



ORDINANCE NO. 490-2012

ORDINANCE ADOPTING KITSAP COUNTY CODE TITLE 21 'LAND USE AND DEVELOPMENT PROCEDURES,' REPEALING AND REPLACING FORMER KITSAP COUNTY CODE TITLE 21 'LAND USE AND DEVELOPMENT PROCEDURES' IN ITS ENTIRETY, AND MAKING CORRESPONDING AMENDMENTS TO TITLE 17 'ZONING' AND TITLE 18 'ENVIRONMENT'

BE IT ORDAINED:

Section 1. General Findings. The Kitsap County Board of Commissioners (Board) makes the following findings:

- 1) Kitsap County Code (KCC) Chapter 21.08 provides guidance on the process and procedures for amending Kitsap County's development code.
- 2) In 2011, the Department of Community Development (DCD) began a review of development code and determined that KCC Title 21 'Land Use and Development Procedures' was in need of comprehensive review and rewrite.
- 3) The process for the proposed amendments to KCC Title 21 included advance solicitation of comments, open-invite meetings, presentations to three DCD stakeholder groups, meetings with a comprehensive plan amendment stakeholder group, individual meetings with the public, publication and posting on the County website, and Board and Planning Commission work studies, public hearings and deliberation. The DCD Advisory Group, West Sound Conservation Council, and the Home Builders' Association held meetings on the proposed amendments Title 21.

Section 2. General Procedural Findings. The Board makes the following findings regarding the process and public participation aspects in revising Title 21 KCC.

- 1) In December 2010, following timely and effective public notice, the Board adopted Ordinance 467-2010, which directed the DCD to update Title 21, "Land Use and Development Procedures (Title 21)." The purpose of the update was to address a variety of inconsistencies and errors, provide for process improvements, and consolidate definitions.
- 2) Chapter 21.02 KCC "Definitions" Procedural Findings.

- 1 a. On February 13, 2012, Kitsap County submitted a 60-day Notice of
2 Intent to Adopt this ordinance to the Washington State Department
3 of Commerce, pursuant to RCW 36.70A.106.
4
- 5 b. On March 19, 2012, pursuant to the State Environmental Policy Act
6 (SEPA), Kitsap County issued a Determination of Nonsignificance
7 and Adoption of Existing Environmental Documents for the
8 proposed amendment; the DNS comment period expired April 3,
9 2012, and no SEPA appeals were filed.
10
- 11 c. Following timely and effective public notice, the Planning
12 Commission conducted a work-study on April 3, 2012, to consider
13 proposed Chapter 21.02 KCC.
14
- 15 d. Following timely and effective public notice, the Planning
16 Commission conducted a public hearing on Chapter 21.02 KCC.
17 The Planning Commission voted 8-1 to **recommend** the proposed
18 amendments with three modifications outlined in the Findings of
19 Fact.
20
- 21 e. On April 17, 2012, the Planning Commission held a meeting to
22 deliberate upon and finalize the *Findings of Fact, Conclusions, and*
23 *Recommendations of the Kitsap County Planning Commission to*
24 *the Kitsap County Board of County Commissioner of Kitsap County.*
25
- 26 3) Chapter 21.01 KCC, "Introduction" and Chapter 21.04 KCC, "Land Use
27 and Development Procedures' Procedural Findings.
28
- 29 a. On March 19, 2012, pursuant to the SEPA, Kitsap County issued a
30 Determination of Nonsignificance and Adoption of Existing
31 Environmental Documents for the proposed amendment; the DNS
32 comment period expired April 3, 2012, and no SEPA appeals were
33 filed.
34
- 35 b. Meetings with stakeholders. Staff met with the Home Builders'
36 Association, West Sound Conservation Council and the DCD
37 Advisory Group to discuss changes to Chapters 21.01 and 21.04.
38
- 39 c. On April 3, 2012, the Planning Commission held an informational
40 session regarding Chapter 21.04.
41
- 42
- 43 4) Chapter 21.08 KCC, "Annual Comprehensive Plan Amendment
44 Procedures" Procedural Findings.
45

- 1 a. Project website. A key component in communication and
2 distribution of information to the public was the use of a project
3 website. This website included project schedule information, draft
4 documents for public review, mapping information, and
5 opportunities for public input.
6
- 7 b. Meetings with stakeholders. Staff met with the Home Builders'
8 Association and the DCD Advisory Group to discuss changes to
9 Chapter 21.08. In addition, a DCD Title 21.08 Stakeholders Group
10 was formed to review in depth the changes being proposed. Input
11 has been gathered from these various meetings to comprise a draft
12 document. Provided in an attached exhibit, are comments received
13 to-date from stakeholders.
14
- 15 c. On February 13, 2012, Kitsap County submitted a 60-day Notice of
16 Intent to Adopt this ordinance to the Washington State Department
17 of Commerce, pursuant to RCW 36.70A.106.
18
- 19 d. On March 19, 2012, pursuant to the SEPA, Kitsap County issued a
20 Determination of Nonsignificance and Adoption of Existing
21 Environmental Documents for the proposed amendment; the DNS
22 comment period expired April 3, 2012, and no SEPA appeals were
23 filed.
24
- 25 e. Following timely and effective public notice, the Planning
26 Commission conducted a work-study session on March 6, 2012, to
27 consider amendments to Chapter 21.08 KCC.
28
- 29 f. Following timely and effective public notice, the Planning
30 Commission conducted a work-study session on March 20, 2012,
31 to consider amendments to Chapter 21.08 KCC.
32
- 33 g. Following timely and effective public notice, the Planning
34 Commission conducted a public hearing on March 20, 2012, on
35 Chapter 21.08 KCC. They voted 5-2 to recommend the proposed
36 amendments with three modifications outlined in the Findings of
37 Fact.
38
- 39 h. On April 3, 2012, the Planning Commission held a meeting to
40 deliberate upon and finalize the *Findings of Fact, Conclusions, and*
41 *Recommendations of the Kitsap County Planning Commission to*
42 *the Kitsap County Board of County Commissioner of Kitsap County.*
43
- 44 5) On April 18, 2012, following timely and effective public notice, the Board of
45 County Commissioners held a work-study session to review all proposed
46 amendments to Title 21.

- 1
2 6) On May 14, 2012, following timely and effective public notice, the Board of
3 County Commissioners conducted a public hearing to accept oral and
4 written comments regarding all proposed amendments to Title 21. The
5 Board established May 29, 2012 as the closure date for additional written
6 comments.
7
- 8 7) On June 6, 2012, following timely and effective public notice, the Board of
9 County Commissioners conducted a Work Study to review oral and written
10 comments received at the hearing and submitted prior to May 29, 2012.
11 The Board provided direction to prepare amendments as noted in the
12 June 6, 2012 Executive Summary.
13
- 14 8) On June 19, 2012, DCD prepared a memo to the Board which outlined the
15 amendments consistent with the June 6, 2012 Executive Summary. An
16 additional minor amendment (amendment 19) is noted in the memo,
17 based on discussion with the public and the DCD.
18
- 19 9) On June 25, 2012, following timely and effective public notice, the Board
20 of County Commissioners deliberated on Kitsap County Code Title 21,
21 related code and the Planning Commission recommendation.
22
- 23 10) The opportunities provided for citizen participation used in the preparation
24 of the draft amendments are consistent with the requirements of the
25 Growth Management Act and the State Environmental Policy Act.
26
- 27 11) The Board has considered the following criteria consistent with Kitsap
28 County Code Chapter 21.08 KCC and makes the following findings:
29
- 30 a) The proposed amendments are consistent with or support other
31 plan elements and/or development regulations; and
 - 32 b) The proposed amendments reflect the goals, objectives and
33 policies of the Comprehensive Plan; and
 - 34 c) The proposed amendments are consistent or not inconsistent with
35 the Countywide Planning Policies; and
 - 36 d) The proposed amendments are compliant with the requirements of
37 the Growth Management Act; and
 - 38 e) Elements of the proposed amendments will correct procedural
39 deficiencies identified by the Department of Community
40 Development and insert desirable changes to development
41 regulations.
- 42
- 43 12) The Board finds that it is in the best interest of the public health, welfare
44 and safety to enact this new and updated code.
45

1 **Section 3. Kitsap County Code.** Kitsap County Code Title 21 'Land Use and
2 Development Procedures' last amended by Ordinance 452-2010 is repealed in
3 its entirety. Kitsap County Code Title 21, as set forth in Attachment 1 and
4 incorporated herein by this reference, is hereby adopted.

5
6 **Section 4.** Kitsap County Code Section 18.04.210, last amended by Ordinance
7 No. 416-2008, is hereby amended as follows:

8
9 ~~A.— In addition to the procedures set forth in Title 21 of this code, the~~
10 ~~county establishes the following administrative appeal procedures under~~
11 ~~RCW 43.21C.075 and WAC 197-11-680:~~

12
13 ~~1.— An administrative appeal relating to a FEIS or threshold determination~~
14 ~~for a nonexempt action that does not require a public hearing shall be~~
15 ~~heard by the hearing examiner.~~

16
17 ~~2.— An administrative appeal relating to a FEIS or threshold determination~~
18 ~~for a nonexempt action that requires a public hearing shall be combined~~
19 ~~with and heard by the reviewing body for the underlying action.~~

20
21 ~~3.— Administrative appeals relating to a threshold determination shall be~~
22 ~~heard by the Hearing Examiner.~~

23
24 ~~4.— For any appeal under this subsection, the county shall provide for a~~
25 ~~record that shall consist of the following:~~

26
27 ~~a.— Findings and conclusions;~~

28
29 ~~b.— Testimony under oath; and~~

30
31 ~~c.— A taped or written transcript, the cost of which may be borne by the~~
32 ~~appellant.~~

33
34 ~~5.— The county may require the appellant to provide an electronic~~
35 ~~transcript.~~

36
37 ~~6.— The procedural determination by the county's responsible official shall~~
38 ~~carry substantial weight in any appeal proceeding.~~

39
40 ~~B.— Any appeal of the county's final administrative appeal under~~
41 ~~subsection (A) of this section shall be to the applicable reviewing court or~~
42 ~~administrative agency as provided under Washington State law.~~

43
44 ~~C.— The county shall give official notice under WAC 197-11-680(5)~~
45 ~~whenever it issues a permit or approval for which a statute or ordinance~~
46 ~~establishes a time limit for commencing judicial appeal.~~

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Appeals of SEPA decisions shall be in accordance with Title 21 KCC.

Section 5. Repealers. The following sections of the Kitsap County Code are hereby repealed:

- a. Chapter 17.405 Kitsap County Code (Pre-Application Review), adopted by Ordinance No. 216-1998, is hereby repealed.
- b. Kitsap County Code Section 17.420.060 (Vacation of administrative conditional use permit), last amended by Ordinance No. 415-2008, is hereby repealed.
- c. Kitsap County Code Section 17.420.070 (Revocation of permit), last amended by Ordinance No. 415-2008, is hereby repealed.
- d. Subsections A, B, D and E of Kitsap County Code Section 17.455.010 (Director Authority to interpret code provisions and issue administrative decisions), last amended by Ordinance No. 415-2008, are hereby repealed. Kitsap County Code Section 17.455.010 shall be re-titled "Director authority to issue administrative decisions" and the subsection numbering shall be revised accordingly.
- e. Kitsap County Code Section 17.455.060 (Existing Uses), last amended by Ordinance No. 415-2008, is hereby repealed.
- f. Chapter 17.510 Kitsap County Code (Changes to zones, rezones, amendments, alterations), last amended by Ordinance No. 416-2008, is hereby repealed.

Section 6. Explicit Action. Should any amendment to Kitsap County Code Title 21 that was passed by the Board during its deliberations be inadvertently left out upon publication, the explicit action of the Board as discussed and passed shall prevail upon subsequent review and verification by the Board.

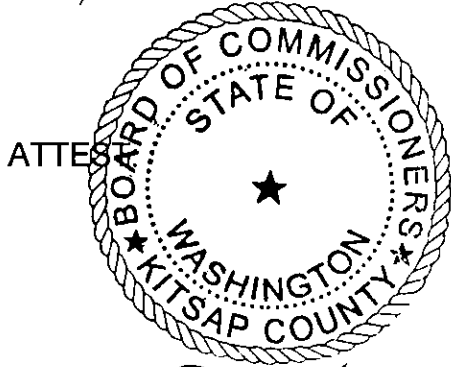
Section 7. Effective Date. This ordinance is effective July 1, 2012.

Section 8. Severability. If any provision of this ordinance, or its application to any person, entity or circumstance is for any reason held invalid, the remainder of the ordinance, or the application of the provision to other persons, entities or circumstances, is not affected.

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DATED this 25th day of June, 2012.

BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY, WASHINGTON



ATTEST

Robert Gelder

ROBERT GELDER, Chair

Josh Brown

JOSH BROWN, Commissioner

ABSTAINED

Dana Daniels

Dana Daniels
Clerk of the Board

CHARLOTTE GARRIDO, Commissioner

Approved as to form:

Shelley P. Kneip

Deputy Prosecuting Attorney

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Unofficial

TITLE 21
LAND USE AND DEVELOPMENT PROCEDURES

Chapters:

- 21.01 Introduction
21.02 Definitions.
21.04 Project Permit Application Procedures.
21.08 Legislative Action Procedures.
21.10 Fees.

Chapter 21.01
INTRODUCTION

21.01.010 Introduction.

Title 21 guides clients seeking to develop land, change development regulations or make changes to the Comprehensive Plan (and sub-area plans). The Department of Community Development (DCD) recognizes that applying for permits and making changes to codes and policies has gotten ever complex.

DCD encourages any applicant to consider the definitions noted in Chapter 21.02. Definitions. Please be aware that there may be more than one way to show a definition or alternative words being used for definition.

Chapter 21.04 Project Permit Application Procedures is the 'processing engine' for DCD. It is the code by which DCD measures its success in meeting requirements of state regulations, departmental performance objectives and client expectations. By the very nature of the complexity of land use development, the chapter is written with the development community, or our frequent users, in mind. However, DCD has tried to make the chapter as understandable and friendly to use as possible. To assist the public, DCD encourages the review of the chapter in its entirety. If time is of the essence, DCD encourages that applicants review:

1. KCC 21.04.010 Purpose and KCC 21.04.020 Applicability to understand how the chapter is to be used;
2. KCC 21.04.030 Roles and Responsibilities to acknowledge performance expectations of both the department and the client;
3. KCC 21.04.120 Project and Application Assistance to be made aware of the types of assistance that a client can pay for to help in the submittal of a quality application;

- 1 4. KCC 21.04.100 Review Authority Table and KCC 21.04.110 Procedural
- 2 Summary Table to see how a proposed project permit application would be
- 3 treated;
- 4 5. KCC 21.04.150 Vesting; Project Modification to understand how projects
- 5 become tied to code; and
- 6 6. KCC 21.04.290 Appeals and KCC 21.04.300 Mediation to review how
- 7 decisions may be handled and what alternatives exist to resolving dispute.
- 8

9 The regulations by which changes to development code and the Comprehensive Plan,
 10 including any sub-area plan, may be made are housed in Chapter 21.08 Legislative
 11 Action Procedures. These activities are 'docketed' by the Board of County
 12 Commissioners and typically required to be bundled together for holistic consideration
 13 at one time, often the end of the year. The docket often enables (or conversely,
 14 disallows) Site Specific Amendments to be considered by the department. Clients who
 15 wish to consider using the chapter are advised to contact DCD first.

