

City Plans And Development Regulations

The development of land in the City of Kirkland is governed by several documents adopted by the City Council, most notably those listed below:

Comprehensive Plan

This is the long range plan for Kirkland's growth and development, prepared in compliance with the state Growth Management Act. All City development regulations must be consistent with the Comprehensive Plan. City expenditures for public facilities must also be consistent with the plan.

Uniform Building Code (UBC)

The UBC contains detailed regulations governing construction practices, ensuring that buildings will be structurally sound and safe. As the name implies, the UBC is applied, with some exceptions, uniformly throughout the State.

Zoning Code

The Zoning Code establishes development regulations for each of numerous zoning districts in the City. The regulations address issues such as permitted land uses, maximum building heights and setbacks, landscaping and parking requirements, protection of environmentally sensitive areas, and required street improvements.

Subdivision Ordinance

This document provides regulations governing the subdivision of land to create new building lots.

Shoreline Master Program

Policies and regulations for development in and within 200 feet of Lake Washington are found in this document, as required by the state Shoreline Management Act.

Design Guidelines for Pedestrian-Oriented Business Districts

This document contains urban design standards applicable to the certain business districts.

SEPA Guidelines

Chapter 24.02 of the Kirkland Municipal Code establishes policies and procedures for administering the State Environmental Policy Act (SEPA).

Concurrency Management Rules

Title 25 of the Municipal Code establishes a system for ensuring that road improvements are "concurrent" with new development. Procedures are established for evaluating the traffic impacts of new development in accordance with the City's adopted level of service.

Impact Fee Regulations

Under Municipal Code Title 27, new development is required to pay fees to help offset the cost of improving the road network and park system.

Public Works Pre-approved Plans and Policies

Technical requirements for constructing streets, sanitary sewers, water lines and storm drainage facilities are contained in this document.

King County Storm Water Design Manual This manual of design standards for storm water control facilities was prepared by King County and has been adopted by Kirkland.

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Development Approvals In The City Of Kirkland



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The documents listed on page 4 establish the type of approval processes required for different types of developments. Following is a summary of the most common types of approvals:

Ministerial Decisions

Many development decisions are ministerial. These decisions are made entirely by City staff, based on whether a development application complies with adopted City building, zoning and public works regulations. In most cases, the staff decisions are final and may not be appealed. Public notice of these decisions is not provided. However, the decisions, and applications to which they pertain, are matters of public record and are available to the public at City Hall.

- **Building Permits** Most development activities require a building permit, and in many cases, this is the only City permit required. City officials review each building permit application to assure that all regulations are met. If they are, the applicant is entitled to receive the permit. Although several City departments are involved in the review of building permit applications, the permits are issued by the Department of Fire and Building Services.
- **Concurrency Test** Most new developments must be reviewed by the Public Works Department for road concurrency prior to receiving a building permit or land use approval. Developments that pass the concurrency test (signifying that the traffic from the development will not cause the road system to fall below the City's adopted level of service) are issued a notice of concurrency.
- **Administrative Land Use Decisions** The Zoning Code, Subdivision Ordinance and Shoreline Master Program specify that certain issues are to be decided by the Planning Department. Such issues are either technical in nature or involve minor aspects of development. These administrative decisions are based on specific criteria or standards found in the development codes. Examples of these kinds of decisions are administrative design review; approval of most wireless communication antennae; minor modifications to previously approved applications; modifications from some landscaping and parking standards; and minor variances to expand or modify existing structures.

State Environmental Policy Act (SEPA)

SEPA is a state law that requires an evaluation of certain development proposals for environmental impacts prior to issuing a building permit or other development approval. For applicable developments, applicants must submit an "environmental checklist" that summarizes impacts in the following areas: earth, air, water, plants, animals, energy and natural resources, environmental health, land and shoreline uses, housing, aesthetics, light and glare, recreation, historical and cultural preservation, transportation, public services and utilities.

City planners review the checklist to determine if any potential impacts are "significant," in which case the applicant is required to prepare a detailed Environmental Impact Statement. Alternatively, the Planning Department may determine that the impacts are not significant or would not be significant if specific "mitigating measures" are incorporated in the proposal. The evaluation of environmental impacts must be based upon adopted City policies and regulations. Required mitigating measures must further an adopted policy, but should not duplicate other City requirements with which the application will have to comply. Consequently, mitigating measures typically fill gaps that current regulations do not adequately address. The issue most frequently addressed through SEPA is traffic.

The Planning Department provides public notice of SEPA determinations and accepts public comments when mitigating measures are proposed or if there are other agencies with jurisdiction. The SEPA decision may be appealed to a Hearing Examiner. Prior to deciding on the appeal, the Hearing Examiner holds a public hearing. The hearing is held at the same time as any required hearing on the application itself. The decision of the Hearing Examiner on a SEPA appeal is the final decision of the City, but may be appealed to Superior Court after the City has issued its final decision on the application.

