



CITY OF KIRKLAND
Department of Public Works
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MEMORANDUM

To: Dave Ramsay, City Manager

From: Stacey Rush, Surface Water Utility Engineer
Jenny Gaus, Environmental Services Supervisor
Daryl Grigsby, Public Works Director

Date: November 4, 2009

Subject: Development Related Surface Water Ordinance
For NPDES Phase II Stormwater Permit Compliance

RECOMMENDATION:

It is recommended that Council vote to approve the attached ordinance relating to storm and surface water management and development, Kirkland Municipal Code (KMC) Title 15, Water and Sewage.

POLICY IMPLICATIONS:

- This ordinance adopts a new surface water manual for development in Kirkland, the 2009 King County Surface Water Design Manual (2009 KCSWDM).
- This ordinance adopts an Addendum to the 2009 KCSWDM, stating which items are not being adopted at this time along with Kirkland specific items that differ from the 2009 KCSWDM.
- The new storm and surface water regulations will increase development costs for most private and public projects. Cost implications vary by type and location of project.
- Adoption and implementation of this ordinance by February 16, 2010 will allow continued City compliance with the National Pollutant Discharge Elimination System (NPDES) Phase II Municipal Stormwater Permit.

BACKGROUND DISCUSSION:

As discussed in the previous memo and presentation to council (memo located at this link: http://www.ci.kirkland.wa.us/Assets/City+Council/Council+Packets/102009/10b_UnfinishedBusiness.pdf), our NPDES Phase II permit requires us to adopt a new surface water manual for development in Kirkland. During public meetings with the development community, they requested the City adopt the 2009 KCSWDM instead of Ecology's stormwater manual. Staff recommends adopting the 2009 KCSWDM with an implementation date of January 1, 2010.

Attached is a table listing the primary development changes under the new surface water regulations (Attachment A). There are increased levels of reporting, low impact development, detention, and water quality for some projects. The type of projects most affected by the new regulations is redevelopment of existing buildings and paved areas draining to sensitive areas. The project type least affected by the new regulations are new development of forested areas (because strict requirements are already in place for this type of development). The impacts to CIP projects vary greatly.

Because the 2009 KCSWDM was written for a Phase I jurisdiction (population greater than 100,000), it contains regulations stricter than we are required to adopt at this time. The main difference is Phase I jurisdictions must apply regulations to both small and large sites, whereas our Phase II NPDES permit specifically refers to project sites one acre or larger. Staff created an Addendum to the 2009 KCSWDM (Attachment B) to clarify which items are not being adopted at this time along with Kirkland specific items that differ from King County.

The new regulations will translate to additional costs for most private and public projects. A new development fee schedule is in a separate ordinance also presented to council on November 17, 2009. The new fee schedule is needed to recover the cost of increased staff time necessary for drainage review and inspection under the new surface water regulations. The additional drainage requirements will also increase the cost for upcoming public projects.

Below are requirements and comments based on discussion with Council on October 20, 2009:

- Historic conditions (fully forested) will be used for pre-developed runoff modeling of all projects in level 2 flow control areas.
- All projects will be required to evaluate the feasibility and applicability of stormwater low impact development (LID) techniques.
- Amended Soil will be required on project sites one acre or larger. Text in the Addendum recommends amended soil for landscaped areas in projects smaller than one acre. The Planning Department is including the same amended soil requirement in the tree regulation changes to be proposed to Council in December. As we work through the issues associated with construction and inspection of amended soils on larger projects, staff will endeavor to develop incentives to encourage the use of amended soil in landscaped areas on all projects.
- Enhanced Water Quality Treatment (targets removal of metals such as copper and zinc) will be required for projects one acre or larger with the following land use: commercial, industrial, multi-family, and high use roads. Text in the Addendum states "for projects less than one acre in size meeting the land use criteria for enhanced basic water quality treatment, apply the enhanced treatment unless it can be shown as not feasible". This will encourage more use of enhanced treatment, but will not make it arduous for small sites where it is simply not feasible.
- The Planning Department will work with surface water staff when they are updating the comprehensive plan to address the concern that larger stormwater facilities and the requirement for LID techniques may reduce the number of buildable lots on a site. In addition, staff will continue to pursue basin planning and other strategies that may reduce the onsite space needs of stormwater facilities.

