

ORDINANCE NO. 4372

AN ORDINANCE of the City Council of the City of Kent, Washington, amending sections 12.01, 12.04, 15.02, 15.04, and 15.08.035, and 15.09 of the Kent City Code to modernize processes and procedures and clean up errors.

RECITALS

A. The City of Kent ("City") initiated an internal review to identify possible efficiency measures within the permit process and public notice procedures.

B. Historically, cities have used conditional use permits and public hearings as a procedural barrier to undesirable uses or where impacts could not be adequately mitigated. In the past 10 years, the city code has become more robust, development standards are stronger, and stricter criteria for approval have been created, tested, iterated, and refined.

C. Given these updates to city regulation, and following guidance from Municipal Research Service Center and the Revised Code of Washington, opportunities for process improvement, modernization, and streamlining were identified and discussed with the Land Use and Planning Board (LUPB) at a workshop on July 27, 2020.

D. On August 14, 2020, the City's SEPA Responsible Official issued a Determination of Nonsignificance for the 2020 Process Amendments (ENV-2020-16, KIVA # RPSW-2202746).

E. On September 2, 2020, pursuant to RCW 36.70A.106, a request for expedited review was sent to the Washington State Department of Commerce. No comments were received.

F. After appropriate public notice, the LUPB held a public hearing on September 28, 2020 to consider the proposed amendments. The Land Use and Planning Board recommended approval to the City Council.

G. On October 13, 2020, Committee of the Whole considered the recommendation of the Board on the proposed code amendment as presented by staff and voted to approve the ordinance and move to consent agenda.

H. The amendments reflected in this Ordinance 4372 are changes to the Kent City code as it existed on October 20, 2020, prior to the meeting at which the ordinance was approved. It is recognized that Ordinance 4373 is being considered on the same date as this Ordinance 4372, and each ordinance amends KCC 15.04.020 and KCC 15.04.030. The code reviser is instructed to incorporate the amendments of both Ordinance 4372 and 4373 in the Kent City Code as if simultaneously adopted or adopted as one ordinance.

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

ORDINANCE

SECTION 1. - *Amendment.* Chapter 12.01 of the Kent City Code entitled "Administration of Development Regulations" is amended as follows:

Sec. 12.01.010. Purpose and applicability. The purpose of this chapter is to establish a set of processes to be used for land use and development proposals subject to review under the following portions of the Kent City Code:

- A. Chapter 2.32 KCC, Office of Hearing Examiner;
- B. Chapter 11.03 KCC, Environmental Policy;
- C. Chapter 12.04 KCC, Subdivisions, Binding Site Plans, and Lot Line Adjustments;
- D. Chapter 14.01 KCC, Building Codes; and
- E. KCC Title 15, Zoning.

Sec. 12.01.020. Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- A. *Closed record appeals* are administrative appeals under Chapter 36.70B RCW which are heard by the city council or hearing examiner, following an open record hearing on a project permit application when the appeal is on the record with no or limited new evidence or information allowed to be submitted and only appeal arguments allowed.

B. *Judicial appeals* are appeals filed by a party of record in King County superior court.

C. *Open record hearing* means a hearing held under Chapter 36.70B RCW and conducted by the Kent hearing examiner who is authorized by the city to conduct such hearings, that creates the city's record through testimony and submission of evidence and information, under procedures prescribed by the city by ordinance or resolution. An open record hearing may be held prior to the city's decision on a project permit to be known as an "open record predecision hearing." An open record hearing may be held on an appeal, to be known as an "open record appeal hearing," if no open record predecision hearing has been held on the project permit.

D. *Parties of record* means:

1. The applicant;
2. The property tax payer as identified by the records available from the King County assessor's office;
3. Any person who testified at the open record public hearing on the application; and/or
4. Any person who submitted written comments during administrative review or has submitted written comments concerning the application at the open record public hearing (excluding persons who have only signed petitions or form letters).

E. *Project permit* means any land use or environmental permit or license required from the city of Kent for a project action, including but not limited to building permits, site development permits, site plan review, land use preparation permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, development plan review, or site-specific rezones authorized by the comprehensive plan; but excluding adoption or amendment of the comprehensive plan and development regulations, zoning of newly annexed land, area-wide rezones, and zoning map amendments except as otherwise specifically included in this subsection.

F. *Planning director* means the director of the ~~planning~~ Economic and Community Development (ECD) department of the city of Kent or their ~~his/her~~ designee.

G. *Public meeting* means an informal meeting, hearing, workshop, or other public gathering of persons to obtain comments from the public or other agencies on a proposed project permit prior to the city's decision. A public meeting may include, but is not limited to, a city council meeting, a city council committee meeting, a land use and planning board workshop, a community meeting, a neighborhood meeting, a design review meeting, a special committee meeting, such as the short subdivision committee, or a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be recorded and a report or recommendation may be included in the city's project permit application file.

Sec. 12.01.030 Application processes and classification.

A. *Application processes.* Project permit applications for review pursuant to this chapter shall be classified as a Process I, Process II, Process III, Process IV, or Process V action. Process VI actions are legislative. Project permit applications and decisions are categorized by type as set forth in KCC 12.01.040.

B. *Determination of proper process type.* The planning director shall determine the proper process types for all applications. If there is a question as to the appropriate process type, the planning director shall resolve it in favor of the higher process type number. Process I is the lowest and Process VI is the highest.

C. *Optional consolidated permit processing.* An application that involves two (2) or more process types may be treated collectively under the highest numbered process type required for any part of the application or treated individually under each process type identified by this chapter. An applicant may ask that ~~his or her~~the application be treated collectively or individually. If the application is administered under the individual process option, the highest numbered process procedure must be finalized prior to the subsequent lower numbered process being finalized. If the application is processed under the individual procedure option, there shall be no more than one (1) open record hearing and no more than one (1) closed record appeal for all application processes. Open record hearings and closed record appeals must be consolidated under the higher process type number. An application for rezone may be processed separately from an application for another project permit.

D. *Decision maker(s).* Applications processed in accordance with subsection (C) of this section which have the same highest numbered

process type but are assigned different hearing bodies shall be heard collectively by the highest decision maker(s). The city council is the highest, followed by the hearing examiner, and then the planning director. ~~short subdivision committee and the downtown design review committee~~. Joint public hearings with other agencies shall be processed according to KCC 12.01.060, Joint public hearings.

E. *Environmental review*. Process I, II, III, IV, and V permits which are subject to environmental review under SEPA (Chapter 43.21C RCW) are subject to the provisions of this chapter. An environmental checklist shall be submitted in conjunction with the submittal of a project permit application. One (1) environmental threshold determination shall be made for all related project permit applications. The city will not issue a threshold determination, other than a DS, prior to the submittal of a complete project permit application and the expiration of the public comment period for the notice of application pursuant to KCC 12.01.140, but may utilize the public notice procedures as outlined in KCC 11.03.410(A)(1) to consolidate public notice.

Sec. 12.01.040 Project permit application.

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) (74)	Administrative design review (1) (74)	Conditional use permit (52) (107)	Planned unit development (63) (107) with change of use	Final plat (1) (107)	Zoning of newly annexed lands (63) (107)

<i>Process I</i>	<i>Process II</i>	<i>Process III</i>	<i>Process IV</i>	<i>Process V</i>	<i>Process VI</i>
Performance standards procedures (1) (74)	Shoreline substantial development permit (1) (96)	Sign variance (52) (107)	Special use combining district (63) (107)		Area-wide rezones to implement new city policies (63) (107)
Sign permit (1) (74)	Accessory dwelling unit permit (1) (74)	Special home occupation permit (5) (10)	Rezone (63) (107)		Comprehensive plan amendments (63) (107)
Lot line adjustment (1) (74)	Administrative variance (1) (74)	Variance (52) (107)			Development regulations (63) (107)
Administrative interpretation (1) (74)	Downtown design review, all except for minor remodels (3) (7)	Shoreline conditional use permit (52) (96)			Zoning map amendments (63) (107)
Application conditional certification multifamily tax exemption conditional certification (121) (85), all other multifamily tax exemption (121) (74)	Downtown design review, only minor remodels (1) (7) Mixed Use Design Review (1) (4)	Shoreline variance (52) (96)			Zoning text amendments (63) (107)
Development plan review (planning director, building official, or public works director) (74)	Midway design review (1) (74)	Preliminary plat (52) (107)			

	<i>Process I</i>	<i>Process II</i>	<i>Process III</i>	<i>Process IV</i>	<i>Process V</i>	<i>Process VI</i>
	Site plan review (planning director, building official, or public works director) (1)(74)	Midway Multifamily design review (1) (47)	Planned unit development (2) (7) without a change of use			
	<u>Critical Area Determination</u> (1) (4)	<u>Industrial Design Review</u> (1) (4)				
	Administrative approval/WTF (1) (47)	Binding site plan (21) (47)				
	Mobile home park closure (118) (74)	Short subdivision (41) (74)	Planned unit development (5) (10) without a change of use			
	<u>Home Occupation</u> (1) (4)	<u>Special Home Occupation</u> (1)(4)				
		<u>Minor Conditional Use</u> (1)(4)				
<p>(1) Final decision made by planning director. (85) Appeal to city council. (2) Final decision by binding site plan committee. (96) Appeal to shoreline hearings board. (3) Final decision made by downtown design review committee. (4) Final decision made by short subdivision committee. (107) No administrative appeals. (52) Final decision made by hearing examiner. (118) Final decision made by manager of housing and human services. (63) Final decision made by city council. (12) Final decision made by economic and community development director. (74) Appeal to hearing examiner.</p>						

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, <u>minor conditional use</u> , and shoreline substantial development permits	<u>Yes</u>	Yes	No	No
Recommendation made by:	N/A	N/A	N/A	Hearing examiner	N/A	Land use and planning board

	<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>
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	Planning director	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	No	No

	Project Permit Applications (Processes I – V)					Legislative
	Process I	Process II	Process III	Process IV	Process V	Process VI
				recommenda tion		
Open record appeal:	Yes, if <u>appealed,</u> then before <u>hearing</u> <u>examiner,</u> except <u>multifamily</u> <u>tax</u> <u>exemption</u> <u>conditional</u> <u>certificate as</u> <u>noted below</u>	Yes, if <u>appealed,</u> then before <u>hearing</u> <u>examiner,</u> except <u>shoreline</u> <u>substantial</u> <u>development</u> <u>permit as</u> <u>noted below</u>	No	No	No	No
Closed record appeal:	Only if appeal of denial of multifamily <u>tax</u> <u>exemption</u> conditional certificate, then before the city council	Only if appealed <u>of</u> <u>shoreline</u> <u>substantial</u> <u>development</u> <u>permit,</u> then before the shoreline hearings board if <u>applicable</u>	Only if appealed <u>of</u> <u>shoreline</u> <u>variance or</u> <u>shoreline</u> <u>conditional</u> <u>use,</u> then before the shoreline hearings board if <u>applicable</u>	No	No	No
Judicial appeal:	Yes, <u>for</u> <u>appeal of</u> <u>administrativ</u> <u>e appeal</u> <u>decision</u>	Yes	Yes	Yes	Yes	Yes

Sec. 12.01.050. Exemptions from project permit application processing.

A. *General exemptions.* The following permits or approvals are specifically excluded from the notification and procedural requirements set forth in this chapter:

1. Landmark designations.
2. Street vacations.
3. Street use permits.

4. Pursuant to RCW 36.70B.140(2), boundary line adjustments, building permits, and other construction permits, which are categorically exempt from environmental review under SEPA or that do not require street improvements or for which environmental review under SEPA has been completed in connection with other project permits. For example, if public notice and environmental review for a project was completed with an initial application for a project permit, a subsequent application for a different permit for the same project is specifically excluded from the public notification and procedures set forth in this chapter and would be subject to the procedures and regulations related specifically to that subsequent permit; for example, Chapter 14.01 KCC for an application for building permit.

5. Administrative approvals which are categorically exempt from environmental review under SEPA (Chapter 43.21C RCW) and the city's SEPA/environmental policy ordinance, Chapter 11.03 KCC, or for which environmental review has been completed in connection with other project permits.

Sec. 12.01.055. Fees. The city council shall, by resolution, establish the fees to be assessed to implement and operate the regulations adopted in this chapter. The resolution may require that certain fees be pre-paid and/or designated to be nonrefundable because staff time and materials will be expended whether or not the permit applied for is approved by the city or pulled by the applicant. In the event of any conflict or ambiguity regarding any fees authorized under this chapter and established by council resolution, the planning director is authorized to interpret the fee schedule(s) to resolve that conflict or ambiguity.

Sec. 12.01.060 Joint public hearings.

A. *Planning director's decision to hold joint hearing.* The planning director may combine any public hearing on a project permit application with any hearing that may be held by another local, state, regional, federal, or other agency on the proposed action, as long as:

1. The other agency consents to the joint hearing;
2. The other agency is not expressly prohibited by statute from doing so;
3. Sufficient notice of the hearing is given to meet each of the agencies' adopted notice requirements as set forth in statute, ordinance, or rule;
4. The agency has received the necessary information about the proposed project from the applicant in enough time to hold its hearing at the same time as the local government hearing; and

5. The hearing is held within the Kent city limits.

B. *Applicant's request for a joint hearing.* The applicant may request that the public hearing on a permit application be combined as long as the joint hearing can be held within the time periods set forth in this chapter. In the alternative, the applicant may agree to a particular schedule if additional time is needed in order to complete the hearings.

Sec. 12.01.070. Process VI legislative actions.

A. *Legislative actions.* The following process VI actions are legislative, and are not subject to the notification and procedural requirements in this chapter, unless otherwise specified:

1. Zoning newly annexed lands;
2. Area-wide rezones and zoning map amendments to implement city policies;
3. Comprehensive plan text amendments;
4. Comprehensive plan map amendments;
5. Development regulations and zoning text amendments; and
6. Other similar actions that are non-project related.

Sec. 12.01.080. Pre-application conference.

A. *Applicability.* The purpose of a pre-application conference is to provide city staff with a sufficient level of detail about a proposal prior to submittal of a project permit application so that the city staff can acquaint the applicant with the requirements of the Kent City Code. Pre-application conferences are encouraged for Process I, II, III, and IV permits which require environmental review and for projects that are complex or where applicants are unfamiliar with city codes, ordinances, and procedures.

B. *Pre-application conference initiation.* To initiate a pre-application conference, an applicant shall submit a completed form provided by the city and all information pertaining to the proposal as prescribed by administrative procedures of the planning services office. Failure to provide all pertinent information may prevent the city from identifying all applicable issues or providing the most effective pre-application conference.

C. *Scheduling.* A pre-application conference may be conducted at any point prior to application for a project permit. A pre-application conference shall be scheduled by the city at the time of submittal of a completed pre-application conference request. The pre-application conference shall be held scheduled within thirty (30) calendar days of the receipt of a completed request, ~~unless the applicant agrees to an extension of this time period in writing or as soon as reasonably possible thereafter.~~

D. At the conference the applicant may request the following information be provided:

1. A form which lists the requirements of a complete project permit application;

2. A general summary of the procedures to be used to process the application;

3. The references to the relevant code provisions on development; and

4. The city's design guidelines.

E. It is impossible for the conference to be an exhaustive review of all potential issues. The discussion at the conference or the ~~form~~-information sent to the applicant under subsection (D)~~(1)~~ of this section shall not bind or prohibit the city's future application or enforcement of the applicable law.

Sec. 12.01.090. Project permit applications.

A. *Required materials.* Applications for all project permits shall be submitted upon forms provided by the city, or submitted through the city's designated online permitting system.

Sec. 12.01.100. Submission and acceptance of application.

A. *Determination of completeness.* A project permit application submitted consistent with instructions for a complete application is deemed complete upon acceptance by the permit center. Such acceptance, or a determination of incompleteness as outlined in subsection (B) below, shall occur within twenty-eight (28) calendar days of application submittal in accordance with WAC 365-196-845(6).

Acceptance of a project permit application means that the application is sufficient for continued processing even though additional information may be required, or project modifications may be undertaken subsequently. Acceptance of a project permit application shall not preclude the city from requesting additional information or studies if new information is required or where there are substantial changes in the proposal.

B. Determination of incompleteness. The city shall notify the applicant within twenty-eight (28) calendar days of application submittal that the application is incomplete and what is necessary to make the application complete. The city shall have fourteen (14) calendar days to review the submittal of corrected information.

C. Project review. Following a determination that an application is complete, the city shall begin project review.

Sec. 12.01.105 Application vesting. A project permit application shall vest upon acceptance of a complete project permit application, as defined in KCC 12.01.100; provided, that the applicant also includes a concurrent submittal of a fully completed application for any known code deviations or variances required for the proposed project. A project permit application that contains a knowing misrepresentation or an omission of material fact shall not vest any development rights. Vesting shall apply to land use regulations in effect on the land at the time a fully completed project permit application has been accepted as complete pursuant to KCC 12.01.100(A).

Sec. 12.01.110. Procedure for complete but incorrect applications.

A. Following submittal of a complete application and the commencement of project review, the city may make a determination in writing that some information is incorrect, and that corrected information be submitted. The applicant shall have up to one hundred eighty (180) calendar days to submit corrected information (deemed the "resubmittal period"). The applicant shall submit concurrently all of the corrected information that was requested. The planning director may, in writing, extend the resubmittal period for up to an additional one hundred eighty (180) days if the applicant can demonstrate a good faith effort to comply with the resubmittal request. Evidence of an applicant's good faith efforts shall include the following:

1. Length of time since the initial permit application;
2. Time period the applicant had to submit corrected information;
3. Availability of necessary information;
4. Potential to provide necessary information within the extended resubmittal period;
5. Reason for the applicant's delay; and
6. Applicant's reasonable reliance on an expectation that the application would not expire.

The ~~planning economic and community development~~ director may authorize additional time extensions of the resubmittal period in rare or unique circumstances when the inability of the applicant to comply within the resubmittal period is due solely to factors outside of the applicant's control, including but not limited to unusual delay in obtaining permits or approvals from other agencies or jurisdictions.

B. ~~The city shall have fourteen (14) calendar days to review the submittal of corrected information.~~ If the corrected information is still not sufficient, the city shall notify the applicant in writing that the submitted information is incorrect, and the resubmittal period set forth in subsection (A) of this section shall be repeated. This process may continue until complete or corrected information is obtained.

C. If the applicant within the resubmittal period either refuses in writing to submit corrected information, does not submit the corrected information within the resubmittal period, or submits only a portion of the corrected information that was requested, the application shall lapse. This does not preclude the applicant from working with individual divisions of the city for informal review of a portion of the requested corrected information within the resubmittal period.

D. If the requested corrected information is sufficient, the city shall continue with project review, in accordance with the time calculation exclusions set forth in KCC 12.01.180.

Sec. 12.01.115 Procedure for ready-to-issue permits.

A. Following the end of project review, the city will notify the applicant that the permit is ready to issue. The applicant shall have up to one hundred eighty (180) calendar days to obtain the permit after notification that it is ready to issue (deemed the "period for permit pickup"). The planning director may, in writing, extend the period for permit pickup for up to an additional one hundred eighty (180) days if the applicant can demonstrate a good faith effort to pick up the permit. Evidence of an applicant's good faith efforts shall include the following:

1. Length of time since the initial permit application;
2. Reason for the applicant's delay; and
3. reasonable reliance on an expectation that the application would not expire.

The ~~economic and community development~~planning director may authorize additional time extensions of the period for permit pickup in rare or unique circumstances when the inability of the applicant to comply within the period for permit pickup is due solely to factors outside of the applicant's control, including but not limited to unusual delay in obtaining permits or approvals from other agencies or jurisdictions.

B. If the applicant within the period for permit pickup either refuses in writing to pick up the permit or does not pick up the permit after notification by the city that the permit was ready to issue, the application shall lapse.

Sec. 12.01.120. Referral and review of project permit applications. Within ten (10) calendar days of accepting a complete application, the planning director shall do the following:

A. Transmit a copy of the application, or appropriate parts of the application, to each affected agency and city department for review and comment, including those responsible for determining compliance with state, federal, and county requirements. The affected agencies and city departments shall have ~~fourteen~~^{fifteen} (14~~5~~) calendar days to comment. The referral agency or city department is presumed to have no comments if comments are not received within the specified time period. The planning director shall grant an extension of time only if the application involves unusual circumstances. Any extension shall only be for a maximum of three (3) additional calendar days.

Sec. 12.01.125. Notification of proximity to agricultural resource lands. For all plats, short plats, development permits, and substantial building permits for residential development activities on or within five hundred (500) feet of land designated as agricultural resource lands within the city of Kent, or the comparable land use designation within unincorporated King County, the city shall inform the project permit applicant of the proximity to agricultural resource lands on which commercial agricultural activities may occur that are not compatible with residential development for certain periods of limited duration.

Sec. 12.01.130. Public notice – Generally. The available records of the King County assessor's office shall be used for determining the property taxpayer of record. Addresses for mailed notice shall be obtained from the county's real property tax records. All public notices shall be

deemed to have been provided or received on the date the notice is deposited in the mail or personally delivered, whichever occurs first. Failure to provide the public notice as described in this chapter shall not be grounds for invalidation of any permit decision.

Sec. 12.01.140 Notice of application.

A. *Notice of application.* A notice of application shall be issued for Process I and Process II permits requiring SEPA review, short plats, minor conditional use, shoreline substantial development permits, and all Process III and Process IV applications within fourteen (14) calendar days following submittal of a complete application; provided, that if any open record hearing is required for the requested project permit(s), the notice of application shall be provided at least ~~fifteen~~ fourteen (~~15~~14) calendar days prior to the open record hearing. One (1) notice of application will be done for all permit applications related to the same project at the time of the earliest complete permit application.

B. *SEPA exempt projects.* A notice of application shall not be required for project permits that are categorically exempt under SEPA, unless a public comment period or an open record predecision hearing is required.

C. *Contents.* The notice of application shall include:

1. The case file number(s), the date of application, and the date of the notice of application;

2. A description of the proposed project action and a list of the project permits included in the application and, if applicable, a list of any

studies requested by the review authority pursuant to RCW 36.70B.070 and WAC 173-27-180;

3. The identification of other permits not included in the application, to the extent known by the city;

4. The identification of existing environmental documents that evaluate the proposed project, and, if not otherwise stated on the document providing notice of application, the location where the application and any studies can be reviewed;

5. A statement of the limits of the public comment period, which shall be not less than fourteen (14) nor more than thirty (30) calendar days following the date of notice of application, and statements of the right of any person to comment on the application, receive notice of and participate in any hearings, request a copy of the decision once made, and any appeal rights;

6. The tentative date, time, place, and type of hearing. The tentative hearing date is to be set at the time of the date of notice of the application;

7. A statement of the preliminary determination of consistency, if one has been made at the time of notice, and of those development regulations that will be used for project mitigation and of consistency as provided in KCC 12.01.150;

8. The name of the applicant or applicant's representative and the name, address, and telephone number of a contact person for the applicant, if any;

9. A description of the site, including current zoning and nearest road intersections, reasonably sufficient to inform the reader of its location; and

10. Any other information determined appropriate by the city, such as a DS, if complete at the time of issuance of the notice of application, or the city's statement of intent to issue a DNS pursuant to the optional DNS process set forth in WAC 197-11-355.

D. *Mailing of notice of application.* The city shall mail by hard copy or e-mail a copy of the notice of application to the following:

1. Agencies with jurisdiction; and

2. Any person who requests such notice in writing delivered to the planning services office; and

3. Applicant.

E. *Public comment on the notice of application.* All public comments received on the notice of application must be received by the planning services office by 4:30 p.m. on the last day of the comment period. Comments may be mailed, personally delivered, or sent electronically. Comments should be as specific as possible.

F. *Posted notice of application.* In addition to the mailed or emailed notice of application, the ~~city will post~~ notice of application shall be posted on site for site-specific proposals, and on the city's webpage at Kent City Hall, and in the register for public review at the planning services office. The applicant shall be responsible for posting the property for site-specific proposals with notice boards following specifications as provided by the city. ~~Public notice shall be accomplished through the use of a four (4) by four (4) foot plywood face generic notice board to be issued by public works operations following payment of the public notice board fee at the time of application submittal.~~

1. *Posting.* Posting of the property for site-specific proposals shall consist of one (1) or more notice boards as follows:

a. A single notice board shall be placed by the applicant in a conspicuous location on a street frontage bordering the subject property.

b. Each notice board shall be visible and accessible for inspection by members of the public.

c. Additional notice boards may be required when:

i. The site does not abut a public road; or

ii. Additional public notice boards are required under other provisions of the Kent City Code; or

iii. The planning director determines that additional notice boards are necessary to provide adequate public notice.

d. Notice boards shall be requirements:

i. ~~Maintained in good condition by the applicant during the notice period;~~

ii. ~~In place prior to the start of the public comment period; and~~

iii. ~~Removed by the applicant after expiration of the applicable notice period or the last public meeting or last public hearing on the application, whichever is later.~~

i. Specifications: Designed, constructed, and installed in accordance with specifications published by the City.

ii. Timing: The sign shall be posted by the applicant within five days of submittal of a complete application.

iii. Location: The sign shall be erected at the approximate midpoint of the site's street frontage and within five feet (5') of the front lot line, or as otherwise directed by the Department for maximum visibility. View of the sign shall not be obstructed from the perspective of the abutting public right-of-way.

iv. Content: The sign shall convey project information as directed by the City.

v. *Duration*: The sign shall not be removed until the appeal periods for all land use permits relating to the project proposal have ended. Removal of the sign prior to the prescribed time frame may be cause for additional notice or an extended appeal period. The sign shall be removed within seven (7) days following the end of the appeal period.

vi. *Posting Evidence*: The applicant shall submit a signed affidavit that states the date and location of the posting, and a photograph of the posted sign that provides context of its location. This shall be provided to the City within 24 hours of posting.

vii. *Maintenance*. The applicant shall keep the sign maintained in good condition by the applicant during the notice period.

e. Notice boards that are removed, stolen, or destroyed prior to the end of the notice period may be cause for discontinuance of the departmental review until the notice board is replaced and remains in place for the specified time period. The city shall notify the applicant when it comes to their attention that notice boards have been removed prematurely, stolen, or destroyed.

~~f. An affidavit of posting shall be submitted by the planning director at least seven (7) calendar days prior to the hearing. If the affidavits are not filed as required, any scheduled hearing or date by which the public may comment on the application may be postponed in order to allow compliance with this notice requirement.~~

~~g. Notice boards shall be constructed and installed in accordance with specifications determined by the planning director.~~

hf. SEPA information shall be added by the city to the posted sign within applicable deadlines. An affidavit of posting shall be submitted by the planning director.

G. *Published notice of application.* Published notice of application in the city's official newspaper or an appropriate substitute as provided for in Resolution No. 1747 or as subsequently amended is required for Process I and II permits requiring SEPA review, short plats, minor conditional use, and Process III, IV, and V permits, except subdivision final plat applications. Published notice shall include at least the following information:

1. Project location;
2. Project description;
3. Type of permit(s) required;
4. Comment period dates; and
5. Location where the complete application and notice of the application may be reviewed.

H. *Shoreline master program permits.* Notice of the application for a permit under the purview of the city's shoreline master program shall be given in accordance with the requirements of Ch. 11.04 KCC, the Kent shoreline master program and WAC 173-27-110.

Sec. 12.01.145. Notice of open record hearing.

A. *Notice of open record hearing for all types of applications.* The notice given of an open record hearing required in this chapter shall contain:

1. The name of the applicant or the applicant's representative;
2. Description of the affected property, which may be in the form of either a vicinity location sketch or written description, other than a legal description;
3. The date, time, and place of the hearing;
4. The nature of the proposed use or development;
5. A statement that all interested persons may appear and provide testimony;
6. When and where information may be examined, and when and how written comments addressing findings required for a decision by the hearing body may be submitted;
7. The name of a city representative to contact and the telephone number where additional information may be obtained;
8. That a copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost and will be provided at the cost of reproduction; and

9. That a copy of the staff report will be available for inspection at no cost at least five calendar days prior to the hearing and copies will be provided at the cost provided for in the city's public record disclosure policy.

B. *Mailed notice of open record hearing.* Mailed notice of the open record hearing shall be provided by the city in hard copy or e-mail as follows:

1. *Process I, II, and V actions.* No public notice is required because an open record hearing is not held. ~~Notice for short plat meetings is mailed to property owners within 300 feet.~~ Shoreline permit notices shall be in accordance with the requirements of Ch. 11.04 KCC, the Kent shoreline master program and WAC 173-27-110.

2. *Process III and IV actions.* The notice of open record hearing shall be mailed to:

- a. The applicant;
- b. All owners of real property as shown by the records of the county assessor's office within 300 feet of the subject property; and
- c. Any person who submits written comments, delivered to the planning services office, regarding the project permit.

3. *Process ~~IV~~III preliminary plat actions.* In addition to the general notice of open record hearing requirements for Process ~~IV~~III actions above, additional notice shall be provided as follows:

a. Notice of the filing of a preliminary plat of a proposed subdivision located adjacent to the right-of-way of a state highway or within two miles of the boundary of a state or municipal airport shall be given to the Secretary of Transportation, who must respond within 15 calendar days of such notice.

b. Special notice of the hearing shall be given to adjacent land owners by any other reasonable method the city deems necessary. Adjacent land owners are the owners of real property, as shown by the records of the King County assessor, located within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property which is proposed to be subdivided owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, notice under RCW 58.17.090(1)(b) shall be given to owners of real property located within 300 feet of such adjacently owned parcels.

4. *Process VI actions.* For Process VI legislative actions, the city shall publish notice as described in subsections (C) and (D) of this section, and use all other methods of notice as required by RCW 35A.12.160. For privately proposed amendments to the comprehensive plan land use map, notice of the open record hearing shall be mailed to:

- a. The applicant;
- b. All owners of real property as shown by the records of the county assessor's office within 300 feet of the affected property; and
- c. Any person who has requested notice.

For revised geographic scope of the privately proposed land use plan map amendments, notice of the open record hearing shall be given by notification of all property owners within the revised land use plan map amendment area.

C. *Procedure for posted or published notice of open record hearing.*

1. Posted notice of the open record hearing is required for all Process III and IV actions. The posted notice of hearing shall be added to the sign already posted on the property pursuant to KCC 12.01.140(F).

2. Published notice of the open record hearing is required for all Process III and IV ~~procedures~~actions. The published notice shall be published in the city's official newspaper or appropriate substitute as provided for in Resolution No. 1747 or as subsequently amended and contain the following information:

- a. Project location;
- b. Project description;
- c. Type of permit(s) required;
- d. Date, time, and location of the hearing; and
- e. Location where the complete application may be reviewed.

3. Published notice of the open record hearing is required for all Process VI ~~procedures~~actions. The notice shall be published in the city's official newspaper or appropriate substitute as provided for in Resolution No. 1747 or as subsequently amended and, ~~in addition to~~ shall contain the information required in subsection (C)(2) of this section, ~~shall contain the project description and the location where the complete file may be reviewed.~~

D. *Time of notice of open record hearing.* Notice shall be mailed, posted and first published not less than 10 calendar days prior to the hearing date. ~~Any posted notice and notice boards shall be removed by the applicant within seven calendar days following the conclusion of the open record hearing(s).~~

Sec. 12.01.147. Notice of city council meetings on project permit applications. The city shall mail notice by hard copy or e-mail of city council meetings on Process IV and VI project permit applications to parties of record.

