

**Chapter 21.04**

**PROJECT PERMIT APPLICATION PROCEDURES**

Sections:

- 21.04.010 Purpose.
- 21.04.020 Applicability.
- 21.04.030 Roles and responsibilities.
- 21.04.040 Director's interpretations.
- 21.04.050 Project permit application type.
- 21.04.060 Type I ministerial review procedures.
- 21.04.070 Type II administrative review procedures.
- 21.04.080 Type III quasi-judicial review procedures.
- 21.04.090 Type IV legislative project review procedures.
- 21.04.100 Review Authority Table.
- 21.04.110 Procedural Summary Table.
- 21.04.120 Project and application assistance.
- 21.04.130 Neighborhood meetings.
- 21.04.140 Third party review.
- 21.04.150 Vesting.
- 21.04.160 Contents of application.
- 21.04.170 General review – Conditions and requested information.
- 21.04.175 Revisions to project permit applications.
- 21.04.180 Consolidation of project permit applications.
- 21.04.190 Integration of State Environmental Policy Act (SEPA) review with review of project permit application.
- 21.04.200 Determination of completeness – Expired applications.
- 21.04.210 Notice of application.
- 21.04.220 Development agreements.
- 21.04.230 Rezones.
- 21.04.240 Stay of proceedings.
- 21.04.250 Timing of decisions.
- 21.04.260 Notice of decisions.
- 21.04.265 Amendments to approved permits or decisions.
- 21.04.270 Duration of decisions.
- 21.04.280 Revocation of approval.
- 21.04.290 Appeals.
- 21.04.300 Mediation.

**21.04.010 Purpose.**

The purpose of this chapter is to provide a predictable, integrated, and consolidated review and approval process for applications subject to this chapter and to establish roles and responsibilities of applicants and review authorities. This chapter is not intended to re-examine alternatives to or hear appeals from fundamental land use planning choices made in the Comprehensive Plan or adopted development regulations, except for issues of plan or code interpretation.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.020 Applicability.**

A. Unless otherwise provided, the regulations identified in this chapter shall apply to the following Kitsap County Code (KCC) provisions:

1. Sections 11.36.060(1) through (4)<sup>1</sup>, roads; and Section 11.22.070(a), roads;
2. Title 12, Storm Water Drainage, Chapters 12.04 through 12.20 and 12.28 through Section 12.32.090;

The Kitsap County Code is current through Ordinance 589 (2020), passed September 28, 2020, and Resolution 169-2013, passed November 25, 2013.

3. Title 16, Land Division and Development;
4. Title 17, Zoning, except Chapter 17.530, "Wireless Communication Facilities";
5. Title 18, Environment;
6. Title 19, Critical Areas Ordinance; and
7. Title 22, Shoreline Master Program.

B. Building permits subject to the State Environmental Policy Act (SEPA) shall follow the procedures of this chapter. Building permits exempt from SEPA shall be subject to the procedures identified within Title 14. Procedures for review or interpretations of the provisions of the International Building Codes shall be governed by Title 14 and not this chapter.

C. As authorized by RCW 36.70B.140, site development activity permit applications submitted by the Kitsap County department of public works are exempt from the following sections:

1. Section 21.04.070. The department may, however, consider the content requirements for a decision as guidelines.
2. Section 21.04.110.
3. Section 21.04.175.
4. Section 21.04.200.
5. Section 21.04.210. Public works shall, however, provide its own early and continuous public notice of its county projects. The department will accept public comments submitted on each project up until the date of decision.
6. Section 21.04.250.

D. Legislative Actions.

1. Nonproject-specific legislative actions (legislative actions), such as Comprehensive Plans, sub-area plans, area-wide amendments, and development regulations, shall be governed by the provisions of Chapter 21.08.
2. Project-specific legislative actions (legislative project permits), such as development agreements, final plat approvals, plat alterations, plat vacations, and rezones that do not require Comprehensive Plan amendments, are governed by this chapter.
3. Where a project permit application requires or proposes a nonproject legislative action, that action shall be processed first under Chapter 21.08 and all procedures of this chapter shall be suspended. Only upon completion of that process will the balance of the project permit application be processed under this chapter.

E. In the event of a conflict between this chapter and any other applicable process, unless specifically provided otherwise, the director shall, in his or her sole discretion, determine the appropriate regulation, considering the following principles:

1. State or federal provisions shall apply over local provisions;
2. Specific provisions shall apply over general provisions; and
3. Later enacted provisions shall apply over provisions enacted earlier.

F. Code Compliance and Project Permit Application Review Suspension. If an open and active code compliance case exists on a parcel, and a proposed project permit application is submitted for that parcel which may, in the

department's interpretation, impact or be impacted by the code compliance case, the project permit application may be suspended until the resolution of the code compliance case.

G. Private Covenants and Restrictions. Except where required by local, state or federal law, Kitsap County has no authority to enforce private covenants or restrictions. Compliance with such private covenants or restrictions is a private matter. Property owners, potential buyers or tenants, and project permit applicants are encouraged to review and be aware of property covenants and restrictions.

(Ord. 570 (2019) § 25, 2019; Ord. 539 (2016) § 4, 2016; Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.030 Roles and responsibilities.**

A. The department is responsible for processing project permit applications consistent with this chapter and other applicable federal, state, and local laws. Unless otherwise stated, the department shall issue the proper notices of application and decision, and conduct permit review.

B. Permit applicants are responsible for cooperating in the review process. This includes, but is not limited to:

1. Reading the code for their project;
2. Submitting applications that are fully complete so they can be processed in a timely manner;
3. Monitoring time limitations and review deadlines for applications;
4. Paying the appropriate fees;
5. Managing their project team to ensure requested information is complete and provided in a timely manner; to the extent practicable, consolidating inquiries to minimize inefficient review, and identifying one point of contact for all communication;
6. Addressing issues with department leadership when they think conditions or service is not code-based or appropriate; and
7. Maintaining Active Applications. If an application expires, a new application may be filed with the department, but it shall be subject to new application fees and a new vesting date.

C. The department is responsible for processing applications in a manner that is timely and adequate. This includes, but is not limited to:

1. Providing applications, checklists, and information to direct the applicant to pertinent parts of the code that must be met for a fully complete application;
2. Processing the application in the times established within this chapter;
3. Ensuring the applicant, or point of contact, is notified in a timely manner when additional materials for review are required;
4. Ensuring project conditions are supported by applicable federal, state, or local law; and
5. Providing a process for applicants to address concerns regarding conditions or departmental service delivery.

Where possible the department shall strive to outperform time frames for communication, noticing and processing of project permit applications.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.040 Director's interpretations.**

A. Authority. Except as otherwise stated, the director is responsible for administering and interpreting the provisions of this title and those titles listed in Section 21.04.020, as well as Kitsap County county-wide planning policies, Kitsap County Comprehensive Plan and all sub-area plans. However, approval authority rests with various entities based on permit type, as identified in Section 21.04.100.

