

ORDINANCE NO. 3108*Repealed by 3705*

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SUBDIVISIONS, AND AMENDING ORDINANCE 2766 AS AMENDED, THE KIRKLAND SUBDIVISION ORDINANCE (FILE NO. IV-88-40).

Whereas, the City Council has received from the Kirkland Planning Commission a recommendation to amend certain sections of the text of the Kirkland Subdivision Code, Ordinance 2766 as amended, all as set forth in that certain report and recommendation of the Planning Commission dated June 29, 1988 and bearing Kirkland Department of Planning and Community Development File No. IV-88-40; and

Whereas, prior to making said recommendation the Planning Commission, following notice thereof as required by RCW 35A.63.070, on May 19, 1988, held a public hearing 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; and

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

Section 1. Subdivision text amended: The following specified sections of the text of Ordinance 2766 as amended, the Kirkland Subdivision Ordinance, be and they hereby are amended to read as follows:

As set forth in Attachment A which by this reference is incorporated herein.

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. To the extent the subject matter of this ordinance, pursuant to Ordinance 2001, is subject to the disapproval jurisdiction of the Houghton Community Council, this ordinance shall become effective within the Houghton Municipal Corporation 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 pursuant to Section 1.08.017, Kirkland Municipal Code in the 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 July, 1988.

Signed in authentication thereof this 19th day of July, 1988.

ATTEST:

Janece Perry
City Clerk

Dorice Cooper
MAYOR

APPROVED AS TO FORM:

[Signature]
City Attorney

SUBDIVISION ORDINANCE CHANGES

1.10 Lot Line Alteration-Adjustments

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

1.15 Binding Site Plan Approval

1. General - The divisions of land described in Paragraph 2 of this Section are exempt from compliance with this Ordinance; except as specified in Section 1.15.4; if they meet the requirements of Section 1.15.3: -Paragraph-3-of-this-Section.
2. Eligible Developments - The following types of development are subject to the provisions of this Section:
 - a. A division for the purpose of lease when no residential structure other than mobile homes or travel trailers are permitted to be placed upon the land.
 - b. A division of land into lots or parcels located within industrial, commercial or office zones as defined in the Zoning Code.
 - c. A division which is made by subjecting a portion of a parcel or tract of land to RCW 64.32.
3. Criteria - A division of land is a binding site plan under this Section if it meets all of the following criteria:
 - a. The City Council approves a site plan as part of a discretionary zoning or other similar land use permit that involved a Public Hearing before either the Planning Commission or Hearing Examiner.
 - b. The site plan is shown to a scale of one inch equals 20 feet.
 - c. The site plan identifies and shows the areas and locations of all streets, roads, improvements, utilities and open spaces.

- d. The site plan contains inscriptions or attachments setting forth all limitations and conditions for the use of land as established by City Council.
- e. The site plan contains a provision requiring that any development of the subject property be in conformance with the binding site plan.
- f. The site plan is recorded in the King County Department of Elections and Records to run with the subject property.

4: Alterations and vacations of Binding Site Plan shall follow the procedural requirements outlined in Chapter 6 of the Subdivision Ordinance.

1.20

Definitions

97: Servient Lot - Any lot which has the burden of providing an access easement for use by other lots.

107: Site - A lot or combination of lots improved with a single residence, structure, or similar use.

CHAPTER 2 - PROCESS FOR DECIDING SHORT SUBDIVISIONS

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2.05 General

a.1. The provisions of this Chapter describe the procedure that the City will use to review and decide upon proposed short subdivision. Please refer to Chapter 4 of this Ordinance for the substantive requirements that apply to short subdivisions.

b.2. A lot that is created by a Short Subdivision shall not be further divided by Short Subdivision for a period of five (5) years. Except that when the short plat contains fewer than four lots, nothing in this section shall prevent the owner, who filed the short plat, from filing an alteration within the five year period to create up to a total of four lots, within the original short plat boundaries. Any further division within said 5 year period must be processed under the provisions of Chapter 3 of this Ordinance.

3. Alterations and vacations of Short Subdivisions shall follow the procedural requirements outlined in Chapter 6 of the Subdivision Ordinance.

2.15 Applications

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

1. A certified boundary survey of the proposed plat, including five prints of the proposed plat drawn on a standard 18" x 24" mylar at a scale between 1" one inch equals 20 feet and one inch equals 50 feet containing the following information:
 - a. Proposed name of the short plat.
 - b. Location by section, township, range, and/or other legal description.
 - c. A boundary survey prepared by a ~~professional-licensed~~ registered land surveyor licensed in the State of Washington shall be shown on the proposed plat and shall reference the plat to either the Washington Coordinate System, North Zone or the King County Coordinate System or properly determined subdivision corner referenced to either of the above with a physical description of such corners.
 - d. The plat will be described and corners set with a field traverse with a linear closure of 1 to 10,000 and corresponding angular closure as specified in W.A.C. 332-130-070.
 - e. Mathematical lot closures shall be submitted showing error of closures not to exceed $0.005 / n$, where n = number of sides and/or curves of a lot.
 - f. Name, address and phone number of the applicant and agent if any.
 - g. Name, address and phone number of registered land surveyor preparing the short plat.
 - h. Scale of short plat, date and north arrow.
 - i. Existing topography of the property indicated by contours at five foot intervals. This may be waived by the Planning Director if no portion of the proposed short plat exceeds 15%.
 - j. Location and extent of significant natural features such as streams, wetlands, all evergreen trees 8 inches in diameter or greater and all deciduous trees 12 inches in diameter or greater measured one foot above grade, and water bodies on and immediately adjacent to the property.

- k. Zoning classification of the property and adjoining properties.
 - l. The lot lines of adjoining properties for a distance of at least 50 feet.
 - m. Location, dimension, and names of existing rights-of-way and easements, parks or other public spaces, structures, lots, blocks, etc., shall be shown in dotted lines in scale with the proposed short plat.
 - n. Existing and proposed water, sewer, power, and drainage systems on, under or over the property showing size, grades and location.
 - o. Layout, name and dimensions of proposed rights-of-way and easements.
 - p. Layout, number, dimensions and square footage (excluding access easements) of proposed lots.
 - q. Parcels of land intended to be dedicated for public use, or reserved for use of owners of the property in the subdivision, including the dimension and square footage of said parcels.
 - r. A notation which shows the dimensioned setback of all existing structures relative to existing property lines and to proposed lot lines, if they are within 20 feet of existing or proposed lot line.
2. A vicinity map at a scale of one inch equals 400 feet or larger showing the proposed short subdivision's relation to the area for a distance of at least 300 feet on which the subject property is outlined with a bold or colored line.
 3. A current title company certificate for the property that has been issued no more than thirty (30) calendar days prior to the initial filing of the short plat application. The certificate must include the name of all persons holding any ownership interest in the property.
 4. Any additional information required by the Planning Official.
 5. The filing fee as established by Ordinance.
 6. All information required under the State Environmental Policy Act RCW 43.21C and the administrative guidelines and local ordinance adopted to implement it.

2.30 Notice

1. Content - The Planning Official shall prepare a notice of each application containing the following information:
 - a. The name of the applicant and the proposed short plat.
 - b. The street address of the subject property, or if this is not available, a locational description in non-legal language.
 - c. A statement of what has been applied for including the number of lots proposed and any proposed modification under Section 5.05 of this Ordinance.
 - d. A statement of the availability for review of the official file.
 - e. A statement of the right of any person to submit written comments testimony to the Planning Director regarding the matter, and the deadline for submitting these comments.
 - f. A statement that only the person who submitted written comments testimony 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.e., of this Section as follows:
 - a. A copy will be published in the official newspaper of the City.
 - b. At least three copies will be conspicuously posted on or near the property.
 - c. A copy will be posted on the official notification boards of the City.

2.40 Written Comments Testimony

1. General - The Planning Director shall consider all written comments testimony and information regarding the proposed short plat that is 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~~ testimony which will be at least fourteen (14) calendar days after the date the notice is published in the official newspaper of the City.

2.45 Planning Director's Decision

1. General - Within ten (10) working days after the deadline for submitting ~~comments~~ testimony and after considering all of the information and comments submitted on the proposed short plat, the Planning Director shall issue a written decision either:
 - a. Approving the short subdivision; or
 - b. Modifying and approving the short subdivision; or
 - c. Denying the short subdivision.
2. Decisional Criteria - The Planning Director may approve the short subdivision only if:

- a. It is consistent with the Comprehensive Plan and Zoning Code; and
 - b. It is consistent with the applicable provisions of Chapter 4 of this Ordinance; and
 - c. There are adequate provisions for open spaces, drainage ways, rights-of-way, easements, water supplies, sanitary waste, power service, parks, playgrounds and schools; and
 - d. It will serve the public use and interest and is consistent with the public health, safety and welfare. The Planning Director shall be guided by the policy and standards and may exercise the powers and authority set forth in RCW 58.17.
3. Conditions, Restrictions, and Modifications - The Planning Director shall include in the written decision any conditions, restrictions, and modifications that he/she determines are necessary to eliminate or minimize any undesirable effects or impacts that would result from granting the proposed short plat. Any conditions, restrictions, and modifications that are imposed become part of the decision.
4. Dedication - The Planning Director may require dedication of land or easements for right-of-way, utility or other public purposes.
5. Contents - The Planning Director shall include in the written decision:
- a. A statement approving, modifying and approving, or denying the application; and
 - b. Any conditions, restrictions, and modifications that are imposed; and
 - c. A statement of facts presented to him/her that support the decision, including any conditions, restrictions, and modifications that are imposed; and
 - d. A statement of the Director's conclusions based on those facts; and
 - e. A summary of the rights, as established in this Chapter, of the applicant and others to appeal the decision of the Director.
6. Issuance-Distribution 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; and
- b. A copy will be mailed to each person who submitted written comments testimony to the Director.

