

ORDINANCE NO. 2952

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO ZONING, PLANNING AND LAND USE AND AMENDING ORDINANCE 2740 AS AMENDED, THE KIRKLAND ZONING ORDINANCE (FILE NO. IV-86-13).

Whereas, the City Council has received from the Kirkland Planning Commission a recommendation to amend certain sections of the text of the Kirkland Zoning Code, Ordinance 2740 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated 5/6/85 and bearing Kirkland Department of Planning and Community Development File No. IV-86-13; and

Whereas, prior to making said recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, on April 17, 1986 and May 1, 1986, held public hearings on the amendment proposals and considered the comments received at said hearing; and

Whereas, pursuant to the State Environmental Policies Act there has accompanied the legislative proposal and recommendation through the entire consideration process, a final determination of non-significance, including supporting environmental documents, issued by the responsible official pursuant to WAC 197-11-340 and WAC 197-11-390; and

Whereas, in regular public meeting the City Council considered the environmental documents received from the responsible official, together with the report and recommendation of the Planning Commission.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Kirkland as follows:

Section 1: Zoning text amended: The following specified sections of the text of Ordinance 2740 as amended, the Kirkland zoning ordinance, be and they hereby are amended to read as follows:

5.05 User Guide

The definitions in this Chapter apply for this Code.

5.10 Definitions

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

5. Abandoned - Knowing relinquishment of right or claim to the subject property or structure on that property.
10. Access Drive - A privately owned driving surface which collectively serves 2, 3, or 4 parcels that produce 100 or fewer daily trip ends.
15. Accessory - A use, activity, structure or part of a structure which is subordinate and incidental to the main activity or structure on the subject property.
20. Adjoining - Property that touches or is directly across a street, other than a primary arterial, from the subject property. For the purpose of height regulations, any portion of if a structure which is more than 100 feet from a low density zone or which is not located along a common lot line with a lot in a low density zone -it is not considered as to be adjoining that zone (see plate 18).
22. Adult Entertainment Activity or Use - All of the following:
 1. Adult theatre means a building or enclosure or any portion thereof used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined in Sections 5.10.885 and 5.10.884) for observation by patrons therein and which excludes minors by virtue of age.
 2. Adult bookstore means an establishment which in whole or in portion thereof has a substantial or significant portion of its stock and trade books, magazines or other periodicals, which are distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" (as defined in Sections 5.10.885 and 5.10.8-84) and which excludes minors by virtue of age.

3. Adult cabaret means a cabaret, nightclub or other establishment which features go-go dancers, exotic dancers, strippers, male or female impersonators, similar entertainers or attendants, who are so clothed or dressed as to emphasize "specified anatomical areas" (defined in Sections 5.10.884) and/or whose performance or other activities include or mimic "specified sexual activities" (defined in Section 5.10.885) and which establishment excludes minors by virtue of age.

25. Air Rights - The right to in some manner control the use of the space above the surface of the ground.

30. Alluvium - Soil deposits transported by surface waters.

35. Alteration - A change or rearrangement of the structural members or exits in a building; an increase in the height or length or depth of the exterior walls of a building; the movement of a structure from one location to another; or, for office or commercial buildings, the changing by the use of partitions of more than one-third of the gross floor area of a single floor.

37. Amend - To change the Zoning Map, text of the Zoning Code, or Land Use Policies Plan in accordance with this Code.

40. Applicant - A person who applies for any permit or approval to do anything governed by this Code and who is the owner, of the subject property; the authorized agent of the owner, or the City.

45. Average Building Elevation - The average elevation of the topography prior to any development activity, at the center of all exterior walls of a building or structure.

Formula:
$$\frac{\text{Average Building Elevation} = (\text{Mid-point Elevation}) \times (\text{Length of Wall Segment}) + (\text{Mid-point Elevation}) \times (\text{Length of Segment}) \dots}{(\text{Length of Segment}) + (\text{Length of Segment})}$$

(See plate 17)

50. Average Ground Elevation - The average elevation of the topography, prior to any development activity, at the center of all sides of the structure or improvement.

55. Average Lot Elevation - The average elevation of all corners of a lot as measured from natural or existing topography.

60. Average Parcel Depth - The average of the distance from the high waterline to the street providing direct access to the subject property as measured along the side property lines or the extension of those lines where the water frontage of the subject property ends, the center of the high waterline of the subject property and the quarter points of the high waterline of the subject property. See the following diagram for examples.

6a

270. 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.
275. Electrical Sign - A sign or sign structure in which electrical wiring, connections, and/or fixtures are used as part of the sign proper.
280. Entrance Driveway - A driving surface which provides vehicular access to one parcel containing a use, other than a detached dwelling unit.
285. Equestrian - Pertaining to horses and riders.
290. Erosion and Deposition - The removal of soils and the placement of these removed soils elsewhere by the natural forces of wind or water.
295. Excavate(tion) - The mechanical removal of soils and/or underlying strata.
300. Family - An individual or two (2) or more persons of not more than four (4) degrees of affinity or consanguinity and including persons under legal guardianship, or a group of not more than five (5) persons who are not related by four (4) or less degrees of affinity or consanguinity.
305. Fast Food Restaurant - An establishment which offers quick food service which is accomplished through a limited menu of easily produced items. Orders are not taken at the customer's table, and food is served in disposable wrappings or containers.
310. Fence - A man-made wall or barrier constructed for the purpose of enclosing space or separating parcels of land.
315. Fill Material - Dirt, structural rock or gravel, broken concrete and similar structural substances customarily used to raise the level of the ground, but excluding topsoil, bark, ornamental rocks or gravel placed on the surface of the ground.
320. Finished Grade - The final contour of the land surface prior to landscaping.
325. Floor - The horizontal surface inside a structure designed and intended for human use and occupancy, excluding parking areas.
327. Fuel Price Sign - A type of wall-mounted or pedestal sign displaying the price of fuel for motorized vehicles.

330. Glare - The reflection of harsh, bright light, or "the physical effect resulting from high luminancies or insufficiently shielded light sources in the field of view".
335. Government Facility - A use consisting of services and facilities operated by any level of government, excluding those uses listed separately in this Code.
340. Gross Floor Area - The total square footage of all floors in a structure as measured from either the interior surface of each exterior wall of the structure, or, if the structure does not have walls, from each outer edge of the roof. Exterior areas may constitute gross floor area. See Chapter 115 of this Code.
345. Ground Floor - The floor of a structure that is closest in elevation to the finished grade along the facade of the structure that is principally oriented to the street which provides primary access to the subject property.
350. Ground Mounted Sign - All of the following: pole signs, pedestal signs and monument signs.
355. Heat - Added energy that causes substances to rise in temperature, fuse, evaporate, expand or undergo any other related change.
360. High Density Residential Zones - The following zones - RM 2.4; RM 1.8; PLA 5 B, C, D; PLA 6 A, B, D, I, K; PLA 7 B, C; and PLA 9.
365. High Waterline - The line where the water meets the land when the water level of Lake Washington is 21.8 feet above mean sea level based on the Corps of Engineers Datum Point. High Waterline shall be construed to be the same as Ordinary High Water Mark (OHWM), as defined in WAC 173-16-030(10).
370. Home Occupation - An occupation, enterprise, activity, or profession which is incidental to a residential use, which is carried on for profit or customarily carried on for profit; and which is not an otherwise permitted use in the Zone in which it is pursued.
375. Horizontal Dimension - The length of the facade of a structure as measured along a plane.

380. Hospital - An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities, extended care facilities or training facilities. ~~specializing in giving clinical, temporary and/or emergency services of a medical or surgical nature to human patients, which is licensed by state law to provide such facilities and services and which entails services for which a patient may be confined within the institution for over 24 hours.~~
385. Hotel or Motel - A single building or group of buildings containing individual sleeping units intended for transient occupancy.

390. Improvement - Any structure or manmade feature.
395. Industrial Use - The uses allowed in the industrial zones and not permitted in any other zones.
400. Industrial Zones - LI; PLA 6 G, H; and PLA 11.
405. Inner Harbor Line - The line designated as such on the Official Zoning Map.
410. Institutional Uses - The following uses: schools, churches, colleges, hospitals, parks, governmental facilities and public utilities.
415. Institutional Zones - The following zones: P; PLA 1 and PLA 12.
420. Instructional Sign - A sign which designates public information such as, but not limited to; public restrooms, public telephones, exitways and hours of operation.
425. Integral Sign - A sign displaying a building date, monument citation, commemorative inscription or similar historic information.
435. ~~Ionizing Radiation -- Gamma-rays and x-rays, alpha and beta particles, high speed electrons, neutrons, protons and other nuclear particles; but not sound or radio waves, nor visible, infrared or ultraviolet light.~~
440. Irrevocable License - A written irrevocable permission given by a property owner to the City for specified purposes.
445. Isolation - When a use abuts or is directly across the street from high density or higher intensity uses, on at least three (3) sides.
450. Kennel - An establishment, generally retail in nature which, house, care for, breed, raise or sell dogs or cats.
455. Land Surface Modification - The clearing or removal of trees, shrubs, ground cover and other vegetation, and all grading, excavation and filling of materials. The removal of overhanging vegetation and fire hazards as specified in Chapter 9.12, Kirkland Municipal Code, shall not be deemed to be land surface modifications.
460. Land Use Policies Plan - Ordinance 2346 as amended or, if repealed, its successor document, listing the goals and policies regarding land use within the City.

465. Landscaping - The planting, removal and maintenance of vegetation along with the movement and displacement of earth, topsoil, rock, bark and similar substances done in conjunction with the planting, removal and maintenance of vegetation.
470. Landward - Toward dry land.
475. Linear Frontage of Subject Property - The frontage of the subject property adjacent or parallel to all open improved public rights--of-way. Frontage adjacent to I-405 is not applicable except for properties within FC I, FC II, and PLA 10 zones. If the subject property does not have frontage on an open improved right-of-way, the frontage of any public access easements which serve the subject property, and unopened rights-of-way which front on the subject property is the linear frontage of the subject property.
480. Lot - A piece of land having a specific account number on the King County Assessor's Map.
485. Low Density Use - A detached dwelling unit on a subject property that contains at least 7,200 square feet.
490. Low Density Zone - The following zones: RS 35, RS 12.5, RS 8.5, RS 7.2, PLA 2, PLA 6C and WD-11.
491. Low Income Household - A household whose total gross income is less than or equal to 80% of the median household income in the Seattle Metropolitan Statistical Area. For low income senior citizen households, total assets shall not exceed the maximum established by the City Council.
492. Low Income Unit - A unit which contains a low income household. In addition, the rent for this type of unit shall not exceed 30% of the gross income of the eligible low income household.
495. Major Stream - All of the following: Forbes Creek, Juanita Creek, Cochran Creek, and Yarrow Creek.
500. Marquee Sign - Any sign which forms part of, or is integrated into, a marquee or canopy and which does not extend horizontally beyond the limits of such marquee or canopy.
505. Master Plan - A complete development plan for the subject property showing: placement, dimensions and uses of all structures as well as streets and other areas used for vehicular circulation.

510. Maximum Lot Coverage - The maximum percentage of the surface of the subject property that may be covered with structures other than outdoor swimming pools or any other materials which will not allow for the percolation of water into the underlying soils. If the subject property contains more than one use, the maximum lot coverage requirements for the predominant use will apply to the entire development.
515. Medium Density Use - Detached, attached, or stacked dwelling units on a subject property which contains at least 3,600 square feet per unit but not more than 7,199 square feet per unit.
520. Medium Density Zones - The following zones: RS 5.0; RM 3.6; WD-I; WD-III; PLA 3; PLA 6 E, F, G, J; and PLA 7 A.
525. Mean Sea Level - The level of Puget Sound at zero tide as established by the US Army Corps of Engineers.
527. Mini-Day-Care Center - A Day-Care operation with seven (7) to twelve (12) children at any one time.
530. Minor Lake - Any lake shown on the Environmentally Sensitive Areas Map, as adopted by the City Council and on file in the Planning Department, other than Lake Washington.
537. Modify - As used in Chapters 75, 122 and 125, the word modify means to allow or require a deviation from the provisions of this Code.
540. Monument Sign - A ground mounted sign which is higher than 5 feet above the average ground elevation and which is attached to the ground by means of a wide base of solid appearance. ~~These signs are composed of a sign face and a sign base. The width of the base must be equal to at least 20% of the height of the entire sign, and also must be equal to at least 60% of the width of the sign face. The height of the sign base must be at least 50% of the total sign height. The base and architectural detail must be of color, shape and materials consistent with the character of the primary structures. See Plate 13 in Chapter 180 of this Code for a graphic depiction of a monument sign.~~

545. Moorage Facility - A pier, dock, buoy or other structure providing docking or moorage space for waterborne pleasure craft.
550. Multi-Use Complex - All of the following: a group of separate buildings operating under a common name or management; or a single building containing multiple uses where there are specific exterior entranceways for individual uses ~~or groups of uses~~; or a group of uses on separate but adjoining properties that request treatment as a multi-use complex.
555. Natural Features - Physical characteristics of the subject property that are not manmade.
560. Natural Materials - Materials chemically unaltered from their natural state.
565. Noise - The intensity, duration and character of sound from any and all sources.
570. Non-Conformance - Any use, structure, lot, condition, activity or any other feature or element of private property or the use or utilization of private property that does not conform to any of the provisions of this Code or that was not approved by the City through the appropriate decision-making process required under this Code.
575. Occupant - A person that legally occupies a structure.
580. Odor - Stimulus affecting the olfactory nerves.
585. Off-Site directional Sign - A sign which directs to a business or to merchandise, service, real estate, goods or entertainment which are sold, produced or furnished at a place within the City other than the property on which the sign is located.
590. Office Use - A place of employment providing services other than production, distribution or sale or repair of goods or commodities. The following is a nonexclusive list of office uses: medical, dental or other health care; veterinary, accounting, architectural, engineering, consulting or other similar professional services; management, administrative, secretarial, marketing, advertising, personnel or other similar personnel services; sales offices where no inventories or goods are available on the premises, real estate, insurance, travel agent, brokerage or other similar services.