B. Computation of Time. In computing any period of time prescribed or allowed by this chapter, the period shall begin with the first day following that on which the act or event initiating such period of time shall have occurred. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, or when the department of community development is closed, in which event the period runs until the end of the next day that is neither a Saturday, a Sunday nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050. Unless otherwise stated, when the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

C. Director's Interpretation.

1. Director's Administrative Interpretation. As part of the director's administrative authority, the director may initiate an informal or formal code interpretation whenever necessary and the interpretation will be made available pursuant to this section.
2. Director's Informal Interpretation. The director may respond to informal inquiries regarding code applicability and clarification prior to or outside of the context of a specific project permit application. These interpretations are neither subject to appeal nor binding on the department.
3. Director's Formal Interpretations. The director may respond to formal inquiries regarding code provisions. The interpretation shall be in writing and will be made available by the department pursuant to this section. Formal director's interpretations are binding and may be appealed. A fee for a formal interpretation shall be assessed at the hourly rate of the department and the prosecutor's office.
4. Permanent Record. All code interpretations and hearing examiner decisions on such interpretations shall be retained by the department and included in the Kitsap County department of community development policy manual. Further, they shall be prioritized and considered for inclusion in the next applicable code update, after which any remaining director interpretations that have been considered for code update shall no longer be retained for code development purposes. Code interpretations shall be made available to the public and posted on the county website.

(Ord. 539 (2016) § 5, 2016; Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.050 Project permit application type.**

A. Project permit applications are categorized as one of four types described below. Section 21.04.100 specifies in which category project permit applications will be processed.

1. Type I. Type I applications involve ministerial actions and may be exempt from public notice and hearing requirements.
2. Type II. Type II applications are administrative actions that require notice of application and notice of decision.
3. Type III. Type III applications are quasi-judicial actions that require an open record hearing before the hearing examiner. In limited instances, some Type III project permit applications include a hearing examiner recommendation to the board.
4. Type IV. Type IV applications are actions decided by the board.

B. If this chapter does not expressly provide for review using one of the four types of procedures, and another specific procedure is not required by law, the director shall classify the application as one of the four procedural types and it will be processed accordingly. Questions about what procedure is appropriate shall be resolved in favor of the type providing the greatest public notice and opportunity to participate.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.060 Type I ministerial review procedures.**

A. Unless exempt by Section 21.04.210(D), the notice of application and comment period procedures of Section 21.04.210(A) through (C) apply.

B. A decision shall be made within the timelines specified by this chapter and shall include:

1. A statement of the applicable criteria and standards in this chapter and other applicable law;
2. A statement of the facts relevant to the decision;
3. The basis for a conclusion to approve or deny; and
4. The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure that the proposed development will comply with applicable law.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.070 Type II administrative review procedures.**

A. The notice of application and comment period procedures of Section 21.04.210 are required.

B. A decision shall be made within the timelines specified by this chapter and shall include:

1. A statement of the applicable criteria and standards in this chapter and other applicable law;
2. A statement of the facts relevant to the decision;
3. The basis for a conclusion to approve or deny; and
4. The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure that the proposed development will comply with applicable law.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.080 Type III quasi-judicial review procedures.**

A. Pre-application meetings described in Section 21.04.120(C) are optional, but encouraged for complex or phased projects.

B. Letter of completeness review procedures in Section 21.04.200 are required.

C. The notice of application and comment period procedures of Section 21.04.210 are required.

D. The department shall issue its SEPA threshold determination at least fifteen days prior to the scheduled hearing.

E. After the close of any required comment period, including any threshold determination comment period required by Chapter 43.21C RCW and Chapter 18.04, the department shall coordinate and assemble the comments and recommendations of other county departments and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the department findings and supportive recommendations. The staff report shall be filed with the review authority at least seven days prior to the scheduled hearing and copies thereof shall be mailed or electronically mailed to the applicant and shall be made available for public inspection or provided to any interested party at the reproduction cost.

F. Notice of public hearing shall be as required by Section 21.04.210.

G. The review authority shall conduct review of the project permit application in an open record pre-decision hearing.

H. A decision shall be made within the timelines specified by this chapter and shall comply with the hearing examiner rules of procedure, as now or hereafter amended. Conditions of approval may be necessary to ensure the proposed development will comply with applicable law and to ensure the project permit would be consistent with the Comprehensive Plan.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.090 Type IV legislative project review procedures.**

Unless specified in Section 21.04.220 or Section 21.04.230, legislative project review procedures are noted as below.

- A. Letter of completeness review procedures in Section 21.04.200 are required.
- B. Notice of application and comment period procedures of Section 21.04.210 are required.
- C. After the close of any required public comment period, the department shall coordinate and assemble the comments and recommendations of other county departments and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the department findings and recommendations, and shall transmit the same in a staff report to the board for final action.
- D. Upon receipt of the department recommendation, the board shall set the date for a public meeting or hearing where it may adopt, reject, or remand the referred action.
- E. The decision of the board shall be final and a notice of decision, pursuant to Section 21.04.260, is required.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.100 Review Authority Table.**

The Review Authority Table shows permits regulated by this chapter, how they are classified and who the review authority is.

	Permit/Activity/Decision	Review Authority	Type I	Type II	Type III	Type IV
<b>DEVELOPMENT ENGINEERING PERMITS – See also Title 12, Stormwater Drainage</b>						
1	Site Development Activity Permit – Subject to SEPA	D		X		
2	Site Development Activity Permit – SEPA Exempt	D	X			
<b>ENVIRONMENTAL PERMITS – See also Titles 18, Environment, 19, Critical Areas Ordinance, and 22, Shoreline Master Program</b>						
3	Conditional Waiver, View Blockage Requirement	D		X		
4	Critical Area Buffer Reduction	D	X	X		
5	Critical Area Variance	HE			X	
6	Current Use Open Space	BC				X
7	Shoreline Administrative Conditional Use Permit	D		X		
8	Shoreline Buffer Reduction	D	X	X		
9	Shoreline Conditional Use Permit	HE			X	
10	Shoreline Permit Exemption	D	X			
11	Shoreline Revision	D		X		

	Permit/Activity/Decision	Review Authority	Type I	Type II	Type III	Type IV
12	Shoreline Substantial Development Permits	<del>DHE</del>		X	X	
13	Shoreline Variance (> 25%)	HE			X	
14	Shoreline Variance (< 25% or within any portion of the reduced buffer in shoreline residential designation)	D		X		
154	Timber Harvest Permit	D	X			
<b>LAND USE PERMITS – See also Title 17, Zoning</b>						
165	Administrative Conditional Use Permit	D		X		
176	Administrative Conditional Use Permit Major Amendment – Proposed After Approval	D		X		
187	Administrative Conditional Use Permit Minor Amendment – Proposed After Approval	D	X			
198	Conditional Use Permit	HE			X	
2049	Conditional Use Permit Major Amendment – Proposed After Approval	HE			X	
210	Conditional Use Permit Minor Amendment – Proposed After Approval	D	X			
224	Development Agreement	BC				X
232	Home Business	D	X			
243	Master Plan	HE			X	
254	Master Plan – Amendments	D		X		
265	Performance Based Development	HE			X	
276	Performance Based Development Major Amendment – Proposed After Approval	HE			X	
287	Performance Based Development Minor Amendment – Proposed After Approval	D	X			
298	Rezone <sup>1</sup>	PC/BC			X	
3029	Sign	D	X			
310	Zoning Variance – Director’s (<= 10%)	D	X			
324	Zoning Variance – Administrative (> 10% to <= 25%)	D		X		
332	Zoning Variance – Hearing Examiner (> 25%)	HE			X	
<b>LAND DIVISION PERMITS – See also Title 16, Land Division and Development</b>						
343	Binding Site Plan	D		X		
354	Binding Site Plan Alteration	D		X		
365	Final Large Lot Plat	D	X			

**Commented [A1]:** Consistency Analysis, Table 5-1, Item #14; housekeeping amendment; revised per County recommendation.

