

ORDINANCE O-4319

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO
EMERGENCY SEWER MAIN EXTENSIONS

WHEREAS, due to the increasing number of failing septic systems and the resulting environmental damage, the City Council established the Emergency Sewer Program (ESP) in 1999, which is codified in Chapter 15.38 of the Kirkland Municipal Code; and

WHEREAS, the ESP not only authorized the City to construct sewer main extensions in response to emergency situations, as allowed by RCW 35.67.360, it also encouraged residents to connect to newly built systems by providing City financing for each resident's proportional share of the costs of constructing the sewer main extension, which otherwise would have had to be paid at the time of connecting to the system; and

WHEREAS, in keeping with this philosophy and as also allowed by RCW 35.67.360, the Council would like to provide further encouragement to connect by allowing for financing of the sewer capital facilities charge required by KMC 15.12.063, which currently must be paid at the time of connection,

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

Section 1. Kirkland Municipal Code Section 15.38.010 is hereby amended to read as follows:

15.38.010 Connection requests.

The owner of an existing single-family or multifamily dwelling within the Kirkland sewer system service area, having a failed or failing septic tank system, may request to connect to the public sewer system, even though such property may be located more than three hundred thirty feet from an existing sewer main (requiring construction of a sewer main extension in order to be connected). Whenever construction of a sewer main extension is required to make such connection possible, the city shall plan, design and construct such extension within a reasonable time pursuant to the criteria for sewer main extension projects and construction priorities authorized by Section 15.38.040 of this chapter. Upon completion of construction and acceptance of the sewer main extension, the city shall:

- (1) Give notice to the requesting property owner to connect the property to the public sewer system within thirty days of receipt of the notice; and
- (2) Give notice to other property owners benefited by the extension construction to connect the property to the public sewer system within thirty days of receipt of the notice; provided,

that in lieu of connection, such property owners may delay connection of the property and payment of the extension charge pursuant to Section 15.38.030 and/or the sewer capital facilities charge pursuant to 15.12.063 (SCFC) by executing a written request and authorization, in a form approved by the director of public works in accordance with Section 15.38.040, that requests delay of connection and payment and that acknowledges filing of the document described in Section 15.38.030(c) and creation of the lien of Section 15.38.030(d)(5). The department of public works shall record the written request with the King County office of records and elections.

Section 2. Kirkland Municipal Code Section 15.38.030 is hereby amended to read as follows:

15.38.030 Extension charge—Established.

(a) The city shall collect sewer extension charges from owners of properties which individually benefit from publicly built sewer extension facilities constructed after adoption of the ordinance codified in this chapter, except property owners who previously paid their fair share of such an extension through or a LID or ULID. Facilities that may be covered in an extension charge include, but are not limited to, stubs built from the sewer main to the property line, pump stations and sewer main extensions which bring the sewer main to the farther boundary of the property.

(b) The extension charge is the property owner's equitable share of the established costs of the facilities extension from which the property owner benefits. The equitable share shall include interest charges applied from the date of construction acceptance of the sewer extension until the property connects, at a rate commensurate with the rate of interest established in subsection (d)(3) of this section, as applicable at the time of construction of the facility to which the property owner is seeking to connect.

(c) The extension facilities cost shall be allocated to benefiting property owners based on the number of residential customer equivalents. For the purposes of this chapter, "residential customer equivalents" means the number of dwelling units existing on a lot or parcel of land as of the date of construction acceptance of the sewer extension to which the property will be connected or a vacant lot or parcel of land of reasonable residential lot size as determined by the director of public works pursuant to Section 15.38.040 of this chapter. At completion of each extension construction project the department of public works shall record, with the King County office of records and elections, a document which identifies the

project and includes a statement of total construction cost, the amount of such cost per residential customer equivalent, a legal description of each lot or parcel of land benefited and the amount of the extension charge allocable for each lot or parcel so described.

(d) The extension charge and the SCFC shall be payable to the city as follows:

(1) For a requesting property owner and for other property owners who do not execute a written request and authorization to delay payment of the extension charge and/or the SCFC, upon receipt of the thirty-day notice to connect pursuant to Section 15.38.010; or

(2) For other property owners who execute a written request and authorization to delay payment of the extension charge and/or the SCFC pursuant to Section 15.38.010, upon connection of the property to the public sewer system pursuant to Section 15.28.010, or ten years following acceptance of the construction of the extension, whichever occurs first; or

(3) The city may enter into contracts with the owners of existing single-family residences, multifamily residences and businesses that meet criteria specified by the department of public works for payment of extension charges and/or the SCFC over ten successive years instead of as a lump sum. In addition to the installment payment on the extension charge and/or SCFC principal, each time payment shall include an administrative handling fee to be established by the finance director, together with interest on the unpaid balance of the extension charge and/or SCFC principal at a rate to be set quarterly on the first working day of the quarter by the finance director, which shall not exceed ninety-five percent of the market yield to maturity of the most recently issued U.S. Treasury note. The interest rate and administrative handling fee to be set quarterly shall remain in effect for said contracts for the term of the contract. The interest rate shall be set quarterly for time payment contracts entered into during that current year. The contract shall provide that the first annual payment shall be payable as of July 1st following connection with the remaining payments due on July 1st of each successive year.

(4) Notwithstanding the foregoing, the entire amount of the extension charge and the SCFC or any remaining unpaid balance thereof shall be payable in full at the time of closing upon sale of the property, or upon refinancing of the property unless the owner requests that the city waive its right to collect this charge out of the refinance proceeds, whether or not the property has been connected to the sewer extension.

(5) Pursuant to RCW 35.67.360, the extension charge and/or SCFC or any unpaid balance of the time payment contract shall

be secured by a lien against the connecting property. The lien shall attach as of the date of recording of the document required to be recorded by the department of public works by subsection (c) of this section and continue thereafter until the extension charge and/or SCFC or any unpaid balance of the time payment contract has been fully paid.

Section 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this Section, or the application of the provision to other persons or circumstances is not affected.

Section 5. 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 open meeting this 6th day of September, 2011.


Signed in authentication thereof this 6th day of September, 2011.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney