

Chapter 141 – SHORELINE ADMINISTRATION

141.10 User guide.

1. This chapter contains the provisions regarding the city's administration and enforcement of the Shoreline Management Act and the Kirkland shoreline master program (Chapter 83 of the Kirkland Zoning Code), as well as the permit system applicable to the Shoreline Management Act and shoreline master program of the city.

141.20 Administrative responsibilities in general.

1. Except as otherwise specifically established in this chapter or Chapter 83 of the Kirkland Zoning Code, the Department of Planning and Community Development of the city is responsible for the administration of the Shoreline Management Act and the shoreline master program of the city.

141.30 ~~Permit Review~~ Required.

- ~~1.~~ Within the shoreline jurisdiction, as described in KZC 83.90, development shall be allowed only as authorized in a Shoreline Substantial Development Permit, Shoreline Conditional Use Permit or Shoreline Variance Permit, unless specifically exempted from obtaining such a permit under Section 141.450.
- ~~4.2.~~ Chapter 83 of the Kirkland Zoning Code specifies which permit is required. Enforcement action by the City or Department of Ecology may be taken whenever a person has violated any provision of the Shoreline Management Act or any City of Kirkland Shoreline Master Program provision, or other regulation promulgated under the Shoreline Management Act. Procedures for enforcement action and penalties shall be as specified in WAC 173-27-240 through 173-27-310, which are hereby adopted by this reference.
- ~~3.~~ Where a proposed development activity encompasses both shoreline and non-shoreline areas, a shoreline substantial development permit or other required permit must be obtained before any part of the development, even the portion of the development activity that is entirely confined to the upland areas, can proceed.
- ~~2.4.~~

141.40 Exemption from permit requirements.

1. General - Proposals identified under WAC 173-27-040 are exempt from obtaining a Shoreline Substantial Development permit; however, a Shoreline Variance or Shoreline Conditional Use may still be required. Proposals that are not permitted under the provisions of Chapter 83 shall not be allowed under an exemption. Applicants shall have the burden to demonstrate that the proposal complies with the requirements for the exemption sought as described under WAC 173-27-040. A proposal that does not qualify as an exemption may still apply for a Shoreline Substantial Development permit.
2. Authority - The Planning Official shall review the proposed development activity for compliance with the shoreline regulations contained in Chapter 83 KZC. All proposed uses and development occurring within shoreline jurisdiction must conform to Chapter 90.58 RCW, the Shoreline Management Act, and the provisions of Chapter 83 KZC, whether or not a permit is required.
3. Application –
 - a. As part of any request for a determination of exemption, the applicant shall show compliance with the regulations in Chapter 83 KZC by submitting an application on a form provided by the Planning Department. The application shall include all documents and exhibits listed on the application form. Alternatively, the applicant may use the Joint Aquatic Resources Permit Application form and any other application forms deemed appropriate by the Planning Official. Applications may be deemed complete when required forms and attachments are provided consistent with a Shoreline Exemption Development Application Checklist. ~~The applicant shall identify whether the proposal requires an Army Corps of Engineers Section 10 or Section 404 Approval. If so, a copy of the Letter of Exemption shall be filed with the Department of Ecology.~~

- b. [The applicant shall identify whether the proposal requires an Army Corps of Engineers Section 10 or Section 404 Approval.](#) The Planning Official may waive the application for any proposal that does not require an Army Corps of Engineers Section 10 or Section 404 Approval. In these circumstances, the Planning Official shall conduct a review for compliance with the shoreline regulations contained in Chapter 83 of the Zoning Ordinance in conjunction with a related development permit.-
4. [Approval Decision](#) - The Planning Official may grant, deny, or conditionally approve the shoreline exemption request. The approval or conditional approval will become conditions of approval for any related development permit, and no development permit will be issued unless it is consistent with the shoreline exemption approval or conditional approval. [A copy of the City's Letter of Exemption shall be filed with the Department of Ecology.](#)
5. [Lapse of Approval](#) – The lapse of approval for the shoreline exemption approval shall be the same as the expiration date of the development permit and all conditions of the approval shall be included in the conditions of approval granted for that development permit.
6. [Revisions to WAC 173-27-040](#) - With subsequent revisions to WAC 173-27-040, the Planning Director shall determine administratively whether a Letter of Exemption is required and issue said decision as an Administrative Interpretation under KZC Section 83.50.

141.50 Pre-Submittal

1. [General](#) – Before applying for a permit or approval under this chapter, the applicant shall attend a pre-submittal meeting with the Planning Official consistent with the provisions of this section.
2. [Scheduling](#) – The Planning Department will arrange a time for the pre-submittal meeting as soon as is reasonably practicable after the meeting is requested by the applicant.
3. [Purpose](#) – The purpose of the pre-submittal meeting is for the Planning Official to provide information to the applicant regarding what information needs to be submitted for a complete application.
4. [Time Limits](#) – The City will not process an application under this chapter unless the applicant attended a pre-submittal meeting under this section, regarding the proposal for which application is made, within the six months immediately prior to the date the application is submitted.

141.60 Applications

1. [Who May Apply](#) – Any person may, personally or through an agent, apply for a decision regarding property he/she owns.
2. [How To Apply](#) – The applicant shall file the following information with the Planning Department:
 - a. A complete application, with supporting affidavits, on forms provided by the Planning Department. Alternatively, the applicant may use the Joint Aquatic Resources Permit Application form;
 - b. Any information or material that is specified in the provisions of Chapter 83 of the Kirkland Zoning Ordinance; and
 - c. Any additional information or material that the Planning Official specifies at the pre-submittal meeting.
3. [Fee](#) – The applicant shall submit the fee established by ordinance with the application.

141.70 Procedures

1. Substantial development permits.

- a. [General](#) –
 - 1) Applications for a Shoreline Substantial Development Permit shall follow the procedures for a Process I Permit review pursuant to Chapter 145, except as otherwise provided in this Section.
 - 2) If the proposal that requires a substantial development permit is part of a proposal that requires additional approval through Process IIA or Process IIB under Chapter 150 or Chapter 152, respectively, the entire proposal will be decided upon using that other process.

- 3) If the proposal that requires a substantial development permit is part of a proposal that requires additional approval through the Design Review Board (DRB) under Chapter 142, the design review proceedings before the DRB shall be conducted in accordance with Chapter 142.
 - ~~4)~~
 - b. Notice of Application and Comment Period –
 - 1) In addition to the notice of application content established in Chapter 145, notice of applications for Shoreline Substantial Development Permits must also contain the information required under WAC 173-27-110.
 - 2) The minimum notice of application comment period for Shoreline Substantial Development Permits shall be no fewer than 30 days. However, the minimum comment period for applications for Shoreline Substantial Development Permits for limited utility extensions and bulkheads, as described by WAC 173-27-120, shall be 20 days.
 - c. Burden of Proof –
 - 1) WAC 173-27-140 establishes general review criteria that must be met.
 - 2) WAC 173-27-150 establishes that a substantial development permit may only be granted when the proposed development is consistent with all of the following:
 - a) The policies and procedures of the Shoreline Management Act;
 - b) The provisions of Chapter 173-27 WAC;
 - c) Chapter 83 of the Kirkland Zoning Code.
 - d. Decision -
 - 1) At the time of a final decision, the Planning Official shall mail a copy of the decision, staff advisory report, transmittal sheet and Shoreline checklist to the applicant, Department of Ecology, and the Washington State Attorney General's Office, pursuant to RCW 90.58.140 and WAC 173-27-130. The permit shall state that construction pursuant to a permit shall not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in RCW 90.58.140(6); or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of filing as defined in RCW 90.58.140(5) and (6). "Date of Filing" is that date that the Department of Ecology received a copy of the decision.
 - 2) An appeal of a Shoreline Substantial Development Permit shall be to the State Shorelines Hearings Board and shall be filed within 21 days of the receipt of the City's decision by the Department of Ecology as set forth in RCW 90.58.180.
 - e. Effect of Decision – For Shoreline Substantial Development Permits, no final action or construction shall be taken until [the termination of all review proceedings initiated within 21 days after notice of the final action taken by the City is filed with the Department of Ecology.](#)
 - f. Complete Compliance Required –
 - 1) General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter in order to do everything authorized by that approval.
 - 2) Exception – Subsequent Modification – WAC 173-27-100 establishes the procedure and criteria under which the city may approve a revision to a permit issued under the Shoreline Management Act and the shoreline master program.
 - g. Time Limits – Construction and activities authorized by a Shoreline Substantial Development [Activity Permit](#) are subject to the time limitations of WAC 173-27-~~40~~90.
- 2. Conditional use permits.**
- a. General - Applications for a Shoreline Conditional Use Permit shall follow the procedures for a Process IIA Permit review pursuant to Chapter 150, except as otherwise provided in this Section. If the proposal that requires a conditional use permit is part of a proposal that requires additional approval through a Process IIB, the entire proposal will be decided upon using that other process.
 - b. Notice of Application and Comment Period –

- 1) In addition to the notice of application content established in Chapter 150, notice of applications for Shoreline Conditional Use Permits must also contain the information required under WAC 173-27-110.
- 2) The minimum notice of application comment period for Shoreline Conditional Use Permits shall be no fewer than 30 days.
- c. Notice of Hearing – The Planning Official shall distribute notice of the public hearing at least 15 calendar days before the public hearing.
- d. Burden of Proof –
 - 1) WAC 173-27-140 establishes general review criteria that must be met.
 - 2) WAC 173-27-160 establishes ~~that a~~ criteria that must be met for a conditional use permit ~~may to~~ be granted.
 - 3) In addition, the city will not issue a conditional use permit for a use which is not listed as allowable in the shoreline master program unless the applicant can demonstrate that the proposed use has impacts on nearby uses and the environment essentially the same as the impacts that would result from a use allowed by the shoreline master program in that shoreline environment.
- e. Decision -
 - 1) ~~Approval by Department of Ecology.~~ Once the city has approved a conditional use permit it will be forwarded to the State Department of Ecology for its review and approval/disapproval jurisdiction under WAC 173-27-200.
 - 2) At the time of a final decision by the State Department of Ecology for a Shoreline Conditional Use Permit, the Planning Official shall, pursuant to RCW 90.58.140 and WAC 173-27-130, mail a copy of the decision, staff advisory report, transmittal sheet, and Shoreline Checklist to the applicant, Department of Ecology, and the State of Washington's Office of the Attorney General. The permit shall state that construction pursuant to a permit shall not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in RCW 90.58.140(6); or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of filing as defined in RCW 90.58.140(5) and (6). "Date of Filing" is that date that the Department of Ecology received a copy of the decision.
 - 3) Appeals of a Shoreline Conditional Use Permit or shall be to the State Shoreline Hearings Board and shall be filed within 21 days of the receipt of the City's decision by the Department of Ecology, as set forth in RCW 90.58.180.
- f. Effect of Decision – For Shoreline Conditional Use Permits, no final action or construction shall be taken until the termination of all review proceedings initiated within 21 days from the date DOE transmits its decision on the Shoreline Conditional Use Permit.
- g. Complete Compliance Required –
 - 1) General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter in order to do everything authorized by that approval.
 - 2) Exception – Subsequent Modification – WAC 173-27-100 establishes the procedure and criteria under which the city may approve a revision to a permit issued under the Shoreline Management Act and the shoreline master program.
- h. Time Limits – Construction and activities authorized by a Shoreline ~~Substantial~~ Conditional Use Permit are subject to the time limitations under WAC 173-27-~~490090~~.

3. Variances.

- a. General - Applications for a Shoreline Variance Permit shall follow the procedures for a Process IIA Permit review pursuant to Chapter 150, except as otherwise provided in this Section. If the proposal that requires a ~~conditional use permit~~ Shoreline Variance is part of a proposal that requires additional approval through a Process IIB, the entire proposal will be decided upon using that other process.
- b. Notice of Application and Comment Period –

- 1) In addition to the notice of application content established in Chapter 150, notice of applications for Shoreline ~~Conditional Use Variance~~ Permits must also contain the information required under WAC 173-27-110.
- 2) The minimum notice of application comment period for Shoreline ~~Conditional Use Variance~~ Permits shall be no fewer than 30 days.
- c. Notice of Hearing – The Planning Official shall distribute notice of the public hearing at least 15 calendar days before the public hearing.
- d. Burden of Proof –
 - 1) WAC 173-27-140 establishes general review criteria that must be met.
 - 2) WAC 173-27-170 establishes ~~that a criteria that must be met for a variance conditional use~~ permit ~~may to~~ be granted.
- e. Decision -
 - 1) Approval by Department of Ecology. Once the city has approved a variance permit it will be forwarded to the State Department of Ecology for its review and approval/disapproval jurisdiction under WAC 173-27-200.
 - 2) At the time of a final decision for a Shoreline Variance Permit, the Planning Official shall, pursuant to RCW 90.58.140 and WAC 173-27-130, mail a copy of the decision, staff advisory report, transmittal sheet, and Shoreline Checklist to the applicant, Department of Ecology, and the State of Washington's Office of the Attorney General. The permit shall state that construction pursuant to a permit shall not begin or be authorized until twenty-one days from the date the permit decision was filed as provided in RCW 90.58.140(6); or until all review proceedings are terminated if the proceedings were initiated within twenty-one days from the date of filing as defined in RCW 90.58.140(5) and (6). "Date of Filing" is that date that the Department of Ecology received a copy of the decision.
 - 3) Appeals of a Shoreline Variance Permit shall be to the State Shoreline Hearings Board and shall be filed within 21 days of the receipt of the City's decision by the Department of Ecology, as set forth in RCW 90.58.180.
- f. Effect of Decision – For Shoreline Variance Permits, no final action or construction shall be taken until the termination of all review proceedings initiated within 21 days from the date DOE transmits its decision on the Shoreline Variance Permit.
- g. Complete Compliance Required –
 - 1) General – Except as specified in subsection (2) of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this chapter in order to do everything authorized by that approval.
 - 2) Exception – Subsequent Modification – WAC 173-27-100 establishes the procedure and criteria under which the city may approve a revision to a permit issued under the Shoreline Management Act and the shoreline master program.
- h. Time Limits – Construction and activities authorized by a Shoreline ~~Substantial Conditional Use Variance Permit~~ are subject to the time limitations under WAC 173-27-~~490090~~.

4. Request for Relief from Standards

- a. General - When shoreline stabilization measures intended to improve ecological functions result in shifting the OHWM landward of the pre-modification location, the City may propose to grant relief from additional or more restrictive standards and use regulations resulting from the shift in ordinary high water mark, such as but not limited to an increase in shoreline jurisdiction, shoreline setbacks, or lot coverage.
- b. Burden of Proof – Relief may be granted when:
 - 1) The proposed relief is the minimum necessary to relieve the hardship;
 - 2) The restoration project will result in a net environmental benefit; and
 - 3) The proposed relief is consistent with with the objectives of the City's Restoration Plan and SMP.
- c. Decision - Approval by Department of Ecology. Once the city has approved a permit it will be forwarded to the State Department of Ecology for its review and approval/disapproval. The application review must occur during the Department of Ecology's normal review of a

shoreline substantial development permit, conditional use permit, or variance. If a permit is not required for the restoration project, the City shall submit a separate application and necessary supporting information to the Department of Ecology.

141.80 Enforcement authority.

1. WAC Chapter 173-27 contains enforcement regulations, including authority for the city to issue regulatory orders to enforce the Shoreline Management Act and the shoreline master program. In addition, the city shall have any and all other powers and authority granted to or devolving upon municipal corporations to enforce ordinances, resolutions, regulations, and other laws within its territorial limits.

141.90 Annexation

The City may adopt shoreline environment pre-designations for shorelines located outside of city limits but within the urban growth area. In the event of annexation of a shoreline not pre-designated in the shoreline master program, the City shall develop or amend shoreline policies and regulations to include the annexed area. Such policies and regulations for annexed areas shall be consistent with RCW 90.58 and WAC 173-26 and shall be submitted to the Department of Ecology for approval.

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