2.50 Filing Short Plat Documents

1. General - Following approval of a short plat and after the applicant has made any changes to the short plat documents as a result of any conditions, restrictions or modifications in the decision, and either installed or otherwise guaranteed the installation of required improvements, the Planning Director shall sign the short plat documents; provided, however, the Planning Director shall not sign the short plat documents until said documents have been signed and acknowledged by all persons holding an ownership interest in the land subdivided, and the applicant has completed all requirements of this section. ~~--The short plat should be filed on a standard Record of Survey map as provided by the City showing appropriate signatures, restrictions, easements and dedications.~~
2. Certification - Along with the short plat documents submitted for filing, the applicant shall submit:
 - a. A title company certification which is not more than thirty (30) calendar days old containing:
 - (1) A legal description of the total parcel sought to be subdivided; and
 - (2) A list of those individuals, corporations, or other entities holding an ownership interest in the parcel; and
 - (3) Any easements or restrictions affecting the property with a description, purpose, and reference by auditor's file number and/or recording number; and
 - (4) Any encumbrances on the property; and
 - (5) Any delinquent taxes or assessments on the property.

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

- b. Certification by the City department, or other agency with jurisdiction, that all of the required public improvements subject to its jurisdiction have been installed, inspected, and accepted by such department or agency, or in the alternative, surety bond or other performance guaranty has been deposited with the City in accordance with Section 5.10.
3. Filing Materials - The short plat should be filed on a standard Record of Survey document as provided by the City. The document shall show appropriate signatures, restrictions, easements, and dedications.
4. Monumentation - The exterior boundary of the short plat and all interior lot corners shall be set by a registered land surveyor on the applicant's property, before the Planning Director signs the short plat document.
25. Filing - Time Limits - After the short plat documents are signed, they will be transmitted to the City Clerk's office for recording with the applicable office in King County. The short plat must be recorded with King County within twelve (12) months following the date of approval or the decision becomes void.

2.70

Appeals

1. Who May Appeal - The decision of the Planning Director may be appealed by:
- a. The applicant; or
 - b. Any person who submitted written ~~comments~~-testimony 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 ten (10) working days following the day the Director's decision was distributed. It must contain:
- a. A clear reference to the short plat being appealed; and
 - b. A statement of the specific factual findings or conclusions of the Planning Director disputed by the person filing the appeal.
3. 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.

4. Fees - The person filing the appeal shall include with the Letter of appeal the fee as established by ordinance.
5. Jurisdiction - Appeals from the decision of the Planning Director will be heard by the Hearing Examiner.

2.80 Participation in the Appeal

Only those persons entitled to appeal the decision under Section 2.70 of this Chapter may participate in the appeal. These persons may participate in either or both of the following ways:

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

2.85 Scope of the Appeal

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

2.90 Staff Report on the Appeal

1. Content - The Planning Official shall prepare a staff report containing the following:
 - a. The written decision of the Planning Director.
 - b. All written ~~comments~~ testimony submitted to the Planning Director.
 - c. The letter of appeal.

- d. All written ~~comments~~ testimony on the appeal received by the Planning Department from persons entitled to participate in the appeal and within the scope of the 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.

2.110 Continuation of the Hearing

The Hearing Examiner may continue the hearing if, for any reason, he/she is unable to hear all of the public ~~comments~~ testimony 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.

CHAPTER 3 - PROCESS FOR DECIDING SUBDIVISIONS

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3.05	<u>General</u>

1. The provisions of this Chapter describe the procedure that the City will use to review and decide upon proposed subdivisions. Please refer to Chapter 4 of this Ordinance for the substantive requirements that apply to subdivisions.

2. Alterations and vacations of Subdivisions shall follow the procedural requirements outlined in Chapter 6 of the Subdivision Ordinance.

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

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

- o. A notation which shows the dimensioned setback of all existing structures relative to existing property lines and to proposed lot lines.
 - p. Exterior boundary corners shall be indicated on the ground.
2. Address labels obtained from ~~the King County Assessor's Office~~ containing the names and addresses of the owners of all property, including the subject property, and all other property within 300 feet of any boundary of the proposed subdivision and any adjoining property owned by the owner of the land proposed to be subdivided. These labels shall be no more than six months old.
 3. Address labels marked "resident" or "tenant" for all property adjacent to and across the street from the property within the proposed subdivision. These labels may be prepared by the subdivision applicant.
~~The addresses of all property adjacent to or directly across the street from any boundary of the proposed subdivision and any adjoining property owned by the owner of the land proposed to be subdivided.~~
 4. A copy of the King County Assessor's Map identifying the properties specified in paragraphs 2 and 3 of this Section.
 5. A current title company certificate for the property that has been issued no more than thirty (30) calendar days prior to the initial filing of the plat application. The certificate must include the name of all persons holding any ownership interest in the property.
 6. Any additional information required by the Planning Official.
 7. The filing fee as established by ordinance.
 8. All information required under the State Environmental Policies Act RCW 43.21C and the administrative guidelines and local ordinance adopted to implement it.

3.25 Official File

1. Contents - The Planning Official shall compile an official file on the application containing the following:
 - a. The application materials submitted by the applicant.
 - b. The staff report.
 - c. All written ~~comments~~ testimony received on the matter.
 - d. The electronic recording and minutes of the public hearing on the matter.

- e. The recommendation decision of the Planning-Commission Hearing Examiner.
 - f. The electronic sound recording and minutes of City Council proceedings on the matter.
 - g. The report of the Planning-Commission Hearing Examiner.
 - h. The decision of City Council.
 - i. If the matter is within the disapproval jurisdiction of the Houghton Community Council, the electronic sound recording and minutes of its proceedings on the matter, along with the recommendations of that Council,
 - j.i. Any other information relevant to the matter.
2. Availability - The official file is a public record. It is available for inspection and copying in the Planning Department during regular business hours.

3.30

Notice

- 1. Contents - The Planning Official shall prepare a notice of each application containing the following information.
 - a. The name of the applicant and the proposed plat.
 - b. The street address of the property, or if this is not available, a locational description in non-legal language.
 - c. A statement of what has been applied for, including the number of lots proposed and any proposed modifications under Section 5.05 of this Ordinance.
 - d. The time and place of the public hearing.
 - e. A statement of the availability of the official file.
 - f. A statement of the right of any person to submit written comments testimony to the Planning-Commission Hearing Examiner and to appear at the public hearing of the Planning-Commission Hearing Examiner to give comments testimony orally.
 - g. A statement that only persons who submit written or oral comments testimony to the Planning-Commission Hearing Examiner may challenge appeal the recommendation decision Planning-Commission Hearing Examiner.

2. Distribution -

- a. No less than fourteen (14) calendar days prior to the public hearing, the Planning Official shall distribute or cause to be published this notice as follows:
- (1) A copy will be sent to the persons described in Section 3.10.2 and 3 of this Ordinance.
 - (2) A copy will be posted on each of the official notification boards of the City.
 - (3) A copy will be sent to appropriate city or county officials if the proposed subdivision adjoins the boundaries of the City.
 - (4) A copy will be sent to the State Department of Transportation if the proposed subdivision is adjacent to the right-of-way of a state highway.
 - (5) A copy will be published in a newspaper of general circulation in the county and a newspaper of general circulation in the area where the real property which is proposed to be subdivided is located.
- b. Public Notice Sign - The applicant shall provide for and erect public notice signs at least fourteen (14) calendar days before the public hearing as follows:
- (1) The signs shall be designed and constructed to City standards. A copy of the notice described in paragraph 2 of this Section and a vicinity map shall be attached to each sign.
 - (2) The Department of Planning and Community Development is authorized to develop the standards for the public notice signs necessary for implementation of this Section.
 - (3) One (1) sign shall be erected on or near the subject property facing each public right-of-way adjacent to the subject property and private easement or tract road providing primary vehicular access to the subject property and to any property that abuts the subject property. The Department of Planning and Community Development shall approve the location of each sign.
 - (4) The applicant shall post a bond pursuant to Chapter 175 of the Zoning Code to ensure proper maintenance and removal of the signs. The bond shall be posted prior to erection of the sign.

- (5) The signs shall be removed within seven (7) calendar days after the final public hearing.

3.35 Staff Report

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

3.40 Houghton Community Council Hearing

1. General - If the application is within the jurisdiction of the Houghton Community Council, that Community Council may hold a public hearing prior to ~~or concurrently with~~ the Planning Commission Hearing Examiner hearing on the matter.
2. Notice - The planning official shall give public notice of the hearing as set forth in Section 3.30 of this ordinance.

