

ORDINANCE 3056

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO LOCAL PROCEDURES IMPLEMENTING THE STATE ENVIRONMENTAL POLICY ACT - LOCAL ADMINISTRATIVE APPEALS AND AMENDING SECTION 24.02.105 OF THE KIRKLAND MUNICIPAL CODE.

Section 1. Section 24.02.105 of the Kirkland Municipal code be and it hereby is amended to read as follows:

24.02.105 Administrative Appeals:

(a) Appealable Decisions. Only the following decisions of the city are appealable under this section:

(1) The issuance of a declaration of nonsignificance, including mitigation measures and conditions that are required as part of that declaration of nonsignificance;

(2) The issuance of a declaration of significance;

~~[(3) The adequacy of a final EIS or a final SEIS and any conditions or denials of the proposed action under the authority of SEPA.]~~

(b) Who May Appeal. Only the following may appeal:

(1) The applicant or proponent;

(2) Any agency with jurisdiction;

(3) Any individual or other entity who is specifically and directly affected by the proposed action.

(c) Time to Appeal.

(1) An appeal of a DS or DNS must be filed with the environmental coordinator within seven days of the date the declaration is final. Except for DNS's listed in WAC 197-11-340(2), a DNS is final on the day it is issued by the responsible official. A DS is final on the date it is published under Section 85 of this chapter.

~~[(2) An appeal on the adequacy of a final EIS or final SEIS or any condition or denial of the proposed action under the authority of SEPA must be filed with the environmental coordinator within seven days of the date the city decides upon the proposed action.]~~

(d) How to Appeal. The appeal must be in the form of a written notice of appeal, and must contain a brief and concise statement of the matter being appealed, the specific components or aspects that are being appealed, the appellant's basic rationale or contentions on appeal, and a statement demonstrating

standing to appeal. The appeal may also contain whatever supplemental information the appellant wishes to include.

(e) Who Will Hear and Decide Upon the Appeal.

(1) Threshold Determinations: Appeals of threshold determinations will be heard and decided upon by the hearing examiner using the appeal provisions, as applicable, of process I of the Kirkland Zoning Code, Ordinance No. 2740, as amended Sections 145.55 - 145.100, except that:

(A) The matters to be considered and decided upon in the appeal are limited to the matters raised in the notice of appeal; and

(B) The decision of the responsible official shall be accorded substantial weight; and

(C) All testimony will be taken under oath.

(D) The decision of the hearing examiner shall be the final decision on any appeal of a threshold determination including a mitigated determination of nonsignificance.

(2) Adequacy of Environmental Impact Statements and Conditions of the Proposed Action or Denials Based on SEPA. Appeals of final EIS or final SEIS adequacy and conditions or denials based on SEPA will be heard and decided upon as follows:

(A) If the proposed action requires approval through the quasi-judicial process that includes public hearing in ordinance Nos. 2766 or 2740, as amended, or Chapter 24.04 of the Kirkland Municipal Code, the appeal will be heard and decided upon using the procedures established for appealing the decision of the proposed action, except as listed in subparagraph (i) and (ii) of this section. To the greatest extent possible, these appeal (b) in all other cases appeal will be heard and decided upon by the hearing examiner, using the provisions as applicable of process I of the Kirkland Zoning Code, Ordinance No. 2740, as amended, except that:

(ii) All testimony will be taken under oath.

(iii) The decision of the hearing examiner may be appealable to the city council under subsection (f) of this section.

(f) Further Appeal to City Council.

Following the completion of the appeal under subsection (e)(2) of this section, any individual or entity who has a right to appeal, and who has appeared and given testimony at this prior hearing, may, to the extent permitted by RGW appeal a decision to condition or deny a proposed action to the city council. This appeal must

be filed with the environmental coordinator within seven days of the decision on the prior appeal, and must contain the information specified in subsection (d) of this section. The city council may, at its option, either hold a public hearing on the matter, or without a public hearing review the record of the appeal under subsection (e)(2) of this section. In either case the city council shall rely on the record of the appeal under subsection (e)(2) of this section, and may make whatever decision is appropriate so long as this is supported by the record. The matters to be considered and decided upon in the appeal are limited to the matters raised in the notice of appeal.]

Section 2. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to section 1.08.017 Kirkland Municipal Code in summary form attached to the original of this Ordinance and by this reference approved by the City Council, as required by law.

Passed by majority vote of the Kirkland City Council in regular, open meeting this 19th day of October, 1987.

Signed in authentication thereof this 19th day of October, 1987.

Doris Cooper
MAYOR

ATTEST:

Janice D. Remy
City Clerk

APPROVED AS TO FORM:

Fayth
City Attorney

SUMMARY OF ORDINANCE NO. 3056

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RELATING TO THE STATE ENVIRONMENTAL POLICY ACT, ADMINISTRATIVE APPEALS OF DECISIONS MADE BY THE CITY PURSUANT TO SAID ACT, AND AMENDING SECTION 24.02.105 OF THE KIRKLAND MUNICIPAL CODE.

Section 1: Amends the administrative appeals provisions of Section 24.02.105 of the Kirkland Municipal Code by deleting certain provisions to clarify that there are no administrative or City level appeals of the adequacy of a final EIS and any conditions or denials of the proposed action under the authority of SEPA.

Section 2: Authorizes publication of the ordinance by this Summary, which Summary is approved by the City Council, pursuant to Section 1.08.17, Kirkland Municipal Code and establishes the effective date as five days after Summary publication.

The full text of this ordinance will be mailed without charge to any person upon request made to the Director of Administration and Finance for the City of Kirkland. The ordinance was passed by the Kirkland City Council at its regular meeting on the 19th day of October, 1987.

I certify that the foregoing is a summary of Ordinance 3056 approved by the Kirkland City Council for summary publication.



City Clerk

8350C/356A/NC:br