NEXT STEPS:

If the ordinance is approved, the 2009 KCSWDM and Addendum will be effective January 1, 2010.

Attachment A: Development Regulation Changes with adoption of 2009 KCSWDM
Attachment B: Addendum to the 2009 King County Surface Water Design Manual

City of Kirkland Development Regulation Changes Between Current Storm Manual and Proposed New Storm Manual - Attachment A

Item	Current Requirements under 1998 King County Surface Water Design Manual	Changes proposed in 2010 with adoption of 2009 King County Surface Water Design Manual
Threshold for Drainage Review	Minor review for projects adding between 500ft ² - 4,999ft ² impervious surface area, formal drainage review for projects adding 5,000ft ² or more.	Minor review for projects adding between 500ft ² - 1,999ft ² impervious surface area, formal drainage review for projects adding 2,000ft ² and more.
Drainage Technical Information Report	Full drainage TIR required for projects adding 10,000ft ² or more new impervious; partial TIR for 5,000ft ² or greater.	Lower threshold for Drainage Report, size of report depends on level of drainage review required: Small, Targeted, or Full.
Modeling of Predeveloped Conditions	Use existing coverage - credit given for most existing impervious areas.	For areas of Level 1 flow control, existing coverage allowed. For areas of Level 2 flow control, use historic condition (forested - no credit for existing impervious).
Detention Threshold	Required for projects creating 10,000ft ² impervious area or more, applies only to new impervious.	Required for projects involving 10,000ft ² impervious area or more, but is applied to all "effective" impervious on site (new and existing).
Flow Control Level	Level 2 for projects draining to sensitive areas, and Level 1/potential direct discharge exemption for areas draining directly to Lake WA.	No change; use existing flow control map.
Flow Control Exemptions	Minimum impervious area, peak flow, and direct discharge to Lake WA exemptions are available.	Minimum impervious area is reduced to 2,000ft ² , and now includes new and replaced. Direct discharge to Lake WA exemption remains. Peak flow exemption is still available, but must be based on historic condition of site. There is a 40% total impervious area basin exemption that may be applicable to certain areas of Kirkland, but more research and approval from DOE is needed.
Exemption for Road Related Projects	No exemption, treated same as other development.	If new impervious area in a road related project is less than 50% of the existing impervious within project limit, then requirements apply only to "new" impervious surface; otherwise apply to both new and replaced impervious.
Water Quality Threshold	Required if new or replaced pollution generating impervious surface area is 5,000ft ² or greater.	Required for projects where the total "effective" (new and existing) pollution generating impervious surface is 5,000ft ² or more.
Erosion Control	Basic erosion control required on all sites; site greater than 1 acre require Construction SW Pollution Prevention Plan.	All projects must prepare an ESC Report. Projects greater than 1 acre require a Construction SW Pollution Prevention Plan.
Low Impact Development (LID)	encouraged, but not required	Projects are required to evaluate the feasibility and applicability of dispersion and infiltration, and install at least 1 stormwater LID technique on site.
The following 2009 KCSWDM requirements will only apply to project sites 1 acre or larger:		
Enhanced Water Quality Treatment Level	not required	Basic level treatment for projects discharging directly to Lake WA. Enhanced treatment required for some single family residential, multi-family, commercial, and high AADT road projects.
SW Pollution Prevention and Spill Plan (SWPPS)	not required	Plan includes 3 elements: a site plan, a pollution prevention report, and a spill prevention and cleanup report.
Soil Amendment	not required	BMP T5.13, per Core Requirement #5. Includes mixing 2-3" of compost into upper 8" of topsoil. Compost needs to meet specific organic matter content and pH requirements.