17 **Chapter 21.02**
 18 **DEFINITIONS**

19
 20 **Sections:**

- 21 21.02.001 Generally.
- 22 21.02.010 Abutting.
- 23 21.02.015 Access tract.
- 24 21.02.020 Address.
- 25 21.02.025 Address grid system.
- 26 21.02.030 Adjacent.
- 27 21.02.035 Aliquot part.
- 28 21.02.040 Alley.
- 29 21.02.045 Alteration of a land segregation.
- 30 21.02.050 Amendment of a land segregation.
- 31 21.02.051 Appellant
- 32 21.02.052 Applicant
- 33 21.02.053 Appeal
- 34 21.02.054 Area-wide amendment
- 35 21.02.055 Avenue.
- 36 21.02.060 Binding site plan
- 37 21.02.065 Block.
- 38 21.02.070 Board or board of commissioners
- 39 21.02.075 Boulevard.
- 40 21.02.080 Boundary line adjustment.

1	21.02.085	Building site.
2	21.02.086	Buffer.
3	21.02.090	Business day
4	21.02.091	Calendar day
5	21.02.092	Capital facilities amendment
6	21.02.093	Clerk of the Hearing Examiner
7	21.02.094	Closed record appeal
8	21.02.095	Circle.
9	21.02.100	Commercial occupancies.
10	21.02.101	Community plan amendment
11	21.02.102	Complete Application
12	<u>21.02.105</u>	Comprehensive plan.
13	21.02.110	Condominium
14	21.02.115	Contiguous.
15	21.02.120	County.
16	21.02.125	Court.
17	21.02.130	Critical areas.
18	<u>21.02.135</u>	Cul-de-sac.
19	21.02.136	Day(s)
20	<u>21.02.140</u>	Dedication
21	21.02.141	Deficiency
22	21.02.145	Department
23	21.02.146	Development Agreement
24	21.02.151	Development Regulations
25	21.02.152	Director
26	21.02.153	Docketing
27	21.02.155	Drive.
28	<u>21.02.160</u>	Easement.
29	21.02.165	Engineer.
30	<u>21.02.170</u>	Final plat.
31	21.02.175	Group R occupancies.
32	21.02.180	Group U occupancies.
33	21.02.181	GMA
34	21.02.185	Kitsap Public Health District.
35	21.02.190	Kitsap Public Health Officer
36	21.02.191	Hearing
37	<u>21.02.195</u>	Hearing examiner or examiner.
38	21.02.200	Hiatus
39	21.02.201	KCC
40	21.02.205	Land segregation

1	21.02.210	Large lot subdivision.
2	21.02.215	Legal lot of record.
3	21.02.216	Legislative action
4	21.02.220	Loop.
5	<u>21.02.225</u>	Lot.
6	21.02.230	Lot area.
7	21.02.231	Map correction
8	21.02.232	Mediation
9	21.02.233	Notice of decision
10	21.02.234	Official Record
11	21.02.235	Open record hearing
12	21.02.236	Open space.
13	21.02.240	Owner.
14	21.02.245	Parcel.
15	21.02.246	Party or party of record or parties of record
16	21.02.251	Person.
17	21.02.255	Place.
18	21.02.256	Planning department
19	21.02.257	Planning commission or commission
20	21.02.260	Plat.
21	<u>21.02.265</u>	Plat certificate.
22	21.02.270	Preliminary plat.
23	<u>21.02.275</u>	Private road.
24	21.02.276	Project Permit or project permit application
25	21.02.280	Residential occupancies.
26	21.02.281	Review authority
27	21.02.285	Road.
28	21.02.290	Road maintenance agreement.
29	21.02.295	Road name sign.
30	21.02.300	Segregation.
31	21.02.301	SEPA
32	21.02.305	Short subdivision.
33	21.02.306	Site specific application
34	21.02.310	Slope.
35	21.02.315	Slope, toe of.
36	21.02.320	Slope, top of.
37	21.02.321	Staff report
38	21.02.325	Stream.
39	21.02.330	Street.
40	<u>21.02.335</u>	Subdivider.

- 1 21.02.340 Subdivision.
 2 21.02.342 Text Amendment
 3 21.02.343 Tidelands.
 4 21.02.345 Tract.
 5 21.02.350 Vacation of a land segregation.
 6 21.02.351 Vested application
 7 21.02.355 Way.
 8 21.02.360 Way of travel.
 9 21.02.365 Wetlands.
 10 21.02.366 Working day

11
 12

13 21.02.001 Generally.

14 Whenever the following words and phrases appear in Title 16 Land Division and
 15 Development and Title 21 Land Use and Development Procedures, they shall be given
 16 the meaning attributed to them by this chapter. When not inconsistent with the context,
 17 words used in the present tense shall include the future; the singular shall include the
 18 plural, and the plural the singular; the word "shall" is always mandatory, and the word
 19 "may" indicates a use of discretion in making a decision. Terms, phrases and words
 20 used in the masculine gender include the feminine and the feminine the masculine.
 21 Where terms, phrases and words are not defined, they shall have their ordinary
 22 accepted meanings within the context in which they are used. The most current version
 23 of the Merriam Webster's Collegiate Dictionary shall be considered as providing
 24 ordinary accepted meanings.

25

26 21.02.010 Abutting.

27 "Abutting" means adjoining with a common boundary line; except that where two or
 28 more properties adjoin only at a corner or corners, they shall not be considered as
 29 abutting unless the common property line between the two parcels measures ten feet or
 30 greater in a single direction.

31

32 21.02.015 Access tract.

33 "Access tract" means a tract of land for the ingress and egress of vehicular and/or
 34 pedestrian traffic. Such tracts are not considered lots or building sites.

35

36 21.02.020 Address.

37 "Address" means the appropriate combination of address number, directional prefix or
 38 suffix, road name and road type, e.g., 2131 E Cricket Lane.

39

40 21.02.025 Address grid system.

1 "Address grid system" means a theoretical network of uniformly spaced horizontal and
2 perpendicular lines used to establish regularly spaced intervals as the basis for
3 assigning address numbers.

4
5 21.02.030 Adjacent.

6 "Adjacent" means lying near; sometimes contiguous, but it is neighboring.

7
8 21.02.035 Aliquot part.

9 "Aliquot part" means a quarter division of a Section of land in the public domain.

10
11 21.02.040 Alley.

12 "Alley" means a private or public right-of-way having a typical width of at least ten feet,
13 but generally no more than twenty feet. Alleys are not intended for general traffic
14 circulation.

15
16 21.02.045 Alteration of a land segregation.

17 "Alteration of a land segregation" means a revision to any type of segregation,
18 requested after the recording of the final plat of said segregation.

19
20 21.02.050 Amendment of a land segregation.

21 "Amendment of a land segregation" means a revision to any type of segregation,
22 requested following preliminary approval, but prior to recording the final plat of said
23 segregation.

24
25 21.02.051 Appellant.

26 "Appellant" means the person who files an appeal.

27 21.02.052 Applicant.

28 "Applicant" means any person who submits a permit application or project permit
29 request for a change to a comprehensive plan or development regulation, but excludes
30 any such request that is proposed by the county itself.

31
32 21.02.053 Appeal.

33 "Appeal" means to seek review of a decision or determination from the department or
34 review authority.

35
36 21.02.054 Area-wide amendment.

37 "Area-wide amendment" means a proposed change or revision to the comprehensive
38 plan land use map and/or zoning map that affects an area which is comprehensive in
39 nature, and which addresses a homogeneous community, is geographically distinctive,
40 and has a unified interest within the county, such as community, LAMIRD, or subarea

1 plans. An Area-Wide amendment, unlike a site-specific land use reclassification
2 request, is of area-wide significance, and includes many separate properties under
3 various ownerships. Area-Wide amendments typically accompany text amendments to
4 goals and policies of the comprehensive plan.

5 21.02.055 Avenue.

6 "Avenue" for addressing purposes, means a way of travel which runs generally north
7 and south.

8
9 21.02.060 Binding site plan.

10 "Binding site plan" means an alternative method of land division, drawn to scale that:

11 (A) Identifies and shows the areas and locations of all streets, roads, improvements,
12 utilities, open spaces, and other matters specified by County Code;

13 (B) Contains inscriptions or attachments setting forth such appropriate limitations and
14 conditions for the use of the land as are established by the Director; and

15 (C) Includes provisions that bring the development into conformity with the site plan.

16 21.02.065 Block.

17 "Block" means a group of lots, tracts and/or parcels within well defined and fixed
18 boundaries.

19
20 21.02.070 Board or board of commissioners

21 "Board" or "board of commissioners" means the Kitsap County Board of County
22 commissioners.

23
24 21.02.075 Boulevard.

25 "Boulevard" for addressing purposes, means a way of travel where the lanes of travel
26 are separated by a planting area.

27
28 21.02.080 Boundary line adjustment.

29 "Boundary line adjustment" means an adjustment of boundary lines between two or
30 more abutting platted or unplatted properties or both which does not create any
31 additional lot, tract, parcel, site or division, nor create any lot, tract, parcel, site or
32 division that does not meet minimum requirements for width and area.

33
34 21.02.085 Building site.

35 "Building site" means an area of land, lying within one or more lots (or portions of lots
36 when aggregated), that is legally developed or capable of being developed under
37 current federal, state and local laws and that, exclusive of required setbacks, contains
38 or is capable of containing a primary structure and, if required, associated septic system
39 components.

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21.02.086 Buffer.

"Buffer" means:

A. For critical areas, "Buffer" means a non-clearing native vegetation area that is intended to protect the functions and values of critical areas pursuant to Title 19, KCC.

B. For all other purposes, "Buffer" means space, either landscaped or in a natural state, used to separate uses that may or may not conflict with each other and to reduce visual, noise, odors and other impacts.

21.02.090 Business day

"Business day" means any day for which Kitsap County's Administration Building offices are open for normal business matters.

21.02.091 Calendar day

"Calendar day" means each day of the calendar month. Unless stated otherwise in these rules, a reference to a number of days means calendar days.

21.02.092 Capital facilities amendment

"Capital facilities amendment" means an amendment to the capital facilities element of the comprehensive plan that affects capital budget decisions.

21.02.093 Clerk of the Hearing Examiner

"Clerk of the Hearing Examiner" means a person designated by the County to assist the Hearing Examiner in his/her duties.

21.02.094 Closed record appeal

"Closed record appeal" means an administrative appeal on the record to the board of commissioners following an open-record hearing on a project permit application on the record with no or limited new evidence or information allowed to be submitted and only appeal argument allowed.

21.02.095 Circle.

"Circle" for addressing purposes, means a small, loop-type way of travel; synonymous with loop.

21.02.100 Commercial occupancies.

"Commercial occupancies" for addressing purposes, means all other occupancy groups not defined as residential occupancies. (Typically constructed in accordance with the International Building Code. For example, commercial occupancies would include: retail

1 stores, office buildings, multifamily residential buildings, hotels, hospitals, schools,
2 warehouses, storage buildings, churches, etc.)

3
4 21.02.101 Community plan amendment.

5 "Community plan amendment" means an amendment to an adopted community,
6 LAMIRD, or subarea plan, which may include a change to the comprehensive plan land
7 use map, and comprehensive plan text amendments. A community plan amendment
8 does not include the initial adoption of a new community, LAMIRD, or subarea plan.
9

10 21.02.102 Complete application.

11 "Complete application" means a project permit application that is deemed complete
12 pursuant to chapter 21.04.
13

14 21.02.105 Comprehensive plan.

15 "Comprehensive plan" means the planning document that provides principals,
16 objectives, goals and policies to guide growth and development, as required under
17 Chapter 36.70A RCW. The Kitsap County Comprehensive Plan coordinates and
18 provides policy direction for county programs and services, includes the land use map
19 and establishes urban/rural boundaries.
20

21 21.02.110 Condominium

22 "Condominium" means real property, portions of which are designated for separate
23 ownership and the remainder of which is designated for common ownership solely by
24 the owners of those portions as defined in Chapters 64.32 and 64.34 RCW. Real
25 property is not a condominium unless the undivided interests in the common elements
26 are vested in the unit owners and unless a declaration, survey map and plans have
27 been recorded pursuant to Chapter 64.32 or 64.34 RCW.
28

29 21.02.115 Contiguous.

30 "Contiguous" is synonymous with "abutting".
31

32 21.02.120 County.

33 "County" means Kitsap County, Washington.
34

35 21.02.125 Court.

36 "Court" for addressing purposes, means a way of travel which runs generally east and
37 west and is a cul-de-sac.
38

39 21.02.130 Critical areas.

1 "Critical areas" means the following areas and ecosystems: (a) wetlands; (b) areas with
2 a critical recharging effect on aquifers used for potable water; (c) fish and wildlife habitat
3 conservation areas; (d) geologically hazardous areas; and (e) frequently flooded areas.
4

5 21.02.135 Cul-de-sac.

6 "Cul-de-sac" means a way of travel that dead-ends with provisions for turning around
7 vehicles, including large emergency apparatus and utility vehicles.
8

9 21.02.136 Day(s)

10 "Day(s)" means calendar days, unless explicitly stated to be business days.
11

12 21.02.140 Dedication.

13 "Dedication" means the deliberate appropriation of land by an owner for any general
14 and public uses, reserving to himself no rights other than such as are compatible with
15 the full exercise and enjoyment of the public uses to which the property has been
16 devoted. The intention to dedicate shall be evidenced by the owner by the presentment
17 for filing of a final plat showing the dedication thereon; and, the acceptance by the
18 public shall be evidenced by the approval of such plat for filing by Kitsap County, except
19 that where the dedication is for roadways or improvements for which a surety is
20 obtained, there shall be no acceptance of the dedication unless and until said
21 improvement is completed and approved by Kitsap County.
22

23 21.02.141 Deficiency.

24 "Deficiency" for the purposes of 21.08, a deficiency in a comprehensive plan or
25 development regulation refers to the absence of required or potentially desirable
26 contents of a Comprehensive Plan or development regulation. It does not refer to
27 whether a development regulation addresses a project's probable specific adverse
28 impacts that the permitting could mitigate in the normal project review process.
29

30 21.02.145 Department

31 "Department" means the department of community development or DCD.
32

32 21.02.146 Development Agreement

33 "Development Agreement" means an agreement between the county and a person or
34 entity who owns or controls real property regarding the development, use and/or
35 mitigation of proposed development of that property.
36

37 21.02.151 Development Regulations

38 "Development regulations" means the controls placed on development or land use
39 activities, including, but not limited to, zoning ordinances, critical areas ordinances,
40 shoreline master programs, official controls, planned unit development ordinances,

1 subdivision ordinances, and binding site plan ordinances together with any amendments
2 thereto. A development regulation does not include a decision to approve a project
3 permit or project permit application, as defined in RCW 36.70B.020, even though the
4 decision may be expressed in a resolution or ordinance of the legislative body of the
5 county. A development regulation does not include ordinances or regulations that
6 address procedural issues related to land use planning or interim, emergency
7 ordinances, moratorium ordinances or remand actions from state administrative boards
8 and/or courts of law.

9 **21.02.152 Director.**

10 "Director" means the director of the department of community development, or the
11 director's designee.

12 **21.02.153 Docketing**

13 "Docketing" means compiling and maintaining a list of suggested changes to the
14 comprehensive plan or development regulations in a manner that will ensure such
15 suggested changes will be considered by the board of commissioners and will be
16 available by the public.

17
18 **21.02.155 Drive.**

19 "Drive" for addressing purposes, means an irregular or diagonal way of travel.

