

ORDINANCE NO. 3434*

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND REPEALING ORDINANCE NO. 3423* AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE (FILE NO. IV-92-100) AND ITS SUMMARY 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 Code, Ordinance 2740 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated May 18, 1994, and bearing Kirkland Department of Planning and Community Development File No. IV-92-100; 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 nonsignificance, 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. Ordinance 3423* is hereby repealed.

Section 2. 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, provided, however, that an approval or decision which would otherwise become void or lapse after July 6, 1994, under a section of the Zoning Code which is now being amended by this ordinance, shall only lapse or become void if it would still do so under all amendments made by Ordinance 3423.

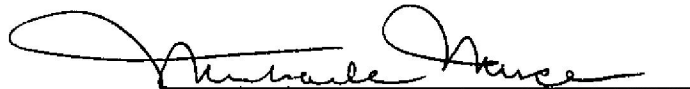
Section 3. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. 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 Community 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 5. Except as provided in Section 4, 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 approved by the City Council, as required by law.


PASSED by majority vote of the Kirkland City Council in regular, open meeting this 18th day of October, 1994.

SIGNED IN AUTHENTICATION thereof this 18th day of October, 1994.




Mayor Pro tem

Attest:



City Clerk

Approved as to form:



City Attorney

ATTACHMENT A

30.11

Bulkhead and Land Surface Modification

0-3434

1. Bulkheads

a. General - Bulkheads are permitted in this zone subject to all of the conditions and restrictions of this Section. A permit may be required from the U.S. Army Corps of Engineers. Consult with that agency for further information.

b. ~~Required Permit - The City will use the Process 1, described in Chapter 145 of this Code, to review and decide upon an application for a bulkhead. A permit may also be required from the U.S. Army Corps of Engineers. Consult that agency for further information.~~

bc. Allowable Reasons - A bulkhead may be constructed only if--

- 1) It is needed to prevent significant erosion due to wave action; and
- 2) The use of vegetation will not sufficiently stabilize the shoreline to prevent significant erosion.

cd. Prohibited Location - A bulkhead may not be erected within a wetland or between a wetland and the lake.

de. Design of Bulkhead - The bulkhead must be designed to minimize the transmittal of wave energy to other properties.

ef. Placement of the Bulkhead - The bulkhead may not extend waterward of the high waterline. If there has been severe and unusual erosion within one year preceding the application for the bulkhead, the City may allow the placement of the bulkhead to recover the dryland area lost by this erosion.

fg. Change in Configuration of the Land - Except as allowed under paragraphs 2 and 3 of this Section, alteration of the horizontal or vertical configuration of the land must be kept to a minimum.

gh. Backfill - The extent and nature of any backfill proposed landward of the bulkhead must be approved by the City.

2. Land Surface Modification Waterward of the High Waterline.

3. Land Surface Modification Within the High Waterline Yard.

a. General - Land surface modification in the high waterline yard is permitted in this zone subject to all of the conditions and restrictions of this Section. This activity

may also require a permit from the U.S. Army Corps of Engineers. Consult with that agency for further information.

b. ~~Required Permit - The City will use Process 1, described in Chapter 145 of this Code, to review and decide upon an application for land surface modification within the high waterline yard. This activity may also require a permit from the U.S. Army Corps of Engineers. Consult with that agency for further information.~~

be. Allowable Reasons - The City may approve an application for a land surface modification within the high waterline yard only if--

- 1) No unique or significant natural area of flora or fauna will be destroyed; and
- 2) Either--
 - a) The application is filed by a public agency to improve public safety, recreation, or access; or
 - b) The application is part of a development proposal for the subject property and is to improve access to a pier or beach; or
 - c) The land surface modification is necessary to provide public access; or
 - d) The land surface modification is necessary to the structural safety of a structure; or
 - e) There has been severe and unusual erosion within one year directly preceding the application and the land surface modification is to restore the shoreline to its configuration prior to this erosion; or
 - f) This application is part of an application for a bulkhead approved under paragraph 1 of this Section. For backfill landward of a bulkhead, see paragraph 1.g. of this Section.

cd. Material Used For Landfill - The 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.

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- de. Use of Vegetation - The applicant shall stabilize exposed areas left after land surface modification with vegetation.
- ef. Disposition of Excavated Materials - Dredging spoils may not be deposited in Lake Washington and may be deposited on the subject property only if this is part of an approved development activity.

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b. ~~Required Permit~~ ~~The City will use Process 1, described in Chapter 145 of this Code, to review and decide upon an~~

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 - d) The land surface modification is necessary to the structural safety of a structure; or
 - e) There has been severe and unusual erosion within one year directly preceding the application and the land surface modification is to restore the shoreline to its configuration prior to this erosion; or
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pd. Material Used For Landfill - The 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.

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Bulkhead and Land Surface Modification

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gd. Material Used For Landfill - The 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.

ge. Use of Vegetation - The applicant shall stabilize exposed areas left after land surface modification with vegetation.

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b. ~~Required Permit - The City will use Process I, described in Chapter 145 of this Code, to review and decide upon an application for land surface modification within the high waterline yard. This activity may also require a permit from the U.S. Army Corps of Engineers. Consult with that agency for further information.~~

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f) This application is part of an application for a bulkhead approved under paragraph 1 of this Section. For backfill landward of a bulkhead, see paragraph 1.g. of this Section.

cd. Public Use Area Required - If the land surface modification within the high waterline yard is proposed as part of a development other than a small moorage facility, the City shall require that part of the high waterline be developed as a Public Use Area. The size and design of the Public Use Area must be specifically approved by the City based on the size of the subject property, the use on

the subject property, and the ability to use design features to separate the Public Use Area from the private elements of the development.

- de. Material Used For Landfill - The 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.
- ef. Use of Vegetation The applicant shall stabilize exposed areas left after land surface modification with vegetation.
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b. ~~Required Permit - The City will use Process I, described in Chapter 145 of this Code, to review and decide upon an application for land surface modification within the high waterline yard. This activity may also require a permit from the U.S. Army Corps of Engineers. Consult with that agency for further information.~~

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TYPE OF SIGN	MAXIMUM NUMBER OF SIGNS	MAXIMUM SIGN AREA	PERMITTED LOCATION	PERMITTED DURATION OF DISPLAY
Private Traffic Direction	No maximum.	4 sq. ft. per sign face.	Subject property.	No limitation.
Off-site Directional (1)	One.	16 sq. ft. per use, not to exceed 64 sq. ft.	Where necessary to direct the public to the subject properties.	Determined on case-by-case basis.
Political	No maximum.	6 sq. ft. per sign face.	Private property.	No sooner than 30 days prior to the primary election and no later than 7 days after the final election.
Projecting and Under Marquee	One per pedestrian or vehicular entrance.	4 sq. ft. per sign face.	Subject property right-of-way abutting subject property. For uses subject to Sign Categories C, D, E, and F only. Shall not project above roofline of structure to which sign is attached.	No limitation.
Fuel Price (2)	One per abutting right-of-way.	20 sq. ft. per sign face.	Subject property.	No limitation.

(1) ~~Must be approved by the through Planning Director Process I, as described in Chapter 145.~~ Shall only be approved if there is a demonstrated need for an off-site sign because of poor visibility or traffic patterns. All uses in an area wanting a permanent off-site directional sign must use one sign. The applicant must show that the proposed sign can accommodate all uses in the area that may reasonably need to be listed on the sign. The decision of the Planning Director in approving or denying an off-site directional sign may be appealed using the appeal provision, as applicable, of Process I, Sections 145.60 through 145.110.

(2) Fuel price signs are also subject to Section 95 of this Chapter.