640. Pedestal Sign - A ground mounted sign that which is no higher than 5 feet above average ground elevation, and which is attached to the ground by means of one of two types of pedestal:

a. a solid base, or

b. at least two legs.

A type a pedestal sign shall be composed of a sign face and a sign base. The width of the base must be equal to at least 20% of the height of the entire sign, and also must be equal to at least 50% of the width of the sign face. The height of the sign base must be at least 20% of the total sign height and be of solid appearance. A type b pedestal sign shall be composed of a sign face and of at least two supporting legs. The legs must be at least 4" in diameter or width. The space between the bottom of the sign face and the average grade elevation must equal at least 20% of the total sign height. See Plate 12 in Chapter 180 of this Code for a graphic depiction of pedestal signs.

645. Pedestrian Orientation - Pertaining to facilities which encourage pedestrian movement and are designed and oriented toward use by pedestrians.

650. Person - Any individual, partnership, association, corporation, unit of government or any other legal entity.

655. Planning Department - The Department of Community Development of the City of Kirkland.

660. Planning Director - The Director of the Department of Community Development of the City of Kirkland or the acting Director of that department.

665. Planning Official - The Director of the Department of Community Development or his/her designee.

670. Pole Sign - Any ground mounted sign that does not meet the definitions of monument or pedestal signs and which is composed of two chief elements: the sign face and the sign pole or pylon which connects the sign face to the ground.

675. Political Sign - A sign advertising a candidate for public office, a political party or a particular voting preference during a recognized election period.
680. Portable Outdoor Sign - An outdoor sign that is not permanently attached to the ground or a structure.
685. Primary Vehicular Access - The major street from which the majority of vehicles enter the subject property.
690. Private Advertising Sign - A sign announcing an event, use or condition of personal concern to the sign user such as but not limited to "garage sale" or "lost dog".
695. Private Club - An association of persons organized for some common purpose, but not including groups organized primarily to render a service which is customarily carried on as a business.
700. Private Notice Sign - A sign announcing a restriction on a type of action on the subject property, such as but not limited to; "no trespassing" or "no dumping".
705. Private Roadway - A road surface meeting certain City standards, privately owned either singly or cooperatively by the parcels served by the roadway and serving five (5) or more parcels or a lesser number of parcels which collectively produce more than 100 daily trip ends.
710. Private Traffic Direction Sign - A sign on private property which provides information for vehicular movement while on the property.
715. Projecting Sign - A sign, other than a wall mounted or marquee sign, which is attached to and projects from a structure or building face.
720. Property Line - Those lines on the King County Assessor's Map enclosing a lot and those lines defining a recorded vehicular access easement. The following are categories of property lines:
1. Front property line is any property line that is adjacent to a street or easement more than 20 feet in width, except that neither Burlington Northern right-of-way nor the I-405 right-of-way shall be considered front property lines.

2. Rear property line is any property line that is farther from and essentially parallel to a front property line except on a lot which contains two or more front property lines; or any property line that is adjacent to a street, alley or easement 20 feet or less in width.
 3. Side property line is any property line other than a front property line or a rear property line.
 4. North property line is the property line running essentially east to west at the northern end of the lot.
 5. South property line is the property line running essentially east to west at the southern end of the lot.
 6. High Waterline - this term is defined separately in this Chapter.
725. Public Access - A portion of private property subject to an easement giving the public the right to stand on or traverse this portion of the property.
727. Public Access Pier or Boardwalk - An elevated structure which is constructed waterward of the high waterline and intended for public use.
730. Public Park - A natural or landscaped area, provided by a unit of government, to meet the active or passive recreational needs of people.
735. Public Services Director - The Director of the Department of Public Services.
740. Public Use Area - A portion of private property that is dedicated to public use and which contains one or more of the following elements: benches, tables, lawns, gardens, piers, exercise or play equipment or similar improvements or features. These elements are to provide the public with recreational opportunities in addition to the right to traverse or stand in this area.
745. Public Utility - A private business organization such as a public service corporation, including physical plant facilities, performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services, the services by either of which are paid for directly by the recipients thereof. Such services shall include but are not limited to: water supply, electric power, telephone, cablevision, gas and transportation for persons and freight.

- 4) 4 rabbits or less per dwelling unit.
- 5) Gerbils.
- 6) Guinea pigs.
- 7) Hampsters.
- 8) Mice.
- 9) Cage birds.
- 10) Non-venemous reptiles and amphibians.
- 11) Other animals normally associated with a dwelling unit, and which are generally housed within the dwelling unit.

b. Small Domestic Animals - The following animals will be regulated as small domestic animals:

- 1) More than 3 dogs per dwelling unit.
- 2) More than 3 cats per dwelling unit.
- 3) More than a total of 4 dogs and cats per dwelling unit.
- 4) More than 4 rabbits per dwelling unit.
- 5) Fowl.

c. Large Domestic Animals - The following animals will be regulated as large domestic animals:

- 1) Horses.
- 2) Cattle.
- 3) Sheep.
- 4) Pigs.
- 5) Goats.
- 6) Other grazing or foraging animals.

d. Bees

- 3. Other Regulations - Nothing in this Section eliminates the need to comply with King County Animal Control regulations, State law regulating the keeping of animals, and any other ordinance of the City of Kirkland regulating the keeping of animals.
- 4. Minimum Requirements - The applicant shall comply with the requirements contained within the following chart (see page 313), regarding the keeping of animals in any zone where a dwelling unit is permitted.
- 5. Bonds - The City may require a bond under Chapter 175 of this Code to ensure that the subject property is maintained in a clean condition.

TYPE OF ANIMAL ↓	REGULATIONS ↓	MAXIMUM		MINIMUMS		SPECIAL REGULATIONS
		REQUIRED REVIEW PROCESS	NUMBER OF ADULT ANIMALS	LOT SIZE	SETBACK	
Household Pets	None	Per Dwelling Unit Dogs: 3 Cats: 3 Dogs and Cats: A total of 4 animals Rabbits: 4 Other: No maximum.	As required for a dwelling unit in the zone in which the subject property is located.	Structures and pens must be at least 5' from each property line		1. Household pets, excluding dogs, cats, and rabbits, must be housed within the dwelling unit. If housed outside of the dwelling units, household pets, excluding dogs, cats, and rabbits, will be regulated as small domestic animals.
Small Domestic Animals	Process - Chapter 145 - None	20 per 35,000 sq. ft. of lot area and 1 per each additional 500 sq. ft. of lot area	35,000 sq. ft. per dwelling unit	Structures and pens used to house animals must be at least 40' from each property line.		1. The City may limit the number of animals allowed to less than the maximum considering-- a. Proximity to dwelling units both on and off the subject property; and b. Lot size and isolation; and c. Compatibility with surrounding uses; and d. Potential noise impacts. 2. The applicant must provide a suitable structure or pen to house the animals, and must maintain that structure or pen in a clean condition.
Large Domestic Animals	Process - Chapter 145 - If lot size is less than 35,000 sq. ft., then Process I Chapter 145. Otherwise none.	2 per 35,000 sq. ft. of lot area and 1 per each additional 17,500 sq. ft. of lot area. If lot size is less than 35,000 sq. ft., then only 1 horse.	35,000 sq. ft. per dwelling unit ----- May be less if approved through Chapter 145, Process I	Structures and pens used to house animals must be at least 40' from each property line. Roaming and grazing areas must be at least 20' from each property line, subject to Special Regulation #1.		1. If an abutting property owner files a signed and notarized statement in support of the request, the City may permit roaming or areas for to grazing and structures or pens to extend into the property line in common with the abutting property, provided, that the structure or pen complies with all other regulations pertaining to setback in that zone. 2. The City may limit the number of animals allowed to less than the maximum considering-- a. Proximity to dwelling units both on and off the subject property; and b. Lot size and isolation; and c. Compatibility with surrounding uses; and d. Potential noise impacts. 3. The applicant must provide a suitable structure or pen to house the animals, and must maintain that structure or pen in a clean condition. 4. Each lot must contain an area of at least 14,500 sq. ft. capable of being converted into a horse paddock area and configured in a contiguous and useable manner to accommodate the feed storage and manure pile for two horses. This area must be exclusive of any structures, including storage sheds, barns, residential units and carports. Direct access to this area must be available for

REGULATIONS FOR THIS USE CONTINUED ON NEXT PAGE

Footnotes

TYPE OF ANIMAL ↓	REGULATIONS ↓	MAXIMUM			MINIMUMS		SPECIAL REGULATIONS
		REQUIRED REVIEW PROCESS	NUMBER OF ADULT ANIMALS	LOT SIZE	SETBACK		
Bees	Process I Chapter 145	No maximum	12,500 sq. ft. per dwelling unit.	Hive must be at least 20' from each property line.	<p>REGULATIONS FOR THIS USE CONTINUED FROM PREVIOUS PAGE</p> <p><u>trucks to deliver feed and pick up manure from an alley, easement, or an adjacent right-of-way across a side yard of the lot.</u></p> <p><u>5. No outdoor manure pile may be placed closer than a point equidistant to any adjacent residential structure.</u></p> <p>1. A hive must be enclosed by a fence at least 4' high. 2. The applicant must install at least 2 signs measuring 2 sq. ft. each, which provide notice and warning of the hive.</p>		
2155C/80A							
Footnotes		In addition to the maximum number of adult animals permitted, offspring from one female are permitted at any given time until those offspring are able to survive independently.					

115.25 Development Activities and Heavy Equipment Operation - Limitations On

1. General - It is a violation of this Code to engage in any development activity or to operate any heavy equipment between the hours of 8 p.m. and 7 a.m., Monday through Saturday, ~~if the noise or vibration from the activity or operation can be heard or felt beyond the subject property.~~ No development activity or use of heavy equipment may occur on Sundays or Holidays which are observed by the City.

2. Exception

a. The Planning Director may grant written permission to engage in a development activity or to operate heavy equipment between the hours of 8 p.m. and 7 a.m. on Monday through Saturday or 7 a.m. to 8 p.m. on Sundays or Holidays which are observed by the City if this will not interfere with any residential use that is permitted in the zone in which it is located.

b. The Planning Director may limit the hours of operation permitted under paragraph 1 above, if:

1) The reduced hours will best serve the public's health, safety and welfare; or

2) There have been substantial verifiable complaints received by the Planning Department that the operation of heavy equipment or development activity is interfering with the health and repose of residents of a residential use which is permitted in the zone in which the operation of heavy equipment or development activity is located.

If the Planning Director determines that the hours of operation on a site should be limited pursuant to Section 2.b.1) or 2) above, he/she shall provide written notice to the owner of the property affected by this decision one (1) week prior to the imposition of the restriction. The Director shall have the right to repeal this restriction at any time it can be shown that the use of heavy equipment or development activity can and will be conducted so as not to be contrary to paragraphs 2.b.1) and 2) above.

Distance Between Structures, Regarding Maximum Horizontal Facade Regulation (Adjacency to Institutional Use)

1. Distance Between Structures

a. General - For purposes of the regulation in this Code regarding maximum horizontal facade only, two structures will be treated and considered as one structure if any elements of the structures, other than as specified in paragraph 2 of this Section are closer than 20 feet to each other. In addition, two structures connected by a breezeway or walkway will be regulated as one structure if any element of the breezeway or walkway is higher than 8 feet above finished grade.

b. Exceptions

1) Porches and similar elements of a structure no higher than 18 inches above finished grade may be closer than 20 feet to another structure.

2) Chimneys, bays, greenhouse windows, eaves and similar elements that customarily extend beyond the exterior walls of a structure may be no closer than 18 1/2 feet from another structure.

2. Adjacency to Institutional Uses - If a structure is located adjacent to an institutional use which is located in a low density zone, the maximum horizontal dimension provision of 50 feet may be waived by the Planning Director.

115.35 Erosion and Sedimentation Regulation

It is a violation of this Code for the owner of the subject property to create, allow or perpetuate conditions on the subject property which cause the erosion or undermining of adjacent property. It is also a violation of this Code for the owner of the subject property to create, allow or perpetuate a condition which causes the deposition of sediments or the movement of other geologic materials onto adjacent property.