20
21 **21.02.160 Easement.**

22 "Easement" means a right granted by a property owner of burdened property (grantor)
23 to specific benefitting properties or to the public for the use of certain land for a specific
24 purpose or purposes, including but not limited to road access, pedestrian or bicycle
25 pathways, minerals, utilities, drainage and open spaces.

26 **21.02.165 Engineer.**

27 "Engineer" means the County road engineer designated by KCC 2.32.030.

28
29 **21.02.170 Final plat.**

30 "Final plat" means the final drawing of a land segregation and/or dedication prepared for
31 filing for record with the county auditor and containing all elements and requirements of
32 Title 16 Land Division and Development.

33 **21.02.175 Group R occupancies.**

34 "Group R occupancies" for addressing purposes, means all occupancies classified as
35 Group R in accordance with the International Building Code as adopted by Kitsap
36 County in Chapter 14.04, as well as all "residential occupancies" as defined herein.

37 **21.02.180 Group U occupancies.**

38 "Group U occupancies" for addressing purposes, means all occupancies classified as
39 Group U in accordance with the International Building Code as adopted by Kitsap
40 County in Chapter 14.04, as well as residential accessory buildings such as

1 outbuildings, detached private garages, sheds and carports constructed in accordance
2 with the International Residential Code.

3

4 21.02.181 GMA

5 "GMA" means the Washington State Growth Management Act, largely codified at
6 Chapter 36.70A RCW.

7

8 21.02.185 Kitsap Public Health District.

9 "Kitsap Public Health District" means the local health district organized pursuant to
10 Chapters 70.05 and 70.46 RCW.

11

12 21.02.190 Kitsap Public Health Officer

13 "Kitsap Public Health Officer" means the health officer of the Kitsap County Public
14 Health District or his/her designees.

15

16 21.02.191 Hearing

17 "Hearing" means the proceeding at which a Party has the opportunity to provide written
18 and oral testimony and the testimony becomes part of the record. The hearing creates
19 the record through testimony and submission of documents. An agenda for each
20 hearing date shall be prepared by the County, including the time set for hearing and
21 identification of the hearing as contested or uncontested. An uncontested agenda item
22 may become a contested agenda item, at the discretion of the Hearing Examiner.

23

24 21.02.195 Hearing examiner or examiner.

25 "Hearing examiner" or "examiner" means the Administrative Hearing Examiner or the
26 Pro Tem Hearing Examiner of Kitsap County designated pursuant to KCC Chapter 2.10.

27

28 21.02.200 Hiatus

29 "Hiatus" means an area between two parcels, resulting from a mistake in land
30 descriptions and/or surveys of record, which by record are meant to have one or more
31 common boundary line(s).

32

33 21.02.201 KCC

34 "KCC" means the Kitsap County Code.

35

36 21.02.205 Land segregation

37 "Land segregation" means a division or redivision of land into lots, tracts, parcels, sites
38 or divisions for the purpose of development, sale, lease or transfer of ownership when
39 accomplished through any of the following processes. Land segregations include, but

1 are not limited to, subdivisions, large lot subdivisions, short subdivisions, binding site
2 plans, and divisions of land through condominiums.

3
4 21.02.210 Large lot subdivision.

5 "Large lot subdivision" means the division or redivision of land occurring outside urban
6 growth area (UGA) boundaries into two or more lots, tracts, parcels, sites or divisions
7 for the purpose of development, sale, lease or transfer of ownership where each lot is
8 five acres or 1/128 of a section or larger; provided, this shall not include divisions or
9 redivisions of land where all lots are equal to or greater than twenty acres or 1/32 of a
10 section.

11
12 21.02.215 Legal lot of record.

13 "Legal lot of record" means a parcel that is in compliance with the land use laws in effect
14 at the time it was created.

15 21.02.216 Legislative action

16 "Legislative actions" means nonproject specific actions, such as Countywide Planning
17 Policies, comprehensive plans, and sub-area plans amendments, that are subject to
18 Chapter 21.08.

19 21.02.220 Loop.

20 "Loop" for addressing purposes, means a small, loop-type way of travel; synonymous
21 with circle.

22
23 21.02.225 Lot.

24 "Lot" means a fractional part of divided lands having fixed boundaries, being of sufficient
25 area and dimension to meet minimum zoning requirements for width, depth, and area.
26 Where the context so indicates, lots may refer to subdivided lands not conforming to, or
27 in violation of, zoning or subdivision regulations.

28
29 21.02.230 Lot area.

30 "Lot area" means the horizontal area within the boundary lines of a lot excluding public
31 and private streets (but including private access easements), tidelands, shorelands and
32 the panhandle of a flag lot if the panhandle is less than thirty feet in width. Lots within a
33 rural zoning designation shall be considered five acres if the lot is 1/128 of a section, ten
34 acres if the lot is 1/64 of a section, and twenty acres if the lot is 1/32 of a section. Lots
35 within a rural zoning designation may include, for the purposes of area calculation, the
36 portion of County right-of-way fronting the lot; said portion of County right-of-way shall
37 be bounded by the right-of-way centerline, the front property line and the side lot lines
38 running perpendicular to said centerline.

39
40 21.02.231 Map correction

1 "Map correction" means an amendment to the land use map or zoning map to reflect the
2 actual direction or decision of the board of commissioners, as documented in the
3 record. Map corrections shall not affect goals or policies within the Comprehensive
4 Plan text or development regulations.

5
6 21.02.232 Mediation

7 "Mediation" means efforts to resolve disputes with the assistance of an impartial third
8 party.

9
10 21.02.233 Notice of decision

11 "Notice of decision" means the notice of written decision of the Hearing Examiner or
12 review authority for a project permit application.

13
14 21.02.234 Official Record

15 "Official record" means the written and oral information, exhibits, reports, testimony and
16 other evidence submitted in a timely manner and accepted by the department, the
17 Planning Commission, and/or the Hearing Examiner. An electronic recording or
18 transcript certified as a true and correct transcript of an electronic recording of a hearing
19 is a part of the official record.

20
21 21.02.235 Open record hearing

22 "Open record hearing" means a hearing, conducted by a single hearing body or officer
23 authorized by the local government to conduct such hearings, that creates the local
24 government's record through testimony and submission of evidence and information,
25 under procedures prescribed by the local government by ordinance or resolution. An
26 open record hearing may be held prior to a local government's decision on a project
27 permit to be known as an "open record predecision hearing." An open record hearing
28 may be held on an appeal, to be known as an "open record appeal hearing," if no open
29 record predecision hearing has been held on the project permit.

30
31 21.02.236 Open space.

32 "Open space" means land used for outdoor active and passive recreational purposes or
33 for critical area or resource land protection, including structures incidental to these open
34 space uses, including associated critical area buffers, but excluding land occupied by
35 dwellings or impervious surfaces not related to the open space uses and yards required
36 by this Title 17 for such dwellings or impervious surfaces. "Open space" is further
37 divided into the following categories:

38 A. "Common open space" means space that may be used by all occupants of a
39 development complex or, if publicly dedicated, by the general public;

- 1 B. "Active recreational open space" means space that is intended to create
 2 opportunities for recreational activity. Active recreational open space may be occupied
 3 by recreational facilities such as ball fields, playground equipment, trails (pedestrian,
 4 bicycle, equestrian or multi-modal), swimming pools, and game courts or sculptures,
 5 fountains, pools, benches or other outdoor furnishings;
- 6 C. "Passive open space" means all common open space not meeting the definition of
 7 active recreational open space, including, but not limited to, critical areas and their
 8 associated buffers;
- 9 D. "Permanent open space" means an area that is permanently reserved as open
 10 space and remains in native vegetation unless approved for forestry, passive
 11 recreational or access uses; and
- 12 E. "Recreational open space" means an area that shall be improved and maintained
 13 for its intended use. Exterior as well as interior areas can constitute recreational open
 14 space. Examples of usable recreational space include swimming pools, community
 15 buildings, interior gyms, picnic areas, tennis courts, community gardens, improved
 16 playgrounds, paths and passive seating areas.

17
 18 21.02.240 Owner.

19 "Owner" means any person or persons having a legal or equitable property right or
 20 interest in land, including a fee owner, contract purchaser or seller, mortgagor or
 21 mortgagee, optioner or optionee, and beneficiary or grantor of a trust and deed of trust.

22
 23 21.02.245 Parcel.

24 "Parcel" means platted or unplatted portions of land carrying an assessor's tax account
 25 number. Parcels may be, but are not necessarily, legal lots of record.

26
 27 21.02.246 Party or party of record or parties of record.

28 "Party" or "party of record" or "parties of record" means:

- 29 a. The applicant or applicant's representative;
- 30 b. The property owner as identified by the records available from the County Assessor's
 31 Office;
- 32 c. A person submitting written testimony about a matter pending before the Hearing
 33 Examiner or who has testified as part of the official record of a land use action
 34 (excluding persons who have only signed petitions or mechanically produced form
 35 letters);
- 36 d. County Staff involved in review of the application.

37
 38 21.02.251 Person

1 "Person" means an individual, partnership, corporation, association, organization,
2 cooperative, public or municipal corporation, or agency of the state or any local
3 governmental unit however designated.

4
5 21.02.255 Place.

6 "Place" for addressing purposes, means a way of travel that runs generally north and
7 south and that is generally parallel to, but shorter than, an avenue and ends in a cul-de-
8 sac.

9
10 21.02.256 Planning department

11 "Planning department" means a planning department organized and functioning as any
12 other department in any county pursuant to RCW 36.70.030(3), and for purposes of
13 Kitsap County means the department of community development.

14
15 21.02.257 Planning commission or commission

16 "Planning commission" or "commission" means the advisory Kitsap County planning
17 commission established pursuant to KCC 2.56.035.

18
19 21.02.260 Plat.

20 "Plat" means a map or representation of a land segregation, showing thereon the
21 division of property into lots, blocks, tracts, parcels, roads and alleys or other divisions
22 and dedications.

23
24 21.02.265 Plat certificate

25 "Plat certificate" means a certificate from a title company showing, for particularly
26 described proposed land segregation, the record owners and all encumbrances.

27
28 21.02.270 Preliminary plat.

29 "Preliminary plat" means a neat and approximate drawing of a proposed land
30 segregation showing the general layout of lots, blocks, tracts, parcels, roads and alleys,
31 and other elements that shall furnish a basis for the approval or disapproval of the
32 general layout of segregation.

33
34 21.02.275 Private road.

35 "Private road" for addressing purposes, means a road that is on private property and
36 that is maintained with private funds.

37
38 21.02.276 Project Permit or project permit application

39 "Project permit" or "project permit application" means any land use or environmental
40 permit or license required from Kitsap County for a project action, including, but not

1 limited to, building permits, subdivisions, binding site plans, planned unit developments,
2 conditional uses, shoreline substantial development permits, and permits or approvals
3 required by critical area ordinances. Project permits also include project specific
4 legislative actions, such as development agreements, final plat approvals, plat
5 amendments, plat vacations, and rezones that do not require comprehensive plan
6 amendments.

7
8 21.02.280 Residential occupancies.

9 "Residential occupancies" for addressing purposes, means detached one- and two-
10 family dwellings and multiple single-family dwellings (e.g., townhouses) not more than
11 three stories in height with a separate means of egress, and typically constructed in
12 accordance with the International Residential Code.

13
14 21.02.281 Review authority

15 "Review authority" means the director, Hearing Examiner, or other county official or their
16 designee, who processes applications and makes decision thereon.

17 21.02.285 Road.

18 "Road" means:

19 A. For addressing purposes, a "road" means a way of travel that has been
20 designated as a road or is an extension of an existing road.

21 B. For all other purposes, a "road" is a public right-of-way or an approved private
22 roadway that provides vehicular circulation or principal means of access to abutting
23 properties, and that may also include provisions for public utilities, pedestrian walkways,
24 cut and fill slopes, and drainage.

25
26
27 21.02.290 Road maintenance agreement.

28 "Road maintenance agreement" means a covenant attached to all lots within the land
29 segregation that addresses the responsibility of road maintenance.

30
31 21.02.295 Road name sign.

32 "Road name sign" means a sign designating the name of a way of travel.

33
34 21.02.300 Segregation.

35 "Segregation" is synonymous with "land segregation".

36
37 21.02.301 SEPA

38 "SEPA" means State Environmental Policy Act.

39
40 21.02.305 Short subdivision.

1 "Short subdivision" means:

2 A. For property located, inside urban growth area (UGA) boundaries, a division or
3 redivision of land into nine or fewer lots, tracts, parcels, sites or divisions for the purpose
4 of development, sale, lease or transfer of ownership;

5 B. For property located outside urban growth area boundaries, means a division or
6 redivision of land into four or fewer lots, tracts, parcels, sites or divisions for the purpose
7 of development, sale, lease or transfer of ownership.

8

9 21.02.306 Site specific application

10 "Site specific amendment" means an amendment to the comprehensive plan and/or
11 land use map that affects no more than five (5) contiguous parcels. A site-specific
12 amendment only affects the land use map, and not the text of the comprehensive plan
13 or a development regulation.

14

15 21.02.310 Slope.

16 "Slope" means the upward and/or downward slant or inclination of the surface of the
17 ground for the portion of any slope otherwise required to be identified.

18

19 21.02.315 Slope, toe of.

20 "Slope, toe of" means a distinct topographic break in a slope, being the lowermost limit
21 of the slope.

22

23 21.02.320 Slope, top of.

24 "Slope, top of" means a distinct topographic break in a slope, being the uppermost limit
25 of the slope.

26

27 21.02.321 Staff report

28 "Staff report" means the document prepared by County Staff for review and decision of
29 a permit application.

30

31 21.02.325 Stream.

32 "Stream" means those areas in Kitsap County where the surface water flows are
33 sufficient to produce a defined channel or bed.

34

35 21.02.330 Street.

36 "Street" means:

37 A. For addressing purposes, a "street" means a way of travel that runs generally east
38 and west.

39 B. For all other purposes, a "street" is synonymous with "road".

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21.02.335 Subdivider.

"Subdivider" means a person, as defined herein, who undertakes to create a land segregation.

21.02.340 Subdivision.

"Subdivision" inside the UGA boundaries, means the division or redivision of land into ten or more lots, tracts, parcels, sites or divisions for the purpose of development, sale, lease or transfer of ownership; outside UGA boundaries, means a division or redivision of land into five or more lots for the purpose of development, sale, lease or transfer of ownership.

21.02.342 Text Amendment

"Text amendment" means an amendment to the language of the goals, policies, objectives, principles, or standards of any element of the comprehensive plan.

21.02.343 Tidelands.

"Tidelands" means submerged lands and beaches that are exposed and submerged with the ebb and flow of the tides.

21.02.345 Tract.

"Tract" means land reserved for specified uses, including, but not limited to, reserve tracts, access tracts, recreation, open space, common areas, critical areas, stormwater facilities, or utilities. Tracts are not considered lots or building sites for purposes of residential dwelling or commercial building construction.

21.02.350 Vacation of a land segregation or plat vacation.

"Vacation of a land segregation" means the extinguishment of all or portions of a recorded segregation, resulting in the property, or the portion thereof subject to vacation, being returned to its original configuration.

21.02.351 Vested application

"Vested Application" means a certain project permit application, which pursuant to the Washington law on the vested rights doctrine, is considered under the regulations in effect at the time of vesting. When applicable, the vesting date is determined by the date of submittal of a complete application.

21.02.355 Way.

"Way" for addressing purposes, means a way of travel that runs generally east and west and that is generally parallel to, but shorter than a street.

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21.02.360 Way of travel.

“Way of travel” means a roadway of any definition, including, but not limited to, avenues, boulevards, circles, courts, drives, loops, places, lanes, roads, streets, and ways, which is capable of carrying vehicular traffic.