Sec. 12.01.150. Consistency with development regulations and SEPA.

A. *Purpose.* When the city receives a project permit application, consistency between the proposed project and the applicable regulations and comprehensive plan should be determined through the process in this chapter and the city's adopted SEPA ordinance, Ch. 11.03 KCC.

B. *Consistency.* During project permit application review, the city shall determine whether the items listed in this section are defined in the development regulations applicable to the proposed project. In the absence

of applicable development regulations, the city shall determine whether the items listed in this section are defined in the city's adopted comprehensive plan. This determination of consistency shall include the following:

1. The type of land use permitted at the site, including uses that may be allowed under certain circumstances, if the criteria for their approval have been satisfied;

2. The level of development, such as units per acre, density of residential development in urban growth areas, or other measures of density;

3. Availability and adequacy of infrastructure, including public facilities and services identified in the comprehensive plan, if the plan or development regulations provide for funding of these facilities as required by Chapter 36.70A RCW; and

4. Characteristics of the development, such as development standards.

5. In deciding whether a project is consistent, the determinations made pursuant to subsection (B) of this section shall be controlling.

6. Nothing in this section limits the city from asking more specific or related questions in subsections (B)(1) through (5) of this section.

C. *Initial SEPA analysis.* The city shall also review the project permit application under the requirements of the State Environmental Policy Act

(SEPA), Chapter 43.21C RCW, the SEPA Rules, Chapter 197-11 WAC, and Ch. 11.03 KCC.

1. This SEPA analysis shall:

a. Determine whether the applicable federal, state, and local regulations require studies that adequately analyze all of the project permit application's specific probable adverse environmental impacts;

b. Determine if the applicable regulations require measures that adequately address such environmental impacts;

c. Determine whether additional studies are required and/or whether the project permit application should be conditioned with additional mitigation measures; and

d. Provide prompt and coordinated review by government agencies and the public on compliance with applicable environmental laws and plans, including mitigation for specific project impacts that have not been considered and addressed at the plan or development regulation level.

2. In its review of a project permit application, the city may determine that the requirements for environmental analysis, protection, and mitigation measures in the applicable development regulations, comprehensive plan, and/or in other applicable local, state, or federal laws provide adequate analysis of and mitigation for the specific adverse environmental impacts of the application.

3. A comprehensive plan, development regulation or other applicable local, state, or federal law provides adequate analysis of and mitigation for the specific adverse environmental impacts of an application when:

a. The impacts have been avoided or otherwise mitigated;
or

b. The city has designated as acceptable certain levels of service, land use designations, development standards, or other land use planning required or allowed by Chapter 36.70A RCW.

4. The city's determination of consistency with the items identified in subsection (B) of this section shall not prohibit the city from denying, conditioning, or mitigating impacts due to other aspects of the project.

5. In its decision whether a specific adverse environmental impact has been addressed by an existing rule or law of another agency with jurisdiction with environmental expertise with regard to a specific environmental impact, the city shall consult orally or in writing with that agency and may expressly defer to that agency. In making this deferral, the city shall base or condition its project approval on compliance with these other existing rules or laws.

6. Nothing in this section limits the authority of the city in its review or mitigation of a project to adopt or otherwise rely on environmental analyses and requirements under other laws, as provided by Chapter 43.21C RCW.

7. The city shall also review the application under Ch. 11.03 KCC, the city's environmental policy provisions.

D. *Categorically exempt actions.* Actions categorically exempt under RCW 43.21C.110(1)(a) do not require environmental review or the preparation of an environmental impact statement. An action that is categorically exempt under the rules adopted by the Department of Ecology (Chapter 197-11 WAC) may not be conditioned or denied under SEPA.

E. *Planned actions.* A planned action does not require a threshold determination or the preparation of an environmental impact statement under SEPA, but is subject to environmental review and mitigation under SEPA.

1. A "*planned action*" means one (1) or more types of project action that:

a. Are designated planned actions by an ordinance or resolution adopted by the city;

b. Have had the significant impacts adequately addressed in an environmental impact statement prepared in conjunction with:

i. A comprehensive plan or subarea plan adopted under Chapter 36.70A RCW; or

ii. A fully contained community, a master planned resort, a master planned development, or a phased project;

c. Are subsequent or implementing projects for the proposals listed in subsection (E)(1)(b) of this section;

d. Are located within an urban growth area, as defined in RCW 36.70A.030;

e. Are not essential public facilities, as defined in RCW 36.70A.200;

f. Are consistent with the city's comprehensive plan adopted under Chapter 36.70A RCW.

2. The city shall limit planned actions to certain types of development or to specific geographical areas that are less extensive than the jurisdictional boundaries of the city, and may limit a planned action to a time period identified in the environmental impact statement or in the ordinance or resolution designating the planned action under RCW 36.70A.040.

3. During project review, the city shall not re-examine alternatives or hear appeals on the items identified in subsection (B) of this section except for issues of code interpretation, the process for which is outlined in KCC 15.09.060.

4. Project review shall be used to identify specific project design and conditions relating to the character of development, such as the details of site plans, curb cuts, drainage swales, the payment of impact fees, or other measures to mitigate a proposal's probable adverse environmental impacts.

Sec. 12.01.155 Code of conduct.

A. *General.* The following shall apply to open record hearings in KCC 12.01.160, open record appeals in KCC 12.01.190, and the closed record appeals in KCC 12.01.195.

B. *Conflict of interest.* The hearing body shall be subject to the code of ethics and prohibitions on conflict of interest as set forth in RCW 35A.42.020 and Chapter 42.23 RCW, as the same now exists or may hereafter be amended.

C *Ex parte communications.*

1. No member of the hearing body may communicate, directly or indirectly, regarding any issue in a proceeding before ~~him or her~~ the hearing body, other than to participate in communications necessary to procedural aspects of maintaining an orderly process, unless ~~he or she~~ the member provides notice and opportunity for all parties to participate; except as provided in this section:

a. The hearing body may receive advice from legal counsel;

or

b. The hearing body may communicate with staff members (except where the proceeding relates to a code enforcement investigation or prosecution).

2. If, before serving as the hearing body in a quasi-judicial proceeding, any member of the hearing body receives an ex parte communication of a type that could not properly be received while serving, the member of the hearing body, promptly after starting to serve, shall disclose the communication as described in KCC 12.01.160(D)(3).

3. If the hearing body or a member of the hearing body receives an ex parte communication in violation of this section, ~~he or she~~ the hearing body or member shall place on the record:

- a. All written communications received;
- b. All written responses to the communications;
- c. The substance of all oral communications received and all responses made; and
- d. The identity of each person from whom the hearing body received any ex parte communication.

The hearing body shall advise all parties that these matters have been placed on the record. Upon request made within ten (10) calendar days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a rebuttal statement on the record.

D. *Disqualification.*

1. A member of the hearing body who is disqualified may be counted for purposes of forming a quorum. Any member who is disqualified

may be counted only by making full disclosure to the audience, abstaining from voting on the disqualification, vacating the seat on the hearing body, and physically leaving the hearing.

2. If all members of the hearing body are disqualified, all members present after stating their reasons for disqualification shall be re-qualified and shall proceed to resolve the issues.

3. Except for Process VI actions, a member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received.

Sec. 12.01.160 Open record hearings.

A. *General.* Open record hearings shall be conducted in accordance with this section.

B. *Responsibility of the planning director for hearing.* The planning director shall:

1. Schedule an application for review and public hearing;

2. notice (applicant responsible for some of the notice requirements);

3. Prepare the staff report on the application, which shall be a single report stating all of the decisions made as of the date of the report, including recommendations on project permits in the consolidated permit process that do not require an open record predecision hearing. The report

shall state any mitigation required or proposed under the development regulations or the city's authority under SEPA. If the threshold determination other than a determination of significance has not been issued previously by the city, the report shall include or append this determination. In the case of a Process I or II project permit application, this report may be the permit; and

4. Prepare the notice of decision, if required by the hearing body, and/or mail by hard copy or e-mail a copy of the notice of decision to those required by this code to receive such decision.

C. *Burden and nature of proof.* Except for Process VI actions, the burden of proof is on the proponent. The project permit application must be supported by proof that it conforms to the applicable elements of the city's development regulations, comprehensive plan and that any significant adverse environmental impacts have been adequately addressed.

D. *Order of proceedings.* The order of proceedings for a hearing will depend in part on the nature of the hearing. The following shall be supplemented by administrative procedures as appropriate:

1. Before receiving information on the issue, the following shall be determined:

a. Any objections on jurisdictional grounds shall be noted on the record and, if there is objection, the hearing body has the discretion to proceed or terminate; and

b. Any abstentions or disqualifications shall be determined.

2. The presiding officer may take official notice of known information related to the issue, such as:

a. A provision of any ordinance, resolution, rule, officially adopted development standard, or state law; and

b. Other public records and facts judicially noticeable by law.

3. Matters officially noticed need not be established by evidence and may be considered by the hearing body in its determination. Parties requesting that a matter be officially noticed shall do so on the record; however, the hearing body, on its own accord, may take notice of matters listed in subsections (D)(1) and (D)(2) of this section if stated for the record. Any matter given official notice may be rebutted.

4. The hearing body may view the area in dispute with or without notification to the parties, but shall place the time, manner, and circumstances of such view on the record.

5. Information shall be received from the staff and from proponents and opponents. The presiding officer may approve or deny a request from a person attending the hearing to ask a question. Unless the presiding officer specifies otherwise, if the request to ask a question is approved, the presiding officer will direct the question to the person submitting testimony.

6. When the presiding officer has closed the public hearing portion of the hearing, the hearing body shall openly discuss the issue and may further question a person submitting information or the staff if opportunity for rebuttal is provided.

7. When the hearing body is unable to formulate a recommendation on a project permit, the hearing body may decide to forward the project permit to the city council to render a decision without a recommendation.

E. *Recommendation/decision.* The hearing body shall issue a recommendation or decision, as applicable, within fourteen (14) calendar days of the record being closed.

F. *Reconsideration by hearing examiner.* Reconsideration is not authorized for Process I and Process II applications. A party of record may ask for a reconsideration of a decision by the hearing examiner for a Process III action or a recommendation by the hearing examiner for a Process IV action. A reconsideration may be requested if either:

1. A specific error of fact or law can be identified; or

2. New evidence is available which was not available at the time of the hearing.

A request for reconsideration shall be filed by a party of record within five (5) working days of the date of the initial decision/recommendation. Any reconsideration request shall cite specific references to the findings and/or criteria contained in the ordinances governing the type of application being

reviewed. The hearing examiner shall promptly review the reconsideration request and within five (5) working days issue a written response, either approving or denying the request. For purposes of rights to appeal pursuant to Chapter 36.70C RCW only, if a request for reconsideration is timely filed by a party of record, the decision of the hearing examiner is not final until after a decision on reconsideration is issued.

Sec. 12.01.170. Notice of decision.

A. Following a decision on a project permit by the applicable decision-maker, the city shall provide a notice of decision that also includes a statement of any threshold determination made under SEPA (Chapter 43.21C RCW) and the procedures for appeal.

B. The notice of decision shall be issued within one hundred twenty (120) calendar days, as calculated by KCC 12.01.180, after the city notifies the applicant that the application is complete.

C. The notice of decision shall be provided to the applicant and to any person who, prior to the rendering of the decision, requested notice of the decision or submitted substantive comments on the application.

D. Notice of the decision shall be provided to the public as set forth in KCC 12.01.145(B)(2)(a) and (c). Affected property owners may request a change in valuation for property tax purposes. The city shall provide notice of the decision to the county assessor's office in which the property is located.

E. Pursuant to RCW 36.70B.140(1), building permits, grading permits, and civil construction permits are exempt from the requirements in subsection (C) and (D) of this section, except for notice to the applicant.

F. If the city is unable to issue its final decision on a project permit application within the time limits provided for in this chapter, it shall provide written notice of this fact to the ~~parties of record~~project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of the notice of decision.

Sec. 12.01.180 Time limitations.

A. *Calculation of time periods for issuance of notice of final decision.* In determining the number of calendar days that have elapsed after the city has notified the applicant that the application is complete for purposes of calculating the one hundred twenty (120) day time limit in KCC 12.01.170 for issuance of the notice of decision, the following periods shall be excluded:

1. Any period during which the applicant has been requested by the city to correct plans, perform required studies, provide additional required information, or otherwise required to act. The period shall be calculated from the date the city notifies the applicant of the need for additional information until ~~the earlier of the date the local government determines whether the additional information satisfies the request for information or fourteen (14) calendar days after the date the information has been provided to the city;~~

2. Any period during which the city determines that the information submitted by the applicant under KCC 12.01.100 and 12.01.110

is insufficient or incorrect and has requested the applicant to provide sufficient or correct information;

3. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW, if the city by ordinance has established time periods for completion of environmental impact statements, or if the city and the applicant in writing agree to a time period for completion of an environmental impact statement;

4. Any period for administrative appeals of project permit applications, if an open record appeal hearing or a closed record appeal, or both, are allowed. The time period for consideration and decision on appeals shall not exceed:

a. Ninety (90) calendar days for an open record appeal hearing; or

b. Sixty (60) calendar days for a closed record appeal.

The parties may agree to extend these time periods; and

5. Any extension of time mutually agreed upon by the applicant and the city.

B. *Time limit exceptions.* The time limits established in this section do not apply if a project permit application:

1. Requires an amendment to the comprehensive plan or a development regulation;

2. Requires approval of the siting of an essential public facility as provided in RCW 36.70A.200; or

3. Is substantially revised by the applicant, in which case the time period shall start from the date at which the revised project application is determined to be complete pursuant to KCC 12.01.100.

C. *Failure to meet time limit.* If the city is unable to issue its final decision within the time limits provided in this chapter, it shall provide written notice of this fact to the project applicant. The notice shall include a statement of reasons why the time limits have not been met and an estimated date for issuance of a final decision. The city is not liable for damages due to the city's failure to make a final decision within the time limits established in this chapter.

Sec. 12.01.185 Expiration of permits.

A. Absent statute or ordinance provisions to the contrary, Process I and II project permit applications listed in KCC 12.01.050 that are not subject to the notification and procedural requirements of this chapter and for which no substantial steps have been taken to meet approval requirements including permit issuance or final decision for a period of three hundred sixty-five (365) days after submittal of the initial application will expire and become null and void. The application and instruction forms will reference the expiration standards of this section, where applicable. Substantial steps include, but are not limited to, due diligence in submitting complete and

correct resubmittals or due diligence in satisfying the requirements for recordation of lot line adjustments. The planning director may grant a one hundred eighty (180) day extension in writing on a one-time basis if the failure to take a substantial step was due to circumstances beyond the control of the applicant. Provisions of this section do not exempt the city from the time periods for actions under RCW 36.70B.080 and KCC 12.01.180.

B. Absent statute or ordinance provisions to the contrary, permits or land use approvals listed in KCC 12.01.040 for which the use is not begun or the work is not completed within three hundred sixty-five (365) days after permit issuance or final decision will expire and become null and void. The issued permit or land use approvals will clearly state this requirement for expiration, where applicable. The planning director may grant a one hundred eighty (180) day extension in writing on a one-time basis if the failure to begin the use or complete the work was due to circumstances beyond the control of the applicant.

C. Site plan review approvals will expire and become null and void one hundred eighty (180) days after approval unless:

1. Project permit applications for development of a substantial portion of the site plan remain valid; or

2. Project permits for development of a substantial portion of the site plan remain valid.

D. The ~~planning economic and community development~~ director may authorize additional time extensions in rare or unique circumstances when

the delay is outside of the applicant's control, including but not limited to unusual delay in obtaining permits or approvals from other agencies or jurisdictions.

Sec. 12.01.190 Open record appeal.

A. This section allows for open record appeals as provided in the framework in KCC 12.01.040. Open record appeals are heard by the hearing examiner.

B. *Consolidated appeals.*

1. All open record appeals on a project permit application decision, other than an appeal of determination of significance (DS), shall be considered together in a consolidated open record appeal.

2. Appeals of environmental determinations under SEPA, Ch. 11.03 KCC, including administrative appeals of a threshold determination, shall proceed as provided in that chapter.

C. *Initiation of appeal.* Only parties of record may initiate an appeal on a project permit application.

D. *Time to file.* An appeal must be filed within fourteen (14) calendar days following issuance of the notice of decision. Appeals must be delivered to the planning services office by mail, personal delivery, or received by fax before 4:30 p.m. on the last business day of the appeal period.

E. *Computation of time.* For the purposes of computing the time for filing an appeal, the day the notice of decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, a day designated by RCW 1.16.050, or by the city's ordinances as a legal holiday, then it also is excluded and the filing must be completed on the next business day (RCW 35A.28.070).

F. *Content of appeal.* Appeals shall be in writing, be accompanied by an appeal fee as set by the city council, and contain the following information:

1. Appellant's name, address, and phone number;
2. Appellant's statement describing ~~his or her~~appellant's standing to appeal;
3. Identification of the application which is the subject of the appeal;
4. Appellant's statement of grounds for appeal and the facts upon which the appeal is based;
5. The relief sought, including the specific nature and extent; and
6. A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.

G. *Effect.* The timely filing of an appeal shall stay the effective date of the decision until such time as the appeal is adjudicated by the hearing examiner.

H. *Notice of appeal.* Public notice of the appeal shall be given as provided in KCC 12.01.145 (B)(2)(a) and (c).

I. *Burden of proof.* The burden of proof is on the appellant.

Sec. 12.01.195. Closed record appeal.

A. This section shall allow for closed record appeals as provided in the framework of KCC 12.01.040. A closed record appeal hearing shall be on the record before the hearing body and no new evidence may be presented, unless the new evidence is limited to information that could not have been placed on the record previously.

B. *Administrative appeals.* Only parties of record may initiate an administrative appeal on a project permit application.

C. *Time to file.* An appeal must be filed within fourteen (14) calendar days following issuance of the notice of decision. Appeals must be delivered to the planning services office by mail, personal delivery, or electronically before 4:30 p.m. on the last business day of the appeal period.

D. *Computation of time.* For the purposes of computing the time for filing an appeal, the day the notice of decision is rendered shall not be included. The last day of the appeal period shall be included unless it is a Saturday, Sunday, or a day designated by RCW 1.16.050 or by the city's ordinances as a legal holiday; then it also is excluded and the filing must be completed on the next business day (RCW 35A.21.080).

E. *Content of appeal.* Appeals shall be in writing on forms provided by the city, be accompanied by an appeal fee as set by the city council, and contain the following information:

1. Appellant's name, address, and phone number;
2. Appellant's statement describing ~~his or her~~appellant's standing to appeal;
3. Identification of the application which is the subject of the appeal;
4. Appellant's statement of grounds for appeal and the facts upon which the appeal is based;
5. The relief sought, including the specific nature and extent; and
6. A statement that the appellant has read the appeal and believes the contents to be true, followed by the appellant's signature.

F. *Effect.* The timely filing of an appeal shall stay the effective date of the decision until such time as the appeal is adjudicated by the hearing examiner or city council.

G. *Order of proceedings.* The closed record appeal shall only be open for oral argument by the parties to the appeal.

H. *Burden of proof.* The burden of proof is on the appellant.

Sec. 12.01.200. Judicial appeals.

- A. *Appeal.* The city's final decision or appeal decision on a Process I, II, III, IV, or V application may be appealed by a party of record with standing to file a land use petition in King County superior court.

- B. *Petition period.* A land use petition must be filed within twenty-one (21) calendar days of issuance of the notice of decision or appeal decision.

- C. *Filing and content of a land use petition.* A land use petition shall be filed according to the procedural standards outlined in Chapter 36.70C RCW, Judicial Review of Land Use Decisions, also known as the "Land Use Petition Act."

SECTION 2. - *Amendment.* Chapter 12.04 of the Kent City Code entitled "Subdivisions, Binding Site Plans, and Lot Line adjustments" is amended as follows:

Article I. General Provisions.

Sec. 12.04.010. Title. This code shall be hereinafter known as the city of Kent subdivision code.

Sec. 12.04.015. Purpose. The purpose of this chapter is to provide rules, regulations, requirements, standards, and procedures for subdividing land, for obtaining binding site plans, and for adjustments of lot lines in the city, ensuring:

- A. That the highest feasible quality in subdivisions will be attained;

B. That the public health, safety, general welfare, and aesthetics of the city shall be promoted and protected;

C. That orderly growth, development, and the conservation, protection, and proper use of land shall be promoted;

D. That proper provisions for all public facilities, including connectivity, circulation, utilities, and services, shall be made;

1. That maximum advantage of site characteristics shall be taken into consideration; and

2. That the process shall be in conformance with provisions set forth in KCC Title 15, Zoning, and the comprehensive plan.

Sec. 12.04.020. Scope. This chapter shall apply to the division of land for sale or lease into two (2) or more parcels and to the modification of lot lines between adjoining parcels. Where this chapter imposes greater restrictions or higher standards upon the development of land than other laws, ordinances, or restrictive covenants, the provisions of this chapter shall prevail.

Unless otherwise indicated and as provided by RCW 58.17.040, the provisions of this chapter do not apply to:

A. Cemeteries and burial plots while used for that purpose;

B. Divisions made by testamentary provisions, or the laws of descent. This exemption permits the testator to divide property into as many lots as there are heirs in the testator's Last Will and Testament. Lots resulting from a testamentary division are not necessarily buildable, and the lots resulting from a testamentary division are not exempt from any other applicable land use regulations;

C. Division of land due to condemnation or sale under threat thereof, by an agency or division of government vested with the power of condemnation;

D. Divisions of land into lots or tracts classified for industrial or commercial use when the city has approved a binding site plan for the use of the land;

E. Condominium developments, pursuant to either Chapter 64.32 or 64.34 RCW, that are subject to an approved binding site plan;

F. Divisions of land into lots or tracts each of which is five (5) acres or larger if the land is not capable of description as a fraction of a section of land;

G. A division for the purpose of lease when no residential structures other than mobile homes or travel trailers are permitted to be placed upon the land when the city has approved a binding site plan;

H. A division for the purpose of leasing land for facilities providing personal wireless services while used for that purpose; and

I. A division of land into lots or tracts of less than three (3) acres that is recorded in accordance with Chapter 58.09 RCW and is used or to be used for the purpose of establishing a site for construction and operation of consumer-owned or investor-owned electric utility facilities.

Sec. 12.04.025. Definitions. The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. *Active recreation activities* shall mean all outdoor recreational activities which involve field and court games.

B. *Alley* shall mean a public or private way not more than twenty (20) feet wide at the rear or side of property affording only secondary means of vehicular or pedestrian access to abutting property.

C. *Binding site plan* shall mean a scaled drawing which: (1) identifies and shows the areas and locations of all streets, improvements, utilities, open space, and any other matters specified in this chapter; (2) contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as established by the city through the approval process; and (3) contains provisions which require any development to be in conformity with the binding site plan.

~~D. *Binding site plan committee* shall be a committee consisting of the planning manager, who shall be the chairperson, one (1) member of the land use and planning board, the building official, public works director,~~

~~parcs and community services director, and the fire chief, or their designated representatives.~~

ED. *Block* shall mean a group of lots, tracts, or parcels within well-defined and fixed boundaries.

FE. *Circulation* shall mean any of a number of quantitative measures that characterize the frequency of transportation mode trips, the duration of a mode trip, and path choices made between two (2) or more activity spaces. Traffic counts usually indicate a measure of circulation.

GF. *Clustering or cluster subdivision* shall mean a development or division of land in which residential building lots are reduced in size and concentrated in specified portion(s) of the original lot, tract, or parcel.

HG. *Common open space* shall mean a parcel or parcels of land or an area of water or a combination of land and water within the site designated for a subdivision or a planned unit development, and designed and intended primarily for the use or enjoyment of residents of a subdivision. Common open space may contain such complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of residents of the subdivision.

IH. *Community park* shall mean a park that serves the entire city of Kent and can be located throughout the city. Community parks may have facilities or amenities that are not offered elsewhere in the city, and which can include boating, swimming, fishing, athletic fields, group picnic shelters, play equipment, hard courts, skateparks, and trails, and will vary at each park. Access to the park is by car, public transit, foot, or bicycle. Off-street parking is provided.

JI. *Comprehensive plan* shall mean the document, including maps, adopted by the city council, which outlines the city's goals and policies relating to management of growth, and prepared in accordance with Chapter 36.70A RCW. The term also includes adopted subarea plans prepared in accordance with Chapter 36.70A RCW.

KJ. *Connectivity* shall mean the connection of neighborhoods by through streets, easements, or other rights-of-way to activity centers including other subdivisions, neighborhood centers, shopping centers, transit stops, recreational spaces, and other public facilities. Such connections shall have a character that is pedestrian-friendly and that provides a sense of location.

LK. *Cul-de-sac* shall mean a short street having one (1) end open to traffic and being terminated at the other end by a vehicular turnaround.

ML. *Dedication* shall mean a deliberate conveyance of land by its owner for any general and public uses, reserving to the owner no other rights than such as are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted. The intention to dedicate shall be evidenced by the owner by the presentment for filing of a final plat or a final short plat showing the dedication thereof; and the acceptance by the public shall be evidenced by the approval of such plat for filing by the city.

NM. *Division of land* shall mean the subdivision of any parcel of land into two (2) or more parcels.

ON. *Final plat* or *final short plat* shall mean the final drawing of the subdivision or short subdivision and dedication prepared for filing for record

with the King County recorder's office and containing all elements and requirements set forth in this chapter.

PO. *Hearing examiner* shall mean the person appointed by the mayor, or ~~his or her~~ the mayor's designee, to conduct public hearings on applications outlined in Ch. 2.32 KCC which creates the hearing examiner, and who prepares a record, findings of fact, and conclusions on such applications.

QP. *Homeowners' association* shall mean an incorporated nonprofit organization operating under recorded land agreements through which:

1. Each lot owner is automatically a member;
2. Each lot is automatically subject to a proportionate share of the expenses for the organization's activities, such as maintaining common property; and
3. A charge if unpaid becomes a lien against the property.

RQ. *Land use and planning board* shall mean that body as defined in Ch. 2.57 KCC.

SR. *Lot* shall mean a fractional part of divided lands having fixed boundaries, being of sufficient area and dimension to meet minimum zoning requirements for width and area. The term shall include tracts or parcels.

FS. *Lot, corner* shall mean a lot abutting upon two (2) or more public or private streets at their intersection or upon two (2) parts of the same street,

such streets or parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees within the lot lines.

U. *Lot frontage* shall mean the front of a lot which shall be that portion nearest a public or private street or, if the lot does not abut a street, the portion nearest an ingress/egress tract or easement. On a corner lot, the front yard shall be considered the narrowest part of the lot that fronts on a street, except in industrial and commercial zones, in which case the city has the authority of determining which part of the lot fronting on a street shall become the lot frontage.

V. *Lot line adjustment* shall mean the adjusting of common property lines or boundaries between adjacent lots, tracts, or parcels for the purpose of rectifying a disputed property line location, freeing such a boundary from any differences or discrepancies or accommodating a minor transfer of land. The resulting adjustment shall not create any additional lots, tracts, or parcels and all reconfigured lots, tracts, or parcels shall contain sufficient area and dimension to meet minimum requirements for zoning and building purposes.

W. *Lot lines* shall mean the property lines bounding the lot.

X. *Lot measurements* shall mean:

1. The depth of a lot which shall be considered to be the distance between the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

2. The width of a lot which shall be considered to be the distance between the side lines connecting front and rear lot lines; provided, however, that width between side lot lines at their foremost points where they intersect with the street right-of-way line shall not be less than eighty (80) percent of the required lot width except in the case of lots fronting on cul-de-sacs or curves, where eighty (80) percent requirements shall not apply. However, the provisions of KCC 15.04.180(37) apply to lot widths within the SR-4.5, SR-6 and SR-8 zoning districts.

~~YX.~~ *Lot of record* shall mean a parcel of land that has been considered a lot in accordance with the subdivision, short subdivision, or other land segregation laws in existence at the time the lot was created, or a parcel described as a fractional portion of a section as described in the Public Land Survey System.

~~ZY.~~ *Lot, through* shall mean a lot that has both ends fronting on a street. Either end may be considered the front as determined by the city.

~~AAZ.~~ *Meander line* shall mean a line along a body of water intended to be used solely as a reference for surveying as defined in the Manual of Instructions for Surveying the Public Lands (1973) or its successor.

~~BBAA.~~ *Neighborhood park* shall mean a park that serves a neighborhood (not a subdivision) defined by arterial streets. These parks are generally located centrally in the neighborhood so that the park is easily accessible and neighborhood residents do not have to cross a major arterial to reach the park. Access is primarily by foot or bicycle, so the park is usually no further than one-half (1/2) mile from any point in the neighborhood. Parking spaces are typically not provided, unless on-street parking is not available,

accessible, or safe. Neighborhood parks have amenities for casual activities that are not programmed or organized, or for which a fee is charged. Amenities may include play equipment, picnic tables, shelters, hard courts (basketball, tennis), walking trails, and open grassy areas.

CCBB. *Official plans* shall mean those maps, development plans, or portions thereof adopted by the city council as provided in Chapter 44, Section 6, Laws of 1935, as amended. Such plans or maps shall be deemed to be conclusive with respect to the location and width of streets, public parks, playgrounds, and drainage rights-of-way or easements as may be shown thereon.

DDCC. *Park open space* shall mean those areas that are environmentally sensitive, wildlife habitat, or wetlands, that remain in a relatively natural state with minimal improvements for public access, interpretation, study, or enjoyment.

EEDD. *Park service area* shall mean those areas defined by arterial streets or geographic features, and which are identified in the comprehensive park and recreation plan, that a neighborhood park or community park is intended to serve.

FFEE. *Performance bond or guarantee* shall mean that security which may be accepted in lieu of a requirement that certain improvements be made before the final plat is approved and signed, including performance bonds, escrow agreements, and other similar collateral or surety agreements. See the Construction Standards for detailed requirements.

~~GGFF~~. *Piggyback or accumulative short subdivision* shall mean multiple short subdivision of contiguous land under common ownership. Ownership for purposes of this section shall mean ownership as established at the application submittal date of the initial short subdivision approval.

~~HHGG~~. *Plat* shall mean a map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, tracts, streets, and alleys, or other divisions and dedications.

~~HHH~~. *Preliminary approval* shall mean the official favorable action taken on the preliminary plat of a proposed subdivision by the hearing examiner following a duly advertised public hearing or on a preliminary plat of a short subdivision by the planning director following a duly advertised public comment period ~~meeting of the short subdivision committee.~~

~~HHI~~. *Preliminary plat* shall mean a precise scale drawing of a proposed subdivision showing the general layout of streets and alleys, lots, tracts, and other elements of a plat or subdivision which shall furnish a basis for the approval or disapproval of the general layout of a subdivision.

