

CASE NO. 43076-2-II

COURT OF APPEALS, DIVISION II OF THE STATE OF
WASHINGTON

KITSAP COUNTY, a political subdivision of the State of Washington,

Respondent,

vs.

KITSAP RIFLE AND REVOLVER CLUB, a not-for-profit corporation
registered in the State of Washington, and JOHN DOES and JANE ROES
I-XX, inclusive,

Appellants,

and

IN THE MATTER OF NUISANCE AND UNPERMITTED
CONDITIONS LOCATED AT One 72-acre parcel identified by Kitsap
County Tax Parcel ID No. 362501-4-002-1006 with street address 4900
Seabeck Highway NW, Bremerton, Washington

ON APPEAL FROM THE SUPERIOR COURT OF THE STATE OF
WASHINGTON FOR PIERCE COUNTY
Superior Court No. 10-2-12913-3

PRAECIPE TO ATTACH APPENDICES TO REVISED STATEMENT
OF ADDITIONAL AUTHORITIES OF KITSAP COUNTY

RUSSELL D. HAUGE
Prosecuting Attorney

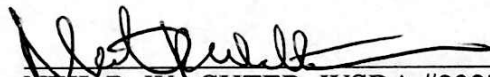
NEIL R. WACHTER
Senior Deputy Prosecuting Attorney
614 Division Street
Port Orchard, WA 98366
(360) 337-7174

TO: THE CLERK OF THE ABOVE-ENTITLED COURT;
AND TO: ALL PARTIES AND TO THEIR ATTORNEYS OF
RECORD

Please attach the attached appendices to Kitsap County's Revised
Statement of Additional Authorities, which were inadvertently omitted in
the initial filing of said Statement on June 20, 2014.

Respectfully submitted this 23rd day of June, 2014.

RUSSELL D. HAUGE
Prosecuting Attorney


NEIL R. WACHTER, WSBA #23278
Senior Deputy Prosecuting Attorney
Attorney for Kitsap County

CERTIFICATE OF SERVICE

I, Batrice Fredsti, declare, under penalty of perjury under the laws of the State of Washington, that I am now and at all times herein mentioned, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the above document in the manner noted upon the following:

Brian D. Chenoweth	<input checked="" type="checkbox"/>	Via U.S. Mail
Brooks Foster	<input checked="" type="checkbox"/>	Via Email: As Agreed by the Parties
The Chenoweth Law Group	<input type="checkbox"/>	Via Hand Delivery
510 SW Fifth Ave., Ste. 500		
Portland, OR 97204		

David S. Mann	<input checked="" type="checkbox"/>	Via U.S. Mail
Gendler & Mann LLP	<input checked="" type="checkbox"/>	Via Email
936 N. 34 th St. Suite 400	<input type="checkbox"/>	Via Hand Delivery
Seattle, WA 98103-8869		

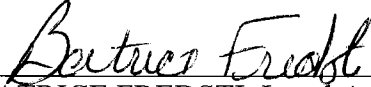
Matthew A. Lind	<input checked="" type="checkbox"/>	Via U.S. Mail
Sherrard McGonagle Tizzano, PS	<input checked="" type="checkbox"/>	Via Email
19717 Front Street NE, PO Box	<input type="checkbox"/>	Via Hand Delivery
400		
Poulsbo, WA 98370-0400		

Richard B. Sanders	<input checked="" type="checkbox"/>	Via U.S. Mail
Goodstein Law Group	<input checked="" type="checkbox"/>	Via Email
501 S G St	<input type="checkbox"/>	Via Hand Delivery
Tacoma, WA 98405-4715		

C.D. Michel
Michel & Associates, P.C.
180 E. Ocean Blvd, Ste 200
Long Beach, CA 90802

☒ Via U.S. Mail
☒ Via Email
☐ Via Hand Delivery

SIGNED in Port Orchard, Washington this 23 day of June, 2014.



BATRICE FREDSTI, Legal Assistant
Kitsap County Prosecuting Attorney
614 Division Street, MS-35A
Port Orchard, WA 98366-4676
(360) 337-4992

Appendix A:

Former Chapter 21.04 Kitsap County Code (Land Use and Development Procedures)

Chapter 21.04
LAND USE AND DEVELOPMENT PROCEDURES*

Sections:

- 21.04.010 Purpose – Applicability – General process – Administrative Code interpretation.
- 21.04.020 Definitions.
- 21.04.030 Type classification of development activities, permits and regulations.
- 21.04.035 Consolidation of project permit applications.
- 21.04.040 Preapplication meeting.
- 21.04.045 Submittal requirements.
- 21.04.050 Application completeness.
- 21.04.060 Type I – Ministerial decision.
- 21.04.070 Type II – Administrative decision.
- 21.04.080 Type III – Quasi-judicial decision.
- 21.04.090 Type IV – Legislative decision.
- 21.04.100 Public notice.
- 21.04.105 Integration of SEPA review with project permit review.
- 21.04.110 Timelines and duration of approval.
- 21.04.120 Appeals – Mediation.

* **Editor's Note:** As adopted, the ordinance codified in this chapter was entitled the "Kitsap County Land Use and Development Procedures Ordinance." It is familiarly known as the "procedures ordinance."

21.04.010 Purpose – Applicability – General process – Administrative Code interpretation.

A. Purpose and Applicability. The purpose of the ordinance codified in this chapter is to provide timely and predictable procedures and an integrated project review process for applications for development under the following ordinances and chapters of the Kitsap County Code:

1. Subdivisions (Chapters 16.04 through 16.44);
2. Short Subdivisions (Chapter 16.48);
3. Large Lot Subdivisions (Chapter 16.52);
4. Binding Site Plans (Chapter 16.56);
5. Zoning (Title 17);
6. Road Vacations;
7. Critical Areas (Title 19);
8. SEPA (Chapter 18.04);

9. Shorelines (Title 22);
10. Timber Harvest Permits (Chapter 18.16);
11. Storm Water Management (Chapters 12.04 through 12.32); and
12. Concurrency (Chapter 20.04);

B. Conflicts. In the event of conflicts between any provision of this chapter and the ordinances listed in subsection (A) above, the procedures contained in this chapter shall govern.

C. Process. Generally, the process for review of project applications shall consist of the following stages:

1. Preapplication meeting.
2. County summary of requirements for processing.
3. Application.
4. Application type classification by county.
5. County completeness determination(s).
6. County initiation of appropriate public involvement process.
7. Decision by appropriate official or body.
8. Appeal period.

D. Code Interpretations. The director or other county staff shall provide administrative code interpretations of its development regulations to the public as follows:

1. Upon written request directed to the appropriate county official, the official shall provide a formal written interpretation of specific development regulations. Code interpretations shall be provided by the following county officials:
 - a. Director – Subdivisions, Zoning, SEPA, Shorelines, Forest Practices, Erosion Control, Drainage, Clearing.
 - b. County Engineer – Road Vacations, Concurrency
 - c. Kitsap County Building Official – Kitsap County Building Code.
2. Code interpretations are Type I actions, subject to the appeal provisions of this chapter.

(Ord. 290 (2002) § 14, 2002; Ord. 219 (1998) (Exh. 1, § 010), 1998)

21.04.020 Definitions.

- A. "Board" or "board of commissioners" means the Kitsap County board of county commissioners.
- B. "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.
- C. "Day(s)" means calendar days.
- D. "Director" means the director of the Kitsap County department of community development, or the director's designee.
- E. "Mediation" means efforts to resolve disputes with the assistance of an impartial third party.
- F. "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by Kitsap County to conduct such hearings, that creates Kitsap County's public record through testimony and submission of evidence and information, under procedures prescribed by Kitsap County by ordinance or resolution. On appeal, an open record hearing may be held only if no open record pre-decision hearing was held on a project permit. All other appeals will be closed record appeals.
- G. "Open record pre-decision hearing" means a hearing held prior to Kitsap County's decision on a project permit.
- H. "Parties of record" means those persons or entities who: (1) testified, signed in as a party, or submitted written materials at the open record hearing; and (2) are the applicant, owner, appellant or agent or representative of the applicant, owner, or appellant.
- I. "Project permit" or "project permit application" means any land use or environmental permit or license required from Kitsap County for a project action, including, but not limited to, building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, permits or approvals required by critical area ordinances, and site-specific rezones authorized by the Kitsap County Comprehensive Plan (the "Plan") or a subarea plan, but excluding the adoption or amendment of the Plan, a subarea plan, or development regulations except as otherwise specifically included in this chapter.
- J. "Public meeting" means an information meeting, hearing, workshop, or other gathering of people to obtain comments from the public or other agencies on a proposed project permit prior to Kitsap County's decision. A public meeting may include a scoping meeting on a draft environmental impact statement. A public meeting does not include an open record hearing. The proceedings at a public meeting may be, but are not required to be, recorded and a report or recommendation may be included in the Kitsap County project permit application file.
- K. "Review authority" means the director, or other county official or their designee, processing and making land use and development decisions.

(Ord. 452 (2010) § 2, 2010: Ord. 369 (2006) § 5, 2006: Ord. 219 (1998) (Exh. 1, § 020), 1998)

21.04.030 Type classification of development activities, permits and regulations.

A. Upon presentation, all development applications shall be classified by the county as either Type I, Type II, Type III or Type IV. The classification shall be in accordance with Table 21.04.030 below and shall determine the process which will govern the review of the application for approval.

B. If this chapter expressly provides that an application is subject to one of the four types of procedures or another procedure, then the application shall be processed accordingly. If this chapter does not expressly provide for review using one of the four types of procedures, and another specific procedure is not required by law, the review authority for the application in question shall classify the application as one of the four procedural types and it will be processed accordingly.

1. The act of classifying an application shall be a Type I action. Classification of an application shall be subject to reconsideration and appeal at the same time and in the same way as the merits of the application in question.

2. Questions about what procedure is appropriate shall be resolved in favor of the type providing the greatest public notice and opportunity to participate.

Table 21.04.030

PERMIT/ACTIVITY/DECISION	Review Authority	CLASSIFICATION				
		Exempt	Type I	Type II	Type III	Type IV
Amendments – Comprehensive Plan (Legislative)	BC					X
Amendments – Regulations (Legislative)	BC					X
Appeals (subject to Section 21.04.120)	HE				X	
Binding Site Plan	HE				X	
Building Code Interpretation	BO		X			
Building Permit	D	X				
Conditional Use Permit – Administrative	D			X		
Conditional Use Permit – Hearing Examiner	HE				X	
Conditional Use Permits – Minor Revisions	D		X			

Conditional Use Permits – Vacation	D		X			
Construction Standards, Amendment	BC					X
Critical Areas Variance	HE				X	
Concurrency Certificates	CE		X			
Determination of Zone Boundaries	D		X			
Discretionary Administrative Determinations	D		X			
Development Standard Modifications or Waivers – Mixed Use Development	D/HE			X	X	
Final Plat	BC			X		
Height Increase – 10% or less	D			X		
Height Increase – more than 10%	HE				X	
Landscape Plan Approval	D		X			
Large Lot Subdivision	CE			X		
Master Plan Approval	D/HE			X ¹	X ²	
Master Plan Scoping	D			X		
Plan Interpretations	D		X			
Performance Based Development	HE				X	
Preliminary Plat	HE				X	
Rezone – With Annual Comprehensive Plan Amendment	BC					X
Rezone – Authorized by Comprehensive Plan ³	HE/BC					X
Road Vacation	BC				X	
Rural Wooded Incentive Program – Preliminary Plat	HE				X	
Rural Wooded Incentive Program – Release of Subsequent Phases	BC					X
Subdivision	HE				X	

SEPA Threshold Determination	D			X		
Shorelines Substantial Development, Conditional Use, Variance Permit	HE				X	
Short Subdivision	D/HE			X		
Site Development Activity Permit (Grading, Clearing, Drainage)	CE			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	X	X
Variance	HE				X	
Zoning Interpretations	D		X			
D = Director	CE = County Engineer	BO = Building Official	HE = Hearing Examiner	BC = Board of Commissioners		

1. Approval process for master plans within the South Kitsap Industrial Area (except those for the Industrial Multi-Purpose Recreational Area designation (see Section 17.322.030).

2. Approval process for master plans within the ULID #6 Sub-Area.

3. Rezones authorized by the comprehensive plan shall be heard by the hearing examiner who shall make a recommendation to the board of commissioners for a final legislative decision.

(Ord. 452 (2010) § 3, 2010: Ord. 369 (2006) § 6, 2006: Ord. 311 (2003) [Attachment 5 [§ 11], 2003: Ord. 290 (2002) § 15, 2002: Ord. 219 (1998) (Exh. 1, § 030), 1998)

21.04.035 Consolidation of project permit applications.

A. The county shall consolidate project permit applications and review in order to integrate the project permit and environmental review process and avoid duplication of the review processes. Consolidated permit processing shall follow the review and approval process of the highest numbered permit type represented among the required permits. For non-legislative actions, Type III is considered the highest and Type I is considered the lowest.

B. The applicant may determine whether the multiple permit applications shall be processed concurrently or independently, except that the director has the discretion to

require a variance, height increase, development standards modification or waiver to be processed concurrently with the associated project permit application.

C. For applications that are processed individually, the highest numbered permit type shall be acted upon prior to processing the lower numbered permit type, unless the higher numbered permit type is dependent on first obtaining a favorable Type I or Type II decision.

(Ord. 369 (2006) § 7, 2006)

21.04.040 Preapplication meeting.

A. Predevelopment Meeting. Applicants may request and participate in an informal meeting prior to the formal preapplication meeting, although such predevelopment meetings are not required. The purpose of the meeting is to discuss in general terms the proposed development, application requirements, design standards, design alternatives, other required permits and the approval process.

B. Preapplication Meeting. The purposes of the preapplication meeting and review are:

1. To provide the county with sufficient information about a proposed project to enable county staff to classify the project and inform the applicant of approval requirements;
2. To acquaint the applicant with the requirements of this chapter and other applicable law. County staff shall inform applicants that they should not consider the meeting and review as providing an exhaustive review of all the potential issues that a given application could raise and that applicants should seek independent advice if they have questions or concerns of any kind. Preapplication review shall not prevent the county from applying all relevant laws to the application; and
3. To provide an opportunity for other agency staff and the public to become acquainted with the proposed application and applicable law. Members of the public may attend a preapplication meeting, but it is not a public hearing, and there is no obligation to receive public input.

C. Unless waived by the director, a preapplication meeting is required for Type II or III applications. A preapplication meeting should be waived by the director only if the reviewing authority determines that the application is relatively simple. A preapplication meeting should be waived by the director only under one of the following conditions:

1. The applicant submits a completed written form provided by the reviewing authority requesting waiver of a preapplication meeting and review. The form shall state that waiver of a preapplication meeting could increase the maximum time for review for complete status and increases the risk that the application will be rejected and that processing could be delayed; or
2. This chapter or the director expressly exempts the application(s) in question from preapplication review.

D. To initiate preapplication review, an applicant shall submit a completed form provided by the reviewing authority for that purpose, the required fee, and all information required by the relevant section(s) of this chapter. Information not provided on the form shall be provided on attachments such as drawings, required checklists or other documents approved by the director. The director may modify requirements for preapplication materials and may conduct a preapplication review with less than all of the required information so long as modification does not prevent the director from identifying all applicable issues and still allows the most effective preapplication review.

E. The director shall designate a staff member who shall coordinate the involvement of county staff responsible for planning, development review, roads, drainage, parks and other subjects, as appropriate, in the preapplication review process. Preapplication review will include discussion of requirements for application completeness, permit or approval requirements, fees, review process and schedule, and responding to questions from the applicant. Responsible staff shall either attend the preapplication meeting or take other steps to fulfill the purposes of preapplication review.

F. The preapplication meeting shall be scheduled at least five days after the notice is mailed but not more than twenty-eight days after the county accepts the application for preapplication review. If the applicant or applicant's representative cannot or does not attend the first scheduled meeting, the county review authority shall reschedule the meeting and give new notice, in which event, the time passing prior to the date the preapplication meeting is held shall not be included in any other time calculation referred to in this chapter.

G. Within twenty-one days after the date of a preapplication meeting, the review authority shall mail to the applicant and to other interested parties a written summary of the preapplication review. Such information will be based upon the level of detail submitted by the applicant with the preapplication request. The preapplication summary shall include a description of the project, all required fees for development permits and project issues regarding critical areas, stormwater, public facilities, roadways and other development limitations.

H. An applicant may submit a written request for a second preapplication meeting within one calendar year after an initial preapplication meeting. There shall be no additional fee for a second meeting if the proposed development is substantially similar to the one reviewed in the first preapplication meeting or if it reflects changes based on information received at the first preapplication meeting.

(Ord. 369 (2006) § 8, 2006: Ord. 219 (1998) (Exh. 1, § 040), 1998)

21.04.045 Submittal requirements.

A. Except as provided elsewhere in this code, the department shall establish and may revise written submittal requirements for each type of project permit application required by this title. The requirements shall clearly describe the material that must be submitted for an application to be considered complete. The department shall provide public notice of changes thirty days prior to their effective date.

B. Submittal requirements shall not be waived, except that the department may determine in writing that a particular requirement is not applicable upon a clear showing by the applicant that the requirement is not relevant to the proposed project permit and is not necessary to demonstrate compliance with the applicable requirements.

C. Additional materials may be required by the department as it determines necessary for review of the application.

(Ord. 369 (2006) § 9, 2006)

21.04.050 Application completeness.

A. The review authority shall determine whether the application is complete upon its submittal according to the following timetable:

1. Within twenty-eight days after the initial submittal; or
2. Within fourteen days after the application has been resubmitted to the county if the application has been returned to the applicant as being incomplete.

B. Notwithstanding subsection (A) of this section, if the review authority establishes a given day of the week as the day on which to begin review for completeness for a certain kind of application (for example, a subdivision), the time for making a decision regarding the completeness of that kind of application shall begin to run on the day designated by the review authority.

C. The decision determining an application complete and imposition of any requirements for engineering, traffic or other studies shall be based on the criteria set forth in this chapter and implementing measures timely adopted by the review authority. An application is complete if it includes the following:

1. A completed original application form(s) signed by (a) the owner(s) of the property which is the subject of the application; or (b) a representative authorized to do so by written instrument executed by the owner(s) and filed with the application. An application subject to Type IV review may be filed by the director, the planning commission or the board of commissioners without the signature or consent of the property owner(s);
2. A legal description supplied by a title company, surveyor licensed in the state of Washington, or other party approved by the review authority;
3. A current Kitsap County assessor map(s) showing the property(ies) subject to the application;
4. A copy of the preapplication meeting summary, unless waived by the director or not timely prepared as required by subsection (H) of Section 21.04.040;
5. The applicable fee(s) adopted by the board of commissioners for the application (s) in question;
6. All of the information required in the relevant sections of this chapter;

7. Any necessary SEPA document, typewritten or in ink, and signed; and
 8. Any additional information identified by the director following the preapplication meeting as necessary to provide the county with sufficient information about the proposed project.
- D. If appropriate because of the nature of the site, the proposed development, or other factors, the review authority may waive or modify, in writing with supporting reasons, application requirements that are clearly not necessary to show a proposal complies with relevant criteria and standards of this chapter.
- E. Once a project meets the procedural submission requirements, at the sole discretion of the reviewing authority, it may be deemed sufficiently complete for continued processing and a notice of completeness may issue even though additional information is required or project modifications may be undertaken subsequently. In such circumstances, the determination of completeness shall not preclude the reviewing authority from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information is required or substantial changes in the proposed action occur.
- F. If the review authority decides an application is not complete, within the time provided in subsection A of this section, the review authority shall send the applicant a written statement rejecting the application and specify what is required to complete the application, including:
1. A specific date by which the required missing information must be provided to restart the completion review process pursuant to subsection (A)(3) of this section, with an explanation of how to apply for a deadline extension; and
 2. If appropriate, recommendations for any additional information that, although not necessary to make the application complete, would be recommended to address relevant issues.
- G. If the review authority has not extended the date, and the required information has not been submitted by the date specified, within seven days following the submittal deadline, the review authority shall take the action in subsections (F)(1) or (F)(2) of this section. If the required information is submitted by the specified date, the review authority shall decide within fourteen days whether the application is complete and, if not, the review authority shall either:
1. Reject and return the application and seventy-five percent of the application fee with the written statement described in subsection (F) of this section;
 2. Issue a decision denying the application, based on a lack of information provided; or
 3. Allow the applicant to restart the completion review process anew by providing the required missing information before a date specified by the review authority, in which case the review authority may retain the application and fees pending expiration of the new date or technical review of the amended application.

H. When the review authority determines that an application is complete, within fourteen days of making this determination the review authority shall:

1. Forward the application(s) to the county staff member responsible for processing it and, if a Type III application, schedule it for a public hearing;
2. Send a written notice of completeness to the applicant acknowledging acceptance, listing the name and telephone number of a contact person at the review authority, and describing the expected review schedule, including the date of a hearing for a Type III process; and
3. If the application is for a Type II or III process, provide a copy of the notice of application provided to the public under Section 21.04.100.

I. A Type II or III application shall be deemed complete if a written determination has not been mailed to the applicant within twenty-eight days of the date the application is submitted.

J. Postponement of Application Processing. An applicant may request in writing that processing of an application be postponed, in which event, the county will take no further action until the application is re-activated by the applicant. All applicable timelines and deadlines will be stayed in the interim. Applications which have not been re-activated at the end of six months after the date of postponement shall be returned to the applicant together with seventy-five percent of any fees paid and deemed to have been voluntarily withdrawn. Withdrawn applications must be resubmitted as new applications with full fees.

(Ord. 369 (2006) §§ 10, 11, 2006: Ord. 219 (1998) (Exh. 1, § 050), 1998)

21.04.060 Type I – Ministerial decision.

A. For a Type I application, the review authority shall approve, approve with conditions, or deny the application within twenty-one days after the date the application was accepted as complete; provided, an applicant may agree in writing to extend the time in which the review authority shall issue a decision. The review authority may consider new information the applicant submits with or after such a written agreement.

B. Written notice of a Type I application decision shall be mailed to the applicant and the applicant's representative. The applicant may appeal the decision in accordance with Section 21.04.120 or may apply for post-decision changes in accordance with subsection (J) of Section 21.04.050.

(Ord. 219 (1998) (Exh. 1, § 060), 1998)

21.04.070 Type II – Administrative decision.

A. Within fourteen days after the date a Type II application is deemed complete, the review authority shall issue a public notice of the application pending review in accordance with the requirements of Section 21.04.100.

B. The review authority shall mail the applicant a copy of comments timely received in response to the notice together with a statement that the applicant may respond to the

comments within fourteen days from the date the comments are mailed. The review authority shall consider the comments and the applicant's reply, so long as timely received. The review authority may consider comments and responses received after the deadline for filing.

C. A decision shall be made within the timelines specified by Section 21.04.110, and shall include:

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

D. Within seven days of the decision, the review authority shall mail a notice of decision to the applicant, the applicant's representative, any known neighborhood association in whose area the property in question is situated, and all parties who have requested such notice regarding the application. The notice of decision shall include the following information:

1. A statement that the decision and SEPA determination are final, but may be appealed as provided in Section 21.04.120 to the Kitsap County hearing examiner within fourteen days after the notice of decision, with the appeal closing date in boldface type. The statement shall describe basic appeal requirements, including applicable fees and the elements of an appeal statement; and
2. A statement that the complete case file, including findings, conclusions and any conditions of approval is available for review. The notice shall list the place, days and times when the case file is available and the name and telephone number of the county representative to contact about reviewing the file.

(Ord. 219 (1998) (Exh. 1, § 070), 1998)

21.04.080 Type III – Quasi-judicial decision.

- A. A Type III review process requires one open record public hearing before the hearing examiner. The public hearing must be held within seventy-eight days after the date the review authority issues the determination that the application is complete, and not less than fifteen days following any SEPA threshold determination.
- B. At least fifteen days before the date of a hearing for a Type III application, the review authority shall issue a public notice of the hearing in accordance with the requirements in Section 21.04.100.
- C. At least seven days before the date of the hearing, the director shall issue a written staff report and recommendation regarding the application(s). The director shall make the

staff report and recommendation available for public review and inspection and shall mail a copy without charge to the applicant and applicant's representative. The director shall mail or provide a copy of the staff report at reasonable charge, as determined by the review authority, to all other parties who request it.

D. Public hearings shall be conducted in accordance with applicable rules of procedure, except to the extent waived by the review authority, and recorded on audio or audiovisual tape.

1. At the beginning of a hearing or agenda of hearings, the hearing examiner shall:
 - a. State that testimony will be received only if it is relevant to the applicable approval criteria and development standards and is not unduly repetitious;
 - b. State that the hearing examiner will consider any party's request that the hearing be continued or that the record be kept open for a period of time and may grant or deny that request;
 - c. State that the hearing examiner must be impartial and whether the hearing examiner has had any ex parte contact or has any personal or business interest in the application, and provide parties an opportunity to challenge the impartiality of the examiner prior to commencement of the hearing;
 - d. State whether the hearing examiner has visited the site;
 - e. State that persons who want to receive notice of the decision may sign a list for that purpose at the hearing and where that list is kept; and
 - f. Summarize the conduct of the hearing.
2. At the conclusion of the hearing on each application, the hearing examiner shall announce one of the following:
 - a. That the hearing is continued. If the hearing is continued to a place, date and time certain, additional notice of the continued hearing is not required to be mailed, published or posted. If the hearing is not continued to a place, date and time certain, notice of the continued hearing shall be given as though it was the initial hearing. The hearing examiner shall adopt guidelines for reviewing requests for continuances;
 - b. That the public record is held open to a date and time certain. The hearing examiner shall state where additional written evidence and testimony can be sent, and shall announce any limits on the nature of the evidence that will be received after the hearing. The hearing examiner may adopt guidelines for reviewing requests to hold open the record;
 - c. That the application(s) is/are taken under advisement, and a final order will be issued as provided in subsection (F) of this section; or

d. That the application(s) is/are denied, approved or approved with conditions, together with a brief summary of the basis for the decision, and that a final order will be issued as provided in subsection (E) of this section.

E. The hearing examiner shall issue a written decision regarding the application(s) within fourteen days after the date the record closes. The decision shall include:

1. A statement of the applicable criteria and standards in this chapter and other applicable law;
2. A statement of the facts that the review authority found showed the application does or does not comply with each applicable approval criterion and standards;
3. The basis for conclusions to approve, deny or impose conditions; and
4. The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure that the proposed development will comply with applicable criteria and standards.

F. Within seven days from the date of the decision, the director shall mail the notice of decision to the applicant and applicant's representative, and all parties of record. The mailing shall include a notice which includes the following information:

1. A statement that the decision is final, but may be appealed as provided in Section 21.04.120; and
2. A statement that the complete case file is available for review, listing the place, days and times where the case file is available and the name and telephone number of the county representative to contact for information about the case.

(Ord. 452 (2010) § 4, 2010: Ord. 219 (1998) (Exh. 1, § 080), 1998)

21.04.090 Type IV – Legislative decision.

A. A Type IV procedure may require one or more hearings before the Kitsap County planning commission and does require one or more hearings before the Kitsap County board of commissioners. All Comprehensive Plan amendments shall be considered concurrently and cumulatively, not more than once per year, with the exceptions of the capital facilities element, subarea plans, and shoreline master program.

B. At least fifteen days before the date of the first planning commission hearing for an application subject to Type IV review, the director shall:

1. Prepare a notice of application that includes the following information:
 - a. The case file number(s);
 - b. A description and map of the area that will be affected by the application, if approved, which is reasonably sufficient to inform the reader of the location;
 - c. A summary of the proposal described in the application(s);

- d. The place, days and times where information about the application may be examined and the name and telephone number of a county representative to contact about the application;
 - e. A statement that the notice is intended to inform potentially interested parties about the hearing and to invite interested parties to appear orally or by written statement at the hearing;
 - f. Designation of the review authority, the date, time and place of the hearing, and a statement that the hearing will be conducted in accordance with the rules of procedure adopted by the review authority;
 - g. A statement that a staff report and, whenever possible, a consolidated SEPA review or integrated growth management document, will be available for inspection at no cost at least fifteen days before the hearing and that a copy will be provided at reasonable cost; and
 - h. A general explanation of the requirements for submission of testimony and the procedure for the conduct of hearings;
2. Mail a copy of the notice prepared under subsection (B) of this section to parties who request such notice;
 3. Publish in a newspaper of general circulation a summary of the notice, including the date, time and place of the hearing and a summary of the subject of the Type IV process; and
 4. Provide additional notice deemed appropriate and necessary by the director based on the subject of the Type IV process.
- C. At least seven days before the date of the first hearing on a Type IV application(s), the director shall issue a written staff report and a SEPA evaluation and recommendation regarding the application(s). The director shall make a copy of the staff report and SEPA evaluation available to the public for review and inspection, mail a copy of the consolidated report and recommendation to the review authority, and mail or provide copies at reasonable charge to other parties who request it.
- D. Public hearings shall be conducted in accordance with the rules of procedure as determined by the review authority and except to the extent waived by the review authority. A public hearing shall be recorded on audio or audiovisual tape.
- E. At the conclusion of a planning commission hearing on a Type IV application, the planning commission shall announce one of the following actions, which may not be appealed:
1. That the hearing is continued. If the hearing is continued to a place, date and time certain, then additional notice of the continued hearing is not required to be mailed, published or posted. If the hearing is not continued to a place, date and time certain, then notice of the continued hearing shall be given as though it was the initial hearing before the planning commission; or

2. That the planning commission recommends against or in favor of approval of the application(s) with or without specified changes, or that the planning commission will recommend neither against nor for approval of the application(s), together with a brief summary of the basis for the recommendation.

F. At least seven days before the date of the first board of commissioners hearing for an application subject to Type IV review, the director shall:

1. Prepare a notice that includes the information listed in subsection (B)(1) of this section except the notice may be modified as needed to:
 - a. Reflect any changes made in the application(s) during the planning commission review;
 - b. Reflect that the board of commissioners will conduct the hearing and the place, date and time of the board of commissioners hearing; or
 - c. State that the planning commission recommendation, staff report, and SEPA evaluation are available for inspection at no cost and copies will be provided at reasonable cost;
2. Mail a copy of that notice to the parties identified in subsection (B)(2) of this section and to parties who request it in writing;
3. Publish in a newspaper of general circulation a summary of the notice, including the date, time and place of the hearing and a summary of the subject of the Type IV process; and
4. Provide additional notice deemed appropriate and necessary by the director based on the subject of the Type IV process.

G. At the conclusion of its hearing regarding a Type IV application, the board of commissioners may continue the hearing or may adopt, modify or give further consideration to the application or recommendations. If the hearing is continued to a place, date and time certain, then additional notice of the continued hearing is not required to be provided. If the hearing is not continued to a place, date and time certain, then notice of the continued hearing shall be given as though it was the initial hearing before the board of commissioners.

(Ord. 219 (1998) (Exh. 1, § 090), 1998)

21.04.100 Public notice.

A. Notices of Application. A notice of the application shall include the following information, to the extent known:

1. The case file number(s), the date of application(s), the date the application(s) was deemed complete, and the date of the notice of completeness;

2. A description of the proposal with a list of any project permit requests included with the application(s) and, if applicable, a list of any further studies required by the review authority;
3. Identification of other necessary permits not included in the application, to the extent known by county staff;
4. Identification of existing environmental documents evaluating the proposal;
5. Specific dates for the public comment period, a statement that the public has the right to comment on the application, receive notice of and participate in any hearings, and request a copy of the decision once made. The statement shall describe any appeal rights and make it clear that only written comments received by the county within fifteen days from the date of the notice will be considered;
6. The deadline for submitting a SEPA appeal;
7. The date, time, place and type of hearing, if applicable; provided, that any necessary threshold determination has been made under SEPA. If a necessary threshold determination has not yet been made at the time the notice of application is sent, the hearing date shall be set later, for a date no sooner than fifteen days following the SEPA determination, and a separate notice of hearing shall be mailed to the applicant, the applicant's representative and all other parties who have requested such notice;
8. If one has been made, a statement of the preliminary determination of what development regulations will be used for project mitigation. The statement shall indicate which regulations the application appears to comply with;
9. A statement that a consolidated staff report and, if applicable, that the SEPA review document will be available for inspection at no cost at least fifteen days before the administrative decision or public hearing;
10. The deadline for submitting written comments;
11. The name of the applicant or applicant's representative and the name, address and telephone number of the contact person for the applicant, if any;
12. A description of the site which is reasonably sufficient to inform the reader of its location and zoning, including current zoning designation and the nearest road intersections;
13. The date, place and times where information about the application may be examined and the name and telephone number of the county representative to contact about the application;
14. The designation of the review authority, and a statement that the hearing will be conducted in accordance with the rules of procedure adopted by the review authority; and

15. Any additional information determined appropriate by the reviewing authority.

B. Separate Notice of Public Hearing. For Type III applications, where the notice of application under subsection (A) of this section does not include a notice of hearing, a separate notice of the hearing date shall be distributed in accordance with subsection (C) of this section.

C. Distribution of Notices.

1. Within the time period specified for public notice of applications in this chapter, the director shall mail a copy of notices of application and hearings, or a summary postcard as provided in subsection (C)(4) of this section, to:

- a. The applicant and the applicant's representative;
- b. Any neighborhood association known to the director and in whose area the property in question is situated;
- c. Owners of property within a radius of four hundred feet of the property which is the subject of the application:

(i) The records of the Kitsap County assessor shall be used to determine the property owner of record. The failure of a property owner to receive notice shall not affect the decision if the notice was sent in accordance with this subsection. A sworn certificate of mailing executed by the person who did the mailing shall be evidence that notice was properly mailed to parties listed or referenced in the certificate; and

(ii) If the applicant owns property adjoining or across a right-of-way or easement from the property that is the subject of the application, notice shall be mailed to owners of property within a four-hundred-foot radius, as provided in this subsection, of the edge of the property owned by the applicant adjoining or across a right-of-way or easement from the property that is the subject of the application;

- d. Agencies with jurisdiction; and
- e. Other people who request such notice in writing.

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

3. For Type III review, the county shall post the notice in a conspicuous place visible to the public at least fifteen days before the hearing. The applicant shall remove and properly dispose of the notices within seven days after the hearing.

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

b. At least two days before the hearing, the responsible county staff member shall execute and submit an affidavit to the review authority certifying where and when the notices were posted.

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

(Ord. 427 (2009) § 1, 2009; Ord. 219 (1998) (Exh. 1, § 100), 1998)

21.04.105 Integration of SEPA review with project permit review.

A. Project permit applications and planned actions subject to the provisions of the State Environmental Policy Act (SEPA) shall be reviewed in accordance with the policies and procedures contained in Chapter 18.04 of this code and WAC 197-11.

B. SEPA and the review of project permit applications shall be combined and integrated in all project permits that are not categorically exempt from SEPA or for which environmental review has not already been completed in the following manner:

1. SEPA review, if required, should be analyzed in one project permit review process that includes land use, environmental, public and governmental review as established by this chapter. If applicable development regulations already require studies that adequately analyze a project's specific probable adverse impacts, then additional or redundant studies shall not be required under SEPA.
2. Documents or studies prepared in the project permit review process under the requirements of SEPA or specific development regulations shall be prepared so that they can be reviewed by the public, the county and other agencies during the applicable comment periods.
3. A SEPA threshold determination and/or a scoping notice may be issued with a notice of application; provided, that a final threshold determination of nonsignificance may not be issued until after the expiration of the public comment period on the notice of application unless the requirements of the optional DNS process (WAC 197-11-355 and Section 18.04.120 of this code) are followed. A final determination of significance and a SEPA scoping notice may be issued with the notice of application and prior to the expiration of the public comment period on the notice of application.
4. Any appeal of a determination of significance as described in Section 18.04.210 (1)(c) may proceed in advance of any hearings or appeals of the underlying project permit application.

(Ord. 369 (2006) § 12, 2006)

21.04.110 Timelines and duration of approval.

A. Decisions. Decisions on Type I, II, and III applications shall be issued not more than seventy-eight days after the date of the determination of completeness.

1. If a determination of significance (DS) is issued, the decision shall not issue sooner than seven days after a final environmental impact statement is issued.
2. An applicant may agree in writing to extend the time in which the review authority shall issue a decision. The review authority may consider new evidence the applicant introduces with or after such a written request.
3. If the county determines that the information submitted by the applicant under Section 21.04.050(C) is insufficient, it shall notify the applicant of the deficiencies and the procedures under Section 21.04.050 shall apply as if a new request for studies had been made.
4. In determining the number of days that have elapsed after Kitsap County has notified the applicant that the application is complete, the following periods shall be excluded:
 - a. Any period during which the applicant has been required by the county to correct plans, perform studies, or provide additional information. The period shall be calculated from the date the county notifies the applicant of the need for additional information to the earlier of either: (1) the date the county determines whether the additional information provided satisfies the request for information; or
 - (2) fourteen days after the date the information has been provided to the county;
 - b. Any period of time during which an environmental impact statement is being prepared, which shall not exceed one year from the issuance of the determination of significance unless the county and applicant have otherwise agreed in writing to a longer period of time. If no mutual written agreement is completed, then the application shall become null and void after the one-year period unless the director determines that delay in completion is due to factors beyond the control of the applicant;
 - c. Any period during which the applicant has requested additional time to supplement the application or has otherwise requested that processing be delayed; and
 - d. Any period during which the application has been postponed at the request of the applicant in accordance with subsection (J) of Section 21.04.050.

B. Duration of Development Approval. Preliminary approval of land divisions, site plan review, approval of uses permitted subject to director review, approval of conditional use permits, approval of performance based developments, and approval of variances, shall be valid for a period of three years after approval, during which time a complete application for final plat approval (in the case of preliminary land division approval) or a building permit (for all other listed approvals) meeting all the legal requirements and conditions of approval shall be made.

C. Extensions – Phased Developments.

1. Applications specifically approved for phased development may receive one two-year extension in accordance with the criteria below, so long as at least one phase was finally approved within two years prior to each such subsequent extension request. Subsequent extensions will be subject to a Type III process.
 - a. An extension request must be filed in writing with the director at least thirty days prior to the expiration of the approval period or any subsequent approved extension.
 - b. The applicant must demonstrate to the director tangible progress toward the next phase of the application.
 - c. The applicant must demonstrate to the director that there are no significant changes in conditions which would render approval of the extension contrary to the public health, safety or general welfare.
2. The director may take either of the following actions upon receipt of a timely extension request:
 - a. Approve the extension if no significant issues are presented under the criteria set forth in this section;
 - b. Conditionally approve the extension if any significant issues presented are substantially mitigated by minor revisions to the original approval; or
 - c. Deny the extension if any significant issues presented cannot be substantially mitigated by minor revisions to the approved plan.
3. A request for extension shall be processed as a Type I action. Appeal and post-decision review of a Type I action is permitted as provided in this chapter.

D. Developer Agreements. Notwithstanding the foregoing, the board may approve a developer agreement under RCW 36.70B.170 et seq., providing for a longer approval duration. The hearing examiner is delegated authority to conduct hearings and make recommendations for developer agreements, but final approval thereof is reserved to the board.

(Ord. 219 (1998) (Exh. 1, § 110), 1998)

21.04.120 Appeals – Mediation.

A. These provisions apply to administrative appeals of final decisions regarding applications (including preliminary short and long plats) subject to a Type I, II or III 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 following bodies:

1. Type I or Type II – Director.
2. Type III – Rezones that do not require a comprehensive plan amendment shall be a recommendation by the hearing examiner with final approval by the board.

Other nonadministrative appeals shall be made pursuant to applicable state law to the appropriate review authority.

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

C. The appeal shall contain the following information:

1. The case number designated by the county and the name of the applicant;
2. The name and signature of each appellant. If multiple parties file a single appeal, the appeal document shall designate one party as the contact representative for all contact with the director. All contact with the director regarding the appeal, including notice, shall be with this contact representative;
3. The specific aspect(s) of the decision and/or SEPA determination being appealed, the reasons why each is in error as a matter of fact or law, and the evidence relied upon to prove the error; and
4. The appeal fee adopted by the board of commissioners.

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

E. Decisions of the hearing examiner in cases identified in Section 21.04.080 shall be a final and conclusive action.

F. Mediation. Kitsap County and the hearing examiner encourage the use of mediation where possible to resolve any disputes that arise at any time during the processing of land use application or appeal as noted below. Land use mediation is a method for resolution of contested land use applications and is an option available for any party at any time, whether initiated as a result of county regulations, permit application review or otherwise. Through mediation, disputes may be resolved in a manner which is less formal and more conciliatory than the formal appeal process. Use of mediation, however, does not alter any rights to an administrative or judicial appeal. The goals of mediation are:

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

The mediation process, when successful, should result in a disclosable mediation agreement consistent with the comprehensive plan, adopted codes and ordinances and

the general public interest. Failed or declined mediation shall not be used against parties of record.

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

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

In September 2011, the county shall undertake a review of the mediation process, as outlined in this section, including, but not limited to, procedural issues, outcomes and efficiencies.

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

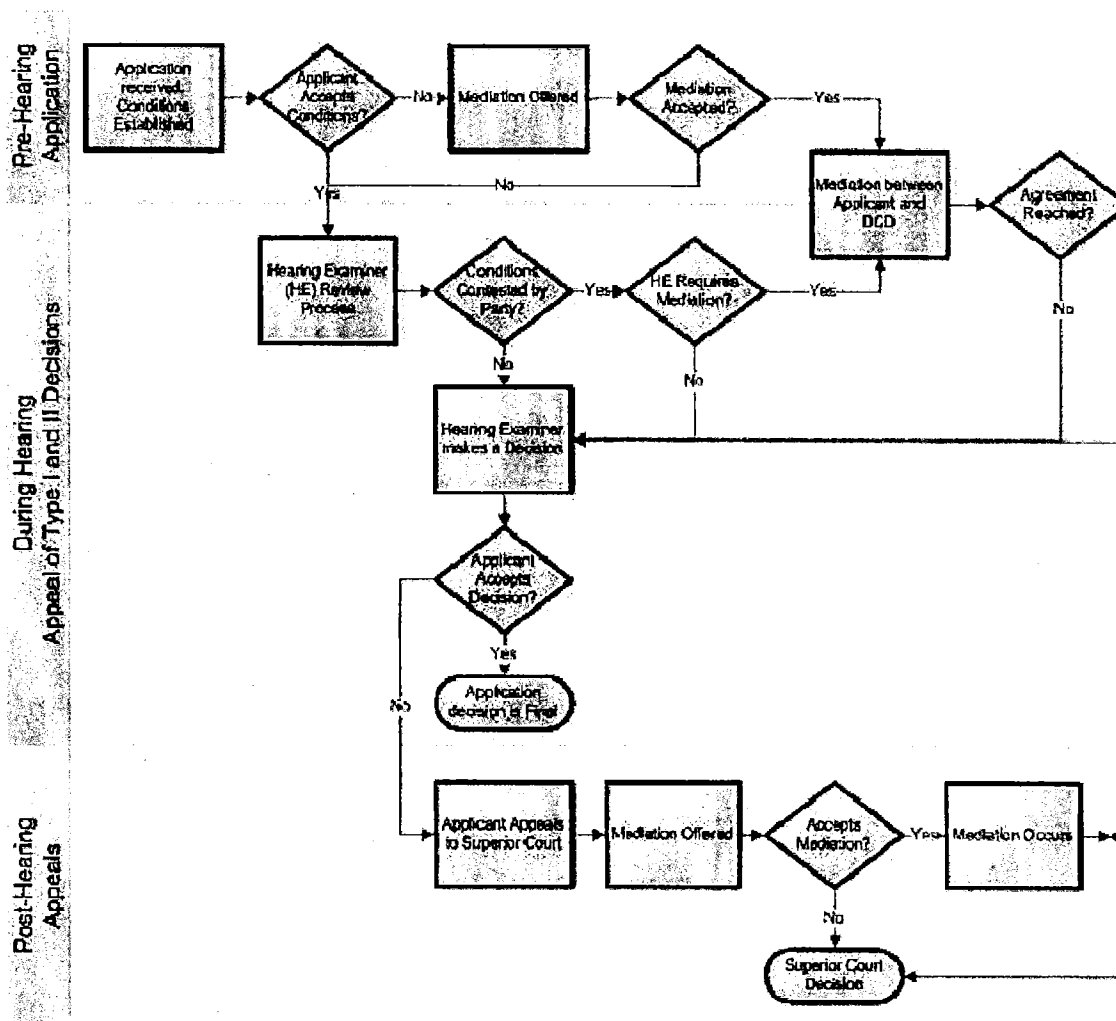
Post-Decision Mediation – Type I and II Decisions. Where an appeal to the hearing examiner has been filed regarding a Type I or Type II decision, mediation is mandatory prior to being heard by the hearing examiner. The hearing examiner shall set forth the requirement for mediation in the pre-hearing order. Such mediation shall include, at a

minimum, the applicant, the division manager responsible for application review, and appellants; provided, however, that Kitsap County code requirements shall not be topics for mediation or revision. The department shall make arrangements for mediation with the dispute resolution center of Kitsap County or any other mediation services as agreed upon by the parties. Mediation shall automatically toll any administrative deadline for the hearing examiner appeal process.

Post-Decision Mediation – Type III Decisions. As to other contested permit applications, the hearing examiner shall advise the parties as early as is possible in the process that mediation is available. If a Type III application is contested and the parties cannot come to agreement on the issues by the end of the open record hearing, the hearing examiner may direct mediation and continue the open record hearing until after mediation is held. If a Type III decision is appealed, and the hearing examiner has not directed mediation in the decision, the director shall advise the parties that mediation is available.

Mediation Costs. Kitsap County shall pay the costs of mediation, including staff costs, when conducted through the dispute resolution center of Kitsap County; in all other cases, the parties shall share the costs of mediation.

Kitsap County Land Use Mediation Process



(Ord. 452 (2010) § 5, 2010: Ord. 219 (1998) (Exh. 1, § 120), 1998)

This page of the Kitsap County Code is current through Ordinance 474 (2011), passed August 22, 2011.

Disclaimer: The Clerk of the Board's Office has the official version of the Kitsap County Code. Users should contact the Clerk of the Board's Office for ordinances passed subsequent to the ordinance cited above.

County Website: <http://www.kitsapgov.com/>
 (http://www.kitsapgov.com/)
 County Telephone: (360) 337-5777 / (800) 825-4940

Email the county: openline@co.kitsap.wa.us
 (mailto:openline@co.kitsap.wa.us)

Code Publishing Company
 (http://www.codepublishing.com/)

Appendix B:

Current Chapter 21.04 Kitsap County Code (Project Permit Application Procedures)

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.
- 21.04.160 Contents of application.
- 21.04.170 General review – Conditions and requested information.
- 21.04.180 Consolidation of project permit applications.
- 21.04.190 Integration of State Environmental Policy Act (SEPA) review with review of project permit application.
- 21.04.200 Determination of completeness – Lapsed applications – Postponed applications.
- 21.04.210 Notice of application.
- 21.04.220 Development agreements.
- 21.04.230 Rezones.
- 21.04.240 Stay of proceedings.
- 21.04.250 Timing of decisions.
- 21.04.260 Notice of decisions.
- 21.04.270 Duration of decisions.
- 21.04.280 Revocation of approval.
- 21.04.290 Appeals.
- 21.04.300 Mediation.

21.04.010 Purpose.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.020 Applicability.

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

1. Sections 11.36.060(1) through (4), roads; and Section 11.22.070(a), roads;
2. Title 12, Storm Water Drainage;
3. Title 16, Land Division and Development;
4. Title 17, Zoning;
5. Title 18, Environment;
6. Title 19, Critical Areas Ordinance; and
7. Title 22, shoreline management master program.

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

C. Legislative Actions.

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

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.030 Roles and responsibilities.

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

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

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

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.040 Administration and interpretation.

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

B. Computation of Time. In computing any period of time prescribed or allowed by this chapter, the period shall begin with the first day following that on which the act or event initiating such period of time shall have occurred. The last day of the period so computed shall

be included, unless it is a Saturday, a Sunday or a legal holiday, or when the department of community development is closed, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a legal holiday. Legal holidays are prescribed in RCW 1.16.050. Unless otherwise stated, when the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

C. Interpretation.

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

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

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

4. Permanent Record. All code interpretations and hearing examiner decisions on such interpretations shall be retained by the department and included in the Kitsap County department of community development policy manual. Further, they may be prioritized and considered in the next applicable code update. Code interpretations shall be made available to the public and posted on the county website and shall be available for inspection.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.050 Project permit application type.

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

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

2. Type II. Type II applications are administrative actions that require notice of application and notice of decision.

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

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.060 Type I ministerial review procedures.

- A. Unless exempt by Section 21.04.210(D), the notice of application and comment period procedures of Section 21.04.210(A) through (C) apply.
- B. A decision shall be made within the timelines specified by this chapter and shall include:
1. A statement of the applicable criteria and standards in this chapter and other applicable law;
 2. A statement of the facts relevant to the decision;
 3. The basis for a conclusion to approve or deny; and
 4. The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure that the proposed development will comply with applicable law.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.070 Type II administrative review procedures.

- A. The notice of application and comment period procedures of Section 21.04.210 are required.
- B. A decision shall be made within the timelines specified by this chapter and shall include:
1. A statement of the applicable criteria and standards in this chapter and other applicable law;
 2. A statement of the facts relevant to the decision;
 3. The basis for a conclusion to approve or deny; and
 4. The decision to deny or approve the application and, if approved, any conditions of approval necessary to ensure that the proposed development will comply with applicable law.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.080 Type III quasi-judicial review procedures.

- A. Pre-application meetings described in Section 21.04.120(C) are optional, but encouraged for complex or phased projects.
- B. Letter of completeness review procedures in Section 21.04.200 are required.
- C. The notice of application and comment period procedures of Section 21.04.210 are required.
- D. The department shall issue its SEPA threshold determination at least fifteen days prior to the scheduled hearing.
- E. After the close of any required comment period, including any threshold determination comment period required by Chapter 43.21C RCW and Chapter 18.04, the department shall coordinate and assemble the comments and recommendations of other county departments

and governmental agencies having an interest in the subject application and shall prepare a staff report summarizing the factors involved, including the department findings and supportive recommendations. The staff report shall be filed with the review authority at least seven days prior to the scheduled hearing and copies thereof shall be mailed or electronically mailed to the applicant and shall be made available for public inspection or provided to any interested party at the reproduction cost.

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

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.090 Type IV legislative project review procedures.

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

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

B. Notice of application and comment period procedures of Section 21.04.210 are required.

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

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

E. The decision of the board shall be final and a notice of decision, pursuant to Section 21.04.260, is required.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.100 Review Authority Table.

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

PERMIT/ACTIVITY/DECISION	Review Authority	Type I	Type II	Type III	Type IV
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 Chapter 14.04	See Chapter 14.04	See Chapter 14.04	See Chapter 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		
	D		X		

Land Segregation – Final Large Lot Plat Alteration					
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					

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.110 Procedural Summary Table.

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.120 Project and application assistance.

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

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

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

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.130 Neighborhood meetings.

A. General Purpose. Neighborhood meetings are optional for all project permit applications. These meetings are designed to advise the public of what local development regulations allow, often with conditions assigned to a project that the public may want to consider. Neighborhood meetings are also used to provide information about a proposed development earlier in the project permit application review process than the minimum required. They are intended to improve neighborhood awareness of potential or pending projects, provide earlier neighborhood involvement in the planning process, and reduce controversy at the public hearing. At neighborhood meetings, issues of concern can be expressed and potentially addressed before an applicant spends time and money on plans and before an application reaches the review authority. Noticing and neighborhood meeting requirements, as discussed below, should be considered for effective participation.

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

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

D. Notification. If an applicant conducts a neighborhood meeting, the applicant shall send notice of the meeting to those on the notice of application mailing list. The notification shall

include a brief description of the proposal and the date, time and location of the meeting. The county will provide mailing addresses to the applicant, and may assist, at minimal cost to the applicant, with automated postcard notices.

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.140 Third party review.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.150 Vesting – Project modification.

A. This section applies to complete project permit applications, including and limited to conditional use permits, preliminary plats, final plats, short plats, large lot divisions, binding site plans, site development activity permits, shoreline permits and any other land use permit application that is determined under Washington law to be subject to the vested rights doctrine. Vesting of building permit applications is governed by RCW 19.27.095.

