



# Reasonable Use Exception: Instructions and Information

## **General Information**

The following is a summary of the Reasonable Use Exception (RUE) process and a description of the application submittal requirements. The information for a RUE application is necessary to evaluate the merits of a proposal with applicable county and state regulations and to assess the potential community environmental impacts.

An application is evaluated based on information provided by the applicant, the King County Comprehensive Plan, pertinent provisions of the King County Code (KCC), site inspection, and comments submitted by citizens and interested public agencies. If the subject property is located within an identified landslide, steep slope, channel migration, erosion, seismic, or coal mine hazard area, wetland, aquatic or riparian area, wildlife habitat conservation area, wildlife habitat network, and/or critical aquifer recharge area, the applicant may be required to submit a special study produced by a qualified professional to address the identified critical area features on the subject property.

To view current King County Code, visit [King County Code](#). The King County Comprehensive Plan can also be viewed at [King County Comprehensive Plan](#).

Questions? Please visit our [customer service page](#) or [www.kingcounty.gov](http://www.kingcounty.gov)

## **Pre-Application Conference**

A pre-application conference with Permitting staff is not required prior to filing a RUE application but can be helpful to ensure a complete application and timely review process. Pre-application requests can be submitted on MyBuildingPermit.com, and forms and instructions for filing a pre-application are available from the [Permitting Web Site](#).

## **Filing an Application**

A Reasonable Use Exception application must be submitted electronically. Email the completed submittal package to [PermitCenter.DPER@kingcounty.gov](mailto:PermitCenter.DPER@kingcounty.gov). Cloud services can be used if file sizes are too large for email. The minimum submittal requirements necessary to file the application are described below. Review timelines are specified in KCC 20.20.

## **Notice of Application**

Public Comment Period: After the Permitting staff determines that the application is complete, a Notice of Application is issued as specified below. The minimum public comment period is 21 days, although public comments may be submitted and considered until the time of the decision.

1. Permitting staff sends out a notice of the application to property owners within a 500-foot radius of the subject property.

If the area is rural or lightly populated, the notice must be mailed to at least 20 different property

[Department of Local Services, Permitting Division](#)  
[www.kingcounty.gov](http://www.kingcounty.gov); 206-296-6600 / TTY Relay: 711

owners; or, in other appropriate cases, the division may determine it is necessary to notify additional property owners.

2. A notice of the application will be published by Permitting staff in the official county newspaper and another newspaper of general circulation.
3. The applicant is required to install a notice board that must be placed in a conspicuous place on the property throughout the permitting process so that it is visible to people passing by the property. Additional notice boards may be required as determined by Permitting staff.

The cost of the board is the applicant's responsibility. Permitting staff will send the applicant written instructions regarding the specific requirements for the notice board.

4. Notice of the application is also provided to anyone who writes to the division requesting information regarding the Reasonable Use Exception request.

### **Method for Processing**

The Director of Permitting has appointed a staff representative to make final decisions regarding Reasonable Use Exceptions. Upon conclusion of review of the application materials, the representative issues a written decision based on the written record. A copy of the decision is mailed to all parties who have written to the department. There is an appeal period, as identified in the written decision, whereby an aggrieved person can file an appeal together with an appeal filing fee to the King County Hearing Examiner.

In those cases where a proposed action for a Reasonable Use Exception also requires other county permits, the following procedures shall apply:

1. When other permits require a public hearing before the Hearing Examiner, the review of the RUE shall be combined with the other permit(s), and the Examiner shall act on behalf of the Permitting Director for the purpose of the RUE decision.
2. When other permits are administratively approved, review of the application may be combined with other permits dependent on the granting of a RUE. If not combined, other permits may proceed prior to review and approval of such RUE.
3. In those cases where the Hearing Examiner is presiding, the Examiner will also act as the decision-maker and rule on the RUE.
4. In all cases of combined review, the most informative provisions for notification and processing shall govern the review of RUE requests.

### **Criteria for Reasonable Use Exception Approval: KCC 21A.24.070 (see Subsection E)**

- A. If application of this chapter denies all reasonable use or prohibits a development proposal, an applicant may apply for an exception in accordance with this section. Except in flood hazard areas, alluvial fan hazard areas, and severe channel migration hazard areas, an exception under this section may be allowed in critical areas, critical area buffers, and critical area setbacks.
- B. A request for an exception in the shoreline jurisdiction shall be processed as a shoreline variance under KCC 21A.44.090.
- C. A public agency or utility may apply for a critical area alteration exception if application of this chapter denies a development proposal. A public agency or utility critical area alteration exception shall meet all the following criteria:

1. There is no feasible alternative or location for the development proposal with less impact on the critical area.
  2. The development proposal minimizes impacts on critical areas to the maximum extent practical and complies with avoidance and mitigation sequencing in KCC 21A.24.125;
  3. The strict application of this chapter would prohibit the provision of public agency or utility services to the public.
  4. The development proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest.
  5. For linear alterations:
    - a. the alteration connects to or is a public roadway, regional light rail transit line, public trail, utility corridor or utility facility, railroad, hydroelectric generation facility, or other public infrastructure owned or operated by a public utility; or
    - b. The alteration is required to overcome limitations due to gravity.
- D. A property owner may apply for a private development critical area alteration exception if application of this chapter denies a development proposal in a steep slope hazard, landslide hazard area, riparian area, critical aquifer recharge area, wildlife habitat network, critical area buffer, or critical area setback. A private development critical area alteration exception shall meet all of the following criteria:
1. There is no feasible alternative to the development proposal with less impact on the critical area;
  2. The development proposal minimizes impacts on critical areas to the maximum extent practical and complies with avoidance and mitigation sequencing in KCC 21A.24.125;
  3. The alteration is the minimum necessary to accommodate the development proposal;
  4. The exception does not require the modification of a critical area development standard established by this chapter;
  5. The development proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest;
  6. For dwelling units, no more than five thousand square feet or ten percent of the site, whichever is greater, may be disturbed by structures, critical area setbacks, or other land alteration, including grading or utility installations, but not including the area used for a driveway or for an on-site sewage disposal system; and
  7. The development proposal will not directly impact an aquatic area, wetland, wildlife habitat conservation area, or fish spawning area.
- E. An applicant may apply for a reasonable use exception in any critical area or buffer, except flood hazard areas, alluvial fan hazard areas, and severe channel migration hazard areas, if the application of this chapter would deny all reasonable use of the property. A reasonable use exception shall meet all of the following:
1. There is no other reasonable use with less impact on the critical area;
  2. The development proposal minimizes impacts on critical areas to the maximum extent practical and complies with avoidance and mitigation sequencing in KCC 21A.24.125;
  3. The alteration is the minimum necessary to allow for reasonable use of the property;

4. The development proposal does not pose an unreasonable threat to the public health, safety, or welfare on or off the development proposal site and is consistent with the general purposes of this chapter and the public interest; and
  5. For dwelling units, no more than five thousand square feet or ten percent of the site, whichever is greater, may be disturbed by structures, critical area setbacks, or other land alteration, including grading or utility installations, but not including the area used for a driveway or for an on-site sewage disposal system.
- F. For the purpose of this section:
1. When a site disturbance is within a critical area or associated buffer, the critical area setback line shall be measured from the edge of a structure to the edge of the approved site disturbance; and
  2. Areas located below the ordinary high-water mark shall not be included in calculating the site area.
- G. Exceptions approved under this section shall meet the mitigation requirements of this chapter.
- H. An application for an exception shall provide a critical area report consistent with KCC 21A.24.110.
- I. An exception shall not be approved if the inability of the applicant to derive reasonable use of the property is the result of actions by the current or prior property owner.

### **Submittal Requirements for Filing a Reasonable Use Exception Application**

Unless otherwise noted, the following items are required to be submitted at the time of application. Permitting forms referenced below are online at [www.kingcounty.gov/permits](http://www.kingcounty.gov/permits) or call 206-296-6600.

1. Application for Land Use Permit
2. Legal Description: The legal description of the property may be obtained from the King County Department of Assessments. **Be sure the description is correct and agrees with the property outlined on the Assessor's map.** A current legal description is necessary before the application is acceptable. If the legal description is written from a survey map, the map should accompany the description.
3. Assessor's Parcel Numbers: Submit a list of the Assessor's parcel numbers for all parcels that are included in the request for the RUE.
4. Application for Reasonable Use Exception
5. Site Plan – drawn to a standard engineering scale:
  - a. Map scale and north arrow.
  - b. Vicinity map: show sufficient area and detail to clearly locate the project in relation to surrounding roads, parks, rivers, and municipal boundaries, together with its scale.
  - c. Property boundaries dimensioned and clearly and accurately delineated.
  - d. Location, name, and dimension of all existing and proposed streets and other public ways, easements, utility and railroad rights-of-way within and adjacent to the proposed development. For new streets, show street construction section or reference to suitable King County Department of Transportation standards.
  - e. Existing and proposed topography on separate drawings showing at least 2-foot contours.
  - f. Accurate locations of all critical areas associated buffers, and setback lines on plans. Critical areas include wetlands; aquatic areas; riparian areas; wildlife habitat conservation areas; wildlife habitat networks; steep slope hazard areas; landslide hazard areas; channel migration

zones; alluvial fan hazard areas; flood hazard areas; seismic, erosion, coal mine, tsunami, and volcanic hazard areas; and/or critical aquifer recharge areas. Indicate if streams are intermittent. If an aquatic area or wetland is present, delineate the 100-year floodplain in accordance with the 2021 King County Surface Water Design Manual. Delineate top and toe of slopes over 40%. See KCC 21A.24 for Critical Area Development Standards.

