

ORDINANCE O-4794

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SURFACE WATER MANAGEMENT AND AMENDING CHAPTERS 15.04 AND 15.52 OF THE KIRKLAND MUNICIPAL CODE.

1 WHEREAS, in accordance with its Western Washington
2 Phase II Municipal Stormwater Permit ("Permit") the City of
3 Kirkland ("City") is required to adopt an updated surface water
4 design manual and pollution prevention manual by June 30, 2022;
5 and

6
7 WHEREAS, the City Council previously adopted the 2016
8 King County Surface Water Design Manual ("Design Manual") and
9 the 2016 King County Stormwater Pollution Prevention Manual
10 ("Pollution Prevention Manual") in support of the City's surface
11 water management program; and

12
13 WHEREAS, the Council now wishes to amend various
14 provisions of the Kirkland Municipal Code ("KMC"), chapters 15.04
15 and 15.52, related to surface water management, to adopt the
16 2021 Design Manual and Pollution Prevention Manual in support
17 of the Permit.

18
19 NOW, THEREFORE, the City Council of the City of Kirkland
20 do ordain as follows:

21
22 Section 1. Kirkland Municipal Code Section 15.04.010 is
23 amended to read as follows:

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25 **15.04.010 Definitions.**

26 (a) The definitions contained in this chapter and in the
27 ~~2016~~2021 King County Surface Water Design Manual, the
28 ~~2016~~2021 King County Stormwater Pollution Prevention Manual
29 and the pre-approved plans and policies, which includes the City
30 of Kirkland Addendum to the ~~2016~~2021 King County Surface
31 Water Design Manual, herein incorporated by reference, apply
32 throughout this title, unless from context another meaning is
33 clearly intended.

34 (b) These definitions include, but are not limited to, the
35 following definitions from the ~~2016~~2021 King County Surface
36 Water Design Manual:

37 (1) Drainage Facility. "Drainage facility" means a constructed or
38 engineered feature that collects, conveys, stores, treats, or
39 otherwise manages storm water runoff or surface water.
40 "Drainage facility" includes, but is not limited to, a constructed or
41 engineered stream, lake, wetland, or closed depression, or a pipe,
42 channel, ditch, gutter, flow control facility, flow control BMP, water
43 quality facility, erosion and sediment control facility, and any other
44 structure and appurtenance that provides for drainage.

45 (2) Flow Control Facility. "Flow control facility" means a
46 drainage facility designed to mitigate the impacts of increased
47 storm water runoff generated by site development in accordance
48 with the drainage requirements in Chapter 15.52. Flow control
49 facilities are designed either, to hold water for a considerable
50 length of time and then release it by evaporation, plant
51 transpiration, or infiltration into the ground, or to hold runoff for
52 a short period of time and then release it to the conveyance
53 system.

54 (3) Flow Control BMP. "Flow control BMP" means a small scale
55 drainage facility or feature that is part of a development site
56 strategy to use processes such as infiltration, dispersion, storage,
57 evaporation, transpiration, forest retention, and reduced
58 impervious surface footprint to mimic pre-developed hydrology
59 and minimize storm water runoff.

60 (4) Water Quality Facility. "Water quality facility" means a
61 drainage facility designed to mitigate the impacts of increased
62 pollutants in storm water runoff generated by site development.
63 A water quality facility uses processes that include but are not
64 limited to settling, filtration, adsorption, and absorption to
65 decrease pollutant concentrations and loadings in storm water
66 runoff.

67 (c) In the event of conflict, the definitions in the City of Kirkland
68 Addendum to the ~~2016~~2021 King County Surface Water Design
69 Manual will control.

