

CITY OF BUCKLEY, WASHINGTON
ORDINANCE NO. 05-23

AN ORDINANCE OF THE CITY OF BUCKLEY, WASHINGTON, AMENDING BMC 20.08.030 AND ASSOCIATED PROVISIONS OF THE BUCKLEY MUNICIPAL CODE TO DELEGATE MAJOR DEVELOPMENT PERMITTING DECISIONS TO THE HEARING EXAMINER AND MINOR PERMITTING DECISIONS TO CITY STAFF AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, BMC 20.08.030 requires the City Council to make permitting decisions on numerous types of development applications; and

WHEREAS, the City Council has adopted detailed development standards to assure that all City permitting decisions are based upon objectively applied criteria that can be applied in a consistent manner to all permit applicants; and

WHEREAS, with adequate permitting standards in place, the inclusion of City Council review in permit review creates unnecessary delay and expense in the development review process, adding to the cost of housing and other development within the City, and

WHEREAS, most cities and counties in Western Washington delegate most of their permitting authority to reduce time and expense in permit review and to reduce permitting liability,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BUCKLEY, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. BMC 17.08.040(1) and (2) are amended as follows:

After completion of all required improvements for all land use development applications and/or permits approved by the city:

(1) The city engineer shall submit a written notice to the planning ~~director~~ department stating that the developer completed the required improvements in accordance with BMC Titles [12](#), [14](#), [16](#), [18](#) and [19](#) and the city's public works standards.

(2) The planning ~~director department shall issue~~ submit a recommendation to the city council for formal acceptance of the improvements upon a determination that they conform to the requirements of the application and/or permit.

Section 2. BMC 18.22.030(2) and (3) is hereby amended to provide as follows:

(2) The planning department shall review the final plat to determine if the plat conforms with the conditions of the preliminary plat. Final plats shall be approved, disapproved, or returned to the applicant by the review authority within 30 days from the date of filing of final plat, unless the applicant consents to an extension of such time period. ~~The final plat staff report and recommendation shall be submitted to the decision authority specified in BMC Title 20 for final action.~~ Upon approval of the final plat ~~by the city council~~, the developer shall obtain the required signatures on the final plat, and record it in accordance with RCW [58.17.160](#).

(3) Any lots in a final plat filed for record shall be a valid land use notwithstanding any change in zoning laws for a period of five years from the date of filing. A subdivision shall be governed by the terms of approval of the final plat, and the statutes, ordinances, and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of five years after final plat approval unless the review authority ~~city council~~ finds that a change in conditions creates a serious threat to the public health or safety in the subdivision. Sales or agreements to sell, lease, or otherwise transfer a lot, tract, or parcel of land following preliminary plat approval shall be governed by the provisions of RCW 58.17.200 and 58.17.205.

Section 3. BMC 18.28.030 is amended to provide as follows:

An application for a binding site plan shall be reviewed and acted upon in the following manner:

- (1) Review of the preliminary binding site plan by city staff and staff recommendations and comments prepared;
- (2) Review authority public hearing and review final decision;
- (3) Approval shall be based upon a written determination by the review authority that the binding site plan is consistent with all applicable development standards, the comprehensive plan and the public interest;
- (4) Construction, inspection and approval of all or a portion of required public improvements or posting of bond in the amount of 150 percent of the estimated cost of improvements. If property is owned by the city of Buckley, the city may waive construction and bonding requirements;
- (5) Submission of final binding site plan by the applicant;
- (6) ~~Administrative review and comments, followed by recommendation to council;~~

- ~~(7) Council approval of final binding site plan. Review authority review and final decision;~~
(8) Site plan to be recorded with Pierce County.