3. Recommendation - Upon consideration of the information presented, the Houghton Community Council may, by a majority vote of the entire membership of the Community Council, make a recommendation on the matter. The Planning Official shall present the Community Council's recommendation to the Planning Commission Hearing Examiner before the Planning Commission Hearing Examiner makes his/her its recommendation to City Council.
4. Electronic Sound Recording - The Community Council shall make a complete electronic sound recording of each public hearing.

3.45 Public Hearing

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

3.50 Electronic Sound Recording

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

3.60 Public Comments Testimony 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 testimony to the Planning Commission Hearing Examiner, either by delivering ~~these comments~~ this testimony to the Planning Department prior to the hearing, or by giving ~~these~~ it directly to the Hearing Examiner Planning Commission at the hearing.
2. By appearing in person, or through a representative, at the hearing and making oral comments testimony directly to the Planning Commission Hearing Examiner. The Planning Commission Hearing Examiner may reasonably limit the extent of oral comments testimony to facilitate the orderly and timely conduct of the hearing.

3.65 Continuation of the Hearing

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

3.70 Recommendation-by-the-Planning-Commission
Hearing Examiner's Decision

1. General - Following its his/her consideration of the matter, the ~~Planning Commission~~ Hearing Examiner shall issue a written decision to: ~~vote-on-a-motion-recommending-that-City-Council Council-take-one-of-the-following-actions:~~

- a. Approve the proposed plat; or
- b. Modify and approve the proposed plat; or
- c. Deny the proposed plat.

If the Hearing Examiner 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. ~~Vote-Required---A-motion-recommending-that-City-Council-grant the-application-must-be-approved-by-a-majority-of-the-members present-at-the-hearing.~~

3.2. Decisional Criteria - The ~~Hearing Examiner-Commission~~ may ~~recommend-that-approve~~ the proposed plat be approved only if it he/she finds that:

- a. It is consistent with the Comprehensive Plan and Zoning Code; and
- b. It is consistent with the applicable provisions of Chapter 4 of this ordinance; and
- c. There is adequate provisions for open spaces, drainage ways, rights-of-way, easements, water supply, sanitary waste, power service, parks, playgrounds, and schools; and

- d. It will serve the public use and interest and is consistent with the public health, safety and welfare. The Hearing Examiner Commission shall be guided by the policy and standards and may exercise the powers and authority set forth in RCW 58.17.
43. Conditions, Restrictions, and Modifications - The Hearing Examiner-Planning-Commission shall include in the-motion containing-its-recommendation-to-the-City-Council his/her written decision any conditions, restrictions, and modifications that the Hearing Examiner-Planning-Commission determines are necessary to eliminate or minimize any undesirable effects or impacts imports-that would result from approving the proposed plat.
54. Findings of Fact and Conclusions - The Planning-Commission Hearing Examiner shall include in the-motion-containing-its recommendations-to-City-Council his/her decision:
- a. A statement-of-the-facts-presented-to-the-Planning-Commission-that-support-the-Commission's-recommendation; including-any-conditions,-restrictions,-and-modifications it-has-recommended;-and granting, modifying and granting, or denying the application.
 - b. A-statement-of-the-Planning-Commission's-conclusions-based on-these-facts. Any condition or restriction that is 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.
6. If-the-Planning-Commission-Cannot-Agree-on-a-Recommendation---If the-Planning-Commission-is-unable-to-pass-a-motion-containing-a recommendation-to-City-Council;-the-Planning-Official-shall notify-City-Council-that-the-Commission-is-unable-to-make-a recommendation-on-the-matter;-City-Council-shall-then-take jurisdiction-over-the-matter-and-hold-a-public-hearing-on-it. If-this-occurs;-the-provisions-of-Sections-30-and-35-of-the Chapter-and-Sections-45-through-120-of-this-Chapter-will-be followed-in-this-hearing-process;-except-that:

- a. City Council will act as the Planning Commission; and
- 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 the Chapter and, subject to the jurisdiction of the Houghton Community Council, Section 95 of this Chapter.

7. Planning Commission Report --- Within five (5) working days following the day of issuance of the Planning Commission's 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.

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 testimony to the Hearing Examiner.

3.75 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 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, that decision is the final decision of the City.

Distribution of the Planning Commission Report

The Planning Official shall distribute copies of the report of the Planning Commission as follows:

- 1. Within two (2) working days after the date the Planning Commission issues its written recommendation a copy will be sent to the applicant; and to any person requesting who submitted written or oral comments to the Planning Commission.

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:
- a) A draft resolution that embodies the Planning Commission's recommendation.
 - 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.

3.80 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 testimony 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 (10) working days following the day the Hearing Examiner's written decision was postmarked for distribution. 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 -
 - a. 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 and a notice of the deadline for responding to the appeal as established in Section 3.75.3.b: to those persons described in Section 3.75.1. 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.

- b. Any person receiving a copy of the letter of appeal pursuant to Section 3.75.3.a., may file a written response to the letter of appeal. Such response shall be submitted to the Planning Department within five (5) working days after the appeal letter was filed with the Planning Department.
- c. Any person filing a response pursuant to this section shall mail or personally deliver a copy of the response to those persons described in Section 3.75.1. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the response to the letter of appeal filed with the Planning Department pursuant to subsection 3.75.2 above.
4. Fee - The person filing the appeal shall include with the letter of appeal the fee established by ordinance.
5. 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.
6. Jurisdiction - Appeals from the decision of the Hearing Examiner will be heard by City Council.

Challenge-to-the-Planning-Commission-Recommendation

1. Who May Challenge -- The recommendation of the Planning Commission may be challenged by either:
- a. The applicant; or
- b. Any person who submitted written or oral comments to the Planning Commission.
2. Contents of a Challenge -- The challenge must be in writing and contain a statement of the factual findings and conclusions made by the Planning Commission that are contested. The challenge will be considered only on the record developed in the hearing before the Planning Commission.
3. How and When to File a Challenge --
- a. The challenge may be filed by delivering it to the Planning Department together with the fee established by ordinance within ten (10) working days following the day the Planning Commission's recommendation was distributed.
- b. The person filing the challenge shall, prior to delivery under subsection 80.3.a., mail or personally deliver a copy of the challenge to those persons described in Section 80.1 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 80.3.a above.

- c. Any person receiving a copy of the challenge letter pursuant to subsection 80.3.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 80.1 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 80.3.a above.

3.85 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.
 - 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 3.75.1 of this Chapter.

City Council Action

1. General - - The City Council shall consider the application at a scheduled meeting which shall not be less than ten (10) working days after the date of distribution of the Planning Commission report under Section 3.75 to the applicant and any person requesting the report.

2. City-Council-Decision--After-consideration-of-the-entire-matter on-the-record-before-the-Planning-Commission-the-City-Council shall,-by-motion-approved-by-a-majority-of-its-total-membership, take-one-of-the-following-actions:
- a. Adopt-a-resolution-that-is-consistent-with-the-Planning Commission's-recommendation-to-either:
 - (1) Approve-the-proposed-plot;-or
 - (2) Modify-and-approve-the-proposed-plot;-or
 - (3) Deny-the-proposed-plot.
 - b. If-the-City-Council-concludes-that-significant-issues-have been-raised-in-a-challenge-or-if-it-wishes-to-make-a substantial-change-in-what-is-recommended-by-the-Planning Commission,-it-shall,-by-motion,-either-direct-the-Planning Commission-to-hold-a-rehearing-on-the-matter-or-decide-to hold-a-City-Council-hearing-on-the-matter.--The-motion-may limit-the-scope-of-the-issues-to-be-considered-at-this rehearing-or-City-Council-hearing.
3. Decisional-Criteria--The-City-Council-shall-use-the-criteria -listed-in-Section-70.3-of-this-Chapter-in-deciding-upon-the -proposed-plot.
4. Condition,-Restriction,-and-Modification--The-City-Council shall-include-in-the-resolution-approving-the-application-any conditions,-modifications-and-restrictions-it-determines-are necessary-to-eliminate-or-minimize-any-undesirable-effects-or impacts-that-would-result-from-granting-the-plot.--Any-con- ditions-and-restrictions-that-are-imposed-become-part-of-the decision.
5. Findings-of-Fact-and-Conclusion--The-City-Council-shall-include in-its-motion:
 - a. A-statement-of-the-facts-presented-to-City-Council-that support-the-decision,-including-any-conditions,-modi- fications-and-restrictions-that-it-imposes;-and
 - b. The-City-Council's-conclusions-based-on-these-facts.
6. Effect--Subject-to-the-provision-of-Section-95-of-this-Chapter, the-resolution-of-City-Council-is-the-final-decision-of-the-City on-the-preliminary-subdivision.

3.90 Participation in the Appeal

Only those persons entitled to appeal the decision under Section 3.75.1 of this Chapter may participate in the appeal. These persons may participate in either or both of the following ways:

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

Procedures for Rehearing and City Council Hearing

If the Planning Commission holds a rehearing on the matter, the provisions of Section 30 and 35 of this Chapter and Sections 45 through 90 of this Chapter will be followed, except that the City Council may limit the matters to be considered at the Planning Commission rehearing. Any limitation will be stated in the notice of the hearing. If City Council holds a hearing on the matter, the provisions of Sections 30 and 35 of this Chapter and Sections 45 through 85 of this Chapter will be followed, except that the City Council may limit the matters to be considered at the Planning Commission rehearing. Any limitation will be stated in the notice of the hearing. If City Council holds a hearing on the matter, the provisions of Sections 30 and 35 of this Chapter and Sections 45 through 85 of this Chapter will be followed except:

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

3.95 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 testimony on these factual findings and conclusions. The appeal will be considered only on the record developed in the hearing before the Hearing Examiner.