Comprehensive Master Design Plan

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1. General - This section provides a mechanism under which special consideration can be given to signs which use a Comprehensive Master Design Plan to encourage the integration of signs into the framework of the building or buildings on the subject property. The City may allow deviations from the requirements of this Chapter consistent with the criteria listed in Paragraph 4 of this Section. At an applicant's request, this section may also be used to review proposed changes to sign plans which were initially approved as part of a previously approved PUD or CUP under prior zoning ordinances or through Process IIA, IIB, or III under this Code (Ordinance 2740, as amended).
2. Required Review Process - An application for a Comprehensive Master Design Plan under this Section will be reviewed and decided upon by the Planning Director. However, prior to issuing a decision, the Planning Director may consult with the Planning Commission.
3. Required Information - As part of any application for a Comprehensive Master Design Plan under this Section, the applicant shall submit the following information:
 - a. A narrative describing how the proposal is consistent with the criteria listed in Paragraph 4 of this Section.
 - b. A colored rendering of the proposed signs in relation to development in the area and on the subject property.
4. Criteria - The City may approve a proposed Comprehensive Master Design Plan if:
 - a. The proposal manifests exceptional effort toward creating visual harmony between the sign, buildings, and other components of the subject property through the use of a consistent design theme. The elements which create visual harmony may include but are not limited to color, material, location, and/or type of sign(s) proposed.
 - b. The proposed deviations are the minimum necessary to create readable signs from the rights-of-way providing direct vehicular access based on traffic speeds and patterns in the area of the subject property.
 - c. The signs are in character and orientation with planned and existing uses in the area of the subject property.
5. Minor Modifications- The Planning Official may grant a minor modification to the approved Master Sign Plan in writing if --
 - a. The change does not increase the sign area of the subject property approved in the original Master Sign Plan.
 - b. The change maintains visual harmony with those elements specifically identified in the original Master Sign Plan as integral to

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the design theme of the subject property (for example: location(s), color(s), material(s), or type(s)).

66. Appeals - The decision of the Planning Director in approving or denying a Comprehensive Master Design Plan under Section 100.80.2 and modifications granted by the Planning Official under Section 100.80.5 may be appealed using the appeal provision, as applicable, of Process I, Sections 145.60 through 145.110.

1. General - It is a violation of this Code to engage in any development activity or to operate any heavy equipment between the hours of 8 p.m. and 7 a.m., Monday through Saturday. No development activity or use of heavy equipment may occur on Sundays or Holidays which are observed by the City.

2. a. Exception - The Planning ~~Director~~ Official may grant written permission to engage in a development activity or to operate heavy equipment between the hours of 8 p.m. and 7 a.m. on Monday through Saturday or 7 a.m. to 8 p.m. on Sundays or Holidays which are observed by the City if this will not interfere with any residential use that is permitted in the zone in which it is located.

- b. The Planning ~~Director~~ Official may limit the hours of operation permitted under paragraph 1 above, if:
 - 1) The reduced hours will best serve the public's health, safety, and welfare; or
 - 2) There have been substantial verifiable complaints received by the Planning Department that the operation of heavy equipment or development activity is interfering with the health and repose of residents of a residential use which is permitted in the zone in which the operation of heavy equipment or development activity is located.

If the Planning ~~Director~~ Official determines that the hours of operation on a site should be limited pursuant to Section 2.b.1) or 2) above, he/she shall provide written notice to the owner of the property affected by this decision one (1) week prior to the imposition of the restriction. The ~~Director~~ Planning Official shall have the right to repeal this restriction at any time if can be shown that the use for heavy equipment or development activity can and will be conducted so as not to be contrary to paragraphs 2.b.1) and 2) above.

125.60 Final Site Plan Review - Minor Modifications

The City may require or approve a minor modification to the site plan of the PUD as approved by City Council if—

1. The change will not have the effect of reducing landscaped area, or reducing or encroaching into buffering areas or reducing the amount of open space in the PUD; and
2. The change will not have the effect of increasing the residential density of the PUD; and
3. The change will not have the effect of increasing the area devoted to non-residential uses in the PUD; and
4. The change will not ~~result in any increase in~~ the height of any structure above the height allowed in the underlying zone nor change the orientation of structures which would result in reduced view corridors or increase in the perceived bulk and mass of the structure; and
5. The City determines that the change will not increase any adverse impacts or undesirable effects of the project, or that the change in no way significantly alters the project.

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125.80 Lapse of the Approved PUD

1. Increased Time - City Council may, by the Ordinance approving the final PUD or by the resolution or ordinance approving the preliminary PUD, extend the time limits of Sections 152.115 of this Code for that PUD. Otherwise, ~~pursuant to Sections 152.115, the applicant must submit to the City a complete application for final PUD within one (1) year after the decision on the preliminary PUD, or begin construction or submit a complete building permit application for the development activity, use of land, or other actions approved under this Chapter within one (1) years after the decision to approve the final PUD~~ within four years after the final decision of the City of Kirkland approving the preliminary PUD the applicant must have obtained approval of the final PUD and submitted a complete building permit for the PUD or the Lapse provisions of Section 152.115 will apply.