**Addendum to the
2009 King County
Surface Water Design Manual**

Effective date: January 1, 2010

Introduction

This addendum to the 2009 King County Surface Water Design Manual (KCSWDM) applies to development and redevelopment proposals within the City of Kirkland. The KCSWDM has adopted requirements of the Clean Water Act, the Endangered Species Act, and the State Growth Management Act. This addendum includes minor revisions to the KCSWDM to address the differences between King County's and the City's organization and processes. No major substantive changes have been made to the KCSWDM in order to maintain equivalency in review requirements and level of protection provided by the manual. It is our intent to maintain equivalency with the 2005 Ecology Stormwater Management Manual for Western WA.

Addendum Organization

The information presented in this addendum is organized as follows:

I. Terminology: At times King County and the City of Kirkland use different terminology to describe or to refer to equivalent subject matter. This section identifies these terms and the City of Kirkland's equivalent terminology.

II. Key Revisions: This section specifically identifies the minor revisions the City has made to the KCSWDM.

III. Code Reference Tables: King County code is referenced in many places throughout the KCSWDM. This section identifies these county code references and states the equivalent city code where applicable.

IV. Mapping: The City of Kirkland equivalents to the Flow Control Applications map, Landslide Hazard Drainage Areas map, and Sensitive/Critical Areas map are available online at:

http://www.ci.kirkland.wa.us/depart/Information_Technology/GIS.htm

V. Reference Materials: This section identifies which reference materials provided in the KCSWDM are applicable and which are not. It also identifies equivalent City of Kirkland reference materials available.

Note: Clarifications and interpretations to the KCSWDM or this addendum are documented and made available through City Regulatory Code and the Public Works Pre-Approved Plans.

I. Terminology

At times King County and the City of Kirkland use different terminology to describe or to refer to equivalent subject matter. This section identifies these terms and the City of Kirkland's equivalent terminology.

- **Critical Drainage Area (CDA)** – refers to the City of Kirkland Sensitive Areas.
- **Department of Development and Environmental Services (DDES)** – all references to DDES conducting drainage reviews or determinations shall refer to City of Kirkland Public Works and Planning and Community Development Departments.
- **Department of Natural Resources and Parks (DNRP)** – references to DNRP shall refer to City of Kirkland Parks and Planning and Community Development Departments.
- **Director** – refers to the City of Kirkland Public Works Director.
- **King County** – refers to the City of Kirkland (COK).
- **King County Code (KCC)** – refer to the City of Kirkland Municipal and Zoning Codes (KMC and KZC). Check code reference table for equivalent code sections.
- **King County Designated/Identified Water Quality Problem** – This determination is made on a case-by-case basis in the City of Kirkland.
- **King County Road Standards** – refers to the City of Kirkland Public Works Pre-Approved Plans.
- **Sensitive Area Folio** – refer to City of Kirkland Sensitive Areas Map at:

http://www.ci.kirkland.wa.us/depart/Information_Technology/GIS.htm
- **Water and Land Resources (WLR) Division** – refers to the City of Kirkland Surface Water Management Division.
- **Zoning Classifications: Where the KCSWDM references Agricultural (A) Zoning, Forest (F) Zoning, or Rural (R) Zoning** – these zoning classifications are intended for areas outside of the Urban Growth Boundary, therefore the City of Kirkland contains no equivalent zoning. Refer to city zoning maps to determine which zoning classifications apply to your project. The City of Kirkland Land Use Map can be found at:

http://www.ci.kirkland.wa.us/depart/Information_Technology/GIS.htm

II. Key Revisions

This section includes minor revisions to the 2009 KCSWDM to address the differences between King County's and the City of Kirkland's organization and processes, as well as to ensure equivalency with the 2005 Ecology Stormwater Management Manual for Western WA.

Chapter 1: Drainage Review and Requirements

Applies with the revisions stated below:

1.1 Drainage Review

Criteria for review levels are defined in the COK Public Works Pre-Approved Plans, Policy D-2. Drainage review levels used in the City of Kirkland are listed below:

- Small Project drainage review
- Targeted drainage review
- Full drainage review

1.2 Core Requirements

1.2.2 Core Requirement #2: Offsite Analysis

1.2.2.1 Downstream Analysis

Exclude the section titled Downstream Water Quality Problems Requiring Special Attention. Water quality problems in the City of Kirkland are addressed through educational programs and source control.

