

ORDINANCE NO. 2766*Repealed by 3705*

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE SUBDIVISION OF LAND, INCLUDING THE SHORT SUBDIVISION OF LAND, ADOPTING A NEW LAND SUBDIVISION AND PLATTING ORDINANCE CONSISTENT WITH RCW CHAPTER 58.17, PROVIDING FOR ITS INCLUSION IN THE KIRKLAND MUNICIPAL CODE AND REPEALING ORDINANCE 2178 AS HERETOFORE AMENDED.

Whereas, during the past several sessions of the Washington State legislature, substantial amendments have been made to the State subdivision statute, RCW Chapter 58.17; and

Whereas, it is necessary therefore and in the public interest to modify and reenact the Kirkland subdivision ordinance, and to include same in the Kirkland Municipal Code in order that the local land subdivision regulations, including regulation of short subdivisions, remain consistent with RCW Chapter 58.17 and the authority therein granted to cities with respect to the regulation of platting and land subdivision; and

Whereas, the Kirkland Planning Commission, following public hearing thereon on September 1, 1983, has recommended to the Kirkland City Council, a new land subdivision ordinance regulating the subdivision and the short subdivision of land consistent with RCW Chapter 58.17, and the Kirkland Comprehensive Plan, Ordinance 2346 as amended (Land Use Policies Plan); and

Whereas, said legislation and recommendation were forwarded to the City council accompanied by a negative threshold declaration issued by the designated SEPA responsible official in accordance with the State Environmental Policy Act and local environmental ordinances; and

Whereas, a copy of the proposed subdivision legislation was filed pursuant to RCW 58.17.270 with the State Planning and Community Affairs Agency more than 30 days prior to its final adoption; and

Whereas, the City council considered the legislative proposal and recommendation in regular, open meeting, now, therefore,

Be it ordained by the City Council of the City of Kirkland as follows:

Section 1. There is hereby added to the Kirkland Municipal Code, a new title to be known as Title 22--Subdivisions, and to read as follows:

## SUBDIVISION ORDINANCE

## CHAPTER 1 - INTRODUCTION

- 1.05 Applicability
- 1.10 Lot Line Adjustments
- 1.15 Binding Site Plan Approval
- 1.20 Definitions

1.05 Applicability

The provisions of this Ordinance apply to each division, subdivision, or short subdivision of land applied for after the effective date of this Ordinance except as listed below:

1. This Ordinance does not apply to cemeteries and other burial plots while used for that purpose.
2. This Ordinance does not apply to divisions of lands into lots or tracts each of which is one one hundred twenty-eighths of a section of land or larger, or five acres or larger if the land is not capable of description as a fraction of a section of land. For purposes of computing the size of any lot under this paragraph which borders on a street or road, the lot size shall be expanded to include that area which would be bordered by the centerline of a road or street and the side lot lines of the lot running perpendicular to such centerline.
3. This Ordinance does not apply to divisions made by testamentary disposition or by the laws of descent.

1.10 Lot Line Adjustments

A division made for the purpose of adjusting boundary lines which does not create any additional lot, tract, parcel, site, or division is exempt from the provisions of this Ordinance unless the Planning Director certifies in writing that the division will create a lot, tract, parcel, site, or division which contains insufficient area or dimension to meet minimum requirements for width and area for a building site as established by the Zoning Code.

1.15 Binding Site Plan Approval

1. General - The divisions of land described in Paragraph 2 of this Section are exempt from compliance with this Ordinance if they meet the requirements of Paragraph 3 of this Section.
2. Eligible Developments - The following types of development are subject to the provisions of this Section:
  - a. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land.
  - b. A division of land into lots or parcels located within industrial, commercial or office zones as defined in the Zoning Code.

- c. A division which is made by subjecting a portion of a parcel or tract of land to RCW 64.32.
3. Criteria - A division of land is a binding site plan under this Section if it meets all of the following criteria:
- a. The City Council approves a site plan as part of a discretionary zoning or other similar land use permit that involved a Public Hearing before either the Planning Commission or Hearing Examiner.
  - b. The site plan is shown to a scale of one inch equals 20 feet.
  - c. The site plan identifies and shows the areas and locations of all streets, roads, improvements, utilities and open spaces.
  - d. The site plan contains inscriptions or attachments setting forth all limitations and conditions for the use of land as established by City Council.
  - e. The site plan contains a provision requiring that any development of the subject property be in conformance with the binding site plan.
  - f. The site plan is recorded in the King County Department of Elections and Records to run with the subject property.

#### 1.20 Definitions

The following definitions apply throughout this Ordinance unless, from the context, another meaning is clearly intended.

- 05. Applicant - A person who applies for any approval under this Ordinance and who is an owner of the subject property; the authorized agent of the owner.
- 10. Binding Site Plan - A drawing to the scale of 1" = 20' which a) identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces and any other matters specified by this ordinance; b) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as established through a discretionary review process and approved by City council; and c) contains provisions making any development be in conformity with the site plan.
- 15. Block - A group of lots, tracts, or parcels within defined and fixed boundaries.
- 20. Bond - A written certificate guaranteeing to pay up to a specified amount of money if specified work is not performed; or any similar mechanism whereby the City has recourse to an identified fund from which to secure performance of specified work.

25. Comprehensive Plan - The Land Use Policies Plan as adopted in Ordinance 2346 as amended or if repealed its successor document; the Shoreline Master Program as adopted by the City of Kirkland pursuant to RCW 90.58; and any other documents adopted under the authority of RCW 35A.63.061 and 35A.63.062.
30. County Auditor - As defined in Chapter 36.22 RCW or the office or person assigned such duties under a county charter.
35. County Treasurer - As defined in Chapter 36.29 RCW or the office or person assigned such duties under a county charter.
40. Dedication - The deliberate appropriation of land by an owner for any general and public uses, reserving to himself no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. Dedication shall be evidenced by the filing or recording with the King County Auditor, of a document of conveyance or a final plat or short plat showing the dedication thereon; and the acceptance by the public shall be evidenced by the written approval of such plat or conveyance for filing by the appropriate governmental unit.
45. Easement - Land which has specific air, surface, or subsurface rights conveyed for use by someone other than the owner of the subject property or to benefit some property other than the subject property.
50. Final Plat - The final drawing of the subdivision and dedication prepared for filing for record with the county auditor and containing all elements and requirements set forth in RCW 58.17 and in this Ordinance.
55. Lot - A fractional part of subdivided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.
60. Major Streams - All of the following: Forbes Creek, Juanita Creek, Cochran Creek, Everest Creek and Yarrow Creek.
65. Minor Streams - Either a water course shown on the Environmentally Sensitive Areas Map as adopted by the City Council and on file with the Department of Planning and Community Development, which is not defined as a major stream or any stream flowing within natural, reconstructed, rehabilitated or relocated banks during at least 6 months of a year of normal precipitation.
70. Owner - All persons, partnerships, corporations, and other entities that have an ownership interest (including purchasers and sellers under a real estate contract) in the subject property.
75. Planning Official - The Director of the Department of Planning and Community Development or his/her designee.

80. Plat - A map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets and alleys or other divisions and dedications.
85. Preliminary Plat - A drawing of a proposed subdivision showing the general layout of streets and alleys, lots, blocks and restrictive covenants to be applicable to the subdivision and other elements of a plat or subdivision which shall furnish a basis for the approval or disapproval of the general layout of a subdivision.
90. Private Roadway - A privately owned driving surface serving two or more lots or parcels.
95. Right-of-Way - Land dedicated primarily to the movement of vehicles and pedestrians and providing for primary access to adjacent parcels. Secondarily, the land provides space for utility lines and appurtenances and similar components.
100. Short Subdivision - The division of land into nine or less lots, tracts, parcels, sites or subdivisions for the purpose of sale or lease and shall include all short subdivisions of land.
105. Short Plat - The map or representation of a short subdivision.
110. Standard Record of Survey - A record of survey form approved and provided by the City of Kirkland.
115. Street - A right-of-way or a private access roadway.
120. Subdivision - The division of land into ten or more lots, tracts, parcels, sites or divisions for the purpose of sale or lease and shall include all resubdivision of land.
125. Year-around Driving Surface - A minimum of 2 inches of asphalt concrete pavement atop a properly prepared base and sub-base. If a study of the driving surface usage dictates, the Department of Public Works may require this standard to be increased.

