

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO
STATE ENVIRONMENTAL POLICY ACT PROCEDURES

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

Section 1. Section 24.02.100 of the Kirkland Municipal Code is hereby amended to read as follows:

24.02.100 SEPA policies.

The city designates and adopts by reference the following policies as the basis for the city's exercise of authority pursuant to this chapter:

- (1) The policies of the State Environmental Policy Act - RCW 43.21C;
- (2) Ordinance No. ~~2346~~ 3481, as amended—~~Land Use Policies Plan (LUPP) Comprehensive Plan~~;
- (3) Ordinance No. 2740, as amended - Zoning Code;
- (4) Ordinance No. 2699, as amended - The zoning map;
- (5) Ordinance No. 2766 as amended - Subdivision ordinance;
- (6) The city of Kirkland Shoreline Master Program - Ordinance 2256 as well as the Shoreline Policies adopted in Kirkland Municipal Code Chapter 24.04;
- (7) Building and Construction - Title 21 of the Kirkland Municipal Code;
- (8) The perpetual six-year transportation improvement program established by Section 19.08.051, Kirkland Municipal Code including annual amendments (Resolution R-3106 or its successor);
- (9) Park and open space plan - Ordinance No. 2117, as amended;
- (10) East planning area comprehensive sewer plan - Ordinance No. 2796, as amended;
- (11) Flood protection - Kirkland Municipal Code, Chapter 21.56;
- (12) Policies and regulations relating to water and sewer extensions established in Title 15, Kirkland Municipal Code.

Section 2. Section 24.02.105 of the Kirkland Municipal Code is hereby amended to read as follows:

24.02.105 Administrative appeals.

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

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

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

- (1) The applicant or proponent;
- (2) Any agency with jurisdiction;
- (3) Any individual or other entity who is specifically and

directly affected by the proposed action.

(c) Time to Appeal

(1) An appeal of a ~~DS or~~ DNS must be filed with the environmental coordinator within ~~seven~~ 15 days of the date the ~~declaration determination~~ is final. ~~Except for DNSs listed in WAG 197-11-340(2), a DNS is final on the day it is issued by the~~ responsible official. ~~A DS is final on~~

(2) An appeal of a DS must be filed within seven days of the date it is published under Section 85 of this chapter.

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

(e) 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 each person or agency who received a copy of the threshold determination. 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 subsection (d) above.

(f) Fees. The person filing the appeal shall include with the letter of appeal the fee as established by ordinance.

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

(1) ~~Threshold Determinations~~ Determinations of Nonsignificance: Appeals of ~~threshold determinations~~ DNSs will be heard at the open record hearing for the underlying project permit and decided upon by the hearing examiner ~~using the appeal provisions, as applicable, of process 1 of the Kirkland Zoning Code, Ordinance 2740, as amended, Sections 145.60 through 145.105~~ body hearing the underlying project permit, using the provisions of subsections (h), (i) and (j) of this section, except that for:

(A) Project permits which do not include an open record public hearing, in which case the SEPA appeal will be heard and decided upon by the hearing examiner using the provisions of subsections (h), (i) and (j) of this section.

(2) Determinations of Significance: Appeals of DSs will be heard and decided upon by the hearing examiner using the provisions of subsections (h), (i) and (j) of this section.

(h) Procedures for the Appeal

(1) Notice of the Appeal Hearing

(A) Content. The Planning Official shall prepare a notice of the appeal containing the following:

(i) The file number and a brief written description of the matter being appealed.

(ii) A statement of the scope of the appeal including a summary of the specific factual findings and conclusions disputed in the letter of appeal.

(iii) The time and place of the public hearing on the appeal.

(iv) A statement of who may participate in the appeal.

(v) A statement of how to participate in the appeal.

(B) 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 who received a copy of the threshold determination and any person who submitted written comments on, or an appeal of, the threshold determination.

(C) The notice of appeal may be combined with the hearing notice for the underlying project permit, if applicable.

