

ORDINANCE NO. 3152

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE (FILE NO. IV-88-50).

Whereas, the City Council has received from the Kirkland Planning Commission a recommendation to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 2740 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated January 5, 1989 and bearing Kirkland Department of Planning and Community Development File No. IV-88-50 and

Whereas, prior to making said recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, on January 5, 1989, 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 determination 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 regular public meeting the City Council considered the environmental documents received from the responsible official, together with 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. Zoning text amended: The following specified sections of the text of Ordinance 2740 as amended, the Kirkland Zoning Ordinance, be and they hereby are amended to read as follows:

As set forth in Attachment A which by this reference is incorporated herein.

Section 2. 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 3. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Municipal Corporation only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 4. Except as provided in Section 3, this ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication. Pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference adopted by the City Council, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 21st day of February, 1989.

Signed in authentication thereof this 21st day of February, 1989.

Loris Cooper

Mayor

Janice Perry
City Clerk

APPROVED AS TO FORM:

Joseph [Signature]
City Attorney

ATTACHMENT A

1. Chapter 5, Definitions of the Zoning Code is hereby amended as follows:

535. Minor stream - Any stream that does not meet the definition of major stream

895. Stream - A course of route, formed by nature including those modified by man and generally consisting of a channel with a bed, banks, or sides throughout substantially all its length, along which surface waters naturally and normally flow in draining from higher to lower lands.

2. Chapter 125, Planned Unit Development, of the Zoning Code is hereby amended as follows:

125.20 Decision on the PUD - What Provisions May be Modified

The City may modify any of the provisions of the Code for a PUD except--

1. The City may not modify any of the provisions of this Chapter; and
2. The City may not modify any provision of this Code that specifically states that its requirements are not subject to modifications under a PUD; and
3. The City may not modify any of the procedural provisions of this Code; and
4. The City may not modify any provision that specifically applies to development on a wetland; flood-plain; or regulated slope; and
5. The City may not modify any provision pertaining to the installation and maintenance of storm water retention/detention facilities, and
6. The City may not modify any provision pertaining to the installation of public improvements; and
7. The City may not modify any provision regulating signs; and
8. The City may not modify any provision regulating the construction of one detached dwelling unit.

3. Chapter 90, Streams, Minor Lakes, and Wetlands, of the Zoning Code is hereby amended as follows:

CHAPTER 90 - STREAMS, MINOR LAKES AND WETLANDS

- 90.05 User Guide
- 90.07 Purpose
- 90.10 Applicability
- 90.15 Development Activity and Improvements in or Near a Stream, ~~or Minor Lake or Regulated Wetland~~
- 90.20 Development ~~and Density Prohibited~~ in Regulated Wetlands
- 90.25 Minimum Setbacks From Major Streams, Lakes and Regulated Wetlands
- 90.27 Minimum Setbacks From Minor Streams
- ~~90.30 Development Activity Within the Minimum Setbacks~~
- 90.35 30 Site Design Requirements for the Subject Property
- ~~90.40 Access to a Water Related Environmentally Sensitive Area~~
- 90.45 35 Additional Protection Techniques
- 90.50 40 Bonds
- 90.55 45 Dedication
- 90.60 50 Liability
- 90.65 55 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 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 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.

90.07 Purpose

The purpose of this Chapter is to protect the environment, human life, and property from harm. This is to be achieved by preserving the important ecological functions of streams, minor lakes, and wetlands. These functions include protection of water quality, groundwater recharge, shoreline stabilization, stream flow maintenance, wildlife and fisheries habitat, and natural flood control and storm water storage.

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 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 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 regulated wetland as determined by the Planning Official. Appeals of this determination shall be made in accordance with Section 90.6555 of this Chapter.

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

1. General - No ~~development-activity~~ land surface modification may take place in and no improvements may be located in a stream, or minor lake or regulated-wetland except as specifically provided in this Section.
2. Rehabilitation - The Planning Official may permit or require the applicant to rehabilitate and maintain a stream, or minor lake or regulated-wetland by removing material detrimental to the area such as debris, sediment, or vegetation or by the adding of landscaping. 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 90.6555 of this Chapter.