70
71 Section 2. Kirkland Municipal Code Section 15.52.060 is
72 amended to read as follows:

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74 **15.52.060 Design and construction standards and**
75 **requirements.**

76 (a) The design and construction standards and requirements
77 shall meet or exceed the thresholds, definitions, minimum
78 requirements, and exceptions/variances criteria found in Appendix
79 I of the Western Washington Phase II Municipal Stormwater
80 Permit. To meet these criteria, the following are adopted:

- 81 (1) The ~~2016~~2021 King County Surface Water Design Manual;
82 (2) The ~~2016~~2021 King County Stormwater Pollution Prevention
83 Manual;
84 (3) The city's pre-approved plans and policies which include the
85 City of Kirkland Addendum to the ~~2016~~2021 King County Surface
86 Water Design Manual as presently written or hereafter amended.
87 (b) Unless otherwise provided, it shall be the developer's and
88 property owner's responsibility to design, construct, and maintain
89 a system which complies with the standards and minimum
90 requirements as set forth in the pre-approved plans.
91 (c) In addition to providing drainage facilities as required in this
92 section and as outlined in the pre-approved plans, the developer,
93 property owner, and/or business owner/operator shall provide
94 source control best management practices as described in the
95 ~~2016~~2021 King County Stormwater Pollution Prevention Manual,
96 such as structures and/or a manual of practices designed to treat
97 or prevent storm water pollution arising from specific activities
98 expected to occur on the site. Examples of such specific activities
99 include, but are not limited to, car washing at multifamily
100 residential sites and oil storage at auto repair businesses.
101 (d) The city will inspect all permanent drainage facilities prior to
102 final approval of the relevant permit. All facilities must be clean
103 and fully operational before the city will grant final approval of the
104 permit. A performance bond may not be used to obtain final
105 approval of the permit prior to completing the drainage facilities
106 required under this chapter.
107 (e) Prior to final approval of the drainage facilities, the property
108 owner of all drainage facilities shall submit an irrevocable license
109 to enter the property for the purposes of inspection. The following
110 language must be included in the irrevocable license to enter:
111 (1) A statement that the property owner is to be responsible for
112 the maintenance of drainage facilities on the property;
113 (2) A statement granting the public works director or designee
114 the right to enter the property for the purposes of inspecting the
115 drainage facilities; and
116 (3) A statement that the public works director shall have the
117 authority to order repair or cleaning of the drainage facilities if the
118 owner does not take action to conduct this work or if the site
119 poses a threat to public health and safety.
120 (f) Adjustment Process. Any developer proposing to adjust the
121 requirements for, or alter design of, a system required as set forth
122 in the pre-approved plans must follow the adjustment process as
123 set forth in the pre-approved plans.

124 (g) Other Permits and Requirements. It is recognized that other
125 city, county, state, and federal permits may be required for the
126 proposed action. Further, compliance with the provisions of this
127 chapter when developing and/or improving land may not
128 constitute compliance with these other jurisdictions' requirements.
129 To the extent required by law, these other requirements must be
130 met.

131

132 Section 3. Kirkland Municipal Code Section 15.52.090 is
133 amended to read as follows:

134

135 **15.52.090 Illicit discharges and connections.**

136 (a) Prohibition of Illicit Discharges. No person shall throw, drain,
137 or otherwise discharge, cause or allow others under its control to
138 throw, drain or otherwise discharge into the municipal storm drain
139 system and/or surface and ground waters any materials other
140 than storm water. Illicit discharges are prohibited and constitute
141 a violation of this chapter. Examples of prohibited contaminants
142 include, but are not limited to, the following:

- 143 (1) Trash or debris.
- 144 (2) Construction materials.
- 145 (3) Petroleum products including but not limited to oil, gasoline,
146 grease, fuel oil and heating oil.
- 147 (4) Antifreeze and other automotive products.
- 148 (5) Metals in either particulate or dissolved form.
- 149 (6) Flammable or explosive materials.
- 150 (7) Radioactive material.
- 151 (8) Batteries.
- 152 (9) Acids, alkalis, or bases.
- 153 (10) Paints, stains, resins, lacquers, or varnishes.
- 154 (11) Degreasers and/or solvents.
- 155 (12) Drain cleaners.
- 156 (13) Pesticides, herbicides, or fertilizers.
- 157 (14) Steam cleaning wastes.
- 158 (15) Soaps, detergents, or ammonia.
- 159 (16) Swimming pool or spa filter backwash.
- 160 (17) Chlorine, bromine, or other disinfectants.
- 161 (18) Heated water.
- 162 (19) Domestic animal wastes.
- 163 (20) Sewage.
- 164 (21) Recreational vehicle waste.
- 165 (22) Animal carcasses.
- 166 (23) Food wastes.
- 167 (24) Bark and other fibrous materials.