3.100 Staff Report on the Appeal

1. Contents - The Planning Official shall prepare a staff report on the appeal containing the following:
 - a. The staff report prepared for the public hearing before the Hearing Examiner.
 - b. The written decision of the Hearing Examiner.
 - c. All written testimony submitted to the Hearing Examiner.
 - d. A summary of the testimony 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 testimony 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;
 - 2) the person who filed the appeal; and
 - 3) A copy will be sent to any person who received a copy of the Hearing Examiner's decision.

3.105 Public Hearing

1. Hearing in General - City Council shall hold a public hearing on the appeal. The scope of the hearing shall be limited, see Section 3.90.
2. Hearing Declared Open - The hearings of the City Council are open to the public. Participation is limited to those persons described in Section 3.75.1.

3.110 Electronic Sound Recordings

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

3.115 Burden of Proof

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

3.120 Continuation of the Hearing

The City Council may continue the hearing if, for any reason, they are unable to hear all of the public testimony on the appeal or if the City Council determines that they need more information within the scope of the appeal. If, during the hearing, the time and place of the next public hearing on the matter is announced, no further notice of that hearing need be given.

3.125 Decision on the Appeal

After considering all comments within the scope of the appeal submitted by persons entitled to participate in the appeal, the City Council shall, by motion approved by a majority of its total membership, take one of the following actions within 60 days from the date that the appeal was filed:

1. If the City Council determines that disputed findings of fact and conclusions of the Hearing Examiner are correct findings of fact and conclusions, the Council shall affirm the decision.
2. If the City Council determines that the disputed findings of fact and conclusions of the Hearing Examiner are not correct and that correct findings of fact and conclusions do not support the decision of the Hearing Examiner, the Council may modify or reverse the decision.
3. In all other cases, the Council shall either direct the Hearing Examiner to hold a re-hearing on the matter or decide to hold a City Council hearing on the matter. The motion may limit the scope of the matters to be considered at this re-hearing or City Council hearing.

With the exception listed below, the provisions of Sections 25 through 75 of this Chapter apply to a re-hearing or City Council hearing under this paragraph:

- a. If the City Council holds a hearing on the matter, it may either grant or deny the permit or approval only by motion approved by a majority of its total membership. This motion replaces the written decision required in Section 65 of this Chapter. The City Council shall issue a written notice containing its decision.
- b. If the 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 testimony to the City Council.

- 5. Effect - Subject to the provision of Section 3.125, the decision of the City Council is the final decision of the City.

3.95
3.130

Jurisdiction of the Houghton Community Council - Preliminary Plat

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

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

3.100
3.135

Notice of Final Decision

- 1. General - Following the final decision by City Council, or if applicable, the Houghton Community Council, the Planning Official shall prepare a notice of the City's final decision on the preliminary plat.

2. Distribution - Within two (2) working days after 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~~ testimony to the Hearing Examiner, Planning-Commissioner.

3.105

3.140

Time Limits for Preliminary Plat

Preliminary plats of any proposed subdivision and dedication shall be approved, disapproved, or returned to the applicant for modification or correction within ninety (90) calendar days following the date of filing of a complete application thereof unless the applicant consents to an extension of such time period: Provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the ninety (90) day period shall not include the time spent preparing and circulating the environmental impact statement by the local government agency.

3.110

3.145

Judicial Review - Preliminary Plat

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

3.115

3.150

Effect of Preliminary Plat Approval

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

3-120
3.155

Time Limits to File Final Plat

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

3-125
3.160

Contents of Final Plat

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

1. Proposed name of the plat.
2. Location by Section, Township, Range and/or by other legal description.
3. A boundary survey prepared by a professional-licensed-registered land surveyor, licensed in the State of Washington shall be shown on the proposed plat and shall reference the plat to either the Washington Coordinate System, North Zone or the King County Coordinate System or properly determined subdivision corner referenced to either of the above with a physical description of such corners.
4. The name and seal of the registered land surveyor responsible for preparation of the plat, and a certification on the plat by said surveyor to the effect that it is a true and correct representation of the land actually surveyed by him/her. The exterior plat boundary, and all interior lot corners shall be set on the applicant's property by the registered land surveyor, using appropriate permanent materials, as shown on the plat.

All street centerline monuments, (points of intersection, points of curve, points of tangency, etc.) within the plat and all intersections with existing street centerlines, shall be monumented with concrete monuments in case, or other permanent material approved by the City.

5. The drawing shall be of legible scale, and shall include the north arrow and basis of bearings. The scale of the final plat will be at one inch equals 50 feet unless otherwise approved by the Planning Director in order that all distances, bearings and other data can be clearly shown.
6. The boundary lines of the plat, based on an accurate traverse, with angular and linear dimensions.
7. Exact location, width, number or name of all rights-of-way and easements within and adjoining the plat and a clear statement as to whether each is to be dedicated or held in private ownership.
8. True courses and distances to the nearest established right-of-way lines or official monuments which will accurately locate the plat.
9. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
10. The plat will be described and corners set with a field traverse with a linear closure of 1 to 10,000 and corresponding angular closure as specified in W.A.C. 332-130-070.
11. Mathematical lot closures shall be submitted showing error of closures not to exceed $0.005 / n$, where n = number of sides and/or curves of a lot.
12. All lot and block numbers and lines, with accurate dimensions in feet and hundredths of feet. Blocks in numbered additions to subdivisions bearing the same name must be numbered or lettered consecutively through the several additions.
13. Accurate locations of all monuments at such locations as required by the Public Works Department.
14. All plat meander lines or reference lines along bodies of water which shall be established above, but not farther than twenty (20) feet from the high waterline of the water or within a reasonable distance, to insure reestablishment.
15. Accurate outlines and dimensions of any areas to be dedicated or reserved for public use, with purposes indicated thereon and in the dedication; and/or any area to be reserved by deed covenant for common uses of all property owners.

16. A full and correct legal description of the property.
17. All restrictions and conditions on the lots or tracts or other areas in the plat required by the City Council.
18. The signatures on the final plat document of all persons having an ownership interest in the property which shall be in reproducible black ink.
19. Appropriate signature blocks for the officials whose signatures are required for approval or acceptance of the plat, including any dedications.
20. Any additional pertinent information required at the discretion of the Public Works or Planning Directors.

~~3.130~~
3.165

Information to Accompany Final Plat

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

1. A certification from a licensed land surveyor as to the survey data, layout of streets, alleys and other rights-of-way. Bridges, sewage, water systems and other structures together with the information provided by the land surveyor shall be approved by a licensed engineer acting on behalf of the City.
2. A complete survey of the section or sections in which the plat is located, or as much thereof as may be necessary to properly orient the plat within the section or sections. A computer printout to show closures of boundary, road centerlines, lots and tracts. The maximum allowable error of closure is one foot in fifteen thousand feet.
3. A certification from the proper officer in charge of tax collections that all taxes and delinquent assessments as shown on the certification under paragraph 5 of this Section have been paid, satisfied or discharged.
4. A certificate stating that the subdivision has been made with the free consent, and in accordance with the desires of the owner or owners. If the plat includes a dedication, the certificate or a separate written instrument shall contain the dedication of all rights-of-way and other areas to the public, any individual or individuals, religious society or societies, or to any corporation, public or private, as shown on the plat, and an undertaking to defend, pay and save harmless, any governmental authority, including the City of Kirkland, in respect of all claims for damages against any governmental authority including the City of Kirkland which may be occasioned to the adjacent land by the established construction, drainage or

maintenance of said right-of-way or other areas so dedicated. Such certificate and separate dedication instrument if applicable shall be signed and acknowledged before a Notary Public by all parties having any ownership interest in the lands subdivided.

5. A title company certification which is not more than thirty (30) calendar days old containing:
 - a. A legal description of the total parcel sought to be subdivided; and
 - b. A list of those individuals, corporations, or other entities holding an ownership interest in the parcel; and
 - c. Any easements or restrictions affecting the property with a description, purpose and reference by auditors file number and/or recording number; and
 - d. Any encumbrances on the property; and
 - e. Any delinquent taxes or assessments on the property.
 - f. ~~Certification by the City department, or other agency with jurisdiction that all of the required public improvements subject to its jurisdiction have been installed, inspected and accepted by such department or agency, or in the alternative, surety bond or other performance guaranty has been deposited with the City in accordance with Section 5.10.~~

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

6. Certification by the City department; or other agency with jurisdiction that all of the required public improvements subject to its jurisdiction have been installed, inspected and accepted by such department or agency, or in the alternative, surety bond or other performance guaranty has been deposited with the City in accordance with Section 5.10 of this Ordinance.

3-735
3.170

Administrative Review of Final Plat

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

3.140
3.175

City Council Action

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

Final plats with changes that do not meet the criteria for Minor Deviations must be processed as ~~amendments to the Preliminary Plat~~ new preliminary plats.