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

B. The vesting of an application does not:

1. Imply that the application will be approved or that the applicant has permission to proceed with development related to the vested application;
2. Vest any subsequently required or related permits, except as required by statute or case law, nor does it affect the requirements for the vesting of subsequent permits or approvals;
3. Restrict the ability of the department to impose conditions under Chapter 43.21C RCW; or

4. Restrict the ability of the department to impose new regulations necessary to protect the public health and safety, including, but not limited to, the requirements of the building, health, and fire codes.
- C. The development regulations to which projects vest do not include regulations governing procedures, including the regulations in this chapter, or fees.
- D. Modifications.
1. Amendments to approved preliminary land subdivision shall be reviewed and processed in accordance with Title 16, Land Division and Development.
 2. Except as noted above, if an applicant makes major modifications to a vested application, the application shall no longer be considered complete or vested. Minor modifications shall not affect vesting. Any modification, however, may require additional fees or supporting information as necessary for consistent and informed review. Conditions required by the review authority for approval of an application shall not be considered major modifications.
 3. For the purpose of this subsection, modifications shall be considered major if one or more of the following applies:
 - a. The modification (i) adds more than ten percent gross square footage to a proposed or existing structure(s) on the site and (ii) results in at least one of the following (subsections (D)(3)(b) through (h));
 - b. The perimeter boundaries of the original site are extended by more than ten percent of the original lot area; or
 - c. The modification increases the overall impervious surface on the site by more than twenty-five percent or significant changes are being proposed to storm water management; or
 - d. The modification substantially relocates points of access or increases traffic, unless supported by a revised traffic analysis that demonstrates no significant increase in traffic impact; or
 - e. The modification reduces designated open space by more than ten percent; or
 - f. The modification consists of changing the intended use of the original proposal to a new use that is a higher intensity of use, creating more impacts than originally proposed; or
 - g. The modification results in significant impacts that have not been previously disclosed by the applicant or considered by the department; or
 - h. There is significant new information that changes a prior SEPA threshold determination; or evidence that prior approvals or SEPA determinations were procured by misrepresentation or lack of material disclosure.
 4. Determination of major or minor modifications or amendments to approved preliminary subdivisions approved preliminary short subdivisions, and approved preliminary large lot subdivisions, shall be governed by Sections 16.40.040, Amendments

to approved preliminary subdivisions; 16.48.030, Amendment to preliminary short subdivisions; and 16.52.030, Amendment to preliminary large lot subdivisions.

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.160 Contents of application.

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

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

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

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.170 General review – Conditions and requested information.

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.180 Consolidation of project permit applications.

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

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.200 Determination of completeness – Lapsed applications – Postponed applications.

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

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

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

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

1. When additional information is required, the applicant shall have ninety calendar days from the date of the written notification of incompleteness to submit the required information to the department. If the applicant does not submit the required information within the ninety-day period, the project permit application shall automatically 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 three-month extensions if it is determined that the required studies or information warrants additional time. Financial hardship shall not be considered for extensions of deadlines.
3. Upon submittal of the additional information, the review authority shall, within fourteen calendar days, issue a letter of completeness or, in accordance with subsection (B)(1) of this section, identify what additional information is required.
4. Applications that lapse according to this section shall be held for sixty 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.
5. Lapsed applications will not be further processed; however, they may be resubmitted as a new application with full fees.

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

1. Forward the application(s) for processing and scheduling of a public hearing, if a hearing is required;
2. Send a written notice to the applicant acknowledging the completeness, stating the vesting date where applicable, listing the name and telephone number of a department contact person, and describing the expected review schedule, including the date of a hearing, if applicable; and
3. Provide notice of the application, in accordance with Section 21.04.210.

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

1. A preliminary determination of applicable development regulations.

2. A preliminary determination that the type of land use is permitted, or may be conditionally allowed on the site.
 3. If applicable, a preliminary determination of whether the proposed density is consistent with applicable Comprehensive Plan designations, zoning designations and development regulations.
 4. A preliminary determination regarding the availability and adequacy of public facilities and services identified in the Comprehensive Plan.
 5. Other information or requirements the department believes are necessary for project review.
- E. The determination of completeness does not preclude the review authority from requesting additional information or studies either at the time of the notice of completeness or subsequently if new information becomes required or if there are changes in the proposed project.
- F. Applications Requiring Corrections. When an application requires corrections, the review authority shall identify, in writing, the specific correction and information necessary to complete project permit application review.
1. When additional information is required, the applicant shall have ninety calendar days from the date of the written notification of corrections needed to submit the required information to the department. If the applicant does not submit the required information within the ninety-day period, the project permit application shall automatically 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 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 sixty 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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.210 Notice of application.

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

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

1. The case file number(s), the date of application(s), the date the application(s) was deemed complete;
2. A description of the proposal with a list of any project permit requests included with the application(s) and, if applicable, a list of any further studies required by the review authority;
3. A notice of the proposed date, time, place, and type of hearing, if applicable;
4. Identification of other necessary permits not included in the application, to the extent known by department staff;
5. Identification of existing environmental documents evaluating the proposal and the location where the documents can be reviewed;
6. A statement describing the public's rights to provide comment and to request a copy of the decision, the deadline for submitting written comments, and notice of public hearing participation and appeal rights regarding the application;
7. If a SEPA threshold determination has been made, a statement of the preliminary determination of what development regulations will be used for project mitigation and consistency under RCW 36.70B.040;
8. A SEPA threshold determination and/or a scoping notice may be issued with a notice of application; provided, that a final threshold determination of nonsignificance or mitigated determination of nonsignificance may not be issued until after the expiration of the public comment period on the notice of application when the optional DNS process (WAC 197-11-355 and Section 18.04.120) is utilized;
9. A statement that a consolidated staff report and, if applicable, that the SEPA review document will be available for inspection at no cost at least fifteen days before the administrative decision or public hearing;
10. The name of the applicant or applicant's representative and the name and address of the contact person for the applicant, if any;

11. A description of the site which is reasonably sufficient to inform the reader of its location, current zoning designation and the nearest road intersections;
12. The date, place and times where information about the application may be examined and the name and telephone number of the department representative to contact about the application;
13. The designation of the review authority, and a statement that the hearing will be conducted in accordance with adopted rules of procedure; and
14. Any additional information determined appropriate by the review authority.

C. Distribution.

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

2. **Publication.** For Type III review, the department shall publish in a newspaper of general circulation a summary of the notice, including the date, time and place of the proposed hearing, the nature and location of the proposal and instructions for obtaining further information.
 3. **Posting.** For Type III review, at least fifteen days before the hearing, the department or the applicant shall place a notice sign(s) on the property which can be clearly seen and readily readable from each right-of-way providing primary vehicular access to the subject property. Signs shall provide contact information. Corner lots shall use one two-sided sign placed diagonally to the corner to be visible from both streets. Signs shall be located to not interfere with vehicular line of sight distance. The applicant shall remove and properly dispose of the notices within seven days after the hearing.
 - a. The sign shall state the date, time, and place of the hearing; the nature and location of the proposal; and instructions for obtaining further information.
 - b. At least two days before the hearing, the person responsible for posting the sign shall execute and submit an affidavit to the review authority certifying where and when the sign notices were posted.
 4. For notices that are required to be mailed pursuant to this chapter, the department may substitute a postcard notification that includes a short summary of information and provides the recipient with instructions regarding obtaining complete notice either electronically or in person.
- D. **Exemptions.** A notice of application may be issued, but shall not be required, for project permits that are categorically exempt under Chapter 43.21C RCW, unless a public comment period or an open record pre-decision hearing is required or an open record appeal hearing is allowed on the project permit decision.
- E. **Continuations.** If for any reason a commenced hearing on a pending project permit application action cannot be completed on the date set in the public notice, the hearing may be continued to a date certain and no further notice under this section is required.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.220 Development agreements.

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

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

1. The names of the parties.
2. A precise legal description of the property covered by the development agreement.
3. The development standards that shall apply.
4. The term of the development agreement, which shall be the duration in which all development proposed under the agreement shall be completed. Unless amended, all approvals and permits shall expire upon the date of termination.

5. A statement consistent with RCW 36.70B.190 that during the term of the development agreement, it is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the area covering the property covered by the development agreement.
 6. That it is compliant with RCW 36.70B.170 through 36.70B.210 and the Kitsap County Code.
- C. Public Hearing. The board of county commissioners may approve a development agreement by resolution or ordinance after a public hearing, which may be delegated to the planning commission or hearing examiner as appropriate.
- D. Decision Criteria. The board of commissioners may adopt a development agreement by resolution, with findings that:
1. The proposed agreement is consistent with the goals and policies of the Comprehensive Plan;
 2. The proposed agreement is consistent with the local development regulations; provided, that standards may be modified only if the board makes further findings that:
 - a. Variation of the standard provides a public benefit; and
 - b. The proposal subject to the modified standard remains consistent with the Comprehensive Plan; and
 - c. All adverse impacts are mitigated;
 3. The proposed agreement provides for adequate mitigation of adverse environmental impacts; provided, that if the development is not defined at the project level, the agreement shall provide a process for evaluating and appropriately mitigating such impacts at the time of project development; and
 4. The proposed agreement reserves the authority to impose new or different regulations to the extent required by a serious threat to public health and safety.
- E. Concurrent Rezone. If the proposal requires a zoning map change, the zoning change shall be adopted by ordinance concurrently with the resolution approving the development agreement.
- F. Recording/Binding Effect. An approved development agreement must be recorded with the county auditor. During the term of the development agreement, the agreement is binding on the parties and their successors, including a city that assumes jurisdiction through incorporation or annexation of the property covered by the development agreement.
- G. Amendments. Any amendments to an approved development agreement must be approved by the board of commissioners and property owner following a public hearing on the amendment.
- H. Appeals. There are no administrative appeals of development agreements. Appeals of development agreements shall be as required by law.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.230 Rezones.

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

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

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

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.240 Stay of proceedings.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.250 Timing of decisions.

A. Decisions. Decisions on permit applications shall generally be issued not more than one hundred twenty days after the date of the determination of completeness.

1. If a determination of significance (DS) is issued, the decision shall not issue sooner than seven days after a final environmental impact statement is issued.
 2. The time limits for a decision may be extended on a case-by-case basis where the director makes written findings that a specified amount of time is needed to process a specific complete project permit application (RCW 36.70B.080).
 3. In determining the number of days that have elapsed after the department has notified the applicant that the application is complete, the following periods shall be excluded:
 - a. Any period of time during which the applicant has been required by the department to correct plans, perform studies, or provide additional information. The excluded time period shall be calculated from the date the department notifies the applicant of the need for additional information to the earlier of either:
 - i. The date the department determines whether the additional information provided satisfies the request for information; or
 - ii. Fourteen days after the date the information has been provided to the department.
 - b. Any period of time during which an environmental impact statement is being prepared, which shall not exceed one year from the issuance of the determination of significance unless the department and applicant have otherwise agreed in writing to a longer period of time. If no mutual written agreement is executed, then the application shall become null and void after the one-year period unless the review authority determines that delay in completion is due to factors beyond the control of the applicant.
 - c. Any period granted by a postponement in accordance with Section 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, Legislative Action Procedures;
 2. Any time required to correct plans, perform studies, or provide additional required information.
 - a. Within fourteen 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 one hundred twenty 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 one hundred twenty 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 Section 21.04.180 (B).

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.260 Notice of decisions.