1.2.3 Core Requirement #3: Flow Control

Historic conditions will be used for pre-developed runoff modeling of all projects in Level 2 flow control areas. A City of Kirkland flow control map is located at:

http://www.ci.kirkland.wa.us/depart/Information_Technology/GIS.htm

Consistent with the 2005 Ecology Stormwater Management Manual for Western WA, the threshold for the Impervious Surface Exemption for Transportation Redevelopment Projects is:

- a) Less than 5,000ft² of new impervious surface will be added, AND
- b) Less than 35,000ft² of new pervious surface will be added, AND
- c) The total new impervious surface within the project limit is less than 50% of the existing impervious surface.

1.2.3.1 Area-Specific Flow Control Facility Requirement

The Impervious Surface Percentage Exemption stated on page 1-38 is void and does not apply to the City of Kirkland.

1.2.5 Core Requirement #5: Erosion and Sediment Control

1.2.5.1 ESC Measures

Amended Soil (BMP T5.13, 2005 Ecology Stormwater Management Manual for Western WA) is required for all landscaped areas on all project sites 1 acre or larger. Amended soil is recommended for all landscaped areas on project sites smaller than 1 acre.

1.2.5.2 ESC Performance and Compliance Provisions

B. Monitoring of Discharges

For projects that clear 2,000ft² or greater, the City may require the ESC Supervisor to have a turbidity meter onsite and use it to monitor surface and stormwater discharges from the project site and into onsite wetlands, streams, or lakes whenever runoff occurs from onsite activities and during storm events.

1.2.6 Core Requirement #6: Maintenance and Operations

Publicly maintained facilities will be maintained by the City of Kirkland.

An Operation and Maintenance Manual is required for all privately maintained stormwater detention and water quality facilities, and is submitted as part of the permit application. A copy of the Operation and Maintenance Manual shall be retained on site and shall be transferred with the property owner to the new owner. A log of maintenance activity indicating when cleaning occurred and where waste was disposed of shall also be kept by the owner and available for inspection by the City of Kirkland.

1.2.7 Core Requirement #7: Financial Guarantees and Liability

This section is replaced by KMC 15.52.080, bonds and irrevocable license to enter.

1.2.8 Core Requirement #8: Water Quality

1.2.8.1 A. Basic WQ Treatment Areas

Thresholds requiring Enhanced Basic Water Quality Treatment are:

- Industrial, commercial, and multi-family project sites 1 acre or larger.
- Road related project sites 1 acre or larger, with an AADT of 7,500 or greater.

Single family residential subdivisions will not be required to implement enhanced basic water quality treatment. The thresholds stated above are consistent with the 2005 Ecology Stormwater Management Manual for Western WA.

For projects less than 1 acre in size meeting the land use criteria for Enhanced Basic WQ Treatment, apply the enhanced treatment requirement unless it can be shown as not feasible.

For a rain garden to meet enhanced basic water quality treatment, it must be designed, using an approved continuous runoff model, to infiltrate 91% of the influent runoff (2005 Ecology Stormwater Management Manual for Western WA, Volume V, pg 3-8).

The City will accept all water quality treatment facility-types identified in the 2005 Ecology Stormwater Management Manual for Western WA, with the following additions and alterations:

- Emerging technologies will be considered on a case-by-case basis, provided the product has received a level of use designation from WA State Dept. of Ecology (see the following website):
<http://www.ecy.wa.gov/programs/wq/stormwater/newtech/index.html>
- The COK encourages the use of stormwater low impact development techniques as appropriate.

1.2.8.1 B. Sensitive Lake WQ Treatment Areas

This section does not apply to the City of Kirkland.

1.2.8.1 C. Sphagnum Bog WQ Treatment Areas

This section does not apply to the City of Kirkland.

1.3.2 Special Requirement #2: Flood Hazard Area Delineation

Flood Hazard Area is any area adjacent to a Kirkland sensitive area, unless topography is such that the area will not flood.

1.3.3 Special Requirement #3: Flood Protection Facilities

This section does not apply to the City of Kirkland.

1.3.4 Special Requirement #4: Source Controls

Source Control requirements are replaced by Volume IV of the 2005 Ecology Stormwater Management Manual for Western WA.