3.145
3.180

Jurisdiction of the Houghton Community Council - Final Plat

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

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

3.150

3.185Judicial Review - Final Plat

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

3.155

3.190Filing of Plat Documents

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

4.25 Access

1. All lots must have direct legal access to either a right-of-way or a vehicular access easement or tract meeting the requirements of this Chapter. The City will determine whether access will be by right-of-way or vehicular access easement or tract on a case-by-case basis.
2. An owned vehicular access of 15' minimum width may serve one lot only. The area of the vehicular access strip shall be included in the computation of the lot area, but may be used for dimensional requirement for lot width at the building line.
3. The area of a vehicular access easement or tract shall not be included in the computation of the lot area for the serviant lot. However, if the vehicular easement serves only one lot which does not abut a public right-of-way, the easement shall be included in the lot area for the serviant lot, provided that the serviant lot abuts a public right-of-way. ~~if the easement or tract serves more than one lot which does not abut a right-of-way.~~

4.60 Utilities and Related Improvements - Sanitary Sewer

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

5.05 Innovative or Unusual Plat or Short Plat

1. General - The provisions of this Section establish a mechanism whereby an applicant may propose and the City may consider and approve an innovative or unusual plat or short plat that does not conform to the specific provisions of Chapter 4 of this Ordinance.
2. Procedure - Request for modifications under this Section will be processed and decided upon as part of normal plat or short plat approval process. The notice of the proposed plat or short plat must include specific references to the provisions that the applicant proposes to modify.
3. When Modifications May Be Approved - The City may approve a proposed modification for a plat or short plat under this Section in any of the following circumstances:
 - a. If the land in the proposed plat or short plat is the subject property of a development that has been approved by City Council under a Zoning Code permit.
 - b. If the size, shape, topography, or surroundings of the property are unique.
 - c. If the applicant is proposing an innovative development proposal.
4. Specific Criteria - The City may approve a proposed modification under this Section only if it finds that all of the following criteria are met:
 - a. The requirements of Sections 2.45.2 or ~~3.70.2-3.70.3~~ of this Ordinance are met.
 - b. The proposed modification will result in a plat or short plat that is at least as beneficial to the community as would be a plat or short plat which complies with all of the requirements of Chapter 4 of this Ordinance.
 - c. Any undesirable affects of the plat or short plat with the proposed modification are clearly outweighed by benefits to the public of the proposed modification.

CHAPTER 6 - ALTERATION AND VACATION OF PLATS

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6.05 General

The provisions of this Chapter describe the procedure that the City will use to review and decide upon a proposed alteration or vacation of a plat:

1. When any person is interested in the alteration of any plat or the altering of any portion thereof, except as provided in RCW 58.17.040(6); that person shall submit an application to request the alteration to the Planning Department. The application for the alteration shall be reviewed using Section 6.05 through 6.145 of this ordinance.
2. Whenever any person is interested in the vacation of any plat or portion thereof; or any area designated or dedicated for public use, that person shall file an application for vacation with the Planning Department. The application for the vacation shall be reviewed using Sections 6.05 through 6.55 and 6.205 through 6.265.

When the vacation application is specifically for a City street, the procedures for road vacation or street vacation found in RCW chapter 36.87 or 35.79 shall be utilized for the road or street vacation. When the application is for the vacation of the plat, together with the roads and/or streets, the procedure for vacation described in this chapter shall be used, but vacations of streets may not be made that are prohibited under RCW 35.79.030, and vacations of roads may not be made that are prohibited under RCW 36.87.130.

3. The Planning Official may limit the scope or portion of the plat for which a new plat alteration or vacation document is required to be recorded. This may be limited to that portion that is to be altered or vacated and any related matters.

6.10 Application - The applicant may apply for an alteration or vacation of a plat by submitting the following information to the Planning Department on the forms provided by that Department:

1. A boundary survey of the proposed plat alteration or vacation certified by a licensed land surveyor together with five (5) prints of the proposed plat alteration or vacation drawn to a scale between one inch equals 20 feet and one inch equals 50 feet containing the following information:
 - a. Name of the plat.
 - b. Location by section, township, range, and/or by other legal description.
 - c. Name, address and phone number of the applicant and agent, if any.

- d. Name, address and phone number of registered land surveyor preparing the plat.
 - e. Scale of plat, date and north arrow.
 - f. Existing topography of the land indicated by contours at five foot intervals. This may be waived by the Planning Director if no portion of the proposed plat exceeds 15 percent.
 - g. Location and extent of significant natural features such as streams, wetlands, all evergreen trees, 8 inches in diameter or greater and all deciduous trees 12 inches in diameter or greater, measured one foot above grade, and water bodies on and immediately adjacent to the property.
 - h. Zoning classification of the property and adjoining properties.
 - i. The lot lines of adjoining properties for a distance of at least 50 feet.
 - j. Location, dimension, and names of existing rights-of-way and easements, parks or other public spaces, structures, lots, blocks, etc.; shall be shown in dotted lines in scale with the plat alteration or vacation map.
 - k. Existing and proposed water, sewer, power, and drainage systems on, under, or over the property, showing size, grades, and location.
 - l. The area to be altered or vacated, using words and illustrations which are depicted on the plat mylar.
 - m. Layout of proposed rights-of-way and easements.
 - n. Layout, number and dimensions of proposed lots.
 - o. Parcels of land intended to be dedicated for public use, or reserved for use of owners of the property in the subdivision.
 - p. A notation which shows the dimensioned setback of all existing structures relative to existing property lines and to proposed lot lines.
 - q. Exterior boundary corners shall be indicated on the ground.
2. Address labels obtained from King County containing the names and addresses of the owners of all property within 300 feet of any boundary of the proposed plat alteration or vacation and any adjoining property owned by the owner of the land proposed to be altered or vacated.

3. Address labels marked "resident" or "tenant" for all property adjacent to and across the street from the property within the proposed plat alteration or vacation. These labels may be prepared by the applicant.
 4. A copy of the King County Assessor's Map identifying the properties specified in paragraphs 2 and 3 of this Section.
 5. If an application is for a plot alteration, the applicant shall submit the signatures of the majority of those persons having an ownership interest of lots, tracts, parcels, sites, or divisions in the subject subdivision or portion to be altered. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or portion thereof.
 6. If an application is for a plat vacation, the applicant shall submit the reasons for vacation and shall contain signatures of all parties having an ownership interest in that portion of the subdivision subject to vacation. If the subdivision is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for vacation would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the vacation of the subdivision or portion thereof.
 7. A current title company certificate for the property that has been issued no more than thirty (30) calendar days prior to the initial filing of the plat application. The certificate must include the name(s) of all persons holding any ownership interest in the property.
 8. Any additional information required by the Planning Official.
 9. The filing fee as established by ordinance.
 10. All information required under the State Environmental Policies Act RCW 43.21C, and the administrative guidelines and local ordinance adopted to implement it.
- 6.15 Acceptance for Filing - An application for an alteration or vacation of a plat is not complete and ready for review until:
1. The Planning Official verifies that the applicant has fully complied with Section 6.10 of this ordinance; and

2. The Responsible Official has entered a threshold determination under the State Environmental Policies Act (SEPA) which has become final.

6.20 Official File

1. Contents - The Planning Official shall compile an official file on the application containing the following:
- a. All application materials submitted by the applicant.
 - b. The staff report.
 - c. All written testimony received on the matter.
 - d. The electronic recording of the public hearing on the matter.
 - e. The decision or recommendation of the Hearing Examiner.
 - f. If the decision of the Hearing Examiner is reconsidered or appealed, the following will be added to the file:
 - (1) The letter of reconsideration or appeal.
 - (2) All written comments submitted regarding the reconsideration or appeal.
 - (3) The staff report on the appeal.
 - (4) The electronic sound recording and minutes of the hearing on the appeal.
 - (5) The decision of the Hearing Examiner on the reconsideration.
 - (6) The decision of City Council on the appeal.
 - g. 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.

6.25 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 testimony to the Hearing Examiner and to appear at the public hearing of the Hearing Examiner to give testimony orally.
- h. A statement that only persons who submit written or oral testimony to the Hearing Examiner may request reconsideration of the Hearing Examiner's decision.
- i. A statement that only persons who submit written or oral testimony to the Hearing Examiner may appeal the Hearing Examiner's decision.

2. Distribution

- a. The Planning Official shall distribute this notice at least fourteen (14) calendar days before the public hearing as follows:
 - (1) 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.
 - (2) 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.
 - (3) A copy of the notice will be published in the official newspaper of the City. The published notice does not require a vicinity map.
 - (4) A copy of the notice, including a vicinity map, will be posted on each of the official notification boards of the City.

- b. Public Notice Sign - The applicant shall provide for and erect public notice signs at least fourteen (14) calendar days before the public hearing as follows:
- (1) The signs shall be designed and constructed to City standards. A copy of the notice described in paragraph a. of this Section and a vicinity map shall be attached to each sign.
 - (2) The Department of Planning and Community Development is authorized to develop the standards for the public notice signs necessary for implementation of this Section.
 - (3) One (1) sign shall be erected on or near the subject property facing each public right-of-way adjacent to the subject property and private easement or tract road providing primary vehicular access to the subject property and to any property that abuts the subject property. The Department of Planning and Community Development shall approve the location of each sign.
 - (4) The applicant shall post a bond pursuant to Chapter 175 of this Code to ensure proper maintenance and removal of the signs. The bond shall be posted prior to erection of the sign.
 - (5) The signs shall be removed within seven (7) calendar days after the final public hearing.

b.30 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.

