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Title: Procedures for requesting variances from the King County
Road Design and Construction Standards
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Department of Local Services



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Procedures for Requesting Variances from the King County Road Design and Construction Standards

PUT 10-2-2 (PR)

1.0 **SUBJECT TITLE:** Procedures for requesting variances from the King County Road Design and Construction Standards.

1.1 **EFFECTIVE DATE:** December 17, 2020

1.2 **TYPE OF ACTION:** Supersedes "Procedures for Requesting Variances from the King County Roads Standard, PUT 10-2 (PR) dated June 6, 1990" and PUT 10-2-1 (PR) dated April 21, 2013.

1.3 **KEY WORDS:** (1) Road Design and Construction Standards; (2) Variance Requests; (3) County Road Engineer (CRE); (4) Road Variances; (5) Road Standards; Standards

2.0 **PURPOSE:** To revise procedures for applicants to submit alternative designs (variances).

3.0 **ORGANIZATIONS AFFECTED:**

3.1 King County Department of Local Services, Road Services Division

3.2 King County Department of Local Services, Permitting Division

3.3 King County Department of Natural Resources and Parks

4.0 **REFERENCES:**

4.1 King County 2016 Road Design and Construction Standards.

4.2 King County Code Chapter 14.42

4.3 King County Code 2.98.010

5.0 DEFINITIONS:

- 5.1 "Standards" means the most recently approved and adopted version of the King County Road Design and Construction Standards.
- 5.2 "Variance" means a deviation from the Standards.
- 5.3 "Applicant" means a property owner, or a public agency or public or private utility which owns a right-of-way or other easement or has been granted possession and use of a right-of-way or other easement in a written agreement signed by the property owner or has obtained a court order in a condemnation proceeding adjudicating that the use for which the agency or utility seeks to condemn the right-of-way or easement is a public use, or any person or entity designated or named in writing by the property or easement owner to be the applicant, in an application for a development proposal, permit or approval, or their successors or assigns.
- 5.4 "CRE" means County Road Engineer.
- 5.5 "DLS" means King County Department of Local Services.
- 5.6 "Permitting" means King County Department of Local Services, Permitting Division.
- 5.7 "Roads" means King County Department of Local Services, Road Services Division.
- 5.8 "Development Engineer" means Permitting Development Engineer.
- 5.9 "Development and Variance Review Engineer" means Roads Development and Variance Review Engineer.
- 5.10 "AASHTO" means American Association of State Highway and Transportation Officials.
- 5.11 "ASTM" means American Society for Testing and Materials.
- 5.12 "DNRP" means King County Department of Natural Resources and Parks.
- 5.13 "Development Proposal" means a subdivision, short subdivision, binding site plan, grading permit, right-of-way use permit, residential building permit, commercial building permit, and/or any similar request that requires Permitting approval.
- 5.14 "K.C.C." means the King County Code. References to the King County Code are to the King County Code as it now exists or is hereafter amended.

6.0 POLICIES:

- 6.1 The Standards cannot provide for all situations, and pursuant to the authority set in K.C.C. 14.42.060, the CRE may grant variances. Therefore, the CRE shall establish and follow procedures for requesting and approving variances to the Standards.

6.2 Standards for Variance Applications:

- 6.2.1 Applications for proposed variances shall be written and include a specific description of the proposed deviation from the Standards along with any documentation and justification supporting the proposed deviation. Documentation may include, but need not be limited to, a record of successful use by other agencies, or evidence of meeting criteria for quality such as AASHTO and ASTM standards.
- 6.2.2 The applicant shall include those sections of the Standards from which the application proposes to deviate.
- 6.2.3 Application for location of utilities by an entity allowed under a franchise agreement must be prepared and submitted by that entity.
- 6.2.4 Variance applications not associated with a development proposal shall be directed to the CRE at King County Department of Local Services, 201 South Jackson Street, Seattle, WA 98104-3856.
- 6.2.5 Variance applications associated with a development proposal shall be directed to the Development Engineer, King County Permitting, at 35030 SE Douglas St., Suite 210, Snoqualmie, WA 98065-9266 on forms prescribed by the CRE and Permitting. These applications shall be accompanied by the variance review fee as specified in K.C.C. Title 27.
- 6.2.6 The Development Engineer shall retain and process variance applications subject to Section 1.13. F of the Standards. This variance review process is described in Section 6.4.4 of this Public Rule.