Section 4. BMC 18.30.040(2) is amended as follows:

(2) A lot line adjustment for a preexisting legal nonconforming lot of record will be allowed, even though the resulting lots do not meet the lot size requirements of the existing zoning code, if:

- (a) There is no net increase in the number of lots;
- (b) The resulting lots are each either equal to or larger in area than the smallest of the existing legal lots of record from which the new lots were created; and
- ~~(c) The city council approves such lot/boundary line adjustments.~~

Section 5. BMC 19.34.030 (introductory paragraph) is amended as follows:

The performance criteria set forth in this section shall be minimum criteria. The ~~decision maker~~ review authority may impose more restrictive conditions if those restrictions are necessary to further the intent and purpose of the zoning code or comprehensive plan; provided, however, if more restrictive standards are imposed, the decision maker shall set forth in writing its reasons for adopting more stringent standards ~~and said decision may be appealed, within 10 calendar days of issuance of the permit, to the city council for its review. The council may approve, deny or modify the additional standards.~~

Section 6. BMC 19.50.030 is repealed. BMC 19.50.040 is amended as follows:

(1) A person who proposes to construct or alter a structure or fixture that is subject to design review shall submit to the planning director a written application that complies with the requirements set forth in the "City of Buckley Design Guidelines." No structure or fixture that is subject to review under the city's design guidelines may be constructed or altered until approved in accordance with processes for major or minor design review as specified in BMC Title 20.

(a) "Major design review" is required for the construction of new buildings and for substantial exterior modifications to the majority of a building facade that affects multiple design elements.

(b) "Minor design review" is required for any exterior modifications not considered "major design review."

~~(2) The planning commission shall consider the application and the director's report at its next regular meeting following receipt of the director's recommendation transmitted to~~

~~the committee no less than seven days prior to its meeting. The planning commission will base its recommendation on the city's design guidelines.~~

~~(3) The planning commission review authority may recommend the city council approve, approve with conditions, or deny a project.~~

(a) Conditions shall be given that bring a project into conformance with the code or design guidelines.

(b) Where practical difficulties are involved in carrying out the design standards, the ~~city council~~ review authority shall have the authority to grant modifications for individual cases, provided the ~~city council~~ review authority shall first find that special individual reasons make the strict letter of the design standards impractical and the modification is in compliance with the intent and purpose of the design standards and doesn't create a material departure from any consistent design in surrounding buildings.

Section 7. BMC 20.08.020(2)(c) is repealed.

Section 8. BMC 20.08.030 is amended to provide as follows:

Project Permit Application Framework. The project permit application framework is set forth in Tables 1 and 2 as follows:

Table 1: Application Process

Procedural Steps	Application Process					
	Type "A" Administrative Decisions			Type "C" Legislative Decisions Planning Commission, Hearing Examiner and City Council		
	Type A-1 ¹	Type A-2	Type A-3	Type C-1	Type C-2	Type C-3
Recommendation by:	N/A	N/A	Staff	Staff	Staff	Staff
Notice of application ⁶	No	Yes	No	Yes	Yes	No
Open Record Public Hearing	See Note ¹	See Note ¹	No	Yes Planning Commission	Yes Hearing Examiner	No
Final Decision-Making Body	Staff	Staff	Planning Commission	City Council	Hearing Examiner/City Council ³	City Council
Appeal Authority ⁵	Hearing Examiner	Hearing Examiner ²	Hearing Examiner	Pierce County Superior Court ⁴	Pierce County Superior Court	Pierce County Superior Court

1. Note: Public hearing only on appeal of an administrative decision, open record hearing before hearing examiner.

Table 1: Application Process

Procedural Steps	Application Process					
	Type "A" Administrative Decisions			Type "C" Legislative Decisions Planning Commission, Hearing Examiner and City Council		
	Type A-1	Type A-2	Type A-3	Type C-1	Type C-2	Type C-3
2. SEPA appeals are to be consolidated with the hearing on the underlying permit as required by the SEPA rules.						
3. Note: Council is the final decision-making body for mobile home parks, planned unit developments, all rezones, and major PUD amendments, and residential clusters.						
4. Note: Comprehensive plan amendments, shoreline permits, BMC land use text amendments and area-wide rezones are potentially appealable to the Growth Management Hearings Board or Shoreline Hearings Board.						
5. No assurances are made as to the accuracy of Table 1 in identifying the appellate forum with jurisdiction to hear appeals of final city decisions. It is the responsibility of the appellant to determine where to file appeals of final city decisions.						
6. Notices of application are not required for project permits that are categorically exempt under SEPA unless a public comment period or public hearing is required per RCW 36.70B.110 (5).						
7. Small cell permits appeals go directly to court.						

