

ORDINANCE NO. 4252

AN ORDINANCE of the City Council of the City of Kent, Washington, amending chapters 12.01 and 12.04 of the city code, relating to the procedures used for processing final plat approvals.

RECITALS

A. The City Council has an ongoing interest to simplify land use decision making and to lower City and customer costs by increasing efficiency.

B. Kent City Code currently establishes procedures for processing final plats which include the requirement that final approval of plats for subdivisions must be given by the City Council. This final approval by Council is generally seen as merely a technical legal requirement, as Council has a very limited ability to deny or modify a final plat because the Hearing Examiner process has already addressed any significant code compliance issues during the preliminary review process.

C. On April 27, 2017, the Governor signed into law SB 5674 which amends Chapter 58.17 RCW to allow local governments to adopt procedures that shift final plat approval from a City Council action to an administrative decision by a specific City official or City department.

D. There are significant advantages to shifting the final plat approval from Council to an administrative process. It would save

substantial time and money for applicants, as well as reduce the substantial amount of time and resources required to have staff prepare and present final plats to Council.

E. SB 5674 allows local jurisdictions to make these modifications through the adoption of an ordinance that may go into effect on or after July 23, 2017.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Amendment. Section 12.01.040 of the Kent City Code, entitled "Project permit application framework," is hereby amended as follows:

Sec. 12.01.040 Project permit application framework.

A. *Process types.* The following table lists the process types, the corresponding applications, and, parenthetically, the corresponding final decision maker and appellate body.

	<i>Process I</i>	<i>Process II</i>	<i>Process III</i>	<i>Process IV</i>	<i>Process V</i>	<i>Process VI</i>
Applications:	Zoning permit review (1) (7)	Administrative design review (1) (7)	Conditional use permit (5) (10)	Planned unit development (6) (10) with change of use	Final plat (6 -1) (10)	Zoning of newly annexed lands (6) (10)
	Performance standards procedures (1) (7)	Shoreline substantial development permit (1) (9)	Sign variance (5) (10)	Special use combining district (6) (10)		Area-wide rezones to implement new city policies (6) (10)
	Sign permit (1) (7)	Accessory dwelling unit permit (1) (7)	Special home occupation permit (5) (10)	Rezone (6) (10)		Comprehensive plan amendments (6) (10)
	Lot line adjustment (1) (7)	Administrative variance (1) (7)	Variance (5) (10)			Development regulations (6) (10)
	Administrative	Downtown design	Shoreline			Zoning map

	<i>Process I</i>	<i>Process II</i>	<i>Process III</i>	<i>Process IV</i>	<i>Process V</i>	<i>Process VI</i>
	interpretation (1) (7)	review, all except for minor remodels (3) (7)	conditional use permit (5) (9)			amendments (6) (10)
	Application conditional certification multifamily tax exemption (12) (8), all other multifamily tax exemption (12) (7)	Downtown design review, only minor remodels (1) (7)	Shoreline variance (5) (9)			Zoning text amendments (6) (10)
	Development plan review (planning director, building official, or public works director) (7)	Midway design review (1) (7)	Preliminary plat (5) (10)			
	Site plan review (planning director, building official, or public works director) (7)	Midway design review (1) (7)				
	Administrative approval/WTF (1) (7)	Binding site plan (2) (7)				
	Mobile home park closure (11) (7)	Short subdivision (4) (7)	Planned unit development (5) (10) without a change of use			
(1) Final decision made by planning director. (2) Final decision by binding site plan committee. (3) Final decision made by downtown design review committee. (4) Final decision made by short subdivision committee. (5) Final decision made by hearing examiner. (6) Final decision made by city council. (7) Appeal to hearing examiner.			(8) Appeal to city council. (9) Appeal to shoreline hearings board. (10) No administrative appeals. (11) Final decision made by manager of housing and human services. (12) Final decision made by economic and community development director.			

B. *Process procedures.* The following table lists the process types and the corresponding procedures.

	<i>Project Permit Applications (Processes I – V)</i>					<i>Legislative</i>
	<i>Process I</i>	<i>Process II</i>	<i>Process III</i>	<i>Process IV</i>	<i>Process V</i>	<i>Process VI</i>
Notice of application:	Yes, for projects requiring SEPA review	Yes, for projects requiring SEPA review, short plats, and shoreline substantial development permits		Yes	No	No