**Commented [A2]:** Consistency Analysis, Table 5-1, Item #14; housekeeping amendment; revised per County recommendation.

	Permit/Activity/Decision	Review Authority	Type I	Type II	Type III	Type IV
<del>376</del>	Final Large Lot Plat Alteration	D		X		
<del>387</del>	Final Plat	D	X			
<del>398</del>	Final Plat Alteration	HE <sup>2</sup>		X		
<del>4039</del>	Final Short Plat	D	X			
<del>419</del>	Final Short Plat Alteration	D		X		
<del>424</del>	Land Segregation Vacation	D/HE		X	X	
<del>432</del>	Legal Lot Determination	D	X			
<del>443</del>	Preliminary Large Lot Subdivision	D		X		
<del>454</del>	Preliminary Large Lot Subdivision – Major Amendment	D		X		
<del>465</del>	Preliminary Large Lot Subdivision – Minor Amendment	D	X			
<del>476</del>	Preliminary Short Subdivision	D		X		
<del>487</del>	Preliminary Short Subdivision – Major Amendment	D		X		
<del>498</del>	Preliminary Short Subdivision – Minor Amendment	D	X			
<del>5049</del>	Preliminary Subdivision	HE			X	
<del>519</del>	Preliminary Subdivision – Major Amendment	HE			X	
<del>521</del>	Preliminary Subdivision – Minor Amendment	D		X		
<b>MISCELLANEOUS PERMITS</b>						
<del>532</del>	Building Code Interpretation	BO	See Chapter 14.04	See Chapter 14.04	See Chapter 14.04	See Chapter 14.04
<del>543</del>	Building Permit	BO	Exempt	Exempt	Exempt	Exempt
<del>554</del>	Change of Use	BO	X			
<del>565</del>	Code Compliance	D	X			
<del>576</del>	Concurrency Certificate	CE	X			
<del>587</del>	Director's Interpretation	D	X			
<del>598</del>	Reasonable Use Exception	HE			X	
<del>6059</del>	Road Vacation	CE				X
<del>619</del>	Temporary Use	D	X			
<del>621</del>	Transfer of Development Right Program	D/HE/BC	X	X	X	X
	D = Director BC = Board of County Commissioners BO = Building Official CE = County Engineer HE = Hearing Examiner PC = Planning Commission					



- 1 Hearing examiner recommendation subject to board of county commissioners approval.
- 2 Hearing at request of noticed party, RCW 58.17.215.

(Ord. 557 (2018) § 5, 2018: Ord. 539 (2016) § 6, 2016: Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.110 Procedural Summary Table.**

The Procedural Summary Table shows procedural and governing requirements as they relate to permit types.

Action	Type I	Type II	Type III	Type IV
Project and Application Assistance Meetings	Optional	Optional	Optional	Optional
Letter of Completeness	Not Applicable	Required	Required	Required
Notice of Application	Required Unless Exempt by Section 21.04.210(D)	Required	Required	Required; Final Plats Exempted
Notice of Hearing	Not Applicable	Generally Not Required	Required	See Section 21.04.090
Notice of Decision	Required Unless Exempt by Section 21.04.260(E)	Required	Required	Required
Recommendation Made By	Not Applicable	Not Applicable	Not Applicable	Hearing Examiner/ Planning Commission
Final Decision Made By	See Section 21.04.100	Director	Hearing Examiner, Board	Board
Open Record Public Hearing	No	In Limited Instances	Yes	Yes

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.120 Project and application assistance.**

The department may provide assistance to the public for various levels of project conceptualization, code understanding, and permit application preparation. Assistance to the public is subject to the fee schedule.

A. Staff Consultation. Applicants may request and participate in an informal thirty-minute meeting prior to a formal pre-application meeting or application submittal. The purpose of the consultation is to discuss in general terms project permit application questions. Staff will not prepare for the consultation, nor will they produce any written or electronic documentation of the discussions. It is the applicant's responsibility to take notes. As no project permit application has been submitted, the county will not make any binding commitments. Fees associated with a staff consultation will be applied to a project permit application in accordance with the fee schedule.

B. Application Assistance. Applicants may request assistance in understanding Kitsap County Code and preparing a project permit application. This assistance will help applicants submit applications that meet code and submittal requirements, which in turn will facilitate determinations of completeness. If an applicant uses this service and it is determined after an application submittal that additional information is required, the application may be deemed complete for processing and vesting purposes. Project permit application preparation assistance shall be charged at the hourly rate in accordance with the department fee schedule.

C. Pre-Application. Applicants may request a pre-application meeting for all Type I, II or III applications. The purpose is to conduct a review of the development application prior to submittal to the department. Pre-application review may include discussion of requirements for application completeness and review processes, permit or approval requirements, design standards, design alternatives, environmental impact avoidance, other required permits, other general development issues and questions from the applicant. To expedite development review, the department or the applicant may invite all affected jurisdictions, agencies and/or special purpose districts to the pre-application meeting. If a project is proposed to be located within a municipal urban growth area, a representative from that municipality shall be invited to the pre-application meeting with a minimum of a seven-day notice. To schedule a pre-application meeting, the applicant shall submit the information required on the pre-application

The Kitsap County Code is current through Ordinance 589 (2020), passed September 28, 2020, and Resolution 169-2013, passed November 25, 2013.

conference form provided by the county. After the department receives a pre-application meeting request and application, the applicant may request that an estimate of the fee be provided in writing prior to any work being conducted. The estimate will be provided within seven days of the request. The county will provide a written summary of a completed pre-application meeting to the applicant within fourteen days of the meeting. Pre-application meetings shall be charged at the hourly rate in accordance with the department fee schedule.

D. Hourly Rate. Applicants may request to meet with the department, for which hourly rates may be applicable as noted in the fee schedule. Any preparation time required for hourly rate meetings will be included in the fee assessment.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.130 Neighborhood meetings.**

A. General Purpose. Neighborhood meetings are optional, unless required by Section 17.410.060(B)(9) or 17.505.030(A)(4). These meetings are designed to create public awareness of what local development regulations allow, including conditions assigned to a project that the public may want to consider. Neighborhood meetings are also used to provide information about a proposed development early in the project permit application review process. They are intended to improve neighborhood awareness of potential or pending projects and provide earlier neighborhood involvement in the planning process to reduce controversy. At neighborhood meetings, issues of concern can be expressed and potentially addressed before an applicant spends time and money on plans and before an application reaches the review authority.

B. Meeting Moderation and Assistance. The applicant may enlist the support of land use professionals to moderate and assist the meeting. Land use professionals may provide an interface between the proposed project permit application, Kitsap County Code, and expectations of the public. Land use professionals may include any persons with knowledge sufficient to assist both applicants and the public, and shall include engineers, surveyors, land use consultants, and attorneys.

C. Schedule of Hearing. The department will work with applicants to ensure application review and any required public hearing dates are not impacted or minimally impacted. Applicants who conduct neighborhood meetings shall contact the department as soon as possible to minimize impacts to the schedule of project permit application review. The project permit application review can be suspended during neighborhood meeting efforts.

D. Notification. The applicant shall send notice of the meeting to those on the mailing list, unless additional requirements are contained in Section 17.410.060(B)(9) or 17.505.030(A)(4). The notification shall include a brief description of the proposal and the date, time and location of the meeting. The county will provide mailing addresses to the applicant, and may assist, at minimal cost to the applicant, with automated postcard notices.