Table 2: Application Type

Type A-1 administrative without notice; Type A-2 administrative with notice; Type A-3 administrative decision with a decision by the planning commission; Type C-1 legislative or quasi-judicial with a recommendation from a commission; Type C-2 quasi-judicial with the hearing examiner; Type C-3 ministerial or administrative with the city council.							
Title and Chapter	Permit	Permit Type					
		A-1	A-2	A-3	C-1	C-2	C-3
Title 12 , Environment							
12.04	SEPA determination		A-2				
12.08.130	Critical area exemption	A-1					
12.08.130	Wetland exemptions	A-1					

Table 2: Application Type

Type A-1 administrative without notice; Type A-2 administrative with notice; Type A-3 administrative decision with a decision by the planning commission; Type C-1 legislative or quasi-judicial with a recommendation from a commission; Type C-2 quasi-judicial with the hearing examiner; Type C-3 ministerial or administrative with the city council.							
Title and Chapter	Permit	Permit Type					
		A-1	A-2	A-3	C-1	C-2	C-3
12.08.140	Critical area exception – public agency and utility					C-2	
12.08.150	Reasonable use exception					C-2	
12.08.260	Innovative wetland mitigation					C-2	
12.08.330	Critical areas variance					C-2	
12.11.040	Floodplain development permit	A-1					
20.36.020(2)	Shoreline exemption	A-1					
20.36.040	Shoreline substantial development permit		A-2				
20.36.040	Shoreline conditional use permit					C-2	
20.36.040	Shoreline variance					C-2	
Title 16, Buildings and Construction							
13.08.010	Sidewalk construction permit	A-1					
14.06.140	Sewer permit	A-1					
14.06.390	Wastewater discharge (also from state DOE)	A-1					
16.01.010	Land disturbing activity permit	A-1					
16.06.020	Building and other construction permits	A-1					
16.10.010	Temporary dwelling permit	A-1					
16.12.070	Fences	A-1					
16.12.070	Fence variances			A-3			
16.40.040	Mobile home installation permit	A-1					
16.80.010	Canopies	A-1					

Table 2: Application Type

Type A-1 administrative without notice; Type A-2 administrative with notice; Type A-3 administrative decision with a decision by the planning commission; Type C-1 legislative or quasi-judicial with a recommendation from a commission; Type C-2 quasi-judicial with the hearing examiner; Type C-3 ministerial or administrative with the city council.								
Title and Chapter	Permit	Permit Type						
		A-1	A-2	A-3	C-1	C-2	C-3	
Title 17, Design and Construction Standards, and Development Guidelines and Public Works Standards (DGS)								
17.08	Acceptance of public improvement	<u>A-1</u>					C-3	
17.08.050	Dedication of public easements and rights-of-way		A-2				C-3	
DGS 2.01	Right-of-way use permits	A-1						
DGS 2.02	Major variances of Development Guidelines and Public Works Standards		<u>A-2</u>				C-3	
DGS 2.02	Minor variances of Development Guidelines and Public Works Standards	A-1						
DGS 4.07(C)	Frontage improvement exceptions		<u>A-2</u>				C-3	
DGS 4.21	Light standards	A-1						
	Modification of public improvement requirement		<u>A-2</u>				C-3	
Title 18, Subdivisions								
18.30.030	Boundary line adjustment	A-1						
18.30.040	Boundary line adjustment, non-conforming lots		<u>A-2</u>				C-3	
	Binding site plans							
18.28.020	Preliminary binding site plans					C-2		
18.28.040	Adjustments (minor) to binding site plan approved plans <u>and final binding site plans</u>	A-1						
18.28.040	Adjustments (not minor) to binding site plan approved plans <u>and final binding site plans</u>					C-2		
18.28.040	Final binding site plan amendments						C-3	
	Short subdivisions (short plats)							
18.26.050	Preliminary short subdivisions		A-2					