2. Effect on Land Use if PUD Lapses - If an approved PUD lapses under the time limits of Sections 152.115 of this Code, or paragraph 1 of this Section, any development on the subject property must comply with all applicable laws of the City as if the PUD had not been granted.

127.30 Frequency and Duration of Temporary Use

1. The City may not grant a temporary use permit to the same user more frequently than once in every 365 day period. The City may only grant a Temporary Use Permit for a specified period of time, not to exceed sixty (60) days.
2. Exception - Temporary staging facilities for public projects may be approved for a time period not to exceed the duration of their construction.

127.40 Exceptions to Permit Requirement

The following temporary uses, when located in commercial and industrial zones, are exempt from the permit requirements of this Chapter.

a. Not to exceed 90 days

- 1) Farm and gardener produce stands selling fruit and vegetables.

eb. Not to exceed 30 days

- 1) Christmas tree lots.
- 2) Fireworks stands.

ec. Not to exceed 5 days

- 1) Amusement rides.
- 2) Carnivals and Circuses.
- 3) Parking lot sales which are ancillary to the indoor sale of the same goods and services.

Quasi - Judicial Project Rezones - Minor Modifications

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Subsequent to the adoption of the Resolution of Intent to Rezone, the applicant may ~~apply for request~~ a minor modification to the site plan approved as part of that Resolution. ~~The Planning Director will~~ City will use the Process I described in Chapter 145 of this Code to review and decide upon an application for a minor modification provided that in the Houghton disapproval jurisdiction, the City will use Process I described in Chapter 145 of this Code to review and decide upon an application for a minor modification. ~~The City may approve a~~ A minor modification ~~may be approved only if it finds that--~~

1. The change will not result in reducing the landscaped area, buffering areas, or the amount of open space on the project; and
2. The change will not result in increasing the residential density or gross floor area of the project; and
3. The change will not reduce any required yard and not result in any structure, or vehicular circulation or parking area being moved significantly, more than 10 feet in any direction and will not reduce any required yard; and provided that in the Houghton disapproval jurisdiction, the change also will not result in a move of more than 10 feet in any direction.
4. The change will not result in ~~any increase in the height; and~~ of any structure above the height allowed in the underlying zone, provided that in the Houghton disapproval jurisdiction, the change will not result in any increase in height; and
5. The City determines that the change will not increase any adverse impacts or undesirable effects of the project and that the change in no way significantly alters the project.

Lapse of Approval

0-343A

1. ~~The applicant must begin construction or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under this Chapter within one (1) four (4) years after the final decision approval of the City of Kirkland on the matter, or the decision becomes void, provided, however, that in the event judicial review is initiated per Section 145.110, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.~~ The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this Chapter and complete the applicable conditions listed on the Notice of Approval within ~~five (5) six (6) years after the final decision approval on the matter, or the decision becomes void. "Final decision" means the final decision of the City of Kirkland, or the termination of judicial review proceedings if such proceedings were initiated pursuant to Section 145.110.~~ For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this Chapter and made a condition of the Notice of Approval.

2. Time Extensiona. Application

~~The applicant may apply for a one-time extension of up to one (1) year by submitting a letter, prior to the date that the approval lapses, to the Planning Department, along with any other supplemental documentation which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and circumstances beyond his/her control prevent timely compliance.~~

0-3434

150.135.

Lapse of Approval

~~1. The applicant must begin construction or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under this Chapter within one (1) year after the final decision approval of the City of Kirkland on the matter, or the decision becomes void, provided, however, that in the event judicial review is initiated per Section 150.130, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.~~ The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this Chapter and complete the applicable conditions listed on the Notice of Approval within ~~five (5)~~ six (6) years after the final decision approval on the matter, or the decision becomes void. "Final decision" means the final decision of the City of Kirkland, or the termination of judicial review proceedings if such proceedings were initiated pursuant to Section 150.140. For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this Chapter and made a condition of the Notice of Approval.