1.4 Adjustment Process

Refer to adjustment process defined in COK Public Works Pre-Approved Plans, Policy D-11.

Chapter 2 Drainage Plan Submittal

Applies with the revisions stated below:

2.1 Plans Required for Drainage Review

Refer to the COK Public Works Pre-Approved Plans, Policies G-7, D-2, and D-3.

2.2 Plans Required with Initial Permit

Refer to the COK Public Works Pre-Approved Plans, Policies G-7, D-2, and D-3.

2.3 Drainage Review Plan Specifications

2.3.1.1 Technical Information Report

An Operation and Maintenance Manual is required for all privately maintained stormwater detention and water quality facilities, and is submitted as part of the permit application.

2.3.1.2 – Site Improvement Plan

Refer to the COK Public Works Pre-Approved Plans, Policies G-7, D-2, and D-3.

2.3.1.3 – ESC Plan Section

Refer to the COK Public Works Pre-Approved Plans, Policies G-7, D-2, and D-3.

2.3.1.4 – Stormwater Pollution Prevention and Spill (SWPPS) Plan

Refer to the COK Public Works Pre-Approved Plans, Policies G-7, D-2, and D-3.

2.3.1.5 – Landscape Management Plan

Refer to the COK Public Works Pre-Approved Plans, Policies G-7, D-2, and D-3.

2.3.2 – Projects in Targeted Drainage Review (TDR)

Refer to the COK Public Works Pre-Approved Plans, Policies G-7, D-2, and D-3.

2.4 Plans Required After Drainage Review (pg 2-35)

Refer to the COK Public Works Pre-Approved Plans, policies G-7, D-2, and D-3.

Chapter 5 Flow Control Design

Applies with the revisions stated below:

5.2 Flow Control BMP Requirements

5.2.1.4 Implementation Requirements for Individual Lot BMPs

This section is replaced by KMC 15.52.080, bonds and irrevocable license to enter.

5.3 Detention Facilities

Use details located in the COK Public Works Pre-Approved Plans, if available.

5.3.4.1 Control Structures Design Criteria

Minimum orifice diameter is 0.5 inches.

5.3.5 Parking Lot Detention

Parking lot detention is not allowed in the City of Kirkland.

Chapter 6 Water Quality Design

Applies with the revisions stated below:

Use details located in the COK Public Works Pre-Approved Plans, if available.

Appendix B: Master Drainage Plan Objective, Criteria and Components, and Review Process

This Appendix does not apply to projects in the City of Kirkland.

III. Code Reference Tables

King County Code is referenced in many places throughout the KCSWDM. The following table identifies the county code references and states the equivalent City of Kirkland code where applicable (Kirkland Municipal Code is KMC and Kirkland Zoning Code is KZC). Policies are located in the Public Works (PW) Pre-Approved Plans.

King County Code Reference	Subject of Reference	COK Code/Policy Equivalent	Comment
KCC 2.98	Adoption procedures and Critical Drainage Areas	KZC Chapter 90	
Title 9	Surface Water Management	KMC 15.52	
KCC 9.04	Surface Water Run-off policy	KMC 15.52	
KCC 9.04.030	Drainage Review	PW Pre-Approved Plans	Policy D-2
KCC 9.04.050	Drainage Review-requirements	PW Pre-Approved Plans	Policy D-2
KCC 9.04.070	Engineering plans for the purposes of drainage review	KMC15.52.060 and PW Pre-Approved Plans	Policy D-2
KCC 9.04.090	Construction timing and final approval	KMC 15.52.060	
KCC 9.04.100	Liability Requirements	KMC 15.52.080	
KCC 9.04.115	Drainage Facilities accepted by King County	KMC 15.52.070	
KCC 9.04.120	Drainage Facilities accepted by King County	KMC 15.52.070	
KCC 9.12	Prohibited discharges in the water quality section	KMC 15.52.090	
KCC 9.12	Water Quality	KMC 15.52.090 – 15.52.110	
KCC 9.12	Water Quality: Stormwater Pollution Prevention Manual Adoption	KMC 15.52.100	
KCC 16.82	Erosion and Sediment Control, Clearing and Grading	KMC 15.52.060	
KCC 16.82.095(A)	ESC standards: seasonal limitation period	PW Pre-Approved Plans	Erosion/Sediment Control Plan Notes, item #9
KCC 16.82.100(F)	Grading standards: preservation of duff layer	KZC Chapter 95	
KCC 16.82.100(G)	Grading Standards: soil amendments	KZC Chapter 95	
KCC 16.82.150	Clearing standards in rural zone	Not applicable	COK does not contain rural zones
KCC 20.20	Land Use Review Procedures	KZC Title 23	
KCC 20.70.020	Critical Aquifer recharge area	Not applicable	No critical aquifer recharge areas in COK
KCC 21A	Critical Areas Requirements	KZC Title 23	Sensitive areas in Chapter 90
KCC 21A.14.180.D	On-site recreation space required	No equivalent City code exists	On-site recreation space is not required
KCC 21A.24	Critical Areas Code	KZC Chapter 90	
KCC 21A.38	Property specific development	KZC Chapter 90	