21.02.365 Wetlands.

“Wetlands” means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include, but are not limited to swamps, marshes, estuaries, bogs, ponds less than twenty acres and similar areas.

21.02.366 Working day

“Working day” means any day for which Kitsap County’s Administration Building offices are open for normal business matters.

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 Administration and Interpretation**
- 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; Project Modification**

1	21.04.160	Contents of Application
2	21.04.170	General Review—Conditions; Requested Information
3	21.04.180	Consolidation of Project Permit Applications
4	21.04.190	Integration of State Environmental Policy Act (SEPA) Review with Review of Project Permit Application
5		
6	21.04.200	Determination of Completeness; Lapsed Applications; Postponed Applications
7		
8	21.04.210	Notice of Application
9	21.04.220	Development Agreements
10	21.04.230	Rezones
11	21.04.240	Stay of Proceedings
12	21.04.250	Timing of Decisions
13	21.04.260	Notice of Decisions
14	21.04.270	Duration of Decisions
15	21.04.280	Revocation of Approval
16	21.04.290	Appeals
17	21.04.300	Mediation

18

19 **21.04.010 Purpose.**

20

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

27

28 **21.04.020 Applicability**

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

- 31 1. KCC 11.36.060 (1) - (4) Roads; and KCC 11.22.070 (a) Roads;
- 32 2. Title 12 Storm Water Drainage;
- 33 3. Title 16 Land Division and Development;
- 34 4. Title 17 Zoning;
- 35 5. Title 18 Environment;
- 36 6. Title 19 Critical Areas Ordinance; and
- 37 7. Title 22 Shoreline Management Master Program.

38

39 B. Building permits subject to the State Environmental Policy Act (SEPA) shall follow
 40 the procedures of this chapter. Building permits exempt from SEPA shall be subject to

1 the procedures identified within Title 14 KCC. Procedures for review or interpretations
 2 of the provisions of the International Building Codes shall be governed by Title 14 KCC
 3 and not this chapter.

4 5 C. Legislative Actions

6 1. Nonproject-specific legislative actions (Legislative Actions), such as
 7 comprehensive plans, sub-area plans, area-wide amendments, and development
 8 regulations shall be governed by the provisions of Chapter 21.08 KCC.

9 2. Project-specific legislative actions (Legislative Project Permits), such as
 10 development agreements, final plat approvals, plat alterations, plat vacations,
 11 and rezones that do not require comprehensive plan amendments are governed
 12 by this chapter.

13 3. Where a Project Permit application requires or proposes a nonproject
 14 legislative action, that action shall be processed first under Chapter 21.08 KCC
 15 and all procedures of this chapter shall be suspended. Only upon completion of
 16 that process will the balance of the Project Permit application be processed
 17 under this chapter.

18
19 D. In the event of a conflict between this chapter and any other applicable process,
 20 unless specifically provided otherwise, the director shall, in his or her sole discretion,
 21 determine the appropriate regulation, considering the following principles:

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

25 26 **21.04.030 Roles and Responsibilities**

27
28 A. The department is responsible for processing project permit applications consistent
 29 with this chapter and other applicable federal, state, and local laws. Unless otherwise
 30 stated, the department shall issue the proper notices of application and decision, and
 31 conduct permit review.

32
33 B. Permit applicants are responsible for cooperating in the review process. This
 34 includes, but is not limited to:

- 35 1. Reading the code for their project;
- 36 2. Submitting applications that are fully complete so they can be processed in a
 37 timely manner;
- 38 3. Monitoring time limitations and review deadlines for applications;
- 39 4. Paying the appropriate fees;

1 5. Managing their project team to ensure requested information is complete and
2 provided in a timely manner; to the extent practicable, consolidating inquiries to
3 minimize inefficient review; and identifying one point of contact for all
4 communication;

5 6. Addressing issues with department leadership when they think conditions or
6 service are not code-based or appropriate; and

7 7. Maintaining active applications. If an application expires, a new application
8 may be filed with the department, but it shall be subject to new application fees
9 and a new vesting date.

10
11 C. The department is responsible for processing applications in a manner that is timely
12 and adequate. This includes, but is not limited to:

13 1. Providing applications, checklists, and information to direct the applicant to
14 pertinent parts of the code that must be met for a fully complete application;

15 2. Processing the application in the times established within this Chapter;

16 3. Ensuring the applicant, or point of contact, is notified in a timely manner when
17 additional materials for review are required;

18 4. Ensuring project conditions are supported by applicable federal, state, or local
19 law; and

20 5. Providing a process for applicants to address concerns regarding conditions or
21 departmental service delivery.

22 6. Where possible the department shall strive to outperform timeframes for
23 communication, noticing and processing of project permit applications.

24
25 **21.04.040 Administration and interpretation.**

26
27 A. Authority. Except as otherwise stated, the director is responsible for administering
28 and interpreting the provisions of this title and those titles listed in KCC 21.04.020, as
29 well as Kitsap County Countywide Planning Policies, Kitsap County Comprehensive
30 Plan and all sub-area plans. However, approval authority rests with various entities
31 based on permit type, as identified in KCC 21.04.100.

32
33 B. Computation of time. In computing any period of time prescribed or allowed by this
34 chapter, the period shall begin with the first day following that on which the act or event
35 initiating such period of time shall have occurred. The last day of the period so
36 computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, or
37 when the Department of Community Development is closed, in which event the period
38 runs until the end of the next day which is neither a Saturday, a Sunday nor a legal
39 holiday. Legal holidays are prescribed in RCW 1.16.050. Unless otherwise stated,

1 when the period of time prescribed or allowed is less than seven days, intermediate
2 Saturdays, Sundays and legal holidays shall be excluded in the computation.

3
4 **C. Interpretation.**

5 1. Director's administrative interpretation. The director may initiate a code
6 interpretation whenever necessary and the interpretation will be made available
7 pursuant to this chapter.

8 2. Director's informal interpretation. The director may respond to informal
9 inquiries from the public regarding code provisions in terms of applicability and
10 interpretation prior to and outside of the context of a specific project permit
11 application. These requests are neither subject to appeal nor binding on the
12 department.

13 3. Director's formal interpretations. Any person(s) may submit a formal request
14 for code interpretations from the director and the interpretation will be made
15 available by the department pursuant to this chapter. Formal director's
16 interpretations are binding and may be appealed. A fee shall be assessed on the
17 hourly rate of the department and the prosecutor's office.

18 4. Permanent record. All code interpretations, hearings examiner decisions on
19 such interpretations shall be retained by the department and included in the
20 Kitsap County Department of Community Development Policy Manual. Further,
21 they may be prioritized and considered in the next applicable code update. Code
22 interpretations shall be made available to the public and posted on the county
23 website and shall be available for inspection.

24
25 **21.04.050 Project permit application type.**

26
27 A. Project permit applications are categorized as one of four types described below.
28 KCC 21.04.100 specifies in which category project permit applications will be
29 processed.

30 1. Type I. Type I applications involve ministerial actions and may be exempt
31 from public notice and hearing requirements.

32 2. Type II. Type II applications are administrative actions that require Notice of
33 Application and Notice of Decision.

34 3. Type III. Type III applications are quasi-judicial actions that require an open
35 record hearing before the Hearing Examiner. In limited instances, some Type III
36 project permit applications include a Hearing Examiner recommendation to the
37 board.

38 4. Type IV. Type IV applications are actions decided by the board.
39

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

6
 7 **21.04.060 Type I ministerial review procedures.**

8
 9 A. Unless exempt by KCC 21.04.210.D, the notice of application and comment period
 10 procedures of KCC 21.04.210.A - .C applies.

11
 12 B. A decision shall be made within the timelines specified by this chapter and shall
 13 include:

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

21
 22 **21.04.070 Type II administrative review procedures.**

23
 24 A. The notice of application and comment period procedures of KCC 21.04.210 are
 25 required.

26
 27 B. A decision shall be made within the timelines specified by this chapter and shall
 28 include:

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

36
 37 **21.04.080 Type III quasi-judicial review procedures.**

38
 39 A. Pre-application meetings described in KCC 21.04.120.C are optional, but
 40 encouraged for complex or phased projects.

1
2 B. Letter of completeness review procedures in KCC 21.04.200 are required.

3
4 C. The notice of application and comment period procedures of KCC 21.04.210 are
5 required.

6
7 D. The department shall issue its SEPA threshold determination at least 15 days prior
8 to the scheduled hearing.

9
10 E. After the close of any required comment period, including any threshold
11 determination comment period required by Chapter 43.21C RCW and Chapter 18.04
12 KCC, the department shall coordinate and assemble the comments and
13 recommendations of other county departments and governmental agencies having an
14 interest in the subject application and shall prepare a staff report summarizing the
15 factors involved, including the department findings and supportive recommendations.
16 The staff report shall be filed with the review authority at least seven days prior to the
17 scheduled hearing and copies thereof shall be mailed or electronically mailed to the
18 applicant and shall be made available for public inspection or provided to any interested
19 party at the reproduction cost.

20
21 F. Notice of public hearing shall be as required by KCC 21.04.210.

22
23 G. The review authority shall conduct review of the project permit application in an
24 open record pre-decision hearing.

25
26 H. A decision shall be made within the timelines specified by this chapter and shall
27 comply with the Hearing Examiner Rules of Procedure, as now or hereafter amended.
28 Conditions of approval may be necessary to ensure the proposed development will
29 comply with applicable law and to ensure the project permit would be consistent with the
30 Comprehensive Plan.

31
32 **21.04.090 Type IV legislative project review procedures.**

33
34 Unless specified in KCC 21.04.220 or KCC 21.04.230, legislative project review
35 procedures are noted as below.

36
37 A. Letter of completeness review procedures in KCC 21.04.200 are required.

38
39 B. Notice of Application and comment period procedures of KCC 21.04.210 are
40 required.

1
 2 C. After the close of any required public comment period, the department shall
 3 coordinate and assemble the comments and recommendations of other county
 4 departments and governmental agencies having an interest in the subject application
 5 and shall prepare a staff report summarizing the factors involved, including the
 6 department findings and recommendations and shall transmit the same in a staff report
 7 to the board for final action.

8
 9 D. Upon receipt of the department recommendation, the board shall set the date for a
 10 public meeting or hearing where it may adopt, reject, or remand the referred action.

11
 12 E. The decision of the board shall be final and a Notice of Decision, pursuant to KCC
 13 21.04.260 is required.

14
 15 **21.04.100 Review Authority Table.**

16
 17 The Review Authority Table shows permits regulated by this chapter, how they are
 18 classified and who the review authority is.

PERMIT/ACTIVITY/DECISION	Review Authority	Type I	Type II	Type III	Type IV
Administrative Conditional Use Permit	D		X		
Administrative Determination	D	X			
Administrative Code Interpretation	D	X			
Administrative Zoning Variance	D		X		
Building Code Interpretation	BO	See KCC 14.04	See KCC 14.04	See KCC 14.04	See KCC 14.04
Building Permit	BO	Exempt	Exempt	Exempt	Exempt
Change of Use	D	X			
Code Compliance	D	X			
Concurrency Certificate	CE	X			
Conditional Use Permit	HE			X	
Conditional Use Permit – Major Revision	HE			X	
Conditional Use Permit – Minor Revision	D	X			
Conditional Waiver, View Blockage Requirement	D		X		
Critical Area Buffer Reduction	D	X	X		
Critical Area Variance	HE			X	

Current Use Open Space	BC				X
Development Agreement	BC				X
Director's Formal Interpretation	D	X			
Home Business	D	X			
Land Segregation – Preliminary Subdivision	HE			X	
Land Segregation – Preliminary Short Subdivision	D		X		
Land Segregation – Preliminary Large Lot Subdivision	D		X		
Land Segregation – Final Plat	BC				X
Land Segregation – Final Short Plat	D		X		
Land Segregation – Final Large Lot Plat	D		X		
Land Segregation – Binding Site Plan	D		X		
Land Segregation – Preliminary Subdivision Amendment, Minor	D		X		
Land Segregation – Preliminary Subdivision Amendment, Major	HE			X	
Land Segregation – Preliminary Short Subdivision Amendment	D		X		
Land Segregation – Preliminary Large Lot Subdivision Amendment	D		X		
Land Segregation – Final Plat Alteration	BC				X
Land Segregation – Final Short Plat Alteration	D		X		
Land Segregation – Final Large Lot Plat Alteration	D		X		
Land Segregation – Binding Site Plan Alteration	D		X		
Land Segregation – Vacation	D/HE		X	X	
Legal Lot Determination	D	X			
Master Plan – Scoping and Approval	HE			X	
Master Plan – Amendments	D		X		
Performance Based Development	HE			X	
Reasonable Use Exception	HE			X	
Rezone	PC/BC				X
Road Vacation	CE				X

Shoreline Administrative Conditional Use Permit	D		X		
Shoreline Buffer Reduction	D	X	X		
Shoreline Conditional Use Permit	HE			X	
Shoreline Permit Exemption	D	X			
Shoreline Revision	D		X		
Shoreline Substantial Development Permits	HE			X	
Shoreline Variance	HE			X	
Site Development Activity Permit – Subject to SEPA	D		X		
Site Development Activity Permit – SEPA Exempt	D	X			
Temporary Use	D	X			
Timber Harvest Permit	D	X			
Transfer of Development Right – Certification	D	X			
Transfer of Development Right – Permit	D/HE/BC	X	X	X	
Zoning Variance – Administrative	D		X		
Zoning Variance – Hearing Examiner	HE			X	
D = Director	CE = County Engineer	BO = Building Official	HE = Hearing Examiner	PC = Planning Commission	

1
2
3 **21.04.110 Procedural Summary Table.**

4
5 The Procedural Summary Table shows procedural and governing requirements as they
6 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	Required	Required	Required; Final Plats Exempted

	KCC 21.04.210.D			
Notice of Hearing	Not Applicable	Generally not required	Required	See KCC 21.04.090
Notice of Decision	Required, unless exempt by KCC 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 KCC 21.04.100	Director	Hearing Examiner, Board	Board
Open Record Public Hearing	No	In limited instances	Yes	Yes

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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 30-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

1 determined after an application submittal that additional information is required, the
 2 application may be deemed complete for processing and vesting purposes. Project
 3 Permit Application Preparation Assistance shall be charged at the hourly rate in
 4 accordance with the department fee schedule.

5
 6 C. Pre-Application. Applicants may request a pre-application meeting for all Type I, II
 7 or III applications. The purpose is to conduct a review of the development application
 8 prior to submittal to the department. Pre-application review may include discussion of
 9 requirements for application completeness and review processes, permit or approval
 10 requirements, design standards, design alternatives, environmental impact avoidance,
 11 other required permits, other general development issues and questions from the
 12 applicant. To expedite development review, the department or the applicant may invite
 13 all affected jurisdictions, agencies and/or special purpose districts to the pre-application
 14 meeting. If a project is proposed to be located within a municipal urban growth area, a
 15 representative from that municipality shall be invited to the pre-application meeting with
 16 a minimum of a seven-day notice. To schedule a pre-application meeting, the applicant
 17 shall submit the information required on the pre-application conference form provided by
 18 the county. After the Department receives a pre-application meeting request and
 19 application, the applicant may request that an estimate of the fee be provided in writing
 20 prior to any work being conducted. The estimate will be provided within 7 days of the
 21 request. The county will provide a written summary of a completed pre-application
 22 meeting to the applicant within 14 days of the meeting. Pre-Application meetings shall
 23 be charged at the hourly rate in accordance with the department fee schedule.