~~KKJ~~. *Short plat* shall mean the map or representation of a short subdivision.

~~KKK~~. *Short subdivision* shall mean the division or redivision of land into nine (9) or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. Tracts identified for or with the potential for future development shall be included within the number of lots created, but tracts which are not buildable and/or are intended for public dedication,

environmental protection, or stormwater facilities are not included in the number of lots created.

~~LL. — *Short subdivision, type I* shall mean the division of land into four (4) or less lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. Tracts identified for or with the potential for future development shall be included within the number of lots created, but tracts which are not buildable and/or are intended for public dedication, environmental protection, or stormwater facilities are not included in the number of lots created.~~

~~MM. — *Short subdivision, type II* shall mean the division of land into more than four (4) and less than ten (10) lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. Tracts identified for or with the potential for future development shall be included within the number of lots created, but tracts which are not buildable and/or are intended for public dedication, environmental protection, or stormwater facilities are not included in the number of lots created.~~

~~OO. — *Short subdivision committee* shall be a committee consisting of the planning manager, who shall be the chairperson, one (1) member of the land use and planning board, public works director, parks and community services director, and the fire chief, or their designated representatives.~~

PPLL. *Street* shall mean a public or private way which affords a primary means of access to property.

QQMM. *Subdivision* shall mean the division or redivision of land into ten (10) or more lots, tracts, parcels, sites, or divisions for the purpose of sale

or lease or transfer of ownership. Tracts identified for or with the potential for future development shall be included within the number of lots created, but tracts which are not buildable and/or are intended for public dedication, environmental protection, or stormwater facilities are not included in the number of lots created.

~~RR-NN.~~ *Subdivision, phased* shall mean a subdivision which is developed in increments over a period of time.

~~SS.~~ *Tentative plat* shall mean a map drawn in accordance with the same requirements as the preliminary plat map, but submitted prior to preliminary plat submittal. The tentative plat is reviewed at a pre-application conference.

~~TTQQ.~~ *Title report* shall mean a certified report from a bonded title agency showing recorded title holder and all encumbrances and defects that exist on the land.

~~UUPP.~~ *Tract* shall mean land reserved for specified uses including, but not limited to, future development, recreation, open space, sensitive areas, surface water retention, utility facilities, and access. Tracts are not considered building sites for purposes of residential dwelling unit construction; provided, that future development tracts may be used in the future as building sites for purposes of residential dwelling unit construction upon application, further review, and approval by the city.

~~VVQQ.~~ *Trail system* shall mean those pathways that connect points of interest, parks, community facilities, streets, residences, etc., in the community, which are generally not confined within the limits of one (1) park or neighborhood. Trails are intended to be used by bicycles,

rollerskaters, pedestrians, and the like. Use by motorized vehicles is prohibited.

~~WWRR.~~ *Urban separators* shall mean low-density lands that define community or municipal identities and boundaries, protect adjacent resource lands, rural areas, and environmentally sensitive areas, and create open space corridors within and between urban areas which provide environmental, visual, recreational, and wildlife benefits.

Sec. 12.04.030 Conformance to state law. This code is in conformance with RCW 58.17.010 et seq. regulating platting, subdivision, adjusting lot lines, and the dedication of land and further provides for administrative procedures for the adjustment of lot lines.

Sec. 12.04.035 City functions.

A. *Planning services office.* The planning services ~~office~~ division of the economic and community development department 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.~~ Development Engineering The development engineering division ~~department of public works~~ economic and community development department is responsible for reviewing all engineering and technical requirements of this chapter.

C. *Fire department.* The Puget Sound Regional Fire Authority or contract fire services provider ~~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.~~ *Planning Director.* The term planning director means the economic and community development director, or their designee.

~~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.~~

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

HG. *City council.* The city council shall conduct any closed record appeal from a hearing examiner's final decision on a subdivision preliminary plat. The planning director shall have sole authority to approve subdivision final plats. An appeal of a final plat decision shall be in superior court pursuant to KCC 12.01.200.

Sec. 12.04.040. Penalties.

A. *Civil.* Any violation of any provision of this chapter, or any violation of any term or condition of plat approval prescribed pursuant to this chapter by any person, firm, corporation, or association, or any agent thereof, shall

constitute a civil violation under Ch. 1.04 KCC for which a monetary penalty may be assessed and abatement may be required as provided therein.

B. *Criminal.* Any person, firm, corporation, or association, or any agent thereof, who violates any provision of Chapter 58.17 RCW, or any provision of this chapter, relating to the sale, offer for sale, lease, or transfer of any lot, tract, or parcel of land, shall be guilty of a gross misdemeanor and each sale, offer for sale, lease, or transfer of each separate lot, tract, or parcel of land in violation of any provision of Chapter 58.17 RCW, or any provision of this chapter, shall be deemed a separate and distinct offense.

Sec. 12.04.045. Liability. This chapter shall not be construed to relieve from or lessen the responsibility of any person owning any land or building, constructing or modifying any subdivisions in the city for damages to anyone injured or damaged either in person or property by any defect therein; nor shall the city or any agent thereof be held as assuming such liability by reason of any preliminary or final approval or by issuance of any permits or certificates authorized herein.

Sec. 12.04.050. Planned unit developments. In addition to the standard subdivision of land as outlined in this chapter, the city provides for the subdivision of land under the planned unit development regulations of the zoning code, KCC Title 15. The zoning code should be consulted concerning the special procedures for planned unit developments.

Sec. 12.04.055. Mobile home park design. The standards of this chapter for residential subdivisions shall apply to mobile home park subdivisions when lots in such subdivisions are to be sold, unless other standards are specifically approved by the city.

Sec. 12.04.060. Onsite recreation and open space requirements.

A. Approval of all subdivisions and short subdivisions located in single-family residential zones as defined in KCC Title 15, Zoning, shall be contingent upon the subdivider's creation and development of onsite recreation space or paying approved fees in lieu of these provisions to the city, as necessary to mitigate the adverse effects of development upon the existing park and recreation service levels. This requirement shall not apply to (1) dwelling units on lots being created that include forty-three thousand five hundred sixty (43,560) square feet or more, and (2) planned unit developments.

B. When required, residential subdivisions and short subdivisions shall provide recreation space for leisure, play, and sport activities as follows: four hundred fifty (450) square feet per dwelling unit.

C. Recreation space shall be placed in a designated recreation space tract or tracts. The tract(s) shall be owned by a homeowners' association or other workable organization acceptable to the planning manager to provide continued maintenance of the recreation space tract.

D. Recreation space located outdoors and not part of a stormwater tract developed in accordance with subsection (F) of this section shall:

1. Be of a grade and surface suitable for recreation improvements and have a maximum grade of five (5) percent or as otherwise approved by the planning manager and parks and community services director;

2. Be on the site of the proposed development unless otherwise approved by the planning manager and parks and community services director;

3. Be located in an area where the topography, soils, hydrology, and other physical characteristics are of such quality as to create a flat, dry, obstacle-free space in a configuration which allows for passive and active recreation;

4. Be centrally located or accessible and convenient to the majority of residents within the development;

5. Have good visibility from streets and sidewalks;

6. Have no dimensions less than thirty (30) feet, except trail segments or as otherwise approved by the planning manager and parks and community services director;

7. Be located in one (1) designated area, unless the planning manager and parks and community services director determine that the residents of a large subdivision, townhouse development, or apartment development would be better served by multiple areas developed with recreation or play facilities; and

8. Be accessible, via trail or walkway, to any existing or planned municipal, county, or regional park; public open space; or trail system adjacent to the subdivision or short subdivision.

E. Recreation space shall be improved with both active and passive areas designed for leisure, play, and sport activities. Play equipment or other age-appropriate facilities, as approved by the city parks and community services director, shall be provided within the recreation space areas. Active recreation improvements shall be included as follows:

1. For developments of twenty-five (25) or less dwelling units, at least one (1) of the following recreation facilities shall be provided in addition to a tot lot or children's play area:

a. Playground equipment;

b. Sport court;

c. Sport field;

d. Tennis court; or

e. Any other recreation facility proposed by the applicant and approved by the parks and community services director;

2. For developments of twenty-six (26) to fifty (50) dwelling units, at least two (2) or more of the recreation facilities listed in subsection (C)(1) of this section shall be provided; and

3. For developments of more than fifty (50) dwelling units, at least one (1) additional recreation facility listed in subsection (C)(1) of this section shall be provided for every additional twenty-five (25) dwelling units.

F. Recreation areas that are contained within the onsite stormwater tracts, but are located outside of the one hundred (100) year design water surface, may be credited for up to fifty (50) percent of the required square footage of the onsite recreation space requirement on a foot-per-foot basis, subject to the following criteria:

1. The stormwater tract and any onsite recreation tract shall be contiguously located. At final plat recording, contiguous stormwater and recreation tracts shall be recorded as one (1) tract and owned by the homeowners' association or other organization as approved by the planning manager; and

2. Unless otherwise approved by the public works department, the drainage facility shall be constructed to meet the requirements of the City of Kent Surface Water Design Manual and the following conditions:

a. The side slope of the drainage facility shall not exceed the ratio of three (3) feet horizontal to one (1) foot vertical unless slopes are existing, natural, and covered with vegetation;

b. A bypass system or an emergency overflow pathway shall be designed to handle flow exceeding the facility design and located so that it does not pass through active recreation areas or present a safety hazard;

c. The drainage facility shall be landscaped and developed for passive recreation opportunities such as trails, picnic areas, and aesthetic viewing; and

d. The drainage facility shall be designed not to require fencing under the city's adopted surface water design manual.

G. When a tract is a joint use tract for a drainage facility and recreation space, as referenced in subsection (F)(1) of this section, the city shall not be responsible for maintenance of the recreation space.

H. A recreation space plan shall be submitted to the public works department and reviewed and approved with engineering plans.

1. The recreation space plan shall address all portions of the site that will be used to meet recreation space requirements of this section, including the drainage facility. The plans shall show dimensions, finished grade, equipment, landscaping, and improvements, as required by the planning manager and parks and community services director, to demonstrate that the requirements of the onsite recreation space or this chapter have been met.

2. If engineering plans indicate that the onsite drainage facility or stormwater tract must be increased in size from that shown in preliminary approvals, the recreation plans shall show how the required minimum recreation space under this section will be met.

Sec. 12.04.065. Fee in lieu of recreation space.

A. Except in the case of short subdivisions, the creation of onsite recreation space, per KCC 12.04.060, is the preferred method of providing new development with opportunities for leisure, play, and sports activities. For short subdivisions, payment of a fee in lieu of providing onsite recreation

space is preferred. In subdivisions, applicants shall to the best of their ability endeavor to provide recreation space on the project site. However, if onsite recreation space is not provided in accordance with this chapter, the applicant shall pay a fee in lieu of providing onsite recreation space if approved by the planning manager. A fee in lieu of onsite recreation space may be approved if the recreation space is provided within a city park in the vicinity and will be of greater benefit to the prospective residents of the development.

B. The dollar amount of the fee-in-lieu shall be determined by multiplying the following two (2) factors:

1. One hundred fifty (150) percent of the average assessed value per unit area of land within the boundaries of the subdivision. The average assessed value shall be that for the year in which the subdivision is deemed complete. Computations shall be based upon King County assessor information; and

2. The gross land area within the subdivision multiplied by five (5) percent.

C. The fee-in-lieu shall be held in a reserve account at the city, and may only be expended to fund a capital improvement that has been agreed upon by the parties to mitigate the identified, direct impact of the development. The payment shall be expended in all cases within five (5) years of collection. Any payment of fees made pursuant to this section that has not been expended within five (5) years of collection shall be refunded with interest at the rate applied to judgments to the property owners of record at the time of the refund. If the payment is not expended within five (5) years due

to delay attributable to the developer, the payment shall be refunded without interest.

D. Appeals of fees-in-lieu imposed pursuant to this section shall be governed by the provisions of Ch. 12.01 KCC.

Sec. 12.04.070. Onsite recreation – Maintenance of recreation space or dedication.

A. Recreation space that meets the requirements of this chapter may, at the discretion of the parks and community services director, be dedicated as a public park in lieu of providing the onsite recreation required under KCC 12.04.060 if the following criteria are met:

1. The dedicated area is at least ten (10) acres in size, unless it is adjacent to an existing or planned county or city park;
2. The dedicated land provides one (1) or more of the following:
 - a. Shoreline access;
 - b. Regional trail linkages;
 - c. Habitat linkages;
 - d. Recreation facilities; or
 - e. Heritage sites; and

3. The dedicated area is located within one (1) mile of the project site.

B. Unless the recreation space is dedicated to the city in accordance with subsection (A) of this section, maintenance and irrigation of any recreation space shall be, per KCC 12.04.060(C), by the homeowners' association or other approved organization.

Article II. Short Subdivisions and Subdivisions

Sec. 12.04.100. Purpose of ~~Type I and Type II~~ short subdivisions. The procedures regulating ~~Type I and Type II~~ short subdivisions are established to promote orderly and efficient division of lots on a small scale, promote infill development and meet density requirements while providing an efficient review process, avoiding placing undue burdens on the subdivider and complying with the purpose of this chapter and the provisions of RCW 58.17.060 et seq.

Sec. 12.04.103 Purpose of subdivisions. The procedures regulating subdivisions are established to ensure quality development which promotes orderly and efficient growth, and the conservation and proper use of land; protects the public health, safety, general welfare, and aesthetics of the city; makes adequate provisions for public facilities in conformance with provisions set forth in KCC Title 15, Zoning, Title 6, Public Works, Title 7, Utilities, and the Kent comprehensive plan; and complies with the provisions of this chapter and Chapter 58.17 RCW.

Sec. 12.04.105 Scope of short subdivisions.

A. Any land being divided into less than ten (10) parcels, lots, tracts, sites, or subdivisions, any one (1) of which is less than twenty (20) acres in size~~A Type I short subdivision is defined as any land being divided into four (4) or less parcels, lots, tracts, sites or subdivisions, any one (1) of which is less than twenty (20) acres in size and which has not been divided in a short subdivision within a period of five (5) years.~~

~~B — A Type II short subdivision is defined as any land being divided into more than four (4) and less than ten (10) parcels, lots, tracts, sites or subdivisions, any one (1) of which is less than twenty (20) acres in size and which has not been divided in a short subdivision within a period of five (5) years.~~

~~€B.~~ No application for a short subdivision shall be approved if the land being divided is held in common ownership with a contiguous parcel that has been divided in a short subdivision within the preceding five (5) years. Serial subdivision of contiguous parcels in the same ownership is defined as piggybacking short subdivisions and is prohibited unless the subject property has received master plan approval by the city through a rezone, planned unit development, or other hearing process. Such short subdivisions must be consistent with the approved master plan.

~~ƉC.~~ Short subdivisions may not be further divided in any manner within a period of five (5) years without following the procedures for subdivisions, except that when the short subdivision contains fewer than nine (9) parcels, nothing in this section shall prevent the owner who filed the short subdivision

from filing an alteration within the five (5) year period to create up to a total of nine (9) lots.

Sec. 12.04.107. Scope of subdivisions.

A. Any land being divided into ten (10) or more parcels, lots, tracts, sites, or subdivisions, any one (1) of which is less than twenty (20) acres in size; or

B. Any land which has been previously divided under the short subdivision procedures within the preceding five (5) years; or

C. Any land which is held in common ownership with a contiguous parcel divided under the short subdivision procedures within the preceding five (5) years shall conform to the subdivision procedures and requirements of this chapter.

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 if desired;~~

2. Review of the ~~tentative plat for pre-application conference submittal~~ 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~~ planning director for decision;
4. Installation or bonding of improvements according to the approved preliminary subdivision or short subdivision requirements and satisfaction of all plat and short plat conditions;
5. Submission of the subdivision or short subdivision final plat to the 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.

Sec. 12.04.117. Pre-application review. Pursuant to KCC 12.01.080, a pre-application conference is encouraged for subdivisions, and ~~Type I and Type II~~ short subdivisions that require SEPA review. The scale and information required for a pre-application conference and the number of copies to be filed shall be in accordance with the requirements of the application checklist.

Sec. 12.04.119. Subdivision in phases. In a phased subdivision or short subdivision, preliminary approval must be granted for the entire subdivision or short subdivision and must delineate the separate divisions which are to be developed in increments. Preliminary approval shall be conditioned upon completion of the proposed phases in a particular

sequence and may specify a completion date for each phase. Final plat approval shall be granted for each separate phase of the preliminary subdivision or short subdivision. All phases shall be recorded with the King County recorder within the timelines stated in KCC 12.04.215 and 12.04.221.

Sec. 12.04.120. Preliminary subdivision or short subdivision application.

A. Application for a subdivision or short subdivision shall be made to planning services on the forms supplied and in the number of copies prescribed by that division.

B. The preliminary plat or short plat shall be a neat and approximate drawing on reproducible material at a decimal scale. The plat map shall measure eighteen (18) inches by twenty-four (24) inches, be in accordance with Chapter 332-130 WAC, and shall include:

1. The subdivision or short subdivision name; the name and address of the owner; and, if one has been employed in the preparation of the application, the name, address, and stamp with signature of the licensed land surveyor and professional engineer;

2. The date of preparation, a north arrow, legal description of the property to be subdivided, and a drawing completed in an appropriate decimal scale;

3. The location of existing and proposed platted property lines, and existing section lines, streets, structures, watercourses, railroads,

bridges, wells, and any recorded public or private utility or street easements, both on the land to be subdivided and on the adjoining lands that abut the proposed subdivision, for a distance of one hundred (100) feet from the edge of the subject property;

4. The names, locations, widths, and other dimensions of proposed streets, alleys, stormwater and critical area tracts, easements, traffic calming features and devices, parks and other open spaces, reservations, and utilities;

5. The acreage of land to be subdivided, the number of lots, the area of each lot, and the approximate square footage and approximate percent of total acreage in open space;

6. The approximate dimensions of each lot;

7. How the proposed subdivision will be served by utilities and the location of sanitary sewer, domestic water, and storm drainage lines and facilities;

8. All existing structures and distances from any existing and proposed lot lines within or abutting the short subdivision within a distance of one hundred (100) feet;

9. Sufficient topographic data to accurately locate any critical areas that may affect future development, and show contours not less than two (2) feet;

10. Provisions for sidewalks, placement or construction of traffic calming features and devices, and other features that assure safe walking conditions for students who walk to and from school, users of public transit, and other pedestrians;

11. A statement of soil type, drainage conditions, present landscaping including a description of any natural or manmade land cover, wildlife present, and any other environmental factors which may be prescribed by planning services and applicable city codes; and

12. All of the information requested on the application form by planning services.

Sec. 12.04.135. Vesting. A proposed division of land shall be considered under the requirements of this chapter and the zoning and other land use regulations in effect on the land at the time that a preliminary application for a subdivision or short subdivision, as defined in this chapter, has been determined to be complete and has been accepted by the city of Kent, pursuant to KCC 12.01.100.

Sec. 12.04.140. Notice of application. ~~Subdivisions and short subdivisions shall provide public notice as required in KCC 12.01.140. The applicant shall place at least one public notice board on the property to be subdivided. The public notice board shall be placed on the property as directed by planning services no later than 14 calendar days after a determination of completeness. If the property to be subdivided is located adjacent to more than one public street or has more than one potential access route, one public notice board shall be placed on the property adjacent to each street or potential access route. A notice of application shall~~

~~be issued for land segregation applications within 14 calendar days after the city has made a determination of completeness, and at least 15 calendar days prior to the short subdivision committee meeting date for short subdivisions or the public hearing for subdivision applications. The notice of application shall include the tentative date of the public meeting or public hearing and shall be mailed, published, and posted on the same day, in the following manner:~~

~~A. — The city shall publish the notice of application in a newspaper of general circulation within the city.~~

~~B. — The city shall post the notice of application on the public notice board(s) placed on the property and shall also post the notice of application at Kent City Hall and in the register for public review at the planning services office.~~

~~C. — The city shall mail the notice of application listing the date of the short subdivision committee meeting, or the date of public hearing for subdivisions, to the applicant and all owners of real property as shown by the records of the county assessor's office within 300 feet of any portion of the boundary of the proposed short subdivision and within 300 feet of any portion of the boundary of the proposed subdivision. In addition, if the property to be short subdivided abuts parcels greater than two acres which have other properties abutting them, these additional properties shall also be mailed a notice of application.~~

~~D. — The city shall mail or send the notice of application to all agencies with jurisdiction, city departments, and to any person who requests such notice in writing.~~

~~E. One notice of application shall be prepared for all permit applications related to the same project at the time of the earliest complete project permit application.~~

Sec. 12.04.145. Referral of preliminary subdivision and short subdivision applications. Upon determination of completeness of an application for a subdivision or short subdivision, planning services shall distribute copies of the application materials for review and comment to all city departments with jurisdiction over the application, and to any other department or agency deemed necessary. ~~For short subdivisions, one (1) copy of the application materials shall also be sent to each member of the short subdivision committee. The application shall be distributed at least fifteen (15) calendar days prior to the short subdivision committee meeting or public hearing.~~

Sec. 12.04.150. Notification of agencies.

A. The city shall mail or email a notice of application to all agencies with jurisdiction over the subdivision or short subdivision application in accordance with KCC 12.01.140. ~~Such notice shall include the hour and location of the short subdivision committee meeting or subdivision public hearing and a description of the property to be platted. A copy of the plat and the application materials shall be provided to agencies as deemed necessary or if requested by the agency.~~

B. Notice of application for a preliminary subdivision or short subdivision, adjacent to or within one (1) mile of the city boundaries or which

contemplates the use of King County's or any other city's or town's utilities, shall be given to the appropriate county, city, or town authorities.

C. If a proposed subdivision or short subdivision is located adjacent to the right-of-way of a federal or state highway or within two (2) miles of a state or municipal airport, then notice of application shall be given to the State Department of Transportation. Such notice shall include the hour and location of the public meeting or hearing, a legal description of the property being subdivided, and a location map. The Department of Transportation shall, within fourteen (14) calendar days after receiving the notice, submit to planning services a statement of any information that the department deems to be relevant about the effect of the proposed development upon the legal access to the state highway, the traffic-carrying capacity of the state highway, the safety of the users of the state highway, or the airport.

Sec. 12.04.155. Public meeting/hearing notice.

~~A. Notice of the short subdivision committee meeting shall be given in the following manner:~~

~~1. The date of the short subdivision committee meeting shall be listed on the notice of application, which shall be mailed in accordance with KCC 12.04.140 to the applicant and all owners of real property as shown by the records of the county assessor's office within 300 feet of any portion of the boundary of the proposed subdivision. In addition, if the property to be short subdivided abuts parcels greater than two acres which have other properties abutting them, these additional properties shall also be mailed a notice of application. Seven calendar days prior to the short subdivision committee meeting, the city shall mail the short subdivision committee~~

~~agenda and staff report(s) to the applicant, all owners of the real property, and any person who provided written comments on the application.~~

~~B. The notice of public hearing for a subdivision shall be posted no less than 10 calendar days prior to the hearing date given in the following manner and in accordance with KCC 12.01.145.~~

~~1. The notice of public hearing shall be mailed, published, and posted on the same day, not less than 10 calendar days prior to the hearing date.~~

~~2. The city shall post the notice of public hearing on the public notice board(s) on the property.~~

~~3. The city shall publish the notice of public hearing in a newspaper of general circulation within the city.~~

~~4. The city shall mail a notice of public hearing to the applicant, any person who submits written comments on an application, and all owners of real property as shown by the records of the county assessor's office within 300 feet of any portion of the boundary of the proposed subdivision. If the owner of the real property proposed to be subdivided also owns another parcel or parcels of real property which lie adjacent to the real property proposed to be subdivided, the notice shall be mailed to all owners of real property located within 300 feet of such adjacently owned parcels. Seven calendar days prior to the public hearing, the city shall mail the public hearing agenda and staff report(s) to the applicant, all owners of the real property, and any person who provided written comments on the application.~~

Sec. 12.04.160. Public comment. Affected agencies and the public shall have a fourteen (14) calendar day period to comment on a notice of application. An agency and the public are presumed to have no comments if comments are not received within the specified time period. The planning ~~manager~~ director may grant an extension of time only if the application involves unusual circumstances. Any extension shall not be granted for a period longer than three (3) additional calendar days.

The fourteen (14) day public comment period begins on the date the notice of application is mailed, posted and published. Planning services must receive all public comments by 4:30 p.m. on the last day of the comment period. Comments may be mailed, personally delivered, or sent by facsimile or e-mail. Comments should be as specific as possible. The ~~short subdivision committee~~ planning director or hearing examiner shall not take action on a short subdivision or subdivision application until after the comment period has passed.

Sec. 12.04.165. Agency recommendations. At the time of the preliminary short subdivision or subdivision application, written recommendations for approval or denial in the form of a certificate of water or sewer availability must be submitted from the health agencies responsible for approval of the proposed means of sewage disposal and/or water supply, regarding the general adequacy of the proposed means of sewage disposal and/or water supply. The applicant is responsible for submitting the appropriate application forms to the health agency and for paying any review fee.

Sec. 12.04.170. ~~Short subdivision committee~~. Repealed

~~A. The short subdivision committee shall consist of the planning manager, who shall be chairman; the director of parks and recreation; the director of public works; the fire chief; and a land use and planning board member. Each committee member is authorized to designate an alternate to attend in their absence. A designated alternate shall have full voting power in the short subdivision approval process.~~

~~B. At least three (3) of the five (5) members of the short subdivision committee must be present in order for the committee to take any action.~~

~~Sec. 12.04.175. Short subdivision preliminary plat meeting.~~

~~Repealed A public meeting attended by the applicant or representative and the short subdivision committee members shall be held within forty (40) calendar days of the determination of completeness of the application in compliance with, and subject to, the requirements of KCC 12.01.100 and 12.01.110. The meeting shall be open to the public.~~

Sec. 12.04.177. Public hearing.

A. The hearing examiner shall hold an open record public hearing in compliance with KCC 12.01.160 on any subdivision preliminary plat within one hundred (100) calendar days of planning services' determination of a complete application in compliance with, and subject to, the requirements of KCC 12.01.100 and 12.01.110.

B. A record of the public hearing shall be kept by the city and shall be open to public inspection.

Sec. 12.04.180. Approval criteria.

A. A proposed subdivision or short subdivision and dedication shall not be approved unless the city finds that:

1. Appropriate provisions have been made for:

a. The public health, safety, and general welfare of the community;

b. Protection of environmentally sensitive lands and habitat;

c. Potable water supplies;

d. Sanitary wastes;

e. Other public utilities and services, as deemed necessary;

f. Stormwater facilities and conveyance systems;

g. Open spaces;

h. Community parks and recreation;

i. Neighborhood tot lots and recreation areas;

j. Schools and school grounds;

k. Transit stops;

l. Connectivity of streets, alleyways, and other private and public ways for vehicular and pedestrian circulation and access in and between subdivisions and neighborhoods, where feasible;

m. Connectivity of sidewalks, pedestrian pathways, traffic calming features and devices, and other features that assure safe walking conditions within and between subdivisions and neighborhoods for residents and students who walk to and from school, parks, transit stops and other neighborhood services;

n. In single-family residential zoning districts, building lots and street access configured to support the construction of homes with diminished garage doors such that no less than fifty (50) percent of the new lots will support construction of and access to a garage in the rear portion of the lot accessed via a common driveway between lots; or a side access garage; or a garage accessed via a rear alley; or a garage set back no less than ten (10) feet from the front facade of the home; or other design strategies which similarly diminish the prominence of the garage and are approved by the planning manager. Lots and streets shall be configured such that at least two (2) of these options are supported in each new development;

o. In single-family residential zoning districts, landscape buffering along all frontage streets of the subdivision that do not provide the new lots with direct vehicular access;

2. The city has considered all other relevant facts; and

3. The public use and interest will be served by the platting of such subdivision or short subdivision and dedication; and

4. The city has considered the physical characteristics of a proposed subdivision or short subdivision site and may deny a proposed plat because of flood, inundation, or wetland conditions; slope, or soil stability and/or capabilities. Construction of protective improvements may be required as a condition of approval, and such improvements shall be noted on the final plat.

B. Dedication of land to any public body, provision of public improvements to serve the subdivision, and/or the imposition of impact fees may be required as a condition of subdivision approval. Dedications shall be clearly shown on the final plat.

Sec. 12.04.185. Decision on preliminary short subdivisions.

A. ~~The decision of the planning director short subdivision committee shall be made at the short subdivision committee meeting following the public comment period and completion of staff review. The meeting may be continued if no decision is reached at the first meeting and additional information is needed. The continuation of the meeting shall be set for the next scheduled short subdivision committee meeting or a date mutually agreed upon by the applicant and the short subdivision committee.~~

B. The city shall make written findings on the short subdivision approval criteria. The applicant, owner, and all parties of record shall be notified in writing of the ~~committee's~~ planning director's decision and shall be provided

with a copy of the planning director's committee's findings addressing its reasons for approval or denial.

C. The ~~short subdivision committee~~ planning director may approve, approve with modifications and conditions, or deny the application for a short subdivision.

D. If modifications are deemed necessary by the ~~short subdivision committee~~ planning director, they may be added to the original short subdivision plat or a new short subdivision plat may be required.

E. An applicant may request that an application previously denied or approved with conditions be reopened by the ~~committee~~ planning director if it is found by the ~~planning manager~~ staff and the applicant that new information has come to light that might modify the previous short subdivision decision ~~actions previously taken by the short subdivision committee~~.

F. In case of a denial by the ~~short subdivision committee~~ planning director, any appeal made shall be to the hearing examiner in accordance with KCC 12.04.190. New information may be presented during hearing examiner consideration of the appeal.

Sec. 12.04.190. Appeal of ~~short subdivision committee~~ planning director decision. The decision of the ~~short subdivision committee~~ planning director shall be final, unless an appeal by a party of record is made to the hearing examiner within fourteen (14) calendar days after the ~~short subdivision committee's~~ planning director's decision. The appeal shall be in writing and shall be processed pursuant to Chs. 2.32 and

12.01 KCC. The decision of the hearing examiner shall represent final action of the city and is appealable only to the superior court.

Sec. 12.04.192. Decision on preliminary subdivision.

A. The hearing examiner may approve, approve with modifications and conditions, or deny the application for a subdivision.

B. The final decision of the hearing examiner shall be rendered within ten (10) working days following the conclusion of all testimony and hearings, unless a longer period is mutually agreed to on the record by the applicant and the hearing examiner.

C. The city shall provide a written notice of decision by the hearing examiner. The notice of decision shall be provided to the parties of record and to any person who requested notice of the decision prior to the decision and shall include findings and conclusions, based on the record and approval criteria, to support the decision.

D. A party of record may make a written request for reconsideration of the decision by the hearing examiner within five (5) working days of the date the decision is rendered, pursuant to KCC 12.01.160(F).

Sec. 12.04.193. City council closed record appeal. Repealed by Ord. No. 4044.

Sec. 12.04.195. Appeal to superior court. The decision of the hearing examiner is final for short subdivisions and subdivisions unless it is appealed to the superior court. Such appeal must be filed with the superior

court within twenty-one (21) calendar days from the date the decision was issued.