	<i>Project Permit Applications (Processes I – V)</i>					<i>Legislative</i>
	<i>Process I</i>	<i>Process II</i>	<i>Process III</i>	<i>Process IV</i>	<i>Process V</i>	<i>Process VI</i>
Recommendation made by:	N/A	N/A	N/A	Hearing examiner	N/A	Land use and planning board
Final decision made by:	Planning director, building official, public works director, economic and community development director, or manager of housing and human services as applicable	Planning director, downtown design review committee, binding site plan committee, or short subdivision committee, as noted in subsection (A) of this section	Hearing examiner	City council, based upon record made before hearing examiner	City council <u>Planning director</u>	City council
Open record appeal:	Yes, if appealed, then before hearing examiner	Yes, if appealed, then before hearing examiner	No	No	No	No
Open record hearing:	No	No	Yes, before hearing examiner to make final decision	Yes, before hearing examiner to make recommendation to council	No	Yes, before land use and planning board to make recommendation to city council, and/or before city council
Reconsideration:	No	No	Yes, of hearing examiner's decision	Yes, of hearing examiner's recommendation	No	No
Closed record appeal:	Only if appeal of denial of multifamily conditional certificate, then before the city council	Only if appealed, then before the shoreline hearings board if applicable	Only if appealed, then before the shoreline hearings board if applicable	No	No	No
Judicial appeal:	Yes	Yes	Yes	Yes	Yes	Yes

SECTION 2. - Amendment. Section 12.04.035 of the Kent City Code entitled "City functions," is hereby amended as follows:

Sec. 12.04.035 City functions.

A. *Planning services office.* The planning services office is responsible for the administration and coordination of this chapter unless another department or division is authorized to administer and enforce a specific section.

B. *Department of public works.* The department of public works is responsible for reviewing all engineering and technical requirements of this chapter.

C. *Fire department.* The fire department is responsible for reviewing all fire access and fire safety requirements of this chapter.

D. *Department of parks and recreation.* The department of parks and recreation is responsible for reviewing all parks and open space dedication requirements of this chapter.

E. *Short subdivision committee.* The short subdivision committee is authorized to hold a public meeting and make a final decision on all short subdivision plats.

F. *Binding site plan committee.* The binding site plan committee is authorized to hold a public meeting and make a final decision on all binding site plans.

G. *Hearing examiner.* The hearing examiner is authorized to hold a public hearing and make a final decision on subdivision preliminary plats.

H. *City council.* The city council shall conduct any closed record appeal from a hearing examiner's final decision on a subdivision preliminary plat. The ~~city council~~ planning director shall have sole authority to approve subdivision final plats. An appeal of a final plat decision shall be in superior court.

SECTION 3. - Amendment. Section 12.04.115 of the Kent City Code entitled "Application procedures," is hereby amended as follows:

Sec. 12.04.115 Application procedures. An application for a subdivision or short subdivision consists of the following steps:

1. Preparation of the tentative plat of the proposed subdivision or Type II short subdivision and submission of an application for a pre-application conference;
2. Review of the tentative plat for pre-application conference by the city and convene a meeting with the city resulting in the issuance of a pre-application conference summary letter;
3. Preparation and submission of the preliminary plat of the proposed subdivision to the hearing examiner for a public hearing and decision, or preparation and submission of the preliminary plat of the proposed short subdivision to the short subdivision committee for a public meeting and decision;
4. Installation or bonding of improvements according to the approved preliminary subdivision or short subdivision requirements and satisfaction of all plat conditions;
5. Submission of the subdivision final plat to the ~~city council~~ planning director for approval, or submission of the short subdivision final plat to the short subdivision committee chairman for approval;
6. Recordation of the approved final plat in the office of the King County department of records and elections.

SECTION 4. - Amendment. Section 12.04.210 of the Kent City Code entitled "Filing the final plat," is hereby amended as follows:

Sec. 12.04.210 Filing the final plat.

A. A final plat or final short plat shall be prepared by a professional land surveyor licensed in the state of Washington, based on the Washington State Plane Coordination System, and be submitted to planning services along with all forms required and with the number of originals and copies requested.

B. The final plat or final short plat submitted for filing shall comply with the conditions of preliminary approval and Chapter 58.09 RCW, Chapter 332-130 WAC, and Chapter 58.17 RCW. The original drawing shall be in black ink on mylar or photographic mylar.

