

Chapter 17.02 ADMINISTRATION OF THE UNIFIED DEVELOPMENT CODE

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17.02.010 Introduction.

The city of Kelso has consolidated the primary regulations governing the use and development of land into a single unified development code. Kelso Municipal Code Title [17](#), also known as the Kelso Unified Development Code, includes a single set of definitions, procedures, and standards and is intended to be the principal source information for business and property owners, developers, residents, and interested citizens.

A. The following is a brief summary of key planning roles in the city of Kelso:

1. The Kelso city council is the legislative body of the city and is the only body which can adopt or amend an ordinance. The city council shall make the final decisions on Class 4 permit applications. The city council shall designate a city manager and also make appointments to the planning commission;
2. The city planning commission is the planning advisory body to the city council and shall make recommendations on Class 4 permit applications and on long range planning matters, and shall perform other duties as assigned by the city council;
3. The city manager is the chief administrative officer of the city and shall designate city staff and authorized representatives of the city to perform the duties identified in this title;
4. The community development director or such other person authorized by the director or city manager shall make decisions on Class 1 and Class 2 permit applications, administer the provisions of this title, oversee the implementation of all planning requirements and activities in the city, and interpret the provisions of this code;
5. The city hearing examiner is authorized to make decisions on Class 3 permit applications, to hear appeals of decisions on Class 1 and 2 applications, and to perform other duties as assigned by the city manager and the city council; and

6. The city attorney will advise the mayor and city council, planning commission, and city staff regarding the legal interpretations, applications, and the enforcement of this title. In addition, the city attorney may initiate code enforcement actions on behalf of the city.
- B. Unless otherwise provided by the city manager, the community development director or his/her designees are hereby authorized to perform the following duties:
1. Establish and maintain such application forms and administrative procedures as may be necessary to implement this title;
 2. Interpret ordinances, codes, and requirements and determine the applicability of this title to proposed projects and development activities;
 3. Prepare and, upon approval by the city council, implement a fee schedule for all land use, development, and building permit activities;
 4. Implement standards for urban design and the construction of public works or improvements in the city;
 5. Serve as the SEPA responsible official;
 6. Review and approve land use, shoreline, building permit, and related permits in accordance with the provisions of this title;
 7. Inspect and examine any structure or tract of land and to order in writing the remediation of any condition found to exist in violation of any provision of the Kelso Municipal Code;
 8. Enforce city ordinances, codes, and regulations including the approval of compliance plans, the imposition of fines for violations, the issuance of stop work orders, and/or the imposition of penalties;
 9. Manage the activities of city staff and consultants involved in planning and land use activities; and
 10. Represent the city in working with other local, county, state, and federal planning and natural resource management agencies. (Ord. 3889 § 3 (Exh. A), 2017)

17.02.020 Administrative interpretations.

Wherever the requirements of this title ~~are~~ are at variance in conflict with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants to which the city is party, the city shall make an administrative code interpretation and/or take appropriate legislative action to provide clear direction.

- A. The city manager, or his/her designee, is hereby authorized to make such administrative interpretations as may be necessary to implement this title, to promote the streamlined implementation of the comprehensive plan, provide for efficient development reviews, remove inequities among property owners, resolve conflicting requirements, clarify provisions, correct cross references, provide for the efficient delivery of city services, to protect the public health, safety, and welfare, and/or to avoid unnecessary hardships.
- B. Any person may submit a written request to the city for a formal interpretation of the provisions of this title or those codes referenced by this title. The request shall identify the specific provision(s) in question and shall include relevant background information and supporting documentation. The request shall be processed in accordance with the applicable provisions of this title.
- C. No private property shall be taken for a public purpose without just compensation in accordance with the provisions of the Washington State and U.S. Constitutions. (Ord. 3889 § 3 (Exh. A), 2017)

17.02.030 Reasonable use exception.

In the event that the strict and literal interpretation of this title serves to deny a property owner all reasonable use of their property, the property owner may apply for a reasonable use exception and may request the minimal relief necessary to enable the reasonable use of their property. The request shall be processed in accordance with the applicable provisions of this title.

- A. The criteria for the review and approval of reasonable use exceptions shall include:
 - 1. The application of the standards and provisions of this title would deny all reasonable economic use of the property;
 - 2. There are no other practical alternatives to the proposed action that would have less impact;
 - 3. The inability to derive reasonable economic use of the property is not the result of subdivision or other actions by the applicant;
 - 4. No other reasonable economic use has less adverse impact(s);
 - 5. The proposal protects and mitigates impacts to the functions and values of critical areas to the greatest extent feasible, consistent with the best available science;
 - 6. The proposal does not pose a threat to the public health, safety, or welfare on or off the development proposal site; and
 - 7. The proposal is consistent with other applicable regulations and standards.

B. Burden of Proof. The burden of proof shall be on the applicant to bring forth evidence in support of the application and to provide sufficient information on which any decision has to be made on the application. (Ord. 3889 § 3 (Exh. A), 2017)

17.02.050 Fees.

Fees and charges for administering the provisions of this title shall be set by action of the city council. (Ord. 3889 § 3 (Exh. A), 2017)

17.02.060 Performance bonds.

After reviewing any application for a land use or a zoning matter, the city may provide for the posting of bonds to ensure continued compliance with any conditions imposed, including the construction of improvements, the adherence to city standards, and/or maintenance, repair or replacement of such improvements. The bond shall be in a form acceptable to the city attorney. In the event a condition occurs warranting the use of bond, the city may act under such bond or may perform the work required at city expense, which expense in excess of the amount paid under the bond shall be a lien against the property, enforceable as would be a judgment thereon. (Ord. 3889 § 3 (Exh. A), 2017)

17.02.070 Liability.

The granting of approval or the issuance of a permit for any structure or use shall not constitute a representation, guarantee, or warranty of any kind or nature by the city or any official of the city, on the practicality, feasibility, or safety of any structure or proposed use and shall create no liability upon or cause of action against such public body, official, or employee for any damage that may result therefrom.

A. None of the provisions of this title are intended to create a cause of action or provide the basis for a claim against the city, its officials, or employees for the performance or failure to perform a duty or obligation running to a specific individual or specific individuals. Any duty or obligation created herein is intended to be a general duty or obligation running in favor of the general public.

B. This title shall not be construed to hold the city, or any officer or employee thereof, responsible for any damages to persons or property by reason of the certification, inspection or noninspection of any building, equipment or property as herein authorized. (Ord. 3889 § 3 (Exh. A), 2017)

17.02.080 Severability.

If any provision of this title, or its application to any person or legal entity, is held to be invalid, the remainder of this title or the application of this title or the application of the provision to other persons or entities or circumstances shall not be affected. (Ord. 3889 § 3 (Exh. A), 2017)