	standards or special district overlays		
KCC 23.20	Code compliance: citations	KMC 15.52.140	
KCC 23.24	Code compliance: notice and orders	KMC 15.52.140	
KCC 23.28	Code compliance: stop work orders	KMC 15.52.140	
KCC 23.40	Code compliance: liens references on declaration of covenants form	KMC Title 15	

IV. Mapping

Below is a list of City of Kirkland maps to be used during drainage design. The maps can be viewed on-line, purchased on a CD, or viewed at the Public Works counter at City Hall. The maps are available on the following website:

http://www.ci.kirkland.wa.us/depart/Information_Technology/GIS.htm

1. Base Map
2. Flow Control Map
3. Sensitive Areas Map
4. Land Use Map

V. Reference Materials

This section identifies which reference materials provided in the 2009 KCSWDM are applicable and which are not. Reference materials that have been struck through (i.e., ~~struck through~~) are not applicable to projects in the City of Kirkland.

- ~~1. KCC 9.04—Surface Water Runoff Policy~~
- ~~2. Adopted Critical Drainage Areas~~
- ~~3. Other Adopted Area Specific Drainage Requirements~~
 - ~~A. RA Zone Clearing Restrictions~~
- ~~4. Other Drainage Related Regulations and Guidelines~~
 - ~~A. Grading Code Soil Amendment Standard (required on project sites 1 acre or larger)~~
 - ~~B. Clearing & Grading Seasonal Limitations~~
 - ~~C. Landscape Management Plan Guidelines~~
 - ~~D. Shared Facility Maintenance Responsibility Guidance~~
- ~~5. Wetland Hydrology Protection Guidelines~~
- ~~6. Hydrologic/Hydraulic Design Methods~~
 - ~~A. EPA Infiltration Rate Test~~
 - ~~B. Pond Geometry Equations~~
- ~~7. Engineering Plan Support~~
 - ~~A. King County Standard Map Symbols~~
 - ~~B. Standard Plan Notes and Example Construction Sequence~~
 - ~~C. Stormfilter Access and Cartridge Configuration~~
- ~~8. Forms and Worksheets~~
 - ~~A. Technical Information Report (TIR) Worksheet~~
 - ~~B. Offsite Analysis Drainage System Table~~
 - ~~C. Water Quality Facility Sizing Worksheets~~
 - ~~D. Flow Control and Water Quality Facility Summary Sheet and Sketch~~
 - ~~E. CSWPPP Worksheet Forms~~
 - ~~F. Adjustment Application Form and Process Guidelines~~
 - ~~G. Dedication and Indemnification Clause—Final Recording~~
 - ~~H. Bond Quantities Worksheet~~
 - ~~I. Maintenance and Defect Agreement~~
 - ~~J. Drainage Facility Covenant~~
 - ~~K. Drainage Release Covenant~~
 - ~~L. Drainage Easement~~
 - ~~M. Flow Control BMP Covenant~~
 - ~~N. Impervious Surface Limit Covenant~~
 - ~~O. Clearing Limit Covenant~~
 - ~~P. River Protection Easement~~
 - ~~Q. Leachable Metals Covenant~~
- ~~9. Interim Changes to Requirements~~
 - ~~A. Blanket Adjustments~~
 - ~~B. Administrative Changes~~
- ~~10. King County Identified Water Quality Problems~~

ORDINANCE NO. 4214

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO STORM AND SURFACE WATER MANAGEMENT OF DEVELOPMENT ACTIVITIES.