115.40 Fences1. General

a. Fences not over 6 feet in height may be anywhere on the subject property except:

i. A fence may not be within 15 feet of any street curb, or the edge of the street pavement, if no curb exists; or

ii. If the applicant can show with a survey, or other reasonable means, the location of his/her property line, the fence can be placed on the property line regardless of the distance from a street curb or the edge of the pavement.

iii. A fence may not violate the provisions of Section 115.135 of this Code.

iv. No fence may be placed within a high waterline setback yard or within any portion of a north or south property line yard which is coincident with the high waterline setback yard. ~~unless the applicant demonstrates to the satisfaction of the Planning Official that the fence will not significantly block views of the lake from adjacent properties.~~

b. Fences over 6 feet in height may not be located in a required setback yard.

2. Barbed Wire - Barbed wire is permitted only atop a fence or a wall at least 6 feet in height.

3. Electrified Fences - Electrified Fences are not permitted in Kirkland, except to contain large domestic animals (see Section 115.20.2.c). All electric fences and appliances, equipment, and

materials used in connection therewith shall be listed or labeled by a qualified testing agency and shall be installed in accordance with manufacturer's specifications and in compliance with the latest edition of the National Electrical Code. Furthermore, electrified fences must be located at least 18 inches on the inside of wood fences when located along any property line. In addition, all electric fences shall be posted with permanent signs which are a minimum of 36 square inches in area at intervals of 15 feet along the fence stating that the fence is electrified.

315a

2289C/307A(3354A/80A)5-20-86/JW:d1c:cw

115.45 Garbage Receptacle and Dumpsters, Placement and Screening ⁰⁻²⁹⁵²

1. Placement - The placement and design of all garbage receptacles and dumpsters must meet the applicable standard of the serving utility.
2. Screening - All garbage dumpsters must be screen from view from the street and from adjacent properties. This screening may be done using dense vegetation or by placing the dumpster in a structural enclosure.

115.50 Glare Regulation

Any artificial surface which produces glare which annoys; injures; endangers the comfort, repose, health or safety of persons; or in any way renders persons insecure in life, or in the use of property is a violation of this Code.

115.55 Heat Regulation

Heat generated by any activity or operation on the subject property which annoys, injures, endangers the comfort, repose, health or safety of persons on abutting properties or streets; or in any way renders persons insecure in life or in the use of abutting property or streets is a violation of this Code.

115.60 Height Regulations, Exceptions To

1. General - No element or feature of a structure, other than as listed in paragraph 2 of this Section, may exceed the applicable height limitation established for each use in each use zone in Chapters 15 through 65 of this Code.

2. Exceptions

- a. Detached Dwelling Units

- Vents and chimneys for a detached dwelling unit may exceed the maximum height limit.

- a-b. Other Structures

- 1) Vents, chimneys, and elevator overrides for all structures other than detached dwelling units may exceed the applicable height limitation by a maximum of four (4) feet. These structures must be located in such a way as to minimize view blockage.

2) Other appurtenances may ⁰⁻²⁹⁵² exceed the maximum height limit if the Planning Official determines that:

- a) the appurtenances must be above the roofline for proper operation; and,
- b) based on accurate graphic representations provided by the applicant, views from adjacent properties will not be significantly blocked.

~~that generally must be above the roofline for proper operation and the required screening for these elements; mechanical penthouse and similar elements may exceed the applicable height limitation if, except for detached dwelling units, this is approved through Process I, described in Chapter 145 of this Code. The City will approve the application if substantial and demonstrated hardship would result to the property owner if the appurtenance did not exceed the height limitation.~~

3) Any appurtenance, other than chimneys and antennas, that exceeds the applicable height limitation must be screened from all streets and nearby properties.

b-c. Dish antennas may not be placed above the maximum height allowed for any structure

- 0-2952
- 1) Will not harm the character of the surrounding neighborhood; and
 - 2) Will not interfere with the rights of nearby residents; and
 - 3) Will not violate any established policy of the City.
3. Accessory Buildings Structure - buildings structures, not exceeding a total of 1000 square feet, to be used as a tool shed, greenhouse, private garage, or similar use, and not designed or used for human habitation are permitted. The total size of all such structures may not exceed 1000 square feet.
4. Radio Tower - A radio tower and antenna structure for use by a non-commercial, licensed amateur private operator may be approved using Process IIA, described in Chapter 150 of this Code; shall be allowed if it--
- a. Will not interfere with the rights of nearby residents; and
 - b. Does not extend higher than reasonably necessary to operate effectively; and
 - c. Does not interfere with nearby utility lines, etc.

Any person believing a radio tower or antenna structure does not comply with the foregoing may request in writing a determination of compliance from the Planning Director. The Planning Director shall make such determination utilizing Process I described in Chapter 145 of this Code. In making his determination, the Planning Director shall take into consideration the strong Federal interest in promoting amateur communications and the rules adopted by the Federal Communications Commission in support of that interest to regulate the amateur service. (47 CFR Part 97).

5. Domestic Animals - Please see the Section in this Chapter entitled Animals in Residential Zones for regulations for keeping animals in residential zones.
6. Dish Antenna - A dish antenna which is ground mounted is subject to the setback requirements of the use in the zone in which it is located. In addition, all dish antennas are subject to the provisions of Section 60.2.c of this Chapter.

It is a violation of this Code to accumulate junk (that is, old or scrap copper; brass; rope; rags; batteries; paper; trash; rubber debris; waste; scrap wood; or junked, dismantled or wrecked automobiles, or parts thereof; iron; steel; and other old or scrap ferrous or nonferrous material) or for a property owner or the person in control of property to allow junk to accumulate on the subject property. In addition, a junk yard (that is an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk) is not permitted in the City.

115.75 Land Surface Modification

1. General - The applicant shall comply with this Section with respect to all land surface modifications.

0-2952

The soils report also must contain recommended methods for mitigating identified impacts and a description of how these mitigating measures impact adjacent properties. The City may require implementation of recommendations in the soils report to mitigate identified impacts.

5. Bonds -The City may require the following bonds, per Chapter 175:
- a. A performance bond to guarantee that the land surface modification will conform to City standards; and/or
 - b) A maintenance bond after the land surface modification is completed.

115.80 Legal Building Site

1. General - It is a violation of this Code to erect any structure on or to use or occupy any lot or parcel unless that lot or parcel is a legal building site. A lot or parcel is a legal building site if it meets all of the following criteria:
 - a. It was created or segregated pursuant to all applicable laws, ordinances and regulation.
 - b. Except as specified in paragraph 2 of this Section, it meets the allowable minimum lot size established by this Code.
 - c. It is either adjacent to or has a recorded access easement to a street providing access to the lot or parcel, that meets the minimum requirements established under this Code.
2. Exception, Detached Dwelling Units - An applicant may build one detached dwelling unit on a lot or parcel regardless of the size of the lot or parcel if--
 - a. The applicant applies for necessary permits to construct the unit within 5 years of the date the lot or parcel is annexed into the City and the lot or parcel was a lawfully created lot under King County Subdivision and Zoning laws; or
 - b. There is or has been a residence on the subject property. The applicant may remodel or rebuild that one residence; or provided that all other zoning code requirements are met; or

- 0-2952
- c. The lot lines defining the lot or parcel were recorded in the King County Assessors Office prior to May 14, 1972, and the lot or parcel has not simultaneously been owned by the owner of an adjoining contiguous lot or parcel which fronts on the same right-of-way subsequent to May 14, 1972.

115.85 Lighting Regulation

1. Efficient Light Sources - The applicant shall utilize energy efficient light sources.
2. State Code - The applicant shall comply with the Washington State Energy Code with respect to the selection and regulation of light sources.
3. Glare From Subject Property Prohibited - The applicant shall select, place and direct light sources both directable and non-directable so that glare produced by any light source, to the maximum extent possible, does not extend to adjacent properties or to the right-of-way.

~~115.90 --- Maximum Lot Coverage, Alternatives To~~

- ~~1. General --- This Section establishes a mechanism whereby an applicant may propose and the City may approve a development that exceeds the maximum lot coverage required by this Code. The purpose of this Section is to provide flexibility in design, to enhance or preserve the visual character of the total community, and to facilitate new development that fits into the established natural and man-made patterns in specific neighborhoods.~~
- ~~2. Process --- The city will review and decide upon an application to exceed the maximum lot coverage requirements of this Code using Process I, described in Chapter 145 of this Code.~~
- ~~3. Application Materials --- In addition to the application materials required in Chapter 145 of this Code, the applicant shall submit a narrative outlining how and to what extent the proposed development is consistent with the design factors listed in paragraph 4 of this Section.~~

- 4: ~~Design-Factors---The-City-will-use-the-three design-factors-listed-below-to-determine-if and-the-extent-to-which-a-proposed-development may-exceed-the-lot-coverage-requirements-of this-Code,---The-City-may-determine-that-a proposed-development-should-receive-0,-1,-2, 3,-4,-or-5-points-for-each-design-factor,---The more-the-proposal-is-consistent-with-a-design factor-the-points,-not-to-exceed-5,-will-be awarded-for-that-design-factor,---Each-design factor--point--constitutes--three--additional percentage-points-of-maximum-lot-coverage-for the-subject-property,---The-design-factors-are as-follows:~~

323a

- a. Retention of Significant Trees/Installation of Superior Landscaping --- The proposed development retains all or nearly all of the significant trees on the subject property or proposes to install greater landscaping than what is required by this Code. Further, that the retained significant trees or the size, type, placement and design of the proposed landscaping softens or breaks up the buildings, parking area, or other structures or otherwise provides an open natural amenity to the site.
- b. Consistency With Neighborhood Architecture --- The proposed development uses innovative or outstanding architectural design that is compatible with, or superior to, the character of the community or the architecture in the immediate area of the subject property.
- c. Site Plan Open Space Configuration --- The proposed development is designed so that the open space and landscaped areas are aggregated, placed and designed in a fashion to provide an open, green appearance to the subject property as viewed from the public right-of-way and adjacent properties with development oriented towards the subject property.

5. Maximum Increases --- The following chart establishes the maximum lot coverage that may be permitted using this Section:

If the Maximum Coverage for the use without this Section is	Then the maximum lot coverage using this Section is
50%	75%
60%	80%
70%	85%
80%	90%
90%	95%

1. Maximum Environmental Noise Levels

- a. State Standard Adopted - The City of Kirkland adopts by reference the Maximum Environmental Noise Levels established pursuant to the Noise Control Act of 1974, RCW 70.107. See Chapter 173-60 WAC.
 - b. Watercraft Noise Performance Standards - The City of Kirkland adopts by reference the Watercraft Noise Performance Standards established pursuant to the Noise control Act of 1974, RCW 70.107. See Chapter 173-70 WAC.
 - c. Availability - These regulations are available for inspection and copying in the Planning Department during regular business hours.
2. Noise - Public Nuisance - Any noise which injures, endangers the comfort, repose, health or safety of persons, or in any way renders persons insecure in life, or in the use of property is a violation of this Code.
 3. Bonds - The City may require a bond under Chapter 175 of this code to insure compliance with the provisions of this Section.

115.100 Odor

Any odor which injures, endangers the comfort, repose, health or safety of person on abutting properties or streets, or in any way renders persons insecure in life, or in the use of abutting properties or streets is a violation of this Code.

115.105 Outdoor Use, Activity and Storage1. Residential Zones

Uses and activities normally associated with a residential use are allowed in a residential zone. The outdoor storage of fire wood may be located within setback yards only if it is stacked immediately adjacent to a structure, fence or comparable visual screen, and if the height does not exceed that structure, fence or comparable visual screen.

B.2. Site Plan - The applicant shall ⁰⁻²⁹⁵² submit for approval to the Department of Planning and Community Development, a site plan drawn to scale consisting of the following items:

- a. Locations and dimensions of all structures and fences on site; and,
- b. Locations and dimensions of all parking and driving areas on site; and,
- c. Locations and dimensions of all existing and proposed outdoor use, activity or storage areas; and,
- d. Locations and description of all existing landscape buffering on site; and,
- e. The duration of time for which the outdoor use, activity or storage is intended.

C.3. Specific Use and Development Requirements - The City will administratively review and either approve or deny any application for outdoor use, activity and storage based on the following standards:

- a. All outdoor use, activity and storage areas must comply with required buffers for the primary use.
- b. A minimum 6 foot high solid screening fence or other appropriate screening approved by the Department of Planning and Community Development is required around the outside edges of the area devoted to the outdoor use, activity or storage. The fence shall be measured above finished grade except when the outdoor storage abuts a sidewalk, in which case the 6 feet must be above the sidewalk.
- c. Outdoor use, activity or storage areas located adjacent to non-residential zones may be located in the required side and rear setback yards. All outdoor use, activity and storage areas located adjacent to residential zones must meet required setbacks for the primary use.