- A. Timing. Whenever a final decision has been made that requires a notice of decision, the review authority shall issue the notice within seven days of the final decision.
- B. Content. The notice of decision shall include, at a minimum, the following information:
1. The decision on the project permit application.
 2. Any SEPA threshold determination made pursuant to Chapter 43.21C RCW.
 3. The procedure for administrative appeal, if any.
 4. A statement that the complete case file, including findings, conclusions and any conditions of approval, is available for review, and shall list the place, days and times when the case file is available and the name and telephone number of the department representative to contact about reviewing the file.
 5. A statement that affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation.
 6. The notice of decision may be a copy of the report or decision, if such report or decision contains the information required in this subsection (B).
- C. Distribution. The notice of decision shall be mailed to the following:
1. The applicant.
 2. To any parties of record.
 3. To any agencies with jurisdiction over the project permit application or any agencies that commented on the project permit application.
 4. To any person who, prior to rendering the decision, has requested a copy of the notice of decision.
 5. To the Kitsap County assessor's office.
- D. Notices and Shoreline Management Master Program. Notices of decision on project permits governed by Title 22 shall also be immediately filed in accordance with applicable procedures governing the shoreline management master program.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.270 Duration of decisions.

A. Duration of Approval.

1. All project permit approvals shall be valid for a period of three years, after which they shall automatically expire, unless otherwise stated.
2. Preliminary approval of land divisions shall be valid for a period of five years after approval, after which it shall expire. Prior to expiration, a complete application for final plat approval meeting all the legal requirements and conditions of approval shall be made. Where state statute specifies different approval durations, those approval durations shall apply.
3. Approval duration for performance based developments shall be the same approval period established for the accompanying project permit application.
4. Development agreements shall be subject to the duration and extension requirements set forth in the agreement.
5. Site development activity permits shall be subject to the duration and extension requirements set forth in Title 12.

B. Extensions.

1. Phased Development Extensions. Applications specifically and expressly approved for phased development may receive one two-year extension from the phasing schedule in accordance with the criteria in subsection (B)(3) of this section, so long as at least one phase was given final approval within the two years prior to each such subsequent extension request. The first extension shall be processed as a Type I application; subsequent extensions shall be processed as a Type II application.
2. Nonphased Development Extensions. Applications specifically approved for development may receive one one-year extension in accordance with the criteria in subsection (B)(3) of this section.
3. Criteria for Extensions. The director may approve, approve with conditions, or deny any timely request for an extension provided the following criteria have been met. Extensions shall be processed as a Type I application.
 - a. The extension request is submitted in writing at least thirty calendar days prior to the expiration of the permit or any prior extension approval;
 - b. The director finds there are no significant concerns presented with a granting of an extension, or those concerns can be adequately mitigated by minor revisions to the original approval;
 - c. The director finds that there is tangible progress being made; and
 - d. The director finds there are no significant changes in conditions which would render approval of the extension contrary to the public health, safety or general welfare.

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.280 Revocation of approval.

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

1. The approval or permit was obtained by fraud;
2. The use for which such approval or permit was granted is not being executed;
3. The approval or permit granted is being, or recently has been, exercised contrary to the terms or conditions of such approval or permit, or in violation of any statute, resolution, code, law or regulation; 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 Section 21.04.210.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.290 Appeals.

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

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

B. The appeal shall contain the following information:

1. The case number designated by the county and the name of the applicant;
2. A brief statement as to how the appellant is aggrieved by the decision being appealed;
3. A specific and understandable statement of the appellant's issues on appeal, noting appellant's specific exceptions and objections to the decision or action being appealed

and the reasons why each is an error of fact or law, and the evidence relied upon to prove the error;

4. The specific relief requested, such as reversal or modification;
5. Signature, address, and phone and fax number of each appellant, and name and address of a contact representative, if there are multiple appellants; and
6. The appeal fee adopted by the board.

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

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

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

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

provided through either (a) the hearing examiner decision on the appeal; and/or (b) a notice of decision, whichever is appropriate.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.04.300 Mediation.

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

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

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

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

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

D. Pre-Decision Mediation. During development application review, the review authority may offer voluntary mediation if the issue(s) being contested is of the type that can be mediated and not inconsistent with county code, state or federal laws. If mediation is accepted, the application review process is suspended until mediation is complete. Any mediated settlement, as long as it is consistent with applicable regulation, will be deemed approved by the department. Type I and Type II applications shall show the conditions of the mediated settlement in the conditions of approval. Type III applications will have conditions of the mediated settlement shown in the staff report to the hearing examiner. The hearing examiner shall accept mediated conditions unless it can be demonstrated that the settlement is

inconsistent with county code, state, or federal laws. The hearing examiner is not bound by conditions, however, if new information is presented during the open record hearing that was not considered by the mediating parties. If during mediation a settlement cannot be achieved, then the application process reverts to the process step just prior to mediation engagement.

E. Post-Decision Mediation.

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

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

The Kitsap County Code is current through Ordinance 512 (2013), passed December 9, 2013, and Resolution 169-2013, passed November 25, 2013.

Disclaimer: The Clerk of the Board's Office has the official version of the Kitsap County Code. Users should contact the Clerk of the Board's Office for ordinances passed subsequent to the ordinance cited above.

County Website: <http://www.kitsapgov.com/>
(<http://www.kitsapgov.com/>)
County Telephone: (360) 337-5777 / (800)
825-4940
Email the county: openline@co.kitsap.wa.us
(<mailto:openline@co.kitsap.wa.us>)

Code Publishing Company
(<http://www.codepublishing.com/>)

Appendix C:

Current Chapter 21.02 Kitsap County Code (Definitions)

Chapter 21.02 DEFINITIONS

Sections:

<u>21.02.001</u>	Generally.
<u>21.02.010</u>	Abutting.
<u>21.02.015</u>	Access tract.
<u>21.02.020</u>	Address.
<u>21.02.025</u>	Address grid system.
<u>21.02.030</u>	Adjacent.
<u>21.02.035</u>	Aliquot part.
<u>21.02.040</u>	Alley.
<u>21.02.045</u>	Alteration of a land segregation.
<u>21.02.050</u>	Amendment of a land segregation.
<u>21.02.051</u>	Appellant.
<u>21.02.052</u>	Applicant.
<u>21.02.053</u>	Appeal.
<u>21.02.054</u>	Area-wide amendment.
<u>21.02.055</u>	Avenue.
<u>21.02.060</u>	Binding site plan.
<u>21.02.065</u>	Block.
<u>21.02.070</u>	Board or board of commissioners.
<u>21.02.075</u>	Boulevard.
<u>21.02.080</u>	Boundary line adjustment.
<u>21.02.085</u>	Building site.
<u>21.02.086</u>	Buffer.
<u>21.02.090</u>	Business day.
<u>21.02.091</u>	Calendar day.
<u>21.02.092</u>	Capital facilities amendment.
<u>21.02.093</u>	Clerk of the hearing examiner.
<u>21.02.094</u>	Closed record appeal.
<u>21.02.095</u>	Circle.
<u>21.02.100</u>	Commercial occupancies.
<u>21.02.101</u>	Community plan amendment.
<u>21.02.102</u>	Complete application.
<u>21.02.105</u>	Comprehensive plan.
<u>21.02.110</u>	Condominium.
<u>21.02.115</u>	Contiguous.
<u>21.02.120</u>	County.
<u>21.02.125</u>	Court.
<u>21.02.130</u>	Critical areas.
<u>21.02.135</u>	Cul-de-sac.
<u>21.02.136</u>	Day(s).
<u>21.02.140</u>	Dedication.
<u>21.02.141</u>	Deficiency.
<u>21.02.145</u>	Department.
<u>21.02.146</u>	Development agreement.
<u>21.02.151</u>	Development regulations.

<u>21.02.152</u>	Director.
<u>21.02.153</u>	Docketing.
<u>21.02.155</u>	Drive.
<u>21.02.160</u>	Easement.
<u>21.02.165</u>	Engineer.
<u>21.02.170</u>	Final plat.
<u>21.02.175</u>	Group R occupancies.
<u>21.02.180</u>	Group U occupancies.
<u>21.02.181</u>	GMA.
<u>21.02.185</u>	Kitsap public health district.
<u>21.02.190</u>	Kitsap public health officer.
<u>21.02.191</u>	Hearing.
<u>21.02.195</u>	Hearing examiner or examiner.
<u>21.02.200</u>	Hiatus.
<u>21.02.201</u>	KCC.
<u>21.02.205</u>	Land segregation.
<u>21.02.210</u>	Large lot subdivision.
<u>21.02.215</u>	Legal lot of record.
<u>21.02.216</u>	Legislative action.
<u>21.02.220</u>	Loop.
<u>21.02.225</u>	Lot.
<u>21.02.230</u>	Lot area.
<u>21.02.231</u>	Map correction.
<u>21.02.232</u>	Mediation.
<u>21.02.233</u>	Notice of decision.
<u>21.02.234</u>	Official record.
<u>21.02.235</u>	Open record hearing.
<u>21.02.236</u>	Open space.
<u>21.02.240</u>	Owner.
<u>21.02.245</u>	Parcel.
<u>21.02.246</u>	Party or party of record or parties of record.
<u>21.02.251</u>	Person.
<u>21.02.255</u>	Place.
<u>21.02.256</u>	Planning department.
<u>21.02.257</u>	Planning commission or commission.
<u>21.02.260</u>	Plat.
<u>21.02.265</u>	Plat certificate.
<u>21.02.270</u>	Preliminary plat.
<u>21.02.275</u>	Private road.
<u>21.02.276</u>	Project permit or project permit application.
<u>21.02.280</u>	Residential occupancies.
<u>21.02.281</u>	Review authority.
<u>21.02.285</u>	Road.
<u>21.02.290</u>	Road maintenance agreement.
<u>21.02.295</u>	Road name sign.
<u>21.02.300</u>	Segregation.
<u>21.02.301</u>	SEPA.
<u>21.02.305</u>	Short subdivision.
<u>21.02.306</u>	Site-specific amendment.
<u>21.02.310</u>	Slope.
<u>21.02.315</u>	Slope, toe of.

<u>21.02.320</u>	Slope, top of.
<u>21.02.321</u>	Staff report.
<u>21.02.325</u>	Stream.
<u>21.02.330</u>	Street.
<u>21.02.335</u>	Subdivider.
<u>21.02.340</u>	Subdivision.
<u>21.02.342</u>	Text amendment.
<u>21.02.343</u>	Tidelands.
<u>21.02.345</u>	Tract.
<u>21.02.350</u>	Vacation of a land segregation or plat vacation.
<u>21.02.351</u>	Vested application.
<u>21.02.355</u>	Way.
<u>21.02.360</u>	Way of travel.
<u>21.02.365</u>	Wetlands.
<u>21.02.366</u>	Working day.

21.02.001 Generally.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.010 Abutting.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.015 Access tract.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.020 Address.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.025 Address grid system.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.030 Adjacent.

“Adjacent” means lying near; sometimes contiguous, but it is neighboring.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.035 Aliquot part.

“Aliquot part” means a quarter division of a section of land in the public domain.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.040 Alley.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.045 Alteration of a land segregation.