- 168 (25) Lawn clippings, leaves, or branches.
169 (26) Silt, sediment, concrete, cement or gravel.
170 (27) Dyes.
171 (28) Chemicals not normally found in uncontaminated water.
172 (29) Any other process-associated discharge except as
173 otherwise allowed in this section.
174 (30) Any hazardous material or waste not listed above.
- 175 (b) Allowable Discharges. The following types of discharges
176 shall not be considered illicit discharges for the purposes of this
177 chapter unless the public works director or designee determines
178 that the type of discharge, whether singly or in combination with
179 others, is causing or is likely to cause pollution of surface water or
180 ground water:
- 181 (1) Diverted stream flows.
182 (2) Rising ground waters.
183 (3) Uncontaminated ground water infiltration – as defined
184 in 40 CFR 35.2005(b)(20).
185 (4) Uncontaminated pumped ground water.
186 (5) Foundation drains.
187 (6) Air conditioning condensation.
188 (7) Irrigation water from agricultural sources that is
189 commingled with urban storm water.
190 (8) Springs.
191 (9) Uncontaminated water from crawl space pumps.
192 (10) Footing drains.
193 (11) Flows from riparian habitats and wetlands.
194 (12) Discharges from emergency firefighting activities in
195 accordance with S2 Authorized Discharges.
196 (13) Non-storm water discharges authorized by another NPDES
197 or state waste discharge permit.
- 198 (c) Conditional Discharges. The following types of discharges
199 shall not be considered illicit discharges for the purpose of this
200 chapter if they meet the stated conditions, or unless the public
201 works director or designee determines that the type of discharge,
202 whether singly or in combination with others, is causing or is likely
203 to cause pollution of surface water or ground water:
- 204 (1) Potable water, including water from water line flushing,
205 hyperchlorinated water line flushing, fire hydrant system flushing,
206 and pipeline hydrostatic test water. Planned discharges shall be
207 dechlorinated to a total residual chlorine concentration of 0.1 ppm
208 or less, pH-adjusted, if necessary, and in volumes and velocities
209 controlled to prevent resuspension of sediments in the storm
210 water system.

- 211 (2) Lawn watering and other irrigation runoff are permitted but
212 shall be minimized.
- 213 (3) Dechlorinated swimming pool, spa and hot tub discharges.
214 These discharges shall be dechlorinated to a total residual chlorine
215 concentration of 0.1 ppm or less, pH-adjusted, and reoxygenized
216 if necessary and in volumes and velocities controlled to prevent
217 resuspension of sediments in the storm water system. Discharges
218 shall be thermally controlled to prevent an increase in temperature
219 of the receiving water. Swimming pool cleaning wastewater and
220 filter backwash shall not be discharged to the municipal separate
221 storm sewer system ("MS4"), as defined in the most recent
222 version of the Western Washington Phase II Municipal Stormwater
223 Permit.
- 224 (4) Street and sidewalk wash water, water used to control dust,
225 and routine external building wash down that does not use
226 detergents are permitted if the amount of street wash and dust
227 control water used is minimized. At active construction sites,
228 street sweeping must be performed prior to washing the street.
- 229 (5) Non-storm water discharges covered by another NPDES
230 permit; provided, that the discharger is in full compliance with all
231 requirements of the permit, waiver, or order and other applicable
232 laws and regulations; and provided, that written approval has
233 been granted for any discharge to the storm drain system.
- 234 (d) Failure to Remove Pollutants from Private System. It shall
235 be a violation of this chapter for any person who commits an illicit
236 or conditional discharge in violation of this section to fail to
237 remove the pollutants from a private system that enters the
238 municipal storm system and/or surface and ground waters. In
239 addition, it shall be a violation of this chapter for any property
240 owner on whose property an illicit or conditional discharge occurs
241 to fail to remove the pollutants from a private system that enters
242 the municipal storm system.
- 243 (e) Prohibition of Illicit Connections.
- 244 (1) The construction, use, maintenance, or continued existence
245 of illicit connections to the storm drain system are prohibited and
246 constitute a violation of this chapter.
- 247 (2) This prohibition expressly includes, without limitation, illicit
248 connections made in the past, regardless of whether the
249 connection was permissible under law or practices applicable or
250 prevailing at the time of connection.
- 251 (3) A person is considered to be in violation of this section if the
252 person connects a line conveying sewage to the MS4, or allows
253 such a connection to continue.