(2) Participation in the Appeal. Only those persons entitled to appeal the threshold determination under subsection (b) of this section may participate in the appeal. These persons may participate in the appeal in either or both of the following ways:

(A) By submitting written testimony to the Planning Department within the timeline established by subsection (c) above.

(B) By appearing in person, or through a representative, at the hearing and submitting oral or written testimony directly to the hearing body. The hearing body may reasonably limit the extent of the oral testimony to facilitate the orderly and timely conduct of the hearing.

(3) Staff Report on the Appeal

(A) Content - The Planning Official shall prepare a staff report containing the following:

(i) The SEPA threshold determination.

(ii) All written comments submitted to the Responsible Official.

(iii) The letter of appeal.

(iv) All written comments on the appeal received by the Planning Department from persons entitled to participate in the appeal and within the scope of the appeal.

(v) An analysis of the specific factual findings and conclusions disputed in the letter of appeal.

(B) This report may be combined with the staff report on the underlying project permit, if applicable.

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

(i) A copy will be sent to the hearing body hearing the appeal as specified under subsection (g) above.

(ii) A copy will be sent to the applicant.

(iii) A copy will be sent to the person who filed the appeal.

(iv) A copy will be sent to any person or agency who received a copy of the threshold determination or submitted comments on the threshold determination.

(4) Public Hearing on the Appeal

(A) Hearing in General - The hearing body shall hold a public hearing on the appeal.

(B) Hearing Declared Open - The hearings of the hearing body are open to the public.

(5) Electronic Sound Recordings. The hearing body shall make a complete electronic sound recording of each hearing.

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

(i) Decision on the Appeal

(1) General - The hearing body shall consider all information and material within the scope of the appeal submitted by persons entitled to participate in the Appeal. The hearing body shall either affirm or change the findings and conclusions of the Responsible Official that were appealed. Based on the hearing body's findings and conclusions, it shall either--

(A) Affirm the decision being appealed; or

(B) Reverse the decision being appealed; or

(C) Modify the decision being appealed.

(2) Issuance of Written Decision - Within eight (8) calendar days after the public hearing, the hearing body shall issue a written decision on the appeal. Within four (4) calendar days after it is issued, the hearing body shall distribute the decision as follows:

(A) A copy will be mailed to the applicant.

(B) A copy will be mailed to the person who filed the appeal.

(C) A copy will be mailed to all other persons or agencies who participated in the appeal.

(j) Additional Appeal Procedures.

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

(B)(2) The decision of the responsible official shall be accorded substantial weight;

(C)(3) All testimony will be taken under oath; and,

(D)(4) The decision of the hearing ~~examiner~~ body hearing the appeal shall be the final decision on any appeal of a threshold determination including a mitigated determination of nonsignificance.


Section 3. Section 24.02.106 of the Kirkland Municipal Code is hereby repealed in its entirety.

Section 4. 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 5. . This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.107, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in regular,
open meeting this 2nd day of April, 1996.

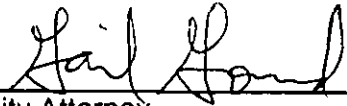
Signed in authentication thereof this 2nd day of
April, 1996.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

Mar96\OrdSEPA

PUBLICATION SUMMARY
OF ORDINANCE NO. 3530

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO
STATE ENVIRONMENTAL POLICY ACT PROCEDURES.

SECTION 1. Amends Kirkland Municipal Code Section
24.02.100 relating to SEPA policies.

SECTION 2. Amends Kirkland Municipal Code Section
24.02.105 relating to administrative appeals of SEPA determinations.

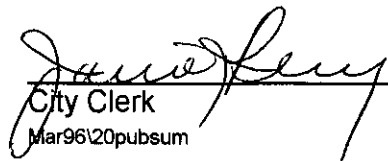
SECTION 3. Repeals Kirkland Municipal Code Section
24.02.106 in its entirety.

SECTION 4. Contains a savings clause.

SECTION 5. Authorizes 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.

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 2nd day of April,
1996.

I certify that the foregoing is a summary of Ordinance
3530 approved by the Kirkland City Council for summary
publication.



City Clerk
Mar96\20pubsum