E. Documentation of Meeting. Reporting results of a meeting shall be provided by the applicant to DCD within fourteen days of the meeting date. A report should outline:

1. Description of neighborhood meeting notification materials, mailing lists, dates, times, locations of meeting(s), and attendance lists;
2. Copies of all plans, references, drawings, details, mailings, handouts, letters, etc., used for the meeting itself;
3. Description of the concerns, issues, and problems raised by neighbors during the meetings and how they will be addressed;
4. Description of all concerns, issues, and problems that cannot be addressed, including irresolvable conflict; and
5. Description of the extent of project support raised by neighbors during the meeting.

(Ord. 574 (2019) § 8, 2019; Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.140 Third party review.**

The department may require, or the applicant may request, at the applicant's expense, third party review in cases where additional professional or technical expertise is required due to scale or complexity and/or in cases where independent review is deemed necessary.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.150 Vesting.**

A. Applications for the division of land under Title 16 shall vest to and be considered under the development regulations in effect when a complete application is submitted and all initial deposit fees are paid. The requirements for a fully completed application vary by permit type and are established in Section 21.04.160.

Applications for other permits shall vest to and be considered only under the specific regulations applicable to the permit (e.g., shoreline permits vest only to the shoreline management plan under Title 22) in effect when a complete application is submitted and all initial deposit fees are paid. They shall not vest to development regulations generally. The requirements for a fully completed application vary by permit type and are established in Section 21.04.160.

The requirements for a fully completed application are established in Section 21.04.160. Requirements vary by permit type, but all permit applications include the payment of all initial deposit fees.

Vesting of building permit applications is governed by RCW 19.27.095.

B. The vesting of an application does not:

1. Imply that the application will be approved or that the applicant has permission to proceed with the development;
2. Vest any subsequently required or related permits, except as required by statute or case law, nor does it affect the requirements for the vesting of subsequent permits or approvals;
3. Restrict the ability of the department to impose conditions under Chapter 43.21C RCW; or
4. Restrict the ability of the department to impose newly enacted building, health and fire codes that are necessary to protect public health and safety.

C. No application may vest to regulations governing procedures, including the regulations in this chapter, or fees.

D. An applicant may voluntarily waive vested rights at any time during the processing of an application by submitting a written and signed waiver to the department stating that the applicant agrees to comply with the new regulations in effect on the date the waiver request is submitted.

E. Rights vested for a project permit application shall terminate upon expiration of the project permit application.

(Ord. 539 (2016) § 7, 2016; Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.160 Contents of application.**

A. Except as provided elsewhere in this code, the department shall establish and may revise written submittal requirements for each type of project permit application required by this title. The department shall prescribe checklist forms, which shall clearly describe the material that must be submitted for an application to be accepted for processing.

B. At minimum, a project permit application and any supplemental application shall include the following:

1. A completed original project application form signed by the owner(s) of the property which is the subject of the application;
2. A completed original supplemental application form;

3. Parcel identification;
4. A copy of the pre-application meeting summary, if applicable;
5. The applicable fee(s) adopted by the board for the application(s);
6. If applicable, SEPA compliance documentation;
7. Permit-specific information required by submittal checklists distributed by the department in accordance with this section, or other relevant sections of Kitsap County Code; and
8. Any additional information, identified by the review authority following a pre-application meeting or following determination of a fully complete application, needed to provide the department with sufficient information about the proposed project.

C. An applicant may request waiver of a submittal requirement when they can demonstrate in writing that a particular requirement is not relevant and can further show that the requirement has been met or is not necessary to demonstrate compliance with applicable requirements. If a waiver is denied, the application will be deemed incomplete until such time as the required information is provided. Approvals or denials of a waiver must occur within twenty-eight days of the request. Waiver decisions may not be administratively appealed.

D. Additional materials may be required by the department as it determines necessary for review of the application, regardless of whether a waiver has been granted.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.170 General review – Conditions and requested information.**

A. Disagreement Regarding Conditions. In some circumstances, the department and the applicant may disagree on department-recommended conditions. In instances where disagreement on conditions cannot be resolved, the department may approve such conditions or, in the case of Type III or IV project permit applications, recommend such conditions for approval.

B. Requested Information. Where an applicant does not provide information requested by the department regarding a project permit application that has been deemed complete for processing, the review authority may approve a project permit application with conditions or deny the project permit application. For Type III or IV project permit applications, the department may make a recommendation of either approval with conditions or denial.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.175 Revisions to project permit applications.**

A. This section applies to proposed revisions to project permit applications, except as otherwise noted.

B. Major Revisions.

1. Major revisions proposed by an applicant will cause the application to lose its vesting and be reviewed under the regulations in effect at the time of the revised project permit application as set forth in Section 21.04.150(A). A major revision shall be processed as the original project permit application type and require revised public notice or other processes, additional fees or supporting information as necessary for consistent and informed review.

2. For the purpose of this section, revisions shall be considered major if one or more of the following applies:

- a. The revision would add more than ten percent gross square footage to the total gross square footage of a structure(s) on the site; or

- b. The perimeter boundary of the original site would be expanded by more than ten percent of the original area; or
  - c. The revision would increase the overall impervious surface on the site by more than twenty-five percent; or
  - d. The revision would substantially relocate points of access or increase traffic, unless supported by a revised traffic analysis that demonstrates no significant increase in traffic impact; or
  - e. The revision would reduce designated open space by more than ten percent.
- C. Minor Revisions. Minor revisions are revisions that do not qualify as major under the criteria above, and will not affect vesting. Minor revisions may require additional fees or supporting information as necessary for consistent and informed review.

(Ord. 539 (2016) § 8, 2016)

**21.04.180 Consolidation of project permit applications.**

A. Consolidation. Applicants may request the department consolidate review for all project permit applications related to the same proposal to provide an integrated process and avoid duplication. Consolidated permit processing shall follow the review, approval process and time frame of the highest numbered permit type represented among the consolidated permits, except that processing may be halted as needed for lower permit types when waiting on higher type permit review steps or actions. Type IV is considered the highest and Type I is considered the lowest.

B. Individual Review. Unless consolidated review is requested, individual review of project applications shall occur. For project applications processed individually, the highest numbered permit type application shall be acted first, followed by processing the lower numbered permit type application. This shall not be a violation of Section 21.04.250. However, if a higher numbered permit type application is dependent on first obtaining a favorable Type I or Type II decision, the Type I or Type II decision will be processed first or concurrently.

C. Combined Public Meetings or Open Record Hearings. A public meeting or open record hearing required by this chapter may be combined with any public meeting or open record hearing that may be held on the project by another local, state, regional, federal, or other agency, in accordance with the provisions of Chapter 36.70B RCW.

(Ord. 539 (2016) § 9, 2016; Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.190 Integration of State Environmental Policy Act (SEPA) review with review of project permit application.**

A. Project permit applications and planned actions subject to the provisions of SEPA, Chapter 43.21C RCW, shall be reviewed in accordance with the policies and procedures contained in Chapter 18.04 and Chapter 197-11 WAC.

B. To the maximum extent possible, SEPA review shall be combined and integrated in all project permit application processing.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.200 Determination of completeness – Expired applications.**

A. Within twenty-eight calendar days after receiving a project permit application, the department shall mail, electronically mail, or provide in person a written determination to the applicant, stating either:

1. That the application is complete.
2. That the application is incomplete and what is necessary to make the application complete.