- 0-2952
- d. If the outdoor storage area is surrounded on all sides by property zoned for industrial use, then the height of the outdoor storage shall not exceed the height of the primary structure. In all other cases, the height of items related to outdoor use, activity or storage shall not exceed six feet above finished grade.
 - e. The outdoor use, activity or storage area shall not inhibit the safe vehicular and pedestrian movement to, from and on the subject property in accordance with the requirements of the Zoning Code and standards of the Fire Department, Building Department and the Public Works Department.
 - f. For the purposes of this Code, an outdoor use, activity or storage area will be used in calculating the gross floor area of a use or development if this area will be used as an outdoor use, activity or storage area for at least two months in every year.
 - g. If located on an unimproved area of the site, the underlying ground must be improved as required by the Department of Public Works and Planning and Community Development, and no trees over 6" in caliper may be cut.
 - h. ~~Residential uses may store firewood on the subject property. The firewood may be located within setback yards only if it is stacked immediately adjacent to a structure, fence or comparable visual screen, and if the height does not exceed that structure, fence or comparable visual screen.~~

D.4- Exceptions to Outdoor Use, Activity or Storage

- The following outdoor uses and activities when located in commercial and industrial zones, are exempt from the requirement of this section as stated below:

- a. Exceptions to paragraphs 3.a, .b, .c, .d, and .f, of this section provided that a temporary certificate of occupancy from the Building Department is obtained:

- (1) Outdoor Christmas tree ⁰⁻²⁹⁵² lots and fireworks stands if these uses will not exceed 30 days.
 - (2) Outdoor amusement rides; carnivals and circuses; and parking lot sales which are ancillary to the indoor sale of the same goods and services if these uses will not exceed 7 days.
- b. Exception to paragraphs 3.a and 3.b of this Section:
- (1) That portion of an outdoor use, activity or storage area which abuts another outdoor use, activity or storage area which is located on property zoned for commercial or industrial use.
 - (2) Outdoor use, activity and storage areas which are located adjacent to a fence or structure which is a minimum of 6' above finished grade; and do not extend outward from the fence or structure more than 5 feet provided that the total horizontal dimensions of these areas shall not exceed 50% of the length of the facade or fence (see Plate 11).
 - (3) If there is an improved path or sidewalk in front of the outdoor storage area, the outdoor use activity or storage may extend beyond 5' if a clearly defined walking path at least 3' in width is maintained and there is adequate pedestrian access to and from the primary use. The total horizontal dimension of these areas shall not exceed 50% of the length of the facade of the structure or fence (see Plate 11).
 - (4) Outdoor dining areas. In addition to being exempt from paragraphs 3.a and 3.b of this section, table umbrellas may exceed the 6 foot height limitation of paragraph 3.d of this section.

- (5) Outdoor display of vehicle sales or lease provided that they meet all of the standards of Section 105.80.1.a and .b of this Code.

E.5. Modification - The applicant may request a modification of the requirements of paragraphs 2-B through 4-D of this section by submitting a written request with their site plan to the Department of Planning and Community Development for review. The Planning Official may approve a modification if --

- a. The modification will not create a greater impact on any nearby residential use than would be created without the modification; and
- b. The modification will not detract from the character of nearby uses; and
- c. The modification will not be injurious to public health, safety or welfare; and
- d. The modification complies with the Land Use Policies Plan.

F.6. Appeals of Outdoor Use, Activity and Storage Modification Requests.

- a. Who Can Appeal - Any person who is aggrieved by a determination regarding a modification for outdoor use, activity or storage may appeal that determination at any time.
- b. How to Appeal - The applicant must file a letter of appeal indicating how the determination affects his/her property and present any relevant arguments or information on the correctness of the determination. The applicant shall include the appeals fee as established by Ordinance.

- c. Applicable Procedures - All appeals and determinations of this Chapter will be reviewed and decided upon using Process IIA described in Chapter 150 of this Code.

115.110 Radiation

Ionizing radiation is ~~regulated~~ defined and regulated by the State of Washington pursuant to RCW 70.98. Any complaint, inquiry, or violation regarding ionizing radiation within the City of Kirkland will be referred to the Department of Social and Health Services.

115.115 Required Yards

1. General - This Section establishes what structures, improvements, and activities may be in or take place in required yards as established for each use in each zone in Chapters 15 through 65 of this Code.
2. Exceptions and Limitations in Some Zones - Chapters 15 through 65 contain specific regulations regarding what may be in or take place in required yards. Where applicable, those specific regulations supersede the provisions of this section.
3. Structures and Improvements - No improvement or structure may be in a required yard except as follows:
 - a. A driveway and/or parking area subject to the standards of sections 115.115.5.a and 115.115.5.b.
 - b. Any improvement or structure, other than a driveway and/or parking area, that is not more than 4 inches above finished grade may be anywhere in a required setback yard.
 - c. An improvement or structure, that is not more than 18 inches above finished grade may extend not more than 5 feet into a required yard.
 - d. Chimneys, bays, greenhouse windows, and similar elements of a structure that customarily extend beyond the exterior walls of a structure may extend up to 18 inches into any required yard. The total horizontal dimension of the elements that extend into a required yard, excluding eaves, may not exceed 25% of the length of the facade of the structure. See Plate 10.

- 1) Vehicle parking areas shall have a minimum 20' setback from all front property lines and meet the minimum required setbacks from all other property lines for that use. Vehicle parking areas for schools and day care centers greater than 12 students shall have a minimum 20' setback from all property lines.
 - 2) Driveways shall have a minimum 5' setback from all property lines, except for the portion of any driveway which connects with an adjacent street.
- c. Other uses - Parking areas and driveways for uses other than those addressed in paragraphs a. and b. above, may be located within required setback yards, but, except for the portion of any driveway which connects with an adjacent street not closer than 5 feet to any property line.
- d. Shared Parking - If the parking serves two adjacent uses, the parking area may be anywhere in the required setback yard between the uses.

115.120

Rooftop Appurtenances, Required Screening

Vents, mechanical penthouses, elevator equipment and similar appurtenances that extend above the roofline must be architecturally screened; except for rod, and wire antennas and dish antennas approved pursuant to 115.60.2.b. The height of the screening must be at least as high as the rooftop appurtenances.

115.125

Rounding of Fractions of Dwelling Units

In many zones, the number of dwelling units allowed on the subject property is determined by dividing the lot size by the number of square feet this Code requires per unit. When this results in a fraction round up to the next whole number (unit) if both of the following criteria are met:

- (1) The fraction of the whole number is at least 0.66; and;
- (2) The resulting number of units on the subject property does not exceed the density established for the subject property in the Comprehensive Plan.

3308

2. To make any decisions or determinations that the City Council, by ordinance approving the PUD indicated are to be made during the final site plan review. Any decisions or determinations made during this process, become part of the approved PUD.

125.60 Final Site Plan Review - Minor Modifications

The City may require or approve a minor modification to the site plan of the PUD as approved by City Council if--

1. The change is necessary because of natural features of the subject property not foreseen by the applicant or the City prior to the approval of the PUD; and
2. The change will not have the effect of reducing landscaped area, buffering areas or the amount of open space in the PUD; and
3. The change will not have the effect of increasing the residential density of the PUD; and
4. The change will not have the effect of increasing the area devoted to non-residential uses in the PUD; and
- ~~5. The change will not result in any structure, or vehicular circulation or parking area being moved more than 10 feet in any direction and will not reduce any required yards; and~~
65. The change will not result in any increase in the height of any structure; and
76. The City determines that the change will not increase any adverse impacts or undesirable effects of the project, or and that the change in no way significantly alters the project.

125.65 Final Site Plan Review - Major Modifications

If an applicant seeks a modification to an approved PUD that does not meet all of the requirements of Section 60 of this Chapter, he/she may do so by submitting the application material required for approval of a new PUD. The City will process and decide upon this application, using the provisions of this Chapter, as if it were an application for a new PUD.

CHAPTER 145 - PROCESS I

145.05	User Guide
145.10	Proposal Requiring Approval Through Process IIA, IIB or III
145.15	Applications
145.20	Compliance With SEPA
145.25	Official File
145.30	Notice
145.35	Burden of Proof
145.40	Written Comments
145.45	Planning Director's Decision
145.50	Effect of the Decision
145.55	<u>Request for Reconsideration</u>
145.5560	Appeals
145.6065	Notice of the Appeal Hearing
145.6570	Participation in the Appeal
145.7075	Scope of the Appeal
145.7580	Staff Report on the Appeal
145.8085	Public Hearing on the Appeal
145.8590	Electronic Sound Recordings
145.9095	Burden of Proof
145.95100	Continuation of the Hearing
145.100105	Decision on the Appeal
145.105110	Judicial Review
145.110115	Lapse of Approval
145.115120	Bonds
145.120125	Complete Compliance Required
145.05	<u>User Guide</u>

Various places of this Code indicate that certain developments, activities or uses are permitted only if approved using Process Number I. This Chapter describes how Process I works.

If you are interested in obtaining approval for something through Process I or if you wish to participate in a decision that will be made using this Process, you should read this Chapter. However, this Chapter only applies if another provision of this Code specifically states that a decision will be made using Process I.

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

If the development, use or activity that requires approval through Process I is part of a proposal that requires additional approval through Process IIA, Process IIB or Process III, 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.

- (4) The electronic sound recording⁰⁻²⁹⁵² 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.

145.30 Notice

1. Content - The Planning Official shall prepare a notice of each application containing the following information:
 - a. The name of the applicant and, if applicable, the project name.
 - b. The street address of the subject property, or if this is not available, a locational description in non-legal language along with a vicinity map that identifies the subject property.
 - c. The citation of the provision of this Code describing the requested decision.
 - d. A brief verbal description of the requested decision.
 - 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 Director regarding the matter, and the deadline for submitting these comments.
 - g. 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 fourteen (14) calendar days before the deadline established in paragraph 1.f., of the section as follows:
 - a. A copy of the notice will be published in the official newspaper of the City. The published notice does not require a vicinity map.

- 0-2952
- b. At least three copies of the notice, including a vicinity map, will be conspicuously posted on or near the subject property. Of these, at least one will be posted on every public right-of-way providing primary vehicular access to any property that abuts the subject property.
 - c. A copy of the notice, including a vicinity map, will be posted on each of the official notification boards of the City.

145.35 Burden of Proof

The applicant has the responsibility of convincing the Planning Director that, under the provisions of this Chapter, the applicant is entitled to the requested decision.

145.40 Written Comments

1. General - The Planning Director shall consider all written comments and information regarding the requested decision 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 fourteen (14) calendar days after the date the notice is published in the official newspaper of the City.

145.45 Planning Director's Decision

1. General - Within ten (10) working days after the deadline for submitting comments and after considering all of the information and comments submitted on the matter, the Planning Director shall issue a written decision either--
 - a. Granting the application; or
 - b. Modifying and granting the application; or
 - c. Denying the application.
2. Decisional Criteria - The Planning Director shall use the criteria listed in the provision of this Code describing the requested decision in deciding upon the application. In addition, the Planning Director may approve the application only if:
 - a. It is consistent with the goals and policies of the Comprehensive Plan;

- b. It is not inconsistent with any ⁰⁻²⁹⁵² specific provision of the Comprehensive Plan; and
- c. It is consistent with the public health, safety and welfare.
3. Conditions and Restrictions - The Planning Director shall include in the written decision any conditions and restrictions that he/she determines are necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision.
4. Contents - The Planning Director shall include in the written decision--
- a. A statement granting, modifying and granting, or denying the application.
- b. Any conditions and restrictions that are imposed.
- c. A statement of facts presented to him/her that support the decision, including any conditions and restrictions that are imposed; and
- d. A statement of the Director's conclusions based on those facts;
- e. A statement of the criteria used by the Director in making the decision; and
- f. A summary of the rights, as established in this Chapter, of the applicant and others to appeal the decision of the Director.
5. Issuance of Written Decision - Within two (2) 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.
- b. A copy will be mailed to any person who submitted written comments to the Director ~~and who requests a copy of the decision.~~

145.50 Effect of the Decision

The applicant may not engage in any activity based on the decision granting the application until the time to appeal has expired. If the decision is appealed,

the applicant may not engage in any activity based on the decision granting the application until the City issues a final decision on the matter. If the decision of the Planning Director is not appealed, that decision is the final decision of the City.

145.55 Request for Reconsideration

1. General - Any person who has a right to appeal a decision under Section 60.1 of this Chapter may request the Planning Director to reconsider any aspect of his/her decision by delivering a written request for reconsideration to the Planning Department within five (5) working days following the distribution of the Planning Director's written decision. The person requesting the reconsideration shall specify in the request what aspect of the decision he/she wishes to have reconsidered and the reason for the request.
2. Notice of Request - The person requesting reconsideration shall, within the same time limits, mail or personally deliver a copy of the request for reconsideration to those persons described in Section 60.1 of this Chapter. Proof of such mail or personal delivery shall be made by affidavit. The affidavit of mailing and/or delivery shall be attached to the request for reconsideration delivered to the Planning Department in accordance with this subsection.
3. Decision to Reconsider - Within ten (10) working days after receiving a request for reconsideration, the Planning Director shall notify the person requesting the reconsideration whether or not the Planning Director will reconsider the decision. The Planning Director may reconsider the decision only if he/she concludes that there is substantial merit in the request.
4. Effect - If the Planning Director grants a request to reconsider any aspect of the decision, the City may not process any appeals of the decision until the Planning Director issues his/her written decision on the reconsidered aspect.
5. Process - If the Planning Director reconsiders the decision, the provisions of Section 30 through 50 of this Chapter will be followed, except that:

a. The Planning Director may limit the reconsideration by:

- 1) Limiting the persons who may participate in the reconsideration to the persons who have a right to appeal the decision;
- 2) Limiting the aspect of the decision that will be reconsidered; and
- 3) Limiting the nature of the reconsideration by only receiving written comments and by not holding a hearing.