6.3 Criteria for Granting Variances:

- 6.3.1 Variance from the Standards may be granted by the CRE or, as set forth in Section 1.13.F of the Standards, by the Development Engineer if the following conditions are met:
 - 6.3.1.1 The variance produces a compensating or comparable result which is in the public interest.
 - 6.3.1.2 The variance meets requirements for safety, function, fire protection, transit needs, appearance, and maintainability.
- 6.3.2 Any variance from the Standards which does not meet the King County Fire Code in K.C.C. Title 17 will require concurrence by the King County Fire Marshal.

6.4 Review of Variance Application:

- 6.4.1 Variance applications not associated with a development proposal are submitted to the CRE by letter or on the prescribed form.
- 6.4.2 Variance applications associated with a development proposal are submitted to Permitting on the prescribed application form (see Permitting Customer Information

Bulletin #34A).

- 6.4.3 The Development and Variance Review Engineer shall receive, screen, and review variance applications, note any recommendations along with the supporting justification, and forward them to the CRE, except for variance applications subject to Section 6.4.4 of these Rules.
- 6.4.4 The CRE has granted the Development Engineer the decision-making authority for variances from the Standards in the following specified areas that relate to development proposals. This authorization is reviewed and approved annually through a memorandum of agreement.
1. Offsite Road Improvement Requirements (Section 1.05A)
 2. Engineering Plan Requirements (Section 1.12)
 3. Determine Urban or Rural Roadway Section (Section 2.01)
 4. Private Access Tracts and Private Streets – Not to exceed 20 lots (Sections 2.06 and 2.09B)
 5. Alley Design (Section 2.09A)
 6. Road Grade Transitions (Section 2.11)
 7. Stopping Sight Distance for Sag Residential Curves (Section 2.12)
 8. Off-Street Walkway – Location (Section 3.08)
 9. Paved Shoulders (Section 3.07)
 10. Mailbox Location (Section 5.04)
 11. Bollard Design (Section 5.08)
- 6.4.5 The Development Engineer or CRE shall issue a decision on the variance application within thirty (30) days of receiving the variance application, except as follows:
- 6.4.5.1 If additional information must be sought from the applicant, a decision by the Development Engineer or the CRE may be delayed. When the Development Engineer or the CRE has received the requested additional information and determined the variance application is complete, the thirty-day review period set forth above shall begin. If the applicant fails to provide the requested information within sixty (60) days of the information being requested, the Development Engineer or the CRE may cancel review of the variance application.
- 6.4.6 In cases where the complete variance application requires extensive review by the Development Engineer, the CRE, or staff, the Development Engineer or the CRE may, upon notifying the applicant prior to the expiration date of the thirty-day review period, extend the review period for another thirty (30) days. The total review time shall not exceed sixty (60) days.
- 6.5 Variance Application Decisions:
- 6.5.1 The Development Engineer or CRE shall notify the applicant of the decision on the variance application by letter or by standard form.
- 6.5.2 The applicant may request a reconsideration of the Development Engineer's, or CRE's variance decision. The applicant must file the reconsideration request with the variance decision maker (Development Engineer, or CRE) within thirty (30) days of the issuance of the original decision; the reconsideration request must include the original variance application, any

documentation submitted with the application, the written decision, reasons supporting reconsideration, and additional supporting justification.

- 6.5.3 In those instances where the Development Engineer issued the original variance decision, as an alternative, the applicant may request the CRE to review the Development Engineer's original variance decision.
- 6.5.4 The Development Engineer or the CRE shall issue a reconsideration decision within thirty (30) days of receiving the request for reconsideration.