~~2. Time Extension~~

~~a. Application~~

~~The applicant may apply for a one-time extension of up to one (1) year by submitting a letter, prior to the date that the approval lapses, to the Planning Department, along with any other supplemental documentation which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and circumstances beyond his/her control prevent timely compliance.~~

Lapse of Approval

0-3434

4. ~~—~~The applicant must begin construction or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under this Chapter within ~~one (1)~~ four (4) years after the final ~~decision approval of the City of Kirkland on the matter, or the decision becomes void, provided, however, that in the event judicial review is initiated per Section 152.110, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.~~ The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this Chapter and complete the applicable conditions listed on the Notice of Approval within ~~five (5)~~ six (6) years after the final ~~decision approval~~ on the matter, or the decision becomes void. ~~"Final decision" means the final decision of the City of Kirkland, or the termination of judicial review proceedings if such proceedings were initiated pursuant to Section 152.110.~~ For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this Chapter and made a condition of the Notice of Approval.

2. Time Extensiona. Application

~~The applicant may apply for a one time extension of up to one (1) year by submitting a letter, prior to the date that the approval lapses, to the Planning Department, along with any other supplemental documentation which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and circumstances beyond his/her control prevent timely compliance.~~

0-3434

155.115

Lapse of Approval

~~1. The applicant must begin construction or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under this Chapter within one (1) four (4) years after the final decision approval of the City of Kirkland on the matter, or the decision becomes void, provided, however, that in the event judicial review is initiated per Section 155.110, the running of the four years is tolled for any period of time during which a court order in said judicial review proceeding prohibits the required development activity, use of land, or other actions.~~ The applicant must substantially complete construction for the development activity, use of land, or other actions approved under this Chapter and complete the applicable conditions listed on the Notice of Approval within ~~five (5) six (6) years~~ after the final decision approval on the matter, or the decision becomes void. ~~"Final decision" means the final decision of the City of Kirkland, or the termination of judicial review proceedings if such proceedings were initiated pursuant to Section 155.110.~~ For development activity, use of land, or other actions with phased construction, lapse of approval may be extended when approved under this Chapter and made a condition of the Notice of Approval.

~~2. Time Extension~~

~~a. Application~~

~~The applicant may apply for a one-time extension of up to one (1) year by submitting a letter, prior to the date that the approval lapses, to the Planning Department, along with any other supplemental documentation which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and circumstances beyond his/her control prevent timely compliance.~~

PUBLICATION SUMMARY
OF ORDINANCE NO. 3434*

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING, AND LAND USE AND REPEALING ORDINANCE NO. 3423* AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE.

Section 1. Repeals Ordinance No. 3423*.

Section 2. Amends the following chapters and sections of the Zoning Code:

Chapter 30 - Waterfront District (WD) Zones

30.11.1.a.-h.
30.11.3.a.-f.
30.16.1.a.-h.
30.16.3.a.-f.
30.21.1.a.-h.
30.21.3.a.-f.

Chapter 50 - Central Business District (CBD) Zones

50.18.1.a.-h.
50.18.3.a.-g.

Chapter 60 - Planned Areas (PLA)

60.21.1.a.-h.
60.21.3.a.-e.

Chapter 100 - Signs

100.80
100.115

Chapter 115 - Miscellaneous Use Development and Performance Standards

115.25.2.a.-b.

Chapter 125 - Planned Unit Development

125.60.4.
125.80.1.

Chapter 127 - Temporary Use

127.30.1.-2.
127.40.a.-c.

~~Chapter 130 - Rezone -~~

~~130.70.1.-5.-~~

Chapter 145 - Process I

145.115.1.
145.115.2.a.

Chapter 150 - Process IIA

150.135.1
150.135.2.a.

Chapter 152 - Process IIB

152.115.1.
152.115.2.a.

Chapter 155 - Process III

155.115.1.
155.115.2.a.


Section 3. A savings clause providing that if any portion or part of the Ordinance is held to be invalid or unconstitutional, such decisions shall not affect the validity of the remainder of the Ordinance.

Section 4. Provides that the Ordinance shall not be effective within the Houghton Community Municipal Corporation if disapproved by the Houghton Community Council within sixty days of the date of adoption of this Ordinance.

Section 5. 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 five days after publication of summary, except as provided in Section 4.

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 18th day of October, 1994.

I certify that the foregoing is a summary of Ordinance No. 3423 approved by the Kirkland City Council for summary publication.



City Clerk