Any limitations will be included in the notice given under Section 30 of this Chapter; and

b. If the Planning Director limits the persons who may participate in the reconsideration under paragraph 4.a.1) of this Section, the Planning Official shall send notice under Section 30 of this Chapter only to those persons. In all other cases, the Planning Official shall send this notice to the persons described in paragraph 4.a.1) of this Section in addition to the persons described in Section 30.2.a and .b of this Chapter.

145.5560 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~~ ten (10) working days following the ~~issuance--of~~ day the Director's decision was distributed. It must contain--
 - a. A clear reference to the matter 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. Notice of Appeal - Any person filing an appeal shall, prior to delivery of the letter of appeal to the Planning Department, mail or personally deliver a copy of such appeal letter to those persons described in subsection 1 above. Proof of service by mail or personal delivery shall be, by affidavit, attached to the copy of the appeal letter delivered to the Planning Department pursuant to this subsection.
34. Fees - The person filing the appeal shall include with the letter of appeal the fee as established by ordinance.
45. Jurisdiction - Appeals from the decision of the Planning Director will be heard by the Hearing Examiner.

145.605 Notice of the Appeal Hearing

1. Content - The Planning Official shall prepare a notice of the appeal containing the following:
- a. The file number and a brief verbal description of the matter 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 participate⁰⁻²⁹⁵² in the appeal.

2. Distribution - At least fourteen (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 5560 of this Chapter.

145.6570 Participation in the Appeal

Only those persons entitled to appeal the decision under Section 5560 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 these 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.

145.705 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. Persons participating in the appeal may present new information to the Hearing Examiner that was not presented to the Planning Director only if it is relevant to the specific factual findings and conclusions disputed in the letter of appeal.

145.7580 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 appeal⁰⁻²⁹⁵² 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 - At least seven (7) calendar days before 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.
 - d. A copy will be sent to any person who received a copy of the Director's decision ~~and who requests a copy of the report on appeal.~~

145.895 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.

145.8590 Electronic Sound Recordings

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

145.995 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.

145.95100 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.

145.100105 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 fourteen (14) calendar days after the public hearing, the Hearing Examiner shall issue a written decision on the appeal. Within two (2) 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.

145.105110 Judicial Review

The action of the City in granting or denying an application under this Chapter may be reviewed for illegal, corrupt or arbitrary or capricious action in the King County Superior Court. The petition for review must be filed within thirty (30) calendar days of the final decision of the City.

145.110115 Lapse of Approval

1. The applicant must begin or submit to the City a complete Building Permit application for the development activity, use of land, or other actions approved under this Chapter within one (1) year after the final decision on the matter or the decision becomes void.
2. Time Extension
 - a. Application

The applicant may apply for a one time extension of up to one (1) year by submitting a letter to the Planning Department, along with any other supplemental documentation, which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and that circumstances beyond his/her control prevent timely compliance.

b. Fee

The applicant shall include with the letter of request the fee as established by ordinance.

c. Review Process

An application for a time extension will be reviewed by the Planning Official.

3. Appeals

a. Who Can Appeal - Any person who is aggrieved by a time extension or denial of a time extension may appeal that determination.

b. How To Appeal - The applicant must file a letter of appeal indicating how the determination affects his/her property and present any relevant arguments or information on the correctness of the determination. The applicant shall include the appeals fee as established by Ordinance.

c. Applicable Procedures - All appeals of time extensions in this Chapter will be reviewed and decided upon using Process IIA, described in Chapter 150 of this Code.

145.115120 Bonds

The Planning Director and the Hearing Examiner may require a bond as per Chapter 175 of this Code to insure compliance with any aspect of a permit or approval.

145.120125 Complete Compliance Required

1. General - Except as specified in paragraph 2 of this section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this Chapter in order to do everything authorized by that approval.

150.30 Notice

1. Contents - The Planning Official shall prepare a notice of each application containing the following information:
 - a. The name of the applicant and, if applicable, the project name.
 - b. The street address of the subject property, or if this is not available, a locational description in non-legal language along with a vicinity map that identifies the subject property.
 - c. The citation of the provision of this Code describing the applied for decision.
 - d. A brief verbal description of the requested decision.
 - e. The time and place of the public hearing.
 - f. A statement of the availability of the official file.
 - g. A statement of the right of any person to submit written comments to the Hearing Examiner and to appear at the public hearing of the Hearing Examiner to give comments orally.
 - h. A statement that only persons who submit written or oral comments to the Hearing Examiner may appeal the Hearing Examiner's decision.
2. Distribution - The Planning Official shall distribute this notice at least fourteen (14) calendar days before the public hearing as follows:
 - a. A copy of the notice, including a vicinity map, will be sent to the owners of all property within 300 feet of any boundary of the subject property.
 - b. A copy of the notice, including a vicinity map, will be sent to the residents of each piece of property adjacent to or directly across the street from the subject property.
 - c. A copy of the notice will be published in the official newspaper of the City. The published notice does not require a vicinity map.
 - d. At least three copies of the notice, including a vicinity map, 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.

- e. A copy of the notice, including a vicinity map, will be posted on each of the official notification boards of the City.

150.35 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 Code and the Comprehensive Plan.
- d. A statement of the facts found by the Planning Official and the conclusions drawn from those facts.
- e. A recommendation on the matter.

2. Distribution - At least seven (7) calendar days before the hearing, the Planning Official shall distribute the staff report as follows:

- a. A copy will be sent to the Hearing Examiner.
- b. A copy will be sent to the applicant.

150.40 Public Hearing

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

150.45 Electronic Sound Recording

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

150.50 Burden of Proof

The applicant has the responsibility of convincing the Hearing Examiner that, under the provision of this Chapter, the applicant is entitled to the requested decision.

150.55 Public Comments and Participation at the Hearing ⁰⁻²⁹⁵²

Any person may participate in the public hearing 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 these 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 oral comments to facilitate the orderly and timely conduct of the hearing.

150.60 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 matter or if the Hearing Examiner determines that he/she needs more information on the matter. 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.

150.65 Hearing Examiner's Decision

1. General - After considering all of the information and comments submitted on the matter, the Hearing Examiner shall issue a written decision either--
 - a. Granting the application; or
 - b. Modifying and granting the application; or
 - c. Denying the application.

If the Hearing Examiner ~~will~~ issues the decision more than ten (10) working days after the public hearing, he/she shall state in writing or on the record, the reason for the delay and the approximate date of issuing the decision. In no event may the Hearing Examiner take more than twenty (20) working days after the public hearing to issue his/ her decision unless agreed to by the applicant.

2. Decisional Criteria - The Hearing Examiner shall use the criteria listed in the provision of this Code describing the requested decision in deciding upon the application. In addition, the Hearing Examiner may approve the application only if:

- a. It is consistent with the goals and policies of the Comprehensive Plan;
 - b. It is not inconsistent with any specific provision of the Comprehensive Plan; and
 - c. It is consistent with the public health, safety and welfare.
3. Conditions and Restrictions - The Hearing Examiner shall include in the written decision any conditions and restrictions that he/she determines are necessary to eliminate or minimize any undesirable effects of granting the application. Any conditions and restrictions that are imposed become part of the decision.
4. Contents - The Hearing Examiner shall include the following in his/her written decision--
- a. A statement granting, modifying and granting, or denying the application.
 - b. Any condition and restrictions that are imposed.
 - c. A statement of facts presented to him/her that support the decision, including any conditions and restrictions that are imposed.
 - d. A statement of the Hearing Examiner's conclusions based on those facts.
 - e. A statement of the criteria used by the Hearing Examiner in making the decision.
 - f. A summary of the rights, as established in this Chapter, of the applicant and others to appeal the decision of the Hearing Examiner.
5. Issuance of Written Decision - Within two (2) working days after the Hearing Examiner's written decision is issued, the Planning Official shall distribute the decision as follows:
- a. A copy will be mailed to the applicant.
 - b. A copy will be mailed to any person who submitted written or oral comments to the Hearing Examiner ~~and who requests a copy of the decision.~~

150.70 Effect of the Decision

The applicant may not engage in any activity based on the decision granting the application until the time to appeal has expired. If the decision is appealed or

385a

2421C/307A(4623A/81A)5-20-86/JW:d1c:cw

0-2952
if a request for reconsideration is granted, the applicant may not engage in any activity based on the decision granting the application until the City issues a final decision on the matter. If the decision of the Hearing Examiner is not appealed or reconsidered, that decision is the final decision of the City.

150.75 Request for Reconsideration

1. General - Any person who has a right to appeal a decision under Section 80.1 of this Chapter may request the Hearing Examiner to reconsider any aspects of his/her decision by delivering a written request for reconsideration to the Planning Department within five ~~4~~(5) working days following the distribution of the Hearing Examiner's written decision. The person requesting the reconsideration shall specify in the request what aspect of the decision he/she wishes to have reconsidered and the reason for the request.
2. Notice of Request - The person requesting the reconsideration shall, within the same time limits, mail or personally deliver a copy of the request for reconsideration to those persons described in Section 80.1 of this Chapter. Proof of such mail or personal delivery shall be made by affidavit. The affidavit of mailing and/or delivery shall be attached to the request for reconsideration delivered to the Planning Department in accordance with this subsection.
23. Decision to Reconsider - Within ten ~~14~~(10) working days after receiving a request for reconsideration, the Hearing Examiner shall notify the person requesting the reconsideration whether or not the Hearing Examiner will reconsider the decision. The Hearing Examiner may reconsider the decision only if he/she concludes that there is substantial merit in the request.
34. Effect - If the Hearing Examiner grants a request to reconsider any aspect of the decision, the City may not process any appeals of the decision until the Hearing Examiner issues his/her written decision on the reconsidered aspect.
45. Process - If the Hearing Examiner reconsiders the decision, the provisions of Sections 30 through 65 of this Chapter will be followed except that--
 - a. The Hearing Examiner may limit the reconsideration by--

- 1) Limiting the persons who may participate in the reconsideration to the persons who have a right to appeal the decision;
- 2) Limiting the aspects of the decision that will be reconsidered; and
- 3) Limiting the nature of the reconsideration by only receiving written comments and by not holding a new public hearing.

386a

Any limitations will be included in the notice given under Section 30 of this Chapter; and

- b. If the Hearing Examiner limits the persons who may participate in the reconsideration under paragraph 4.a.1. of this Section, the Planning Official shall send notice under Section 30 of this Chapter only to those persons. In all other cases, the Planning Official shall send this notice to the persons described in paragraph 4.a. 1) of this Section in addition to the persons described in Section 30.2.a and b of this Chapter.

150.80 Appeals

1. Who May Appeal - The decision of the Hearing Examiner may be appealed by--
 - a. The applicant; and
 - b. Any person who submitted written or oral comments to the Hearing Examiner.
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 ten ~~14~~ (10) working days following the ~~issuance of~~ day the Hearing Examiner's written decision was distributed. It must contain--
 - a. A clear reference to the matter being appealed; and
 - b. A statement of the specific factual findings and conclusions of the Hearing Examiner disputed by the person filing the appeal.
3. Notice of Appeal - Any person filing an appeal shall, prior to delivery of the letter of appeal to the Planning Department, mail or personally deliver copy of such appeal letter to those persons described in subsection 1 above. Proof of service by mail or personal delivery shall be, by affidavit, attached to the copy of the appeal letter delivered to the Planning Department pursuant to this subsection.
4. Fee - The person filing the appeal shall include with the letter of appeal the fee established by ordinance.
45. Request to Reconsider Not Required - The decision of the Hearing Examiner may be appealed whether or not there was a request for the Hearing Examiner to reconsider the decision.

56. Jurisdiction - Appeals from the decision of the Hearing Examiner will be heard by City Council.

150.85 Notice of the Appeal Hearing

1. Contents - The Planning Official shall prepare a notice of the appeal containing the following:
 - a. The file number and a brief verbal description of the matter being appealed.

387a

- 0-2952
- 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 City Council.
 - d. A statement of who may participate in the appeal.
 - e. A statement of how to participate in the appeal.

2. Distribution - At least fourteen (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 80.1 of this Chapter.

150.90 Participation in the Appeal

Only those persons entitled to appeal the decision under Section 80.1 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 City Council either by delivering these comments to the Planning Department prior to the hearing or by giving these directly to the Council at the hearing.
2. By appearing in person, or through a representative, at the hearing and making oral comments directly to the City Council. The Council may reasonably limit the extent of the oral comments to facilitate the orderly and timely conduct of the hearing.

150.95 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 City Council may only consider comments on these factual findings and conclusions. The appeal will be considered only on the record developed in the hearing before the Hearing Examiner.

150.100 Staff Report on the Appeal

1. Contents - The Planning Official shall prepare a staff report on the appeal containing the following:

- 0-2952
- a. The staff report prepared for the public hearing before the Hearing Examiner.
 - b. The written decision of the Hearing Examiner.
 - c. All written comments submitted to the Hearing Examiner.
 - d. A summary of the comments and discussion at the hearing of the Hearing Examiner and a statement of the availability of the electronic sound recording of the hearing.
 - e. The letter of appeal.
 - f. All written comments received by the Planning Department from persons entitled to participate in the appeal and within the scope of the appeal.
 - g. An analysis of the specific factual findings and conclusions disputed in the letter of appeal.