## CHAPTER 2 - PROCESS FOR DECIDING SHORT SUBDIVISIONS

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2.05 General

- a. The provisions of this Chapter describe the procedure that the City will use to review and decide upon proposed short subdivision. Please refer to Chapter 4 of this Ordinance for the substantive requirements that apply to short subdivisions.
- b. A lot that is created by a Short Subdivision shall not be further divided by Short Subdivision for a period of five years. Such further division must be processed under the provisions of Chapter 3 of this Ordinance.

2.10 Proposal Requiring Approval Through Process IIA, IIB or III.

If a proposed short subdivision is part of a proposal or development that also requires approval through Chapter 150, 152 or 155 of Ordinance 2740 as amended, the entire proposal will be decided upon using that other process, if the Planning Director determines that this will result in more efficient decision making.

2.15 Applications

The applicant may apply for a short subdivision by submitting the following information to the Planning Department on the forms provided by that Department:

1. A certified boundary survey of the proposed plat, including five prints of the proposed plat drawn on a standard 18" x 24" mylar at a scale between 1" equals 20 and one inch equals 50 feet containing the following information:
  - a. Proposed name of the short plat.
  - b. Location by section, township, range, and/or other legal description.
  - c. Name, address and phone number of the applicant and agent if any.
  - d. Name, address and phone number of registered land surveyor preparing the short plat.
  - e. Scale of short plat, date and north arrow.
  - f. Existing topography of the property indicated by contours at five foot intervals. This may be waived by the Planning Director if no portion of the proposed short plat exceeds 15%.
  - g. Location and extent of significant natural features such as streams, wetlands, all evergreen trees 8 inches in diameter or greater and all deciduous trees 12 inches in diameter or greater measured one foot above grade, and water bodies on and immediately adjacent to the property.
  - h. Zoning classification of the property and adjoining properties.
  - i. The lot lines of adjoining properties for a distance of at least 50 feet.
  - j. Location, dimension, and names of existing rights-of-way and easements, parks or other public spaces, structures, lots, blocks, etc., shall be shown in dotted lines in scale with the proposed short plat.
  - k. Existing and proposed water, sewer, power, and drainage systems on, under or over the property showing size, grades and location.
  - l. Layout, name and dimensions of proposed rights-of-way and easements.
  - m. Layout, number, dimensions and square footage (excluding access easements) of proposed lots.
  - n. Parcels of land intended to be dedicated for public use, or reserved for use of owners of the property in the subdivision, including the dimension and square footage of said parcels.

- o. A notation which shows the dimensioned setback of all existing structures relative to existing property lines and to proposed lot lines, if they are within 20 feet of existing or proposed lot line.
2. A vicinity map at a scale of one inch equals 400 feet or larger showing the proposed short subdivision's relation to the area for a distance of at least 300 feet on which the subject property is outlined with a bold or colored line.
3. A current title company certificate for the property that has been issued no more than thirty calendar days prior to the initial filing of the short plat application. The certificate must include the name of all persons holding any ownership interest in the property.
4. Any additional information required by the Planning Official.
5. The filing fee as established by Ordinance.
6. All information required under the State Environmental Policy Act RCW 43.21C and the administrative guidelines and local ordinance adopted to implement it.

#### 2.17 Acceptance for Filing

A short subdivision is not considered as accepted for filing for the purpose of computing the time limits of RCW 58.17.140 and Section 125 of this Chapter until--

1. The Planning Official verifies that the owner has fully complied with Section 2.15 of this Ordinance; and
2. The written comments of the agency furnishing or reviewing sewage disposal and water supply have been received under Section 2.20 of this Ordinance; and
3. The Responsible Official has entered a threshold determination under the State Environmental Policies Act which has become final.

#### 2.20 Distribution of Application

Upon receipt of a short plat application, the Planning Official shall, in addition to all interested City Departments, send a copy of the application to the authorities and agencies reviewing or furnishing water service and sanitary sewer service to the proposed short plat.

#### 2.25 Official File

1. Contents - The Planning Official shall compile an official file on the application containing the following:
  - a. All application material submitted by the applicant.

- b. All written comments received on the matter.
  - c. The written decision of the Planning Director.
  - d. If the decision of the Planning Director is appealed, the following will be added to the file:
    - (1) The letter of appeal.
    - (2) All written comments submitted regarding the appeal.
    - (3) The staff report on the appeal.
    - (4) The electronic sound recording of the hearing on the appeal.
    - (5) The decision of the Hearing Examiner on the appeal.
  - e. Any other information relevant to the matter.
2. Availability - The official file is a public record. It is available for inspection and copying in the Planning Department during regular business hours.

2.30 Notice

- 1. Content - The Planning Official shall prepare a notice of each application containing the following information:
  - a. The name of the applicant and the proposed short plat.
  - b. The street address of the subject property, or if this is not available, a locational description in non-legal language.
  - c. A statement of what has been applied for including the number of lots proposed and any proposed modification under Section 5.05 of this Ordinance.
  - d. A statement of the availability for review of the official file.
  - e. A statement of the right of any person to submit written comments to the Planning Director regarding the matter, and the deadline for submitting these comments.
  - f. A statement that only the person who submitted written comments to the Planning Director may appeal the Director's decision.
- 2. Distribution - The Planning Official shall distribute this notice at least 14 calendar days before the deadline established in paragraph 1.e., of the section as follows:
  - a. A copy will be published in the official newspaper of the City.

- b. At least three copies will be conspicuously posted on or near the property.
- c. A copy will be posted on the official notification boards of the City.

2.35 Burden of Proof

The applicant has the responsibility of convincing the Planning Director that, under the provisions of this Ordinance, the applicant is entitled to the short subdivision.

2.40 Written Comments

- 1. General - The Planning Director shall consider all written comments and information regarding the proposed short plat that are delivered to the Planning Department before the deadline established under paragraph 2 of this section.
- 2. Deadline - The Planning Official shall establish the deadline for submitting comments which will be at least 14 calendar days after the date the notice is published in the official newspaper of the City.

2.45 Planning Director's Decision

- 1. General - Within 14 calendar days after the deadline for submitting comments and after considering all of the information and comments submitted on the proposed short plat, the Planning Director shall issue a written decision either--
  - a. Approving the short subdivision; or
  - b. Modifying and approving the short subdivision; or
  - c. Denying the short subdivision.
- 2. Decisional Criteria - The Planning Director may approve the short subdivision only if:
  - a. It is consistent with the Comprehensive Plan and Zoning Code; and
  - b. It is consistent with the applicable provisions of Chapter 4 of this Ordinance; and
  - c. There is adequate provisions for open spaces, drainage ways, rights-of-way, easements, water supplies, sanitary waste, power service, parks, playgrounds and schools; and
  - d. It will serve the public use and interest and is consistent with the public health, safety and welfare. The Planning Director shall be guided by the policy and standards and may exercise the powers and authority set forth in RCW 58.17.

3. Conditions, Restrictions, and Modifications - The Planning Director shall include in the written decision any conditions, restrictions, and modifications that he/she determines are necessary to eliminate or minimize any undesirable effects or impacts that would result from granting the proposed short plat. Any conditions, restrictions, and modifications that are imposed become part of the decision.
4. Dedication - The Planning Director may require dedication of land or easements for right-of-way, utility or other public purposes.
5. Contents - The Planning Director shall include in the written decision--
  - a. A statement approving, modifying and approving, or denying the application; and
  - b. Any conditions, restrictions, and modifications that are imposed; and
  - c. A statement of facts presented to him/her that support the decision, including any conditions, restrictions, and modifications that are imposed; and
  - d. A statement of the Director's conclusions based on those facts; and
  - e. A summary of the rights, as established in this Chapter, of the applicant and others to appeal the decision of the Director.
6. Issuance of Written Decision - Within two working days after the Planning Director's written decision is issued the Director shall distribute the decision as follows:
  - a. A copy will be mailed to the applicant; and
  - b. A copy will be mailed to each person who submitted written comments to the Director.