An application shall be deemed complete if a written determination has not been sent to the applicant within the required time.

- B. Incomplete Applications. When an application is determined to be incomplete, the review authority shall identify, in writing, the specific information necessary to constitute a complete application.
1. The applicant shall have ninety calendar days from the date of the written notification of incompleteness to submit all required information to the department. If the applicant does not submit the required information within the ninety-day period, the project permit application shall automatically expire.
  2. Prior to the expiration date, the applicant may request, in writing, an extension in order to provide the required information. The review authority may grant up to two ninety-day extensions if it is determined that the required studies or information warrants additional time. Financial hardship shall not be considered for extensions of deadlines.
  3. Upon submittal of the additional information, the review authority shall, within fourteen calendar days, issue a letter of completeness or identify what additional information is required.
  4. Applications that expire according to this section shall be held for sixty calendar days; after that time they shall be discarded. The department shall have the discretion to refund fees paid on expired applications in accordance with the department's adopted fee policies.
  5. Expired applications will not be further processed; however, they may be submitted as a new application with full fees.
- C. When an application is deemed complete, the review authority shall:
1. Forward the application(s) for processing and scheduling of a public hearing, if a hearing is required;
  2. Send a written notice to the applicant acknowledging the completeness, stating the vesting date where applicable, listing the name and telephone number of a department contact person, and describing the expected review schedule, including the date of a hearing, if applicable; and
  3. Provide notice of the application, in accordance with Section 21.04.210.
- D. The notice of completeness may include the following information:
1. A preliminary determination of applicable development regulations.
  2. A preliminary determination that the type of land use is permitted, or may be conditionally allowed on the site.
  3. If applicable, a preliminary determination of whether the proposed density is consistent with applicable Comprehensive Plan designations, zoning designations and development regulations.
  4. A preliminary determination regarding the availability and adequacy of public facilities and services identified in the Comprehensive Plan.
  5. Other information or requirements the department believes are necessary for project review.
- E. The determination of completeness does not preclude the review authority from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information becomes required or if there are changes in the proposed project.
- F. Complete Applications Requiring Responses Due to Corrections or Additional Information. When a complete application requires corrections or additional information, the review authority shall identify, in writing, the specific correction or information necessary to continue review.
1. When corrections or additional information is required, the applicant shall have ninety calendar days from the date of the written notification to submit all required corrections or information to the department. If

the applicant does not submit all required corrections or information within the ninety-day period, the project permit application shall automatically expire.

2. Prior to the expiration date, the applicant may request, in writing, an extension in order to provide the required information. The review authority may grant up to two ninety-day extensions if it is determined that the required information warrants additional time. Financial hardship shall not be considered for extensions of deadlines.

3. Extensions beyond the two ninety-day extensions in subsection (F)(2) of this section may be requested when such extension is necessary to accommodate review or comment by another local, state or federal agency or private or public utility district/provider (collectively "agency").

a. If the agency is reviewing the project, the extension must be supported by the agency, must be the minimum needed by the agency for review, the agency must indicate that all necessary materials have been provided for their respective review, and the agency must provide a date by which they will complete their review.

b. If the agency is nonresponsive to an applicant's need for additional information or corrections, the department shall, in consultation with the applicant, temporarily waive the expiration deadline, or in the event of minor information or corrections needed, defer the information or correction to a subsequent and related project permit application.

4. Applications that expire according to this section shall be held for sixty calendar days; after that time, they shall be discarded. The department shall have the discretion to refund fees paid on expired applications in accordance with the department's adopted fee policies.

5. If a project for which a permit application has been submitted becomes the subject of formal mediation or arbitration, an additional extension to the time frame in subsection (F)(2) of this section may be requested and granted. The time frame for extension shall consider the date of conclusion of mediation or arbitration.

6. Expired applications will not be further processed.

(Ord. 539 (2016) § 10, 2016: Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.210 Notice of application.**

A. Timing. Within fourteen days of issuing a letter of completeness under Section 21.04.200, the county shall issue a notice of application for Type II, III and IV applications that are not exempt under subsection (D) of this section. In cases where an open public record hearing will be held, the notice of application and SEPA threshold determination shall be issued at least fifteen days prior to the date of the hearing.

B. Content. The notice shall be dated and shall include, but not be limited to, the following information:

1. The case file number(s), the date of application(s), the date the application(s) was deemed complete;
2. A description of the proposal with a list of any project permit requests included with the application(s) and, if applicable, a list of any further studies required by the review authority;
3. A notice of the proposed date, time, place, and type of hearing, if applicable;
4. Identification of other necessary permits not included in the application, to the extent known by department staff;
5. Identification of existing environmental documents evaluating the proposal and the location where the documents can be reviewed;
6. A statement describing the public's rights to provide comment and to request a copy of the decision, the deadline for submitting written comments, and notice of public hearing participation and appeal rights regarding the application;

7. If a SEPA threshold determination has been made, a statement of the preliminary determination of what development regulations will be used for project mitigation and consistency under RCW 36.70B.040 and that the SEPA review document will be available for inspection at no cost at least fifteen days before a Type II administrative decision or Type III public hearing;
8. A SEPA threshold determination and/or a scoping notice may be issued with a notice of application; provided, that a final threshold determination of nonsignificance or mitigated determination of nonsignificance may not be issued until after the expiration of the public comment period on the notice of application when the optional DNS process (WAC 197-11-355 and Section 18.04.120) is utilized;
9. A statement that a consolidated staff report will be available for inspection at no cost at least three business days before a Type II administrative decision and seven days before a Type III public hearing;
10. The name of the applicant or applicant's representative and the name and address of the contact person for the applicant, if any;
11. A description of the site which is reasonably sufficient to inform the reader of its location, current zoning designation and the nearest road intersections;
12. The date, place and times where information about the application may be examined and the name and telephone number of the department representative to contact about the application;
13. The designation of the review authority, and a statement that the hearing will be conducted in accordance with adopted rules of procedure; and
14. Any additional information determined appropriate by the review authority.

C. Distribution.

1. Mailing. The director shall mail a copy of notices of application and hearings, or a summary postcard as provided in this section, to:
  - a. The applicant and the applicant's representative, except that electronic mailing may be used.
  - b. For Type III and IV applications only, any citizen advisory committee/council known to the review authority and in whose area the property in question is situated.
  - c. Owners of property within a radius of eight hundred feet of the property which is the subject of the application. The department shall use the records of the Kitsap County assessor's office for determining the address of all of the owner(s) of record within the appropriate radius.
    - i. The failure of a property owner to receive notice shall not affect the decision if the notice was sent in accordance with this subsection. A certificate or affidavit of mailing shall be evidence that notice was properly mailed to parties listed or referenced in the certificate.
    - ii. If the applicant also owns property adjoining or across a right-of-way or easement from the property that is the subject of the application, notice shall be mailed to owners of property within the radius, as provided in this subsection, of the edge of the property owned by the applicant adjoining or across a right-of-way or easement from the property that is the subject of the application.
  - d. County departments, agencies with jurisdiction, including tribal governments, and the Department of the Navy of the United States.
  - e. Shoreline property owners, for in-water project permit applications. When the department determines that a proposed in-water project may have impacts on areas within one mile of the proposed project site, the department may expand the notification radius in its sole discretion. In addition, the department shall use a mailing area extending eight hundred feet in both directions from the project site along the ordinary high water mark of the project site. The department shall use the records of the Kitsap



County assessor's office for determining the address of all of the owner(s) of record within the appropriate radius.

f. Other persons who request such notice in writing.