3. Watercourse Relocation

- a. General - Relocation of a 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 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 minor stream except-major-streams will be reviewed by the Planning Official. The decision of the Planning Official may be appealed using Section 90.6555. The City will review and decide upon an application to relocate a major stream using Process I, described in Chapter 145 of this Code.
- c. Criteria - Relocation of a 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. Prior to issuance of a Building and/or Grading Permit 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) Vegetation normally associated with streams including primarily native riparian vegetation.
 - (6) The creation of spawning and nesting areas, wherever appropriate.
 - (7) The re-establishment of the fish population, wherever 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) 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 inspect the new channel following its completion and issue a written report to the Planning Official stating that the channel complies with the requirements of this Section.
 - 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 except as specified below.

- b. Required Permit - The ~~City~~-Planning Official will review and decide upon an application for a bulkhead, using ~~Process I7-described-in Chapter 145-of-this-Code~~ the criteria listed below.
- 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 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.
- 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 except as specified below.
- b. Required Permit - The Planning Official will review and decide upon an application for a culvert under an access drive, driveway, or street. (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 ~~152-145~~ of this Code.
- c. Criteria - The City will allow a stream to be put in a culvert only if--
 - (1) No significant habitat area will be destroyed; and

(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 no farther than is necessary to function properly, but in no event may it 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 Prohibited-in Regulated Wetlands

1. General - Except-as-otherwise-provided-in-Sections 30-and-40-of-this-Chapter No development land surface modification activity may take place in and no improvement may be located in a major regulated wetland except as specifically provided in this Section.
2. Public Park - The City may develop access through a regulated wetland in conjunction with a public park.
3. Essential Public Facility or Utility - The Planning Official may permit the placement of an essential public facility or utility in a regulated wetland. He/she must determine that the public improvement must traverse a regulated wetland because no feasible alternative location exists based on an analysis of technology and system efficiency. Also, the specific location and extent of the facility or utility must constitute the minimum necessary encroachment.
- 4.3- Rehabilitation - The Planning Official may permit or require the applicant to rehabilitate and maintain a regulated wetland by removing material detrimental to the area such as debris, sediment, or vegetation or by the adding of landscaping. 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 90.55 of this Chapter.
- 5.4- Modification - The applicant may request a modification of the requirements of this section using either a variance described in Chapter 120 of this Code or a Planned Unit Development described in Chapter 125 of this Code. In addition, the City may approve a modification only if the applicant submits a report prepared by a qualified professional approved by the City which finds that--

- a. It will not unduly adversely affect water quality; and
 - b. It will not destroy, nor unduly damage, or disrupt a significant habitat area; and
 - c. It will not have an undue adverse affect on drainage and/or storm water retention capabilities, and
 - d. It will not lead to unstable earth conditions or create erosion hazards, and
 - e. It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, and
 - f. It will result in the land surface modification of no more than ten percent (10%) of a regulated wetland on the subject property. This limitation may be exceeded if processed through Process III described in Chapter 155 of this Code,
- 6. Type of Fill - All material used in a landfill must be non-dissolving and nondecomposing. The fill material must not contain organic or inorganic material that would be detrimental to the water quality or the existing habitat.
 - 7. Dredge Spoils - The applicant may deposit dredge spoils on the subject property only if part of an approved development on the subject property.
 - 8. Exposed Areas - The applicant shall stabilize areas left exposed after land surface modification with vegetation normally associated with that stream, lake or regulated wetland.
- 9.5- 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; and detailed description of the method used to identify the wetland edge.
 - 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 methods used to identify the wetland edge;~~
 - v. ~~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-b. above.

10.3- The City may require the applicant to fund a qualified professional, selected and retained by the City, to review the wetlands report.