#### 2.50 Filing Short Plat Documents

1. General - Following approval of a short plat and after the applicant has made any changes to the short plat documents as a result of any conditions, restrictions or modifications in the decision, and either installed or otherwise guaranteed the installation of required improvements, the Planning Director shall sign the short plat documents; provided, however, the Planning Director shall not sign the short plat documents until said documents have been signed and acknowledged by all persons holding an ownership interest in the land subdivided. The short plat should be filed on a standard Record of Survey mylar as provided by the City showing appropriate signatures, restrictions, easements and dedications.

2. Filing - Time Limits - After the short plat documents are signed, they will be transmitted to the City Clerk's office for recording with the applicable office in King County. The short plat must be recorded with King County within 12 months of the date of approval or the decision becomes void.

2.55 Dedications/Restrictions

All dedications and restrictions required or approved by the decision shall be clearly shown and described on the short plat documents recorded under this Section. The Planning Director's signature on the recorded short plat documents constitutes acceptance by the City of all dedication shown on the short plat.

2.60 Improvements

Prior to submitting short plat documents for approval, all corners must be set in the ground using appropriate permanent material.

The owner must complete or bond under Section 5.10 of this Ordinance all required right-of-way private roadway easement, utility and other similar improvement before the Planning Director will sign the short plat documents.

- 2.65 Effect of Appeal Period - The Planning Director will not sign the short plat documents and the applicant may not engage in any activity based on the decision approving the short plat until the time to appeal has expired. If the decision is appealed, the Planning Director will not sign the short plat documents and the applicant may not engage in any activity based on the decision until the City issues a final decision on the matter. The date of the final decision of the City on the appeal shall be considered the "date of approval" pursuant to 2.50.1.

2.70 Appeals

1. Who May Appeal - The decision of the Planning Director may be appealed by--
  - a. The applicant; or
  - b. Any person who submitted written comments to the Director.
2. Time to Appeal/How to Appeal - The appeal, in the form of a Letter of appeal, must be delivered to the Planning Department within 14 calendar days of the issuance of the Director's decision. It must contain--
  - a. A clear reference to the short plat being appealed; and
  - b. A statement of the specific factual findings or conclusions of the Planning Director disputed by the person filing the appeal.
3. Fees - The person filing the appeal shall include with the Letter of appeal the fee as established by ordinance.
4. Jurisdiction - Appeals from the decision of the Planning Director will be heard by the Hearing Examiner.

2.75 Notice of the Appeal Hearing

1. Content - The Planning Official shall prepare a notice of the appeal hearing containing the following:
  - a. The file number and a brief verbal description of the short plat being appealed.
  - b. A statement of the scope of the appeal including a summary of the specific factual findings and conclusions disputed in the letter of appeal.
  - c. The time and place of the public hearing on the appeal before the Hearing Examiner.
  - d. A statement of who may participate in the appeal.
  - e. A statement of how to participate in the appeal.
2. Distribution - At least 14 calendar days before the hearing on the appeal, the Planning Official shall send a copy of this notice to each person entitled to appeal the decision under Section 70 of this Chapter.

2.80 Participation in the Appeal

Only those persons entitled to appeal the decision under Section 70 of this Chapter may participate in the appeal. These persons may participate in either or both of the following ways:

1. By submitting written comments to the Hearing Examiner either by delivering these comments to the Planning Department prior to the hearing or by giving them directly to the Hearing Examiner at the hearing.
2. By appearing in person, or through a representative, at the hearing and making oral comments directly to the Hearing Examiner. The Hearing Examiner may reasonably limit the extent of the oral comments to facilitate the orderly and timely conduct of the hearing.

2.85 Scope of the Appeal

The scope of the appeal is limited to the specific factual findings and conclusions disputed in the letter of appeal and the Hearing Examiner may only consider comments on these factual findings and conclusions.

2.90 Staff Report on the Appeal

1. Content - The Planning Official shall prepare a staff report containing the following:
  - a. The written decision of the Planning Director.

- b. All written comments submitted to the Planning Director.
  - c. The letter of appeal.
  - d. All written comments on the appeal received by the Planning Department from persons entitled to participate in the appeal and within the scope of the appeal.
  - e. An analysis of the specific factual findings and conclusions disputed in the letter of appeal.
2. Distribution - Prior to the hearing, the Planning Official shall distribute copies of the staff report as follows:
- a. A copy will be sent to the Hearing Examiner.
  - b. A copy will be sent to the applicant.
  - c. A copy will be sent to the person who filed the appeal.

2.95 Public Hearing on the Appeal

1. Hearing in General - The Hearing Examiner shall hold a public hearing on the appeal.
2. Hearing Declared Open - The hearings of the Hearing Examiner are open to the public.

2.100 Electronic Sound Recordings

The Hearing Examiner shall make a complete electronic sound recording of each hearing.

2.105 Burden of Proof

The person filing the appeal has the responsibility of convincing the Hearing Examiner that the Planning Director made an incorrect decision because of erroneous findings of fact or conclusions.

2.110 Continuation of the Hearing

The Hearing Examiner may continue the hearing if, for any reason, he/she is unable to hear all of the public comments on the appeal or if the Hearing Examiner determines that he/she needs more information within the scope of the appeal. If, during the hearing, the Hearing Examiner announces the time and place of the next hearing on the matter, no further notice of that hearing need be given.

2.115 Decision on the Appeal

1. General - The Hearing Examiner shall consider all information and material within the scope of the appeal submitted by persons entitled to participate in the Appeal. The Hearing Examiner shall either affirm or change the findings and conclusions of the Planning Director that were appealed. Based on the Hearing Examiner's findings and conclusions, he/she shall either--

- a. Affirm the decision being appealed; or
  - b. Reverse the decision being appealed; or
  - c. Modify the decision being appealed.
2. Issuance of Written Decision - Within 14 calendar days after the public hearing, the Hearing Examiner shall issue a written decision on the appeal. Within two working days after it is issued, the Hearing Examiner shall distribute the decision as follows:
- a. A copy will be mailed to the applicant.
  - b. A copy will be mailed to the person who filed the appeal.
  - c. A copy will be mailed to all other persons who participated in the appeal.
3. Effect - The decision by the Hearing Examiner is the final decision of the City. If the Hearing Examiner approves the proposed short plat, the Hearing Examiner shall sign the short plat documents on behalf of the City.

2.120 Judicial Review

The action of the City in approving or denying a short plat may be reviewed for unlawful, arbitrary, capricious, or corrupt action in King County Superior Court. The petition for review must be filed within 30 calendar days of the final decision of the City.

2.125 Time Limits

Short plats shall be approved, disapproved or returned to the owner within 30 calendar days from the date of filing of a complete application unless the owner consents in writing to an extension of such time period.

## CHAPTER 3 - PROCESS FOR DECIDING SUBDIVISIONS

- 3.05 General
  - 3.10 Application
  - 3.15 Acceptance for Filing
  - 3.20 Distribution of Application
  - 3.25 Official File
  - 3.30 Notice
  - 3.35 Staff Report
  - 3.40 Houghton Community Council Hearing
  - 3.45 Public Hearing
  - 3.50 Electronic Sound Recording
  - 3.55 Burden of Proof
  - 3.60 Public Comments and Participation at the Hearing
  - 3.65 Continuation of the Hearing
  - 3.70 Recommendation by the Planning Commission
  - 3.75 Planning Commission Report
  - 3.80 Challenge to the Planning Commission's Recommendation
  - 3.85 City Council Action
  - 3.90 Procedures for Rehearing and City Council Hearing
  - 3.95 Jurisdiction of the Houghton Community Council - Preliminary Plat
  - 3.100 Notice of Final Decision
  - 3.105 Time Limits for Preliminary Plat
  - 3.110 Judicial Review - Preliminary Plat
  - 3.115 Effect of Preliminary Plat Approval
  - 3.120 Time Limits to File Final Plat
  - 3.125 Contents of Final Plat
  - 3.130 Information to Accompany Final Plat
  - 3.135 Administrative Review of Final Plats
  - 3.140 City Council Action
  - 3.145 Jurisdiction of the Houghton Community Council - Final Plat
  - 3.150 Judicial Review - Final Plat
  - 3.155 Filing of Plat Documents
- 3.05 General - The provisions of this Chapter describe the procedure that the City will use to review and decide upon proposed subdivisions. Please refer to Chapter 4 of this Ordinance for the substantive requirements that apply to subdivisions.
- 3.10 Application - The applicant may apply for a subdivision by submitting the following information to the Planning Department on the forms provided by that Department:
1. A boundary survey of the proposed plat certified by a licensed land surveyor together with twenty eight prints of the proposed preliminary plat drawn to a scale between one inch equals 20 feet and one inch equals 50 feet containing the following information:
    - a. Proposed name of the plat.
    - b. Location by section, township, range, and/or by other legal description.
    - c. Name, address and phone number of the applicant and agent, if any.
    - d. Name, address and phone number of registered land surveyor preparing the plat.