6.35 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.

6.40 Electronic Sound Recording

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

6.45 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.

6.50 Public Testimony 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 testimony to the Hearing Examiner, either by delivering this testimony to the Planning Department prior to the hearing or by giving it directly to the Hearing Examiner at the hearing.
- 2. By appearing in person, or through a representative, at the hearing and making oral testimony directly to the Hearing Examiner. The Hearing Examiner may reasonably limit the extent of oral testimony to facilitate the orderly and timely conduct of the hearing.

6.55 Continuation of the Hearing

The Hearing Examiner may continue the hearing if, for any reason, ne/sne is unable to hear all of the public testimony on the matter or if the Hearing Examiner determines that ne/sne 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.

6.60 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 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 Ordinance 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 intent of the goals and policies and of the applicable neighborhood plan provisions of the Comprehensive Plan;
 - b. It is consistent with all applicable Zoning Code regulations, including those adopted by reference from 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.

If any land within the alteration is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels, or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

- 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 testimony to the Hearing Examiner.

6.65 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 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 reconsidered or appealed, that decision is the final decision of the City.

6.70 Request for Reconsideration

1. General -- Any person who has a right to appeal a decision under Section 6.75.1 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 (5) working days of the postmarked date of 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
 - a. The person requesting the reconsideration shall, within the same time limits established in Section 6.70.1; mail or personally deliver a copy of the request for reconsideration and a notice of the deadline for responding to the request for reconsideration as established in Section 6.70.2.b. to those persons described in Section

6.75.1 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.

- b. Any person receiving a copy of the request for reconsideration pursuant to Section 6.70.2.a.; may file a written response to the request. Such response shall be submitted to the Planning Department within five (5) working days after the request letter was filed with the Planning Department.
- c. Any person filing a response pursuant to this section shall mail or personally deliver a copy of the response to those persons described in Section 6.75.1 of this Chapter. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the response to the request for reconsideration filed with the Planning Department pursuant to Section 6.70.1.

- 3. Decision to Reconsider - Within ten (10) working days after receiving a request for reconsideration, the Hearing Examiner shall notify the person requesting the reconsideration and any person filing a written response to the request 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.
- 4. 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. If a reconsideration request is denied by the Hearing Examiner, the applicant may then initiate an appeal. The time period to begin the appeal does not begin until the Hearing Examiner makes a decision on whether to grant the reconsideration request.
- 5. Process - If the Hearing Examiner reconsiders the decision, the provisions of Sections 6.25 through 6.60 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 testimony and by not holding a new public hearing.

Any limitations will be included in the notice given under Section 6.25 of this chapter; and

- b. If the Hearing Examiner limits the persons who may participate in the reconsideration under Section 6.70.5.a.(1), the Planning Official shall send notice under Section 6.25 of this chapter only to those persons. In all other cases, the Planning Official shall send this notice to the persons described in Section 6.70.5.a.(1) in addition to the persons described in Section 6.25.2.a. and b. of this chapter.

6.75 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 testimony 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 (10) working days following the day the Hearing Examiner's written decision was postmarked for distribution. The time period to begin an appeal does not begin until the Hearing Examiner makes a decision on whether to consider or deny a request to reconsider his/her decision on a plat alteration. If the Hearing Examiner agrees to reconsider his/her decision, the ten (10) working days allowed to an applicant to initiate an appeal, do not begin until the date the Hearing Examiner makes a written decision on the matter being reconsidered. If the Hearing Examiner denies a reconsideration request, the time period to begin an appeal begins on the date the denial decision was made. All appeals 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

- a. 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 and a notice of the deadline for responding to the appeal as established in Section 6.75.3.b. to those persons described in Section 6.75.1. 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.
 - b. Any person receiving a copy of the letter of appeal pursuant to Section 6.75.3.a., may file a written response to the letter of appeal. Such response shall be submitted to the Planning Department within five (5) working days after the appeal letter was filed with the Planning Department.
 - c. Any person filing a response pursuant to this section shall mail or personally deliver a copy of the response to those persons described in Section 6.75.1. Proof of delivery by mail or personal delivery shall be by affidavit attached to the copy of the response to the letter of appeal filed with the Planning Department pursuant to Section 6.75.2 above.
- 4. Fee - The person filing the appeal shall include with the letter of appeal the fee established by ordinance.
 - 5. 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.
 - 6. Jurisdiction - Appeals from the decision of the Hearing Examiner will be heard by the City Council.

6.80 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.
 - 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 6.75.1 of this chapter.

6.85 Participation in the Appeal

Only those persons entitled to appeal the decision under Section 6.75.1 of this chapter may participate in the appeal. These persons may participate in either or both of the following ways:

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

6.90 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 testimony on these factual findings and conclusions. The appeal will be considered only on the record developed in the hearing before the Hearing Examiner.

6.95 Staff Report on the Appeal

- 1. Contents - The Planning Official shall prepare a staff report on the appeal containing the following:
 - a. The staff report prepared for the public hearing before the Hearing Examiner.
 - b. The written decision of the Hearing Examiner.
 - c. All written testimony 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 testimony 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;

2) The person who filed the appeal; and

3) Any person who received a copy of the Hearing Examiner's decision.

6.100 Public Hearing

1. Hearing in General - City Council shall hold a public hearing on the appeal. The scope of the hearing shall be limited, see Section 6.90.

2. Hearing Declared Open - The hearings of the City Council are open to the public. Participation is limited to those persons described in Section 6.75.1.

6.105 Electronic Sound Recordings

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

6.110 Burden of Proof

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

6.115 Continuation of the Hearing

City Council may continue the hearing if, for any reason, they are unable to hear all of the public testimony on the appeal or if City Council determines that they need more information within the scope of the appeal. If, during the hearing, the time and place of the next public hearing on the matter is announced, no further notice of that hearing need be given.

6.120 Decision on the Appeal

After considering all testimony within the scope of the appeal submitted by persons entitled to participate in the appeal, City Council shall, by motion approved by a majority of its total membership, take one of the following actions:

1. If City Council determines that disputed findings of fact and conclusions of the Hearing Examiner are correct findings of fact and conclusions, the Council shall affirm the decision.
2. If City Council determines that the disputed findings of fact and conclusions of the Hearing Examiner are not correct and that correct findings of fact and conclusions do not support the decision of the Hearing Examiner, the Council may modify or reverse the decision.
3. In all other cases, the Council shall either direct the Hearing Examiner to hold a re-hearing on the matter or decide to hold a City Council hearing on the matter. The motion may limit the scope of the matters to be considered at this re-hearing or City Council hearing.

With the exception listed below, the provisions of Sections 6.20 through 6.70 of this Chapter apply to a re-hearing or City Council hearing under this paragraph:

- a. If City Council holds a hearing on the matter, it may either grant or deny the permit or approval only by motion approved by a majority of its total membership. This motion replaces the written decision required in Section 6.60 of this chapter. City Council shall issue a written notice containing its decision.
- 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 testimony to the City Council.

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

6.125 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.

6.130 Lapse of Approval - Time Limits

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

6.135 Contents of the Plat Alteration Document

The applicant shall submit a plat alteration document containing the following information:

1. Name of the plat alteration.
2. Location by Section, Township, Range and/or by other legal description.
3. A boundary survey prepared by a registered land surveyor, licensed in the State of Washington shall be shown on the proposed plat and shall reference the plat to either the Washington Coordinate System, North Zone or the King County Coordinate System or properly determined subdivision corner referenced to either of the above with a physical description of such corners.

4. The name and seal of the registered land surveyor responsible for preparation of the plat, and a certification on the plat by said surveyor to the effect that it is a true and correct representation of the land actually surveyed by him/her. The exterior plat boundary, and all interior lot corners shall be set on the applicant's property by the registered land surveyor, using appropriate permanent materials, before the City signs the plat alteration mylar. All street centerline monuments, (points of intersection; points of curve; points of tangency; etc.) within the plat and all intersections with existing street centerlines; shall be monumented with concrete monuments in case, or other permanent material approved by the City.
5. The drawing shall be of legible scale, and shall include the north arrow and basis of bearings. The scale of the final plat will be at one inch equals 50 feet unless otherwise approved by the Planning Director in order that all distances, bearings and other data can be clearly shown.
6. The boundary lines of the plat, based on an accurate traverse, with angular and linear dimensions.
7. Exact location, width, number or name of all rights-of-way and easements within and adjoining the plat and a clear statement as to whether each is to be dedicated or held in private ownership.
8. True courses and distances to the nearest established right-of-way lines or official monuments which will accurately locate the plat.
9. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
10. The plat will be described and corners set with a field traverse with a linear closure of 1 to 10,000 and corresponding angular closure as specified in W.A.C. 332-130-070.
11. Mathematical lot closures shall be submitted showing error of closures not to exceed $0.005/n$; where n = number of sides and/or curves of a lot.
12. All lot and block numbers and lines, with accurate dimensions in feet and hundredths of feet. Blocks in numbered additions to subdivisions bearing the same name must be numbered or lettered consecutively through the several additions.
13. Accurate locations of all monuments at such locations as required by the Public Works Department.
14. All plat meander lines or reference lines along bodies of water which shall be established above, but not farther than twenty (20) feet from the high waterline of the water or within a reasonable distance, to insure reestablishment.