C. In addition to other requirements as specified in this section, the final plat or final short plat shall contain or be accompanied by the following:

1. Signature of the owner of the property on the face of the final plat or final short plat mylar;

2. A notarized certificate of the owner, contract purchaser, grantor of a deed of trust, or other holder of beneficial title to the property being subdivided indicating that the subdivision or short subdivision is made with free consent and in accordance with their desires, and if the subdivision or short subdivision is subject to deeding of property, the notarized certificate shall be signed by all parties having any ownership interest in the lands subdivided. For purposes of this section, *ownership interest* shall include legal and equitable property interests, including, but not limited to, present, future, contingent, or whole fee interests, together with a beneficiary's interest pursuant to a trust and contract interest pursuant to a specifically enforceable contract for the purchase of the real property;

3. Certification by the responsible health agencies that the methods of sewage disposal and water service are acceptable;

4. Certification by the public works department that the subdivider has complied with either of the following alternatives:

a. All improvements have been installed in accordance with the requirements of these regulations; or

b. Certain improvements have been deferred according to KCC 12.04.205(D), deferred improvements;

5. The subdivider shall furnish the city a current plat or short plat certificate or title report from a title insurance company, produced no more than forty-five (45) calendar days prior to final plat or final short plat application, that documents the ownership and title of all interested parties in the plat or short plat, subdivision, short subdivision, or dedication and that lists all liens and encumbrances. The legal description in the title report shall be identical to the legal description on the face of the plat or short plat. The city reserves the right to require updates of the certificate or title report at any time prior to signing the final plat or final short plat by the short subdivision committee chairman;

6. Any person signing for a corporation must provide documentation that shows they have the authority to execute on behalf of the said corporation;

7. Copies of any restrictive covenants as may be used in the subdivision or short subdivision;

8. Certification of approval to be signed by the King County assessor;

9. Certification of approval to be signed by the King County recorder;

10. Certificate of approval by the chairman of the short subdivision committee;

11. Copies of any bylaws for a homeowners' association, if created;

12. Approved printed computer lot closure on all lots, alleys, and boundaries.

D. All subdivisions and short subdivisions shall be surveyed by a land surveyor licensed in the state of Washington. All lot, tract, parcel, and right-of-way corners and angle points shall be set in accordance with Chapter 58.09 RCW. Street monuments shall be in accordance with city of Kent design and construction standards and shall be installed per those same standards. Sufficient intervisible monuments shall be set to ensure that any property within the subdivision or short subdivision can be readily resurveyed at a later time or as may be specified by the public works department. All final plats and final short plats shall be based on at least two city of Kent horizontal control points and reference the North American Datum of 1983/1991 Adjustment (NAD 83/91) or its successor as may be adopted by the public works department survey section.

E. If any utility companies and/or utility districts have existing easements within the proposed plat or short plat, the applicant or its assigns shall have these easements removed or shall have their rights subordinated to the city of Kent if they fall within dedicated right-of-way or tracts for public use.

F. The final plat or final short plat must be submitted to planning services for review as to compliance with all terms of the preliminary approval; terms of bonding or the completion of all improvements; and completeness and accuracy of survey data and platting requirements.

G. Before a final short plat is filed with King County, it shall be signed by the chairman of the short subdivision committee when the plat is determined to be in compliance with all applicable short subdivision requirements.

H. After all final plat conditions for a subdivision have been met, ~~planning services shall set a date for a public meeting for the city council~~ planning director to consider the final plat.

I. ~~Before the final plat of a subdivision is submitted to the city council, it shall be signed by the city engineer, city finance director, and planning director. After the final plat is approved by the city council, it shall be signed by the mayor and the city finance director.~~

J. An approved final plat or short plat shall be filed for record with King County and shall not be deemed approved until filed.

K. A conformed copy of the recorded plat or short plat shall be filed with planning services and the public works department.

SECTION 5. - Amendment. Section 12.04.221 of the Kent City Code entitled "Subdivision preliminary plat expiration," is hereby amended as follows:

Sec. 12.04.221 Subdivision preliminary plat expiration.

A. Subdivision preliminary plat approval shall remain valid for that period of time specified in Chapter 58.17 RCW, plus one year. During this period, an applicant must submit a final plat based on the preliminary plat, or any phase thereof, and meeting all of the requirements of this chapter and Chapter 58.17 RCW, to the city council for approval, or the preliminary plat shall lapse and become void.

B. For preliminary plats approved between January 1, 2008, and December 31, 2008, one extension of 15 months shall be granted to an applicant who files a written request for extension with the economic and community development department prior to the expiration of the preliminary plat's validity period, as provided in subsection (A) of this section.

C. In the case of a phased subdivision, final plat approval by the ~~city council~~ planning director of any phase of the subdivision preliminary plat will constitute an automatic one-year extension for the filing of the final plat for the next phase of the subdivision.

SECTION 6. - *Amendment.* Section 12.04.223 of the Kent City Code entitled "Decision on subdivision final plat," is hereby amended as follows:

Sec. 12.04.223 Decision on subdivision final plat. The ~~city council~~ planning director shall approve, disapprove, or return the final plat to the applicant for modification and/or correction within thirty (30) calendar days of the date of the city's determination of acceptance of the final plat application, unless the applicant consents to an extension of such time period.