254 (f) Implementation of structural BMPs shall be required if
255 operational BMPs are not effective at reducing or eliminating an
256 illicit discharge. Guidance for design of structural BMPs is provided
257 in the ~~2016~~2021 King County Stormwater Pollution Prevention
258 Manual, herein incorporated by reference.

259
260 Section 4. Kirkland Municipal Code Section 15.52.100 is
261 amended to read as follows:

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263 **15.52.100 Source control best management practices.**
264 BMPs shall be applied to any business or residential activity that
265 might discharge contaminants to a public drainage facility, natural
266 drainage system, surface and storm water, or ground water.
267 Contaminants shall be controlled by implementing appropriate
268 source control BMPs, as described in the ~~2016~~2021 King County
269 Stormwater Pollution Prevention Manual. Discharges associated
270 with activities not addressed in the ~~2016~~2021 King County
271 Stormwater Pollution Prevention Manual shall be controlled using
272 BMPs reviewed and accepted by the city. Failure to implement
273 such practices shall constitute a violation of this chapter.

274
275 Section 5. Kirkland Municipal Code Section 15.52.120 is
276 amended to read as follows:

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278 **15.52.120 Operation and maintenance of drainage**
279 **facilities.**

280 (a) Standards for maintenance of drainage facilities existing on
281 public or private property within the city of Kirkland are contained
282 in Appendix A of the ~~2016~~2021 King County Surface Water Design
283 Manual and the City of Kirkland Addendum to the ~~2016~~2021 King
284 County Surface Water Design Manual. Any maintenance
285 agreement submitted and approved by the city through the permit
286 process shall supersede maintenance requirements contained in
287 the ~~2016~~2021 King County Surface Water Design Manual and the
288 City of Kirkland Addendum to the ~~2016~~2021 King County Surface
289 Water Design Manual.

290 (b) No person shall cause or permit any drainage facility on any
291 public or private property to be obstructed, filled, graded, or used
292 for disposal of debris. Any such activity constitutes a violation of
293 this chapter.

294 (c) Any modification of an existing drainage facility must be
295 approved and permitted by the city. Failure to obtain permits and
296 approvals or to violate conditions thereof for any such alteration
297 constitutes a violation of this chapter.

298 (d) The city will maintain all drainage facilities beginning at the
299 first catch-basin within the public right-of-way, and in easements
300 or tracts dedicated to and accepted by the city. All other drainage
301 facilities, including, but not limited to, residential or nonresidential
302 flow control facilities, flow control BMPs and/or water quality
303 facilities and roof downspout drains and driveway drains serving
304 single-family residences, shall be maintained by the property
305 owner.

306 (e) Maintenance of Residential or Nonresidential Drainage
307 Facilities by Owners.

308 (1) Any person or persons holding title to a residential or
309 nonresidential property containing drainage facilities shall be
310 responsible for the continual operation, maintenance, and repair
311 of said drainage facilities in accordance with the criteria set forth
312 in Appendix A of the ~~2016~~2021 King County Surface Water Design
313 Manual and the City of Kirkland Addendum to the ~~2016~~2021 King
314 County Surface Water Design Manual.