24
 25 D. Hourly-rate. Applicants may request to meet with the department for which hourly
 26 rates may be applicable as noted in the fee schedule. Any preparation time required for
 27 hourly-rate meetings will be included in the fee assessment.

28
 29 **21.04.130 Neighborhood meetings**

30
 31 A. General Purpose. Neighborhood meetings are optional for all project permit
 32 applications. These meetings are designed to advise the public of what local
 33 development regulations allow, often with conditions assigned to a project that the
 34 public may want to consider. Neighborhood meetings are also used to provide
 35 information about a proposed development earlier in the project permit application
 36 review process than the minimum required. They are intended to improve neighborhood
 37 awareness of potential or pending projects, provide earlier neighborhood involvement in
 38 the planning process, and reduce controversy at the public hearing. At neighborhood
 39 meetings, issues of concern can be expressed and potentially addressed before an
 40 applicant spends time and money on plans and before an application reaches the

1 review authority. Noticing and neighborhood meeting requirements, as discussed
2 below, should be considered for effective participation.

3
4 B. Meeting moderation and assistance. The applicant may enlist the support of land
5 use professionals to moderate and assist the meeting. Land use professionals may
6 provide an interface between the proposed project permit application, Kitsap County
7 Code and expectations of the public. For these purposes, land use professionals may
8 include any persons with knowledge sufficient to assist both applicants and the public,
9 and shall include engineers, surveyors, land use consultants, and attorneys.

10
11 C. Schedule of hearing. The department will work with applicants who wish to
12 conduct neighborhood meetings to ensure application review and hearing dates are not
13 impacted or minimally impacted. Applicants who wish to conduct neighborhood
14 meetings should contact the department as soon as possible to minimize impacts to the
15 schedule of project permit application review. Processing times can be suspended
16 during neighborhood meeting efforts.

17
18 D. Notification. If an applicant conducts a neighborhood meeting, the applicant shall
19 send notice of the meeting to those on the Notice of Application mailing list. The
20 notification shall include a brief description of the proposal and the date, time and
21 location of the meeting. The county will provide mailing addresses to the applicant, and
22 may assist, at minimal cost to the applicant, with automated postcard notices.

23
24 E. Documentation of meeting. Reporting results of a meeting is optional, but if
25 chosen shall be provided by the applicant to DCD within 14 days of the meeting date. A
26 report should outline:

- 27 1. Description of neighborhood meeting notification materials, mailing lists, dates,
28 times, locations of meeting(s), and attendance lists;
- 29 2. Copies of all plans, references, drawing, details, mailings, handouts, letters,
30 etc., used for the meeting itself;
- 31 3. Description of the concerns, issues, and problems raised by the neighbors
32 during the meetings and how they will be addressed; and
- 33 4. Description of all concerns, issues, and problems that cannot be addressed,
34 including irresolvable conflict.

35
36 **21.04.140 Third party review.**

37
38 The department may require, or the applicant may request, at the applicant's expense,
39 third party review in cases where additional professional or technical expertise is

1 required due to scale or complexity and/or in cases where independent review is
2 deemed necessary.

3
4 **21.04.150 Vesting; Project Modification**

5
6 A. This section applies to complete project permit applications, including and limited to,
7 conditional use permits, preliminary plats, final plats, short plats, large lot divisions,
8 binding site plans, site development activity permits, shoreline permits and any other
9 land use permit application that is determined under Washington law to be subject to
10 the Vested Rights Doctrine. Vesting of building permit applications are governed by
11 RCW 19.27.095.

12
13 Vested project permit applications shall be reviewed under the development regulations
14 in effect on the date a fully completed application has been submitted to the department
15 and all fees paid. This date shall be considered the vesting date. The requirements for
16 a fully completed application vary by permit type and are established in KCC 21.04.160.

17
18 B. The vesting of an application does not:

- 19 1. Imply that the application will be approved or that the applicant has
- 20 permission to proceed with development related to the vested application;
- 21 2. Vest any subsequently required or related permits, except as required by
- 22 statute or case law, nor does it affect the requirements for the vesting of
- 23 subsequent permits or approvals;
- 24 3. Restrict the ability of the department to impose conditions under chapter
- 25 43.21C RCW; or
- 26 4. Restrict the ability of the department to impose new regulations necessary to
- 27 protect the public health and safety, including, but not limited to, the requirements
- 28 of the building, health, and fire codes.

29
30 C. The development regulations to which projects vest do not include regulations
31 governing procedures, including the regulations in this chapter, or fees.

32
33 D. Modifications.

- 34 1. Amendments to approved preliminary land subdivision shall be reviewed and
- 35 processed in accordance with KCC Title 16 'Land Division and Development.'
- 36 2. Except as noted above, if an applicant makes major modifications to a vested
- 37 application, the application shall no longer be considered complete or vested.
- 38 Minor modifications shall not affect vesting. Any modification, however, may
- 39 require additional fees or supporting information as necessary for consistent and

1 informed review. Conditions required by the review authority for approval of an
2 application shall not be considered major modifications.

3 3. For the purpose of this subsection, modifications shall be considered major if
4 one or more of the following applies:

5 a. The modification (i) adds more than 10 percent gross square footage to
6 a proposed or existing structure(s) on the site and (ii) results in at least
7 one of the following (criteria b-h); or

8 b. The perimeter boundaries of the original site are extended by more
9 than ten percent of the original lot area; or

10 c. The modification increases the overall impervious surface on the site
11 by more than 25 percent or significant changes are being proposed to
12 storm water management; or

13 d. The modification substantially relocates points of access or increases
14 traffic, unless supported by a revised traffic analysis that demonstrates no
15 significant increase in traffic impact; or

16 e. The modification reduces designated open space by more than 10
17 percent; or

18 f. The modification consists of changing the intended use of the original
19 proposal to a new use that is a higher intensity of use, creating more
20 impacts than originally proposed; or

21 g. The modification results in significant impacts that have not been
22 previously disclosed by the applicant or considered by the department; or

23 h. There is significant new information that changes a prior SEPA
24 threshold determination; or evidence that prior approvals or SEPA
25 determinations were procured by misrepresentation or lack of material
26 disclosure.

27 4. Determination of major or minor modifications or amendments to approved
28 preliminary subdivisions, approved preliminary short subdivisions, and approved
29 preliminary large lot subdivisions, shall be governed by KCC 16.40.040
30 Amendments to Approved Preliminary Subdivisions, 16.48.030 Amendment to
31 Preliminary Short Subdivisions, and 16.52.030 Amendment to Preliminary Large
32 Lot Subdivisions.

33
34 E. An applicant may voluntarily waive vested rights at any time during the processing of
35 an application by submitting a written and signed waiver to the department stating that
36 the applicant agrees to comply with all development regulations in effect on the date the
37 waiver request is submitted. Any change to the application is subject to the modification
38 criteria and may require revised public notice and/or additional review fees.
39

1 F. Rights vested for a project permit application shall terminate upon expiration of the
2 project permit application.

3
4 **21.04.160 Contents of application.**

5
6 A. Except as provided elsewhere in this code, the department shall establish and may
7 revise written submittal requirements for each type of project permit application required
8 by this title. The department shall prescribe checklist forms, which shall clearly describe
9 the material that must be submitted for an application to be accepted for processing.

10
11 B. At minimum, a project permit application and any supplemental application shall
12 include the following:

- 13 1. A completed original project application form signed by the owner(s) of the
- 14 property which is the subject of the application;
- 15 2. A completed original supplemental application form;
- 16 3. Parcel identification;
- 17 4. A copy of the pre-application meeting summary, if applicable;
- 18 5. The applicable fee(s) adopted by the board for the application(s);
- 19 6. If applicable, SEPA compliance documentation;
- 20 7. Permit-specific information required by submittal checklists distributed by the
- 21 department in accordance with this section, or other relevant sections of Kitsap
- 22 County Code; and
- 23 8. Any additional information, identified by the review authority following a pre-
- 24 application meeting or following determination of a fully complete application,
- 25 needed to provide the department with sufficient information about the proposed
- 26 project.

27
28 C. An applicant may request waiver of a submittal requirement when they can
29 demonstrate in writing that a particular requirement is not relevant and can further show
30 that the requirement has been met or is not necessary to demonstrate compliance with
31 applicable requirements. If a waiver is denied, the application will be deemed
32 incomplete until such time the required information is provided. Approvals or denials of
33 a waiver must occur within 28 days of the request. Waiver decisions may not be
34 administratively appealed.

35
36 D. Additional materials may be required by the department as it determines necessary
37 for review of the application, regardless of whether a waiver has been granted.

38
39 **21.04.170 General Review—Conditions and Requested Information**

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

6
7 B. Requested Information. Where an applicant does not provide information requested
8 by the department regarding a project permit application that has been deemed
9 complete for processing, the review authority may approve a project permit application
10 with conditions or deny the project permit application. For Type III or IV project permit
11 applications, the department may make a recommendation of either approval with
12 conditions or denial.

13
14 **21.04.180 Consolidation of project permit applications.**

15
16 A. Consolidation. The department shall consolidate review for all project permit
17 applications related to the same proposal to provide an integrated process and avoid
18 duplication. Consolidated permit processing shall follow the review, approval process
19 and timeframe of the highest numbered permit type represented among the
20 consolidated permits, except that processing may be halted as needed for lower permit
21 types when waiting on higher type permit review step or actions. Type IV is considered
22 the highest and Type I is considered the lowest.

23
24 B. Applicant to request individual review. Applicants may request individual review of
25 project applications that otherwise would be consolidated. For project applications
26 processed individually, the highest numbered permit type application shall be acted first,
27 followed by processing the lower numbered permit type application. This shall not be a
28 violation of KCC 21.04.250. However, if a higher numbered permit type application is
29 dependent on first obtaining a favorable Type I or Type II decision, the Type I or Type II
30 decision will be processed first or concurrently.

31
32 C. Combined public meetings or open record hearings. A public meeting or open
33 record hearing required by this chapter may be combined with any public meeting or
34 open record hearing that may be held on the project by another local, state, regional,
35 federal, or other agency, in accordance with the provisions of Ch. 36.70B RCW.

36
37 **21.04.190 Integration of State Environmental Policy Act (SEPA) review with**
38 **review of project permit application.**

39

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

4
5 B. To the maximum extent possible, SEPA review shall be combined and integrated in
6 all project permit application processing.

7
8 **21.04.200 Determination of completeness; lapsed applications; postponed**
9 **applications.**

10
11 A. Within twenty-eight calendar days after receiving a project permit application, the
12 department shall mail, electronically mail, or provide in person a written determination to
13 the applicant, stating either:

- 14 1. That the application is complete.
- 15 2. That the application is incomplete and what is necessary to make the
- 16 application complete.

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

19
20 B. Incomplete applications. When an application is determined to be incomplete, the
21 review authority shall identify, in writing, the specific requirements or information
22 necessary to constitute a complete application.

23 1. When additional information is required, the applicant shall have 90 calendar
24 days from the date of the written notification of incompleteness to submit the
25 required information to the department. If the applicant does not submit the
26 required information within the 90-day period, the project permit application shall
27 automatically lapse.

28 2. Prior to the lapse date, the applicant may request, in writing, an extension in
29 order to provide the required information. The review authority may grant up to
30 two (2) three-month extensions if it is determined that the required studies or
31 information warrants additional time. Financial hardship shall not be considered
32 for extensions of deadlines.

33 3. Upon submittal of the additional information, the review authority shall, within
34 14 calendar days, issue a letter of completeness or, in accordance with
35 subsection (1) above, identify what additional information is required.

36 4. Applications that lapse according to this section shall be held for 60 calendar
37 days; after that time, lapsed applications shall be discarded. DCD shall have the
38 discretion to refund up to seventy-five percent of any fees paid on lapsed
39 applications depending upon the amount of staff time that has been devoted to
40 the incomplete application at the time the application lapsed. Any subsequent

1 submittal of lapsed applications must be resubmitted as new applications with full
2 fees.

3 5. Lapsed applications will not be further processed; however, they may be
4 resubmitted as a new application with full fees.

5
6 C. When an application is deemed complete, the review authority shall:

7 1. Forward the application(s) for processing and scheduling of a public hearing,
8 if a hearing is required;

9 2. Send a written notice to the applicant acknowledging the completeness,
10 stating the vesting date where applicable, listing the name and telephone number
11 of a department contact person, and describing the expected review schedule,
12 including the date of a hearing, if applicable; and

13 3. Provide notice of the application, in accordance with KCC 21.04.210.

14
15 D. The notice of completeness may include the following information:

16 1. A preliminary determination of applicable development regulations.

17 2. A preliminary determination that the type of land use is permitted, or may be
18 conditionally allowed on the site.

19 3. If applicable, a preliminary determination of whether the proposed density is
20 consistent with applicable Comprehensive Plan designations, zoning
21 designations and development regulations.

22 4. A preliminary determination regarding the availability and adequacy of public
23 facilities and services identified in the Comprehensive Plan.

24 5. Other information or requirements the department believes is necessary for
25 project review.

26
27 E. The determination of completeness does not preclude the review authority from
28 requesting additional information or studies either at the time of the notice of
29 completeness or subsequently if new information becomes required or if there are
30 changes in the proposed project.

31
32 F. Applications requiring corrections. When an application requires corrections, the
33 review authority shall identify, in writing, the specific correction and information
34 necessary to complete project permit application review.

35 1. When additional information is required, the applicant shall have 90 calendar
36 days from the date of the written notification of corrections needed to submit the
37 required information to the department. If the applicant does not submit the
38 required information within the 90-day period, the project permit application shall
39 automatically lapse.

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

3. Applications that lapse according to this section shall be held for 60 calendar days; after that time, lapsed applications shall be discarded. DCD shall have the discretion to refund up to seventy-five percent of any fees paid on lapsed applications depending upon the amount of staff time that has been devoted to the incomplete application at the time the application lapsed. Any subsequent submittal of lapsed applications must be resubmitted as new applications with full fees.

4. Lapsed applications will not be further processed; however, they may be resubmitted as a new application with full fees.

G. The department may postpone issuing a decision for a specific project permit application, or an applicant may request in writing such postponement, due to special circumstances. An initial postponement may occur for a period up to one year. An additional second postponement period of up to one year may occur, provided that the director may require the project application become vested to the codes in effect the date the second postponement would be granted. No additional postponements shall be granted. All applicable timelines and deadlines will be stayed during the postponement period. In the case of a postponement requested by an applicant, the department will take no further action until the application is re-activated by the applicant. Applications that have not been re-activated at the end of the agreed-upon postponement period shall be considered withdrawn, and in this instance, prorated fees (up to seventy-five percent of the permit fee) may be refunded to the applicant, based upon the unused hours allotted to the project permit application processing time. Withdrawn applications must be resubmitted as new applications with full fees. Financial hardship shall not be considered for postponement of decision issuance.

21.04.210 Notice of Application

A. Timing. Within 14 days of issuing a letter of completeness under KCC 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. In cases where an open public record hearing will be held, the Notice of Application and SEPA threshold determination shall be issued at least 15 days prior to the date of the hearing. Where possible, the county shall strive to issue the Notice of Application at the earliest time possible.