Table 2: Application Type

Type A-1 administrative without notice; Type A-2 administrative with notice; Type A-3 administrative decision with a decision by the planning commission; Type C-1 legislative or quasi-judicial with a recommendation from a commission; Type C-2 quasi-judicial with the hearing examiner; Type C-3 ministerial or administrative with the city council.							
Title and Chapter	Permit	Permit Type					
		A-1	A-2	A-3	C-1	C-2	C-3
18.26.060	Final short subdivisions	A-1					
18.26.080	Amendments (minor) to unrecorded short plats	A-1					
18.26.080	Amendments to approved or recorded final short plats	A-1					C-3
	Subdivisions (long plats)						
18.22.010	Preliminary subdivisions (long plats)					C-2	
18.22.030	Final subdivisions		A-2				C-3
18.22.020	Minor aAmendments to approved (not recorded) preliminary plats		A-2			C-2	
18.22.020	Major aAmendments to approved (recorded) final preliminary plats (alteration of recorded plat)					C-2	C-3
Title 19, Zoning							
19.06.030	Comprehensive plan amendments				C-1		
19.08.070	Administrative interpretation	A-1					
19.20.010	Commercial height modification		A-2				
19.25.090	Telecommunication facilities (collocation)	A-1					
19.25.110	Telecommunication macro facilities, waiver, or variance					C-2	
19.25.170	Telecommunication – Eligible facility requests	A-1					
19.25A	Telecommunication – small cell facilities	A-1					
19.30.060	Sign permit	A-1					
19.30.210	Variances, sign code			A-3			
19.32.050	Home occupation Type A with minor impact	A-1					

Table 2: Application Type

Type A-1 administrative without notice; Type A-2 administrative with notice; Type A-3 administrative decision with a decision by the planning commission; Type C-1 legislative or quasi-judicial with a recommendation from a commission; Type C-2 quasi-judicial with the hearing examiner; Type C-3 ministerial or administrative with the city council.							
Title and Chapter	Permit	Permit Type					
		A-1	A-2	A-3	C-1	C-2	C-3
19.32.060 , 19.40	Home occupation Type B with potential impacts					C-2	
19.33	Site plan reviews (commercial/industrial)					C-2	
	Site plan review, administrative		A-2				
19.33.090	Site plans amendment commercial/industrial/multifamily					C-2	
19.33.090	Site plans – technical adjustment	A-1					
19.34.020	Mobile home parks (<u>four or more units</u>)					C-2 ^a	
19.34.020	<u>Mobile home parks (two to four units)</u>		A-2				
19.40.020	Variances, zoning					C-2	
19.40.115	Variances, administrative zoning		A-2				
19.40.120	Conditional use permits, zoning code					C-2	
19.50.040	Design review, major ^c		A-2				C-3
19.50.040	Design review, minor ^c		A-2	A-3			
19.49	Multifamily design review waiver	A-1					
19.52	Development code text amendments				C-1		
19.52	Rezones, legislative				C-1		
19.52	Rezones, site-specific					C-2 ^a	
	Planned unit developments (PUDs)	!	!	!	!	C-2 ^a	!
	• PUD amendments	!	!	!	!	C-2 ^a	!
	• PUD amendments – technical adjustment	A-1	!	!	!	!	!

a The hearing examiner shall give a recommendation to the city council for decisions on applications for site specific rezones, mobile home parks, planned unit developments, and major planned unit development amendments and residential clusters.

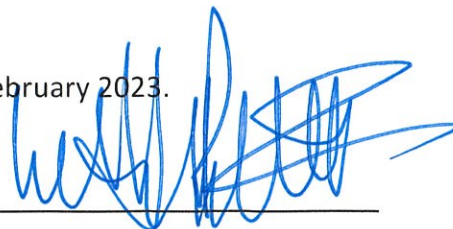
b Telecommunication facilities shall follow the shot clocks (time requirements) required by the FCC for complete applications, permit review, permit consolidation, conditions, approvals, and appeals.

c "Major" and "minor" as described in BMC 19.50.040. The recommendation to council for major design reviews is delegated to the planning commission. Major design review shall be subject to mandatory consolidation with any associated higher permit review.

Section 9. If any sentence, clause, or phrase of the Ordinance is for any reason held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining provisions of this Ordinance. The City council hereby declares that it would have passed this Ordinance and each sentence, clause or phrase thereof irrespective of the fact that any one or more sentence, clauses or phrases be declared unconstitutional or otherwise invalid.

Section 10. Effective date. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the city, and shall take effect and be in full force five (5) days after publication.

Introduced, passed and approved this 28th day of February 2023.



Beau Burkett, Mayor

ATTEST:



Treva Percival, City Clerk

APPROVED AS TO FORM:



Phil Olbrechts, City Attorney

Published: March 8, 2023

Effective: March 13, 2023