

ORDINANCE O-4740

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LAND SURFACE MODIFICATION AND AMENDING SECTION 29.12.010 OF THE KIRKLAND MUNICIPAL CODE.

1 WHEREAS, KMC 29.12.010 sets forth exemptions from Land
2 Surface Modification permits and utilities or other work in a right-of-way
3 supervised by the City as authorized in writing by the director of the
4 department of public works; and

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6 WHEREAS, said exemption does not apply to work in a right-of-
7 way located in critical areas and their buffers; and

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9 WHEREAS, although geologically hazardous areas are included
10 in the definition of critical areas, the City has not historically required
11 permits for such work in geologically hazardous areas in the right-of-
12 way because land surface modification permits duplicate the project
13 engineering and inspection functions as overseen by the director of the
14 department of public works; and

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16 WHEREAS, pursuant to the State Environmental Policy Act
17 (SEPA), there has accompanied the legislative proposal a SEPA
18 Addendum to Existing Environmental Documents issued by the
19 responsible official pursuant to WAC 197-11-625; and

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21 WHEREAS, in public meeting the City Council considered the
22 environmental documents received from the responsible official.

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

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27 Section 1. Kirkland Municipal Code Section 29.12.010 is
28 amended to read as follows:

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30 29.12.010 Permit exemptions.

31 Except in (1) critical areas and their buffers, (2) areas waterward of
32 the ordinary high water mark (OHWM), (3) shoreline setback, or (4)
33 areas with an historic overlay designation, a land surface modification
34 permit shall not be required for the following:

35 (a) The removal of overhanging vegetation and fire hazards as
36 specified in Section 21.41.302 of the Kirkland Municipal Code.

37 (b) The removal of prohibited vegetation.

38 (c) Land surface modification performed in the normal course of
39 maintaining existing landscaping on a lot associated with an existing
40 building or buildings, provided such work:

41 (1) Does not substantially change the points where the stormwater
42 or groundwater enters or exits the subject property; and will not
43 change the quality, quantity, or velocity of stormwater or groundwater;

44 (2) Does not result in an increase or decrease in topography at any
45 point of more than four feet; and

- 46 (3) Does not involve more than fifty cubic yards of material in any
- 47 twelve-month period.
- 48 (d) Any excavation authorized by a valid building permit. This shall
- 49 not exempt any fill made with the material from such excavation when
- 50 the material is removed from the lot or any fill material which is placed
- 51 on the lot.
- 52 (e) Utilities or other work in a right-of-way supervised by the city of
- 53 Kirkland, authorized in writing by the director of the department of
- 54 public works, or as allowed by a right-of-way permit approved under
- 55 Chapter 19.12 of the Kirkland Municipal Code. Geologically hazardous
- 56 areas shall not preclude this exemption.
- 57 (f) Excavations for franchise utility service connections (power,
- 58 telephone, cable, gas, etc.) to serve existing and/or new structures.
- 59 (g) Correction of storm drainage problems when supervised by the
- 60 department of public works.
- 61 (h) Exploratory excavations under the direction of a professional
- 62 engineer licensed in the state of Washington, as long as the extent of
- 63 the land surface modification does not exceed the minimum necessary
- 64 to obtain the desired information.
- 65 (i) Normal maintenance and repair of the facilities of a common
- 66 carrier by rail in interstate commerce within its existing right-of-way.
- 67 (j) Cemetery graves.

68
 69 Section 2. If any provision of this ordinance or its application to
 70 any person or circumstance is held invalid, the remainder of the
 71 ordinance or the application of the provision to other persons or
 72 circumstances is not affected.

73
 74 Section 3. This ordinance shall be in force and effect five days
 75 from and after its passage by the Kirkland City Council and publication,
 76 as required by law.

77
 78 Passed by majority vote of the Kirkland City Council in open
 79 meeting this ____ day of November, 2020.

80
 81 Signed in authentication thereof this ____ day of November,
 82 2020.

 Penny Sweet, Mayor

Attest:

 Kathi Anderson, City Clerk

Approved as to Form:

 Kevin Raymond, City Attorney