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

- 3 1. The case file number(s), the date of application(s), the date the application(s)
4 was deemed complete;
- 5 2. A description of the proposal with a list of any project permit requests included
6 with the application(s) and, if applicable, a list of any further studies required by
7 the review authority;
- 8 3. A notice of the proposed date, time, place, and type of hearing, if applicable;
- 9 4. Identification of other necessary permits not included in the application, to the
10 extent known by department staff;
- 11 5. Identification of existing environmental documents evaluating the proposal
12 and the location where the documents can be reviewed;
- 13 6. A statement describing the public's rights to provide comment and to request
14 a copy of the decision, the deadline for submitting written comments, and notice
15 of public hearing participation and appeal rights regarding the application;
- 16 7. If a SEPA threshold determination has been made, a statement of the
17 preliminary determination of what development regulations will be used for
18 project mitigation and consistency under RCW 36.70B.040.
- 19 8. A SEPA threshold determination and/or a scoping notice may be issued with a
20 Notice of Application, provided that, a final threshold determination of
21 nonsignificance or mitigated determination of nonsignificance may not be issued
22 until after the expiration of the public comment period on the Notice of Application
23 when the optional DNS process (WAC 197-11-355 and KCC 18.04.120) is
24 utilized.
- 25 9. A statement that a consolidated staff report and, if applicable, that the SEPA
26 review document will be available for inspection at no cost at least fifteen days
27 before the administrative decision or public hearing;
- 28 10. The name of the applicant or applicant's representative and the name and
29 address of the contact person for the applicant, if any;
- 30 11. A description of the site which is reasonably sufficient to inform the reader of
31 its location, current zoning designation and the nearest road intersections;
- 32 12. The date, place and times where information about the application may be
33 examined and the name and telephone number of the department representative
34 to contact about the application;
- 35 13. The designation of the review authority, and a statement that the hearing will
36 be conducted in accordance with adopted rules of procedure; and
- 37 14. Any additional information determined appropriate by the review authority.

38
39 C. Distribution

1 1. Mailing. The director shall mail a copy of notices of application and hearings,
2 or a summary postcard as provided in this section, to:

3 a. The applicant and the applicant's representative, except that electronic
4 mailing may be used.

5 b. For Type III and IV applications only, any citizen advisory
6 committee/council known to the review authority and in whose area the
7 property in question is situated.

8 c. Owners of property within a radius of 400 feet of the property which is
9 the subject of the application, except that property designated rural shall
10 use a radius of 800 feet of any portion of the applicable boundaries. The
11 department shall use the records of the Kitsap County Assessor's Office
12 for determining the address of all of the owner(s) of record within the
13 appropriate radius.

14 (i) The failure of a property owner to receive notice shall not
15 affect the decision if the notice was sent in accordance with this
16 subsection. A certificate or affidavit of mailing shall be evidence
17 that notice was properly mailed to parties listed or referenced in the
18 certificate.

19 (ii) If the applicant also owns property adjoining or across a right-
20 of-way or easement from the property that is the subject of the
21 application, notice shall be mailed to owners of property within the
22 radius, as provided in this subsection, of the edge of the property
23 owned by the applicant adjoining or across a right-of-way or
24 easement from the property that is the subject of the application.

25 d. County departments, agencies with jurisdiction, including tribal
26 governments, and the Department of the Navy of the United States.

27 e. Shoreline property owners, for in-water project permit applications.

28 When the department determines that a proposed in-water project may
29 have impacts on areas within one mile of the proposed project site, the
30 department may expand the notification radius in its sole discretion. In
31 addition, the department shall use a mailing area extending 800 feet in
32 both directions from the project site along the ordinary high water mark of
33 the project site. The department shall use the records of the Kitsap
34 County Assessor's Office for determining the address of all of the owner(s)
35 of record within the appropriate radius.

36 f. Other persons who request such notice in writing.

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

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

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

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

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

19
20 D. Exemptions. A Notice of Application may be issued, but shall not be required, for
21 project permits that are categorically exempt under chapter 43.21C RCW, unless a
22 public comment period or an open record pre-decision hearing is required or an open
23 record appeal hearing is allowed on the project permit decision.

24
25 E. Continuations. If for any reason a commenced hearing on a pending project
26 permit application action cannot be completed on the date set in the public
27 notice, the hearing may be continued to a date certain and no further notice
28 under this section is required.

29
30 **21.04.220 Development Agreements**

31
32 A. Purpose and authority. As authorized by, and in accordance with, Chapter 36.70B
33 RCW, Kitsap County has sole discretion to enter into development agreements where it
34 is shown to be in the public interest. Development agreements are an optional, Type IV
35 legislative process subject to the procedures set forth in this chapter.

36
37 B. Content of Agreement. A development agreement must, at a minimum, set forth the
38 following elements:

39 1. The names of the parties.

- 1 2. A precise legal description of the property covered by the development
- 2 agreement.
- 3 3. The development standards that shall apply.
- 4 4. The term of the development agreement, which shall be the duration in which
- 5 all development proposed under the agreement shall be completed. Unless
- 6 amended, all approvals and permits shall expire upon the date of termination.
- 7 5. A statement consistent with RCW 36.70B.190 that during the term of the
- 8 development agreement, it is binding on the parties and their successors,
- 9 including a city that assumes jurisdiction through incorporation or annexation of
- 10 the area covering the property covered by the development agreement.
- 11 6. That it is compliant with RCW 36.70B.170-.210 and Kitsap County Code.
- 12

13 C. Public hearing. The Board of County Commissioners may approve a development
 14 agreement by resolution or ordinance after a public hearing, which may be delegated to
 15 the planning commission or hearing examiner as appropriate.

16
 17 D. Decision criteria. The board of commissioners may adopt a development agreement
 18 by resolution, with findings that:

- 19 1. The proposed agreement is consistent with the goals and policies of the
- 20 comprehensive plan;
- 21 2. The proposed agreement is consistent with the local development regulations,
- 22 provided, that standards may be modified only if the board makes further findings
- 23 that:
 - 24 a. Variation of the standard provides a public benefit; and
 - 25 b. The proposal subject to the modified standard remains consistent with
 - 26 the comprehensive plan; and
 - 27 c. All adverse impacts are mitigated;
- 28 3. The proposed agreement provides for adequate mitigation of adverse
- 29 environmental impacts; provided that if the development is not defined at the
- 30 project level, the agreement shall provide a process for evaluating and
- 31 appropriately mitigating such impacts at the time of project development; and
- 32 4. The proposed agreement reserves the authority to impose new or different
- 33 regulations to the extent required by a serious threat to public health and safety.
- 34

35 E. Concurrent rezone. If the proposal requires a zoning map change, the zoning
 36 change shall be adopted by ordinance concurrently with the resolution approving the
 37 development agreement.

38
 39 F. Recording/Binding Effect. An approved development agreement must be recorded
 40 with the county auditor. During the term of the development agreement, the agreement

1 is binding on the parties and their successors, including a city that assumes jurisdiction
 2 through incorporation or annexation of the property covered by the development
 3 agreement.

4
 5 G. Amendments. Any amendments to an approved development agreement must be
 6 approved by the board of commissioners and property owner following a public hearing
 7 on the amendment.

8
 9 H. Appeals. There are no administrative appeals of development agreements.
 10 Appeals of development agreements shall be as required by law.

11
 12 **21.04.230 Rezones**

13
 14 A. Application for rezone. The zone classifications on the Kitsap County Zoning Map
 15 may be amended by application for rezone. A rezone may be proposed by a property
 16 owner or authorized agent under this section only where the rezone request is
 17 consistent with the comprehensive plan and does not require a comprehensive plan
 18 amendment. A proposed rezone that requires a comprehensive plan amendment is
 19 governed by Chapter 21.08 KCC. A rezone may be proposed by motion of the board,
 20 planning commission or hearing examiner.

21
 22 B. Decision criteria. An application for rezone may be recommended for approval by
 23 the planning commission and may be approved by the board if they find that:

- 24 1. The proposed rezone is consistent with the purpose and intent of the
 25 Comprehensive Plan, respective community or sub-area plan or other applicable
 26 regulations;
 27 2. The proposed rezone will not adversely affect the surrounding community;
 28 3. The rezone bears a substantial relationship to the public health, safety, or
 29 welfare of the community; and
 30 4. The proposed rezone either:
- 31 a. Responds to a substantial change in conditions applicable to the area
 - 32 within which the subject property lies,
 - 33 b. Better implements applicable comprehensive plan policies than the
 - 34 current map designation, or
 - 35 c. Corrects an obvious mapping error.

36
 37 C. Application. Application for rezones processed under this chapter shall be submitted
 38 by a property owner or his authorized agent and shall be filed with the department on
 39 forms provided. The application shall contain information required by the submittal
 40 requirements checklist established by the department as set forth in this chapter. A fee

1 shall be paid to the county at the time of filing the application in accordance with the
2 provisions of the county fee schedule.

3
4 D. Public meetings and hearings. Before taking final action on an application for
5 rezone, the planning commission shall hold a public meeting to prepare a
6 recommendation to the department. After review of the department recommendation,
7 the board shall hold a public hearing in accordance with Type IV applications noted in
8 this chapter.

9
10 **21.04.240 Stay of proceedings.**

11
12 An administrative appeal stays the effect of the decision appealed, unless the Director
13 provides findings to the appellate body that a stay would, in his or her opinion, cause
14 imminent peril to life and/or property. In such case, proceedings shall not be stayed
15 other than by direction of a court of competent jurisdiction.

16
17 **21.04.250 Timing of decisions.**

18
19 A. Decisions. Decisions on permit applications shall generally be issued not more than
20 120 days after the date of the determination of completeness.

21 1. If a determination of significance (DS) is issued, the decision shall not issue
22 sooner than seven days after a final environmental impact statement is issued.

23 2. The time limits for a decision may be extended on a case-by-case basis
24 where the Director makes written findings that a specified amount of time is
25 needed to process a specific complete project permit application (RCW
26 36.70B.080).

27 3. In determining the number of days that have elapsed after the department has
28 notified the applicant that the application is complete, the following periods shall
29 be excluded:

30 a. Any period of time during which the applicant has been required by the
31 department to correct plans, perform studies, or provide additional
32 information. The excluded time period shall be calculated from the date
33 the department notifies the applicant of the need for additional information
34 to the earlier of either:

- 35 (i) the date the department determines whether the additional
36 information provided satisfies the request for information; or
37 (ii) fourteen days after the date the information has been provided
38 to the department.

39 b. Any period of time during which an environmental impact statement is
40 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 granted by a postponement in accordance with KCC 21.04.200.F.

B. Exceptions. Exceptions to the time limits for a final decision include:

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 KCC, Legislative Procedures;

2. Any time required to correct plans, perform studies, or provide additional required information.

a. Within 14 days of receiving the requested additional information, the review authority shall determine whether the information is adequate to resume the project review.

b. If the applicant does not submit the additional required information within 120 days of the written request or receive an extension, pursuant to this chapter, the application will be deemed withdrawn. Withdrawn applications must be resubmitted as new applications with full fees;

3. Significant project revisions have been made or requested by the applicant, which do not constitute new applications, in which case the 120 days will be calculated from the time that the department determines the revised application to be complete;

4. Any period during which an environmental impact statement is being prepared following a determination of significance pursuant to Chapter 43.21C RCW;

5. Projects involving the siting of essential public facilities;

6. Any remand to the review authority hearing body;

7. Development agreements; or

8. Where an applicant has requested individual review pursuant to KCC 21.04.180.B.

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.

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

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

14
15 C. Distribution. The notice of decision shall be mailed to the following:

- 16 1. The applicant.
- 17 2. To any parties of record.
- 18 3. To any agencies with jurisdiction over the project permit application or any
19 agencies that commented on the project permit application.
- 20 4. To any person who, prior to rendering the decision, has requested a copy of
21 the notice of decision.
- 22 5. To the Kitsap County Assessor's Office.

23
24 D. Notices and Shoreline Management Master Program. Notices of Decision on project
25 permits governed by Title 22 shall also be immediately filed in accordance with
26 applicable procedures governing the Shoreline Management Master Program.

27
28 E. Exemptions. A notice of decision shall not be required for any project or legislative
29 permit that is exempt from a notice of application under Chapter 21.04 KCC.

30
31 **21.04.270 Duration of decisions.**

32
33 A. Duration of approval.

- 34 1. All project permit approvals shall be valid for a period of three years, after
35 which they shall automatically expire, unless otherwise stated.
- 36 2. Preliminary approval of land divisions shall be valid for a period of five years
37 after approval after which it shall expire. Prior to expiration, a complete
38 application for final plat approval meeting all the legal requirements and
39 conditions of approval shall be made. Where state statute specifies different
40 approval durations, those approval durations shall apply.

1 3. Approval duration for Performance Based Developments shall be the same
2 approval period established for the accompanying project permit application.

3 4. Development agreements shall be subject to the duration and extension
4 requirements set forth in the agreement.

5 5. Site Development Activity Permits shall be subject to the duration and
6 extension requirements set forth in Title 12 KCC.
7

8 **B. Extensions.**

9 1. Phased development extensions. Applications specifically and expressly
10 approved for phased development may receive one two-year extension from the
11 phasing schedule in accordance with the criteria in subsection 3 below, so long
12 as at least one phase was given final approval within the two years prior to each
13 such subsequent extension request. The first extension shall be processed as a
14 Type I application; subsequent extensions shall be processed as a Type II
15 application.

16 2. Non-phased development extensions. Applications specifically approved for
17 development may receive one (1) one-year extension in accordance with the
18 criteria in subsection 3 below.

19 3. Criteria for extensions. The director may approve, approve with conditions, or
20 deny any timely request for an extension provided the following criteria have
21 been met. Extensions shall be processed as a Type I application.

22 a. The extension request is submitted in writing at least thirty calendar
23 days prior to the expiration of the permit or any prior extension approval;

24 b. The director finds there are no significant concerns presented with a
25 granting of an extension, or those concerns can be adequately mitigated
26 by minor revisions to the original approval;

27 c. The director finds that there is tangible progress being made; and

28 d. The director finds there are no significant changes in conditions which
29 would render approval of the extension contrary to the public health,
30 safety or general welfare.
31

32 **C. Effect of expiration.** Once a permit is expired, it cannot be used to support further
33 development.
34

35 **D. Permit denials.** If a project permit application is denied, the department shall not
36 accept an application for substantially the same matter within one year from the date of
37 the final county action denying the prior application, unless the denial was without
38 prejudice or in the opinion of the director, new evidence is submitted or conditions have
39 changed to an extent that further consideration is warranted.
40

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; or
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.

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 KCC 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.

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

- 1 being appealed and the reasons why each is an error of fact or law, and the
- 2 evidence relied upon to prove the error;
- 3 4. The specific relief requested, such as reversal or modification;
- 4 5. Signature, address, and phone and fax number of each appellant, and name
- 5 and address of a contact representative, if there are multiple appellants; and
- 6 6. The appeal fee adopted by the board.

7
8 C. The hearing examiner shall hear appeals of Type I and II decisions in a de novo
9 open-record hearing in accordance with the Hearing Examiner Rules of Procedure.
10 Notice of an appeal hearing shall be mailed to parties entitled to notice of the decision,
11 but need not be posted or published. A staff report shall be prepared, a hearing shall be
12 conducted, and a decision shall be made and noticed.

13
14 D. Appeal decisions of the hearing examiner shall be a final and conclusive action.