- e. Scale of plat, date and north arrow.
  - f. Existing topography of the land indicated by contours at five foot intervals. This may be waived by the Planning Director if no portion of the proposed plat exceeds 15%.
  - g. Location and extent of significant natural features such as streams, wetlands, all evergreen trees, 8 inches in diameter or greater and all deciduous trees 12 inches in diameter or greater, measured one foot above grade, and water bodies on and immediately adjacent to the property.
  - h. Zoning classification of the property and adjoining properties.
  - i. The lot lines of adjoining properties for a distance of at least 50 feet.
  - j. Location, dimension, and names of existing rights-of-way and easements, parks or other public spaces, structures, lots, blocks, etc., shall be shown in dotted lines in scale with the proposed plat.
  - k. Existing and proposed water, sewer, power and drainage systems on, under or over the property showing size, grades and location.
  - l. Layout of proposed rights-of-way and easements.
  - m. Layout, number and dimensions of proposed lots.
  - n. Parcels of land intended to be dedicated for public use, or reserved for use of owners of the property in the subdivision.
  - o. A notation which shows the dimensioned setback of all existing structures relative to existing property lines and to proposed lot lines.
  - p. Exterior boundary corners shall be indicated on the ground.
2. Address labels obtained from the King County Assessor's Office containing the names and addresses of the owners of all property within 300 feet of any boundary of the proposed subdivision and any adjoining property owned by the owner of the land proposed to be subdivided.
  3. The addresses of all property adjacent to or directly across the street from any boundary of the proposed subdivision and any adjoining property owned by the owner of the land proposed to be subdivided.
  4. A copy of the King County Assessor's Map identifying the properties specified in paragraphs 2 and 3 of this Section.
  5. A current title company certificate for the property that has been issued no more than thirty calendar days prior to the initial filing of the plat application. The certificate must include the name of all persons holding any ownership interest in the property.
  6. Any additional information required by the Planning Official.

7. The filing fee as established by ordinance.
8. All information required under the State Environmental Policies Act RCW 43.21C and the administrative guidelines and local ordinance adopted to implement it.

3.15 Acceptance for Filing - A preliminary subdivision is not considered as accepted for filing for the purpose of computing the time limits of RCW 58.17.140 and Section 105 of this Chapter until--

1. The Planning Official verifies that the owner has fully complied with Section 3.10 of this ordinance; and
2. The written comments of the agency furnishing or reviewing sewage disposal and water supply have been received under Section 3.20 of this Ordinance; and
3. The Responsible Official has entered a threshold determination under the State Environmental Policies Act which has become final.

3.20 Distribution of Application

Upon receipt of a preliminary subdivision application, the Planning Official shall, in addition to all interested City Departments, send a copy of the application to the authorities and agencies reviewing or furnishing water service and sanitary sewer service to the proposed subdivision.

3.25 Official File

1. Contents - The Planning Official shall compile an official file on the application containing the following:
  - a. The application materials submitted by the applicant.
  - b. The staff report.
  - c. All written comments received on the matter.
  - d. The electronic recording and minutes of the public hearing on the matter.
  - e. The recommendation of the Planning Commission.
  - f. The electronic sound recording and minutes of City Council proceedings on the matter.
  - g. The report of the Planning Commission.
  - h. The decision of City Council.
  - i. If the matter is within the disapproval jurisdiction of the Houghton Community Council, the electronic sound recording and minutes of its proceedings on the matter, along with the recommendations of that Council.

- j. Any other information relevant to the matter.
2. Availability - The official file is a public record. It is available for inspection and copying in the Planning Department during regular business hours.

## 3.30

Notice

- 1. Contents - The Planning Official shall prepare a notice of each application containing the following information.
  - a. The name of the applicant and the proposed plat.
  - b. The street address of the property, or if this is not available, a locational description in non-legal language.
  - c. A statement of what has been applied for, including the number of lots proposed and any proposed modifications under Section 5.05 of this Ordinance.
  - d. The time and place of the public hearing.
  - e. A statement of the availability of the official file.
  - f. A statement of the right of any person to submit written comments to the Planning Commission and to appear at the public hearing of the Planning Commission to give comments orally.
  - g. A statement that only persons who submit written or oral comments to the Planning Commission may challenge the recommendation of the Planning Commission.
- 2. Distribution - No less than 14 calendar days prior to the public hearing, the Planning Official shall distribute or cause to be published this notice as follows:
  - a. A copy will be sent to the persons described in Section 3.10.2 and 3 of this Ordinance.
  - b. At least 3 copies will be conspicuously posted on or near the subject property. Of these, at least one will be posted on each right-of-way providing primary vehicular access to any property that abuts the subject property.
  - c. A copy will be posted on each of the official notification boards of the City.
  - d. A copy will be sent to appropriate City or County officials if the proposed subdivision adjoins the boundaries of the City.
  - e. A copy will be sent to the State Department of Transportation if the proposed subdivision is adjacent to the right-of-way of a state highway.

- f. A copy will be published in a newspaper of general circulation in the county and a newspaper of general circulation in the area where the real property which is proposed to be subdivided is located.

## 3.35

Staff Report

1. Contents - The Planning Official shall prepare a staff report containing the following information:
  - a. All pertinent application materials.
  - b. All comments regarding the matter received by the Planning Department prior to distribution of the staff report.
  - c. An analysis of the application in relation to the applicable provisions of this ordinance.
  - d. A statement of the facts found by the planning official and the conclusions drawn from those facts.
  - e. A recommendation on the proposed plat.
2. Distribution in General - Prior to the hearing, the Planning Official shall distribute the staff report as follows:
  - a. A copy will be sent to each member of the Planning Commission.
  - b. A copy will be sent to the applicant.
3. Distribution to Houghton Community Council - If the Houghton Community Council holds a hearing on the matter, the Planning Official shall, prior to the Community Council hearing, distribute the staff report as follows:
  - a. A copy will be sent to each member of the Community Council.
  - b. A copy will be sent to the applicant.

## 3.40

Houghton Community Council Hearing

1. General - If the application is within the disapproval jurisdiction of the Houghton Community Council, that Community Council may hold a public hearing prior to, or concurrently with, the Planning Commission hearing on the matter.
2. Notice - The planning official shall give public notice of the hearing as set forth in Section 3.30 of this ordinance.
3. Recommendation - Upon consideration of the information presented, the Houghton Community Council may, by a majority vote of the entire membership of the Community Council, make a recommendation on the matter. The Planning Official shall present the Community Council's recommendation to the Planning Commission before the Planning Commission makes its recommendation to City Council.

4. Electronic Sound Recording - The Community Council shall make a complete electronic sound recording of each public hearing.

3.45 Public Hearing

1. General - The Planning Commission shall hold a public hearing on each proposed preliminary plat.
2. Hearing Declared Open - The hearings of the Planning Commission are open to the public.
3. Effect - The hearing of the Planning Commission is the hearing for City Council. Except as specified in Section 3.85 of this ordinance, City Council need not hold another hearing on the proposed plat.

3.50 Electronic Sound Recording

The Planning Commission shall make a complete electronic sound recording of each hearing.

3.55 Burden of Proof

The owner has the responsibility of convincing the City that, under the provisions of this ordinance, the applicant is entitled to the requested subdivision.

3.60 Public Comments and Participation at the Hearing

Any person may participate in the public hearing in either or both of the following ways:

1. By submitting written comments to the Planning Commission, either by delivering these comments to the Planning Department prior to the hearing or by giving these directly to the Planning Commission at the hearing.
2. By appearing in person, or through a representative, at the hearing and making oral comments directly to the Planning Commission. The Planning Commission may reasonably limit the extent of oral comments to facilitate the orderly and timely conduct of the hearing.