Sec. 12.04.200. Property annexed to city with preliminary plat approval from King County.

A. In instances where property annexed to the city has received subdivision or short subdivision preliminary approval from King County prior to annexation, planning services, public works department, fire department, and parks and community services department shall review the plat. City plan check review and inspections shall be subject to fees, which are on file in the city clerk's office.

B. The density, lot size, and dimensions, and the provisions made for open space, stormwater facilities and conveyance systems, streets, alleys, public ways, water, sanitary wastes, parks, playgrounds, sites for schools and school grounds, and those conditions imposed by King County need not comply with the requirements of KCC Title 15, Zoning, or the design and construction standards. These plats are to be developed in accordance with county standards in effect at the time of vesting of the preliminary plat application in the county.

C. The preliminary plat shall comply with the King County regulations pertaining to expiration of the preliminary plat that were in effect on the date the application vested. The date of approval will be that date on which King County approved the preliminary plat.

D. The procedures for subdivision or short subdivision final plats shall be those county procedures and regulations in effect at the time of vesting of the preliminary application in the county.

Sec. 12.04.205. Installation of improvements or bonding in lieu of improvements.

A. The following tangible improvements shall be required before a final plat or final short plat is recorded:

1. Construction and subsequent acceptance by the city of all public and private improvements as required by the conditions of approval;

2. All improvements are to be made pursuant to specifications and standards of city code, approved by the public works department and in accordance with the current edition of the design and construction standards of the city.

B. The public works department shall be responsible for the supervision, inspection, and acceptance of all subdivision improvements and shall charge the subdivider a fee that has been assessed in accordance with KCC 6.03.010 as enacted, subsequently amended, or replaced.

C. Prior to proceeding with subdivision or short subdivision improvements, the subdivider shall make application for such permits from the city as are required. The applicant is also responsible for complying with all permit requirements of other federal, state, and local agencies.

D. No plat or short plat shall be recorded until all improvements are constructed in a satisfactory manner and approved by the responsible departments or a bond approved by the city has been posted for deferred improvements. If a developer wishes to defer certain improvements, written application shall be made to the public works department and planning services stating the reasons why such delay is necessary. If the deferment is approved, the developer shall furnish a bond or assignment of funds to the city in an amount equal to a minimum of one hundred fifty (150) percent of the estimated cost of all required public and private improvements remaining to be constructed. The decision of the public works director and planning manager, or respective designees, as to the amount of such bond shall be final. Such bond shall list the work that shall be performed by the developer and shall specify that all of the deferred improvements be completed within one (1) year after recording of the subdivision or short subdivision. The bond shall be held by the public works department. The developer may substitute a certified or cashier's check or assignment of funds in lieu of a bond. Such check or assignment shall be made payable to the city of Kent and shall be in the same amount as the bond it is substituting. At the discretion of the public works director, an assignment of funds may be required for all or a portion of the bond amount.

E. The city reserves the right, in addition to all other remedies available to it by law, to proceed against such bond or other payment in lieu thereof. In case of any suit or action to enforce any provisions of this chapter, the developer shall pay the city all costs incidental to such litigation including reasonable attorney's fees. The applicant shall enter into an agreement with the city requiring payment of such attorney's fees. The requirement of the posting of any performance bond or other security shall be binding on the applicant, and the applicant's heirs, successors, and assigns.

F. The public works department shall notify planning services verifying that the developer has completed the required installations and/or bonding in accordance with the provisions of this chapter and the specifications and standards of the departments. Planning services shall notify the developer advising him to proceed with recordation of the short plat or final plat when the required improvements have been installed and approved or adequate security has been posted as provided in subsection (D) of this section.

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 Chapters 58.09 and 58.17 RCW and Chapter 332-130 WAC. The original drawing shall be in black ink with original signatures. The final plat or final short plat shall contain or be accompanied by all the information required by the application form. ~~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~~map;

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 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~~planning director;

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~~planning director;

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~~ planning director 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, it shall be signed by the city engineer, city finance director, and planning director.

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

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

Sec. 12.04.215. Short subdivision preliminary plat expiration.

Short subdivision preliminary plat approval shall lapse four (4) years from the date of preliminary plat approval unless a final plat based on the preliminary plat has been reviewed and approved by the city and recorded with King County. ~~In addition, for those preliminary short subdivision approvals that have not expired as of the passage date of the ordinance codified in this chapter, their expiration period shall be extended two (2) additional years, for a total of a four (4) year expiration period from the time of preliminary approval.~~

Sec. 12.04.220. Limitations on further subdivision of short subdivisions.

Any land subdivided under the requirements for a short subdivision shall not be further divided for a period of five (5) years without following the procedures for subdivisions, except that when the short subdivision contains fewer than nine (9) parcels, nothing in this section shall prevent the owner who filed the short subdivision from filing an alteration within the five (5) year period to create up to a total of nine (9) lots within the original short subdivision boundaries.

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 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.

Sec. 12.04.223. Time limitation for approval or disapproval of preliminary and final plats and short plats. ~~Decision on subdivision final plat.~~

A. *Preliminary Plats and short plats.* Preliminary plats shall be approved, disapproved, or returned to the applicant for modification or correction within ninety days from date of filing in accordance with RCW 58.17.140(1) unless the applicant consents to an extension of such time period or the ninety day limitation is extended to include up to twenty-one days as

specified under RCW 58.17.095(3), provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the ninety day period shall not include the time spent preparing and circulating the environmental impact statement by the city.

B. Final plats and short plats. Pursuant to RCW 58.17.140(2), tThe planning director shall approve, disapprove, or return the final plat or short plat to the applicant for modification and/or correction within 30 calendar days of the date of the city's determination of acceptance of the final plat or short plat application, unless the applicant consents to an extension of such time period.

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

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 pursuant to RCW 58.17.215 shall contain the signatures of ~~all~~ the majority of those 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, substantially change access points, 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 not alter the vesting or validity period of the originally approved subdivision or short subdivision.

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 approval 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.~~ A major short plat alteration shall require

approval of the planning director following public notice. 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~~ planning director for subdivisions or short 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~~ planning director for subdivisions or short 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.

Sec. 12.04.230. Procedure for vacation of a subdivision or short subdivision.

A. Whenever an applicant wishes to vacate a subdivision or short subdivision or any portion thereof, that person shall file an application for vacation with planning services. The application shall set forth the reasons

for vacation and shall contain signatures of all parties having an ownership interest in that portion of the subdivision subject to vacation.

B. If the development is subject to restrictive covenants which were filed at the time of the approval, and the application for vacation would result in a 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 short subdivision or portion thereof.

C. When the vacation application is specifically for a city street or road, the procedures for street vacation in Ch. 6.09 KCC shall be followed for the street or road vacation. When the application is for the vacation of the plat or short plat together with the streets or roads, the procedure for vacation in this section shall be used but vacations of streets may not be made that are prohibited under state law.

D. Planning services shall give notice to all owners of property within the subdivision or short subdivision, ~~all property owners within two hundred (200) feet of short subdivision boundaries,~~ all property owners within three hundred (300) feet of subdivision or short subdivision boundaries, and to all applicable agencies. The ~~short subdivision committee~~ planning director shall conduct a ~~public meeting~~ review in the case of short subdivisions and the hearing examiner shall conduct a public hearing for subdivisions if the requested vacation does not involve a public dedication. The city council shall conduct a public hearing on the application for a vacation if the request involves a public dedication. The application for vacation of a subdivision or short subdivision may be approved or denied after the city has determined the public use and interest to be served by the vacation. If any portion of

the land contained in the proposed vacation 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 city council sets forth findings that the public use would not be served in retaining title to those lands.

E. Title to the vacated property shall vest with the rightful owner as shown in King 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 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 council. When the road or street that is to be vacated was contained wholly within the subdivision or short subdivision and is part of the boundary of the subdivision or short subdivision, title to the vacated road or street shall vest with the owner or owners of property contained within the vacated subdivision.

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

Sec. 12.04.235. Standards for the subdivision of land and any dedications.

A. Applications for subdivisions, short subdivisions, and binding site plans may be approved, approved with conditions, or denied in accordance with the following adopted city, county, and state rules, regulations, plans, and policies including but not limited to:

- 1 Chapter 58.17 RCW (subdivisions);

2. Chapter 43.21C RCW (SEPA);
3. KCC Title 6 (Public Works);
4. KCC Title 7 (Utilities);
5. KCC Title 11 (Environmental Management);
6. KCC Title 13 (Fire Prevention and Protection);
7. KCC Title 12 (Planning and Land Development);
8. KCC Title 15 (Zoning);
9. City of Kent comprehensive plan;
10. King County board of health rules and regulations.

B. All improvements shall be constructed in accordance with the city's design and construction standards as hereinafter amended.

Sec. 12.04.240. Connectivity. The following goals and criteria listed below shall be considered by the public works department and planning services in evaluating connectivity:

A. Increase through-connections to adjacent subdivisions and activity centers.

1. Subdivision streets should connect through to serve adjacent properties except where impractical.

2. Cul-de-sac streets of the subject subdivision should provide pedestrian/bicycle pathway(s) from bulb-ends to neighboring subdivision(s) streets or other adjacent activity centers.

3. Subdivisions should provide continuous sidewalks on both sides of streets fronting developed lots and connect to other streets.

B. Provide streetscaping improvements.

1. Vehicular traffic calming elements should be included in the subdivision.

2. Planting strips and medians should be included in the subdivision.

3. Neighborhood identity elements such as entry monument signs, medians, and pavement textures should be included in the subdivision.

Sec. 12.04.243. Traffic calming.

A. Traffic calming improvements are required, and are specified according to street classification, site conditions, or other conditions as determined by the public works department, in consultation with the planning services office and fire prevention division.

B. Residential streets with entrances connected to arterial or collector streets shall provide curb bulb-outs at each plat entrance, or shall provide curbs constructed at the return radius standard for residential class streets found in the city design and construction standards. Other traffic calming options may be determined more appropriate to site conditions by the public works department, in consultation with the planning services office and fire prevention division.

C. Mid-block chokers are required on blocks greater than five hundred (500) feet in length, unless otherwise determined by the public works department.

D. Other traffic calming designs and improvements may be determined appropriate as remedial options by the public works department, in consultation with the planning services office and fire prevention division. These options include, but are not limited to:

1. Traffic circles;
2. Chokers;
3. Chicanes; and
4. Speed humps.

Sec. 12.04.245. Exterior street buffering. A minimum ten (10) foot wide perimeter strip of type II landscaping and associated fencing shall be provided along the subdivision or short subdivision perimeter where it is adjacent to a public or private street that does not provide direct vehicular

access to individual lots. The landscaping strip shall include an automatic irrigation system sufficient to ensure survival of the planted materials. Fencing constructed of wood, iron, masonry, or other suitable materials approved by the planning manager shall be located between the landscaping strip and the subdivision or short subdivision lots and shall be constructed of consistent materials and configuration along the length of the street frontage. The fence and landscape strip shall be located in a separate tract and shall be depicted on the final plat or short plat map. Maintenance of the landscape strip and fence shall be the responsibility of a homeowners' association or other entity approved by the city.

Sec. 12.04.250. Lots. Insofar as practical, side lot lines shall be at right angles to street lines or radial to curved street and cul-de-sac lines. Each lot must access a street, public or private. The size, shape, and orientation of lots shall meet the minimum area and width requirements of the applicable zoning classification and shall be appropriate for the type of development and use contemplated. Corner lots may be required to be platted with additional width to allow for the additional side yard requirements. Lots which are bordered by two (2) more or less parallel streets shall be permitted access to only one (1) of those streets. All lot corners at intersections of dedicated public rights-of-way and private access tracts or easements shall have minimum radii of fifteen (15) feet.

Sec. 12.04.260 Zero lot line subdivisions and short subdivisions.

A. Zero lot line subdivisions and short subdivisions shall be subject to the development standards outlined in KCC 15.08.320 and 15.08.330. These standards include minimum lot size, width, depth, etc.

B. The regulations of KCC 12.04.235 through 12.04.250 shall apply to zero lot line subdivisions unless specifically modified in the conditions of preliminary approval.

Sec. 12.04.263. Clustering in urban separators.

A. All subdivisions and short subdivisions in the SR-1 zoning district shall be required to be clustered pursuant to this section when the property is located wholly or partially within an urban separator as designated on the city of Kent comprehensive land use plan map.

B. Except as described in subsection (C) of this section, cluster subdivisions and short subdivisions shall be subject to the SR-8 zoning district development standards outlined in KCC Title 15. These standards include, but are not limited to, minimum lot size, width, yards, setbacks, parking, landscaping, signage, etc.

C. The provisions of KCC 12.04.235 through 12.04.250, as well as other applicable portions of this chapter, shall apply unless specifically exempted. In addition, the following standards shall apply to clustered subdivisions or short subdivisions:

1. *Location.* The cluster residential development shall be required in the SR-1 zoning district within urban separator areas.

2. *Permitted uses.* The cluster residential development option shall include only single-family residential uses.

3. *Minimum area.* No minimum area is established for a cluster residential development.

4. *Permitted density.* The maximum number of dwelling units permitted in a cluster development shall be no greater than the number of dwelling units allowed for the parcel as a whole for the zoning district in which it is located.

5. *Lot size.* The minimum lot size of individual building lots within a cluster subdivision or short subdivision is two thousand five hundred (2,500) square feet. New lots created by any subdivision or short subdivision action shall be clustered in groups not exceeding eight (8) units. There may be more than one (1) cluster per project. Separation between cluster groups shall be a minimum of one hundred twenty (120) feet.

6. *Lot width.* The minimum lot width for individual building lots in a cluster subdivision or short subdivision shall be thirty (30) feet.

7. *Other development standards.* Development standards other than lot size, lot width, and density shall be the same as are required within the SR-8 zoning district.

8. *Common open space.* The common open space in a cluster subdivision or short subdivision shall be a minimum of fifty (50) percent of the nonconstrained area of the parcel. The nonconstrained area of the parcel includes all areas of the parcel, minus critical areas, as defined in RCW 36.70A.030(5) as currently and hereinafter amended, and buffers. The remainder of the nonconstrained area of the parcel shall be the buildable area of the parcel. The common open space tracts created by clustering shall

be located and configured in the manner that best connects and increases protective buffers for environmentally sensitive areas, connects and protects area wildlife habitat, creates connectivity between the open space provided by the clustering and other adjacent open spaces as well as existing or planned public parks and trails, and maintains scenic vistas. Critical areas and buffers shall not be used in determining lot size and common open space requirements in a cluster subdivision or short subdivision. All natural features (significant stands of trees and rock outcropping), as well as critical areas (such as streams, steep slopes, and wetlands and their buffers) shall be preserved.

Future development of the common open space shall be prohibited. Except as specified on recorded documents creating the common open space, all common open space resulting from lot clustering shall not be altered or disturbed in a manner that degrades adjacent environmentally sensitive areas, rural areas, agricultural areas, or resource lands; impairs scenic vistas and the connectivity between the open space provided by the clustered development and adjacent open spaces; degrades wildlife habitat; and impairs the recreational benefits enjoyed by the residents of the development. Such common open spaces shall be conveyed to residents of the development, conveyed to a homeowners' association for the benefit of the residents of the development, or conveyed to the city with the city's consent and approval.

Sec. 12.04.264. Clustering in residential zones outside urban separators.

A. When located wholly outside an urban separator, cluster subdivisions or short subdivisions are allowed in SR-1, SR-3, SR-4.5, SR-6, and SR-8 zoning districts subject to the regulations below.

B. The purpose of this cluster development option is as follows: to permit greater flexibility in design and discourage development sprawl; to facilitate the economical and efficient provision of public services; to provide a more efficient use of land in harmony with its natural characteristics; to preserve more usable open space, agricultural land, tree cover, recreation areas, and scenic vistas; and to expand the opportunity for the development of affordable housing without increasing the development's overall density. Development standards and review criteria are intended to ensure that lots are consistent with the desired character of the zone, allowing lots to vary in size and shape, while still adhering to the planned density of the zone.

C. Cluster subdivisions or short subdivisions shall be subject to the development standards outlined in KCC Title 15, unless otherwise modified by this chapter. These standards include, but are not limited to, minimum lot size, width, yards, setbacks, parking, landscaping, and signage.

D. The provisions of KCC 12.04.235 through 12.04.250, as well as other applicable portions of this chapter, shall apply unless specifically exempted. In addition, the following standards shall apply to clustered ~~Type I~~ subdivisions or short subdivisions:

1. *Location.* The cluster residential development may be allowed in SR-1, SR-3, SR-4.5, SR-6, and SR-8 zoning districts outside of urban separators.

2. *Permitted uses.* The cluster residential development option shall include only single-family residential uses, as defined in KCC 15.02.115.

3. *Minimum area.* No minimum area is established for a cluster residential development.

4. *Permitted density.* The maximum number of dwelling units permitted in a cluster development shall be no greater than the number of dwelling units allowed for the parcel as a whole for the zoning district in which it is located.

5. *Lot size.* In the interest of encouraging flexibility in site design and the preservation of open space, the minimum lot size of individual building lots within a cluster subdivision or short subdivision in single-family residential zoning districts may be reduced by twenty-five (25) percent of the minimum lot size for the underlying zoning district.

6. *Lot width.* The minimum lot width for individual building lots in a cluster subdivision or short subdivision shall be thirty (30) feet. A shared driveway easement may be included in the minimum lot width of irregular lots, provided the total driveway width is no less than sixteen (16) feet and no longer than one hundred fifty (150) feet unless otherwise required by the fire and public works departments.

7. *Other development standards.* Development standards other than lot size and lot width shall be the same as are required within the zoning district in which the cluster residential development is located. Design review

is required for cluster development projects using the review criteria in KCC 15.09.045(D), Multifamily design review.

8. *Additional approval criteria for cluster development projects:*

a. The proposed cluster development project shall have a beneficial effect upon the community and users of the development that would not normally be achieved by traditional lot-by-lot development, and it shall not be detrimental to existing or potential surrounding land uses as defined by the comprehensive plan.

b. The proposed cluster development project shall be compatible with the existing land use or property that abuts or is across the street from the subject property. Compatibility includes, but is not limited to, apparent size, scale, mass, and architectural design.

c. Unusual and sensitive environmental features of the site shall be preserved, maintained, and incorporated into the design to benefit the development and the community.

d. The proposed cluster development project shall provide open areas by using techniques such as separation of building groups, use of well-designed open space, common or shared space, and landscaping. Open space shall be integrated within the cluster development project rather than be an isolated element of the project.

e. The proposed cluster development project shall promote variety and innovation in site and building design and shall include architectural and site features that promote community interaction and

accessibility, such as porches, de-emphasized garages, shared driveways, sidewalks/ walkways, and adjacent common areas. Buildings shall be related by common materials and roof styles, but contrast shall be provided throughout the site by the use of varied materials, architectural detailing, building scale, and orientation.

f. Building design shall be based on a unified design concept, particularly when construction is in phases.

9. *Common open space.*

a. The common open space in cluster subdivisions or short subdivisions shall be a minimum of twenty-five (25) percent of the entire parcel, whether or not the parcel is constrained by critical areas and their associated buffers.

b. Parking areas, public rights-of-way, maneuvering areas, streets, storage areas, driveways, and yards within individual lots shall not be included in common open space.

c. The common open space tracts created by clustering shall be located and configured in the manner that best connects and increases protective buffers for environmentally sensitive areas, connects and protects area wildlife habitat, creates connectivity between the open space provided by the clustering and other adjacent open spaces, as well as existing or planned public parks and trails, and maintains scenic vistas.

d. All natural features (such as significant stands of trees and rock outcroppings) as well as critical areas (such as streams, steep slopes, and wetlands and their associated buffers) shall be preserved.

e. Future development of the common open space shall be prohibited. Except as specified on recorded documents creating the common open space, all common open space resulting from lot clustering shall not be altered or disturbed in a manner that degrades adjacent environmentally sensitive areas, rural areas, agricultural areas, or resource lands; impairs scenic vistas and the connectivity between the open space provided by the clustered development and adjacent open spaces; degrades wildlife habitat; and impairs the recreational benefits enjoyed by the residents of the development.

f. Ownership of such common open spaces shall be conveyed to all residents of the development, conveyed to a homeowners' association for the benefit of the residents of the development, or conveyed to the city with the city's consent and approval.

Article III. Binding Site Plans

Sec. 12.04.800 Purpose. Consistent with RCW 58.17.035, the purpose of this article is (A) to create an alternative process segregating property zoned industrial or commercial for the purpose of sale or lease without the necessity of completing the procedures for platting; and (B) to allow for the division of multifamily residential zoned land for condominium purposes without the necessity of completing the procedures for platting. A binding site plan process merely creates or alters existing lot lines and does

not authorize construction, improvements, or changes to the property or the uses thereon.

Sec. 12.04.805 Binding site plan ~~committee~~approval.

A. A binding site plan shall be considered by the city's ~~binding site plan committee~~planning director. Planning services shall distribute copies of the application for binding site plan approval to each ~~member of the committee and department~~ and to other appropriate agencies for review and comment, and provide public notice if required by KCC 12.01.140.

~~B. A meeting attended by the applicant or his representative and the binding site plan committee members shall be held within forty (40) days of the determination of completeness of the application or receipt of requested additional information, consistent with the timelines established in Ch. 12.01 KCC. The meeting shall be open to the public. Notice of the public meeting shall be circulated consistent with the requirements of KCC 12.01.145. The meeting may be continued if no decision is reached at the first meeting. The second meeting shall be held no later than seven (7) calendar days after the first meeting or on a date mutually agreed upon by the applicant and the committee.~~

~~C. Three (3) of the five (5) members of the binding site plan committee must be present in order for the committee to take any action.~~

~~B.~~ The ~~binding site plan committee~~ planning director may approve, approve with conditions or modifications, or deny the application. The ~~committee~~ planning director shall not impose any conditions which are inconsistent with prior land use approvals of the development covered by

this application. The decision of the ~~committee~~ director shall be made ~~at the committee meeting.~~ after the close of the public comment period, if required.

~~EC.~~ As a condition of approval of the binding site plan, the ~~binding-site plan committee~~ planning director shall have the right and authority to require the deeding of rights-of-way or easements for street and/or utility purposes, when determined necessary as a result of the binding site plan development. Any deeding shall precede the recordation of the binding site plan unless otherwise specified through a development agreement.

Sec. 12.04.810. Appeal. The decision of the ~~binding-site plan committee~~ planning director shall be final, unless an appeal by any aggrieved party is made to the hearing examiner within fourteen (14) calendar days after the ~~committee's~~ planning director's decision. The appeal shall be in writing to the hearing examiner and filed with planning services. Any appeal shall be consistent with KCC 12.01.190, Open record appeal.

Sec. 12.04.815. Applicability for commercial and industrial sites.

- A. The subject site shall consist of one (1) or more legally created lots; and
- B. The property must be zoned commercial and/or industrial.

Sec. 12.04.820. Application requirements for commercial and industrial sites. All of the ~~following~~ information required by the application

form shall be included in any application for binding site plan approval for commercial and industrial lots:

A. At a minimum, the binding site plan application shall include the following information:

1. A map or plan showing the location and size of all new proposed lots;
2. Proposed and existing structures including floor areas and setbacks;
3. Location of existing and proposed public rights-of-way, private and public streets and easements;
4. Location of all existing and proposed open spaces including any required landscaped areas, parking areas and all major manmade or natural features (i.e., streams, creeks, drainage courses, railroad tracks, utility lines, etc.);
5. Layout of an internal vehicular and pedestrian circulation system, including proposed or existing ingress and egress points;
6. Location of existing and proposed fire hydrants to serve the site;
7. Description, location, and size of existing and proposed utilities, storm drainage facilities, and streets to serve each lot;

8. Expected location of new buildings and driveways;
9. Certificate of water and/or sewer availability, if not served by the city of Kent;
10. Parking calculations to demonstrate that the requirements of Ch. 15.05 KCC have been met;
11. The following code data: zoning district; total lot area; total building area; percent of site coverage; total parking and vehicle maneuvering areas;
12. Plans, analysis and calculations verifying building code compliance of all existing structures, to include, but not limited to, identification of all types of construction and occupancy classifications, allowable area calculations, wall and wall opening protection, and provisions for exiting and accessibility for the disabled;
13. Proposed cross-access and maintenance agreements for parking, circulation, utility, and landscaping improvements, if shared;
14. The site plan shall also include the name of proposed development; the legal description of the property for which the binding site plan is sought, the date on which the plans were prepared; the graphic scale and north point of the plans; and
15. The title "Binding Site Plan" shall be at the top of the plan in large print.

- B. A current title report produced no more than forty-five (45) calendar days prior to submittal covering all property shown within the boundaries of the binding site plan shall be submitted with the application.
- C. A plan showing the layout and size of all existing and proposed utilities to serve each lot.
- D. A phasing plan and time schedule, if the site is intended to be developed in phases.
- E. A complete environmental checklist, if required by Ch. 11.03 KCC.
- F. Copies of all easements, covenants, and other encumbrances restricting the use of the site.

Sec. 12.04.825 Approval criteria for commercial and industrial sites.

A. *Criteria.* An application for a binding site plan on commercial or industrial lands may be approved if the following criteria are satisfied:

1. Adequate provisions have been made for domestic water supply, sanitary sewer, stormwater facilities and conveyance systems, private and/or public streets, pedestrian access, vehicle access and maneuvering, public and private utilities, and other public needs;

2. Each lot shall provide access to a public street and make provisions for connectivity of alleys, pedestrian access ways, and other public ways;

3. The binding site plan complies with, or makes adequate provisions to comply with, applicable provisions of the building code, fire code, public works design and construction standards, and zoning standards;

4. Potential environmental impacts, together with any practical means of mitigating adverse impacts, have been considered such that the proposal will not have an adverse effect upon the environment;

5. Approving the binding site plan will serve the public use and interest and adequate provisions have been made for the public health, safety, and general welfare.

B. *Shared improvements.* As a condition of approval, the city may authorize or require the sharing of open space, parking, access, setbacks, landscaping, and other improvements among contiguous properties. Conditions of use, maintenance, and restrictions on redevelopment of shared open space, parking, access, and other improvements shall be identified on the binding site plan and enforced by covenants, easements, or other similar mechanisms. Such agreements or restrictions shall be recorded with King County and run with the land. Such agreements shall be approved as to form by the city attorney prior to filing the final binding site plan. The binding site plan shall contain any applicable irrevocable dedications of property. The binding site plan shall contain a provision requiring that any development of the site shall be in conformity with the approved site plan and any applicable development regulations subject to the vesting requirements of this chapter.

C. *Phasing of development.* Unless otherwise provided for in a development agreement, development permit applications shall be submitted for all structures and improvements shown on the binding site plan within three (3) years of approval. The planning ~~manager~~director may administratively extend this period by one (1) additional year if requested by the applicant. Permit applications submitted within that period shall be subject to the vesting requirements of this chapter. If the applicant chooses to develop the property in a phased development, the applicant must execute a development agreement with the city pursuant to KCC 15.08.450.

Sec. 12.04.830. Final binding site plan for commercial and industrial sites. Filing of the final binding site plan for commercial and industrial sites shall conform to the requirements set forth in KCC 12.04.210, Filing the final plat.

Sec. 12.04.835. Improvements for commercial and industrial sites. Prior to the issuance of a building permit for construction within a binding site plan for commercial and industrial sites, all improvements required to adequately serve that portion of the plan for which the permit will be issued shall be installed. Improvements may include, but are not limited to, street construction; water, sewer, and storm utilities; parking; building improvements to meet code; and landscaping. Public improvements may be bonded for, in accord with the process in KCC 12.04.205(D), with approval of the public works director.

Sec. 12.04.840. Modifications for commercial and industrial sites.

A. If an applicant wishes to alter a binding site plan for commercial and industrial sites or any portion thereof, that person shall submit an application to planning services requesting the alteration. The application shall contain the signatures of all persons having an ownership interest in lots, tracts, parcels, sites, or divisions within the binding site plan or in that portion of the binding site plan to be altered. The planning ~~manager~~director shall have the authority to determine whether a proposed alteration is minor or major.

B. If the binding site plan is subject to restrictive covenants which were filed at the time of the approval of the binding site plan, 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 binding site plan or portion thereof.

C. If the alteration is requested to a binding site plan prior to recording of the binding site plan with King County, a minor alteration may be approved with consent of the planning ~~manager~~director and the public works director. A major alteration shall require consent of the ~~binding site plan committee~~planning director, after public notice ~~and a public meeting is held~~provided. The planning services office shall provide notice of the application for a major alteration to all owners of property within the binding site plan, parties of record, and as was required by the original application.

D. If the alteration is requested to a binding site plan after recording of the binding site plan with King County and it is determined to be a minor alteration, it may be approved with the consent of the ~~binding site plan committee~~planning director, after public notice ~~and a public meeting is held~~provided. The planning services office shall provide notice of the application for a minor alteration to all owners of property within the binding site plan, all parties of record, and as was required for the original application. If the alternation is requested to a binding site plan after recording of the binding site plan with King County and it is determined to be a major alteration, then the planning ~~manager~~director shall require the binding site plan be vacated per KCC 12.04.230 and 12.04.845 and a new application for a binding site plan shall be submitted.

E. The ~~binding site plan committee~~ planning director shall determine the public use and interest in the proposed alteration and may approve, approve with conditions or modifications, or deny 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.

F. After approval of the alteration, the ~~binding site plan committee~~ planning director shall order the applicant to produce a revised drawing of the approved alteration of the binding site plan, which after signature of the ~~chair of the binding site plan committee~~planning director, shall be filed with King County to become the lawful binding site plan of the property.

Sec. 12.04.845. Vacation for commercial and industrial sites.

A binding site plan may be vacated as a whole only. Vacating a binding site

plan releases all conditions and obligations on the parcel associated with such plan. A binding site plan may be vacated by submitting a letter to the planning ~~manager~~director indicating an intention to vacate the binding site plan. The letter shall include signatures of all ownership interests within the binding site plan and shall become binding upon its acceptance by the planning ~~manager~~director.

Sec. 12.04.850. Vesting for commercial and industrial sites. A binding site plan application shall be considered under the zoning and other land use codes in effect on the land at the time of submission of the fully complete binding site plan application. Any vacant or redeveloped lot within an approved binding site plan shall comply with the standards in place at such time as a subsequent project permit application is filed on that property unless otherwise provided for in a development agreement.

Sec. 12.04.855. Applicability for condominium sites. Multifamily residential condominium developments are eligible for binding site plan approval, when the purpose of such approval is to divide the property so a portion of the parcel or tract can be subjected to either Chapter 64.32 or 64.34 RCW. A binding site plan can only be approved either when the development has already been constructed or when the approval has been obtained and a building permit for an entire development or a portion of a development is issued.

Sec. 12.04.860. Application requirements for condominium sites.

A. An application for a binding site plan for condominium sites may not be submitted until a building permit has been approved.

B. The binding site plan application shall conform to the following requirements and shall:

1. Be on reproducible material and shall be drawn to a scale of not less than one (1) inch equals one hundred (100) feet (unless otherwise approved by the planning services office) on sheets eighteen (18) inches by twenty-four (24) inches.