15. Accurate outlines and dimensions of any areas to be dedicated or reserved for public use, with purposes indicated thereon and in the dedication; and/or any area to be reserved by deed covenant for common uses of all property owners.
16. A full and correct legal description of the property.
17. All restrictions and conditions on the lots or tracts or other areas in the plat required by the City Council.
18. The signatures on the final plat mylar of all persons having an ownership interest in the property which shall be in reproducible black ink.
19. Appropriate signature blocks for the officials whose signatures are required for approval or acceptance of the plat, including any dedications.
20. Any additional pertinent information required at the discretion of the Public Works or Planning Directors.

6.140 Information to Accompany Plat Alterations for Recording

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

1. A certification from a licensed land surveyor as to the survey data, layout of streets, alleys and other rights-of-way. Bridges, sewage, water systems and other structures together with the information provided by the land surveyor shall be approved by a licensed engineer acting on behalf of the City.
2. A complete survey of the section or sections in which the plat is located, or as much thereof as may be necessary to properly orient the plat within the section or sections. A computer printout to show closures of boundary, road centerlines, lots and tracts. The maximum allowable error of closure is one foot in fifteen thousand feet.
3. A certification from the proper officer in charge of tax collections that all taxes and delinquent assessments as shown on the certification under Section 6.135.5 have been paid, satisfied or discharged.
4. A certificate stating that the plat alteration has been made with the free consent, and in accordance with the desires of the owner or owners. If the plat includes a dedication, the certificate or a separate written instrument shall contain the dedication of all rights-of-way and other areas to the public, any individual or individuals, religious society or societies, or to any corporation, public or private, as shown on the plat,

and an undertaking to defend, pay and save harmless, any governmental authority, including the City of Kirkland, in respect of all claims for damages against any governmental authority including the City of Kirkland which may be occasioned to the adjacent land by the established construction, drainage or maintenance of said right-of-way or other areas so dedicated. Such certificate and separate dedication instrument if applicable shall be signed and acknowledged before a Notary Public by all parties having any ownership interest in the dedicated lands.

5. A title company certification which is not more than thirty (30) calendar days old containing:
- a. A legal description of the total parcel sought to be subdivided; and
 - b. A list of those individuals, corporations, or other entities holding an ownership interest in the parcel; and
 - c. Any easements or restrictions affecting the property with a description, purpose and reference by auditor's file number and/or recording number; and
 - d. Any encumbrances on the property; and
 - e. Any delinquent taxes or assessments on the property.

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

6. Certification by the City department, or other agency with jurisdiction, that all of the required public improvements subject to its jurisdiction have been installed, inspected and accepted by such department or agency, or in the alternative, surety bond or other performance guaranty has been deposited with the City in accordance with Section 5.10.

6.145 Filing of Plat Documents

- 1. General - Following approval of a plat alteration by City Council, the mayor shall sign the plat alteration document signifying approval by the City.
- 2. Recording - Time Limits - After the plat alteration documents are signed, they will be transmitted to the City Clerk's office for recording with the appropriate offices in King County. Unless specifically extended in the decision on the plat, the plat alteration must be recorded with King County within one-hundred twenty (120) calendar days following the date of approval or the decision becomes void.

3. Dedication - The signature of the Mayor on the plat alteration documents constitutes acceptance of all dedications shown on the plat (see Section 3.125 for the requirements as to property owner signatures on dedications).
4. Improvements - The owner shall complete, or bond under Section 5.10 of this ordinance all required right-of-way, easement, utility and other similar improvements before the Mayor will sign the plat alteration documents.

6.200 Review of Plat Vacation Applications

1. Whenever any person is interested in the vacation of any plat or portion thereof, or any area designated or dedicated for public use, that person shall file an application for vacation with the Planning Department. The application for the vacation shall be reviewed using Sections 6.05 through 6.55 and 6.205 through 6.265.
2. When the vacation application is specifically for a City street, the procedures for road vacation or street vacation found in RCW Chapter 36.87 or 35.79 shall be utilized for the road or street vacation. When the application is for the vacation of the plat, together with the roads and/or streets, the procedure for vacation described in this chapter shall be used, but vacations of streets may not be made that are prohibited under RCW 35.79.030, and vacations of roads may not be made that are prohibited under RCW 36.87.130.

6.205 Houghton Community Council Hearing

1. General - If the application is within the jurisdiction of the Houghton Community Council, that Community Council may hold a public hearing prior to, or concurrently with, the Hearing Examiner hearing on the matter.
2. Notice - The Planning Official shall give public notice of the hearing as set forth in Section 6.25 of this ordinance.
3. Distribution to Houghton Community Council - If the Houghton Community Council holds a hearing on the matter, the Planning Official shall, prior to the Community Council hearing, distribute the staff report as follows:
 - a. A copy will be sent to each member of the Community Council.
 - b. A copy will be sent to the applicant.

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

6.210 Recommendation by the Hearing Examiner

1. General - After considering all of the information and comments submitted on the matter, including, if applicable, those submitted by the Houghton Community Council, 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 will issue the recommendation more than ten (10) working 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. Decisional 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 intent of the goals and policies and of the applicable neighborhood plan provisions of the Comprehensive Plan;
 - b. It is consistent with all applicable Zoning Code regulations, including those adopted by reference from 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 recommendation any conditions and restrictions that he/she determines are necessary to eliminate or minimize any undesirable effects of granting the application for a vacation of all or a portion of a plat.

If any portion of the land contained in the subdivision was dedicated to the public for public use or benefit, such land, if not deeded to the City, shall be deeded to the City unless the Hearing Examiner and City Council set forth findings that the public use would not be served in retaining title to those lands.

Title to the vacated property shall vest with the rightful owner as shown in the county records. If the vacated land is land that was dedicated to the public, for public use other than a road or street, and the Hearing Examiner and City Council has found that retaining title to the land is not in the public interest, title thereto shall vest with the person or persons owning the property on each side thereof, as determined by the City. When the road or street that is to be vacated was contained wholly within the subdivision and is part of the boundary of the subdivision, title to the vacated road or street shall vest with the owner or owners of property contained within the vacated subdivision.

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.
 - d. A summary of the rights, as established in this Chapter, of the applicant and others to challenge the recommendation of the Hearing Examiner.

6.215 Distribution of Hearing Examiner's Recommendation

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

- 1. 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 testimony to the Hearing Examiner.

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 6.210 of this chapter and received by the Planning Department before the Hearing Examiner's recommendation is sent to the members of City Council.

6.220 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 testimony 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, within ten (10) working days following the day the Hearing Examiner's recommendation was postmarked for distribution.
- b. The person filing the challenge shall, prior to delivery under Section 6.220.3.a, mail or personally deliver a copy of the challenge and a notice of the deadline for responding to the challenge as established in Section 6.220.3.c: to those persons described in Section 6.220.1. 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 Section 6.220.3.a.
- c. Any person receiving a copy of the challenge letter pursuant to Section 6.220.3.b, may file a written response to the challenge. Such response shall be submitted to the Planning Department within five (5) working days after the day the challenge letter was filed with the Planning Department.

- 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 Section 6.220.1. 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 6.220.3.a. above.

6.225 City Council Action:

1. General -- The City Council shall consider the application together with a timely filed challenge, if applicable, at a scheduled meeting within ninety (90) calendar days of 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.
2. City Council Decision -- After consideration of the entire matter on the record before the Hearing Examiner, the City Council shall, by motion, approved by a majority of the total membership, take one of the following actions:
- a. Adopt an ordinance or resolution to either:
- 1) Grant the application; or
 - 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 Hearing Examiner's recommendation for any other reason, they may by motion either direct the Hearing Examiner to hold a rehearing on the matter or decide to hold a City Council hearing on the matter. The motion may limit the scope of the issues to be considered at this rehearing or City Council hearing.
3. Decisional Criteria -- The City Council shall use the criteria listed in the provision of this Code describing the requested decision in deciding upon the application. In addition, the City Council may approve the application only if:
- a. It is consistent with the intent of the goals and policies and of the applicable neighborhood plan provisions of the Comprehensive Plan;
 - b. It is consistent with all applicable Zoning Code regulations, including those adopted by reference from the Comprehensive Plan; and

c. It is consistent with the public health, safety and welfare.

4. Condition and Restriction - The City Council shall include in the ordinance or resolution granting the application any conditions and restrictions they determine are necessary to eliminate or minimize any undesirable effects of granting the application for the vacation of all or a portion of a plat. Any conditions and restrictions that are imposed become part of the decision.

5. Findings of Fact and Conclusion - The City Council shall include in their ordinance or resolution:
 - 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 Section 6.230 of this Chapter, the ordinance or resolution of City Council is the final decision of the City.

6.230 Procedures for Rehearing and City Council Hearing

If the Hearing Examiner holds a rehearing on the matter, the provisions of Sections 6.25 through 6.60 and 6.210 through 6.225 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 6.25 of this chapter.

If City Council holds a hearing on the matter, the provisions of Sections 6.25 and 6.225 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 6.25 of this chapter; and
- b. Under Section 6.225 of this chapter, City Council shall issue a decision rather than a recommendation. This decision is the final decision of the City subject to Section 6.235 of this chapter.

6.235 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.

6.240 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 testimony to the Hearing Examiner.