3.65 Continuation of the Hearing

The Planning Commission may continue the hearing if, for any reason, it is unable to hear all of the public comments on the matter or if the Commission determines that it needs more information on the matter. If, during the hearing, the Commission announces the time and place of the next hearing on the matter, no further notice of that hearing need be given.

3.70 Recommendation by the Planning Commission

1. General - Following its consideration of the matter, the Planning Commission shall vote on a motion recommending that City Council take one of the following actions:
  - a. Approve the proposed plat.

- b. Modify and approve the proposed plat.
  - c. Deny the proposed plat.
2. Vote Required - A motion recommending that City Council grant the application must be approved by a majority of the members present at the hearing.
  3. Decisional Criteria - The Commission may recommend that the proposed plat be approved only if it finds that--
    - a. It is consistent with the Comprehensive Plan and Zoning Code; and
    - b. It is consistent with the applicable provisions of Chapter 4 of this ordinance; and
    - c. There is adequate provisions for open spaces, drainage ways, rights-of-way, easements, water supply, sanitary waste, power service, parks, playgrounds, and schools; and
    - d. It will serve the public use and interest and is consistent with the public health, safety and welfare. The Commission shall be guided by the policy and standards and may exercise the powers and authority set forth in RCW 58.17.
  4. Conditions, Restrictions, and Modifications - The Planning Commission shall include in the motion containing its recommendation to City Council any conditions, restrictions, and modifications that the Planning Commission determines are necessary to eliminate or minimize any undesirable effects or imports that would result from approving the proposed plat.
  5. Findings of Fact and Conclusions - The Planning Commission shall include in the motion containing its recommendations to City Council--
    - a. A statement of the facts presented to the Planning Commission that support the Commission's recommendation, including any conditions, restrictions, and modifications it has recommended; and
    - b. A statement of the Planning Commission's conclusions based on those facts.

### 3.75 Planning Commission Report

1. General - The Planning Official shall transmit the Planning Commission's report containing its recommendations to City Council. If applicable, the Planning Official shall include in the report the recommendations of the Houghton Community Council.
2. Distribution - The Planning Official shall distribute copies of the report of the Planning Commission as follows:
  - a. A copy will be sent to the applicant.
  - b. A copy will be sent to any person requesting it.

c. A copy will be sent to each member of City Council. The Planning Official shall include the following material as appropriate with the copy of the Planning Commission report sent to each City Council member:

- (1) A draft resolution that embodies the Planning Commission's recommendation.
- (2) Any challenge to the Planning Commission's recommendation timely filed under Section 80 of this Chapter.

3.80 Challenge to the Planning Commission's Recommendation

1. Who May Challenge - The recommendation of the Planning Commission may be challenged by either--
  - a. The applicant; or
  - b. Any person who submitted written or oral comments to the Planning Commission.
2. Contents of a Challenge - The challenge must be in writing and contain a statement of the factual findings and conclusions made by the Planning Commission that are contested. The challenge will be considered only on the record developed in the hearing before the Planning Commission.
3. How and When to File a Challenge - The challenge may be filed by delivering it to the Planning Department no less than seven calendar days prior to the beginning of the meeting at which City Council first considers the matter.

3.85 City Council Action

1. General - The City Council shall consider the application at a scheduled meeting which shall not be less than 10 calendar days after the date of distribution of the Planning Commission report under Section 3.75 to the applicant and any person requesting the report.
2. City Council Decision - After consideration of the entire matter, the City Council shall, by motion approved by a majority of its total membership, take one of the following actions:
  - a. Adopt a resolution that is consistent with the Planning Commission's recommendation to either--
    - (1) Approve the proposed plat; or
    - (2) Modify and approve the proposed plat; or
    - (3) Deny the proposed plat.

- b. If the City Council concludes that significant issues have been raised in a challenge or if it wishes to make a substantial change in what is recommended by the Planning Commission, it shall, by motion, either direct the Planning Commission to hold a rehearing on the matter or decide to hold a City Council hearing on the matter. The motion may limit the scope of the issues to be considered at this rehearing or City Council hearing.
3. Decisional Criteria - The City Council shall use the criteria listed in Section 70.3 of this Chapter in deciding upon the proposed plat.
4. Condition, Restriction, and Modification - The City Council shall include in the resolution approving the application any conditions, modifications and restrictions it determines are necessary to eliminate or minimize any undesirable effects or impacts that would result from granting the plat. Any conditions and restrictions that are imposed become part of the decision.
5. Findings of Fact and Conclusion - The City Council shall include in its motion--
  - a. A statement of the facts presented to City Council that support the decision, including any conditions, modifications and restrictions that it imposes; and
  - b. The City Council's conclusions based on those facts.
6. Effect - Subject to the provision of Section 95 of this Chapter, the resolution of City Council is the final decision of the City on the preliminary subdivision.

### 3.90 Procedures for Rehearing and City Council Hearing

If the Planning Commission holds a rehearing on the matter, the provision of Section 30 and 35 of this Chapter and Sections 45 through 85 of this Chapter will be followed, except that the City Council may limit the matters to be considered at the Planning Commission rehearing. Any limitation will be stated in the notice of the hearing. If City Council holds a hearing on the matter, the provisions of Sections 30 and 35 of this Chapter and Sections 45 through 85 of this Chapter will be followed except--

- a. City Council may limit the matters to be considered at the City Council hearing. If this occurs, this limitation will be stated in the notice of the hearing.
- b. City Council shall issue a decision rather than a recommendation. This decision is the final decision of the City subject to Section 100 of this Chapter.

### 3.95 Jurisdiction of the Houghton Community Council - Preliminary Plat

General - If the City Council approves a preliminary plat within the disapproval jurisdiction of the Houghton Community Council, that approval is not effective until--

1. A majority of the entire membership of the Houghton Community Council vote by resolution to approve it; or
2. The Houghton Community Council fails to disapprove it within 60 calendar days after City Council adopts the resolution approving the preliminary plat. The vote to disapprove the application must be approved by a majority of the entire membership of the Community Council.

### 3.100 Notice of Final Decision

1. General - Following the final decision by City Council, or if applicable, the Houghton Community Council, the Planning Official shall prepare a notice of the City's final decision on the preliminary plat.
2. Distribution - The Planning Official shall distribute a copy of this notice as follows:
  - a. A copy will be sent to the applicant.
  - b. A copy will be sent to any person requesting it.

### 3.105 Time Limits for Preliminary Plat

Preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within ninety calendar days from date of filing of a complete application thereof unless the applicant consents to an extension of such time period: Provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the ninety day period shall not include the time spent preparing and circulating the environmental impact statement by the local government agency.

### 3.110 Judicial Review - Preliminary Plat

The action of the City in granting or denying a preliminary plat may be reviewed for unlawful, arbitrary, capricious or corrupt action in King County Superior Court. The petition for review must be filed within 30 calendar days of the final decision of the City on the preliminary plat, all in accordance with the provisions of RCW 58.17.180.

### 3.115 Effect of Preliminary Plat Approval

1. General - The approval of a preliminary plat by City Council constitutes approval of the general concept and layout of the plat as approved. Preliminary plat approval does not signify acceptance of all engineering details of the plat. These engineering details remain subject to approval by the Public Works Department.
2. Construction of Certain Improvements - Once engineering details and specific design have been approved by the Public Works Department, the owner may obtain necessary permits and construct right-of-way, easement, and utility improvements approved in the preliminary plat.

### 3.120 Time Limits to File Final Plat

1. General - The owner must submit a final plat to the Planning Department, meeting the requirements of this Ordinance and the preliminary plat approval within 3 years of the date the preliminary plat was approved or the preliminary plat approval becomes void.
2. Extension - The owner may file a request to extend the preliminary plat approval for up to one year. The request must be delivered in writing to the Planning Department at least 30 calendar days prior to expiration of the 3-year period. The Planning Department will transmit the extension request to the City Council which will grant it upon a showing that the applicant has attempted in good faith to submit the final plat within the 3-year period. If the final plat has not been submitted to the Planning Department within any extended period it becomes void.