15
16 E. In addition to the procedures set forth in this chapter, the county establishes the
17 following administrative procedures for SEPA appeals:

- 18 1. Administrative appeals are limited to review of a final threshold determination
19 and final EIS for nonexempt project permit actions, as defined in Chapter 21.02
20 KCC.
- 21 2. Administrative appeals are not allowed for SEPA determinations and/or final
22 environmental impact statements (EISs) on nonproject legislative actions or
23 project actions that are otherwise exempt from administrative appeal processes.
- 24 3. Except as provided in subsection 4 below, the appeal shall be consolidated
25 with a hearing or appeal on the underlying governmental action in a single
26 hearing before the Hearing Examiner.
- 27 4. The following SEPA appeals are not required to be consolidated with a
28 hearing or appeal on the underlying governmental action:
 - 29 a. An appeal of a determination of significance;
 - 30 b. An appeal of a procedural determination made by an agency when the
31 agency is a project proponent, or is funding a project, and chooses to
32 conduct its review under SEPA, including any appeals of its procedural
33 determinations, prior to submitting an application for a project permit.
- 34 5. All administrative SEPA appeals shall be heard by the Hearing Examiner
35 pursuant to the procedures in this chapter.
- 36 6. For any subsequent judicial appeal, the county shall provide a record as
37 required by RCW 43.21C.075(3)(c). The appellant shall be required to pay the
38 costs associated with providing the record.
- 39 7. The procedural determination by the county's responsible official shall carry
40 substantial weight in any appeal proceeding.

1 8. In accordance with WAC 197-11-680, notice of the date and place for
2 commencing a judicial appeal following an appeal of the county's final
3 administrative appeal shall be provided through either (1) the Hearing Examiner
4 decision on the appeal; and/or (2) a notice of decision, whichever is appropriate.
5

6 **21.04.300 Mediation.**
7

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

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

20 When successful, the mediation process should result in a disclosable mediation
21 agreement consistent with the comprehensive plan, adopted codes and ordinances
22 and the general public interest. Failed or declined mediation shall not be used against
23 parties of record.
24

25 B. Time Requirements. Once mediation has been accepted or required, mediation
26 shall commence within fourteen days and shall be completed within twenty-one days of
27 commencement. If commencement or completion fails to meet either the fourteen-day
28 or twenty-one-day timeframe, respectively, then mediation shall be discontinued and
29 forfeited at that stage of application processing or review. By agreement of both parties,
30 the twenty-one-day mediation process may be extended; however, both parties shall
31 recognize said extension may not, in accordance with state law, suspend any appeal
32 deadlines. For these purposes "commencement" shall include any pre-mediation
33 meetings, such as neighborhood meetings, necessary for informed mediation to occur.
34 Mediation shall not be used for conditions that have previously been the subject of a
35 mediation session. If there is uncertainty about conditions subjected to earlier
36 mediation and suitability of proposed mediation, the review authority shall decide if
37 mediation may occur.
38

39 C. Confidentiality. Participants in mediation shall agree that all mediation sessions are
40 confidential settlement negotiations, and that all offers, promises, conduct and

1 statements, whether written or oral, made in the course of the mediation are
2 inadmissible in any administrative hearing, litigation or arbitration of the dispute, to the
3 extent required by law. If at the conclusion of the mediation all parties agree to a
4 resolution of the dispute, the parties will all sign a non-confidential mediated agreement
5 which will be forwarded to the appropriate body for consideration and official approval.
6 The hearing examiner shall not be a participant in any mediation session.
7

8 D. Pre-Decision Mediation. During development application review, the review
9 authority may offer voluntary mediation if the issue(s) being contested are of the type
10 that can be mediated and not inconsistent with county code, state or federal laws. If
11 mediation is accepted, the application review process is suspended until mediation is
12 complete. Any mediated settlement, as long as it is consistent with applicable
13 regulation, will be deemed approved by the department. Type I and Type II applications
14 shall show the conditions of the mediated settlement in the conditions of approval. Type
15 III applications will have conditions of the mediated settlement shown in the staff report
16 to the hearing examiner. The hearing examiner shall accept mediated conditions unless
17 it can be demonstrated that the settlement is inconsistent with county code, state, or
18 federal laws. The hearing examiner is not bound by conditions, however, if new
19 information is presented during the open record hearing that was not considered by the
20 mediating parties. If during mediation a settlement cannot be achieved, then the
21 application process reverts to the process step just prior to mediation engagement.
22

23 E. Post-Decision Mediation.

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

33 2. Type III Decisions. For Type III decisions, the hearing examiner shall advise
34 the parties as early as is possible in the process that mediation is available. If a
35 Type III application is contested and the parties cannot come to agreement on
36 the issues by the end of the open record hearing, the hearing examiner may
37 direct mediation and continue the open record hearing until after mediation is
38 held. The hearing examiner has the authority to require mediation at any time in
39 the Type III appeal process if he/she finds that it may be appropriate.
40

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

3
4
5 **Chapter 21.08**
6 **LEGISLATIVE ACTION PROCEDURES**
7

8 **21.08.010 Intent.**

9 The intent of this chapter is to establish roles and responsibilities of the Kitsap County
10 Department of Community Development, the Planning Commission and the Board of
11 County Commissioners ("Board") relating to adoption of the county's comprehensive
12 plan, sub-area plans, development regulations and amendments thereto. This chapter
13 also provides the basic public participation program for updates, proposed amendments
14 and/or revisions of comprehensive plans, sub-area plans, and development regulations.
15 The department has the discretion to modify and expand on the public participation
16 program where appropriate. This Chapter shall not apply to review of project permits, or
17 the amendment of County-wide Planning Policies. The responsibilities and procedures
18 for review of project permits are governed by the provisions of Chapter 21.04 KCC.
19

20 **21.08.020 Docketing of Suggested Amendments.**

21
22 A. On a continuing basis, the department shall keep a docket of suggested
23 amendments of the following:

- 24 1. Any deficiencies in the comprehensive plan or development regulations that have
25 been identified by the department during the project review stage; and
26 2. Comprehensive plan or development regulation amendments suggested by any
27 interested person, including but not limited to, applicants, citizens, hearing examiners,
28 and staff of other agencies.

29 B. Annually, in accordance with KCC 21.08.040, the department will present the
30 docket to the board of commissioners, and make a recommendation regarding
31 suggested amendments for potential initiation. The board of commissioners shall
32 review the docket prepared pursuant to this section and shall consider whether any
33 changes to the comprehensive plan and/or development regulations are required.
34 Each docket request/suggestion shall be made in writing to the department and shall
35 include the following information:

- 36 1) Name and address of person or agency requesting the amendment;
37 2) Type of amendment being suggested and a description of amendment including
38 current zone designation and proposed zone designation if applicable;
39 3) Date of request;

1 4) Street address or tax parcel ID number for affected parcel(s) and a map of affected
2 area (if applicable); and

3 5) Reason such amendment is needed.

4 F. The docket shall be made available to the public for review upon request.

5

6 **21.08.030 Docket of Amendments**

7

8 A. Annual review. At least once annually, the board of commissioners shall review the
9 docket and shall determine whether a review of the Comprehensive plan (and/or
10 associated development regulations where applicable) is necessary. Unless otherwise
11 directed by law or by judicial or growth management hearings Board order, this
12 determination is solely within the board's discretion and the board is not required to
13 consider changes.

14 1. If the board determines review is necessary, it will establish, by
15 resolution, a schedule for the review and include the initial docket for consideration in
16 the resolution. Notice of the resolution shall be given by publication in the official county
17 newspaper promptly following adoption and the department shall proceed with review of
18 the proposed amendments in accordance with the balance of this chapter.

19 2. If the board determines not to conduct a review, it will state the reason
20 for its decision, which shall be recorded in the official minutes.

21 B.. This section applies only to annual comprehensive plan amendments and
22 does not preclude consideration of other types of amendments and/or legislative
23 actions, as set forth in KCC 21.08.040.B outside of the annual docketing process.

24

25 **21.08. 040 Annual consideration of amendments.**

26

27 A. Annual consideration. Unless listed as an exception under subsection B below, all
28 proposed comprehensive plan amendments shall be considered concurrently on an
29 annual basis (no more frequently than once per year), according to the schedule
30 adopted by the board by resolution, so that the cumulative effect of all proposed
31 amendments can be determined.

32 B. Exceptions to annual batching requirement. The county may adopt the following
33 amendments more frequently than once per year:

34 1. Initial adoption of subarea plan ;

35 2. Amendments to the county's shoreline master program (shoreline program
36 amendments shall be processed under the procedures set forth in Chapter 90.58
37 RCW);

38 3. Amendments to the capital facilities element that occur concurrently with the
39 adoption or amendment of the county budget;

1 4. Amendments when the Board finds that an emergency exists. A personal
2 emergency on the part of a landowner or applicant shall not be considered an
3 emergency of the County, and a landowner or applicant must utilize the annual
4 docketing process.

5 5. Amendments to resolve an appeal filed with a growth management hearings
6 board or with a court

7 6. Adoption of an interim land use plan, or part thereof, not expressly designated
8 as a part of the Comprehensive Plan;

9 7. Adoption of a moratorium or interim plan or regulation pursuant to RCW
10 36.70A.390;

11 8. Adoption of an amendment which is required by law to be completed outside
12 the annual plan amendment process;

13 9. Development regulation text amendments that are consistent with the
14 comprehensive plan; or

15 10. Zoning map amendments that are consistent with the comprehensive plan
16 and do not require a comprehensive plan land use map change.

17 11. Typographical or clerical errors made during comprehensive plan
18 amendments approved by the board, where such explicit action was deliberated and
19 inadvertently left out of the final printed version of the plan, maps, or codes.

20
21 **21.08.050 General procedures for proposed amendments.**

22
23 A. Application Classifications. All applications for comprehensive plan
24 amendments shall be classified as one of the following:

- 25 1. Text amendment;
- 26 2. Area-wide amendment
- 27 3. Site Specific Amendment; or
- 28 4. Map Correction.

29
30 This section does not apply to amendments proposed by the county itself.

31
32 B. Submittal deadlines. Unless otherwise provided for in this chapter,
33 applications for amendments to the comprehensive plan shall be submitted annually by
34 a deadline established by the board in its docketing resolution. Applications exempt
35 from the annual docket process may be submitted at any time, provided, however, the
36 director has the sole discretion to determine whether such an application shall be held
37 for consideration as part of the annual amendment process rather than processed
38 individually.

1 C. Pre-Application meeting. Applicants for site specific amendments shall
2 submit a completed pre-application review request and meet with the department prior
3 to submitting an application.

4 1. Upon receipt of the review request, the department will schedule a
5 meeting and conduct a preliminary review of the amendment proposal.

6 2. This intent of this meeting is to allow the department to ask and answer
7 questions, help review initial feasibility of County consideration, explain the process and
8 evaluation criteria and determine whether additional environmental documentation is
9 required for a complete application.

10
11 D. Initiation of review.

12 1. Docketed amendments. Following the submittal deadline for
13 amendment to be considered as part of the annual docket review, the department shall
14 review all of the proposed amendments and shall forward a recommendation to the
15 board as to which of the submitted amendments the department recommends for further
16 consideration by the County.

17 2. For amendments outside the docket process.

18 a. Development regulation amendments. Amendments to the development regulations
19 that are consistent with the comprehensive plan are not subject to annual batching
20 requirements and may be initiated at any time by a recommendation from the County.
21 Following the board's receipt of the department's recommendation on one or more
22 proposed amendments, the board shall, in a public meeting, consider the department
23 recommendation on the proposed amendment(s) and decide whether to initiate review
24 of the amendment(s). If the board decides to initiate review of the proposed
25 amendment(s), it shall refer the same to the planning commission for review, consistent
26 with the provisions of this Chapter. A decision by the board to initiate the review
27 process for a proposed amendment is procedural only and does not constitute a
28 decision by the board as to whether the amendment will ultimately be approved.

29 b. For any other comprehensive plan amendment that is not required to be
30 considered through the annual docketing process, including but not limited to
31 emergency amendments or amendments to resolve appeals, the county shall consider
32 the public process for that amendment on a case by case basis as appropriate given the
33 circumstances of the case.

34 E. Notice to Cities. For any amendment which may alter an urban growth area
35 adjacent to a city, notice to the appropriate city shall be given.

36 F. Environmental review. Following initiation of the amendment review process,
37 the department shall conduct environmental review on proposed amendments pursuant
38 to the State Environmental Policy Act, Chapter 43.21C RCW and Chapter 18.04 KCC,
39 SEPA.

1 1. Any required environmental review shall consolidate site-specific
2 and area-wide amendments, to the extent practical, to ensure adequate consideration of
3 cumulative effects of the proposed amendments.

4 2. Costs for SEPA review related to amendments may be charged to
5 the applicant.

6 G. Department's report and recommendation. The department shall prepare
7 a report for the planning commission and/or the board of commissioners on all proposed
8 amendments. The report shall include, at a minimum:

9 1. A summary of the proposed amendment(s).

10 2. An analysis of each amendment and how it complies with the criteria that
11 must be considered in making a recommendation or decision on the application,
12 pursuant to KCC 21.08.060.

13 3. The department's recommendation on each application.

14 4. For amendments processed together as part of the annual docket, the
15 report shall also include an analysis of the cumulative effect of the proposed
16 amendments.

17 H. Review by planning commission. In general, all amendments shall be
18 reviewed by the planning commission in accordance with KCC 21.08.070.

19 I. Review by board. Amendments shall be reviewed by the board in
20 accordance with KCC 21.08.070, after review and recommendation by the planning
21 commission. The board has the ultimately authority to adopt, reject or modify proposed
22 amendments.

23 J. Any Comprehensive Plan Amendment that requires a Transfer of
24 Development Right credit may be approved if all other review criteria are met, but shall
25 not take effect until Transfer of Development Right credit/s are purchased and certified,
26 by the review authority.

27
28 **21.08.060 Application requirements for amendments.**

29
30 A. Text amendments. An application for a text amendment shall include, at a
31 minimum, the following:

32 1. An application form which includes the signatures, addresses, telephone
33 numbers and agent information for the applicant and for all owners of record of the
34 property included within the application;

35 2. A description of the proposed amendment, including text changes and a map of
36 the area(s) impacted, if applicable;

37 3. An explanation of the reasons the amendment is being proposed;

38 4. A description of the proposed amendment's anticipated impacts;

39 5. An environmental checklist, if required;

40 6. A summary of any prior public review of the recommended change; and

- 1 7. The processing fee established by the board of commissioners.
- 2 8. Written narrative answering/explaining all review criteria pertaining to text
- 3 amendments in 21.08.070.

4
5 This section does not apply to amendments proposed by the county itself.

6
7 B. Area-wide amendments. An area-wide application for an amendment of the
8 comprehensive plan land use map or zoning map shall include, at a minimum, the
9 following:

10 1. An application form which includes the signatures, addresses, telephone
11 numbers and agent information for the applicant(s) and owner(s) of record, and a legal
12 description of the property covered by the amendment ;

13 2. A written narrative including:

14 a. A description of the proposed amendment;

15 b. An explanation of the reasons the amendment is being
16 proposed;

17 c. An explanation of the proposed amendment's
18 anticipated impacts;

19 d. An explanation of how the proposed amendment is
20 consistent with the GMA and the Kitsap county-wide planning
21 policy;

22 e. A discussion of whether the area-wide is associated with a pending or existing
23 sub-area plan;

24 3. An environmental checklist, if required;

25 4. The processing fee established by the Board;

26 5. A calculation describing the number of residential units allowable under the
27 existing density and the number of units allowable under the proposed density, if
28 applicable;

29 6. Written narrative answering/explaining all review criteria pertaining to area-
30 wide amendments in 21.08.070.

31
32 This section does not apply to amendments proposed by the county itself.