- g. Accurate dimensions, location, elevations, and use of all existing and proposed structures on the subject property indicating porches, eaves, fences, and signs. Identify any structures to remain or to be removed; identify existing wells and/or septic tank and drain fields.
  - h. Accurate location, dimensions, and design of off-street parking facilities showing points of ingress and egress (see KCC 21A.18 and King County Road Standards), as well as other existing and proposed impervious surfaces.
  - i. Accurate dimensions, location, elevations of existing and proposed drainage facilities and flow control best management practices.
  - j. Locations of existing and proposed utility connections.
  - k. Temporary erosion and sediment control measures.
  - l. Construction access and staging areas.
  - m. General size, location, and uses of all existing structures within 100 feet of boundaries of the subject property.
  - n. Boundaries of proposed common open space land, if any; indicate proposed use.
  - o. Proposed public dedications (e.g., school sites, parks, open space), if any, within the site.
  - p. Easements, deed restrictions, or other encumbrances restricting the use of the property.
6. Reduced Site Plan: Submit a copy of a reduced site plan on an 8-1/2" X 11" page size.
7. Water Availability Certificate:

Final approval of a new private well, or for connection with an existing private well from Public Health – Seattle & King County, or

The King County Certificate of Water Availability form concerning water availability to the site must be given to the appropriate existing water purveyor to complete (water district, city, water association) and returned with this application. At the top of the form, space is provided for a description of the site. In this space, the legal description of the site should be inserted or attached on a separate sheet if it is too lengthy.

Note: For sites located in the Urban Growth Area, if the development is not proposing to be served by an existing or new Group A water system at the time of construction, a Certificate of Future Connection must be given to the appropriate Group A water purveyor to complete and then returned with this form.

Note: If the site will be served by a new private well and on-site septic system, a clearing and grading permit is required to install the well prior to applying for the CAAE, as Public Health requires an approved water source prior to approving a septic design.

8. Sewer Availability Certificate:

Preliminary approval for individual or community on-site sewage disposal systems from Public Health – Seattle & King County must be submitted with this application; or

The King County Certificate of Sewer Availability form concerning sewer availability to the site must

be given to the appropriate agency to complete (sewer district) and then returned with this application. At the top of the form a space is provided for a description of the site. In this space, the legal description of the site should be inserted or attached on a separate sheet if it is too lengthy.

9. Interim Certificate of Future Water/Sewer Connection:

If the site is located in the Urban Growth Area, and an interim on-site sewage system is proposed, consistent with the provisions of KCC 13.24.136, the following information is also required:

- A. The Certificate of Availability form must be submitted to the most logical sewer purveyor to complete (sewer district) and returned with this application along with a letter which demonstrates to the satisfaction of the Director of Permitting that the requirement to receive sewer service from the purveyor is unreasonable or unfeasible at the time of the construction; and
- B. A Certificate of Future Connection must be given to the appropriate agency to complete and then returned with this application.

10. Environmental Checklist: (only if required by KCC 20.44)

Please refer to instructions on the Environmental Checklist form. The applicant will be contacted by Permitting staff if additional information or clarity is required. If another agency is the SEPA lead agency for this project, also submit the threshold determination. If an EIS has been prepared for this proposal, submit with this application.

11. Proof of Legal Lot Status: Documentation of the date and method of segregation of the subject property.

12. Certificate/Affidavit of Critical Areas Compliance

13. Applicant Status Form

14. List of other issued or pending permits or decisions related to the proposal.

15. Applicable Critical Areas Reports: Based on the critical areas encumbering the proposed project, submit technical reports addressing these areas in accordance with KCC 21A.24. These may include, but are not limited to:

- a. Wetland/Stream Report
- b. Wildlife Study
- c. Impact and Mitigation Report
- d. Geotechnical Evaluation
- e. Arborist Report

16. Conceptual Drainage Analysis and Plan (if the thresholds for drainage review per the King County Surface Water Design Manual are met)

17. Permit Review Fees (to be assessed upon intake of complete application)

18. Other Documents: (Optional at time of application submittal – Permitting staff may request or require submittal after application has been filed):

- a. Special studies or reports (e.g., traffic studies, drainage reports).
- b. Photographs, charts, petitions, letters, models, etc., may be submitted at the discretion of the applicant.