### 3.125 Contents of Final Plat

The applicant shall submit a final plat containing the following information:

1. Proposed name of the plat.
2. Location by Section, Township, Range and/or by other legal description.
3. The name and seal of the registered land surveyor responsible for preparation of the plat, and a certification on the plat by said surveyor to the effect that it is a true and correct representation of the land actually surveyed by him/her. The exterior plat boundary, and all interior lot corners shall be set, using appropriate permanent materials as shown on the plat. All street centerline monuments, (points of intersection, points of curve, points of tangency, etc.) within the plat and all intersections with existing street centerlines, shall be monumented with concrete monuments in case, or other permanent material approved by the City.
4. The drawing shall be of legible scale, and shall include the north arrow and basis of bearings. The scale of the final plat will be at one inch equals 50 feet unless otherwise approved by the Planning Director in order that all distances, bearings and other data can be clearly shown.
5. The boundary lines of the plat, based on an accurate traverse, with angular and linear dimensions.
6. Exact location, width, number or name of all rights-of-way and easements within and adjoining the plat and a clear statement as to whether each is to be dedicated or held in private ownership.
7. True courses and distances to the nearest established right-of-way lines or official monuments which will accurately locate the plat.
8. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.

9. All lot and block numbers and lines, with accurate dimensions in feet and hundredths of feet. Blocks in numbered additions to subdivisions bearing the same name must be numbered or lettered consecutively through the several additions.
10. Accurate locations of all monuments at such locations as required by the Public Works Department.
11. All plat meander lines or reference lines along bodies of water which shall be established above, but not farther than twenty (20) feet from the high waterline of the water or within a reasonable distance, to insure reestablishment.
12. Accurate outlines and dimensions of any areas to be dedicated or reserved for public use, with purposes indicated thereon and in the dedication; and/or any area to be reserved by deed covenant for common uses of all property owners.
13. A full and correct legal description of the property.
14. All restrictions and conditions on the lots or tracts or other areas in the plat required by the City Council.
15. The signatures on the final plat mylar of all persons having an ownership interest in the property which shall be in reproducible black ink.
16. Appropriate signature blocks for the officials whose signatures are required for approval or acceptance of the plat, including any dedications.
17. Any additional pertinent information required at the discretion of the Public Works or Planning Directors.

### 3.130 Information to Accompany Final Plat

The applicant must submit the following information with the final plat:

1. A certification from a licensed land surveyor as to the survey data, layout of streets, alleys and other rights-of-way. Bridges, sewage, water systems and other structures together with the information provided by the land surveyor shall be approved by a licensed engineer acting on behalf of the City.
2. A complete survey of the section or sections in which the plat is located, or as much thereof as may be necessary to properly orient the plat within the section or sections. A computer printout to show closures of boundary, road centerlines, lots and tracts. The maximum allowable error of closure is one foot in fifteen thousand feet.
3. A certification from the proper officer in charge of tax collections that all taxes and delinquent assessments as shown on the certification under paragraph 5 of this Section have been paid, satisfied or discharged.

4. A certificate stating that the subdivision has been made with the free consent, and in accordance with the desires of the owner or owners. If the plat includes a dedication, the certificate or a separate written instrument shall contain the dedication of all rights-of-way and other areas to the public, any individual or individuals, religious society or societies, or to any corporation, public or private, as shown on the plat, and an undertaking to defend, pay and save harmless, any governmental authority, including the City of Kirkland, in respect of all claims for damages against any governmental authority including the City of Kirkland which may be occasioned to the adjacent land by the established construction, drainage or maintenance of said right-of-way or other areas so dedicated. Such certificate and separate dedication instrument if applicable shall be signed and acknowledged before a Notary Public by all parties having any ownership interest in the lands subdivided.
5. A title company certification which is not more than 30 calendar days old containing--
  - a. A legal description of the total parcel sought to be subdivided; and
  - b. A list of those individuals, corporations, or other entities holding an ownership interest in the parcel; and
  - c. Any easements or restrictions affecting the property with a description, purpose and reference by auditors file number and/or recording number; and
  - d. Any encumbrances on the property; and
  - e. Any delinquent taxes or assessments on the property.
  - f. Certification by the City department, or other agency with jurisdiction that all of the required public improvements subject to its jurisdiction have been installed, inspected and accepted by such department or agency, or in the alternative, surety bond or other performance guaranty has been deposited with the City in accordance with Section 5.10.

If lands are to be dedicated or conveyed to the City as part of the subdivision, an American Land Title Association title policy may be required.

### 3.135 Administrative Review of Final Plats

Upon receipt of a final plat and all required information, it shall be reviewed by the Planning Director. The Planning Director shall prepare a report, including an appropriate recommendation and resolution to the City Council. This report and the final plat shall be transmitted to City Council.

### 3.140 City Council Action

1. General - The City Council shall consider the final plat at one or more public meetings.

2. Challenges - Any person who disagrees with the report of the Planning Director may file a written challenge to City Council by delivering it to the City Clerk not later than the close of business of the evening City Council first considers the final plat.
3. Criteria - The City Council shall consider the final plat, the Planning Director's report and any challenges received. The City Council shall, by majority vote of the entire membership, pass a resolution approving the final plat if the final plat--
  - a. Except for minor modifications under paragraph 4 of this Section, is consistent with the approved preliminary plat; and
  - b. Is consistent with the provisions of this Ordinance and RCW 58.17.
4. Minor Deviations - The City Council may approve a final plat that is different from the preliminary plat if the change--
  - a. Is necessary because of information provided in the survey prepared for the final plat that was not available, and reasonably could not have been provided during consideration of the preliminary subdivision; and
  - b. Does not increase the number of lots; and
  - c. Does not decrease any lot size by more than 10%; and
  - d. Does not substantially alter the location or nature of any improvements or any other element of the subdivision; and
  - e. In no way significantly alters the subdivision.

Changes that do not meet the criteria for Minor Deviations must be processed as amendments to the Preliminary Plat.

### 3.145 Jurisdiction of the Houghton Community Council - Final Plat

General - If the City Council approves a final plat within the disapproval jurisdiction of the Houghton Community Council, that approval is not effective until--

1. A majority of the entire membership of the Houghton Community Council vote by resolution to approve it; or
2. The Houghton Community Council fails to disapprove it within 60 calendar days after City Council adopts the resolution granting the plat. The vote to disapprove the application must be approved by a majority of the entire membership of the Community Council.

### 3.150 Judicial Review - Final Plat

The action of the City in granting or denying a final plat may be reviewed for unlawful, arbitrary, capricious or corrupt action in King County Superior Court. The petition for review must be filed within 30 calendar days of the final decision of the City on the final plat.

3.155 Filing of Plat Documents

1. General - Following approval of a final plat by City Council and subject to Section 145 of this Chapter, the mayor shall sign the plat signifying approval by the City.
2. Recording - Time Limits - After the plat documents are signed, they will be transmitted to the City Clerk's office for recording with the appropriate offices in King County. Unless specifically extended in the decision on the plat, the plat must be recorded with King County within 120 calendar days of the date of approval or the decision becomes void.
3. Dedication - The signature of the Mayor on the plat documents constitutes acceptance of all dedications shown on the plat. (See Section 3.125 for the requirements as to property owner signatures on dedications).
4. Improvements - The owner shall complete, or bond under Section 5.10 of this Ordinance all required right-of-way, easement, utility and other similar improvements before the Mayor will sign the plat documents.

## CHAPTER 4 - LAYOUT AND DESIGN OF PLATS AND SHORT PLATS AND SIMILAR REQUIREMENTS

- 4.05 Applicability
- 4.10 Provision for Public and Semi-Public Lands
- 4.15 General Layout - Lots
- 4.20 General Layout - Blocks
- 4.25 Access
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- 4.55 Utilities and Related Improvements - Storm Sewer
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- 4.70 Utilities and Related Improvements - Easements
- 4.75 Utilities and Related Improvements - Parks and Open Space
- 4.80 Natural Features - General
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- 4.90 Natural Features - Required Setbacks Adjacent to Streams, Lakes and Wetlands
- 4.95 Natural Features - Significant Vegetation
- 4.100 Natural Features - Easements

4.05 Applicability

The provisions of this Chapter apply to each plat and short plat within the City. For the purposes of this Chapter, the terms "subdivision" and "plat" also mean "short subdivision" and "short plat."