6.245 Judicial Review

The action of the City in granting or denying an application under this Chapter may be reviewed for illegal, corrupt, 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.

6.250 Time Limits to File Plat Vacation

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

6.255 Contents of the Plat Vacation Document

The applicant shall submit a plat vacation document containing the following information:

1. Proposed name of the plat.

2. Location by Section, Township, Range and/or by other legal description.
3. A boundary survey prepared by a registered land surveyor, licensed in the State of Washington shall be shown on the proposed plat and shall reference the plat to either the Washington Coordinate System, North Zone or the King County Coordinate System or properly determined subdivision corner referenced to either of the above with a physical description of such corners.
4. The name and seal of the registered land surveyor responsible for preparation of the plat, and a certification on the plat by said surveyor to the effect that it is a true and correct representation of the land actually surveyed by him/her. The exterior plat boundary, and all interior lot corners shall be set on the applicant's property by the registered land surveyor, using appropriate permanent materials, before the City signs the plat vacation mylar. All street centerline monuments, (points of intersection, points of curve, points of tangency, etc.) within the plat and all intersections with existing street centerlines, shall be monumented with concrete monuments in case, or other permanent material approved by the City.
5. The drawing shall be of legible scale, and shall include the north arrow and basis of bearings. The scale of the final plat will be at one inch equals 50 feet unless otherwise approved by the Planning Director in order that all distances, bearings and other data can be clearly shown.
6. The boundary lines of the plat, based on an accurate traverse, with angular and linear dimensions.
7. Exact location, width, number or name of all rights-of-way and easements within and adjoining the plat and a clear statement as to whether each is to be dedicated or held in private ownership.
8. True courses and distances to the nearest established right--of-way lines or official monuments which will accurately locate the plat.
9. Radii, internal angles, points of curvature, tangent bearings and lengths of all arcs.
10. The plat will be described and corners set with a field traverse with a linear closure of 1 to 10,000 and corresponding angular closure as specified in W.A.C. 332-130-070.
11. Mathematical lot closures shall be submitted showing error of closures not to exceed $0.005/n$, where n = number of sides and/or curves of a lot.

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

6.260 Information to Accompany Plat Vacations for Recording

The applicant must submit the following information with the plat vacation prior to recording:

1. A certification from a licensed land surveyor as to the survey data, layout of streets, alleys and other rights-of-way. Bridges, sewage, water systems and other structures together with the information provided by the land surveyor shall be approved by a licensed engineer acting on behalf of the City.
2. A complete survey of the section or sections in which the plat is located, or as much thereof as may be necessary to properly orient the plat within the section or sections. A computer printout to show closures of boundary, road centerlines, lots and tracts. The maximum allowable error of closure is one foot in fifteen thousand feet.

3. A certification from the proper officer in charge of tax collections that all taxes and delinquent assessments as shown on the certification under paragraph 5 of this Section have been paid, satisfied or discharged.
4. A certificate stating that the plat vacation has been made with the free consent, and in accordance with the desires of the owner or owners. If the plat includes a dedication, the certificate or a separate written instrument shall contain the dedication of all rights-of-way and other areas to the public, any individual or individuals, religious society or societies, or to any corporation, public or private, as shown on the plat, and an undertaking to defend, pay and save harmless, any governmental authority, including the City of Kirkland, in respect of all claims for damages against any governmental authority including the City of Kirkland which may be occasioned to the adjacent land by the established construction, drainage or maintenance of said right-of-way or other areas so dedicated. Such certificate and separate dedication instrument if applicable shall be signed and acknowledged before a Notary Public by all parties having any ownership interest in the lands subdivided.
5. A title company certification which is not more than thirty (30) calendar days old containing:
 - a. A legal description of the total parcel sought to be subdivided; and
 - b. A list of those individuals, corporations, or other entities holding an ownership interest in the parcel; and
 - c. Any easements or restrictions affecting the property with a description, purpose and reference by auditors file number and/or recording number; and
 - d. Any encumbrances on the property; and
 - e. Any delinquent taxes or assessments on the property.

If lands are to be dedicated or conveyed to the City as part of the subdivision, an American Land Title Association title policy may be required.
6. Certification by the City department, or other agency with jurisdiction that all of the required public improvements subject to its jurisdiction have been installed, inspected and accepted by such department or agency, or in the alternative, surety bond or other performance guaranty has been deposited with the City in accordance with Section 5.10.

6.265 Filing of Plat Documents

1. General - Following approval of a plat vacation by City Council, the mayor shall sign the plat vacation document signifying approval by the City.
2. Recording - Time Limits - After the plat vacation documents are signed, they will be transmitted to the City Clerk's office for recording with the appropriate offices in King County. Unless specifically extended in the decision on the plat, the plat vacation must be recorded with King County within one-hundred twenty (120) calendar days following the date of approval or the decision becomes void.
3. Dedication - The signature of the Mayor on the plat vacation documents constitutes acceptance of all dedications shown on the plat (see Section 6.10.6 for the requirements as to property owner signatures on dedications).
4. Improvements - The owner shall complete or bond, under Section 5.10 of this Ordinance, all required right-of-way, easement, utility, and other similar improvements before the Mayor will sign the plat vacation documents.

SUMMARY OF ORDINANCE NO. 3108

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO SUBDIVISIONS AND AMENDING ORDINANCE 2766 AS AMENDED, THE KIRKLAND SUBDIVISION ORDINANCE (FILE NO. IV-88-40).

Section 1. Amends, adds or deletes the following chapter, sections and subsections of Ordinance 2766 as amended, the Kirkland Subdivision Ordinance.

a. Chapter 1 -- Introduction

Sec. 1.10 Lot Line Alteration
 Sec. 1.15 Binding Site Plan Approval
 Sec. 1.20.97 Definition of Servient Lot
 Sec. 1.20.107 Definition of Site

b. Chapter 2 -- Process for Deciding Short Subdivisions

Sec. 2.05 General
 Sec. 2.15.1 Applications
 Sec. 2.30 Notice
 Sec. 2.40 Written Testimony
 Sec. 2.45 Planning Director's Decision
 Sec. 2.50 Filing Short Plat Documents
 Sec. 2.70.1 Who May Appeal
 Sec. 2.80 Participation in the Appeal
 Sec. 2.85 Scope of the Appeal
 Sec. 2.90.1 Content of Staff Report on the Appeal
 Sec. 2.110 Continuation of the Hearing

c. Chapter 3 -- Process for Deciding Subdivisions

Sec. 3.05 General
 Sec. 3.10 Application
 Sec. 3.25 Official File
 Sec. 3.30 Notice
 Sec. 3.35.2.a Distribution of Staff Report
 Sec. 3.40 Houghton Community Council Hearing
 Sec. 3.45 Public Hearing
 Sec. 3.50 Electronic Sound Recording
 Sec. 3.60 Public Testimony and Participation at the Hearing
 Sec. 3.65 Continuation of the Hearing
 Sec. 3.70 Hearing Examiner's Decision
 Sec. 3.75 Effect of the Decision
 Sec. 3.80 Appeals
 Sec. 3.85 Notice of the Appeal Hearing
 Sec. 3.90 Participation in the Appeal

Sec. 3.95	A New Section Entitled "Scope of the Appeal" is Added, and Former Section 3.95 is renumbered as Section 3.130
Sec. 3.100	Staff Report on the Appeal
Sec. 3.105	A New Section Entitled "Public Hearing" is Added, and Former Section 3.105 is Renumbered as Section 3.140.
Sec. 3.110	A New Section Entitled "Electronic Sound Recordings" is Added, and Former Section 3.110 is Renumbered as Section 3.145
Sec. 3.115	Burden of Proof
Sec. 3.120	Continuation of the Hearing
Sec. 3.125	Decision on the Appeal
Sec. 3.135	Notice of Final Decision
Sec. 3.150	Effect of Preliminary Plat Approval
Sec. 3.155	Time Limits to File Final Plat
Sec. 3.160	Contents of Final Plat
Sec. 3.165	Information to Accompany Final Plat
Sec. 3.170	Renumbering of Former Section 3.135
Sec. 3.175	City Council Action
Sec. 3.180	Renumbering of Former Section 3.145
Sec. 3.185	Renumbering of Former Section 3.150
Sec. 3.190	Renumbering of Former Section 3.155

d. Chapter 4 -- Layout and Design of Plats and Short Plats and Similar Requirements

Sec. 4.25.3	Access
Sec. 4.60.	Utilities and Related Improvements -- Sanitary Sewer

e. Chapter 5 -- Miscellaneous Provisions

Sec. 5.05.4.a	Specific Criteria for Innovative or Unusual Plat or Short Plat
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f. Addition of a New Chapter Entitled "Chapter 6 -- Alteration and Vacation of Plats"

Section 2. Contains a savings clause.

Section 3. Provides that the subject matter of the ordinance shall not become effective within the limits of

the Houghton Community Municipal Corporation, unless approved by the Houghton Community Council, or said Community Council has failed to disapprove the ordinance within 60 days of the date of passage of the ordinance by the City Council.

Section 4. Authorized publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017, Kirkland Municipal Code, and establishes the effective date as five days after publication of summary, except as provided in Section 3.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its regular meeting on the 19th day of June, 1988.

I certify that the foregoing is a summary of Ordinance No. 3108 approved by the Kirkland City Council for summary publication.


City Clerk