2. Distribution - The Planning Official shall distribute copies of the staff report as follows:

- a. Prior to the hearing, a copy will be sent to each member of the City Council.
- b. At least seven (7) calendar days before the hearing, a copy will be sent to:
 - 1) the applicant; ~~and~~
 - 2) the person who filed the appeal.; and
 - 3) A copy will be sent to any person who received a copy of the Director's decision ~~and who requests a copy of the report on appeal.~~

150.105 Public Hearing

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

150.110 Electronic Sound Recordings

City Council shall make a complete electronic sound recording of each hearing.

- b. If City Council holds a hearing on the matter, their decision is the final decision of the City.

4. Notice of Final Decision -

- a. General - Following the final decision of the City Council, the Planning Official shall prepare a notice of the City's final decision on the application.
- b. Distribution - Within two (2) working days after the City Council's decision is made, the Planning Official shall distribute a copy of the notice of the decision as follows:
- 1) A copy will be sent to the applicant.
 - 2) A copy will be sent to the person who filed the appeal.
 - 3) A copy will be sent to any person who submitted written or oral comments to the City Council ~~and who requests a copy of the notice.~~

5. Effect - The decision of City Council is the final decision of the City.

150.130 Judicial Review

The action of the City in granting or denying an application under this Chapter may be reviewed for illegal, corrupt or arbitrary or capricious action in the King County Superior Court. The petition for review must be filed within thirty (30) calendar days following the final decision of the City.

150.135 Lapse of Approval

1. The applicant must begin or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under this Chapter within one (1) year after the final decision on the matter or this decision becomes void.

2. Time Extension

a. Application

The applicant may apply for a one time extension of up to one (1) year by submitting a letter to the Planning Department, along with any other supplemental documentation, which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and that circumstances beyond his/her control prevent timely compliance.

- 152.05 User Guide
- 152.10 Proposals Requiring Approval Through Process III
- 152.15 Applications
- 152.20 Compliance With SEPA
- 152.25 Official File
- 152.30 Notice
- 152.35 Staff Report
- 152.40 Houghton Community Council Hearing
- 152.4045 Public Hearing
- 152.4050 Electronic Sound Recording
- 152.5055 Burden of Proof
- 152.5560 Public Comments and Participation at the Hearing
- 152.6065 Continuation of the Hearing
- 152.6570 Recommendation by the Hearing Examiner
- 152.7075 Distribution of Hearing Examiner's Recommendation
- 152.7580 Request for Reconsideration
- 152.8085 Challenge to the Hearing Examiner's Recommendation
- 152.8590 City Council Action
- 152.9095 Procedures for Rehearing and City Council Hearing
- 152.95100 Jurisdiction of the Houghton Community Council
- 152.100105 Notice of Final Decision
- 152.105110 Judicial Review
- 152.110115 Lapse of Approval
- 152.115120 Bonds
- 152.120125 Complete Compliance Required

152.05 User Guide

Various places in this Code indicate that certain developments, activities or uses are permitted only if approved using Process IIB. This Chapter describes Process IIB.

If you are interested in obtaining approval for something through Process IIB or if you wish to participate in a decision that will be made using this Process, you should read this Chapter. However, this Chapter only applies if another provision of the Code specifically states that a decision will be made using Process IIB.

In addition, please refer to Section 10 of this Chapter to see if that section applies.

152.10 Proposals Requiring Approval Through Process III.

If the development, use or activity that requires approval through Process IIB is part of a proposal that requires additional approval through Process III, the entire proposal will be decided upon using Process III, if the Planning Director determines that this will result in more efficient decision making. This Section does not apply to Variances, Chapter 120 of this Code.

- d. A brief verbal description⁰⁻²⁹⁵² of the requested decision.
- e. The time and place of the public hearing.
- f. A statement of the availability of the official file.
- g. A statement of the right of any person to submit written comments to the Hearing Examiner and to appear at the public hearing of the Hearing Examiner to give comments orally.
- h. A statement that only persons who submit written or oral comments to the Hearing Examiner may challenge the recommendation of the Hearing Examiner.
2. Distribution - The Planning Official shall distribute this notice at least fourteen (14) calendar days before the public hearing as follows:

- a. A copy of the notice, including a vicinity map, will be sent to the owners of all property within 300 feet of any boundary of the subject property.
- b. A copy of the notice, including a vicinity map, will be sent to the residents of each piece of property adjacent to or directly across the street from the subject property.
- c. A copy of the notice will be published in the official newspaper of the City. The published notice does not require a vicinity map.
- d. At least three copies of the notice, including a vicinity map, 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.
- e. A copy of the notice, including a vicinity map, will be posted on each of the official notification boards of the City.

152.35 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 ⁰⁻²⁹⁵² 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 Code and the Comprehensive Plan.
 - d. A statement of the facts found by the Planning Official and the conclusions drawn from those facts.
 - e. A recommendation on the matter.
2. Distribution - At least seven (7) calendar days before the hearing, the Planning Official shall distribute the staff report as follows:
- a. A copy will be sent to the Hearing Examiner
 - b. A copy will be sent to the applicant.

152.40 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 the Hearing Examiner hearing on the matter.
- 2. Notice - The Planning Official shall give public notice of the hearing as set forth in Section 152.30 of this Code.
- 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 Hearing Examiner before the Hearing Examiner makes his/her recommendation to the City Council.
- 4. Electronic Sound Recording - The Community Council shall make a complete electronic sound recording of each public hearing.

152.45 Public Hearing

- 1. General - The Hearing Examiner shall hold a public hearing on each application.

2. Hearing Declared Open - The hearings of the Hearing Examiner are open to the public.

3. Effect - The hearing of the Hearing Examiner is the hearing for City Council. City Council need not hold another hearing on the application.

152.4550 Electronic Sound Recording

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

152.5055 Burden of Proof

The applicant has the responsibility of convincing the City that, under the provision of this Chapter, the applicant is entitled to the requested decision.

152.5560 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 Hearing Examiner, either by delivering these comments to the Planning Department prior to the hearing or by giving these 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 oral comments to facilitate the orderly and timely conduct of the hearing.

152.6065 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 matter or if the Hearing Examiner determines that he/she needs more information on the matter. 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.

152.6570 Recommendation by the Hearing Examiner

1. General - After considering all of the information and comments submitted on the matter, the Hearing Examiner shall issue a written recommendation to the City Council to either--

- a. Grant the application; or
- b. Modify and grant the application; or
- c. Deny the application.

If the Hearing Examiner issues the recommendation more than ten (10) working days after the public hearing, he/she shall state in writing or on the record, the reason for the delay and the approximate date of issuing the recommendation. In no event may the Hearing Examiner take more than twenty (20) working days after the public hearing to issue his/her recommendation unless agreed to by the applicant.

2. Decisive Criteria - The Hearing Examiner shall use the criteria listed in the provision of this Code describing the requested decision in making a recommendation to City Council on the application. In addition, the Hearing Examiner may recommend that the application be granted only if:

- a. It is consistent with the goals and policies of the Comprehensive Plan;
- b. It is not inconsistent with any specific provisions of the Comprehensive Plan; and
- c. It is consistent with the public health, safety and welfare.

- 0-2952
3. Conditions and Restrictions - The Hearing Examiner shall include in the written recommendation any conditions and restrictions that he/she determines are necessary to eliminate or minimize any undesirable effects of granting the application.
 4. Contents - The Hearing Examiner shall include the following in his/her written recommendation to City Council--
 - a. A statement of facts presented to the Hearing Examiner that support his/her recommendation, including any conditions and restrictions that are recommended; and
 - b. A statement of the Hearing Examiner's conclusions based on those facts.
 - c. A statement of the criteria used by the Hearing Examiner in making the recommendation.
 - f. A summary of the rights, as established in this Chapter, of the applicant and others to challenge the recommendation of the Hearing Examiner.

152.8075 Distribution of Hearing Examiner's Recommendation

The Planning Official shall distribute copies of the recommendation of the Hearing Examiner as follows:

1. ~~At least 7 days before the meeting at which City Council considers the matter,~~ Within two (2) working days after the Hearing Examiner's written recommendation is issued, a copy will be sent to the applicant, and to any person who submitted written or oral comments to the Hearing Examiner ~~and who requests a copy.~~
2. Prior to the meeting where City Council considers the application, a copy will be sent to each member of City Council. The Planning Official shall include the following material with the copy of the recommendation sent to each City Council member:
 - a. A draft resolution or ordinance that embodies the Hearing Examiner's recommendation.

- b. Any challenge to the Hearing Examiner's recommendation filed under Section ~~8085~~ of this Chapter and received by the Planning Department before the Hearing Examiner's recommendation is sent to the members of City Council.

152-7580 Request for Reconsideration

1. General - Any person who has a right to challenge a recommendation of the Hearing Examiner under Section ~~8085~~ of this Chapter may request the Hearing Examiner to reconsider any aspects of his/her recommendation by delivering a written request for reconsideration to the Planning Department within five ~~4(5)~~ working days following the ~~issuance--of~~ day the Hearing Examiner's written recommendation was distributed. The person requesting the recon- sideration shall specify in the request what aspect of the recommendation he/she wishes to have reconsidered and the reason for the request.
2. Notice of Request - The person requesting reconsideration shall, within the same time limit, mail or personally deliver a copy of the request for reconsideration to those persons described in Section 85.1 of this Chapter. Proof of such mail or personal delivery shall be made by affidavit. The affidavit of mailing and/or personal delivery shall be attached to the request for reconsideration, delivered to the Planning Department.
23. Decision to Reconsider - Within ten ~~14(10)~~ working days after receiving a request for reconsideration, the Hearing Examiner shall notify the person requesting the reconsideration whether or not the Hearing Examiner will reconsider the recommendation. The Hearing Examier may reconsider the recommendation only if he/she concludes that there is substantial merit in the request.

399a

94. Effect - If the Hearing Examiner grants a request to reconsider any aspect of the recommendation, the matter will not be taken to City Council until the matter has been reconsidered as established in paragraph 4 of this Section.

45. Process - If the Hearing Examiner reconsiders the decision, the provision of Sections 30, 35 and 45 through 6570 of this Chapter will be followed except that--

a. The Hearing Examiner may limit the reconsideration by--

1) Limiting the persons who may participate in the reconsideration to the persons who have a right to challenge the recommendation of the Hearing Examiner; and

2) Limiting the aspects of the decision that will be reconsidered; and

3) Limiting the nature of the reconsideration by only receiving written comments and by not holding a new public hearing.

Any limitations will be included in the notice given under Section 30 of this Chapter; and

b. If the Hearing Examiner limits the persons who may participate in the reconsideration under paragraph 4.a.1) of this Section, the Planning Official shall send notice under Section 30 of this Chapter only to those persons. In all other cases, the Planning Official shall send this notice to the persons described in paragraph 4.a.1) of this Section in addition to the persons described in Section 30.2 of this Chapter.

152.8085 Challenge to the Hearing Examiner's Recommendation

1. Who May Challenge - The recommendation of the Hearing Commission may be challenged by--
 - a. The applicant; and
 - b. Any person who submitted written or oral comments to the Hearing Examiner.
2. Contents of a Challenge - The challenge must be in writing and contain a statement of the factual findings and conclusions made by the Hearing Examiner that are contested. The challenge will be considered only on the record developed in the hearing before the Hearing Examiner.
3. How and When to File a Challenge
 - a. The challenge may be filed by delivering it to the Planning Department, together with the fee established by ordinance, ~~by 5-p.m.--on--the--fourth~~ within tenth (10) working days following prior to the day the Hearing Examiner's recommendation was distributed. ~~meeting---at---which---City Council--first--considers--the--matter.~~
 - b. The person filing the challenge shall, prior to delivery under subsection 85.3.a, mail or personally deliver a copy of the challenge to those persons described in subsection 85.1 of this Chapter. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the challenge letter filed with the Planning Department pursuant to subsection 85.3.a above.

c. Any person receiving a copy of the challenge letter pursuant to subparagraph 85.3.b above, may file a written response to the challenge. Such response shall be submitted to the Planning Department not less than five (5) working days after the day the challenge letter was distributed.

d. Any person filing a response pursuant to this section shall mail or personally deliver a copy of the response to those persons described in subsection 85.1 of this Chapter. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the response to the challenge letter filed with the Planning Department pursuant to subsection 85.3.a above.

4. Request to Reconsider Not Required - The recommendation of the Hearing Examiner may be challenged whether or not there was a request for the Hearing Examiner to reconsider his/her recommendation.

152.8590 City Council Action

1. General - The City Council shall consider the application at a scheduled meeting within ninety (90) calendar days following the date of issuance of the Hearing Examiner's recommendations on the proposal. This time period may be extended upon written concurrence of the Planning Director and the applicant.

401a

- 0-2952
- a. A statement of the facts presented to City Council that support the decision, including any conditions and restrictions that they impose; and
 - b. The City Council's conclusions based on those facts.
6. Effect - Subject to the provision of Sections 90 95 and 95 100 of this Chapter, the ordinance or resolution of City Council is the final decision of the City.