2. Contain the name of the proposed development; the legal description of the property for which binding site plan approval is sought; the date on which the plans were prepared; the graphic scale and north point of the plans.

3. Show the following:

a. The layout of the site including the location of all existing and proposed structures and their distance from property lines; the location of all existing and proposed utilities, streets, and easements within or abutting subject property; the location of all existing and proposed pedestrian walkways; and existing and proposed open space area.

b. Any areas proposed to be dedicated or reserved for public purposes, and areas to be reserved for private open space and landscaping and areas reserved for the common use of the occupants of the proposed development.

c. All major manmade or natural features, i.e., streams, creeks, storm water facilities, railroad tracks, etc.

d. Building dimensions, height and number of stories, distance between buildings, location and size of parking areas and number of stalls.

e. Following zoning code data:

i. Zoning district;

ii. Total lot area (square feet);

iii. Total building area (square feet);

iv. Percent of site coverage;

v. Number of units proposed;

vi. Total number of parking stalls (include handicapped);

vii. Total parking and maneuvering area (square feet);

- viii. Required landscaping (square feet);
- ix. Percent of lot in open space;
- x. Type of construction;
- xi. Sprinklered-nonsprinklered;
- xii. Occupancy classification.

4. Contain the name of the proposed development and the title "Binding Site Plan" shall be at the top of the plan, in large print, together with the statement required pursuant to RCW 58.17.040(7)(e), prominently displayed on the face of the site plan map.

5. Contain the statement:

The use and development of the property must be in accordance with the plan as represented herein or as hereafter amended, according to the provisions of the binding site plan regulations of the city and any division of the land subject to this plan shall not take place until the development or the portion thereof to be divided is subject to Chapter 64.32 or 64.34 RCW.

I

6. Contain the statement:

Any building permit required to develop any portion of the property shall not be issued until the streets and utilities necessary to serve that portion of this property have been constructed and installed or until arrangements

acceptable to the city have been made to ensure that the construction and installation of such streets and utilities will be accomplished.

C. The application shall be accompanied by a current title report produced no more than forty-five (45) calendar days prior to submittal.

Sec. 12.04.865. Approval criteria for condominium sites.

Approval of a binding site plan shall take place only after the following are met:

A. Adequate provisions have been made for open space, domestic water supply, sanitary sewer, storm water facilities and conveyance systems, private and/or public streets, pedestrian access, vehicle access and maneuvering, public and private utilities, and other public needs according to the design and construction standards of the public works department;

B. Comply with all building code requirements;

C. Comply with all zoning code requirements and development standards; and

D. Have suitable physical characteristics.

A proposed binding site plan may be denied because of flood, inundation, or critical areas, or construction of protective improvements may be required as a condition of approval.

Sec. 12.04.870. Enforcement. Any violation of the conditions of approval, limitations on development, or the requirements of development

imposed as part of a binding site plan approval shall be subject to the enforcement proceedings and penalties established for violation of Chapter 58.17 RCW and Ch. 12.04 KCC.

Sec. 12.04.875 Final binding site plan for condominium sites.

The final binding site plan map which is submitted for filing shall conform to all requirements of the preliminary binding site plan, plus the following:

- A. It must be a reproducible map ~~plotted on mylar or photographic mylar~~ drawn to a scale of not less than one (1) inch equals one hundred (100) feet. Graphic scale and north point must be on the map;
- B. Size eighteen (18) inches by twenty-four (24) inches;
- C. Legal description of the total parcel shall be shown on the final binding site plan;
- D. Property subject of the binding site plan shall be surveyed by a land surveyor licensed in the state of Washington. All exterior corners and streets shall be monumented. Surveyor's certificate must appear on the final binding site plan;
- E. Certificate of approval by the ~~chairman of the binding site plan committee~~ planning director shall be provided on the final binding site plan; and
- F. The face of the final binding site plan must be signed by all owners of the property.

Sec. 12.04.877. Filing the binding site plan for condominiums.

The binding site plan must be signed by the planning director ~~chairman of the binding site plan committee~~. An approved binding site plan shall be filed for record with King County and shall not be deemed approved until so filed. Copies of the approved binding site plans shall be filed with planning services, city clerk's office, and department of public works.

Sec. 12.04.880 Expiration period for condominium sites.

If the binding site plan is not filed within six (6) months of the date of approval, the binding site plan shall become null and void. Upon written request of the applicant, the planning services office may grant one (1) extension of not more than six (6) months. Such request must be received by planning services prior to the six (6) month expiration date.

Sec. 12.04.885 Modifications for condominium sites.

A. An approved binding site plan may be amended by filing a request for such an amendment with planning services. Planning services shall determine what information shall be submitted with a request for an amendment, based on the type of modification being requested. Any amendment to an approved binding site plan must be reviewed by the binding site plan committee ~~planning director~~, unless the ~~committee~~ director sets forth other guidelines for approval of minor modifications.

B. If approved by the binding site plan committee ~~planning director~~, the amendment shall be set forth in writing and filed in accordance with the Kent City Code, and recorded with King County.

Article IV. Lot Line Adjustments

Sec. 12.04.900. Purpose of lot line adjustments. The purpose of a lot line adjustment is to allow for the adjustment of common property lines or boundaries between adjacent lots, tracts, or parcels in order to rectify a disputed property line location, free the boundary from any differences or discrepancies or accommodate a minor transfer of land. The resulting adjustment shall not create any additional lots, tracts, or parcels and all reconfigured lots, tracts, or parcels shall contain sufficient area and dimension to meet minimum requirements for zoning and building code requirements.

Sec. 12.04.905 Scope. A lot line adjustment shall allow property owners to alter, eliminate, or relocate lot lines to correct encroachments, improve access, correlate property lines with survey or map lines, or to create better lot design while conforming to all applicable code requirements pertaining to lot design, building location, and development standards. A lot line adjustment shall not allow the creation of additional lots, parcels, or tracts. All lines being adjusted must be between lots that have been legally created under the regulations of the subdivision ordinances in effect at the time of the lots' creation.

Sec. 12.04.910. Preliminary consultation with staff. Any person who desires to change the location of a lot line on land in the city should consult with planning services at an early date on an informal basis in order to become familiar with the requirements of this chapter. The public works department, fire department, and building services division shall also be consulted at this time for advice and assistance in understanding the impact

of relocating the lot line in relation to structures and easements and any applicable engineering requirements of this chapter.

Sec. 12.04.915 Application procedures. Lot line adjustment applications shall be submitted on the forms supplied and in the number of copies prescribed by planning services, and shall include the following:

- A. A legible map, drawn to an appropriate decimal scale on a minimum size eighteen (18) inches by twenty-four (24) inch ~~eight and one-half (8-1/2) inch by eleven (11) inch~~ sheet of paper showing all of the information required by the application form;
- B. The signature of all parties having any ownership interest in the lands affected by the lot line adjustment, indicating that the lot line adjustment is made with free consent and in accordance with their desires. 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;
- C. A current title report produced no more than forty-five (45) calendar days prior to lot line adjustment application;
- D. A copy of the existing legal description for all parcels; and
- E. Legal descriptions of the proposed new lots.

Sec. 12.04.920. Principles of acceptability. Lot line adjustments shall be consistent with the following principles of acceptability:

A. Adjust lot lines to eliminate a common lot line between parcels in the same ownership, to relocate a lot line to rectify a property line dispute, correct property line or setback encroachments, or correlate with more accurate survey data; and to allow a minor transfer of land between adjacent parcels;

B. Create better lot design, or improve access;

C. Conform to applicable zoning, subdivision, and other code requirements pertaining to lot design, building location, and development standards;

D. Shall not create an additional lot, parcel, or tract;

E. Lots created or combined for tax purposes do not constitute a legal lot of record;

F. If a lot line adjustment is used to facilitate the development of the remaining property by segregating an existing house, that parcel shall be subject to the same design and construction standards as the development.

Sec. 12.04.930. Vesting. A proposed relocation of a lot boundary line shall be considered under the requirements of this chapter and the zoning and other land use regulations in effect on the land at the time that

an application for a lot line adjustment, as defined in this chapter, has been determined to be complete and has been accepted by the city of Kent.

Sec. 12.04.935 Referral of application.

A. Within seven (7) calendar days of accepting a complete application, planning services shall distribute copies of the lot line adjustment map and the application materials for review and comment to city departments with jurisdiction over the lot line adjustment application. The distribution notice shall state the dates of the comment period and deadline for submission of comments to planning services.

B. A copy of the lot line adjustment map and the application materials shall be provided to affected agencies as deemed necessary or if requested by the agency.

C. City departments and affected agencies shall submit comments on the proposed lot line adjustment to planning services within ten (10) calendar days of distribution. The department or agency is presumed to have no comments if comments are not received within the specified time period.

Sec. 12.04.940. Approval criteria.

A. A proposed lot line adjustment shall not be approved unless the city finds that:

1. Appropriate provisions have been made for:

- a. Setbacks from existing buildings to proposed new property lines;
 - b. Existing and proposed utilities and utility easements;
 - c. Existing and proposed access to the parcels, adjacent streets, and access easements;
 - d. Lot dimension and area conforming to city code requirements;
 - e. Location of onsite parking, landscaping, and other significant site features affected by the proposed new property lines;
 - f. The public health, safety, and general welfare of the community; and
 - g. Protection of critical areas and habitat as required by Ch. 11.06 KCC;
2. The city has considered all other relevant facts;
 3. The public use and interest will be served by the adjustment of such property lines;
 4. The lot line adjustment is consistent with the principles of acceptability per KCC 12.04.920; and

5. New legal descriptions are consistent with the minimum standard requirements specified in WAC 332-130-040.

Sec. 12.04.945. Decision on lot line adjustments.

A. Planning services will review and approve the proposed lot line adjustment after receiving a complete application and providing an opportunity for comment from other city departments and affected agencies. The planning ~~director~~manager may approve, approve with modifications, or deny the application for a lot line adjustment. If approved, all copies of the lot line adjustment map shall be ~~stamped "approved" and signed~~ and dated by the planning ~~director~~manager. The applicant shall be notified in writing of the decision. Additional copies of the approval notification and map shall be distributed to King County and to the public works department.

B. If modifications are deemed necessary by the planning ~~director~~manager, they may be added to the original lot line adjustment map or a revised map may be required. The applicant will be notified of the requirements for any such modification action. If a modification of the original lot line adjustment map, legal description, or other information is necessary, the projected approval date may be extended.

C. If denied, the lot line adjustment shall be marked "denied" and the applicant shall be notified in writing of the decision, stating the reasons.

Sec. 12.04.950 Appeal of decision on lot line adjustments. The decision of the planning ~~manager~~director shall be final, unless an appeal is made by the aggrieved party of record to the hearing examiner within fourteen (14) calendar days after the written decision. The appeal shall be

in writing and shall be processed pursuant to Ch. 2.32 and 12.01 KCC. The decision of the hearing examiner shall represent final action of the city and is appealable only to superior court.

Sec. 12.04.955 Appeal to superior court. The decision of the hearing examiner is final, unless appealed to the superior court. Such an appeal must be filed with the superior court within twenty-one (21) calendar days from the date the decision was issued.

Sec. 12.04.960 Recording lot line adjustments. A lot line adjustment does not become effective until it and the appropriate deeds are recorded with King County. The city shall submit the approved map and new legal descriptions to King County for recording. The city shall return a copy of the recorded documents to the applicant. The recording of a lot line adjustment does not constitute a transfer of title. If the title to an area of land is changing ownership, separate deeds to this effect must be recorded with King County.

SECTION 3. - New Section. A new Section 15.02.257.4 of the Kent City Code, entitled "Minor conditional use," is hereby enacted as follows:

Sec. 15.02.257.4. Minor Conditional Use. *Minor Conditional Use* means a use permitted in a zoning district only after review and approval by the planning director. Minor conditional uses are such that they may be compatible only on certain conditions in specific locations in a zoning district, or if the site is regulated in a certain manner.

SECTION 4. - Amendment. Section 15.04.010 of the Kent City Code entitled "Interpretation of land use tables" is amended as follows:

Sec. 15.04.010. Interpretation of land use tables

A. *Land use tables.* The land use tables in KCC 15.04.020 through 15.04.140 determine whether a specific use is allowed in a zoning district. The zoning districts are located in the vertical columns and the land uses are located on the horizontal rows of these tables. A purpose statement for each zoning district is included in Chapter 15.03 KCC.

B. *Principally permitted uses.* If the letter "P" appears in the box at the intersection of the column and the row, the use is permitted in that zoning district subject to the review procedures specified in Chapter 15.09 KCC, the development conditions following the land use table, and any requirements of an overlay zone and the general requirements of the code.

C. *Special uses.* If the letter "S" appears in the box at the intersection of the column and the row, the use is permitted in that zoning district subject to the review procedures specified in Chapter 15.09 KCC, the development conditions following the land use table, the development standards stated in KCC 15.08.020, any requirements of an overlay zone and the general requirements of the code.

D. *Conditional uses.* If the letter "C" appears in the box at the intersection of the column and the row, the use is permitted in that zoning district subject to the review procedures specified in Chapter 15.09 KCC, the development conditions following the land use table, the review criteria stated in KCC 15.09.030, any requirements of an overlay zone and the general requirements of the code.

E. *Minor conditional uses.* If the letter "M" appears in the box at the intersection of the column and the row, the use is permitted in that zoning district subject to the review procedures specified in Chapter 15.09 KCC, the development conditions following the land use table, the review criteria stated in KCC 15.09.032, any requirements of an overlay zone and the general requirements of the code.

F. *Accessory uses.* If the letter "A" appears in the box at the intersection of the column and the row, the use is permitted in that zoning district subject to the review procedures specified in Chapter 15.09 KCC, the development conditions following the land use table and any requirements of an overlay zone and the general requirements of the code.

G.F. *Development conditions.* If a number appears next to the land use or in the box at the intersection of the column and the row, the use may be allowed subject to the appropriate review process indicated above, the general requirements of the code, and the specific conditions indicated in the development condition with the corresponding number in the section immediately following each land use table.

G.H. *Multiple development conditions.* If more than one letter-number combination appears in the box at the intersection of the column and the row, the use is allowed in that zone subject to different sets of limitations or conditions depending on the review process indicated by the letter, the general requirements of the code, and the specific conditions indicated in the development condition with the corresponding number immediately following the table.

H.I. *Overlay zones.* Overlay districts provide policies and regulations in addition to those in the underlying zoning district. Overlay zones include the mixed use overlay and the Green River Corridor district.

¶J. *Applicable requirements.* All applicable requirements shall govern a use whether or not they are cross-referenced in a section.

¶K. *Interpretation of other uses.* Any other unnamed use shall be permitted if it is determined by the planning manager to be of the same general character as the principally permitted uses and in accordance with the stated purpose of the district, per KCC 15.09.065.

SECTION 5. - Amendment. Section 15.04.020 of the Kent City Code entitled "Residential Land Uses" is amended as follows:

Sec. 15.04.020. Residential land uses.

Key P = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Conditional Uses	Zoning Districts																										
	A-10	AG	SR-1	SR-3	SR-4.5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3	
One single-family dwelling per lot	P		P	P	P	P	P	P	P	P	P	P	P									P		A (1)	A (1)	A (1)	
One duplex per lot					P (27)	P (27)	P (27)	P																			
One modular home per lot	P		P	P	P	P	P	P	P	P	P	P	P														
Duplexes					P (27)	P (27)	P (27)	P (22)	P	P	P	P	P														
Multifamily townhouse units					P (27)	P (27)	P (27)		P (19) (20)	P (19) (20)	P	P	P			P (2)	P (4) (5)	P	P	P	P			P (2)			
Multifamily dwellings									P (26)	P (26)	P	P	P			P (2)	P (4) (5)	P	P	P	P			P (2)			
Mobile homes and manufactured homes														P													
Mobile home parks								P (13)	P (13)	P (13)	P (13)	P (13)	P (13)	P													
Group homes class I	P (32)		P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)	P (32)			
Group homes class II-A								C (32)	C (32)	C (32)	C (32)	C (32)	C (32)			C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)		
Group homes class II-B								C (32)	C (32)	C (32)	C (32)	C (32)	C (32)			C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)		
Group homes class II-C								C (32)	C (32)	C (32)	C (32)	C (32)	C (32)			C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)	C (32)		
Group homes class III																C (23) (32)	C (23) (32)	C (23) (32)	C (23) (32)	C (23) (32)	C (23) (32)	C (23) (32)	C (23) (32)	C (23) (32)	C (23) (32)		
Secure community transition facilities ^{23, 24}																									C (23) (24)	C (23) (24)	
Communal residences	P (33)		P (33)	P (33)	P (33)	P (33)	P (33)	P (33)	P (33)	P (33)	P (33)	P (33)	P (33)										P (33)				

		Zoning Districts																										
Key P = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Uses Conditional Uses	A-10	AG	SR-1	SR-3	SR-4.5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3		
	Rebuild/accessory uses for existing dwellings	P (6)									P (29)	P (29)	P (29)		P (6)	P (6)	P (6)	P (6)	P (6)	P (6)	P (6)	P (6)	P (6)	P (6)	P (6)	P (6)	P (6)	
Transitional housing																												
Short-term rentals				A (34)	A (34)	A (34)	A (34)	A (34)	A (34)	A (34)	A (34)	A (34)	A (34)															
Farm worker accommodations	A (17)	A (9)	A (17)																									
Accessory uses and structures customarily appurtenant to a permitted use	A	A	A (8) (18)	A (8) (18)	A (8) (18)	A (8) (18)	A (8) (18)	A (8) (18)	A (8) (18)	A (8) (18)	A (8) (18)	A (8) (18)	A (8) (18)		A	A	A	A	A	A	A	A	A	A	A	A	A	
Accessory dwelling units and guest cottages	A (8) (10)		A (8) (10)																									
Accessory living quarters																												
Live-work units																												
Home occupations	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)	A (11)
Service buildings																												
Storage of recreational vehicles	A (16)		A (16)	A (16)	A (16)	A (16)	A (16)	A (16)	A (16)	A (16)	A (16)	A (16)	A (16)															
Drive-in-theatres	-	E	E	E	E	E	E	E	E	E	E	E	E															
Emergency housing, emergency shelter																												
Independent senior living facilities																												
Assisted living facilities																												

150 Amend KCC 12.01, 12.04, 15.02, 15.04, and 15.08.035, and 15.09
 Re: Process and Procedures

SECTION 6. - Amendment. Section 15.04.030 of the Kent City Code entitled "Residential land use development conditions" is amended as follows:

Sec. 15.04.030. Residential land use development conditions.

1. Dwelling units, limited to not more than one per establishment, for security or maintenance personnel and their families, when located on the premises where they are employed in such capacity. No other residential use shall be permitted.

2. Multifamily residential uses, or other residential facilities where allowed, are only permissible in a mixed-use overlay and must be included within a mixed-use development.

3. Assisted living facilities, residential facilities with health care, and independent senior living facilities, when not combined with commercial or office uses, require a minor conditional use permit and are subject to the following conditions:

a. Must be located within one-half mile of publicly accessible amenities in at least three of the following categories, as determined by the economic and community development director. The distance shall be measured as the shortest straight-line distance from the property line of the proposed facility to the property line of the entities listed below:

i. Public park or trail, as identified in the city's most recently adopted park and open space plan, or owned or maintained by any agency of the state, or any political subdivision thereof;

ii. Preschool, elementary, or secondary school (public or private);

iii. Indoor recreational center (community center, senior center, physical recreation facility, bingo or casino hall);

iii. Church, religious institution, or other place of worship;

v. Cultural arts center (theater, concert hall, artistic, cultural, or other similar event center);

vi. Retail services, including, but not limited to: medical services; food and beverage establishments; shopping centers; or other commercial services that are relevant (reasonably useful or germane) to the residents of the proposed facility, as determined by the city's economic and community development director.

b. Alternatively, if the facility provides amenities in one or more of the categories listed in subsection (3)(a) of this section on the ground floor of the facility itself, oriented towards the public (meaning that they are visible, accessible, and welcoming), the number of other amenities to which a half-mile proximity is required may be reduced, at the discretion of the city's economic and community development director.

4. Multifamily residential uses, or other residential facilities where allowed, when established in buildings with commercial or office uses, and ~~not located~~prohibited on the ground floor.

5. Multifamily residential uses, or other residential facilities where allowed, when not combined with commercial or office uses.
6. Existing dwellings may be rebuilt, repaired, and otherwise changed for human occupancy. Accessory buildings for existing dwellings may be constructed subject to the provisions of KCC 15.08.160.
7. Transitional housing facilities, limited to a maximum of 20 residents at any one time, plus up to four resident staff.
8. Accessory structures composed of at least two walls and a roof, not including accessory uses or structures customarily appurtenant to agricultural uses, are subject to the provisions of KCC 15.08.160.
9. Farm dwellings appurtenant to a principal agricultural use for the housing of farm owners, operators, or employees, but not accommodations for transient labor.
10. Accessory dwelling units shall not be included in calculating the maximum density. Accessory dwelling units are allowed only on the same lot with a principally permitted detached single-family dwelling unit, and are subject to the provisions of KCC 15.08.160 and 15.08.350.
11. Customary incidental home occupations subject to the provisions of KCC 15.08.040.
12. [Reserved].

13. Subject to the combining district requirements of the mobile home park code, Chapter 12.05 KCC.
14. Accessory living quarters are allowed per the provisions of KCC 15.08.359.
15. [Reserved].
16. Recreational vehicle storage is permitted as an accessory use in accordance with KCC 15.08.080.
17. Accommodations for farm operators and employees, but not accommodations for transient labor.
18. Other accessory uses and buildings customarily appurtenant to a permitted use, except for onsite hazardous waste treatment and storage facilities, which are not permitted in residential zones.
19. The following zoning is required to be in existence on the entire property to be rezoned at the time of application for a rezone to an MR-T zone: SR-8, MR-D, MR-G, MR-M, MR-H, NCC, CC, GC, DC, or DCE.
20. All multifamily townhouse developments in an MR-T zone shall be recorded as townhouses with ownership interest, as defined in KCC 15.02.525.1, prior to approval of a certificate of occupancy by the city.
21. [Reserved].
22. One duplex per lot is permitted.

23. Secure community transition facilities are only permitted within the boundaries depicted on the following map, and only with a conditional use permit:



24. A secure community transition facility shall also comply with applicable state siting and permitting requirements pursuant to Chapter 71.09 RCW. Secure community transition facilities are not subject to the siting criteria of KCC 15.08.280 for class III group homes, but they are subject to a 600-foot separation from any other class II or III group home. In no case shall a secure community transition facility be sited adjacent to, immediately across the street or parking lot from, or within the line of sight of risk-potential activities or facilities in existence at the time a site is listed for consideration. Within the line of sight means that it is possible to reasonably visually distinguish and recognize individuals. For the purposes of granting a conditional use permit for siting a secure community transition facility, the hearing examiner shall consider an unobstructed visual distance

of 600 feet to be within the line of sight. During the conditional use permit process for a secure community transition facility, the line of sight may be considered to be less than 600 feet if the applicant can demonstrate that visual barriers exist or can be created that would reduce the line of sight to less than 600 feet. This distance shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property or parcel upon which the proposed use is to be located, to the nearest point of the parcel or property or the land use district boundary line from which the proposed use is to be separated. For the purpose of granting a conditional use permit for a secure community transition facility, the hearing examiner shall give great weight to equitable distribution so that the city shall not be subject to a disproportionate share of similar facilities of a statewide, regional, or countywide nature.

25. A designated manufactured home is a permitted use with the following conditions:

- a. A designated manufactured home must be a new manufactured home;
- b. The designated manufactured home shall be set upon a permanent foundation, as specified by the manufacturer, and the space from the bottom of the home to the ground shall be enclosed by concrete or an approved concrete product that can be either load-bearing or decorative;
- c. The designated manufactured home shall comply with all city design standards applicable to all other single-family homes;

d. The designated manufactured home shall be thermally equivalent to the State Energy Code; and

e. The designated manufactured home shall meet all other requirements for a designated manufactured home as defined in RCW 35.63.160.

26. Multifamily dwellings shall be allowed only within the Kent downtown districts outlined in the downtown subarea action plan and shall be condominiums recorded pursuant to Chapter 64.32 or 64.34 RCW or similar dwelling units with ownership interest and recorded as such prior to approval of a certificate of occupancy by the city.

27. Within subdivisions, as defined by KCC 12.04.025, vested after March 22, 2007, or altered to comply with zoning and subdivision code amendments effective after March 22, 2007, 25 percent of the total number of permitted dwelling units may be duplex or triplex townhouse structures.

28. Live-work units; provided, that the following development standards shall apply for live-work units, in addition to those set forth in KCC 15.04.190:

a. The unit shall contain a cooking space and sanitary facility in conformance with applicable building standards;

b. Adequate and clearly defined working space must constitute no less than 50 percent of the gross floor area of the live-work unit. Said working space shall be reserved for and regularly used by one or more persons residing there;

c. At least one resident in each live-work unit shall maintain at all times a valid city business license for a business on the premises;

d. Persons who do not reside in the live-work unit may be employed in the live-work unit when the required parking is provided;

e. Customer and client visits are allowed when the required parking is provided;

f. No portion of a live-work unit may be separately rented or sold as a commercial space for a person or persons not living on the premises, or as a residential space for a person or persons not working on the premises;

g. [Reserved];

h. Construct all nonresidential space, to the maximum allowed, to commercial building standards; and

i. Provide an internal connection between the residential and nonresidential space within each unit.

29. Subject to the maximum permitted density of the zoning district. For assisted living facilities, residential facilities with health care, and independent senior living facilities, each residential care unit is considered one dwelling unit for purposes of density calculations.

30. Conditional use when the number of residents exceeds 20 at any one time or more than four resident staff.

31. Emergency housing and emergency shelter facilities are allowed only in conjunction with an approved conditional use permit, and must satisfy the requirements of RCW 35A.21.360(10) prior to opening.

a. *General conditions.* Emergency housing and emergency shelter facilities are subject to the following general conditions:

i. The emergency housing or shelter facility must be located on the same lot as an actively operating church or similar religious institution.

ii. At the time of application for the conditional use permit, there shall be no other approved emergency housing or shelter facility located within 1,000 feet of the proposed emergency housing or shelter facility site. For the purposes of this subsection, distance shall be measured in a straight line between the closest property line of the existing facility and the closest property line of the proposed facility. For purposes of this section, if the city receives applications for proposed facilities that are within 1,000 feet of each other, the first complete application received by the city shall be given priority.

iii. An emergency housing facility and an emergency shelter facility may not be permitted on the same lot simultaneously.

iv. Emergency housing and shelter facilities shall be permitted to operate for a maximum of 90 consecutive days, and there shall

be a minimum period of 90 consecutive days between operational periods during which the emergency housing or shelter facility does not operate. The 90-day period of nonoperation shall apply to the operation of an emergency housing facility followed by an emergency shelter facility and vice versa.

v. The building footprint of the emergency housing or shelter facility cannot exceed the building footprint of the church or similar religious institution that exists on the same lot.

vi. The church or similar religious institution on the same lot as the emergency housing or shelter facility shall be primarily responsible for the operation and maintenance of the facility itself, as well as the conduct of the residents of the facility on and in the immediate vicinity of the lot, to the maximum extent permitted by law, regardless of whether the organization contracts with a third party for the provision of any services related to the facility itself or its residents.

vii. The emergency housing or shelter facility shall comply with the setbacks and landscaping requirements for churches, as identified in KCC 15.08.020(A).

viii. The possession or use of illegal drugs at an emergency housing or shelter facility or the property occupied by the facility is prohibited.

ix. Emergency housing or shelter facilities shall be responsible for the safety of residents of the facility, and shall establish a

plan to remove individuals who present a threat to other residents or the property of other residents.

x. In the event of a public health emergency, the city may require an emergency response plan that is in substantial compliance with relevant guidance and requirements issued by Public Health – Seattle and King County in response to the public health emergency.

xi. Emergency housing and shelter facilities must comply with all applicable fire and building codes set forth in Chapters 13.01 and 14.01 KCC.

xii. The church or religious institution must provide the city written documentation of the following:

(a) A description of the proposed staffing and operational characteristics, including confirmation of sanitation and basic safety measures required for emergency shelters.

(b) A description of the proposed population to be served and code of conduct to be observed including conflict resolution steps.

(c) Criteria for rejection or removal of an individual seeking access to the facility.

(d) A plan for managing the exterior appearance of the proposed site including trash/litter.

(e) A phone number, email, and point of contact at the site of the facility for the community to report concerns.

(f) A plan for addressing reported concerns and documenting resolution, and making this information publicly available.

(g) A proposed site plan showing compliance with all requirements set forth in this subsection (31) of this section and applicable fire and building codes set forth in Chapters 13.01 and 14.01 KCC.

xiii. Emergency housing and shelter facilities must have two naloxone (Narcan) kits onsite, and staff must be trained in how to administer the naloxone (Narcan).

xiv. The possession of any of the weapons described in RCW 9.41.280(1) at an emergency housing or shelter facility or the property occupied by the facility is prohibited.

b. *Emergency housing facilities* – Additional conditions. Emergency housing facilities must operate pursuant to an agreement with the city, approved by the director of economic and community development, and are subject to the following additional conditions:

i. The emergency housing facility must be located within a permanent, enclosed building.

ii. The emergency housing facility must be located on a lot that is a minimum of one acre in size.

c. *Emergency shelter facilities – Additional conditions.* Emergency shelter facilities must be located within a temporary structure as described below, and are subject to the following additional conditions:

i. Emergency shelter facilities are limited to a maximum sleeping occupancy of 35 people. The design of the temporary structure shall include an occupant load factor of a minimum of 50 square feet per occupant and a three-foot aisle around the entire inside perimeter of the tent.

ii. The emergency shelter facility must be located on a lot that is a minimum of two acres in size.

iii. Emergency shelter facilities must be within a single, large temporary enclosure, such as a tensile membrane structure, or within multiple identical temporary enclosures, such as matching vinyl canvas tents, that are a minimum of 400 square feet in size. If the floor of a temporary enclosure does not provide insulation from the ground, camping cots or other off-ground sleeping structures must be provided. The use of small, individual tents or makeshift structures including, without limitation, those created with tarps or plastic is prohibited.

iv. Gasoline-powered generators are prohibited.

v. Smoking or open flames inside the temporary structure are prohibited, and the use of portable heaters within personal tents is prohibited. All heating equipment shall be in accordance with the adopted fire code.

vi. Emergency shelter facilities shall provide sanitation and basic safety measures including the following:

(a) One portable or permanent toilet per 20 persons at a minimum, with a handwashing station at each toilet.

(b) Rodent-proof litter receptacles and food storage containers.

(c) Two large first-aid kits that include emergency eye wash bottles.

(d) Secured area for dry supplies storage (blankets, clothing, food, first-aid).

(e) Covered kitchen area at least 20 feet from any sleeping areas, with handwashing and dishwashing stations stocked with soap.

(f) Cleaning supplies including work gloves, disposable gloves, trash grabber-tool, disinfectant, hand sanitizer, masks, buckets, paper towels, etc.