315 (2) For residential or nonresidential drainage facilities, failure to
316 meet the maintenance requirements specified in Appendix A of
317 the ~~2016~~2021 King County Surface Water Design Manual and the
318 City of Kirkland Addendum to the ~~2016~~2021 King County Surface
319 Water Design Manual constitutes a violation of this chapter, and
320 shall be enforced against the owner(s) of the subject property.

321 (f) City Acceptance of Existing Residential Drainage Facilities.
322 The city may accept for maintenance those drainage facilities
323 serving residential developments existing prior to the effective
324 date of the ordinance codified in this chapter that meet the
325 following conditions:

326 (1) The drainage facilities serve more than one individual house
327 or property;

328 (2) An inspection by the public works director or designee has
329 determined that the drainage facilities are functioning as
330 designed;

331 (3) The drainage facilities have had at least two years of
332 satisfactory operation and maintenance, unless otherwise waived
333 by the public works director;

334 (4) An inspection by the public works director or designee has
335 determined that the drainage facilities are accessible for
336 maintenance using existing city equipment;

337 (5) The person or persons holding title to the properties served
338 by the drainage facilities must submit a petition containing the
339 signatures of the title holders of more than fifty percent of the lots
340 served by the drainage facilities requesting that the city maintain
341 the drainage facilities;

342 (6) All easements entitling the city to properly access, operate
343 and maintain the subject drainage facilities have been conveyed
344 to the city and have been recorded with the King County
345 recorder's office;

346 (7) The person or persons holding title to the properties served
347 by the drainage facilities shows proof of the correction of any
348 defects in the drainage facilities, including provision of
349 maintenance access, as required by the public works director.

350 (g) Disposal of waste from maintenance activities shall be
351 conducted in accordance with the Minimum Functional Standards
352 for Solid Waste Handling, Chapter 173-304 WAC; guidelines
353 published by the Washington State Department of Ecology for
354 disposal of waste materials from storm water maintenance
355 activities; and, where appropriate, the Dangerous Waste
356 Regulations, Chapter 173-303 WAC.

357
358 Section 6. If any provision of this ordinance or its
359 application to any person or circumstance is held invalid, the
360 remainder of the ordinance or the application of the provision to
361 other persons or circumstances is not affected.

362
363 Section 7. This ordinance shall be in force and effect on
364 July 1, 2022, after its passage by the Kirkland City Council and
365 publication pursuant to Section 1.08.017, Kirkland Municipal Code
366 in the summary form attached to the original of this ordinance and
367 by this reference approved by the City Council.

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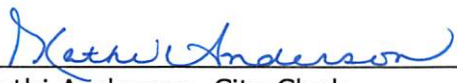
Passed by majority vote of the Kirkland City Council in open meeting this 07 day of June, 2022.

Signed in authentication thereof this 07 day of June, 2022.



Penny Sweet, Mayor

Attest:



Kathi Anderson, City Clerk

Approved as to Form:



Kevin Raymond, City Attorney

Publication Date: 06/13/2022

PUBLICATION SUMMARY
OF ORDINANCE NO. 4794

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SURFACE WATER MANAGEMENT AND AMENDING CHAPTERS 15.04 AND 15.52 OF THE KIRKLAND MUNICIPAL CODE.

SECTION 1. Amends Section 15.04.010 of the Kirkland Municipal Code ("KMC") relating to definitions.

SECTION 2. Amends Section 15.52.060 of the KMC relating to design and construction standards and requirements.

SECTION 3. Amends Section 15.52.090 of the KMC relating to illicit discharges and connections.

SECTION 4. Amends Section 15.52.100 of the KMC relating to source control best management practices.

SECTION 5. Amends Section 15.52.120 of the KMC relating to operation and maintenance of drainage facilities.

SECTION 6. Provides a severability clause for the ordinance.

SECTION 7. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as July 1, 2022 after publication of 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 meeting on the 07 day of June, 2022.

I certify that the foregoing is a summary of Ordinance 4794 approved by the Kirkland City Council for summary publication.



Kathi Anderson, City Clerk