152.9095 Procedures for Rehearing and City Council Hearing

If the Hearing Examiner holds a rehearing on the matter, the provisions of Sections 30 and ~~8570~~ of this Chapter will be followed except that the City Council may limit the matters to be considered at the Hearing Examiner's rehearing. Any limitation will be stated in the notice of the hearing under Section 30 of this Chapter.

If City Council holds a hearing on the matter, the provisions of Sections 30 and ~~7075~~ of this Chapter 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 under Section 30 of this Chapter; and
- b. Under Section ~~6570~~ of this Chapter, City Council shall issue a decision rather than a recommendation. This decision is the final decision of the City subject to Sections ~~7075~~ and 95100 of this Chapter.

152.95100 Jurisdiction of the Houghton Community Council

1. General - If the City Council approves an application within the disapproval jurisdiction of the Houghton Community Council, that approval is not effective until--
 - a. A majority of the entire membership of the Houghton Community Council vote by resolution to approve it; or
 - b. The Houghton Community Council fails to disapprove it within sixty (60) calendar days after City Council adopts the ordinance or resolution granting the application. The vote to disapprove the application must be approved by a majority of the entire membership of the Community Council.

152.1005 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 application.
2. Distribution - Within two (2) working days after the City Council's decision is made, the Planning Official shall distribute a copy of the notice of the decision as follows:
 - a. A copy will be sent to the applicant.
 - b. A copy will be sent to any person who submitted written or oral comments to the Hearing Examiner ~~and who requests a copy of the notice.~~

152.10510 Judicial Review

The action of the City in granting or denying an application under this Chapter may be reviewed for illegal, corrupt or arbitrary or capricious action in the King County Superior Court. The petition for review must be filed within thirty (30) calendar days following the final decision of the City.

152.1105 Lapse of Approval

1. The applicant must begin or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under this Chapter within one (1) year after the final decision on the matter or the decision becomes void.

2. Time Extensiona. Application

The applicant may apply for a one time extension of up to one (1) year by submitting a letter to the Planning Department, along with any other supplemental documentation which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and circumstances beyond his/her control prevent timely compliance.

b. Fee

The applicant shall include with the letter of request the fee as established by ordinance.

c. Review Process

An application for a time extension will be reviewed by the Planning Official.

3. Appeals

- a. Who Can Appeal - Any person who is aggrieved by a time extension or denial of a time extension may appeal that determination.
- b. How To Appeal - The applicant must file a letter of appeal indicating how the determination affects his/her property and present any relevant arguments or information on the correctness of the determination. The applicant shall include the appeals fee as established by Ordinance.
- c. Applicable Procedures - All appeals of time extensions in this Chapter will be reviewed and decided upon using Process IIA, described in Chapter 150 of this Code.

152.11520 Bonds

The City Council may require a bond under Chapter 175 of this Code to ensure compliance with any aspect of the permit or approval.

152.1205 Complete Compliance Required

- 1. General - Except as specified in paragraph 2 of this Section, the applicant must comply with all aspects, including conditions and restrictions, of an approval granted under this Chapter in order to do everything authorized by that approval.
- 2. Exception - Subsequent Modification

If a specific use or site plan is approved through this Process, or any quasi-judicial process under previous zoning codes, the applicant is not required to apply for and obtain approval through this Process for a subsequent change in use or site plan unless--

- a. There is a change in use and this Code establishes different or more rigorous standards for the new use than for the existing use; or
- b. The Planning Director determines that there will be substantial changes in the impacts on the neighborhood or the city as a result of the change.

CHAPTER 155 - PROCESS III

- 155.05 User Guide
- 155.10 Decision to the Guide Using Process II
- 155.15 Applications
- 155.20 Compliance with SEPA
- 155.25 Official File
- 155.30 Notice
- 155.35 Staff Report
- 155.40 Houghton Community Council Hearing
- 155.45 Public Hearing
- 155.50 Electronic Sound Recording
- 155.55 Burden of Proof
- 155.60 Public Comments and Participation at the Hearing
- 155.65 Continuation of the Hearing
- 155.70 Recommendation by the Planning Commission
- 155.75 Distribution of Planning Commission's Report
Recommendation
- 155.80 Request for Reconsideration
- 155.85 Challenge to the Planning Commission's
Recommendation
- 155.90 City Council Action
- 155.95 Procedures for Rehearing and City Council Hearing
- 155.100 Jurisdiction of the Houghton Community Council
- 155.105 Notice of Final Decision
- 155.110 Judicial Review
- 155.115 Lapse of Approval
- 155.120 Bonds
- 155.125 Complete Compliance Required

155.05 User Guide

Various places of this Code indicate that certain developments, activities or uses are permitted only if approved using Process III. This Chapter describes how Process III works.

If you are interested in obtaining approval for something through Process III or if you wish to participate in a decision that will be made using this Process, you should read this Chapter. However, this Chapter only applies if another provision of this Code specifically states that a decision will be made using Process III.

In addition, please refer to Section 10 of this Chapter to see if that Section applies.

155.10 Decision to be Made Using Process II

1. General - If the City Council determines that the waiting time for a public hearing before the Planning Commission is too long, or if it is otherwise in the best interests of the residents of the City, the Council may, by resolution,

- 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.

155.30 Notice

- 1. Contents - The Planning Official shall prepare a notice of each application containing the following information.
 - a. The name of the applicant and, if applicable, the project name.
 - b. The street address of the subject property, or if this is not available, a locational description in non-legal language along with a vicinity map that identifies the subject property.
 - c. The citation of the provision of this Code describing the applied for decision.
 - d. A brief verbal description of the requested decision.
 - e. The time and place of the public hearing.
 - f. A statement of the availability of the official file.
 - g. 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.
 - h. 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 - The Planning Official shall distribute this notice at least fourteen (14) calendar days before the public hearing as follows:

- a. A copy of the notice, including a vicinity map, will be sent to the owners of all property within 300 feet of any boundary of the subject property.
- b. A copy of the notice, including a vicinity map, will be sent to the residents of each piece of property adjacent to or directly across the street from the subject property.
- c. A copy of the notice will be published in the official newspaper of the City. The published notice does not require a vicinity map.
- d. At least 3 copies of the notice, including a vicinity map, 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.
- e. A copy of the notice, including a vicinity map, will be posted on each of the official notification boards of the City.

155.35 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 Code and the Comprehensive Plan.
 - d. A statement of the facts found by the Planning Official and the conclusions drawn from those facts.
 - e. A recommendation on the matter.
2. Distribution in General - At least seven (7) calendar days before 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.

b. City Council shall make and issue a decision rather than a recommendation under Sections 70 and 75 of this Chapter. This decision is the final decision of the City subject to a request for reconsideration, Section 80 of this Chapter and, subject to the jurisdiction of the Houghton Community Council, Section 100 of this Chapter.

7. Planning Commission Report - Within five (5) working days following the day the Planning Commission adopts its recommendation, the Planning Official shall prepare a written report containing the Planning Commission's recommendation to the City Council. If applicable, the Planning Official shall include in the report the recommendations of the Houghton Community Council. The report shall be signed by the Chairman of the Planning Commission or his/her designate before distribution.

155.75 Distribution of Planning Commission's Report Recommendation

~~1. General---At least 7 days before the City Council considers the application, the Planning Official shall prepare a Planning Commission report containing the Planning Commission's recommendation 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 1. At least 7 days before the meeting at which City Council considers the matter, Within two (2) working days following the date the Planning Commission issues its written recommendation, a copy will be sent to the applicant, and to any person who submitted written or oral comments to the Planning Commission and who requests a copy of the report.

b 2. Prior to the meeting where City Council considers the application, a copy will be sent to each member of City Council. The Planning Official shall include the following material with the copy of the Planning Commission report sent to each City Council member:

(1)a. A draft resolution or ordinance that embodies the Planning Commission's recommendation.

(2)b. Any challenge to the Planning Commission's recommendation filed under Section 85 of this Chapter and received by the Planning Department before the Planning Commission report is sent to the members of City Council.

155.80 Request for Reconsideration

1. General - Any person who has a right to file a challenge to the recommendation of the Planning Commission under Section 85 of this Chapter may request the Planning Commission to reconsider any aspects of its recommendation by delivering a written request for reconsideration to the Planning Department within five ~~4~~(5) working days following the ~~meeting at which the~~ distribution of the Planning Commission ~~made its~~ recommendation. The person requesting the reconsideration shall specify in the request what aspect of the recommendation he/she wishes to have reconsidered and the reason for the request.
2. Notice of Request - The person requesting reconsideration shall, within the same time limit, mail or personally deliver a copy of the request for reconsideration to those persons described in Section 85.1 of this Chapter. Proof of such mail or personal delivery shall be made by affidavit. The affidavit of mailing and/or personal delivery shall be attached to the request for reconsideration delivered to the Planning Department.
23. Decision to Reconsider - Within ten~~4~~(10) working days after receiving a request for reconsideration, the Planning Official shall notify the person filing the request of the decision of the Chairperson of the Planning Commission whether or not the Planning Commission will reconsider its recommendation.
34. Effect - If the Chairperson of the Planning Commission grants a request to reconsider any aspect of the recommendation, the matter will not be taken to City Council until the matter has been reconsidered as established in paragraph 5 of this Section.

414a

~~45.~~ Process - If the Planning Commission reconsiders the recommendations, the provisions of Sections 30, and 35, of this Chapter and 45 through 70 and 80 through 115 of this Chapter will be followed except that--

- a. The Chairperson of the Planning Commission may limit the aspects of the recommendatin that will be reconsidered. Any limitation on the aspects to be reconsidered will be included in the notice under Section 30 of this Chapter; and
- b. In addition to the distribution of notice under Section 30 of this Chapter, the Planning Official shall send notice of the reconsideration to each person entitled to file a challenge to the Planning Commission's recommendation under Section 85 of this Chapter.

155.85 Challenge to the Planning Commission's Recommendation

1. Who May Challenge - The recommendation of the Planning Commission may be challenged by--
 - a. The applicant; and
 - 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 -
 - a. The challenge may be filed by delivering it to the Planning Department, together with the fee established by ordinance, ~~by 5 p.m. on the fourth~~ within ten (10) working days prior to following the day of the Planning Commission's recommendation was distributed meeting at which City Council first considers the matter.

 - b. The person filing the challenge shall, prior to delivery under subsection 85.3.a, mail or personally deliver a copy of the challenge to those persons described in subsection 85.1 of this Chapter. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the challenge letter filed with the Planning Department pursuant to subsection 85.3.a above.

 - c. Any person receiving a copy of the challenge letter pursuant to subparagraph 85.3.b above, may file a written response to the challenge. Such response shall be submitted to the Planning Department not less than five (5) working days after the Challenge letter is distributed.

 - d. Any person filing a response pursuant to this section shall mail or personally deliver a copy of the response to those persons described in subsection 85.1 of this Chapter. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the response to the challenge letter filed with the Planning Department pursuant to subsection 85.3.a above.

4. Request to Reconsider Not Required - The recommendation of the Planning Commission may be challenged whether or not there was a request for the Planning Commission to reconsider the recommendation.

155.90 City Council Action

1. General - The City Council shall consider the application at a scheduled meeting within ninety (90) calendar days following the date on which the Planning Commission makes its final recommendations on the proposal. This time period may be extended upon written concurrence of the Planning Director and the applicant.
2. City Council Decision - After consideration of the entire matter on the record before the ~~Hearing Examiner~~ Planning Commission, the City Council shall, by motion approved by a majority of its total membership, take one of the following actions:
 - a. Adopt an ordinance or resolution to either--
 - (1) Grant the application;
 - (2) Modify and grant the application; or
 - (3) Deny the application.
 - b. If the City Council concludes that significant issues have been raised in a challenge or if they are unsatisfied with the Planning Commission's recommendation for any other reason, they may 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.

416a

- 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 under Section 30 of this Chapter; and
- b. Under Sections 70 and 80 of this Chapter, City Council shall issue a decision rather than a recommendation. This decision is the final decision of the City subject to Sections 75 and 100 of this Chapter.

155.100 Jurisdiction of the Houghton Community Council

1. General - If the City Council approves an application within the disapproval jurisdiction of the Houghton Community Council, that approval is not effective until--
 - a. A majority of the entire membership of the Houghton Community Council vote by resolution to approve it; or
 - b. The Houghton Community Council fails to disapprove it within sixty (60) calendar days after City Council adopts the ordinance or resolution granting the application. The vote to disapprove the application must be approved by a majority of the entire membership of the Community Council.

155.105 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 application.
2. Distribution - Within two (2) working days after the City Council's decision is made, 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 who submitted written or oral comments to the Planning Commission ~~and who requests a copy of the notice.~~

155.110 Judicial Review

The action of the City in granting or denying an application under this Chapter may be reviewed for illegal, corrupt or arbitrary or capricious action in the King County Superior Court. The petition for review must be filed within thirty (30) calendar days following the final decision of the City.

155.115 Lapse of Approval

1. The applicant must begin or submit to the City a complete Building Permit application for the development activity, use of land or other actions approved under this Chapter within one (1) year after the final decision on the matter or the decision becomes void.

2. Time Extensiona. Application

The applicant may apply for a one time extension of up to one (1) year by submitting a letter to the Planning Department, along with any other supplemental documentation which demonstrates that he/she is making substantial progress relative to the conditions listed on the Notice of Approval and circumstances beyond his/her control prevent timely compliance.

b. Fee

The applicant shall include with the letter of request the fee as established by ordinance.

c. Review Process

An application for a time extension will be reviewed by the Planning Official.