2. **Publication.** For Type III review, the department shall publish in a newspaper of general circulation a summary of the notice, including the date, time and place of the proposed hearing, the nature and location of the proposal and instructions for obtaining further information.

3. **Posting.** For Type III review, at least fifteen days before the hearing, the department or the applicant shall place a notice sign(s) on the property which can be clearly seen and readily readable from each right-of-way providing primary vehicular access to the subject property. Signs shall provide contact information. Corner lots shall use one two-sided sign placed diagonally to the corner to be visible from both streets. Signs shall be located to not interfere with vehicular line of sight distance. The applicant shall remove and properly dispose of the notices within seven days after the hearing.

a. The sign shall state the date, time, and place of the hearing; the nature and location of the proposal; and instructions for obtaining further information.

b. At least two days before the hearing, the person responsible for posting the sign shall execute and submit an affidavit to the review authority certifying where and when the sign notices were posted.

4. For notices that are required to be mailed pursuant to this chapter, the department may substitute a postcard notification that includes a short summary of information and provides the recipient with instructions regarding obtaining complete notice either electronically or in person.

D. **Exemptions.** A notice of application may be issued, but shall not be required, for project permits that are categorically exempt under Chapter 43.21C RCW, unless a public comment period or an open record pre-decision hearing is required or an open record appeal hearing is allowed on the project permit decision. A notice of application is also not required for Type II site development activity permits where notice was already given under a previously issued land use or commercial permit.

E. **Continuations.** If for any reason a commenced hearing on a pending project permit application action cannot be completed on the date set in the public notice, the hearing may be continued to a date certain and no further notice under this section is required.

(Ord. 539 (2016) § 11, 2016; Ord. 490 (2012) § 3 (Att. 1), 2012)

#### **21.04.220 Development agreements.**

A. **Purpose and Authority.** As authorized by, and in accordance with, Chapter 36.70B RCW, Kitsap County has sole discretion to enter into development agreements where it is shown to be in the public interest. Development agreements are an optional, Type IV legislative process subject to the procedures set forth in this chapter.

B. **Content of Agreement.** A development agreement must, at a minimum, set forth the following elements:

1. The names of the parties.

2. A precise legal description of the property covered by the development agreement.

3. The development standards that shall apply.

4. The term of the development agreement, which shall be the duration in which all development proposed under the agreement shall be completed. Unless amended, all approvals and permits shall expire upon the date of termination.

5. A statement consistent with RCW 36.70B.190 that during the term of the development agreement, it is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area covering the property covered by the development agreement.

6. That it is compliant with RCW 36.70B.170 through 36.70B.210 and the Kitsap County Code.

C. **Public Hearing.** The board of county commissioners may approve a development agreement by resolution or ordinance after a public hearing, which may be delegated to the planning commission or hearing examiner as appropriate.

D. **Decision Criteria.** The board of commissioners may adopt a development agreement by resolution, with findings that:

1. The proposed agreement is consistent with the goals and policies of the Comprehensive Plan;
2. The proposed agreement is consistent with the local development regulations; provided, that standards may be modified only if the board makes further findings that:
  - a. Variation of the standard provides a public benefit; and
  - b. The proposal subject to the modified standard remains consistent with the Comprehensive Plan; and
  - c. All adverse impacts are mitigated;
3. The proposed agreement provides for adequate mitigation of adverse environmental impacts; provided, that if the development is not defined at the project level, the agreement shall provide a process for evaluating and appropriately mitigating such impacts at the time of project development; and
4. The proposed agreement reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.

E. **Concurrent Rezone.** If the proposal requires a zoning map change, the zoning change shall be adopted by ordinance concurrently with the resolution approving the development agreement.

F. **Recording/Binding Effect.** An approved development agreement must be recorded with the county auditor. During the term of the development agreement, the agreement is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the property covered by the development agreement.

G. **Amendments.** Any amendments to an approved development agreement must be approved by the board of commissioners and property owner following a public hearing on the amendment.

H. **Appeals.** There are no administrative appeals of development agreements. Appeals of development agreements shall be as required by law.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

#### **21.04.230 Rezones.**

A. **Application for Rezone.** The zone classifications on the Kitsap County zoning map may be amended by application for rezone. A rezone may be proposed by a property owner or authorized agent under this section only where the rezone request is consistent with the Comprehensive Plan and does not require a Comprehensive Plan amendment. A proposed rezone that requires a Comprehensive Plan amendment is governed by Chapter 21.08. An application for rezone may require a transfer of development rights in accordance with Section 17.580.080. A rezone may also be proposed by motion of the board, planning commission or hearing examiner.

B. **Decision Criteria.** An application for rezone may be recommended for approval by the hearing examiner and may be approved by the board if they find that:

1. The proposed rezone is consistent with the purpose and intent of the Comprehensive Plan, respective community or sub-area plan or other applicable regulations;
2. The proposed rezone will not adversely affect the surrounding community;

3. The rezone bears a substantial relationship to the public health, safety, or welfare of the community; and
4. The proposed rezone:
  - a. Responds to a substantial change in conditions applicable to the area within which the subject property lies;
  - b. Better implements applicable Comprehensive Plan policies than the current map designation; or
  - c. Corrects an obvious mapping error.

C. Application. Application for rezones processed under this chapter shall be submitted by a property owner or his authorized agent and shall be filed with the department on forms provided. The application shall contain information required by the submittal requirements checklist established by the department as set forth in this chapter. A fee shall be paid to the county at the time of filing the application in accordance with the provisions of the county fee schedule.

D. Public Meetings and Hearings. Before taking final action on an application for rezone, the hearing examiner shall hold a public hearing to prepare a recommendation to the board. After review of the recommendation, the board shall hold a public hearing in accordance with Type IV applications noted in this chapter.

(Ord. 550 (2018) § 32, 2018; Ord. 539 (2016) § 12, 2016; Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.240 Stay of proceedings.**

An administrative appeal stays the effect of the decision appealed, unless the director provides findings to the appellate body that a stay would, in his or her opinion, cause imminent peril to life and/or property. In such case, proceedings shall not be stayed other than by direction of a court of competent jurisdiction.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.250 Timing of decisions.**

A. Decisions. Decisions on permit applications shall generally be issued within one hundred twenty department review days after the date of the determination of completeness.

1. If a determination of significance (DS) is issued, the decision shall not issue sooner than seven days after a final environmental impact statement is issued.
2. The time limits for a decision may be extended on a case-by-case basis where the director makes written findings that a specified amount of time is needed to process a specific complete project permit application (RCW 36.70B.080).
3. In determining the number of department review days that have elapsed after the determination of completeness, the following periods shall be excluded:
  - a. Any period of time during which the applicant has been required by the department to correct plans, perform studies, or provide additional information. The excluded time period shall be calculated from the date the department notifies the applicant to the earlier of either:
    - i. The date the department determines that the additional corrections or information is sufficient; or
    - ii. Fourteen days after the date all corrections or the information has been provided to the department.
  - b. Any period of time during which an environmental impact statement is being prepared, which shall not exceed one year from the issuance of the determination of significance unless the department and applicant have otherwise agreed in writing to a longer period of time. If no mutual written agreement is

executed, then the application shall become null and void after the one-year period unless the review authority determines that delay in completion is due to factors beyond the control of the applicant.

c. Any period of time the application is put on hold pending the resolution of a related code compliance case under Section 21.04.020.