4.10 Provision for Public and Semi-Public Lands

The City may require the applicant to make land available, by dedication, for school sites, parks and open space, rights-of-way, utilities infrastructure, or other similar public or semi-public uses of land if this is reasonably necessary as a result of the subdivision. See also 4.75.

4.15 General Layout - Lots

1. General - All lots within a subdivision must meet the minimum size and dimension requirements established for the property in the Kirkland Zoning Code or other land use regulatory document.

In multiple lot subdivisions the minimum lot area shall be deemed to have been met if the average lot area is not less than the minimum lot area required of the zone district in which the property is located as identified on the zoning map. In computing the average lot area, not more than ten percent (10%) of the number of lots may contain an area less than the prescribed minimum for this zoning district. In no case shall any lots be created which contain an area more than ten percent (10%) less than prescribed minimum for this zoning district.

2. Dimensions - Lots must be of a shape so that reasonable use and development may be made of the lot. Generally, the depth of the lot should not be more than twice the width of the lot.

4.20 General Layout - Blocks

1. General - The plat must be designed to allow for reasonable subdivision and use of adjoining properties. While the plat should generally conform to the grid pattern, innovative layouts will be considered based on the general requirements of this Chapter.
2. Maximum Length - Generally, blocks should not exceed 500 feet in length. Blocks that are more than 750 feet in length should allow for midblock pedestrian access pursuant to Section 4.40 of this Chapter.

4.25 Access

1. All lots must have direct legal access to either a right-of-way or a private access roadway meeting the requirements of this Chapter. The City will determine whether access will be by right-of-way or private access roadway on a case-by-case basis.
2. An owned access of 12' minimum width may serve one lot only. The area of any access strip shall not be included in the computation of the lot area, but may be used for dimensional requirement for lot width at the building line.

4.30 Access - Right-of-Way

1. Adjacent to Plat - The applicant shall comply with the requirements of the Zoning Code with respect to dedication and improvements of rights-of-way adjacent to the plat.
2. Within Plats - If a right-of-way is proposed within a plat, the Public Works Director shall designate the right-of-way based on the projections for that right-of-way using the criteria established in the Zoning Code. The applicant shall dedicate and improve the right-of-way consistent with the provisions of the Zoning Code.

4.35 Access - Private Access Roadway

1. General - If vehicular access within the plat will be provided by means other than rights-of-way, the plat must establish easements or tracts which will provide the legal right of access to each of the lots served.
2. Categorization - Paragraph 3 of this Section establishes different requirements for improving private access roads depending on the number of lots to be served and the uses that will be located on those lots. In determining which standards will apply, the City will look at the full potential use of the private access roadways considering potential development on nearby property which could use the private access roadway. The City may require that the legal right of access may be granted to other property in order to provide a safe and efficient circulation system within the City.
3. Standards - The applicant shall comply with the following standards for all private access roadways:
  - a. The Public Works Director is directed to develop dimensional and similar standards for private access roadways.
  - b. Standards to be Enforced as Part of This Ordinance - The City shall enforce the standards adopted under paragraph a of this section as if they were part of this Ordinance.

4. Other Improvements - The City may require additional or other requirements for private access roadways based on unusual circumstances.
5. Engineering Standards - The Public Works Director is directed to develop and keep current full engineering standards and specifications for improvements to private access roadways. The applicant shall comply with these standards and specifications. These standards and specifications are available for public inspection and copying in the Public Works Department during regular business hours.
6. Modifications, Deferments, and Waivers - The provisions in the Zoning Code pertaining to modifications, deferments, and waivers of required right-of-way improvements, may be used by the applicant or the City to modify, defer, or waive the private access roadway provisions of this Section.

#### 4.40 Access - Walkways

The City may require the applicant to install pedestrian walkways in any of the following circumstances:

1. If a walkway is indicated as appropriate in the Comprehensive Plan.
2. If the walkway is reasonably necessary to provide efficient pedestrian access to a designated activity center of the City.
3. Mid-block pedestrian access may be required if blocks are unusually long.

Pedestrian access shall be provided by means of dedicated right-of-way, tracts or easements at the City's option.

#### 4.45 Utilities and Related Requirements - General

All utility system improvements must be designed and installed in accordance with all standards of the applicable serving utility.

#### 4.50 Utilities and Related Improvements - Water System

The applicant shall install a system to provide potable water service to each lot created. The applicant shall install a system that will provide adequate fire flow and all fire fighting infrastructure and appurtenances required by the serving fire district.

#### 4.55 Utilities and Related Improvements - Storm Sewer

The applicant shall comply with the construction phase and permanent storm water control requirements of the Zoning Code. Generally, permanent storm water control system must be designed to accommodate all land within the subdivision. Based on unusual circumstances, the City can require or approve storm water control systems designed and installed for individual lots or groups of lots within the proposed plat.

#### 4.60 Utilities and Related Improvements - Sanitary Sewer

The developer shall install a sanitary sewer system to serve each lot. In lieu of installing a sanitary sewer system, the applicant may propose the use of septic tanks, which may be approved by the City if consistent with the applicable provisions of the Zoning Code and the applicable regulations of the Seattle-King County Health Department.

#### 4.65 Utilities and Related Improvements - Undergrounding

To the extent permitted by the serving utility, electrical, telecommunication, and similar transmission lines bordering or within a plat must be placed underground. Service lines to individual building sites within the plat shall also be placed underground.

#### 4.70 Utilities and Related Improvements - Easements

Utility lines other than in rights-of-way and private access roads should be within easements centered on property lines wherever possible. Except in unusual circumstances, easements for utilities should be at least 10 feet in width.

#### 4.75 Utilities and Related Improvements - Parks and Open Space

1. General Obligation - Each plat intended for residential use within the City has the obligation to partially provide for the recreational and open space needs of the eventual residents. The developer shall elect to meet this obligation by dedicating at least 5% of the usable land within or outside the plat to the City for park purposes or by depositing \$350 per new lot created into the "In Lieu Park Open Space Fund" to be used for acquisition and development of park land within the area of the plat.
2. Decision by the City - If the applicant proposes to meet the obligation of this Section by dedicating land to the City, the City will evaluate the proposed land to determine its feasibility for park purposes. The City will evaluate the access to the site, size, topography, location, and shape of the proposed park site. The City will not approve a plat that meets the obligation of this section by dedication unless the park land to be dedicated will reasonably meet the basic parks and open space needs of the eventual residents of the plat.

#### 4.80 Natural Features - General

The applicant has the responsibility in proposing a plat to be sensitive with respect to the natural features - including topography, streams, lakes, wetlands, habitat, geologic features, and vegetation - of the property. The plat must be designed to preserve and enhance as many of these valuable features as possible. In addition to the specific provisions of this Chapter, the applicant shall comply with all applicable provisions of the Zoning Code regarding property containing or adjacent to major streams, minor streams, Lake Washington, minor lakes, major wetland, unstable slopes, potentially unstable slopes, areas of differential settlement, and other specific requirements regarding site development restrictions due to natural features.

4.85

Natural Features - Land Adjacent to Lake Washington

Subdivisions adjacent to Lake Washington must comply with the provisions of Kirkland's Shoreline Master Program regarding open space and public access along the waterfront.

4.90

Natural Features - Required Setbacks Adjacent to Streams, Lakes and Wetlands

The City may require that any area adjacent to a major or minor stream, a lake, or a major wetland be kept in its natural or pre-existing state if this is reasonably necessary to prevent hazards to persons or property. In addition, the City may also require that areas around major or minor streams, lakes, or wetlands be kept in their natural or pre-existing state if this is reasonably necessary to protect unique and valuable environments.

4.95

Natural Features - Significant Vegetation - The applicant shall identify by species on a dimensioned plot plan all evergreen trees 8" in diameter or greater and all deciduous trees 12" in diameter or greater, measured 1 foot above grade. Of the significant trees so identified, the applicant shall retain at least 25% of the healthy ones, together with any associated groundcover or understory vegetation necessary to assure long-term health and prevent erosion. The City may approve the retention of a group of smaller trees as a substitute for one or more significant trees or require the applicant to replace the existing understory vegetation with more appropriate vegetation and replace any trees proposed for retention if they are determined to be unhealthy. The applicant shall indicate which trees he chooses to retain to satisfy this requirement and shall design the plat so as to maximize the chances of survival of said trees and minimize potential hazards to life or property.