SECTION 7. - Amendment. Section 12.04.225 of the Kent City Code entitled "Subdivision final plat expiration," is hereby amended as follows:

Sec. 12.04.225 Subdivision final plat expiration. If a final plat has not been submitted for recording within six (6) months after approval by the ~~city council~~ planning director, the plat shall expire and be null and void. One (1) extension of no longer than six (6) months may be granted by the ~~city council~~ planning director. To revitalize a plat that has expired under this section, the plat shall be resubmitted as a preliminary plat.

SECTION 8. - Amendment. Section 12.04.227 of the Kent City Code entitled "Procedure for alteration of a subdivision or short subdivision," is hereby amended as follows:

Sec. 12.04.227 Procedure for alteration of a subdivision or short subdivision.

A. An applicant requesting to alter a subdivision or short subdivision or any portion thereof, except as provided in KCC 12.04.230, shall submit a plat alteration application to the permit center. The application shall be accompanied by such submittal requirements as described in the application form, and applicable fees, and shall contain the signatures of all persons having an ownership interest in lots, tracts, parcels, sites, or divisions within the subdivision or short subdivision or in that portion to be altered.

B. The planning director shall have the authority to determine whether the proposed alteration constitutes a minor or major alteration. Major alterations are those that are not in response to staff review or public appeal and substantially change the basic design, increase the number of

lots, substantially decrease open space, substantially change conditions of subdivision or short subdivision approval, or other similar requirements or provisions. Minor alterations are those that make minor changes to engineering design or lot dimensions, decrease the number of lots to be created, or increase open space, or other similar minor changes. Major alterations shall be treated as new applications for purposes of vesting.

C. If the subdivision or short subdivision is subject to restrictive covenants which were filed at the time of the approval, 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 short subdivision or any portion thereof.

D. If the alteration is requested prior to final plat or final short plat review and signature, a minor alteration may be approved with consent of the planning and the public works directors. A major plat or short plat alteration shall require consent of the short subdivision committee for short subdivisions or the hearing examiner for subdivisions after public notice and a public meeting or hearing is held. Planning services shall provide notice of the application for a major plat or short plat alteration to all owners of property within the subdivision or short subdivision, all parties of record, and as was required by the original subdivision or short subdivision application. The planning director shall have the authority to determine whether the proposed alteration constitutes a minor or major alteration pursuant to subsection (B) of this section.

E. If the alteration is requested after final plat or final short plat review and signature, but prior to filing the final plat or final short plat with King County, a plat or short plat alteration may be approved with consent of

the short subdivision committee for short subdivisions or the ~~city council~~ planning director for subdivisions. Upon receipt of an application for alteration, planning services shall provide notice of the application to all owners of property within the subdivision or short subdivision, all parties of record, and as was required by the original application. The notice shall establish a date for a public meeting or hearing.

F. If the alteration is requested after filing the final plat or final short plat with King County, a minor plat or short plat alteration may be approved with consent of the short subdivision committee in the case of short subdivisions or the ~~city council~~ planning director for subdivisions. If the planning director determines that the proposed alteration is a major alteration, pursuant to subsection (B) of this section, then the planning director may require replatting pursuant to this chapter. Upon receipt of an application for alteration, planning services shall provide notice of the application to all owners of property within the subdivision or short subdivision, all parties of record, and as was required by the subdivision or short subdivision plat application. The notice shall establish a date for a public meeting or hearing.

G. The city shall determine the public use and interest in the proposed alteration and may deny or approve the application for alteration. 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 adjacent properties.


H. After approval of the alteration, the city shall order the applicant to produce a revised drawing of the approved alteration of the subdivision or short subdivision, which after signature the final plat or final short plat shall be filed with King County to become the lawful plat or short plat of the property.

I. This section shall not be construed as applying to the alteration or replatting of any plat or short plat of state-granted shore lands.

SECTION 9. - *Severability.* If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 10. - *Corrections by City Clerk or Code Reviser.* Upon approval of the city attorney, the city clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; ordinance, section, or subsection numbering; or references to other local, state, or federal laws, codes, rules, or regulations.

SECTION 11. - *Effective Date.* This ordinance shall take effect and be in force thirty days from and after its passage, as provided by law.



SUZETTE COOKE, MAYOR

ATTEST:



KIMBERLY A. KOMOTO, CITY CLERK

9/19/17
Date Approved

9/19/17
Date Adopted

9/22/17
Date Published

APPROVED AS TO FORM:



TOM BRUBAKER, CITY ATTORNEY