33
34
35 C. Site specific amendments. An application for a site specific amendment of the
36 comprehensive plan land use map or zoning map shall include, at a minimum, the
37 following:

38 1. An application form which includes the signatures, addresses, telephone
39 numbers and agent information for the applicant;

40 2. A written narrative including:

- 1 a. A description of the proposed amendment;
- 2 b. An explanation of the reasons the amendment is being
- 3 proposed;
- 4 c. An explanation of the proposed amendment's
- 5 anticipated impacts;
- 6 d. An explanation of how the subject parcel(s) is suitable for the requested land use
- 7 designation based upon, but not limited to, access, provision of utilities, consistency
- 8 with existing and planned uses, environmental constraints and compatibility with the
- 9 neighborhood;
- 10 3. An assessor's map showing the location of the property covered by the proposed
- 11 amendment;
- 12 4. An application form with the signatures, addresses, and telephone numbers for the
- 13 owner(s) of record; and a legal description of the property covered by the amendment,
- 14 including the notarized signature of one or more owners;
- 15 5. An environmental checklist, if required;
- 16 6. The processing fee established by the Board;
- 17 7. A calculation describing the number of residential units allowable
- 18 under the existing density and the number of units allowable under the
- 19 proposed density, if applicable;
- 20 8. Written narrative answering/explaining all review criteria pertaining to site specific
- 21 amendments in 21.08.070.

22
23 This section does not apply to amendments proposed by the county itself.

24
25 **21.08.070 Criteria for recommendation or decision – General.**

26
27 A. General. For each proposed amendment to the comprehensive plan the review

28 authority, the planning commission in reaching its recommendation, and the board of

29 commissioners in making its decision, shall develop findings and conclusions, which

30 demonstrates:

31 1. How circumstances related to the proposed amendment and/or the

32 area in which the property affected by the proposed amendment is located have

33 substantially changed since the adoption of the Comprehensive Plan or applicable

34 development regulations; and

35 2. How the assumptions upon which the Comprehensive Plan is

36 based are no longer valid, or there is new information available which was not

37 considered during the adoption of, or during the last annual amendment to, the

38 Comprehensive Plan or development regulations.

39 3. How the requested redesignation is in the public interest and the

40 proposal is consistent with the Kitsap County Comprehensive Plan.

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B. Text amendments. In addition to the findings and conclusions in subsection A above, for each proposed text amendment, the planning commission in reaching its recommendation, and the board of commissioners in making its decision, shall develop findings and conclusions which consider:

1. Whether the proposed amendment is consistent with and supports other plan elements and/or development regulations and if not, what additional amendments to the plan and/or development regulations will be required to maintain consistency;

2. Whether the proposed amendment to the plan and/or regulation(s) will more closely reflect the goals, objectives and policies of the Comprehensive Plan and reflect the local circumstances of the county;

3. Whether the proposed amendment is consistent with the Kitsap County-wide Planning Policy; and

4. Whether the proposed amendment complies with the requirements of GMA, state and local laws and other applicable inter-jurisdictional policies or agreements.

5. An explanation of why language should be added to the comprehensive plan or why existing language should be modified or deleted; and

C. Area-wide amendments. In addition to the findings and conclusions in subsection A above, a proposed area-wide amendment may be recommended for approval by the planning commission, and may be approved by the board of commissioners if the following findings are made:

1. The proposed amendment meets concurrency requirements for transportation, sewer and water, and will not result in significant adverse impacts on adopted level of service standards for other public facilities and services, such as police, fire and emergency medical services, park services, and general government services;

2. The proposed amendment is consistent with the goals, policies and objectives of development regulations, sub-area plan and the Comprehensive Plan and reflects the local circumstances of the county;

3. The subject parcel(s) is suitable for the requested land use designation based upon, but not limited to, access, provision of utilities, consistency with existing and planned uses, environmental constraints and compatibility with the neighborhood;

4. The proposed amendment does not materially affect the land uses and growth projections which are the basis for the Comprehensive Plan;

1 5. The proposed amendment does not materially affect the adequacy
2 or availability of urban facilities and services to the immediate area or the overall area of
3 the Urban Growth Area; and

4 6. The proposed amendment is consistent with the GMA, Kitsap
5 County-wide Planning Policy, state and local laws and other applicable inter-
6 jurisdictional policies or agreements.

7 7. The proposed amendment is consistent with and supports other plan elements
8 and/or development regulations and if not, what additional amendments to the plan
9 and/or development regulations will be required to maintain consistency;

10 8. Any proposed amendments to rural areas and natural resource lands shall be
11 supported by and dependent on population forecasts and the balance of non-urban
12 population distributions, existing rural area and natural resource land densities and infill
13 opportunities;

14 9. Any proposed changes to lands designated as natural resource lands shall
15 recognize that natural resource designations are intended to be long-term designations
16 and shall further be dependent on one or more of the following:

17 a. A substantial change in circumstances pertaining to the
18 comprehensive plan or public policy;

19 b. A substantial change in circumstances beyond the control of the
20 landowner pertaining to the subject property;

21 c. An error in initial designation; and/or

22 d. New information on natural resource land or critical area
23 status.

24
25
26 D. Site specific amendments. In addition to the findings and conclusions in
27 subsection A above, a proposed site specific map amendment may be recommended
28 for approval by the planning commission and may be approved by the board of
29 commissioners if the following findings are made:

30
31 **1. All site specific amendment requests: Each of the following requirements must**
32 **be satisfied for a recommendation for approval.**

33 1. The proposed amendment meets concurrency requirements for
34 transportation, sewer and water, and will not result in significant adverse impacts on
35 adopted level of service standards for other public facilities and services, such as police,
36 fire and emergency medical services, park services, and general government services;

37 2. The proposed amendment is consistent with the balance of the
38 goals, policies and objectives of the Kitsap County Comprehensive Plan and reflects the
39 local circumstances of the county;

1 3. The subject parcel(s) is suitable for the requested land use
2 designation based upon, but not limited to, access, provision of utilities, consistency
3 with existing and planned uses, environmental constraints and compatibility with the
4 neighborhood;

5 4. The proposed amendment does not materially affect the land uses
6 and growth projections which are the basis for the Comprehensive Plan, and reflects
7 local circumstances in the county;

8 5. The proposed amendment does not materially affect the adequacy
9 or availability of urban facilities and services to the immediate area or the overall area of
10 the Urban Growth Area; and

11 6. The proposed amendment is consistent with the GMA, Kitsap
12 County-wide Planning Policy, state and local laws and other applicable inter-
13 jurisdictional policies or agreements.

14
15 **2. All site specific amendment requests regarding parcels located within an**
16 **associated urban growth area (Including UGA expansions of associated urban**
17 **growth areas): Each of the following requirements must be satisfied for a**
18 **recommendation for approval:**

19 1. Demonstration from the jurisdiction affiliated with the UGA that the proposal
20 has the capability and capacity to provide urban level services to the area.

21 2. Demonstration that the proposal is consistent with the associated urban
22 growth area jurisdiction's Comprehensive Plan

23 3. Demonstration that the proposal meets the affiliated jurisdiction's
24 transportation standards.

25
26 **3. Rural Commercial/Industrial and Type III LAMIRD site specific amendment**
27 **requests: Each of the following requirements must be satisfied for a**
28 **recommendation for approval**

29 1. Demonstration of an unmet need for the proposed land use designation in the
30 rural area.

31 2. Demonstration that Kitsap County's rural character will be preserved or
32 unaffected by the change of designation.

33 3. Demonstration that the proposed designation will principally serve the rural
34 area.

35 4. Demonstration that appropriate rural services are available (i.e. water,
36 sewerage etc) and that urban services will not be required for the proposed designation.

37 5. Demonstration that the proposal is contiguous to existing industrial or commercial
38 zoning. (Exceptions to this policy must demonstrate a unique or exceptional need for
39 the proposed land use designation.)

1 6. Demonstration that the property is sized appropriately for the proposed land
2 use designation.

3 7. Demonstration that there is a lack of appropriately designated and available
4 sites within the vicinity.

5
6 **4. Requests within the rural area not pertaining to commercial or industrial**
7 **requests: If applicable, each of the following requirements must be satisfied for a**
8 **recommendation of approval:**

9 1. Any proposed amendments to rural and natural resource areas shall not
10 substantially affect the rural/urban population balance;

11 2. Any proposed change to land designated as natural resource land shall recognize
12 that natural resource designations are intended to be long-term designations and shall
13 further be dependent on one or more of the following:

14 a. A substantial change in circumstances pertaining to the Comprehensive Plan or
15 public policy;

16 b. A substantial change in circumstances beyond the control of the landowner
17 pertaining to the subject property;

18 c. An error in initial designation; and/or

19 d. New information on natural resource land or critical area status.

20

21 **21.08.080 Appeals.**

22

23 Decisions by the board of commissioners on applications subject to this chapter may be
24 appealed by filing a petition for review with the Growth Management Hearings Board as
25 provided in the GMA, the SMA or as otherwise required by law.

26 **21.08.090 Compliance.**

27

28 Errors in exact compliance with the requirements of this chapter shall not constitute
29 grounds for invalidation of any amendment to a comprehensive plan, development
30 regulation or other legislation.

31

32 **21.08.100 Review by Planning Commission.**

33

34 A. Where applicable, after completion of any review by a citizen's advisory
35 committee, or technical advisory committee, the Department shall prepare a staff report
36 on proposed plans, amendments or development regulations. The staff report shall
37 summarize the comments and recommendations of the advisory committees, County
38 departments, affected agencies and special districts; and evaluate the proposal's
39 consistency with adopted County plans and regulations. The staff report shall include
40 findings, conclusions and proposed recommendations for disposition of the proposed

1 plan, amendments or development regulations. The staff report, together with proposed
 2 drafts of the plan, amendment or development regulation, shall be available to the
 3 public a minimum of 10 calendar days before the first public hearing on the proposed
 4 plan, amendment, or development regulation.

5 B. For those matters that the Planning Commission reviews under this
 6 chapter, the Commission shall hold at least one public hearing on a proposed plan,
 7 amendment or development regulation prior to making a recommendation to the
 8 department. Where appropriate, the Planning Commission may hold joint public
 9 hearings with the Board.

10 C. Notice of the public hearing shall, at a minimum, indicate the time, place
 11 and purpose of the public hearing, and shall be published in the official newspaper of
 12 the County at least 15 days prior to the hearing.

13 D. If, after the Planning Commission's consideration of the public comments
 14 and deliberation on the proposed plan, amendment or development regulation, the
 15 Commission is considering a change to the proposal that is substantially different from
 16 that for which public comment was received, the Commission may provide an
 17 opportunity for additional public comment (orally, or in writing, or both), and shall
 18 consider such comment before making its recommendation to the department.
 19 Provided however, if deadlines imposed by orders of the Growth Management Hearings
 20 Board or by the Board regarding the proposed plan, amendment or development
 21 regulation to the Commission for review prevent such additional comment period, the
 22 public comment period will be revised appropriately. In that case, the Commission may
 23 forward its recommendation to the department without additional public comment,
 24 provided the findings of the Commission clearly state that the proposal has changed
 25 from that for which public comment was taken and the recommendation includes a
 26 suggestion that the Board take additional public comment before making its decision.
 27 For purposes of this Section, an additional opportunity for public comment is not
 28 required if:

29 1. An Environmental Impact Statement (EIS) has been prepared
 30 under RCW 43.21C for the pending resolution or ordinance and the proposed change is
 31 within the range of alternatives considered in the Environmental Impact Statement;

32 2. The proposed change is within the scope of the alternatives
 33 available for public comment;

34 3. The proposed change corrects typographical errors, corrects cross-
 35 references, makes address or name changes, or clarifies language of a proposed
 36 ordinance or resolution without changing its effect;

37 4. The proposed change is to a resolution or ordinance making a
 38 capital budget decision as provided in RCW 36.70A.120; or

39 5. The proposed change is to a resolution or ordinance enacting a
 40 moratorium or interim control adopted under RCW 36.70A.390.

1 E. An amendment to all or any part of a plan, development regulation or
2 amendment thereto shall be allowed only if it is consistent with the community vision
3 statements, goals, objectives, and the policy directives of the Comprehensive Plan and
4 the proposal preserves the integrity of the Comprehensive Plan and assures its
5 systematic execution.

6 F. Any Planning Commission recommendation on a proposed plan,
7 regulation or amendment thereto shall include a finding regarding whether the proposal
8 is supported by capital facility plan; whether the proposal is consistent with the
9 requirements of the Growth Management Act, the County-wide Planning Policies and
10 other applicable provisions of the Comprehensive Plan; whether the proposal reflects
11 current local circumstances; and whether the proposal bears a substantial relationship
12 to the public general health, safety, morals or welfare. For proposed Comprehensive
13 Plan map changes, the Commission recommendation shall also include findings of fact
14 and conclusions on whether the proposal is justified by changed or changing conditions;
15 whether the proposal would create an isolated land use designation (spot zone)
16 unrelated to adjacent designations; and whether the proposal will be compatible with
17 neighboring properties and not adversely affect the value of those properties.

18 G. A copy of any plan, amendment or development regulation recommendation,
19 together with the recorded motion shall be transmitted to the department, which shall
20 transmit the same to the Board not later than 14 days following the date the Findings
21 and Conclusions are signed by the chairperson of the Commission, together with the
22 statement of findings and conclusions.

23 H. Any report or recommendation from the Planning Commission, whether on
24 a proposal initiated by it, whether on a matter referred back to it by the Board for further
25 report, or whether on a matter initiated by the Board, shall be advisory to the
26 department only and the final determination shall rest with the Board.

27

28 **21.08.110 Review and decisions by Board.**

29

30 A. Upon receipt of a recommendation on all or any part of a plan, amendment or
31 development regulation from the Commission or Hearing Examiner, the Board shall set
32 the date for a public meeting where it will consider and take action on the
33 recommendation.

34 B. If the Board agrees with the recommendation of the Commission or Hearing
35 Examiner, it shall approve the plan, amendment or development regulation by
36 ordinance.

37 C. If the Board considers a change in the recommendation of the Commission or
38 Hearing Examiner on a proposed plan, amendment or development regulation to be
39 necessary, the Board shall proceed as follows:

1 1. Changes to plans or amendments. The Board may approve a proposed
2 plan, amendment or development regulation with changes if the changes are within the
3 scope of alternatives considered by the Planning Commission; are in response to public
4 testimony; or are consistent with the department's recommendation. The Board has
5 discretion to refer the proposed change back to the commission for a report and
6 recommendation before acting on a proposed change to a plan or amendment. If a
7 matter is referred back to the commission, the Board may set a deadline for receipt of
8 the Commission recommendation. After receipt of the report and recommendation of the
9 Commission, or after lapse of the time frame specified by the Board, the Board may
10 approve the plan, without further reference to the Commission, provided:

11 a. That the plan or amendment conforms either to the proposal as
12 initiated by the Board or the recommendation by the Commission and/or

13 b. If the Commission has failed to report within a 90-day period, the
14 Board shall hold at least one public hearing on the proposed plan or amendment.

15 2. Changes to development regulations. Before acting on a proposed change
16 to a development regulation recommended by the Commission, the Board shall either
17 refer the proposed change back to the Commission for further public comment and
18 consideration consistent with the procedures for changes to plans or amendments
19 described in Subsection 1, above, or the Board shall conduct its own public hearing, ,
20 and adopt its own findings of fact and a statement setting forth the factors considered at
21 the hearing and its own analysis of findings considered by it to be controlling.

22
23 D The Board shall have the authority to apply a sunset provision on site specific
24 amendment approvals on a case-by-case basis.

25
26 **Chapter 21.10**
27 **FEES**

28
29 All applications for permits or actions by the county shall be accompanied by a filing fee
30 in an amount established by county resolution.
31