WHEREAS, the Washington State Department of Ecology (DOE) issued the Western Washington Phase II Municipal Stormwater Permit (Phase II NPDES Permit) on February 16, 2007, under authority delegated to it by the US Environmental Protection Agency, pursuant to the Federal Clean Water Act (33 U.S.C. §1251 et seq.) (CWA); and

WHEREAS, the intent of the Phase II NPDES Permit is to compel jurisdictions of certain density and population, which includes the City of Kirkland (the City), to take steps to reduce the discharge of pollutants in stormwater; and

WHEREAS, the City must therefore seek coverage under the Phase II NPDES Permit or face third-party lawsuits, fines, or other penalties under the CWA; and

WHEREAS, the Phase II NPDES Permit requires that jurisdictions seeking coverage comply with the conditions of the permit by taking and documenting actions to reduce the discharge of pollutants in stormwater in the following five ways:

- 1) Public Education and Outreach,
- 2) Public Involvement and Participation,
- 3) Illicit Discharge Detection and Elimination,
- 4) Controlling Runoff from New Development, Redevelopment and Construction Sites, and
- 5) Pollution Prevention and Operation and Maintenance for Municipal Operations; and

WHEREAS, the Phase II NPDES Permit requires that jurisdictions adopt certain alterations to surface and stormwater portions of their ordinances and associated requirements located elsewhere relating to item 4) above by February 16, 2010, in order to maintain compliance; and

WHEREAS, in addition, the proposed Kirkland Municipal Code (KMC) changes bear a substantial relationship to, and are necessary for, the public health, safety and general welfare of the City and its residents; and will provide increased protection to the City's wetlands, streams and lakes; and

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

Section 1. Kirkland Municipal Code Section 15.52.060 is hereby amended to read as follows:

15.52.060 Design and construction standards and requirements.

(a) The standard plans as defined in section 15.04.340 shall include requirements for temporary erosion control measures, storm water detention, water quality treatment and storm water conveyance facilities that must be provided by all new development and redevelopment projects. These standards shall meet or exceed the ~~storm water control requirements of Stormwater Management in Washington State (Volumes 1 through 5), thresholds, definitions, minimum requirements, and exceptions/variances criteria found in Appendix I of the Western Washington Phase II Municipal Stormwater Permit, the 2009 King County Surface Water Design Manual, and the City of Kirkland Addendum to the 2009 King County Surface Water Design Manual as presently written or hereafter amended,~~ and as administered by the State Department of Ecology

(b) Unless otherwise provided, it shall be the developer's and property owner's responsibility to design, construct, and maintain a system which complies with the standards and minimum requirements as set forth in the standard plans.

(c) In addition to providing storm water quality treatment facilities as required in this section and as outlined in the standard plans, the developer and/or property owner shall provide source control BMPs as described in Volume IV of the 2005 Stormwater Management Manual for Western Washington, such as structures and/or a manual of practices designed to treat or prevent storm water pollution arising from specific activities expected to occur on the site. Examples of such specific activities include, but are not limited to, carwashing at multifamily residential sites and oil storage at auto repair businesses. ~~Criteria for development and submittal of designs and plans for such BMPs are included in the standard plans.~~

(d) The city will inspect all permanent storm water facilities prior to final approval of the relevant permit. All facilities must be clean and fully operational before the city will grant final approval of the permit. A performance bond may not be used to obtain final approval of the permit prior to completing the storm water facilities required under this chapter.

(e) ~~Exception (Adjustment) Process.~~ Any developer proposing to adjust the requirements for, or alter design of, a system required as set forth in the standard plans must follow the adjustment process as set forth in the standard plans.