4. For major revisions, the one hundred twenty department review days will restart on the date the department determines the revised project permit application is complete.

5. For minor revisions, the one hundred twenty department review days will continue from the original date of the determination of completeness, providing the revised project permit application is complete.

B. Exceptions. Projects that are exempt from the deadline for decisions:

1. Project permit application decisions that are dependent upon amendments to the Comprehensive Plan or development regulations, in which case the amendment shall be processed first pursuant to Chapter 21.08, Legislative Action Procedures;
2. Projects involving the siting of essential public facilities;
3. Any remand to the review authority hearing body; or
4. Development agreements.

(Ord. 539 (2016) § 13, 2016; Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.260 Notice of decisions.**

A. Timing. Whenever a final decision has been made that requires a notice of decision, the review authority shall issue the notice within seven days of the final decision.

B. Content. The notice of decision shall include, at a minimum, the following information:

1. The decision on the project permit application.
2. Any SEPA threshold determination made pursuant to Chapter 43.21C RCW.
3. The procedure for administrative appeal, if any.
4. A statement that the complete case file, including findings, conclusions and any conditions of approval, is available for review, and shall list the place, days and times when the case file is available and the name and telephone number of the department representative to contact about reviewing the file.
5. A statement that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.
6. The notice of decision may be a copy of the report or decision, if such report or decision contains the information required in this subsection (B).

C. Distribution. The notice of decision shall be provided by mail or electronic mail to the following:

1. The applicant.
2. To any parties of record.
3. To any agencies with jurisdiction over the project permit application or any agencies that commented on the project permit application.
4. To any person who, prior to rendering the decision, has requested a copy of the notice of decision.

5. To the Kitsap County assessor's office.

D. Notices and Shoreline Management Master Program. Notices of decision on project permits governed by Title 22 shall also be immediately filed in accordance with applicable procedures governing the shoreline management master program.

E. Exemptions. A notice of decision shall not be required for any project or legislative permit that is exempt from a notice of application under Chapter 21.04.

(Ord. 587 (2020) § 9(1) (Att. 1) (part), 2020; Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.265 Amendments to approved permits or decisions.**

A. This section applies to proposed amendments to approved permits or decisions governed by Chapter 21.04, unless more specific amendment provisions are provided elsewhere in code.

B. Major Amendments.

1. If an applicant submits an application for a major amendment to an approved permit or decision, the application shall be reviewed under the vested rules of the original project permit application. Any amendment is subject to all procedural review requirements and may require additional fees or supporting information as necessary for consistent and informed review. Any changes required by conditions of approval of an application shall not be considered major amendments.

2. For the purpose of this subsection, amendments shall be considered major if one or more of the following applies:

- a. The amendment would (i) add more than ten percent gross square footage to a proposed or existing structure(s) on the site and (ii) result in at least one of the following (subsections (B)(2)(b) through (h) of this section); or
- b. The perimeter boundary of the original site would be expanded by more than ten percent of the original lot area; or
- c. The amendment would increase the overall impervious surface on the site by more than twenty-five percent; or
- d. The amendment would substantially relocate points of access or increase traffic, unless supported by a revised traffic analysis that demonstrates no significant increase in traffic impact; or
- e. The amendment would reduce designated open space by more than ten percent; or
- f. The amendment would change the intended use of the original proposal to a new use that is of higher intensity, and would create more significantly adverse impacts than originally proposed; or
- g. The amendment would result in significant adverse impacts that have not been previously disclosed by the applicant or considered by the department; or
- h. There is significant new information that would change a prior SEPA threshold determination.

C. Minor Amendments. Minor amendments are amendments that do not qualify as major under the criteria above. If an applicant submits an application for a minor amendment to an approved permit or decision, the application shall be reviewed under the vested rules of the original project permit application. Any amendment is subject to all procedural review requirements at the time of application amendment and may require additional fees or supporting information as necessary for consistent and informed review.

D. Site Development Activity Permits. Proposed addendums to approved site development activity permits shall be subject to requirements set forth in Title 12.

E. Land Divisions. Proposed amendments to approved preliminary land divisions, or proposed alterations to approved final land divisions shall be governed by Title 16, Land Division and Development.

((Ord. 565 (2018) § 14(7) (Att. 7) (part), 2018)Ord. 539 (2016) § 14, 2016)

**21.04.270 Duration of decisions.**

A. Duration of Approval.

1. Except as otherwise provided in code, all project permit approvals shall be valid for a period of four years, after which they shall automatically expire, unless a subsequent permit has been issued, the use has been legally established, or approval or a development agreement states otherwise.
2. Preliminary approval of land divisions shall be subject to the duration and extension requirements set forth in this subsection (A) and subsection (B) of this section.
3. Approval duration for performance based developments shall be the same approval period established for the accompanying project permit application.
4. Development agreements shall be subject to the duration and extension requirements set forth in the agreement.
5. Site development activity permits shall be subject to the duration and extension requirements set forth in Title 12.

B. Duration Extensions.

1. Phased Development Extensions. Approved phased development may receive one two-year extension from the phasing schedule in accordance with the criteria in subsection (B)(3) of this section, so long as at least one phase was given final approval within the two years prior to each such subsequent extension request. The first extension shall be processed as a Type I application; subsequent extensions shall be processed as a Type II application.
2. Nonphased Development Extensions. Except as otherwise provided in code, approved permits may receive one one-year extension in accordance with the criteria in subsection (B)(3) of this section. Extensions shall be processed as a Type I application.
3. Criteria for Extensions. The director may approve, approve with conditions, or deny any timely request for an extension provided the following criteria have been met:
  - a. The extension request is submitted in writing at least thirty calendar days prior to the expiration of the permit or any prior extension approval;
  - b. The director finds there are no significant concerns presented with a granting of an extension, or those concerns can be adequately mitigated by minor revisions to the original approval;
  - c. The director finds that there is tangible progress being made; and
  - d. The director finds there are no significant changes in conditions which would render approval of the extension contrary to the public health, safety or general welfare.
4. No permit extension shall be granted where there are outstanding fees on the permit and the balance is not current.

C. Effect of Expiration. Once a permit is expired, it cannot be used to support further development.

D. Permit Denials. If a project permit application is denied, the department shall not accept an application for substantially the same matter within one year from the date of the final county action denying the prior application,

unless the denial was without prejudice, or in the opinion of the director, new evidence is submitted or conditions have changed to an extent that further consideration is warranted.

(Ord. 587 (2020) § 9(1) (Att. 1) (part), 2020: Ord. 539 (2016) § 15, 2016: Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.280 Revocation of approval.**

A. Any approval granted in accordance with the procedures of this chapter may be revoked if any one or more of the following grounds are established:

1. The approval or permit was obtained by fraud;
2. The use for which such approval or permit was granted is not being executed;
3. The approval or permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval or permit, or in violation of any statute, resolution, code, law or regulation;
4. The use for which the approval or permit was granted was so exercised as to be detrimental to the public health or safety, or to constitute a nuisance;
5. There are outstanding fees owed on the application and/or permit approval, and the time frame for the balance owed is not in accordance with the department's adopted fee schedule and adopted fee policies.

B. The hearing examiner shall hold a hearing on any proposed revocation after giving written notice to the permittee and/or owners of property consistent with Section 21.04.210.