11.4- 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 Major Streams, Minor Lakes and Wetlands

1. ~~General - Except as otherwise provided in Section 30 and 40 of this Chapter, no development~~ No land surface modification activity may take place in and no improvement may be located in the following setbacks for streams, minor lakes and regulated wetlands, except as provided in this section.
 - a. 50 feet from each side of the top of the banks of a major stream (see Plate 16).
 - ~~b. ---20-feet-from-each-side-of-the-top-of-the-bank-of-all-other-streams.~~
 - ~~e-b.~~ 50 feet from the ordinary high water line of a minor lake.
 - ~~d-c.~~ 50 feet from the edge of a regulated wetland as determined in the report required by Section 90.20.2a of this chapter.
2. Culverted Streams - The setback requirements for streams 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. Essential Public Facility or Utility - The Planning Official may permit the placement of an essential public facility or utility in a setback from a major stream, minor lake, or wetland. He/she must determine that the public improvement must traverse the setback because no feasible alternative location exists based on an analysis of technology and system efficiency. Also, the specific location and extent of the facility must constitute the minimum necessary encroachment to meet the requirements of the public facility or utility.

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.~~
4. Modification - The applicant may request a modification of the requirements of this section using either a variance described in Chapter 120 of this Code or a Planned Unit Development described in Chapter 125 of this Code. In addition, the City may approve a modification only if the applicant submits a report prepared by a qualified professional approved by the City which finds that--
- a. It will not adversely affect water quality; and
 - b. It will not destroy, nor damage, or disrupt a significant habitat area; and
 - c. It will not adversely affect drainage and/or storm water retention capabilities, and
 - d. It will not lead to unstable earth conditions or create erosion hazards, and
 - e. It will not be materially detrimental to any other property in the area of the subject property or to the City as a whole, and
 - f. It will result in the land surface modification of no more than ten percent (10%) of a regulated wetland on the subject property. This limitation may be exceeded if processed through Process III described in Chapter 155 of this Code,
5. Type of Fill - All material used in a landfill must be non-dissolving and nondecomposing. The fill material must not contain organic or inorganic material that would be detrimental to the water quality or the existing habitat.
6. Dredge Spoils - The applicant may deposit dredge spoils on the subject property only if part of an approved development on the subject property.
7. Exposed Areas - The applicant shall stabilize areas left exposed after land surface modification with vegetation normally associated with that stream, lake or regulated wetland.

8. Minor Improvements

- a. General - Minor improvements such as walkways, benches, and footbridges crossing streams may be located within the setback established in Section 25 of this Chapter.
- 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, nor damage 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 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. In the event that any of the impacts described in paragraphs 1-5 of this section appear likely, the City may require the applicant to submit a report prepared by a qualified professional approved by the City. The report shall discuss the potential for the impact to occur.

90.27 Minimum Setbacks From Minor Streams

1. General - No land surface modification may take place and no improvement may be located in the following setbacks for minor streams, except as provided in this section.
 - a. 20 feet from each side of the top of the bank of all minor streams.
2. Culverted Streams - The setback requirements for streams 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. Essential Public Facility or Utility - The Planning Official may permit the placement of an essential public facility or utility in a setback from a stream. He/she must determine that the public improvement must traverse the setback because no feasible alternative location exists based on an analysis of technology and system efficiency. Also, the specific location and extent of the facility or utility must constitute the minimum necessary encroachment.
4. Modification - A proposal to modify a stream setback will be reviewed by the Planning Official. The decision of the Planning Official may be appealed using Section 90.55. The Planning Official may approve a modification of a stream setback only if the applicant submits a report prepared by a qualified professional approved by the City which finds that:
 - a. It will not adversely affect water quality; and
 - b. It will not destroy, damage, or disrupt a significant habitat area, and
 - c. It will not adversely affect drainage and/or storm water retention capabilities, and
 - d. It will not lead to unstable earth conditions or create erosion hazards, and

- e. 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.

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 a through e of this section appear likely. The report shall discuss the potential for the impact to occur.

