

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO RENEWAL OF INTERIM REGULATION OF DEVELOPMENT IN WETLANDS, WETLAND BUFFERS, STREAM BUFFERS, AND MINOR LAKE BUFFERS.

Whereas, the City has the authority to adopt interim regulations pursuant to RCW 35A.63.220; and

Whereas, the Kirkland City Council, at its February 18, 1997 Council Meeting, determined that there is a need for interim regulation of future development within wetlands, wetland buffers, stream buffers, and minor lake buffers, and adopted interim regulations at said meeting by Ordinance No. 3575, AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE EMERGENCY, INTERIM REGULATION OF DEVELOPMENT IN WETLANDS, WETLAND BUFFERS, STREAM BUFFERS, AND MINOR LAKE BUFFERS; and

Whereas, pursuant to RCW 35A.63.220, a public hearing on the regulations was held on March 4, 1997; and

Whereas, the Kirkland City Council, at its August 5, 1997 Council Meeting, after holding a public hearing, extended the interim regulations for an additional six-month period by Ordinance 3592, AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO RENEWAL OF INTERIM REGULATION OF DEVELOPMENT IN WETLANDS, WETLAND BUFFERS, STREAM BUFFERS, AND MINOR LAKE BUFFERS; and

Whereas, the Kirkland City Council, at its January 20, 1998 Council Meeting, after holding a public hearing, extended the interim regulations for an additional six month period by Ordinance No. 3620, AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO RENEWAL OF INTERIM REGULATION OF DEVELOPMENT IN WETLANDS, WETLAND BUFFERS, STREAM BUFFERS, AND MINOR LAKE BUFFERS, and

Whereas, the Kirkland City Council, at its May 5, 1998 Council Meeting, after holding a public hearing, extended the interim regulations for an additional 120 day period by Ordinance No. 3630, AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO RENEWAL OF INTERIM REGULATION OF DEVELOPMENT IN WETLANDS, WETLAND BUFFERS, STREAM BUFFERS, AND MINOR LAKE BUFFERS, which had the effect of extending the duration of the interim regulations by approximately six weeks; and

Whereas, the Kirkland City Council desires to extend the interim regulation of development in wetlands, wetland buffers, stream buffers, and minor lake buffers for 90 days from the effective date of this Ordinance; and

Whereas, the Council intends to consider and act on new interim regulations of wetlands that will provide property owners with more flexibility before the expiration of this Ordinance; and

Whereas, pursuant to RCW 35A.63.220, a public hearing was held prior to the adoption of this Ordinance;

NOW THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1. Purpose and Intent. The purpose and intent of this Ordinance is to set forth interim regulations prohibiting future development activity in wetlands, wetland buffers, stream buffers, and minor lake buffers.

Section 2. Minor Lake Buffers. No land surface modification may take place and no improvement may be located within 50 feet of the ordinary high water line of a minor lake, except as provided in Section 90.20.2 of the Kirkland Zoning Code relating to minor improvements. An applicant may not request a modification of the requirements of this section under the provisions of Kirkland Zoning Code 90.20.3.

Section 3. Wetlands and Wetland Buffers. No land surface modification may take place and no improvement may be located in a wetland, or within the environmentally sensitive area buffers for a wetland as set forth in Kirkland Zoning Code 90.35.1, except as provided in Kirkland Zoning Code Sections 90.35.2, and 90.35.3 and 90.35.8 relating to public parks, wetland restoration, and minor improvements respectively. An applicant may not request a modification of the requirements of this section under the provisions of Kirkland Zoning Code 90.35.4.

Section 4. Stream Buffers. No land surface modification may take place and no improvement may be located within an environmentally sensitive area buffer for streams as set forth in Kirkland Zoning Code 90.45.1, except as provided in Kirkland Zoning Code 90.45.3 relating to minor improvements. An applicant may not request a modification to the provisions of this section pursuant to Kirkland Zoning Code 90.45.4.

Section 5. This Ordinance shall not affect or alter the application of Sections 90.11, 90.15 and 90.40 of the Kirkland Zoning Code.

Section 6. This emergency interim ordinance is not intended, and shall not be construed or applied in a manner, to deny all reasonable economic use of private property. Using Process IIB, described in Chapter 152 of the Kirkland Zoning Code, if an applicant demonstrates to the satisfaction of the decision maker that application of this interim ordinance would deny all reasonable economic use of the property in a residential area, one single family home may be permitted subject to appropriate conditions if the applicant also

demonstrates all of the following to the satisfaction of the decision maker:

- a. No use with less impact on the wetland and the buffer is feasible and reasonable; and
- b. There is no feasible and reasonable on-site alternative to the proposed activities, considering possible changes in site layout, reductions in density and similar factors; and
- c. The proposed activities, as conditioned, will result in minimum feasible alteration or impairment to the wetland's functional characteristics and its existing contours, vegetation, fish and wildlife resources, and hydrological conditions; and
- d. The proposed activities will not cause significant degradation of groundwater or surface-water quality; and
- e. All reasonable mitigation measures have been implemented or assured; and
- f. The development activities will not cause or result in damage to other properties; and
- g. The inability to derive reasonable economic use is not the result of the applicant's actions, including such actions as segregating or dividing the property and creating the undevelopable condition, or any prior actions taken in violation of any local, state, or federal law or regulation. The purchase price paid for the property will not be the measure of reasonable economic use.

The applicant shall either fund a report prepared by the City's wetland consultant or submit a report prepared by a biologist, botanist, plant ecologist, or similarly qualified professional, and fund a review of this report by the City's wetland consultant. The report must describe how the proposal will or will not comply with the applicable decisional criteria.

If the decision maker determines that alteration of a wetland and/or wetland buffer is necessary and unavoidable, the decision maker shall set forth in writing its findings with respect to each of the items listed in this subsection.

For the purpose of this section only, "residential area" means all portions of the City located in a zone in which "detached dwelling units" or "detached, attached or stacked dwelling units" are uses that are permitted as a matter of right.

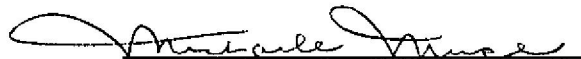
Section 7. Duration. This Ordinance shall be effective for 90 days. This Ordinance may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

Section 8. Severability. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance, or the application of the provision to other persons or circumstances is not affected.

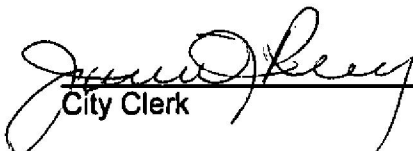
Section 9. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 1st day of Sept., 1998.


Signed in authentication thereof this 1st day of Sept., 1998.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney
ord/wetland5