3. Appeals

a. Who Can Appeal - Any person who is aggrieved by a time extension or denial of a time extension may appeal that determination.

- a. The gross floor area of the use is expanded by less than 10%; ⁰⁻²⁹⁵² ~~or~~ and
- b. The Planning Director determines that the change or alteration will not have significantly more or different impact on the surrounding area than does the present development.

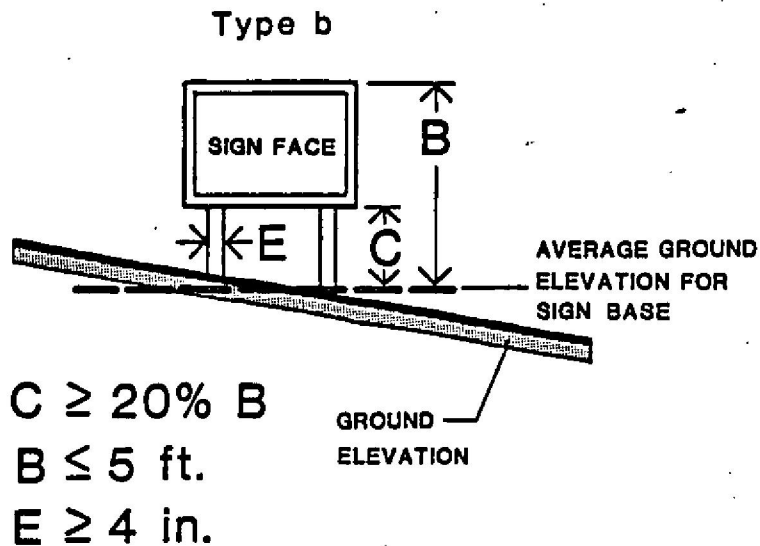
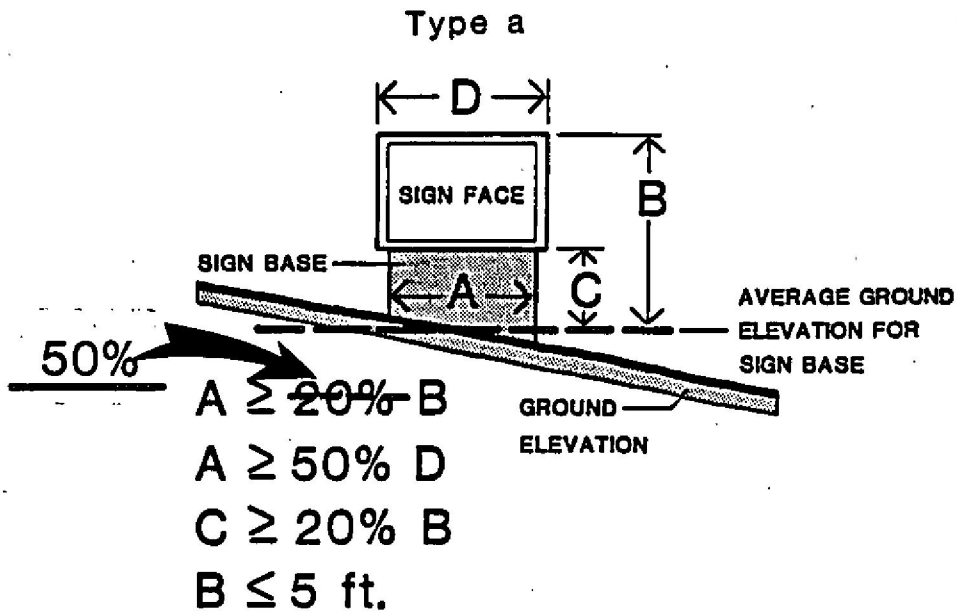
4. Non-Conforming Parking

If there are fewer parking spaces for the uses conducted on the subject property than are required under this Code, these additional required number of spaces must be provided if the applicant is going to change the use conducted on the subject property and the new use requires more parking spaces than the former use.

5. Non-Conforming Signs

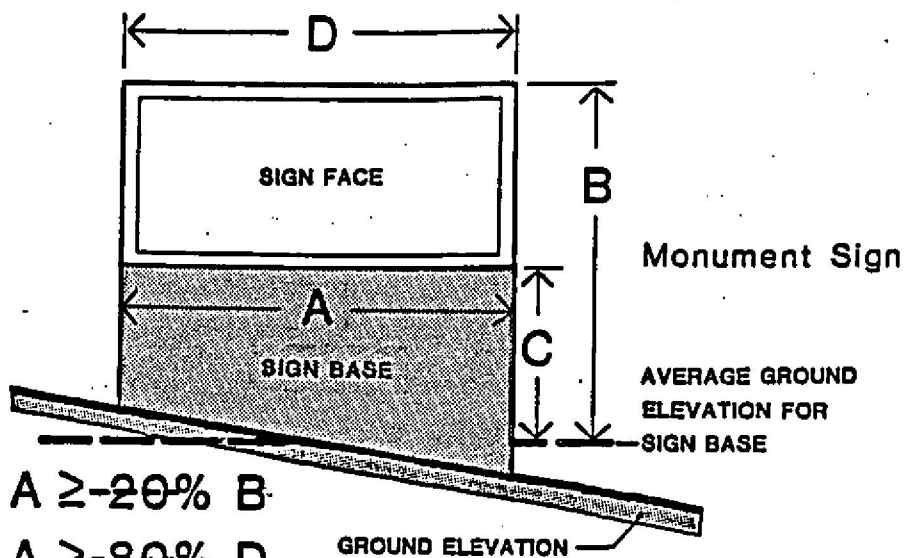
- a. All non-conforming signs are defined as either major non-conforming signs or minor non-conforming signs.
- 1) Major non-conforming signs include the following:
- a) Any pole sign associated with a pole which is not entitled to sign category F.
 - b) Any pole sign or monument sign which exceeds 20 feet in height above average ground elevation.
 - c) Any sign attached to the building and which extends above the building roofline.
 - d) Any projecting sign except those allowed by Section 100.115.
 - e) Any sign listed as a prohibited device by Section 100.85.
 - f) Any sign which has exposed structural supporting elements such as angle irons, guy wires and braces.

Plate 12
Pedestal Signs



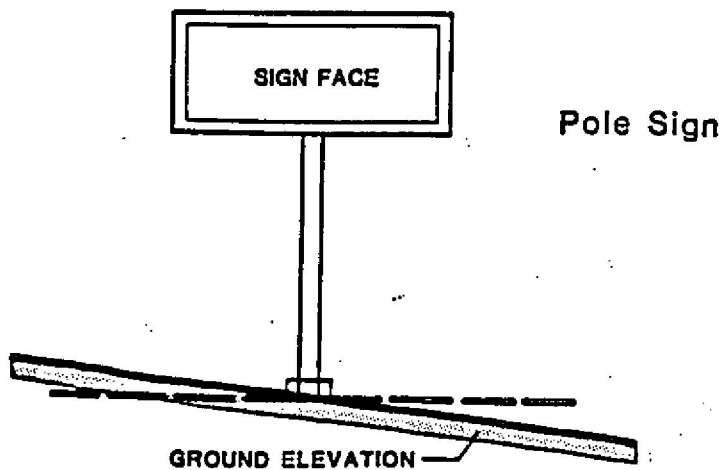
Minor deviations from the dimensional standards for pedestal signs, except for maximum sign height, may be approved by the Planning official if he/she concludes that the resulting sign has a clear and substantial visual linkage to the ground.

Monument and Pole Signs



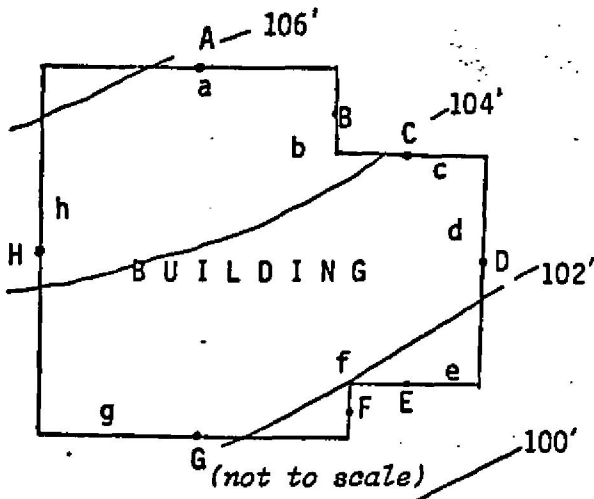
- 50 $A \geq 20\% B$
- 100 $A \geq 80\% D$
- $C \geq 50\% B$
- $B > 5 \text{ ft.}$
- $B \leq 20 \text{ ft.}$

The color, shape, materials and other architectural details of the monument sign base must be consistent with the character of the primary structures on the subject property. Minor deviations from the dimensional standards for monument signs, except for maximum sign height, may be approved by the Planning Official if he/she concludes that the resulting sign does not significantly change the relative proportion of the sign base to the sign face.



Calculating Average Building Elevation

A, B, C, D... Existing Ground Elevation at Midpoint of Wall Segment
 a, b, c, d... Length of Wall Segment Measured on Outside of Wall



Midpoint Elevation	Wall Segment Length
A = 105.9'	a = 30'
B = 104.7'	b = 9'
C = 103.7'	c = 17'
D = 102.2'	d = 25'
E = 101.6'	e = 13'
F = 101.7'	f = 6'
G = 102.2'	g = 34'
H = 104.5'	h = 40'

FORMULA

$$\frac{(A \times a) + (B \times b) + (C \times c) + (D \times d) + (E \times e) + (F \times f) + (G \times g) + (H \times h)}{a + b + c + d + e + f + g + h} = \text{Avg. Bldg. Elev.}$$

EXAMPLE

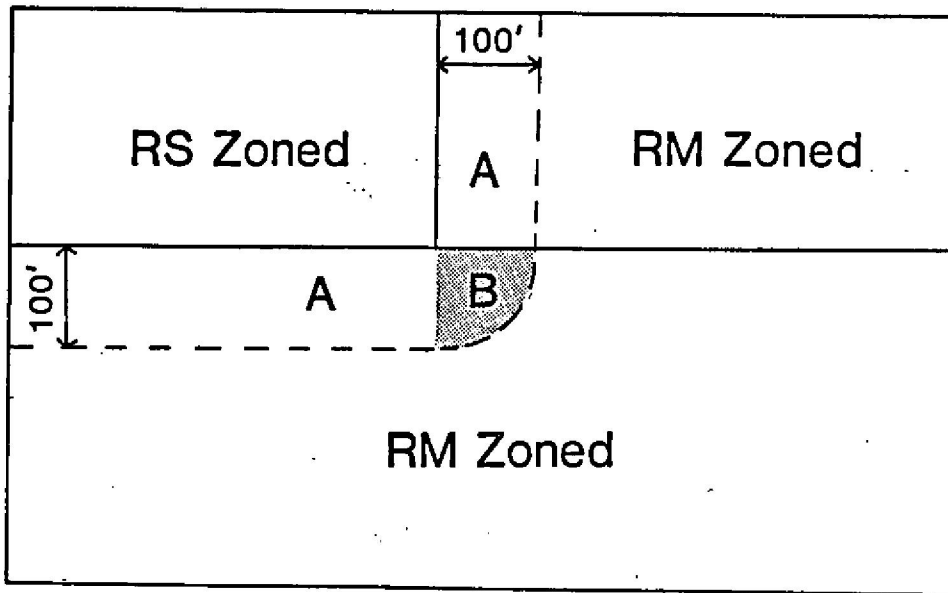
$$\frac{(105.9)(30) + (104.7)(9) + (103.7)(17) + (102.2)(25) + (101.6)(13) + (101.7)(6) + (102.2)(34) + (104.5)(40)}{30 + 9 + 17 + 25 + 13 + 6 + 34 + 40}$$

$$\frac{18023}{174} = 103.6'$$

NOTE: PLEASE INCLUDE THE ELEVATION OF THE RIDGE OF THE ROOF ON THE SITE PLAN AND/OR INDICATE ON THE ELEVATION DRAWINGS WHERE THE AVERAGE BUILDING ELEVATION (CALCULATED ABOVE) STRIKES THE BUILDING (Amended 11/7/84).

Plate 18

Adjoining Properties



___ **A** ___ Area to be considered adjoining property

___ **B** ___ Area not to be considered adjoining property

Section 2: If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts 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.

Section 3: Notwithstanding any recommendations heretofore given by the Houghton Community Council, the subject matter of this ordinance and the permit herein granted, pursuant to Ordinance 2001, subject to the disapproval jurisdiction of the Houghton Community Council, and therefore, this ordinance shall become effective only upon approval of the Houghton Community Council or the failure of said Community Council to disapprove this ordinance within 60 days of the date of the passage of this ordinance.

Section 4: Except as provided in Section 3, this ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 19th day of May 1986.

Signed in authentication thereof this 19th day of May, 1986.

Doris Cooper
MAYOR

ATTEST:

Tom Aderson
Director of Administration & Finance
(ex officio City Clerk)

APPROVED AS TO FORM:

[Signature]
City Attorney