(g) Feminine hygiene products.

(h) Three- to four-foot wide aisle between sleeping structures so as to be ADA compliant and accessible by emergency services personnel.

32. The following restrictions apply to all group homes:

a. A group home is considered a single-family residential use and shall not be combined with another residential use on the same parcel including, but not limited to, a communal residence or short-term rental;

b. A city of Kent business license is required in accordance with Chapter 5.01 KCC;

c. The applicant is responsible for obtaining required state licenses and providing a copy of an up-to-date state license, or proof one is not required by the state, to the city of Kent prior to approval of a city business license;

d. Family members of the provider may live in the group home, but such members are limited only to a spouse and children of the provider or spouse, and are subject to the background check requirements of WAC 388-73-10166 and 388-76-10161; and

e. An accessory dwelling unit is permitted only if used as part of the operation of a group home and may not be leased or sub-leased to a separate family.

33. The following restrictions apply to all communal residences:

a. A city of Kent business license is required in accordance with Chapter 5.01 KCC;

b. No more than three rooms within the home or accessory structure may be separately leased or sub-leased; and

c. Each room being leased or sub-leased shall have adequate space, light, electricity, heating, emergency egress, a smoke detector, and access to adequate sanitation and eating facilities pursuant to the International Residential Code and International Property Maintenance Code as adopted in Chapter 14.01 KCC. Adequate space means floor area of no less than 70 square feet in size, no less than seven feet of ceiling height and shall not have any horizontal dimension less than seven feet. Egress means one emergency escape rescue opening at least 5.7 square feet, 24 inches high and 20 inches wide.

34. The following restrictions apply to short-term rentals:

a. A city of Kent business license is required in accordance with Chapter 5.01 KCC;

b. The home shall be occupied by the owner or a nontransient tenant for at least six months of each year;

c. No more than three rooms within the home or accessory structure may be offered as short-term rentals; and

d. The applicant is responsible for complying with the short-term rental requirements of Chapter 64.37 RCW.

35. Emergency housing facilities are allowed only in conjunction with an approved conditional use permit, and must satisfy the requirements of RCW 35A.21.360(10) prior to opening.

a. *General conditions.* Emergency housing facilities are also subject to the following conditions:

i. The emergency housing facility must be located within a permanent, enclosed building.

ii. The emergency housing facility must be located on a lot that is a minimum of one acre in size.

iii. Emergency housing facilities must operate pursuant to an agreement with the city, approved by the director of economic and community development.

iv. At the time of application for the conditional use permit, there shall be no other approved emergency housing or shelter facility located within 1,000 feet of the proposed emergency housing facility site. For the purposes of this subsection, distance shall be measured in a straight line between the closest property line of the existing facility and the closest property line of the proposed facility. For purposes of this section, if the city receives applications for proposed facilities that are within 1,000 feet of each other, the first complete application received by the city shall be given priority.

v. Emergency housing facilities shall be permitted to operate for a maximum of 90 consecutive days, and there shall be a

minimum period of 90 consecutive days between operational periods during which the emergency housing facility does not operate. The 90-day period of nonoperation shall apply to the operation of any emergency housing facility followed by an emergency shelter facility and vice versa.

vi. The person or organization that owns the property shall be primarily responsible for the operation and maintenance of the facility itself, as well as the conduct of the residents of the facility on and in the immediate vicinity of the lot, to the maximum extent permitted by law, regardless of whether the person or organization contracts with a third party for the provision of any services related to the facility itself or its residents.

vii. The emergency housing facility shall comply with the setbacks and landscaping requirements for churches, as identified in KCC 15.08.020(A).

viii. The possession or use of illegal drugs at an emergency housing facility or the property occupied by the facility is prohibited.

ix. Emergency housing facilities shall be responsible for the safety of residents of the facility, and shall establish a plan to remove individuals who present a threat to other residents or the property of other residents.

x. In the event of a public health emergency, the city may require an emergency response plan that is in substantial compliance with relevant guidance and requirements issued by Public Health – Seattle and King County in response to the public health emergency.

xi. Emergency housing facilities must comply with all applicable fire and building codes set forth in Chapters 13.01 and 14.01 KCC.

xii. The owner or operator of the emergency housing facility must provide the city written documentation of the following:

(a) A description of the proposed staffing and operational characteristics.

(b) A description of the proposed population to be served and code of conduct to be observed including conflict resolution steps.

(c) Criteria for rejection or removal of an individual seeking access to the facility.

(d) A plan for managing the exterior appearance of the proposed site including trash/litter.

(e) A phone number, email, and point of contact at the site of the facility for the community to report concerns.

(f) A plan for addressing reported concerns and documenting resolution, and making this information publicly available.

(g) A proposed site plan showing compliance with all requirements set forth in subsection (35) of this section and applicable fire and building codes set forth in Chapters 13.01 and 14.01 KCC.

xiii. Emergency housing facilities must have two naloxone (Narcan) kits on site, and staff must be trained in how to administer the naloxone (Narcan).

xiv. The possession of any of the weapons described in RCW 9.41.280(1) at an emergency housing or shelter facility or the property occupied by the facility is prohibited.

SECTION 7. - Amendment. Section 15.04.040 of the Kent City Code entitled "Industrial Land Uses" is amended as follows:

Sec. 15.04.040. Industrial land uses

Key P = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Conditional Uses	Zoning Districts																											
	A-10	AG	SR-1	SR-3	SR-4,5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3		
Manufacturing, assembly, and fabrication - heavy																											P	
Manufacturing, assembly, and fabrication - medium																						P (3)				P	P	
Manufacturing, assembly, and fabrication - light																		P (2)				P (3)		P	P	P	P	
Heavy equipment and truck repair																						P	P	P (35)	P (35)	P (35)		
Research, development, and testing																			P	CE	P	P	P	P	P	P	P	
Industrial laundry and dyeing																						P		P	P	P	P	
Contractor shops																						P (5) (3)		P (35)	P (35)	P (35)	P (35)	
Offices incidental and necessary to the conduct of a principally permitted use									A	A	A	A	A					P (2)	A	A	A	P		P (37)	P (37)	P (37)	P (37)	
Warehousing and distribution facilities		P (22) C (31)																					P		P	P	P	P
Fulfillment centers																									P	P	P	P

SECTION 8. - Amendment. Section 15.04.060 of the Kent City Code entitled "Transportation, public, and utilities land uses" is amended as follow:

Sec. 15.04.060 Transportation, public, and utilities land uses.

Key P = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Conditional Uses	Zoning Districts																										
	A-10	AG	SR-1	SR-3	SR-4.5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3	
Commercial parking lots or structures																	EM	EM	EM	EM	EM				EM	EM	EM
Transportation and transit facilities, including high capacity transit facilities	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	C (11)	P (6) (11)
Rail-truck transfer uses																										A	A
Transit operations and maintenance facilities																						C					C
Utility and transportation facilities: electrical substations, pumping or regulating devices for the transmission of water, gas, steam, petroleum, etc.	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM		EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM
Public facilities: firehouses, police stations, libraries, and administrative offices of governmental agencies, primary and secondary schools, vocational schools, and colleges	C	C	C	C	C	C	C	C	C	C	C	C	C		C	C	C	P	C	C	C	C	C	C	C	C	C

		Zoning Districts																										
Key: P = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Conditional Uses	A-10	AG	SR-1	SR-3	SR-4.5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3		
	Accessory uses and structures customarily appurtenant to a permitted use	A	A	A (13)	A (13)	A (13)	A (13)	A (13)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	
Wireless telecommunications facility (WTF) by administrative approval	P (2) A (9) EM (3)	P (2) A (9) EM (3)	P (2) A (9) EM (8)	P (2) A (9) EM (8)	P (2) A (9) EM (8)	P (2) A (9) EM (8)	P (2) A (9) EM (8)	P (2) A (9) EM (8)	P (2) A (9) EM (8)	P (2) A (9) EM (8)	P (2) A (9) EM (8)	P (2) A (9) EM (5) (3)	P (2) A (9) EM (5) (3)	P (2) A (9) EM (5) (3)	P (2) A (9) EM (8)	P (2) A (9) EM (5) (3)	P (2) A (9) EM (5) (3)	P (2) A (9) EM (5) (3)	P (1) A (9) EM (4) (3)	P (1) A (9) EM (4) (3)	P (1) A (9) EM (4) (3)	P (1) A (9) EM (4) (3)	P (1) A (9) EM (4) (3)	P (1) A (9) EM (4) (3)	P (1) A (9) EM (4) (3)	P (1) A (9) EM (4) (3)		
Wireless telecommunications facility (WTF) by minor conditional use permit	EM (5) A (9) EM (3)	EM (5) A (9) EM (3)	EM (8) A (9) EM (10)	EM (8) A (9) EM (10)	EM (8) A (9) EM (10)	EM (8) A (9) EM (10)	EM (8) A (9) EM (10)	EM (8) A (9) EM (10)	EM (8) A (9) EM (10)	EM (8) A (9) EM (10)	EM (8) A (9) EM (10)	EM (5) A (9) EM (3)	EM (5) A (9) EM (3)	EM (5) A (9) EM (3)	EM (8) A (9)	EM (5) A (9) EM (3)	EM (5) A (9) EM (3)	EM (5) A (9) EM (3)	EM (4) A (9) EM (3)	EM (4) A (9) EM (3)	EM (4) A (9) EM (3)	EM (4) A (9) EM (3)	EM (4) A (9) EM (3)	EM (4) A (9) EM (3)	EM (4) A (9) EM (3)	EM (4) A (9) EM (3)		
EV charging station	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	A (9) A (10)	
Rapid charging station	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)	A (10)

175 **Amend KCC 12.01, 12.04, 15.02, 15.04, and 15.08.035, and 15.09**
Re: Process and Procedures

SECTION 9. - *Amendment.* Section 15.04.065 of the Kent City Code entitled "Transportation, public, and utilities land use development conditions" is amended as follows:

Sec. 15.04.065. Transportation, public, and utilities land use development conditions.

1. For WTF towers 90 feet or less for a single user and up to 120 feet for two or more users.
2. For WTF towers that are within the allowable building height for the district in which they are located.
3. All WTFs are subject to applicable portions of KCC 15.08.035.
4. A minor conditional use permit for a WTF is required if it is greater than 90 feet for a single user or 120 feet for two or more users.
5. A minor conditional use permit is required if the WTF exceeds the allowable building height of the district.
6. Includes rail-truck transfer uses, except classification yards in the category of "hump yards."
7. [Reserved].
8. If on property owned, leased, or otherwise controlled by the city or other government entity subject to KCC 15.08.035(I).

9. Level 1 and 2 charging only.
10. Only as part of a general conditional use identified in KCC 15.08.030.
11. High capacity transit facilities shall be consistent with Chapter 15.15 KCC.
12. A conditional use permit is required for high capacity transit facilities that cross multiple zoning districts. No other transportation and transit facilities are allowed in the MHP zoning district.
13. Accessory structures composed of at least two walls and a roof, not including accessory uses or structures customarily appurtenant to agricultural uses, are subject to the provisions of KCC 15.08.160.

SECTION 10. - Amendment. Section 15.04.070 of the Kent City Code entitled "Wholesale and retail land uses" is amended as follow:

Sec. 15.04.070 Wholesale and retail land uses.

Key P = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Conditional Uses	Zoning Districts																										
	A-10	AG	SR-1	SR-3	SR-4.5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3	
Bakeries and confectioneries																			P	P	P	P	P	P	P	P	
Wholesale bakery																						P	P	P (28)	P (28)	P (28)	
Bulk retail																			P		P	P	P	P (28)	P (28)	P (28)	
Recycling centers																										C	
Retail sales of lumber, tools, and other building materials, including preassembled products																			P			P	P	P (28)	P (28)	P (28)	
Hardware, paint, tile, and wallpaper (retail)															P	P (11)	P	P	P	P	P	P	P	P	P (28)	P (28)	P (28)
Farm equipment																					P	P	P (28)	P (28)	P (28)	P (28)	
General merchandise: dry goods, variety, and department stores (retail)															P	P (11)	P	P	P	P	P	P	P	P	P (28)	P (28)	P (28)
Food and convenience stores (retail)															P	P	P (11)	P	P	P	P	P	P	P	P (28)	P (28)	P (28)
Automobile, aircraft, motorcycle, boat, and recreational vehicles sales (retail)																					P	P	P	P (28)	P (28)	P (28)	
Automotive, aircraft, motorcycle, and marine accessories (retail)																P			P		P	P	P	P (28)	P (28)	P (28)	
Gasoline service stations															S (6)	S (6)				S (6)		S (6)	S (6)	S (6)	S (6)	S (6)	

Key p = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Conditional Uses	Zoning Districts																											
	A-10	AG	SR-1	SR-3	SR-4.5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3		
Apparel and accessories (retail)															P	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)
Furniture, home furnishing (retail)															P	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	
Eating and drinking establishments (no drive-through)															P	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	
Eating and drinking establishments (with drive-through)															S (6)	S (6)	EM (7)	EM (7)						S (6)	S (6)	P (20)	P (20)	P (20)
Eating facilities for employees																		P	P	P	P	P	P	P	P	P	P	
Drive-through/drive-up businesses (Commercial/retail - other than eating/drinking establishments)															EM (22)	P (20)	P (20)	P (24)	P (24)	P (24)	P (24)	P (24)	P (20)	P (20)	P (20)	P (20)	P (20)	
Miscellaneous retail: drugs, antiques, books, sporting goods, jewelry, florist, photo supplies, video rental, computer supplies, etc.															P	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	
Liquor store															P	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	
Farm supplies, hay, grain, feed, fencing, etc. (retail)															P													
Nurseries, greenhouses, garden supplies, tools, etc.															P													
Pet shops (retail and grooming)																		P	P	P	P	P	P	P	P	P	P	
Computers and electronics (retail)															P													
Hotels and motels																	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	P (11)	
Complexes which include combinations of uses, including a mixture of office, light manufacturing, storage, and commercial uses																												

	Zoning Districts																										
Key P = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Conditional Uses	A-10	AG	SR-1	SR-3	SR-4.5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3	
Outdoor storage (including truck, heavy equipment, and contractor storage yards as allowed by development standards, KCC 15.04.190 and 15.04.195)																							P (19)	A (19)	A (2) (19)	A (2) (19)	A (2) (19)
Accessory uses and structures customarily appurtenant to a permitted use	A	A	A (9) (27)	A (27)	A (27)	A (27)	A (27)	A	A	A	A	A	A		A (16)	A (16)	A (17)	A (17)	A (17)	A (17)	A (17)	A (16)	A (16)		A	A	A
Agriculturally related retail		GM (21)																							P (2) (28)	P (2) (28)	P (2) (28)
Battery exchange station															S (23)	S (23)	A (23)	A (23)	A (23)	A (23)	A (23)	S (23)	S (23)	S (23)	S (23)	S (23)	A (23)

180 **Amend KCC 12.01, 12.04, 15.02,
15.04, and 15.08.035, and 15.09**
Re: Process and Procedures

SECTION 11. - Amendment. Section 15.04.090 of the Kent City Code entitled "Service land uses" is amended as follow:

Sec. 15.04.090 Service land uses.

	Zoning Districts																											
	A-10	AG	SR-1	SR-3	SR-4.5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3		
Key P = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Conditional Uses																												
Finance, insurance, real estate services															P (22)	P	P (1) (12)	P	P	P	P	P	P	P	P	P (2)	P (2)	P (2)
Personal services: laundry, dry cleaning, barber, salons, shoe repair, laundrettes															P (22)	P	P (12)	P	P	P	P	P	P	P	P	P (2)	P (2)	P (2)
Mortuaries																	P (12)		P			P	P					
Home day-care	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P				
Day-care center	C	C	C	C	C	C	C	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P (2)	P (2)		
Business services, duplicating and blue printing, travel agencies, and employment agencies																	P (12)	P	P	P	P	P	P	P	P (2)	P (2)	P (2)	
Building maintenance and pest control																			P			P	P	P (2)	P (2)	P (2)		
Outdoor storage (including truck, heavy equipment, and contractor storage yards as allowed by development standards, KCC 15.04.190 and 15.04.195)																						P	A	A (9) (11)	A (9) (11)	A (9) (11)		
Rental and leasing services for cars, trucks,																			P			P	P	P (2) (9)	P (2) (9)	P (2) (9)		

Zoning Districts	
Key P = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Conditional Uses	
	A-10
	AG
	SR-1
	SR-3
	SR-4.5
	SR-6
	SR-8
	MR-D
	MR-T12 A
	MR-T16 A
	MR-G A
	MR-M A
	MR-H A
	MHP
	NCC
	CC
	DC
	DCE
	MTC-1
	MTC-2
	MCR
	CM
	GC
	I1 P (2)
	I2 P (2)
	I3 P (2)
Offices incidental and necessary to the conduct of a principally permitted use	

183 **Amend KCC 12.01, 12.04, 15.02,
15.04, and 15.08.035, and 15.09
Re: Process and Procedures**

SECTION 12. - Amendment. Section 15.04.110 of the Kent City Code entitled “Cultural, entertainment, and recreation land uses” is amended as follow:

Sec. 15.04.110 Cultural, entertainment, and recreation land uses

	Zoning Districts																										
	A-10	AG	SR-1	SR-3	SR-4.5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3	
Performing and cultural arts uses, such as art galleries/studios																	P (3)	P	P	P	P	P	P	P (8)	P (8)	P (8)	
House-banked card rooms																P C (1)						P (1)	P C (1)	P (4) (B)	P (4) (B)	P (4) (B)	
Historic and monument sites																						P	P	P (8)	P (8)	P (8)	
Public assembly (indoor): sports facilities, arenas, auditoriums and exhibition halls, bowling alleys, dart-playing facilities, skating rinks, community clubs, athletic clubs, recreation centers, theaters (excluding school facilities)																P		P	P C (2)			P C (2)	P	P	P (8)	P (8)	P (8)
Public assembly (outdoor): fairgrounds and amusement parks, tennis courts, athletic fields, miniature golf, go-cart tracks, drive-in theaters, etc.																						C	P	P	P (8)	P (8)	P (8)
Open space use: cemeteries, parks, playgrounds, golf courses, and other recreation facilities, including buildings or structures associated therewith	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P (6) C	P (6) C	C (9)	C (9)	C (9)	P (7) C	P (7) C	C	C	C	
Employee recreation areas																									P (8)	P (8)	P (8)
Private clubs, fraternal lodges, etc.	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EM	EP	EP (5)	EP (5)	P (5) E	EE	P (5) E	EP (5) E	P (5) E	P (8)	P (8)	P (8)	
Recreational vehicle parks																							C				

	Zoning Districts	
Key	A-10	
P = Principally Permitted Uses	AG	
S = Special Uses	SR-1	
C = Conditional Uses	SR-3	
A = Accessory Uses	SR-4.5	
M = Minor Conditional Uses	SR-6	
	SR-8	
Accessory uses and structures customarily appurtenant to a permitted use	MR-D	
	MR-T12	
	MR-T16	
	MR-G	
	MR-M	
	MR-H	
Recreational buildings in MHP	MHP	A
	NCC	A
	CC	A
	DC	A
	DCE	A
	MTC-1	A
	MTC-2	A
	MCR	A
	CM	A
	GC	A
	I1	A
	I2	A
	I3	A

185 **Amend KCC 12.01, 12.04, 15.02, 15.04, and 15.08.035, and 15.09**
Re: Process and Procedures

SECTION 13. - *Amendment.* Section 15.04.120 of the Kent City Code entitled "Cultural, entertainment, and recreation land use development conditions" is amended as follow:

Sec. 15.04.120. Cultural, entertainment, and recreation land use development conditions.

1. House-banked card rooms are not allowed in areas zoned GC-MU (general commercial – mixed use) or CC-MU (community commercial – mixed use) unless authorized by a conditional use permit. House-banked card rooms are not allowed in areas designated urban center on the land use plan map. Should any court of competent jurisdiction find that the city zoning for house-banked card rooms is unconstitutional or illegal, the city elects to permit a legally existing card room to continue operation as a nonconforming legal use and otherwise bans card rooms.

2. ~~{Reserved}~~ Stadiums, arenas and other large public assembly spaces over 50,000 SF require a conditional use permit.

3. The ground level or street level portion of all buildings in the pedestrian overlay of the DC district, set forth in the map below, must be retail or pedestrian oriented. Pedestrian-oriented development shall have the main ground floor entry located adjacent to a public street and be physically and visually accessible by pedestrians from the sidewalk, and may include the following uses:

a. Retail establishments, including but not limited to convenience goods, department and variety stores, specialty shops such as apparel and

accessories, gift shops, toy shops, cards and paper goods, home and home accessory shops, florists, antique shops, and book shops;

b. Personal services, including but not limited to barber shops, beauty salons, and dry cleaning;

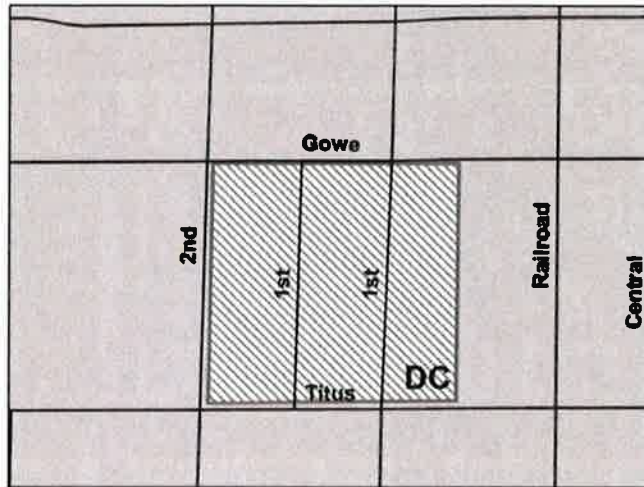
c. Repair services, including but not limited to television, radio, computer, jewelry, and shoe repair;

d. Food-related shops, including but not limited to restaurants (including outdoor seating areas and excluding drive-in restaurants) and taverns;

e. Copy establishments;

f. Professional services, including but not limited to law offices and consulting services; and

g. Any other use that is determined by the economic and community development director to be of the same general character as the above permitted uses and in accordance with the stated purpose of the district, pursuant to KCC 15.09.065, use interpretations.



4. Should any court of competent jurisdiction find that the city zoning for house-banked card rooms is unconstitutional or illegal, the city elects to permit a legally existing house-banked card room to continue operation as a nonconforming legal use and otherwise bans house-banked card rooms.
5. ~~Repealed Business, civic, social, and fraternal associations and service offices are principally permitted uses.~~
6. Principally permitted uses are limited to parks and playgrounds.
7. Principally permitted uses are limited to golf driving ranges.
8. In the I1, I2, and I3 districts, cultural, entertainment, and recreational uses are allowed but shall be limited to 30,000 square feet per occupancy in the I1, I2, and I3 zoning districts.
9. Conditionally permitted uses are limited to parks and playgrounds.

10. Accessory structures composed of at least two walls and a roof, not including accessory uses or structures customarily appurtenant to agricultural uses, are subject to the provisions of KCC 15.08.160.

SECTION 14. - Amendment. Section 15.04.130 of the Kent City Code entitled "Resource land uses" is amended as follow:

Sec. 15.04.130 Resource land uses.

	Zoning Districts																										
	A-10	AG	SR-1	SR-3	SR-4.5	SR-6	SR-8	MR-D	MR-T12	MR-T16	MR-G	MR-M	MR-H	MHP	NCC	CC	DC	DCE	MTC-1	MTC-2	MCR	CM	GC	I1	I2	I3	
Key P = Principally Permitted Uses S = Special Uses C = Conditional Uses A = Accessory Uses M = Minor Conditional Uses																											
Agricultural uses such as planting and harvesting of crops, animal husbandry (including wholesale nurseries and greenhouses)	P	P	P																								
Crop and tree farming	P	P	P	P	P	P	P	P	P	P	P	P	P												P	P	P
Storage, processing, and conversion of agricultural products (not including slaughtering or meat packing)		P																							P (5) (6)	P (5) (6)	P (5) (6)
Accessory uses and structures customarily appurtenant to a permitted use	A	A	A (1) (4)	A (4)	A (4)	A (4)	A (4)	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
Roadside stands	AP (3)	AP (2)	AP (3)																								

SECTION 15. - *Amendment.* Section 15.08.035 of the Kent City Code entitled "Wireless telecommunications facilities" is amended as follows:

Sec. 15.08.035 Wireless telecommunications facilities.

A. *Purpose and goals.* The purpose of this section is to establish general guidelines for the siting of wireless telecommunications facilities (WTFs), specifically including, without limitation, towers and antennas, in light of the following goals:

1. Protecting residential areas from potential adverse impacts;
2. Enhancing the ability of the providers of wireless telecommunications services to provide those services quickly, effectively, and efficiently;
3. Encouraging location in nonresidential areas;
4. Minimizing the total height of towers within the community;
5. Encouraging the joint use of new and existing sites;
6. Encouraging service providers to locate and configure facilities to minimize adverse impacts through careful design, siting, landscaping, screening, and innovative camouflaging techniques; and

7. Considering potential adverse impacts to the public health and safety from these facilities except where preempted by other laws, rules, and regulations.

In furtherance of these goals, the city shall give due consideration to the city's comprehensive plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of WTFs, including towers and antennas.

B. *Definitions.* As used in this section only, the following terms shall have the meanings set forth below:

Abandon or abandonment means:

1. To cease operation for a period of 180 or more consecutive calendar days; or

2. To reduce the effective radiated power of an antenna by 75 percent for 180 or more consecutive calendar days unless new technology or the construction of additional cells in the same locality allows reduction of effective radiated power by more than 75 percent, so long as the operator still serves essentially the same customer base.

Antenna means any exterior transmitting or receiving device used in communications that radiates or captures electromagnetic waves.

Backhaul network means the lines that connect a provider's WTFs/towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

Camouflage means to disguise, hide, or integrate with an existing or proposed structure or with the natural environment so as to be significantly screened from view.

Colocate means use of a WTF by more than one service provider.

COW means cell on wheels or cellular on wheels.

EIA means Electronic Industries Association.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Guyed tower means a wireless communication support structure which is typically over 100 feet tall and is steadied by guy wires in a radial pattern around the tower.

Height means, when referring to a tower or other WTF, the distance measured from the finished grade of the parcel at the base of the WTF to the highest point on the tower or other WTF, including the base pad and any antennas.

Lattice tower means a support structure which consists of a network of crossed metal braces, forming a tower which is usually triangular or square in cross-section.

Monopole tower means a support structure which consists of a single pole sunk into the ground and/or attached to a foundation.

Non-whip antenna means an antenna that is not a whip antenna, such as dish antennas, panel antennas, etc.

Personal wireless service means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services as defined in 47 U.S.C. Section 332(c)(7)(C), or as amended.

Preexisting WTF means any WTF for which a building permit has been properly issued prior to July 7, 1997, including permitted WTFs that have not yet been constructed, so long as that permit or approval has not expired.

Small cell equipment means wireless telecommunications facilities attached, mounted, or installed on a proprietary or leased pole, excluding monopole towers, that is located in right-of-way and used to provide personal wireless service.

Telecommunications means the transmission, between or among points specified by the user, of information of the user's choosing without change in the form or content of the information as sent and received.

Telecommunications service means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telecommunications,

telephone, radio, and similar communication purposes. The term includes the structure, all structural supports, and all related buildings and appurtenances.

Whip antenna means an omnidirectional dipole antenna of cylindrical shape that is no more than six inches in average diameter.

Wireless telecommunications facility or *WTF* includes "personal wireless service," "personal wireless service facilities," and "facilities" as defined in 47 U.S.C. Section 332(c)(7)(C), including all future amendments, and also includes facilities for the transmission and reception of radio or microwave signals used for communication, telecommunication, cellular phone personal communications services, enhanced specialized mobile radio, and any other services licensed by the FCC, and also includes any other unlicensed wireless services.

C. *Applicability.*

1. *New uses.* All WTF proposals made in the city, whether for new construction or for modification of existing facilities, shall be subject to the regulations set forth in this code, except as provided in subsection (D) of this section.

D. *Exemptions.* The following are exempt from the provisions of this section and are allowed in all zoning districts:

1. *Existing uses.* WTFs that currently exist on July 7, 1997, or for which a valid building permit has been obtained and remains in effect on

July 7, 1997, except this exemption does not apply to modifications of existing facilities.

2. *Industrial/scientific equipment.* Industrial processing equipment and scientific or medical equipment using frequencies regulated by the FCC.

3. *Amateur radio station operators or receive-only antennas.* Any tower or antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.

4. *Home satellite services.* Satellite dish antennas less than two meters in diameter, including direct-to-home satellite services, when used as a secondary use of the property.

5. *COW.* A COW or other temporary WTF, but its use anywhere in the city cannot exceed 30 days, unless extended by permit issued by the planning manager or unless the city has declared an area-wide emergency.

6. *Public safety WTFs and equipment.* Public safety WTFs and equipment, including, but not limited to, the regional 911 system.

7. *Small cell equipment.* Small cell equipment, as defined in subsection (B) of this section, subject to a specific agreement with the city, provided such equipment complies with concealment features stipulated in such agreements.

E. *General.*

1. *Principal or accessory use.* WTFs may be considered either principal or accessory uses. A different use of an existing structure on the same lot shall not preclude the installation of WTFs on that lot.

2. *Not essential services.* WTFs shall be regulated and permitted pursuant to this section and shall not be regulated or permitted as essential public services.

F. *General requirements.*

1. *Siting.* Anyone who applies to construct a WTF or to modify or add to an existing WTF shall demonstrate to the city's satisfaction that the proposed facility is located at the least obtrusive and the most appropriate available site to function in the applicant's grid system.

2. *FCC licensing.* The city will only process WTF permit applications upon a satisfactory showing of proof that the applicant is an FCC licensed telecommunications provider or that the applicant has agreements with an FCC licensed telecommunications provider for use or lease of the facility.

3. *Compliance with other laws.* Applicants must show, to the satisfaction of the planning manager, compliance with current FCC and FAA rules and regulations and all other applicable federal, state, and local laws, rules, and regulations.

4. *Lot size.* For purposes of determining whether the installation of WTFs complies with district development regulations including, but not

limited to, setback requirements, lot-coverage requirements, and other requirements, the dimensions of the entire lot shall control, even though the WTFs may be located on leased parcels within that lot.

5. *Height.* Unless further restricted or expanded elsewhere in this section, no WTFs may exceed the following height and usage criteria:

- a. For a single user, up to 90 feet in height; and
- b. For two or more users, up to 120 feet in height.

6. *Security fencing.* WTFs shall be enclosed, where appropriate, by security fencing not less than six feet in height; provided, however, that the ~~planning manager or, where applicable, the hearing examiner~~planning director may waive these requirements, as appropriate.

7. *Landscaping.* WTFs shall be landscaped with a buffer of plant materials that effectively screens the view of the WTF compound; provided, however, that the ~~planning manager or, where applicable, the hearing examiner~~planning director may waive these requirements if the goals of this section would be better served.