4.100

Natural Features - Easements

The City shall require open space or drainage easements or other similar mechanisms to ensure compliance with Section 80 through 95 of this Chapter.

## CHAPTER 5 - MISCELLANEOUS PROVISIONS

- 5.05 Innovative or Unusual Plat or Short Plat
- 5.10 Bonds
- 5.15 Illegal Subdivision or Short Subdivision of Land
- 5.20 Enforcement

5.05 Innovative or Unusual Plat or Short Plat

1. General - The provisions of this Section establish a mechanism whereby an applicant may propose and the City may consider and approve an innovative or unusual plat or short plat that does not conform to the specific provisions of Chapter 4 of this Ordinance.
2. Procedure - Request for modifications under this Section will be processed and decided upon as part of normal plat or short plat approval process. The notice of the proposed plat or short plat must include specific references to the provisions that the applicant proposes to modify.
3. When Modifications May Be Approved - The City may approve a proposed modification for a plat or short plat under this Section in any of the following circumstances:
  - a. If the land in the proposed plat or short plat is the subject property of a development that has been approved by City Council under a Zoning Code permit.
  - b. If the size, shape, topography, or surroundings of the property are unique.
  - c. If the applicant is proposing an innovative development proposal.
4. Specific Criteria - The City may approve a proposed modification under this Section only if it finds that all of the following criteria are met:
  - a. The requirements of Sections 2.45.2 or 3.70.3 of this Ordinance are met.
  - b. The proposed modification will result in a plat or short plat that is at least as beneficial to the community as would be a plat or short plat which complies with all of the requirements of Chapter 4 of this Ordinance.
  - c. Any undesirable affects of the plat or short plat with the proposed modification are clearly outweighed by benefits to the public of the proposed modification.
5. Limitations Shown on Plat or Short Plat - If a modification is granted under this Section, the recorded plat or short plat must clearly reflect that each lot in the plat or short plat must be used, developed, or maintained consistent with the entire approved plat. Any proposed change to the use, development, or existence of any of the lots or tracts in the plat or short plat will not be approved unless the entire plat or short plat is subject to City review and modification.

5.10 Bonds

1. Maintenance - The City may require a maintenance bond regarding any of the improvements or landscaping installed or maintained under this Ordinance. The City will use the provisions in the Zoning Code

regarding maintenance bonds with respect to the acceptance, amount, administration, utilization, and all other components of these maintenance bonds. The City may not require a maintenance bond with a duration in excess of two years following recording of the plat or short plat.

2. Performance Bonds - In lieu of installing all required improvements and components as part of a plat or short plat, the applicant may propose to post a bond for a period of one year to ensure completion of these requirements within one year of the decision approving the plat or short plat. The City will use the provisions regarding performance bonds of the Zoning Code with respect to the acceptance, amount, administration, utilization and all other aspects of this bond. An extension of the one-year period may be approved by the Public Works Director. If an extension is granted, it shall be for a period not to exceed 12 months and a new security must be submitted.

#### 5.15 Illegal Subdivision or Short Subdivision of Land

The City shall not issue any permit for construction on, modification to, or use of any property divided or segregated in violation of this Chapter or State law unless the City specifically approves a permit, using the provisions of Chapter 150 of the Zoning Code, based on the following criteria:

1. That the applicant purchase the property as an innocent purchaser for value without actual notice that the property was divided or segregated in violation of law.
2. That the public interests will not be adversely affected by approving the permit. In determining the public interest, the City shall use substantially the same criteria as would be used by the City in reviewing a preliminary or short plat application under this Ordinance.

Nothing in this Section in any way limits the rights granted by RCW 58.17.210.

#### 5.20 Enforcement

1. General - It is a violation of this Ordinance for any person, cooperation, organization, or other entity to divide, segregate, sell or transfer; or offer to sell or transfer in violation of this Ordinance. It is a violation of this Ordinance to do any other thing with respect to any lot, tract, parcel, or property in the City that violates the provisions of this Ordinance, or violates a plat or short plat restriction imposed by the City.
2. Enforcement - The City shall use the applicable provisions of the Zoning Code in the investigation, enforcement, and prosecution of the violations of this Ordinance.
3. Criminal Penalty - Upon conviction of a violation of this Ordinance, the guilty party may be punished by a fine of not more than \$500 or imprisonment for not more than 90 calendar days or both for each violation of this Ordinance. The guilty party may also be ordered to discontinue or correct any violation of this Ordinance.
4. Other Lawful Remedies - Nothing in this Section limits the right of the City to pursue other lawful criminal, civil or equitable remedies to abate, discontinue or correct violations of this Ordinance.

5.25 NOTICE OF PROPOSED AMENDMENT OR REPEAL

Notice of any proposal to either amend or repeal any provision of Title 22, Kirkland Municipal Code--Subdivisions shall, pursuant to RCW 58.17.275 be given to all persons or organizations which may have filed with the Kirkland Department of Planning and Community Development, a request for notice. Such notice shall be given 30 days prior to the date set for the first public hearing before the Kirkland Planning Commission on such proposed amendment or repeal.

Section 2. Repealed ordinances. Ordinance 2178, the Kirkland subdivision ordinance together with the following amendatory ordinances are each hereby repealed:

<u>ORDINANCE NO.</u>	<u>ORDINANCE NO.</u>	<u>ORDINANCE NO.</u>
2178	2238	2277
2315	2325	2352
2353	2362	2389
2428	2446	2386
2458	2465	2467
2498	2520	2658

together with all other ordinances or parts of ordinances in conflict herewith, which to the extent of such conflict are hereby superseded.

Section 3. Severability clause. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those portions herein adopted by reference is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. Neither shall the adoption of this ordinance, nor the repeal thereby of any prior ordinances, in any manner, affect the prosecution for violations of such repealed ordinances which violations were committed prior to the effective date of this ordinance, nor considered as a waiver of any right or duty of enforcement existing at the effective date hereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any such repealed or superseded ordinance and all rights and obligations thereunder pertaining shall continue in full force and effect.

Section 4. Application. The provisions of this ordinance shall apply to all applications for the subdivision of land or the short subdivision of land, both preliminary and final, presently filed with the City; provided that no proposed final subdivision or short subdivision having received preliminary approval prior to the effective date of this ordinance shall be required to be

modified, changed, or amended solely because of a conflict between the substantive provisions of this ordinance, and the substantive provisions of the subdivision ordinance and regulations in effect at the time of such preliminary approval.

Section 5. Houghton Community Council jurisdiction. To the extent that the subject matter in provisions of this ordinance are within the disapproval jurisdiction of the Houghton Community Council as created by Ordinance 2001, this ordinance shall become effective within the Houghton community, either upon approval of the Houghton Community Council, or failure of said community council to disapprove this ordinance within 60 days from the date of passage of this ordinance.

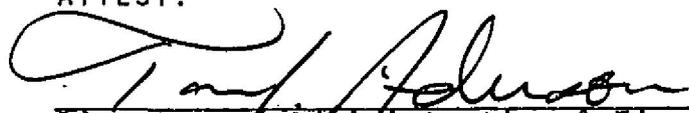
Section 6. Effective date. Except as provided in Section 5, this ordinance shall be in full force and effect five days from and after its passage by the council and posting or publication as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 3rd. day of October, 1983.

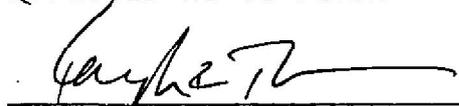
Signed in authentication thereof this 3rd. day of October, 1983.

  
MAYOR

ATTEST:

  
Director of Administration & Finance  
(ex officio City Clerk)

APPROVED AS TO FORM:

  
City Attorney

CERTIFICATION OF POSTING

I hereby certify under penalty of perjury that the foregoing ordinance was posted on the 5 day of October, 1983 in accordance with the provisions of RCW 35A.12.160 and City of Kirkland Ordinance No. 2600.

  
Clerk