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

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-
- e. 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--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 it 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 preexisting improvement on the subject property that conformed to the zoning code in effect when the improvement was constructed, there is no other reasonable 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 land fill must be non-dissolving and nondecomposing. 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 regulated wetland.

Improvements

- a. General-----Improvements may be permitted within 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 IIB, described in Chapter 152 of this Code.
- c. Criteria---The City will allow an 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 land/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
 - (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 reasonable use of the subject. 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 in the required setbacks established in Section 25 of this Chapter may not be varied.

3-8. Minor Improvements

- a. General. --- Minor improvements such as walkways, benches, and footbridges crossing streams may be located within the setback established in Section 25 of this Chapter.
- 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) 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 23c.1-5 of this section appear likely. --- The report shall discuss the potential for the impact to occur.

90.3530 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 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 regulated wetland.
3. Vehicle Circulation Areas - The applicant shall locate parking and vehicle circulation areas as far as possible from the stream, lake or regulated wetland.

90.40 ~~Access to a Water-Related Environmentally Sensitive Area~~

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

90.4535 Additional Protection Techniques

1. Timing of Development Activity - The City may limit development activity in or near a stream, lake or 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 regulated wetland and on any related area not subject to development activity.

90.5040 Bonds

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

90.5545 Dedication

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 regulated wetland and required setback areas.

90.6050 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 regulated wetland. The applicant shall record this agreement with the King County Bureau of Elections and Records.

90.6555 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.

SUMMARY OF ORDINANCE NO. 3152

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE, AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE (FILE NO. IV-88-50). [WETLAND REGULATIONS AMENDED]

Section 1. Amends the following sections and subsections of Chapter 90 (Streams, Minor Lakes and Wetlands) of Ordinance 2740 as amended, the Kirkland Zoning Ordinance, Chapter 5 (Definitions) of said Ordinance, and Chapter 125 (Planned Unit Developments) of said Ordinance:

Chapter 5 - Adds definition for "Minor Stream" and amends definition of "Stream".

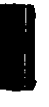
Chapter 125, Section 125.20 - To permit City, on case by case basis, to modify wetland and flood plain regulations in approving a Planned Unit Development, but only to the extent permitted by Section 90.20.5.

Chapter 90 - Addition of a new section 90.07 stating the purpose for regulation of streams, minor lakes, and wetlands is to protect the environment, human life, and property from harm; to be achieved by preserving the important ecological functions of streams, minor lakes and wetlands, including protection of water quality, ground water recharge, shoreline stabilization, stream flow maintenance, wildlife, and fisheries habitat, and natural flood control and storm water storage.

Section 90.20 is amended to establish policies, standards and criteria for when the City may, on a case by case discretionary basis, permit limited land surface modification within a portion of a regulated wetland.

Section 90.25 is amended to establish policies, standards and criteria for the modification of required setbacks from major streams, minor lakes, and wetlands.

Section 90.27 is added to Chapter 90 and sets forth the standards, policies and criteria under which the City may permit land surface modification within the required setback from a minor stream.



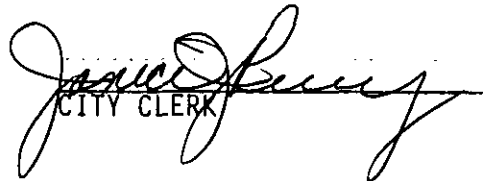
Section 2. Contains a savings clause.

Section 3. Provides that the provisions of the amenditory ordinance will not be effective within the Houghton Muncipal Corporation until approved by the Houghton Community Council, or failure of said Community Council to disapprove within 60 days of the date of the passage of the Ordinance.

Section 4. Authorizes publication of the Ordinance by this Summary, which Summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code, and establishes for the effective date of the Ordinance (except as provided in Section 3) to be five days after publication of this Summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its regular meeting on the 21st day of February, 1989.

I certify that the foregoing is the summary of Ordinance 3152, approved by the Kirkland City Council for summary publication.


CITY CLERK