8. *WTFs mounted on structures or rooftops.* WTFs mounted on existing structures or rooftops shall be designed and located so as to minimize visual and aesthetic impacts to the adjoining land uses and structures and shall, to the greatest extent practical, blend into the existing environment.

9. *Aesthetics.* WTFs shall meet the following requirements:

a. WTFs shall be painted a neutral color so as to reduce visual obtrusiveness.

b. At a WTF site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend into the existing natural and constructed environment.

10. *Lighting.* Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required for any WTF, the lighting must cause the least disturbance to the surrounding area.

11. *Measurement.* For purposes of measurement, WTF setbacks and separation distances shall be calculated and applied irrespective of municipal and county jurisdictional boundaries.

12. *Franchises, licenses, and permits.* Owners and/or operators of WTFs shall certify that they have obtained all franchises, licenses, or permits required by law for the construction and/or operation of a wireless telecommunication system in the city and shall file a copy of all required franchises, licenses, and permits with the planning manager.

13. *Signs.* No signs shall be allowed on an antenna or tower.

14. *Backhaul providers.* Backhaul providers shall be identified and they shall have and maintain all necessary approvals to operate as such, including holding necessary franchises, permits, and certificates. The method of providing backhaul, wired or wireless, shall be identified.

G. *Tower requirements.*

1. *Tower setbacks.* All towers, support structures, and accessory buildings must satisfy the minimum setback requirements for that zoning district.

2. *Support systems setbacks.* All guy wires, anchors, and other support structures must be located within the buildable area of the lot and not within the front, rear, or side yard setbacks and no closer than five feet to any property line.

3. *Monopole construction required.* All towers will be of a tapering monopole construction; however, the ~~planning manager or, where applicable, the hearing examiner~~planning director may allow another type of tower upon a showing that it would cause less impact to the surrounding property than a similar monopole structure or would further the purposes and goals in this section.

4. *Inventory of existing sites.* Each applicant for a tower shall provide an inventory of its existing WTF sites that are either within the jurisdiction of the city or within one mile of its borders, including specific information about the location, height, and design of each facility.

5. *EIA standards.* Towers shall be constructed so as to meet or exceed the most recent EIA standards. Prior to issuance of a building permit, the building official shall be provided with an engineer's certification that the tower's design meets or exceeds those standards.

6. *Site selection and height.* Towers shall be located to minimize their number and height and to minimize their visual impacts on the surrounding area in accordance with the following policies:

a. Ensure that the height of towers has the least visual impact and that the height is no greater than necessary to achieve service area requirements and to provide for potential colocation; and

b. Demonstrate that the owner or operator has, to the greatest extent practical, selected a new tower site that provides the least visual impact on residential areas. This shall include an analysis of the potential impacts from other vantage points in the area to illustrate that the selected site and design provide the best opportunity to minimize the visual impact of the proposed facility; and

c. Site so as to minimize being visually solitary or prominent when viewed from surrounding areas, especially residential areas. The facility should be camouflaged to the maximum extent feasible.

7. *Colocation priority.* Colocation of antennas by more than one carrier on existing towers is preferred to construction of new towers; provided, that the colocation is consistent with the following:

a. *Redesign restrictions.* A tower that is modified or reconstructed to accommodate the colocation of an additional antenna shall be of the same tower type as the existing tower, or of a less obtrusive design (such as a monopole), if practical.

b. *Height.* Except as may be modified in subsection (I)(1)(a) of this section, an existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height or 120 feet, whichever is lower, to accommodate the colocation by another provider or operator of an additional antenna system in any district except DC, DCE, NCC, and all SR districts. This additional height shall not require an additional distance separation.

c. *Onsite relocation.* A tower that is being rebuilt to accommodate the colocation of an additional antenna may be relocated on its existing site within 50 feet of its existing location. If consistent with the purposes and goals in subsection (A) of this section, the planning manager ~~or, where applicable, the hearing examiner~~ director may permit the onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands.

8. *Separation distances between towers.* Separation distances between towers shall be measured between the proposed tower and preexisting towers. Measurement shall be from base of tower to base of tower, excluding pad, footing, or foundation. The separation distances shall be measured by drawing or following a straight line between the nearest point on the base of the existing tower and the proposed tower base, pursuant to a site plan of the proposed tower. The separation distances (listed in linear feet) shall be as shown in Table 1, unless the distance is reduced by the planning manager when administratively approving a WTF or by the ~~hearing examiner~~ planning director through issuance of a minor conditional use permit.

Table 1

	Mono- Mono- pole pole 75 feet less in than height 75 or feet in Lattice Guyed greater height			
Lattice	5,000	5,000	1,500	750
Guyed	5,000	5,000	1,500	750
Monopole 75 feet in height or greater	1,500	1,500	1,500	750
Monopole less than 75 feet in height	750	750	750	750

H. *Administratively approved WTFs.* The planning ~~manager~~director may administratively approve the uses listed in this subsection once each applicant has applied for and provided all necessary information required in this code and in the city’s application form. This administrative approval is classified as a Process I application and is subject to the requirements of Chapter 12.01 KCC.

1. *Administratively approved uses.* The following uses may be approved by the planning ~~manager~~director after conducting an administrative review:

a. *Industrial/commercial zones.* Locating WTFs, including the placement of additional buildings or other supporting equipment used in connection with WTFs, that do not exceed 90 feet in height for a single user and 120 feet in height for two or more users in the following districts: MA, I1, I2, I3, CM, GC, and GWC.

b. *Antennas on existing structures.* Locating a WTF other than a tower as an accessory use by attachment to any building or structure other than a single-family dwelling or multifamily structure of fewer than eight dwelling units in any zoning district, provided:

i. The antenna does not extend more than 20 feet above the highest point of the structure if a whip antenna, or 10 feet above the highest point of the structure if a non-whip antenna; and

ii. The antenna complies with all applicable building codes; and

iii. All associated equipment is placed either within the same building or in a separate structure that matches the existing building or structure in character and materials.

c. *WTFs on existing towers.* Locating a WTF through colocation by attaching the antenna to an existing tower.

d. *WTFs within allowable building height.* Locating WTFs, including placement of additional buildings or other supporting equipment used in connection with the WTF in O, CC, MRG, MRM, MRH, AG, and A-10

districts, so long as the WTF does not exceed the allowable building height for that district.

e. *COWs for greater than 30-day periods.* Upon a proper showing of extreme necessity (for example, if repair or modification of an existing WTF clearly and legitimately cannot be completed within 30 days), locating a COW at a single location for more than 30 calendar days; however, purely economic convenience shall not be considered a viable factor in making this determination.

2. *Authority to waive certain requirements.* In connection with this administrative approval, the planning ~~manager~~ director may, in order to encourage camouflaging and colocation of WTFs, administratively waive separation distance requirements between WTFs by up to 50 percent in nonresidential zones. Additionally, the planning ~~manager~~ director may, in order to encourage the use of the least obtrusive type of WTF, administratively allow the reconstruction of an existing WTF to that less obstructive use.

I. Minor Conditional use permits. Applications for minor conditional use permits under this subsection shall be subject to the procedures and requirements of KCC 15.09.0320 and Chapter 12.01 KCC, except as modified by this subsection. If the WTF is not subject to administrative approval pursuant to subsection (H) of this section, then a minor conditional use permit shall be required.

1. Minor Conditional WTF uses. Specifically, minor conditional use permits shall be required for the following WTFs:

a. *Industrial/commercial zones.* Locating WTFs that exceed 90 feet in height for a single user or 120 feet for two or more users or locating antennas on existing structures that exceed the height limitations in subsection (H)(1)(b) of this section in the following districts: MA, I1, I2, I3, CM, GC, and GWC.

b. *Government property.* Locating WTFs (i) separate from existing structures on property owned, leased, or otherwise controlled by the city or other governmental entity or (ii) attached to existing structures on property owned, leased, or otherwise controlled by the city or other governmental entity exceeding the height limitations in subsection (H)(1)(b) of this section, but only on the condition that the total height of the attached WTF, including the structure, does not exceed 120 feet, unless permitted under subsection (I)(1)(a) of this section; however, this subsection shall not apply in DC, DCE, and NCC districts.

c. *WTFs exceeding allowable building height.* Locating WTFs that exceed the allowable building height in the following districts: O, CC, MRG, MRM, MRH, AG, and A-10.

d. *Tower construction under allowed separation distances.* Locating towers that do not meet the separation distance requirements in subsection (G)(8) of this section or that do not meet administratively approved separation distance limits.

2. *Factors considered in granting minor conditional use permits for towers.* In addition to KCC 15.09.030(D), the ~~hearing examiner~~planning director shall also consider the following factors when considering a MCUP application for WTF towers:

- a. Height of the proposed tower;
- b. Proximity of the tower to residential structures and residential district boundaries;
- c. Nature of uses on adjacent and nearby properties;
- d. Surrounding topography;
- e. Surrounding tree coverage and foliage;
- f. Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- g. Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures;
- h. Obstruction of or interference with views;
- i. Consistency with purpose and goals set forth in subsection (A) of this section.

3. *Availability of suitable existing towers, other structures, or alternative technology.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the hearing examiner that no existing tower, structure, or alternative technology that does not require the use of towers can accommodate the applicant's proposed WTF. An applicant

shall submit information requested by the hearing examiner related to the availability of suitable existing towers, other structures, or alternative technology. Evidence submitted to demonstrate that no existing tower, structure, or alternative technology can accommodate the applicant's proposed WTF may consist of any of the following:

a. No existing WTF is located within the geographic area that meets applicant's engineering requirements.

b. Existing WTFs are not of sufficient height to meet applicant's engineering requirements.

c. Existing WTFs cannot practically be reconstructed to provide sufficient structural strength to support applicant's proposed antenna and related equipment.

d. Electromagnetic interference would occur between two or more WTF systems.

e. The fees, costs, or contractual provisions required by the owner in order to share an existing WTF or to adapt an existing WTF for colocation are unreasonable. Fees or costs that exceed new WTF development shall not be presumed to render sharing facilities unsuitable.

f. Other limiting factors render existing WTFs unsuitable.

g. An alternative technology that does not require the use of towers or structures would be unsuitable. Costs of alternative technology

that exceed new WTF development shall not be presumed to render the technology unsuitable.

4. *Separation requirements.* The ~~hearing examiner~~planning director may reduce tower separation distance requirements, including administratively approved separation distance reductions, if the purposes and goals of this section would be better served; however, development of multiple tower locations on a single site (often referred to as "antenna farms") are specifically discouraged wherever possible.

J. *Removal of abandoned towers.*

1. *Abandonment and removal.* The owner or operator of any abandoned tower shall notify the city's planning manager, in writing, of that abandonment and shall remove the same within 90 calendar days. Failure to remove an abandoned tower within 90 calendar days shall be grounds to remove the tower at the owner's expense. If there are two or more users of a single tower, then the city's right to remove the tower shall not become effective until all users abandon the tower.

2. *Partial abandonment and removal.* If the antennas on any tower are removed or relocated to a point where the top 20 percent or more of the height of the tower is no longer in use, the tower shall be deemed partially abandoned. The owner or operator of any partially abandoned tower shall notify the city's planning manager, in writing, of that partial abandonment and shall remove the partially abandoned portion within 90 calendar days. Failure to remove a partially abandoned tower within 90 calendar days shall be grounds to remove the abandoned portion of the tower at the owner's expense.

3. *Security and lien.* Each applicant, prior to commencement of construction, shall post sufficient security in the form of a bond, assignment of funds, cashier's check, or cash, in a form acceptable to the city, to cover the estimated cost of demolition or removal of the tower and support structures, including complete site restoration. If for any reason the posted funds are not adequate to cover the cost of removal, then the city may charge the facility owner or operator with the city's total cost incurred in removing the abandoned structures. If the owner or operator fails to make full payment within 30 calendar days, then the amount remaining unpaid shall become a lien on the facility property.

K. *Nonconforming uses.*

1. *Preexisting towers.* Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted. Any construction other than routine maintenance on a preexisting tower shall comply with the requirements of this section.

2. *Damage or destruction not the fault of owner/occupant.* Bona fide nonconforming WTFs that are damaged or destroyed without fault attributable to the owner or entity in control may be rebuilt without first having to obtain administrative approval or a minor conditional use permit and without having to meet separation requirements. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility. Building permits to rebuild the facility shall comply with applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if the

permit expires, the tower or antenna shall be deemed abandoned as specified in subsection (J) of this section.

SECTION 16. - *Amendment.* Section 15.08.040 of the Kent City Code entitled "Home Occupations" is amended as follows:

Sec. 15.08.040. Home Occupations.

A. *Purpose.* It is the purpose of this section to outline general conditions in which home occupations may be permitted in all zoning districts. These conditions have been designed to help preserve the residential character of the city's neighborhoods from commercial encroachment while recognizing that certain selected business activities are compatible with residential uses.

B. *Home occupations permitted.* Home occupations which meet the requirements of this section are permitted in every zone where a dwelling unit was lawfully established. The requirements of this section shall not apply to the following home occupations:

1. Home child care.
2. The sale of agricultural products produced on the premises.

C. *Development standards.* All dwelling units in which a home occupation is located must meet the following minimum development standards:

1. The residential character of the exterior of the building shall be maintained.

2. The outdoor storage or display of materials, goods, products, or equipment is prohibited.

3. A home occupation shall not occupy more than three hundred (300) square feet.

4. The sign regulations of Chapter 15.06 KCC shall apply.

D. *Performance standards.* All home occupations must meet the following minimum performance standards:

1. *Employees.* A home occupation may not employ on the premises more than one (1) person who is not a resident of the dwelling unit.

2. *Traffic.* The traffic generated by a home occupation shall be limited to four (4) two (2) way client-related trips per day and shall not create a need for additional onsite or offsite parking spaces.

3. *Sale of goods and services.* The sale of goods and services from a home occupation shall be to one (1) customer at a time, by appointment only, between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday only.

4. *Electrical or mechanical equipment usage.* The use of electrical or mechanical equipment that would change the fire rating of the structure or create visual or audible interference in radio or television receivers or electronic equipment or cause fluctuations in line voltage outside the dwelling unit is prohibited.

5. *Utility demand.* Utility demand for sewer, water, electricity, garbage, or natural gas shall not exceed normal residential levels.

6. *Other criteria.* There shall be no noise, vibration, smoke, dust, odors, heat, glare, or other conditions produced as a result of the home occupation which would exceed that normally produced by a single residence, or which would create a disturbing or objectionable condition in the neighborhood.

E. *Permit required.* A zoning permit is required as provided in KCC 15.09.020.

F. *Special home occupation permits.* A special home occupation permit shall be required for the following home occupations:

1. Music lessons if more than one (1) student at a time or otherwise not compliant with the development and performance standards of subsections (C) and (D) of this section.

2. Dance lessons if more than one (1) student at a time or otherwise not compliant with the development and performance standards of subsections (C) and (D) of this section.

3. Art lessons if more than one (1) student at a time or otherwise not compliant with the development and performance standards of subsections (C) and (D) of this section.

4. Academic tutoring if more than one (1) student at a time or otherwise not compliant with the development and performance standards of subsections (C) and (D) of this section.

5. Automobile detailing.

A special home occupation permit may only be issued as follows:

1. *Application.* Applications for a special home occupation permit under this subsection shall be subject to the procedures and requirements of Chapters ~~2.32 and~~ 12.01 KCC. The application fee for a special home occupation permit shall be ~~the same as for administrative variances unless otherwise established by city council resolution.~~

2. *Criteria for approval.* In conducting ~~a hearing review~~ on an application for a special home occupation permit, the ~~hearing examiner~~planning director shall consider the nature and conditions of all adjacent uses and structures. A special home occupation permit may only be approved by the ~~hearing examiner~~planning director ~~if it is the hearing examiner finds~~found that such permit will not be materially detrimental to the public welfare or injurious to the property in the zone or vicinity in which the property is located, and that the issuance of such special home occupation permit will be consistent with the spirit and purpose of this section and subject to the applicable provisions of Chapter 12.01 KCC.

3. *Conditions of approval.* In approving a special home occupation permit, the ~~hearing examiner~~planning director may impose such requirements and conditions with respect to location, installation, construction, maintenance and operation, and extent of open spaces in

addition to those expressly set forth in this section, as may be deemed necessary for the protection of other properties in the zone or vicinity and the public interest.

4. *Issuance.* Any special home occupation permit application approved by the ~~hearing examiner~~planning director shall be forwarded to the ~~planning department~~permit center for issuance.

5. *Appeal of decision.* The decision of the ~~hearing examiner~~planning director on a special home occupation permit application shall be final. Any appeal of the ~~hearing examiner's~~planning director's decision shall be pursuant to the appeal provisions of ~~Chapter~~Ch. 12.01 KCC.

G. *Home occupations prohibited.*

1. The following uses, by the nature of their operation or investment, have a pronounced tendency, once started, to increase beyond the limits permitted for home occupations and impair the use and value of zoning districts where dwelling units are lawfully established. Therefore, the uses listed below shall not be permitted as home occupations:

a. Repair, body repair, building, or servicing of vehicles.

2. Home occupations prohibited by subsection (G)(1) of this section and which were operated lawfully in the city of Kent in compliance with the provision of this chapter as of the date of passage may continue to operate until October 18, 2004, after which date no prohibited home occupations may lawfully operate in the city of Kent.

SECTION 17. - *Amendment.* Chapter 15.09 of the Kent City Code entitled "Administration" is amended as follows:

Sec. 15.09.010. Development plan review.

A. Review of development plans shall be carried out by the planning department for all buildings and structures hereafter erected, constructed, structurally altered, repaired, or moved within or into any district requiring development plan review and whenever a city permit is required, and for the use of vacant land or for a change in the character of the use of land or buildings, within any district requiring development plan approval.

B. The development plan review is an administrative review, the primary purpose of which is to define and describe the needs of the particular site covered by a development plan in reference to the requirements of this title. The planning director shall make the final decision on development plan review. Development plan review is categorized as a Process I application and shall be subject to the applicable requirements of Ch. 12.01 KCC. Any appeal from the final decision of the planning director shall be to the hearing examiner in accordance with the requirements of Ch. 2.32 KCC and Ch. 12.01 KCC. In addition to the other requirements of this title, the planning department shall approve a development plan only after the following standards, as a minimum, when applicable, have been incorporated into the development plan:

1. Storm drainage must be handled by each proposed development in conformance with existing storm drainage plans and in conformance with city policies for storm drainage.

2. A planned street system is a primary element of any development plan proposed within the city and must be compatible with the city's circulation plans. Development which is proposed in areas of the city which have a planned street system which is a part of the comprehensive plan or the city's six (6) year plan, and any other street plan, shall make provisions for such streets and must not cause implementation of such street plans to become unattainable because the street plan is considered secondary to the development plan.

3. A pedestrian circulation system must become a part of any development plan when the proposed development will generate or attract pedestrians. The planning department shall conduct site plan review to ensure that adequate parking is provided within close proximity to each unit entrance.

4. The proposed development shall be compatible with existing development adjacent to or within five hundred (500) feet of the property line of the proposed development. Compatibility shall not refer to architectural design features, but to siting of building and location of off-street parking.

5. Efforts shall be made to preserve trees, natural vegetation, creeks or other environmental amenities.

Sec. 15.09.020. Zoning permit.

A. Zoning permits shall be required for all grading permits, buildings and structures hereafter erected, constructed, altered, repaired or moved within

or into any district established by this title, and for the use of vacant land or for a change in the character of use of land or buildings within any district established by this title.

B. The zoning permit shall certify that the proposed use is in accordance with the requirements and standards of this title. A zoning permit shall not be issued until the development plan has been approved.

C. Zoning permits are categorized as Process I applications and shall be subject to the applicable requirements of Ch. 12.01 KCC. Any appeal of the final decision of the planning director shall be to the hearing examiner pursuant to the applicable requirements of Ch. 2.32 KCC and Ch. 12.01 KCC.

Sec. 15.09.030. Conditional use permit.

A. *Purpose.*

1. Conditional use permits, revocable, conditional or valid for a time period may be issued by the hearing examiner for any of the uses or purposes for which such permits are required or permitted by the terms of this title. The purpose of the conditional use permit is to allow the proper integration into the community of uses which may be suitable only on certain conditions in specific locations in a zoning district, or if the site is regulated in a particular manner. A conditional use permit is categorized as a Process III application and shall be subject to the requirements of Ch. 2.32 KCC and Ch. 12.01 KCC.

2. Any use existing at the time of adoption of this title which is within the scope of uses permitted by a conditional use permit in the district

in which the property is situated shall be deemed a conforming use without necessity of a conditional use permit.

~~3. Any expansion of an existing conditional use may be required to apply for a new conditional use permit if the planning manager finds that there is a change in the nature of the use by such expansion.~~

B. *Application.*

1. The owner or ~~his agent~~their agent may make application for a conditional use permit, which shall be ~~on a form prescribed by the planning department and filed with the planning department.~~ Applications for conditional use permits shall be filed in accordance with the requirements of Ch. 12.01 KCC.

2. Development plans shall be submitted, drawn to scale, showing the actual dimensions and shape of the lot to be built upon, the exact sizes and locations on the lot of buildings already existing, if any, and the location on the lot of the proposed building or alteration. The plans shall show proposed landscaping, off-street parking, signs, ingress and egress and adjacent land uses. The plan shall include other information as may be required by the planning department.

C. *Public hearing.* The hearing examiner shall hold an open record public hearing on any proposed conditional use, and shall give notice thereof in accordance with the procedures established pursuant to Ch. 2.32 KCC and KCC 12.01.130 and 12.01.140.

D. *Standards and criteria for granting.* A conditional use permit shall only be granted after the hearing examiner has reviewed the proposed use to determine if it complies with the standards and criteria set forth below and in accordance with the requirements for Process III applications under Ch. 12.01 KCC. A conditional use permit shall only be granted if such finding is made.

1. The proposed use in the proposed location will not be detrimental to other uses legally existing or permitted outright in the zoning district.

2. The size of the site is adequate for the proposed use.

3. The traffic generated by the proposed use will not unduly burden the traffic circulation system in the vicinity.

4. The other performance characteristics of the proposed use are compatible with those of other uses in the neighborhood or vicinity.

5. Adequate buffering devices such as fencing, landscaping or topographic characteristics protect adjacent properties from adverse effects of the proposed use, including adverse visual or auditory effects.

6. The other uses in the vicinity of the proposed site are such as to permit the proposed use to function effectively.

7. The proposed use complies with the performance standards, parking requirements and other applicable provisions of this title.

8 Any other similar considerations may be applied that may be appropriate to a particular case.

E. *Action of hearing examiner.* Special conditions may be imposed on the proposed development to ensure that the proposed use will meet the standards and criteria of subsection (D) of this section in granting a conditional use permit. Guarantees and evidence that such conditions are being complied with may be required.

F. *Appeals.* The decision of the hearing examiner shall be final. Any appeal of the hearing examiner's decision shall be pursuant to the appeal provisions of Ch. 12.01 KCC.

G. *Period of validity.* Any conditional use permit granted by the hearing examiner shall remain effective only for three (3) years unless the use is begun within that time or construction has commenced. If not in use or construction has not commenced within three (3) years, the conditional use permit shall become invalid.

H. *Expansion: Any expansion of a conditional use may be required to apply for a new conditional use permit if the expansion:*

1. Exceeds the threshold of a minor conditional use permit under KCC 15.09.032.C(2); or

2. Involves a use with significant external impacts (noise, odor, vibration, glare, aesthetics), including but not limited to outdoor storage or impound lots.

Sec. 15.09.032. Minor Conditional use permit.

A. Purpose:

1. Minor Conditional use permits, revocable, conditional or valid for a time period may be issued by the planning director for any of the uses or purposes for which such permits are required or permitted by the terms of this title. The purpose of the minor conditional use permit is to allow for uses with less of an impact to city infrastructure and surrounding properties than those uses identified as conditional uses, but which may require minor conditions to ensure proper community integration. A minor conditional use permit is categorized as a Process II application and shall be subject to the requirements of Ch. 12.01 KCC.

2. Any use existing at the time of adoption of this title which is within the scope of uses permitted by a minor conditional use permit in the district in which the property is situated shall be deemed a conforming use without necessity of a minor conditional use permit.

B. Application: The owner or agent may apply for a minor conditional use permit in accordance with the requirements of Ch. 12.01 KCC.

C. Applicability: A minor conditional use may only be granted in the following situations, as deemed appropriate by the planning director:

1. To allow for minor conditional uses enumerated in the use charts under KCC 15.04, or as otherward afforded by this title-;

2. To allow the expansion of an existing, conditional use or minor conditional use which has previously been permitted within the zone classification, provided the requested expansion is no greater than twenty five percent (25%) of the gross floor area of the existing conditional use, and the proposal is exempt from environmental review under the State Environmental Policy Act (SEPA);

3. To allow for minor modifications of project scope or operational characteristics, such as hours of operation for a previously approved conditional use or minor conditional use; or

4. To allow for the revision of conditions placed upon a conditional use or minor conditional use permit.

D. Conditions for granting: A minor conditional use permit shall only be granted after the planning director has reviewed the proposed use to determine if it complies with the standards and criteria set forth below, and in accordance with the requirements for Process II applications under Ch. 12.01 KCC.

1. The size of the site is adequate for the proposed use.

2. The performance characteristics (as outlined in 15.08.050) and operational aspects of the proposed use are compatible with those of other uses in the neighborhood or vicinity.

3. Adequate buffering devices such as fencing, landscaping or topographic characteristics protect adjacent properties from adverse effects of the proposed use, including adverse visual or auditory effects.

4. Any other similar considerations to address potential impacts to public infrastructure, nearby properties, or the community generally, may be applied if appropriate to a particular case.

E. Action of planning director. Special conditions may be imposed on the proposed development to ensure that the proposed use will meet the standards and criteria of subsection (D) of this section in granting a minor conditional use permit. Guarantees and evidence that such conditions are being complied with may be required.

F. Appeals: The decision of the planning director shall be final unless appealed. Any appeal of the planning director decision shall be pursuant to the appeal provisions of Ch. 12.01 KCC.

G. Period of validity: Any minor conditional use permit granted by the planning director shall remain valid only for three (3) years unless the use is begun within that time or construction has commenced. If not in use or construction has not commenced within three (3) years, the minor conditional use permit shall become invalid.

Sec. 15.09.040. Variances. The hearing examiner shall have the authority to grant a variance where practical difficulties, unnecessary hardships and results inconsistent with the general purposes of this title might result from the strict application of certain provisions. A variance may not be granted to allow a use that is not in conformity with the uses specified by this title for the district in which the land is located. (Note: Sign variances are heard by the city hearing examiner.)

A. *Application.* The owner or ~~his agent~~their agent may make ~~application~~apply for a variance, which shall be ~~on a form prescribed by the planning department and filed with the planning department.~~ An application for a variance shall be filed in accordance with the requirements of Ch. 12.01 KCC.

1. A variance is categorized as a Process III application and shall be subject to the requirements of Ch. 12.01 KCC.

B. *Public hearing.* The hearing examiner shall hold an open record public hearing on any proposed variance in accordance with the requirements of Ch. 2.32 KCC and Ch. 12.01 KCC.

C. *Conditions for granting.* Before any variance may be granted, it shall be shown and the hearing examiner shall find that:

1. The variance shall not constitute a grant of special privileges inconsistent with a limitation upon uses of other properties in the vicinity and zone in which the property on behalf of which the application was filed is located;

2. Such variance is necessary, because of special circumstances relating to the size, shape, topography, location, or surroundings of the subject property, to provide it with use rights and privileges permitted to other properties in the vicinity and in the zone in which the subject property is located; and

3. The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which the subject property is situated.

D. *Appeals.* The decision of the hearing examiner shall be final. Any appeal of the hearing examiner's decision shall be pursuant to the appeal provisions of Chapter 12.01 KCC.

E. *Period of validity.* Any variance authorized by the hearing examiner shall remain effective only for three (3) years, unless the use is begun within that time or construction has commenced. If not in use or construction has not commenced within three (3) years, the variance shall become invalid.

Sec. 15.09.042. Administrative variances.

A. *Scope.* The planning ~~manager-director~~ shall have the authority to grant an administrative variance for up to twenty-five (25) percent of the numerical zoning code standard for setbacks, lot coverage, and building height as provided in this title.

B. *Application.* The owner or ~~his/her~~ their agent may ~~make application~~ apply for an administrative variance, which shall be ~~on a form prescribed by the planning manager and filed in accordance with the requirements of Ch. 12.01 KCC. with the planning department.~~ An administrative variance is classified as a Process II application and shall be subject to the applicable requirements of Chapter 12.01 KCC. ~~The planning manager shall review applications for completeness, and a notice of completeness will be issued within twenty-eight (28) calendar days after submittal. Those applications deemed incomplete shall be returned to the~~

~~applicant for further action in accordance with the provisions of KCC 12.01.100.~~

C. *Conditions for granting an administrative variance.* The planning ~~manager~~director may grant an administrative variance if it is shown that:

1. The administrative variance does not detract from the desired character and nature of the vicinity in which it is proposed;

2. The administrative variance enhances or protects the character of the neighborhood or vicinity by protecting natural features, historic sites, open space, or other resources;

3. The administrative variance does not interfere with or negatively impact the operations of existing land uses and all legally permitted uses within the zoning district it occupies; and

4. Granting the administrative variance does not constitute a threat to the public health, safety, and welfare within the city.

D. *Appeals.* Appeals of the planning ~~manager~~director shall be submitted within fourteen (14) calendar days of the date of the ~~manager's~~director's decision and shall be in accordance with the requirements of KCC 12.01.~~100~~.

~~E. *Fee.* The fee for an administrative variance shall be one hundred dollars (\$100).~~

Sec. 15.09.045. Administrative design review.

A. *Purpose and scope.* Administrative design review is an administrative process, the purpose of which is to implement and give effect to the comprehensive plan, its policies, or parts thereof through the adoption of design criteria for development relative to site layout, landscape architecture, and exterior structure design. It is the intent of the city that this process will serve to aid applicants in understanding the principal expectations of the city concerning design, and encourage a diversity of imaginative solutions to development through the planning services division review and application of certain criteria. These criteria have been formulated to improve the design, siting, and construction of development projects so as to be compatible, both visually and otherwise, with the topographic, open space, urban, or suburban characteristics of the land or adjacent properties, while still maintaining allowable densities to be applied in a manner consistent with established land use policies, the comprehensive plan, this title, and community development goals of the city.

The adoption of design criteria is an element of the city's regulation of land use, which is statutorily authorized. Application of the multifamily design process to the design criteria adopted in this section is established as an administrative function delegated to the planning services division pursuant to RCW Title 35A; therefore, in implementing the administrative design review process, the planning director may adopt such rules and procedures as are necessary to provide for expeditious review of proposed projects. Further rules may be promulgated for additional administrative review.