Approvals by Other Agencies: In addition to City procedures, certain developments may also require permits from state or federal agencies. It is the responsibility of the applicant to determine if other permits are necessary.

Land Use Decisions Involving Public Comment

In some cases, the Zoning Code, Subdivision Ordinance or Shoreline Master Program require that land use proposals be approved using review procedures that allow public comment. Different types of procedures are used for different types of land use applications. In all cases, however, the review procedures involve the following:

- 1) public notice and an opportunity for public comment;
- 2) a written decision based on compliance with applicable development regulations; and
- 3) an ability to appeal the decision by the applicant or anyone who submitted timely comments to the decision-maker.

The particular way that public comment, decision-making and appeals are handled differs for each of the different types of review procedures. For each type of procedure, there are detailed legal rules governing the procedures and City officials do not have the authority to vary those rules on a case by case basis.

In all cases, decision-makers are required to base their decisions on whether the application complies with applicable development regulations and the City's Comprehensive Plan, not on whether the majority of comments support or oppose the application. In order to be most effective, public comments should specifically address how an application relates to applicable development regulations and policies.

Following is a brief description of the different types of public review procedures:

• Process I

The Planning Director makes the decision on this type of application. Public notice is provided in the newspaper and on signs located near the site. Public comments may be submitted in writing. Examples of activities requiring Process I approval include subdivisions containing nine or fewer lots (known as short plats) and single family variances.

Appeals of most Process I decisions are decided by a Hearing Examiner, although some are decided by the City Council. Prior to making a decision on the appeal, the Hearing Examiner or City Council must hold a public hearing at which only the applicant and those who submitted timely comments to the Planning Director may participate. The scope of the hearing is limited to those issues raised in the appeal. The burden of proof in the appeal is on the appellant to demonstrate that the Planning Director made an incorrect decision. The decision on the appeal is the final decision of the City, but may be appealed to Superior Court.

• Process IIA

An independent Hearing Examiner is the decision-maker for Process IIA applications. Public notice is provided in the newspaper, on signs near the site and to nearby property owners and residents. Prior to making a decision, the Hearing Examiner holds a public hearing that is open for anyone to speak or submit written comments. Examples of applications requiring Process IIA approval include subdivisions containing ten or more lots, and variances in commercial and residential zones.

Appeals of Hearing Examiner's decisions are heard by the City Council. When considering the appeal, the City Council must hold a "closed record" hearing at which only the applicant and those who submitted timely comments to the Hearing Examiner may participate. The scope of the hearing is limited to those issues raised in the appeal. At the hearing, no new evidence may be submitted. Participants may only use the information presented at the Hearing Examiner's hearing (referred to as "the record") to argue their positions. The burden of proof in the appeal is on the appellant to demonstrate that the Hearing Examiner made an erroneous decision. The decision on the appeal is the final decision of the City, but may be appealed to Superior Court.

• Process IIB

This process is the same as Process IIA, except that instead of making a decision on the application, the Hearing Examiner makes a recommendation to the City Council. The City Council is not allowed to hold another public hearing. The Council's decision must be based only on the record established at the Hearing Examiner's public hearing. Park master plans and Planned Unit Developments are examples of applications requiring approval through Process IIB.

Because the City Council is the decision-maker on Process IIB applications, there is no City appeal process. However, the applicant or anyone who submitted timely comments to the Hearing Examiner may submit a written "challenge" of the Hearing Examiner's recommendation. The challenge, along with any written responses, is made available to the Council before it makes its decision. The decision of the City Council is the final decision of the City, but may be appealed to Superior Court.

Houghton Community Council Review

Within the limits of the former Town of Houghton, Process IIB applications also require approval of the Houghton Community Council. The Community Council typically joins with the Hearing Examiner in conducting the public hearing, following which the Community Council submits its recommendation to the Hearing Examiner. The Community Council also has the opportunity to approve or deny the decision of the City Council, but must base its decision on the record established by the Hearing Examiner.

• Design Review Board

Most developments in the Downtown and Juanita business districts must be approved by the Design Review Board (DRB). The authority of the DRB is to determine whether a proposal complies with the City's adopted design regulations and guidelines. The DRB reviews development proposals in two phases – first at a conceptual design conference, prior to submittal of an application, and then at a design response conference, once an application is made. Public notice of the application is provided in the newspaper, on signs near the site and to nearby property owners and residents. Public comments are allowed at the design response conference.

Appeals of DRB decisions are decided by the City Council. Prior to deciding the appeal, the City Council must hold a hearing at which only the appellant, applicant and DRB chair may participate. The scope of the hearing is limited to those issues raised in the appeal. In deciding the appeal, the City Council must give substantial weight to the decision of the DRB. The decision on the appeal is the final decision of the City, but may be appealed to Superior Court.