C. If, after notice and hearing, a permit or approval is revoked, the board may reconsider any zone change that had been granted in connection with the performance based development, and reinstate the pre-existing zoning as it was prior to the permit notwithstanding improvements constructed prior to such revocation.

(Ord. 539 (2016) § 16, 2016: Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.290 Appeals.**

A. Except as otherwise noted, these provisions apply to administrative appeals of final decisions regarding project permit applications subject to a Type I or II procedure. Such decisions may be administratively appealed only if, within fourteen days after written notice of the decision is mailed, a written appeal of the decision is filed with the department.

Where state or department rules are adopted pursuant to Chapter 43.21C RCW that allow public comment on a determination of nonsignificance issued as part of an appealable project permit application decision, the appeal period shall be extended for an additional seven days.

B. The appeal shall contain the following information:

1. The case number designated by the county and the name of the applicant;
2. A brief statement as to how the appellant is aggrieved by the decision being appealed;
3. A specific and understandable statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision or action being appealed and the reasons why each is an error of fact or law, and the evidence relied upon to prove the error;
4. The specific relief requested, such as reversal or modification;
5. Signature, address, and phone and fax number of each appellant, and name and address of a contact representative, if there are multiple appellants; and
6. The appeal fee adopted by the board.

C. The hearing examiner shall hear appeals of Type I and II decisions in a de novo open-record hearing in accordance with the hearing examiner rules of procedure. Notice of an appeal hearing shall be mailed to parties to the appeal, but the notice need not be posted or published. A staff report shall be prepared, a hearing shall be conducted, and a decision shall be made and noticed to parties to the appeal.

D. Appeal decisions of the hearing examiner shall be a final and conclusive action.

E. In addition to the procedures set forth in this chapter, the county establishes the following administrative procedures for SEPA appeals:

1. Administrative appeals are limited to review of a final threshold determination and final EIS for nonexempt project permit actions, as defined in Chapter 21.02.
2. Administrative appeals are not allowed for SEPA determinations and/or final environmental impact statements (EISs) on nonproject legislative actions or project actions that are otherwise exempt from administrative appeal processes.
3. Except as provided in subsection (E)(4) of this section, the appeal shall be consolidated with a hearing or appeal on the underlying governmental action in a single hearing before the hearing examiner.
4. The following SEPA appeals are not required to be consolidated with a hearing or appeal on the underlying governmental action:
  - a. An appeal of a determination of significance;
  - b. An appeal of a procedural determination made by an agency when the agency is a project proponent, or is funding a project, and chooses to conduct its review under SEPA, including any appeals of its procedural determinations, prior to submitting an application for a project permit.
5. All administrative SEPA appeals shall be heard by the hearing examiner pursuant to the procedures in this chapter.
6. For any subsequent judicial appeal, the county shall provide a record as required by RCW 43.21C.075(3)(c). The appellant shall be required to pay the costs associated with providing the record.
7. The procedural determination by the county's responsible official shall carry substantial weight in any appeal proceeding.
8. In accordance with WAC 197-11-680, notice of the date and place for commencing a judicial appeal following an appeal of the county's final administrative appeal shall be provided through either (a) the hearing examiner decision on the appeal; and/or (b) a notice of decision, whichever is appropriate.

(Ord. 539 (2016) § 17, 2016; Ord. 490 (2012) § 3 (Att. 1), 2012)

**21.04.300 Mediation.**

A. Intent. Kitsap County encourages the use of mediation to resolve contested project permit applications or conditions of project permit applications, and is an option available for any party at any time. Through mediation, disputes may be resolved in a manner that is less formal and more conciliatory than formal appeal processes. Use of mediation does not alter rights to administrative or judicial appeal. The goals of mediation are to:

1. Provide a mechanism to identify issues and affected and responsible parties;
2. Provide a mechanism for parties to develop reasonable alternative resolutions; and
3. Provide a means for facilitating the resolution of disputed land use applications.



When successful, the mediation process should result in a disclosable mediation agreement consistent with the Comprehensive Plan, adopted codes and ordinances and the general public interest. Failed or declined mediation shall not be used against parties of record.

B. Time Requirements. Once mediation has been accepted or required, mediation shall commence within fourteen days and shall be completed within twenty-one days of commencement. If commencement or completion fails to meet either the fourteen-day or twenty-one-day time frame, respectively, then mediation shall be discontinued and forfeited at that stage of application processing or review. By agreement of both parties, the twenty-one-day mediation process may be extended; however, both parties shall recognize said extension may not, in accordance with state law, suspend any appeal deadlines. For these purposes “commencement” shall include any pre-mediation meetings, such as neighborhood meetings, necessary for informed mediation to occur. Mediation shall not be used for conditions that have previously been the subject of a mediation session. If there is uncertainty about conditions subjected to earlier mediation and suitability of proposed mediation, the review authority shall decide if mediation may occur.

C. Confidentiality. Participants in mediation shall agree that all mediation sessions are confidential settlement negotiations, and that all offers, promises, conduct and statements, whether written or oral, made in the course of the mediation are inadmissible in any administrative hearing, litigation or arbitration of the dispute, to the extent required by law. If at the conclusion of the mediation all parties agree to a resolution of the dispute, the parties will all sign a nonconfidential mediated agreement which will be forwarded to the appropriate body for consideration and official approval. The hearing examiner shall not be a participant in any mediation session.

D. Pre-Decision Mediation. During development application review, the review authority may offer voluntary mediation if the issue(s) being contested is of the type that can be mediated and not inconsistent with county code, state or federal laws. If mediation is accepted, the application review process is suspended until mediation is complete. Any mediated settlement, as long as it is consistent with applicable regulation, will be deemed approved by the department. Type I and Type II applications shall show the conditions of the mediated settlement in the conditions of approval. Type III applications will have conditions of the mediated settlement shown in the staff report to the hearing examiner. The hearing examiner shall accept mediated conditions unless it can be demonstrated that the settlement is inconsistent with county code, state, or federal laws. The hearing examiner is not bound by conditions, however, if new information is presented during the open record hearing that was not considered by the mediating parties. If during mediation a settlement cannot be achieved, then the application process reverts to the process step just prior to mediation engagement.

E. Post-Decision Mediation.

1. Type I and II Decisions. Where an appeal to the hearing examiner has been filed regarding a Type I or Type II decision, mediation is encouraged prior to being heard by the hearing examiner. If used, mediation shall include, at a minimum, the applicant, the division manager responsible for application review, and appellants; provided, however, Kitsap County Code requirements shall not be topics for mediation or revision. The department shall make arrangements for mediation with the dispute resolution center of Kitsap County or any other mediation services as agreed upon by the parties. Mediation shall automatically suspend any administrative deadline for the hearing examiner appeal process.

2. Type III Decisions. For Type III decisions, the hearing examiner shall advise the parties as early as is possible in the process that mediation is available. If a Type III application is contested and the parties cannot come to agreement on the issues by the end of the open record hearing, the hearing examiner may direct mediation and continue the open record hearing until after mediation is held. The hearing examiner has the authority to require mediation at any time in the Type III appeal process if he/she finds that it may be appropriate.

F. Mediation Costs. Parties to mediation shall share the costs of mediation in accordance with the fee schedule of the mediation service.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

<sup>1</sup> Code reviser's note: Chapter 11.36 was repealed per Section 20 of Ord. 588-2020. Please reference the Road Standards Manual adopted by Section 12 of Ordinance 588-2020.

DRAFT  
For Public Review  
February 2, 2021