“Alteration of a land segregation” means a revision to any type of segregation, requested after the recording of the final plat of said segregation.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.050 Amendment of a land segregation.

“Amendment of a land segregation” means a revision to any type of segregation, requested following preliminary approval, but prior to recording the final plat of said segregation.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.051 Appellant.

“Appellant” means the person who files an appeal.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.052 Applicant.

“Applicant” means any person who submits a permit application or project permit request for a change to a Comprehensive Plan or development regulation, but excludes any such request that is proposed by the county itself.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.053 Appeal.

“Appeal” means to seek review of a decision or determination from the department or review authority.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.054 Area-wide amendment.

“Area-wide amendment” means a proposed change or revision to the Comprehensive Plan land use map and/or zoning map that affects an area which is comprehensive in nature, and

which addresses a homogeneous community, is geographically distinctive, and has a unified interest within the county, such as community, LAMIRD, or subarea plans. An area-wide amendment, unlike a site-specific land use reclassification request, is of area-wide significance, and includes many separate properties under various ownerships. Area-wide amendments typically accompany text amendments to goals and policies of the Comprehensive Plan.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.055 Avenue.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.060 Binding site plan.

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

- A. Identifies and shows the areas and locations of all streets, roads, improvements, utilities, open spaces, and other matters specified by county code;
- B. Contains inscriptions or attachments setting forth such appropriate limitations and conditions for the use of the land as are established by the director; and
- C. Includes provisions that bring the development into conformity with the site plan.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.065 Block.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.070 Board or board of commissioners.

"Board" or "board of commissioners" means the Kitsap County board of county commissioners.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.075 Boulevard.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.080 Boundary line adjustment.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.085 Building site.

"Building site" means an area of land, lying within one or more lots (or portions of lots when aggregated), that is legally developed or capable of being developed under current federal,

state and local laws and that, exclusive of required setbacks, contains or is capable of containing a primary structure and, if required, associated septic system components.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.086 Buffer.

"Buffer" means:

A. For critical areas, "buffer" means a nonclearing native vegetation area that is intended to protect the functions and values of critical areas pursuant to Title 19.

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.090 Business day.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.095 Circle.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.101 Community plan amendment.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.102 Complete application.

"Complete application" means a project permit application that is deemed complete pursuant to Chapter 21.04.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.105 Comprehensive Plan.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.110 Condominium.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.115 Contiguous.

"Contiguous" is synonymous with "abutting."

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.120 County.

"County" means Kitsap County, Washington.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.125 Court.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.130 Critical areas.

"Critical areas" means the following areas and ecosystems: (A) wetlands; (B) areas with a critical recharging effect on aquifers used for potable water; (C) fish and wildlife habitat conservation areas; (D) geologically hazardous areas; and (E) frequently flooded areas.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.135 Cul-de-sac.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.136 Day(s).

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.140 Dedication.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.141 Deficiency.

Deficiency. For the purposes of Chapter 21.08, a "deficiency" in a Comprehensive Plan or development regulation refers to the absence of required or potentially desirable contents of a Comprehensive Plan or development regulation. It does not refer to whether a development regulation addresses a project's probable specific adverse impacts that the permitting could mitigate in the normal project review process.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.145 Department.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.146 Development agreement.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.151 Development regulations.

"Development regulations" means the controls placed on development or land use activities, including, but not limited to, zoning ordinances, critical areas ordinances, shoreline master programs, official controls, planned unit development ordinances, subdivision ordinances, and binding site plan ordinances together with any amendments thereto. A development regulation does not include a decision to approve a project permit or project permit application, as defined in RCW 36.70B.020, even though the decision may be expressed in a resolution or ordinance of the legislative body of the county. A development regulation does not include ordinances or regulations that address procedural issues related to land use planning or interim, emergency ordinances, moratorium ordinances or remand actions from state administrative boards and/or courts of law.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.152 Director.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.153 Docketing.

"Docketing" means compiling and maintaining a list of suggested changes to the Comprehensive Plan or development regulations in a manner that will ensure such suggested changes will be considered by the board of commissioners and will be available by the public.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.155 Drive.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.160 Easement.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.165 Engineer.

"Engineer" means the county road engineer designated by Section 2.32.030.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.170 Final plat.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.175 Group R occupancies.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.180 Group U occupancies.

"Group U occupancies," for addressing purposes, means all occupancies classified as Group U in accordance with the International Building Code as adopted by Kitsap County in Chapter 14.04, as well as residential accessory buildings such as outbuildings, detached private garages, sheds and carports constructed in accordance with the International Residential Code.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.181 GMA.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.185 Kitsap public health district.

"Kitsap public health district" means the local health district organized pursuant to Chapters 70.05 and 70.46 RCW.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.190 Kitsap public health officer.

"Kitsap public health officer" means the health officer of the Kitsap County public health district or his/her designees.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.191 Hearing.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.195 Hearing examiner or examiner.

"Hearing examiner" or "examiner" means the administrative hearing examiner or the pro tem hearing examiner of Kitsap County designated pursuant to Chapter 2.10.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.200 Hiatus.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.201 KCC.

"KCC" means the Kitsap County Code.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.205 Land segregation.

"Land segregation" means a division or redivision of land into lots, tracts, parcels, sites or divisions for the purpose of development, sale, lease or transfer of ownership when accomplished through any of the following processes. Land segregations include, but are not limited to, subdivisions, large lot subdivisions, short subdivisions, binding site plans, and divisions of land through condominiums.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.210 Large lot subdivision.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.215 Legal lot of record.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.216 Legislative action.

"Legislative actions" means nonproject-specific actions, such as county-wide planning policies, Comprehensive Plans, and sub-area plans amendments, that are subject to Chapter 21.08.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.220 Loop.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.225 Lot.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.230 Lot area.

"Lot area" means the horizontal area within the boundary lines of a lot excluding public and private streets (but including private access easements), tidelands, shorelands and the panhandle of a flag lot if the panhandle is less than thirty feet in width. Lots within a rural zoning designation shall be considered five acres if the lot is 1/128th of a section, ten acres if

the lot is 1/64th of a section, and twenty acres if the lot is 1/32nd of a section. Lots within a rural zoning designation may include, for the purposes of area calculation, the portion of county right-of-way fronting the lot; said portion of county right-of-way shall be bounded by the right-of-way centerline, the front property line and the side lot lines running perpendicular to said centerline.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.231 Map correction.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.232 Mediation.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.233 Notice of decision.

"Notice of decision" means the notice of written decision of the hearing examiner or review authority for a project permit application.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.234 Official record.

"Official record" means the written and oral information, exhibits, reports, testimony and other evidence submitted in a timely manner and accepted by the department, the planning commission, and/or the hearing examiner. An electronic recording or transcript certified as a true and correct transcript of an electronic recording of a hearing is a part of the official record.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.235 Open record hearing.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.236 Open space.

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

- A. "Common open space" means space that may be used by all occupants of a development complex or, if publicly dedicated, by the general public;
- B. "Active recreational open space" means space that is intended to create opportunities for recreational activity. Active recreational open space may be occupied by recreational facilities such as ball fields, playground equipment, trails (pedestrian, bicycle, equestrian or multi-modal), swimming pools, and game courts or sculptures, fountains, pools, benches or other outdoor furnishings;
- C. "Passive open space" means all common open space not meeting the definition of active recreational open space, including, but not limited to, critical areas and their associated buffers;
- D. "Permanent open space" means an area that is permanently reserved as open space and remains in native vegetation unless approved for forestry, passive recreational or access uses; and
- E. "Recreational open space" means an area that shall be improved and maintained for its intended use. Exterior as well as interior areas can constitute recreational open space. Examples of usable recreational space include swimming pools, community buildings, interior gyms, picnic areas, tennis courts, community gardens, improved playgrounds, paths and passive seating areas.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.240 Owner.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.245 Parcel.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.246 Party or party of record or parties of record.

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

- A. The applicant or applicant's representative;
- B. The property owner as identified by the records available from the county assessor's office;
- C. A person submitting written testimony about a matter pending before the hearing examiner or who has testified as part of the official record of a land use action (excluding persons who have only signed petitions or mechanically produced form letters);
- D. County staff involved in review of the application.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.251 Person.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.255 Place.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.256 Planning department.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.257 Planning commission or commission.

"Planning commission" or "commission" means the advisory Kitsap County planning commission established pursuant to Section 2.56.035.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.260 Plat.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.265 Plat certificate.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.270 Preliminary plat.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.275 Private road.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.276 Project permit or project permit application.

"Project permit" or "project permit application" means any land use or environmental permit or license required from Kitsap County for a project action, including, but not limited to, building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, and permits or approvals required by critical area

ordinances. Project permits also include project-specific legislative actions, such as development agreements, final plat approvals, plat amendments, plat vacations, and rezones that do not require Comprehensive Plan amendments.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.280 Residential occupancies.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.281 Review authority.

"Review authority" means the director, hearing examiner, or other county official or their designee, who processes applications and makes decision thereon.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.285 Road.

"Road" means:

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.290 Road maintenance agreement.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.295 Road name sign.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.300 Segregation.

"Segregation" is synonymous with "land segregation."

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.301 SEPA.

"SEPA" means State Environmental Policy Act.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.305 Short subdivision.

“Short subdivision” means:

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

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.306 Site-specific amendment.

“Site-specific amendment” means an amendment to the Comprehensive Plan and/or land use map that affects no more than five contiguous parcels. A site-specific amendment only affects the land use map, and not the text of the Comprehensive Plan or a development regulation.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.310 Slope.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.315 Slope, toe of.

“Slope, toe of” means a distinct topographic break in a slope, being the lowermost limit of the slope.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.320 Slope, top of.

“Slope, top of” means a distinct topographic break in a slope, being the uppermost limit of the slope.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.321 Staff report.

“Staff report” means the document prepared by county staff for review and decision of a permit application.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.325 Stream.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.330 Street.

“Street” means:

A. For addressing purposes, a “street” means a way of travel that runs generally east and west.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.335 Subdivider.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.343 Tidelands.

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

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

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.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

21.02.366 Working day.

"Working day" means any day for which Kitsap County's administration building offices are open for normal business matters.

(Ord. 490 (2012) § 3 (Att. 1), 2012)

The Kitsap County Code is current through Ordinance 512 (2013), passed December 9, 2013, and Resolution 169-2013, passed November 25, 2013.

Disclaimer: The Clerk of the Board's Office has the official version of the Kitsap County Code. Users should contact the Clerk of the Board's Office for ordinances passed subsequent to the ordinance cited above.

County Website: <http://www.kitsapgov.com/>
(<http://www.kitsapgov.com/>)
County Telephone: (360) 337-5777 / (800) 825-4940
Email the county: openline@co.kitsap.wa.us
(<mailto:openline@co.kitsap.wa.us>)

Code Publishing Company
(<http://www.codepublishing.com/>)