified professional approved by the City which it finds that--
- (1) It will not adversely affect water quality; and
  - (2) It will not destroy, damage, or disrupt a significant habitat area; and
  - (3) It will not adversely affect drainage and/or storm water retention capabilities, and
  - (4) It will not lead to unstable earth conditions or create erosion hazards, and
  - (5) The land surface modification will not be materially detrimental to any other property in the area of the subject property or to the City as a whole including the loss of significant open space or scenic vistas, and
  - (6) Because of special circumstances regarding the size, shape, topography or the location of the subject property; or the location of a pre-existing improvement on the subject property that conformed to the zoning code in effect when the improvement was constructed there is no other ~~it is necessary for~~ reasonable development use of the subject property. The applicant must

demonstrate that there is no other reasonable site design by submitting alternative site plans showing no land surface modification within the required setback.

- d. Type of Fill - All material used in a landfill must be non-dissolving and non-decomposing. The fill material must not contain organic or inorganic material that would be detrimental to the water quality or the existing habitat.
- e. Dredge Spoils - The applicant may deposit dredge spoils on the subject property only if part of an approved development on the subject property.
- f. Exposed Areas - The applicant shall stabilize areas left exposed after land surface modification with vegetation normally associated with that stream, lake or ~~major~~ regulated wetland.

2. Structures-and-Improvements.

- a. General - Improvements ~~are~~ may be permitted within ~~the-landward-one-half-of-the~~ minimum setbacks established in Section 25 of this Chapter subject to all of the conditions and restrictions of this Section.
- b. Required Process - The City will review and decide upon an application to construct an improvement within a required setback using Process IIAB, described in Chapter ~~150~~ 152 of this Code.
- c. Criteria - The City will allow an improvement to be located within the-landward-one-half-of the required setback only if it finds that--
  - (1) It will not adversely affect water quality; and
  - (2) It will not destroy, damage, or disrupt a significant habitat area, and
  - (3) It will not adversely affect drainage and/or storm water retention capabilities, and

- (4) It will not lead to unstable earth conditions or create erosion hazards, and
- (5) The improvement will not be materially detrimental to any other property in the area of the subject property or to the City as a whole including the loss of significant open space or scenic vistas, and
- (3) (6) Because of special circumstances regarding the size, shape, topography or the location of the subject property; or the location of a pre-existing improvement on the subject property that conformed to the zoning code in effect when the improvement was constructed there is no other ~~it-is-necessary-for~~ reasonable development use of the subject property. The applicant must demonstrate, by submitting alternative site plans showing no land surface modification within the setback, that no other reasonable use of the property exists.

d. Limitation on Variances. - The limitation on the location of an improvement to ~~the-landward-one-half~~ in the required setbacks established in Section 25 of this Chapter may not be varied.

### 3. Minor Improvements

- a. General - Minor improvements such as walkways, and benches, and footbridges crossing streams may be located within the setback established in Section 25 of this Chapter. ~~Footbridges-crossing-major-or minor-streams-on-lots-containing-detached dwelling-units-are-permitted.~~
- b. Required Review - The planning official will review and decide upon a proposal to construct a minor improvement within a required setback.
- c. Criteria - The City will allow a minor improvement to be located within the required setback only if it finds that:

- (1) It will not adversely affect water quality; and
- (2) It will not destroy, damage, or disrupt a significant habitat area, and
- (3) It will not adversely affect drainage and/or storm water retention capabilities, and
- (4) It will not lead to unstable earth conditions or create erosion hazards, and
- ~~(5) It is necessary for reasonable development of the subject property.~~
- (5) The minor improvement will not be materially detrimental to any other property in the area of the subject property or to the City as a whole including the loss of significant open space or scenic vistas.

- d. The City may ask the applicant to submit a report prepared by a qualified professional approved by the City if any of the impacts described in paragraphs 3c.1-5 of this section appear likely. The report shall discuss the potential for the impact to occur.

90.35 Site Design Requirements for the Subject Property.

- 1. General - The applicant shall locate all improvements on the subject property to minimize adverse impacts on the stream, lake or major regulated wetland.
- 2. Physical Barrier - The applicant shall install a berm, curb, or other physical barrier during construction and following completion of the project when necessary to prevent direct runoff and erosion from any modified land surface into the stream, lake or major regulated wetland.
- 3. Vehicle Circulation Areas - The applicant shall locate parking and vehicle circulation areas as far as possible from the stream, lake or major regulated wetland.

90.40 Access to a Water Related Environmentally Sensitive Area.

1. The applicant shall minimize access to major streams and major regulated wetlands.
2. The City may develop access to a stream, lake or major regulated wetland in conjunction with a public park.

90.45 Additional Protection Techniques

1. Timing of Development Activity - The City may limit development activity in or near a stream, lake or major regulated wetland to specific months and to a maximum number of continuous days or hours in order to minimize adverse impacts on the area.
2. Construction Techniques.
  - a. The City may require that equipment be operated from only one side of a stream in order to minimize bank disruption.
  - b. The City may require other construction techniques, conditions and restrictions in order to minimize adverse impacts on the stream, lake or major regulated wetland and on any related area not subject to development activity.

90.50 Bonds

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

90.55 Dedication

~~The City may require that~~ The applicant shall dedicate development rights, air space, or an open space easement to the City to ensure the protection of a stream, lake or major regulated wetland and required setback areas.

90.60 Liability

Prior to issuance of a building 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 stream, lake or ~~major~~ regulated wetland. The applicant shall record this agreement with the King County Bureau of Elections and Records.

90.65 Appeals of Stream, Lake or Wetland Determination or Decision

1. Who Can Appeal - The City will notify an applicant in writing when a determination is made that a stream, lake or regulated wetland exists on their site. Any person who is aggrieved by a determination that a stream, lake or regulated wetland is located on or within 100 feet of the subject property; or is aggrieved by the Planning Official's decision on stream rehabilitation, relocation, minor improvement within required setback, vegetation removal or landscaping within required setbacks may appeal that determination or decision within 14 days of the date of the written determination.
2. How To Appeal - The applicant must file a letter of appeal indicating how the determination or decision 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.

Section 4. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, 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 5. To the extent that the subject matter of this ordinance is subject to the disapproval jurisdiction of the Houghton Community Council as created by Ordinance 2001, said plan shall become effective within the Houghton community either upon approval of the Houghton Community Council, or upon failure of said community council to disapprove this ordinance within 60 days of its passage.


Section 6. Except as provided in Section 3, this ordinance shall be in full force and effect five days from and after its passage by the City Council and publication or posting as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 17th day of December 1984 .


Signed in authentication thereof this 17th day of December, 19 84.

  
 \_\_\_\_\_  
 MAYOR

ATTEST:

  
 \_\_\_\_\_  
 Director of Administration & Finance  
 (ex officio City Clerk)

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 City Attorney

CERTIFICATION OF POSTING

I hereby certify under penalty of perjury that the foregoing ordinance was posted on the 18th day of December, 19 84 in accordance with the provisions of RCW 35A.12.160 and City of Kirkland Ordinance No. 2600.

  
 \_\_\_\_\_  
 Clerk

8634B/ 75A:SW:dc