6.6 Appeal Process:

- 6.6.1 The applicant may administratively appeal the variance decision by submitting the variance application, the written variance decision, reasons for appealing, and additional supporting justification to the Director of the Road Services Division, Department of Local Services within thirty (30) days of the issuance of the variance decision.
- 6.6.2 The Director of the Road Services Division Department of Transportation shall issue a decision on the appeal within thirty (30) days of receiving the appeal of the variance decision. The Director may either concur with the original variance decision, approve the variance application as originally submitted, or approve the variance application with special conditions.
- 6.6.3 In cases where the review of appeal requires extensive staff review, the Director may extend the review period for another ten (10) days.
- 6.6.4 The Director's decision shall be final. No further administrative appeal is available.

7.0 PROCEDURES:

Responsibility:

Action:

Applicant	7.1	Prepares a written variance application which identifies those sections of the Standards which the variance application seeks deviation from and a description of how the proposed variance meets the requirements set forth in section 6.3 of these rules.
Applicant	7.2	Submits variance applications consistent with the guidance in Section 6.2 of these Rules.
CRE or Development Engineer.	7.3	Receives variance application and arranges for timely review by County staff and other affected agencies and notifies the applicant of the decision regarding the variance application.

CRE or Development Engineer.	7.4	When necessary, notifies the applicant that additional information is required and that the thirty-day review period shall begin when it is determined that the variance application is complete.
CRE or Development Engineer.	7.5	Issues a variance decision within thirty (30) days of receipt of a complete, variance application, subject to provisions of Sections 6.4.5.1 and 6.4.6 of these Rules
CRE or Development Engineer.	7.6	Notifies the applicant of the decision regarding the variance application.
Applicant	7.7	The applicant may request reconsideration of the Development Engineer's or CRE's original variance decision. The applicant must file the reconsideration request with the decision maker within thirty (30) days of the issuance of the decision.
CRE or Development Engineer	7.8	The Development Engineer or the CRE will issue a decision on the reconsideration request within thirty (30) days of receiving the request.
Applicant	7.9	The applicant may request the CRE review the Development Engineer's original variance decision. The applicant must file the reconsideration request with the CRE within thirty (30) days of the issuance of the Development Engineer's decision.
Applicant	7.10	May appeal the CRE's or Development Engineer's decision by submitting the original variance proposal, the CRE's or Development Engineer's written decision, reasons for appealing, and additional supporting justification to the Director of the Road Services Division within thirty (30) days of issuance of the CRE's or Development Engineer's decision.
Director of the Road Services Division_	7.11	Shall issue a decision in writing on the appeal of the variance decision within thirty (30) days. In cases where the appeal requires extensive staff review, the Director may extend the review period for another ten (10) days.

8.0 RESPONSIBILITIES:

8.1 Applicant is responsible for:

- 8.1.1 Submitting variance application, including required forms and adequate documentation to appropriate variance decision maker.
- 8.1.2 Paying required fees associated with variance application.
- 8.1.3 Responding to Development Engineer or CRE's request for any additional information deemed necessary after preliminary review of variance request(s).
- 8.1.4 Following established procedures for requesting a reconsideration or an appeal of a variance decision.
- 8.2 Development Engineer or CRE is responsible for:
 - 8.2.1 Receiving variance applications and arranging for timely review by staff.
 - 8.2.2 Requesting additional informational from the applicant when required to have a complete variance application.
 - 8.2.3 Informing the applicant when more time is required to review variance application.
 - 8.2.4 Issuing decisions on variance applications.
 - 8.2.5 Issuing decision on request for reconsideration.
 - 8.2.6 Obtain King County Fire Marshal concurrence as necessary.
- 8.3 The Director of the Road Services Division is responsible for:
 - 8.3.1 Reviewing appeals of variance decisions and issuing final decisions on variance appeals.
- 8.4 Permitting is responsible for:
 - 8.4.1 Receiving, screening, reviewing variance request, making recommendations to the CRE, and where authorized, issuing decisions on variance requests.
 - 8.4.2 Collecting standard fees for variances associated with a development.
 - 8.4.3 Transmitting variance applications associated with development but not covered by the provisions of 6.4.4 to the CRE for processing.

9.0 APPENDICES:

None