(f) Other Permits and Requirements. It is recognized that other city, county, state, and federal permits may be required for the

proposed action. Further, compliance with the provisions of this chapter when developing and/or improving land may not constitute compliance with these other jurisdictions' requirements. To the extent required by law, these other requirements must be met.

Section 2. Kirkland Municipal Code Section 15.52.120 is hereby amended to read as follows:

15.52.120 Operation and maintenance of storm water facilities.

(a) Standards for maintenance of storm water facilities existing on public or private property within the city of Kirkland are contained in ~~the standard plans~~ Appendix A of the 2009 King County Surface Water Design Manual and the City of Kirkland Addendum to the 2009 King County Surface Water Design Manual. For facilities which do not have maintenance standards, the property owner shall develop a maintenance standard. Any maintenance agreement submitted and approved by the city through the permit process shall supersede maintenance requirements contained in the ~~standard plans~~ 2009 King County Surface Water Design Manual and the City of Kirkland Addendum to the 2009 King County Surface Water Design Manual.

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

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

(d) The city will maintain all elements of the storm drainage system beginning at the first catch-basin within the public right-of-way, and in easements or tracts dedicated to and accepted by the city. All other facilities, including, but not limited to, nonresidential storm water facilities and roof downspout drains and driveway drains serving single-family residences, shall be maintained by the property owner.

(e) Maintenance of Nonresidential Storm Water Facilities by Owners.

(1) Any person or persons holding title to a nonresidential property for which storm water facilities have been required by the city of Kirkland shall be responsible for the continual operation, maintenance, and repair of said storm water facilities in accordance with the criteria set forth in ~~the standard plans~~ Appendix A of the 2009 King County Surface Water Design Manual and the City of Kirkland Addendum to the 2009 King County Surface Water Design Manual. For facilities which do not have maintenance standards, the property owner shall develop a maintenance standard.

(2) For nonresidential storm water facilities, failure to meet the maintenance requirements specified in Appendix A of the standard

~~plans~~ 2009 King County Surface Water Design Manual and the City of Kirkland Addendum to the 2009 King County Surface Water Design Manual constitutes a violation of this chapter, and shall be enforced against the owner(s) of the subject property served by the storm water facility.

(f) City Acceptance of Existing Residential Storm Water Facilities. The city may accept for maintenance those storm water facilities serving residential developments existing prior to the effective date of the ordinance codified in this chapter that meet the following conditions:

(1) The storm water facilities serve more than one individual house or property;

(2) An inspection by the director has determined that the storm water facilities are functioning as designed;

(3) The storm water facilities have had at least two years of satisfactory operation and maintenance, unless otherwise waived by the director;

(4) An inspection by the director has determined that the storm water facilities are accessible for maintenance using existing city equipment;

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

(6) All easements entitling the city to properly access, operate and maintain the subject storm water facilities have been conveyed to the city and have been recorded with the King County office of records and elections;

(7) The person or persons holding title to the properties served by the storm water facilities show proof of the correction of any defects in the drainage facilities, including provision of maintenance access, as required by the director.

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

Section 3. 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 4. This ordinance shall be in 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.

Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2009.

Signed in authentication thereof this _____ day of _____, 2009.

MAYOR

Attest:

City Clerk

Approved as to Form:

City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4214

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO STORM
AND SURFACE WATER MANAGEMENT OF DEVELOPMENT ACTIVITIES.

SECTION 1. Amends Section 15.52.060 of the Kirkland Municipal Code to replace current design and construction standards and requirements with those in Appendix I of the Western Washington Phase II Municipal Stormwater Permit, the 2009 King County Surface Water Design Manual, and the City of Kirkland Addendum to the 2009 King County Surface Water Design Manual.

SECTION 2. Amends Section 15.52.120 of the Kirkland Municipal Code to replace current standards for operation and maintenance of storm water facilities with those in Appendix A of the 2009 King County Surface Water Design Manual and the City of Kirkland Addendum to the 2009 King County Surface Water Design Manual.

SECTION 3. Provides a severability clause for the ordinance.

SECTION 4. 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.

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 _____ day of _____, 2009.

I certify that the foregoing is a summary of Ordinance 4214 approved by the Kirkland City Council for summary publication.

City Clerk