B. *Application and review process.* Administrative design review process is classified as a Process II application and shall be subject to the applicable

requirements of Chapter 12.01 KCC. The applicant must make application for the design review process in accordance with the requirements of Ch 12.01 KCC. ~~on forms provided by the planning services division.~~ Upon receipt of an application for design review, the planning director shall circulate the application to the public works director, building official, and the city administrator for review. Prior to making a final decision, the planning director shall review any comments submitted for consideration. In the administration of this process, the planning director may develop supplementary handbooks for the public, which shall pictorially illustrate and provide additional guidance on the interpretation of the criteria set forth in subsections (C) and (D) of this section, as well as a detailed explanation of the design review process.

C. *Residential design review.* In order to diminish the perception of bulk, and provide visual interest along residential home facades that face public areas, architectural design considerations shall be applied. This design review shall be applied administratively as part of the building permit review process for each new home.

1. *Orientation of homes.* The entry facade of each dwelling unit shall be generally oriented toward the highest classification street from which access to the lot is allowed, unless otherwise approved by the planning director based on existing context of surrounding development.

2. *Attached units.* A building that contains a grouping of attached units shall not exceed a 200-foot maximum length and shall be separated from other groups of attached units by a minimum 15 feet.

3. *Architecture.* Each dwelling unit facade that faces a public area shall, at a minimum, incorporate architectural elements as follows:

a. Two elements of facade modulation or roofline variation. Facade modulation elements shall have a minimum width of eight feet and a minimum depth of three feet. Roofline variation elements shall have a minimum horizontal or vertical offset of three feet and a minimum variation length of eight feet;

b. The maximum horizontal facade length without one element of either facade modulation or roofline variation shall be 20 feet; and

c. Three architectural detail elements.

4. *Garages.* Dwelling units within subdivisions and short subdivisions shall provide diminished garage doors according to the percentage and locations approved with the subdivision and short subdivision.

D. *Multifamily design review.* The planning services division shall use the multifamily design guidelines as an adopted element of the city's regulation of land use, which is statutorily authorized, in the evaluation or conditioning of applications under the multifamily design review process.

E. [Reserved].

F. *Mixed use design review.* The planning services division shall use the following criteria in the evaluation and/or conditioning of applications under the mixed use design review process when a project includes residential use:

1. The following criteria should apply to all mixed use with a residential component development:

a. Some common recreation space roofs, terraces, indoor rooms, courtyards.

b. Lighting features that are shielded, directing light downwards.

c. The residential portion of the building should incorporate residential details, such as window trim, trellises, balconies, and bay windows.

d. The residential component should have an obvious, generous entrance, within features suggesting a "front door," for example, a lobby, trellis, gate, archway, or courtyard.

2. The following criteria shall apply to mixed use development:

a. If the residential component is located away from the main street, a landscaped pedestrian path should be provided between the entrance and public sidewalk.

b. Although the commercial and residential components may have different architectural expressions, they should exhibit a number of elements that produce the effect of an integrated development.

c. Surface parking should be generously landscaped to serve as an amenity. Lighting fixtures should not exceed the height of the first floor.

3. The following criteria shall apply to mixed use buildings with a residential component:

a. Parking lots, if used, should be divided into small increments, separated by landscaping and structures, so that parking does not dominate the site.

b. Articulated by use of different materials, generous windows with low sill heights, "store" doors, canopies, and planters.

c. Residential floors should be expressed in an obvious manner, with setbacks, change in materials or color, and overhangs.

d. Commercial signs should be contained within the first floor commercial base and not extend up into the residential floor facades.

G. *Transit-oriented community design review.* The planning services division shall use the following criteria in the evaluation or conditioning of applications under the transit-oriented community design review process:

1. The Midway Design Guidelines as an adopted element of the city's regulation of land use, which is statutorily authorized, shall apply to all development with a land use plan map designation of transit-oriented community.

2. *Residential use design review.* In addition to the Midway Design Guidelines, the following design requirements apply to residential uses and development:

a. Openings from the build-to line. When a residential unit has direct access to the public domain, a 10-foot front yard shall be provided. When residential units have access through a main location, such as an atrium, courtyard, or other main entryway, said access shall be at the build-to line.

b. *Open space.* Residential development shall provide not less than 20 percent of the gross land area for common open space, which shall be:

i. Designed to provide either passive or active recreation;

ii. If under one ownership, owner shall be responsible for maintenance;

iii. If held in common ownership by all owners of the development by means of a homeowners' association, said association shall be responsible for maintenance. If such open space is not maintained in a reasonable manner, the city shall have the right to provide for the

maintenance thereof and bill the homeowners' association accordingly. If unpaid, such bills shall be a lien against the homeowners' association; or

iv. Dedicated for public use if accepted by the city legislative authority or other appropriate public agency.

c. *Storage of recreational vehicles.* The storage or parking of recreational vehicles shall be prohibited.

H. *Appeals.* The decision of the planning director to condition or reject any application under the administrative design review process is final unless an appeal is made by the applicant or any party of record to the hearing examiner within 14 calendar days of either the issuance of the director's conditional approval under this section of any application, or the director's written decision rejecting any application under this section. The appeal shall be conducted by the hearing examiner as an open record appeal hearing in accordance with the requirements of Chapters 2.32 and 12.01 KCC. The decision of the hearing examiner shall be final unless an appeal is made to the superior court within 21 calendar days after the hearing examiner's notice of decision.

Sec. 15.09.046. Downtown design review – Downtown Design Review Guidelines and Meeker Street Streetscape Design and Construction Standards.

A. *Purpose and scope.*

1. Downtown design review is an administrative process, the purpose of which is to implement and give effect to the downtown subarea

action plan and its policies or parts thereof. The Downtown Design Guidelines, adopted in subsection (D) of this section, apply to all development located within the downtown area, as shown on the map following this section, except as noted below:

a. Section 3 of the Downtown Design Guidelines, titled "Sidewalks and Streetscape Features," shall not apply to that portion of the downtown area that fronts Meeker Street; instead, the Meeker Street Streetscape Design and Construction Standards adopted by council through Ordinance No. 4262 on December 12, 2017, shall apply, as those standards may be amended from time to time. All other sections of the Downtown Design Guidelines still apply.

It is the intent of the city that this process will serve to aid applicants in understanding the principal expectations of the city concerning development in the downtown area and encourage a diversity of imaginative solutions to development through the review and application of the Downtown Design Guidelines. These guidelines have been formulated to ensure that the design, siting, and construction of development will provide a quality pedestrian-oriented urban environment in a manner consistent with established land use policies, the comprehensive plan, and the zoning code of the city.

2. The adoption of the Downtown Design Guidelines is an element of the city's regulation of land use, which is statutorily authorized. The downtown design review process adopted herein is established as an administrative function delegated to the city's economic and community development department pursuant to RCW Title 35A. Therefore, in implementing the downtown design review process, the ~~economic and~~

~~community development director~~ planning director may adopt such rules and procedures as are necessary to provide for review of proposed projects.

3. All development within the downtown area, or within the GC, GC-MU, CC-MU, or MR-M zoning districts along the Meeker Street Corridor between 64th Avenue South and Kent-Des Moines Road, which roadway section is hereby classified a Class B pedestrian street, shall be subject to the Downtown Design Guidelines. If development occurs within that portion of the Meeker Street Corridor that lies between Kent-Des Moines Road on the west and Central Avenue on the east, it shall further comply with the Meeker Street Streetscape Design and Construction Standards adopted by council through Ordinance No. 4262, as those standards may be amended from time to time.

4. The downtown design review process is distinct from the multifamily design review process set forth in KCC 15.09.045(D). Applications for multifamily development within the DC, DCE, DCE-T, GC-MU, CC-MU, MR-M, and MRT-16 zoning districts that are also within the downtown area or along the Meeker Street Corridor between 64th Avenue South and Kent-Des Moines Road shall be subject to this section.

B. *Application and review process.* The downtown design review process is administrative and is conducted as part of the permit review process. The applicant must make application for the design review process ~~on forms provided by the economic and community development department~~ in accordance with the requirements of Ch. 12.01 KCC. Upon receipt of an application for design review, the ~~economic and community development~~ planning director shall circulate the application to the appropriate city departments and offices for review. Prior to issuing a final decision, the

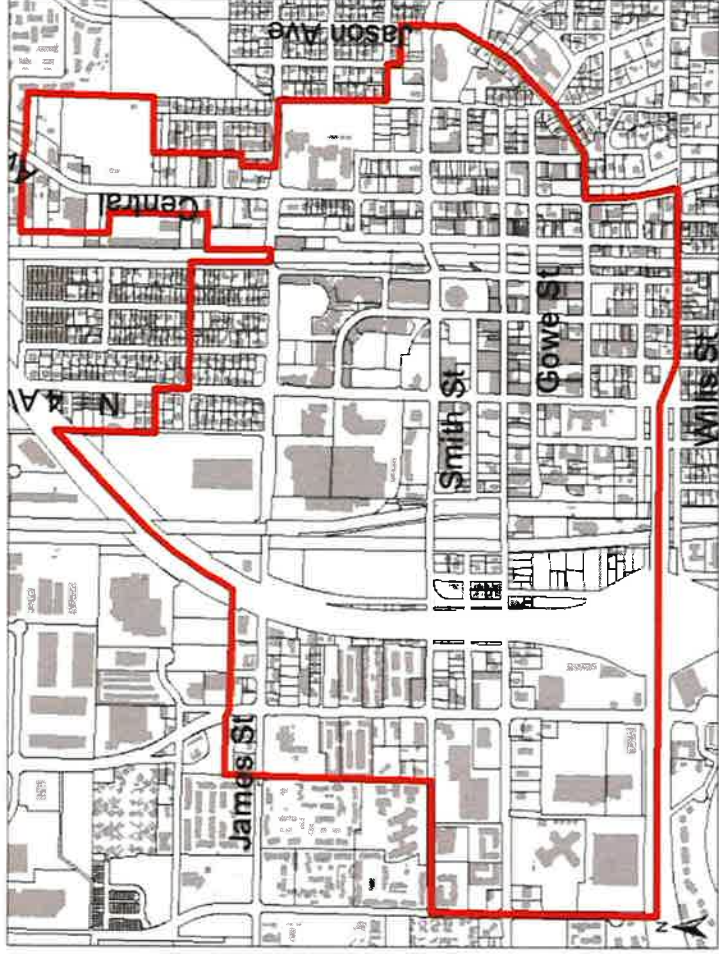
director shall review any comments submitted for consideration. In the administration of this process, the department may develop supplementary handbooks for the public, which shall pictorially illustrate and provide additional guidance on the interpretation of the criteria set forth in the Downtown Design Guidelines.

~~C. — *Design review committee.* There is hereby established the downtown design review committee, which shall make all final decisions on applications for downtown design review as described in the Kent Downtown Design Guidelines. The committee shall be comprised of three members, who shall be appointed by the economic and community development director under the authority delegated pursuant to RCW Title 35A. The members shall serve at the pleasure of the director. The director shall, by administrative rule, establish the rules of procedure for the committee, which shall be made available to the public upon publication.~~

CD. *Downtown Design Guidelines and Meeker Street Streetscape Design and Construction Standards - Adoption.* The ~~downtown design review committee~~planning director shall use the Downtown Design Guidelines in the evaluation and/or conditioning of applications under the downtown design review process. The Downtown Design Guidelines, entitled "Kent Downtown Design Guidelines," are hereby adopted by this reference as authorized pursuant to RCW 35A.12.140 and shall be placed on file in the offices of the city clerk and the economic and community development department. With respect to the Meeker Street Corridor from Kent-Des Moines Road to Central Avenue, development projects shall additionally comply with the Meeker Street Streetscape Design and Construction Standards, adopted by council through Ordinance No. 4262 on December 12, 2017, as may be amended. For those development projects within the downtown area identified in the

map below and along the Meeker Street Corridor, the Downtown Design Guidelines are superseded with those for the Meeker Street Streetscape Design and Construction Standards, and if there is a conflict between the two standards, the Meeker Street Streetscape Design and Construction Standards will control.

DE. *Appeals.* The decision of the ~~downtown administrative design review committee~~ planning director to approve, approve with conditions, or reject any application under the downtown design review process is final unless an appeal is made to the hearing examiner within 14 calendar days of either the issuance of the ~~committee's~~ planning director's approval or rejection of any application under this section. Appeals to the hearing examiner shall be conducted as set forth in Chapters 12.01 and 2.32 KCC. The decision of the hearing examiner shall be final, unless an appeal is made to the King County superior court, within 21 calendar days of the date of the issuance of the decision, pursuant to Chapter 36.70C RCW.



Kent Downtown Arca

Sec. 15.09.047. Industrial design review.

A. *Purpose and scope.* Industrial design review is an administrative process, the purpose of which is to implement and give effect to the Rally the Valley Industrial Valley Subarea Plan as adopted into the comprehensive plan, and its policies or parts thereof. The industrial design guidelines, adopted in subsection (D) of this section, apply to development located in industrial zones I1, I2, and I3.

B. *Application and review process.* The industrial design review process is administrative and is conducted as part of the permit review process. The applicant must make application for the design review process on forms provided by the economic and community development department. In the

administration of this process, the department may develop supplementary handbooks for the public, which may pictorially illustrate and provide additional guidance on the interpretation of the criteria set forth in the industrial design guidelines.

C. *Applicability.* Industrial design review shall apply to all new construction, enlargement of existing buildings and structures, as well as changes of use, as follows:

1. *New construction or enlargement.*

a. *Buildings constructed or enlarged.* For enlargement of existing building, 10 percent of improvement value shall be invested in building or site improvements consistent with the industrial design guidelines. Specific improvements shall be approved by the planning ~~manager~~director as part of building permit review. Improvement value shall be assessed according to the most recently published International Code Council building valuation data.

b. *Other structures or exterior use areas constructed or enlarged.* For enlargement of existing structures or use areas, 10 percent of improvement value shall be invested in building or site improvements consistent with the industrial design guidelines. Specific improvements shall be approved by the planning ~~manager~~director as part of building permit review. Improvement value shall be assessed according to the most recently published International Code Council building valuation data.

2. *Change in use.* When the occupancy of any land use, structure or building, or any part of a building, structure or land use, is changed to

another use, the industrial design guidelines shall apply, with the following exceptions:

a. Change of use from warehousing and distribution to manufacturing uses.

b. Change of use from warehousing and distribution to complexes which include a combination of uses, including a mixture of office, storage, commercial, and manufacturing uses.

c. Change of use from warehousing and distribution to research, development, and testing.

3. For change in use, 10 percent of improvement value shall be invested in building or site improvements consistent with the industrial design guidelines. Specific improvements shall be approved by the planning ~~manager~~director. Improvement value shall be assessed according to the most recently published International Code Council building valuation data.

D. Industrial Design Guidelines – Adoption. The planning ~~manager~~director shall use the industrial design guidelines in the evaluation and/or conditioning of applications under the industrial design review process. The industrial design guidelines, entitled “City of Kent Industrial Design Guidelines,” are hereby adopted by this reference as authorized pursuant to RCW 35A.12.140 and shall be placed on file as adopted and amended hereafter in the offices of the city clerk and the economic and community development department.

E. *Appeals.* The decision of the planning ~~manager~~director to approve, approve with conditions, or reject any application under the industrial design review process is final unless an appeal is made to the hearing examiner within 14 calendar days of either the issuance of the planning ~~manager's~~director's approval or rejection of any application under this section. Appeals to the hearing examiner shall be conducted as set forth in Chapter 2.32 KCC. The decision of the hearing examiner shall be final, unless an appeal is made to the King County superior court, within 21 calendar days of the date of the issuance of the decision, pursuant to Chapter 36.70C RCW.

Sec. 15.09.050. Amendments. This title may be amended by the city council by changing the boundaries of zoning districts (rezones which change the official zoning map) or by changing any other provisions thereof (text amendments which add, delete, or otherwise modify the text of this title) whenever the public necessity and convenience and the general welfare require such amendment, by following the procedures of this section.

A. *Initiation.* An amendment may be initiated as follows:

1. Amendments to the text of this title and official zoning map amendments may be initiated by resolution of intention by the city council. Text amendments are heard by the land use and planning board and city council; zoning map amendments are heard by the hearing examiner. In the case of area-wide zoning or rezoning, both text amendments and zoning map amendments may be heard by the land use and planning board and city council in accordance with Chapter 12.01 KCC.

2. Amendments to the text of this title may be initiated by resolution of intention by the land use and planning board.

3. Official zoning map amendments (rezones), including the application of the "C" suffix, may be initiated by application of one or more owners, or their agents, of the property affected by the proposed amendment, which shall be made on a form prescribed by the planning department and filed with the planning department. The application shall be submitted in the manner required for Process IV applications. The hearing examiner shall consider the application in an open record predecision hearing in accordance with Chapters 2.32 and 12.01 KCC.

B. *Public hearing.* The hearing examiner shall hold an open record predecision hearing on any proposed amendment, and shall give notice thereof in accordance with the requirements of Chapter 12.01 KCC.

C. *Standards and criteria for granting a request for rezone.* The following standards and criteria shall be used by the hearing examiner and city council to evaluate a request for rezone. Such an amendment shall only be granted if the city council determines that the request is consistent with these standards and criteria and subject to the requirements of Chapter 12.01 KCC.

1. The proposed rezone is consistent with the comprehensive plan.

2. The proposed rezone and subsequent development of the site would be compatible with development in the vicinity.

3. The proposed rezone will not unduly burden the transportation system in the vicinity of the property with significant adverse impacts which cannot be mitigated.

4. Circumstances have changed / substantially since the establishment of the current zoning district to warrant the proposed rezone.

5. The proposed rezone will not adversely affect the health, safety, and general welfare of the citizens of the city.

6. [Reserved].

D. [Reserved].

E. *Rezone to mixed use overlay.* The hearing examiner and the city council shall use the standards and criteria provided in subsection (C) of this section to evaluate a request for expanding the boundaries of the mixed use overlay boundary which is located in the GC and CC zoning districts. In addition, the hearing examiner and city council shall evaluate a request for expanding the mixed use overlay using the following standards and criteria as well. Such an amendment shall only be granted if the city council determines the request is consistent with these standards and criteria and subject to the requirements of Chapter 12.01 KCC.

1. The proposed rezone is contiguous to an existing mixed use overlay area, or is at least one acre in size.

2. The proposed area is located within close proximity to existing residential uses and existing commercial uses which would support residential use.

3. The proposed area is located in close proximity to transit stops, parks, and community facilities.

F. *Rezoning to MR-T.* The hearing examiner and the city council shall use the standards and criteria provided in subsection (C) of this section to evaluate a request for rezone to MR-T. In addition, the hearing examiner and city council shall evaluate a request for MR-T using the following standards and criteria as well. Such an amendment shall only be granted if the city council determines the request is consistent with these standards and criteria and subject to the requirements of Chapter 12.01 KCC.

1. The proposed rezone site is adjacent to or has convenient access to an arterial street to ensure that the traffic accessing the MR-T development minimizes the disruption to single-family residential neighborhoods.

G. *Recommendation of hearing examiner.* Following the public hearing provided for in this section, the hearing examiner shall make a report of findings and recommendations with respect to the proposed amendment and shall forward such to the city council, which shall have the final authority to act on the amendment.

H. *City council action/appeal.*

1. The city council shall, at a regular public meeting, consider the recommendation and issue a final decision. The decision of the city council is appealable to the King County superior court within 21 calendar days from the issuance of a notice of decision and in accordance with the requirements of Chapter 12.01 KCC and Chapter 36.70C RCW.

2. If the application for an amendment is denied by the city council, the application shall not be eligible for resubmittal for one year from date of the denial, unless specifically stated to be without prejudice. A new application affecting the same property may be submitted if, in the opinion of the hearing examiner, circumstances affecting the application have changed substantially.

Sec. 15.09.055. Zoning of annexed lands.

A. *Purpose.* It is the purpose of this section to provide a procedure to ensure that the initial zoning of annexed territories is in conformance with city goals, policies, and plans.

B. *Determination of planning director.* Whenever the council shall determine that the best interest and general welfare of the city would be served by annexing territory, the planning director will cause an examination to be made of the comprehensive plan of the city. If the city council determines that the comprehensive plan is not current for the area of the proposed annexation, the planning director will cause an application to be made to the land use and planning board for an update of the comprehensive plan. In addition, the planning director will cause an application to be filed with the land use and planning board for an initial zoning recommendation.

C. *Recommendation of the land use and planning board.*

1. *Comprehensive plan.* Upon application by the planning director, the land use and planning board shall hold at least one (1) open record public hearing to consider the comprehensive plan for the area of the proposed annexation. Notice of the time, place, and purpose of such hearing shall be mailed to all property owners in the area to be annexed and given by publication in a newspaper of general circulation in the city and in the area to be annexed at least ten (10) calendar days prior to the hearing. Upon completion of the hearing, the land use and planning board shall transmit a copy of its recommendations for the comprehensive plan to the council for its consideration.

2. *Initial zoning.* In addition, the land use and planning board shall hold at least one (1) open record public hearing to consider the initial zoning for the area of the proposed annexation. Notice of the time, place, and purpose of such hearing shall be mailed to all property owners in the area to be annexed and given by publication in a newspaper of general circulation in the city and in the area to be annexed at least ten (10) calendar days prior to the hearing.

D. *City council action.*

1. *Comprehensive plan.* Within sixty (60) calendar days of the receipt of the recommendation from the land use and planning board for the comprehensive plan for the area of the proposed annexation, the city council shall consider the comprehensive plan at a public meeting. The council may approve or disapprove the comprehensive plan as submitted, modify and approve as modified, or refer the comprehensive plan back to the land use

and planning board for further proceedings. If the matter is referred to the land use and planning board, the council shall specify the time within which the land use and planning board shall report back to the council with findings and recommendations on the matters referred to it. An affirmative vote of not less than a majority of the total members of the council shall be required for approval.

2. *Initial zoning.* Upon receipt of the recommendations of the land use and planning board for the initial zoning of the area of the proposed annexation, the council shall hold two (2) or more public hearings at least thirty (30) calendar days apart. Notice of the time and place and purpose of such hearing shall be given by publication in a newspaper of general circulation in the city and in the area to be annexed at least ten (10) calendar days prior to the hearing. The ordinance adopting the initial zoning may provide that it will become effective upon the annexation of the area into the city. The city clerk shall file a certified copy of the ordinance and any accompanying maps or plats with the county auditor.

Sec. 15.09.060. Administrative interpretation generally. The planning director may make interpretations of the provisions of this title. Such administrative interpretations shall include determinations of uses permitted in the various districts, and approval or disapproval of development plans and zoning permits. Other interpretations may be made as specific circumstances arise which require such interpretations. The purpose of such administrative interpretations is to provide a degree of flexibility in the administration of this title while following the intent of the city council. Administrative interpretations are subject to applicable requirements of Process I applications per Ch. 12.01 KCC.

Sec. 15.09.065. Interpretation of uses.

A. Land uses which are listed as principally permitted uses in the Land Use Tables shall be permitted subject to the review processes, standards, and regulations specified in Title 15. If a use is not listed in the Land Use Tables, it shall be considered to be a prohibited use unless the planning director determines it to be a permitted use following the process outlined below. If a proposed use is not specifically listed in the Land Use Tables, an applicant may request from the planning director an interpretation as to whether or not such use is a permitted use. In determining whether a proposed use closely resembles a use expressly authorized in the applicable zoning district(s), the planning director shall utilize the following criteria:

1. The use resembles or is of the same basic nature as a use expressly authorized in the applicable zoning district or districts in terms of the following:

a. The activities involved in or equipment or materials employed in the use;

b. The effects of the use on the surrounding area, such as traffic impacts, noise, dust, odors, vibrations, lighting and glare, and aesthetic appearance.

2. The use is consistent with the stated purpose of the applicable district or districts.

3. The use is compatible with the applicable goals and policies of the Comprehensive Plan.

B. A record shall be kept of all interpretations and rulings made by the planning director. Such decisions shall be used for future administration. The planning director shall report decisions to the land use and planning board when it appears desirable and necessary to amend this code. The planning director's determination is classified as a Process I application and shall be processed and subject to the applicable requirements of Ch. 12.01 KCC and may be appealed as provided in Ch. 12.01 KCC.

C. *Appeals.* Any appeal from the planning director's determination shall be an open record appeal hearing and shall be filed in accordance with the procedures established for Process I applications under Ch. 12.01 KCC.

Sec. 15.09.070 Appeal of administrative interpretations.

A. Any appeal of administrative decisions relating to the enforcement or interpretation of this title, unless otherwise specifically provided for in this chapter, shall be in writing, and shall be filed with the planning department within fourteen (14) calendar days after such decision, and in the manner set forth in Ch. 12.01 KCC.

B. The appeal shall be heard by the hearing examiner, and the hearing examiner shall render ~~his or her~~a decision in accordance with the requirements of Ch. 2.32 KCC and Ch. 12.01 KCC.

Sec. 15.09.080. Revocation of permits or variances. Any zoning permit, planned unit development permit, conditional use permit or variance granted in accordance with the terms of this title may be revoked if any of

the conditions or terms of such permit or variance are violated, or if any law or ordinance is violated in connection therewith.

Sec. 15.09.090 Performance standards procedures. The planning director shall have the power to authorize the following procedures prior to the issuance of a zoning permit for industrial uses as provided for in the several industrial districts:

A. *Application for zoning permit.* An application for a zoning permit for a use subject to performance standard procedures shall be submitted by the owner or ~~his~~ the owner's agent in accordance with the requirements of Ch. 12.01 KCC. ~~duplicate on a form prescribed by the planning department.~~ The applicant shall also submit in duplicate a plan of the proposed machinery, processes and products, and specifications for the mechanisms and techniques to be used in restricting the creation or emission of dangerous and objectionable elements as set forth in KCC 15.08.050(D). The applicant shall also provide such supporting scientific, technical or other data or information as is necessary to establish that the use will comply with the performance standards set forth in KCC 15.08.050.

B. *Review by expert consultants.* The planning director, upon obtaining approval of the costs by the city council, may refer the application for review and report to one (1) or more expert consultants qualified to advise as to whether a proposed use will conform to the applicable performance standards specified in KCC 15.08.050 in a manner set forth in the application. A copy of such report shall be filed with the planning department for inspection by interested persons.

C. *Review by planning director.* Within thirty (30) days after the planning department has received the application provided for in this section, or within such period as agreed to by the applicant, the planning director shall decide whether the proposed use will conform to the applicable performance standards, and on such basis shall authorize or refuse to authorize issuance of a zoning permit, or require a modification of the proposed equipment or operation. Any zoning permit so authorized and issued shall be conditioned upon, among other things, the applicant's completed buildings and installations conforming in operation to the applicable performance standards.

D. *Continued enforcement.*

1. The planning department shall investigate any purported violation of performance standards. For the purpose of investigating such violations, the planning director may employ qualified experts.

2. After investigation, on due notice to the alleged violator, the planning director may order the violations corrected within a prescribed period of time, and if such violations are not so corrected may order the violator to cease and desist from carrying on that portion of the operation or process causing a violation.

E. *Violations.* If violation has occurred, the planning director shall report to the city attorney if the violation was wilful or likely to occur again, and the city attorney may order the violator to take such steps as are necessary to ensure future compliance with this chapter. The procedure provided in this subsection shall not be exclusive, and, if the violation has been wilful or

without reasonable justification the violator may be prosecuted as for a misdemeanor.

Sec. 15.09.095. Cleanup of solid waste and hazardous waste facilities. Application of land use and zoning regulations contained in Ch. 15.04 KCC, off-street parking and loading requirements of Ch. 15.05 KCC, landscaping regulations of Ch. 15.07 KCC, general and supplemental provisions of Ch. 15.08 KCC, and administration provisions of Ch. 15.09 KCC relating to development plan review, zoning permits and conditional uses relating to the required cleanup of solid waste and hazardous waste facilities under this title shall be governed under procedures and requirements as set forth in KCC 11.02.060.

Sec. 15.09.300. Responsibility for establishment of lot lines and setback lines. Notwithstanding any provisions in this title to the contrary, the city shall have no duty to verify or establish lot lines or setback lines at a development. The location of lot lines or setback lines at a development and construction related thereto shall be the responsibility of the applicant and owner.

SECTION 18. - Contemporaneously passed ordinances.

Amendments reflected in this ordinance are changes to the Kent City Code as it existed on October 20, 2020, prior to the meeting at which the ordinance was passed by the council. It is recognized that another ordinance that amends some of the same sections as this ordinance was passed by the council on the same date. These two ordinances shall be considered approved contemporaneously for the purposes of revising the code. The code reviser is instructed to incorporate the amendments of both ordinances into the Kent City Code as if passed as one ordinance.

SECTION 19. - *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 20. - *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.

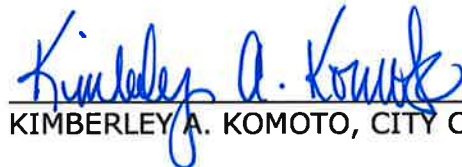
SECTION 21. - *Effective Date.* This ordinance shall take effect and be in force 30 days from and after its passage, as provided by law.



DANA RALPH, MAYOR

October 20, 2020
Date Approved

ATTEST:



KIMBERLEY A. KOMOTO, CITY CLERK

October 20, 2020
Date Adopted

October 23, 2020
Date Published

APPROVED AS TO FORM:



ARTHUR "PAT" FITZPATRICK, CITY ATTORNEY

Classified Proof

Client	238398 - City of Kent, City Clerk - LEGAL ADS	Phone	(253) 856-5728
Address	220 Fourth Ave S	E-Mail	kkomoto@kentwa.gov
	Kent, WA, 98032	Fax	

Order#	911426	Requested By	KIM KOMOTO	Order Price	\$93.03
Classification	3030 - Legal Notices	PO #	ORD 4372-4373	Tax 1	\$0.00
Start Date	10/23/2020	Created By	8280	Tax 2	\$0.00
End Date	10/23/2020	Creation Date	10/15/2020, 02:01:07 pm	Total Net	\$93.03
Run Dates	1			Payment	\$0.00
Publication(s)	Kent Reporter				

Sales Rep	9470 - Jennifer Tribbett	Phone	(360) 802-8212
		E-Mail	jtribbett@courierherald.com
		Fax	

**CITY OF KENT
NOTICE OF
ORDINANCES
PASSED BY THE CITY
COUNCIL**

The following are summaries of ordinances passed by the Kent City Council on October 20, 2020.

ORDINANCE NO. 4372
- AN ORDINANCE of the City Council of the City of Kent, Washington, amending sections 12.01, 12.04, 15.02, 15.04, and 15.06.035, and 15.09 of the Kent City Code to modernize processes and procedures and clean up errors.

This ordinance shall take effect and be in force 30 days from and after its passage, as provided by law.

ORDINANCE NO. 4373
- AN ORDINANCE of the City Council of the City of Kent, Washington, recognizing isolation and quarantine facilities as a land use and designating the proper zoning districts and conditions therefore; amending the definitions of emergency housing facility and emergency shelter; reestablishing the zoning districts where emergency housing facilities may be located; and amending the definitions of hotel and motel.

This ordinance shall take effect and be in force 30 days from and after its passage as provided by law.

A copy of the complete text of any ordinance will be mailed upon request of the City Clerk.

Kimberley A. Komoto,
City Clerk
Kkomoto@KentWA.gov

253-856-5725
911426
10/23/20

